SUPPLEMENT NO. 1
May 2015

SALT RIVER PIMA-MARICOPA

INDIAN COMMUNITY

CODE OF ORDINANCES

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. SRO-459-2015, adopted February 4, 2015.

See the Code Comparative Table for further information.

Remove Old Pages	*Insert New Pages*
iii—v	iii—v
vii, viii	vii—ix
xiii—xix	xiii—xix
	Checklist of up-to-date pages (following Table of Contents)
	SH:1 (following Checklist of up-to-date pages)
CST:3, CST:4	CST:3, CST:4
CD1:1, CD1:2	CD1:1, CD1:2
CD1:11—CD1:16	CD1:11—CD1:14
CD3:5—CD3:10	CD3:5—CD3:10
CD3:17—CD3:20	CD3:17—CD3:20
CD4:1	CD4:1
CD4:9—CD4:11	CD4:9—CD4:20
CD6:3—CD6:6	CD6:3—CD6:6.1
CD6:27—CD6:34	CD6:27—CD6:35
CD6.5:3—CD6.5:6	CD6.5:3—CD6.5:6
CD6.5:15, CD6.5:16	CD6.5:15—CD6.5:16.1
CD10:3	CD10:3
CD10:27, CD10:28	CD10:27, CD10:28
CD10:31—CD10:34	CD10:31—CD10:34
CD10:39, CD10:40	CD10:39, CD10:40
CD10:45, CD10:46	CD10:45, CD10:46
CD10:69, CD10:70	CD10:69—CD10:75
CD11:1—CD11:3	CD11:1—CD11:3
CD11:21, CD11:22	CD11:21—CD11:22.5
CD11:27, CD11:28	CD11:27, CD11:28
CD14:3—CD14:6	CD14:3—CD14:6.1
CD14:19, CD14:20	CD14:19, CD14:20

Remove Old Pages	*Insert New Pages*
CD15:5, CD15:6	CD15:5, CD15:6
CD15:11—CD15:14	CD15:11—CD15:14.1
CD15.1:17, CD15.1:18	CD15.1:17, CD15.1:18
CD15.5:1—CD15.5:23	CD15.5:1—CD15.5:26
CD17:3, CD17:4	CD17:3, CD17:4
CD17:17—CD17:22	CD17:17—CD17:22
CD17:45, CD17:46	CD17:45—CD17:46.1
CD17:57—CD17:82	CD17:57—CD17:79
CCT:31, CCT:32	CCT:31—CCT:33
CDi:21—CDi:50	CDi:21—CDi:50
CDi:59—CDi:64	CDi:59—CDi:64.1
CDi:71, CDi:72	CDi:71, CDi:72
CDi:83—CDi:86	CDi:83—CDi:86

Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

municode
Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
info@municode.com • 800.262.2633
fax 850.575.8852 • www.municode.com

O.C. REVISION
July 2014

SALT RIVER PIMA-MARICOPA

INDIAN COMMUNITY

CODE OF ORDINANCES

This O.C. Revision is printed to revise pages appearing in the original codification and should be inserted as directed below.

Remove Old Pages	*Insert New Pages*
CD10:5, CD10:6	CD10:5, CD10:6

Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

municode
Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
info@municode.com • 800.262.2633
fax 850.575.8852 • www.municode.com

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY CODE OF ORDINANCES

Published in 2014 by Order of the Community Council

municode
Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
info@municode.com • 800.262.2633
fax 850.575.8852 • www.municode.com

CURRENT AND FORMER OFFICIALS

of the

SALT RIVER PIMA-MARICOPA

INDIAN COMMUNITY

Presidents

Joseph Thomas	1940-1946
Billman Hayes, Sr.	1946-1951
Hollis Chough	1951-1956
Billman Hayes, Sr.	1956-1957
Edmund Manuel	1957-1958
Charles Chough	1958-1959
Lemuel King	1959-1960
Raymond Enos, Sr.	5/1960-9/1960 (Acting)
Burgess Burke	1960-1962
Vernon Smith	1962-1964
Filmore Carlos	1964-1967
Johnson Enos	6/1967-8/1967 (Acting)
Filmore Carlos	8/1967-1969
Harold R. Schurz	1969-1970
Edmund Manuel	1970-1971
Paul Smith	1971-1974
Gerald Anton	1974-1979
Herschel Andrews	1979-1982
Gerald Anton	1982-6/1990
Alfretta M. Anton	2/1990-7/1990 (Acting)
Ivan Makil	7/1990-2002
Joni M. Ramos	2002-2006
Diane Enos	2006-2014
Delbert W. Ray, Sr.	**2014-Present

Vice-Presidents

Charles Chough	1948
Lawrence Menson	1949
Lemuel King	1957-1958
Raymond Enos, Sr.	1958-1960
Myra Rice	1960-1961
Vernon Smith	1/1962-6/1962
Dayton Andrews	6/1962-1966
Billman Hayes, Sr.	1966-1967
Johnson Enos	1967-1968
Harold R. Schurz	1968-1969
Herschel Andrews	1969-1970
Harold R. Schurz	1970-1971

Vice-Presidents

Garnet Gates	1971-1973
Harold R. Schurz	1973-1974
Herschel Andrews	1974-1979
Gerald Anton	1979
Alfretta Antone	1979-1990
Merna L. Lewis	1990-2002
Leonard Rivers	2002-2006
Harvier, Martin L.	**2006-Present

Council Members

Andreas, Leslie Gene	1974-1986
Andrews, Dayton	1960-1962
Andrews, Herschel	1967-1969, 1988-1992
Andrews, Michael	1951
Anton, Gerald	1972-1973
Antone, Charles	1951
Brown, Virgil	1962-1963, 1970-1971
Carlos, Filmore	1963-1964, 1969-1970
Carlos, Fred	1972-1980, 6/1983-1986
Carlos, Isaac	1951
Chough, Charles	1958-1960
Chough, Hollis	1963
Chough, Ruth	10/1985-1994
Collins, Anthony, Sr.	8/2003-1/2010, 9/2010-12/2011
Enos, Arnold	1975-1978, 11/1980-1982
Enos, Diane	1990-2006
Enos, Harvey	1957-1958
Enos, Johnson	1964-1966, 1968-1970
Enos, Raymond, Sr.	1958, 1960-1961
Espinoza, Selena	2002-2006
Evans, Roger	1970-1972
Frederick, Gary	1976-1980
French, Burns	1962
French, Daniel	1951
French, Verland	2000-7/2003
Fulwilder, Carolyn	1982-6/1983
Gates, Burnett	1978-9/1980, 12/1998-2000
Gates, Garnet	1974-1975
Gates, Grinelda	1986-1998, 2000-2004
Gibson, Rena Blackwater	1980-1988
Grey, Lance	1971-1976, 1980-2000
Harvier, Toni	1998-2002
Hayes, Billman, Sr.	1958-1961, 1964-1966
Juan, Sebastian	1970-10/1982
Kashoya, Archie	**2012-Present
King, Elizabeth	1966-1969, 1971-1974
King, Lemuel	1958-1960

Council Members

Largo, Thomas, Sr.	**1994-2002, 2006-Present
Leonard, Ricardo Juan	**2000-Present
Leonard Terrance	1974-1978
Lewis, Leroy	1978-1982
Lewis, Merna L. Silversmith	2/1981-1988
Loring, Lester	2/1990-1994
Manuel, Edmund	1958-1959, 1972-1974
Manuel, Violet	1976
Martinez, Marjorie	1964-1966
Martinez, Ramon	1994-1998
Menson, Lawrence	1951
Miles, Eldon	11/1982-2/1990
Miles, Silas	1957-1964
Miller, Claire	1992-2000, 2006-2010
Myore, Lynn	2002-2010
Owens, Christine	1966-1970
Padilla, Dixie	2002-2010
Pearson, Alma Makil	1971-1974
Ray, Delbert Sr.	**1/2012-Present
Ray, Lorna	**2010-Present
Ray, Russell	1988-12/1998
Rice, Myra	1962-1963
Rivers, Leonard	1998-2002, 2/2010-2012
Rivers, William, Jr.	1960-1962
Sebahe, Byron	1971-1972
Sampson, Leslie	1967-1970
Sampson, Lillian	1963-1966
Sampson, Willardine	**2010-Present
Scabby, Deanna M.	**9/2006-Present
Schurz, Harold R.	1966-1967, 1982-8/1985
Schurz, Martina	1957-1958
Seota, Claire	1971-1972
Smith, Kenny	2004-9/2006
Smith, Paul J., Sr.	1969-1971
Smith, Vernon	1951, 1966-1967
Thomas, Martin	1973-1980, 1986-1990
Wellington, Joshua	1957-1960, 1962-1964
Wood, Claudina	1962-1966

**Present Council Members

PREFACE

This Code constitutes a recodification of the general and permanent ordinances of the Salt River Pima-Maricopa Indian Community.

Source materials used in the preparation of the Code were the 2012 Code, as supplemented through May 16, 2012, and ordinances subsequently adopted by the Community Council. The Code, consisting of chapters 1 through 24, was adopted by SRO-441-2014 and effective as of April 17, 2014. Ordinances adopted after SRO-433-2014 on December 4, 2013, have been incorporated into this publication and were construed as if they amended or referred to like provisions of the Code. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1976 Code, 1981 Code and 2012 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant sections of the Constitution have been included.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included in the same manner.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

SUPPLEMENT HISTORY TABLE SH:1
CONSTITUTION CST:1
CONSTITUTION COMPARATIVE TABLE CSTCT:1
CODE CD1:1
CODE APPENDIX CDA:1
CODE COMPARATIVE TABLES CCT:1
CONSTITUTION INDEX CSTi:1
CODE INDEX CDi:1

Indexes

The indexes have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by government officials and employees. There are numerous cross references within the indexes themselves which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Copyright

All editorial enhancements of this Code are copyrighted by Municipal Code Corporation and the Salt River Pima-Maricopa Indian Community. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; numbering system; code comparative table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municipal Code Corporation and the Salt River Pima-Maricopa Indian Community.

© Copyrighted material.

Municipal Code Corporation and the Salt River Pima-Maricopa Indian Community. 2014.

TABLE OF CONTENTS

	Page
Current and Former Officials of the Salt River Pima-Maricopa Indian Community	iii
Preface	vii
Checklist of Up-to-Date Pages	[1]
Supplement History Table	SH:1

PART I

CONSTITUTION OF THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Constitution of the Salt River Pima-Maricopa Indian Community	CST:1
Preamble	CST:3
Art. I. Territory	CST:3
Art. II. Membership	CST:3
Art. III. Executive Branch	CST:4
Art. IV. Legislative Branch	CST:5
Art. V. Electoral Districts	CST:6
Art. VI. Nominations and Elections	CST:6
Art. VII. Powers of the Community Council	CST:7
Art. VIII. Initiative and Referendum	CST:9
Art. IX. Removal and Recall From Office	CST:9
Art. X. Vacancies	CST:10
Art. XI. Land	CST:10
Art. XII. Bill of Rights	CST:11
Art. XIII. Amendments	CST:11
Art. XIV. Adoption of Constitution	CST:12
Art. XV. Repeal of Previous Constitution and Savings Clause	CST:12
Art. XVI. Certificate of Results of Election	CST:12
Constitution Comparative Table—Ordinances	CSTCT:1

PART II

CODE OF ORDINANCES

Chapter	
1. General Provisions and Enterprises, Divisions and Boards	CD1:1
Art. I. Code	CD1:5
Art. II. Community, Enterprises, Divisions and Boards	CD1:7
Div. 1. Preamble To Enterprises	CD1:7
Div. 2. Salt River Pima-Maricopa Community Schools Division	CD1:8
Div. 3. Community Housing Program	CD1:11

Chapter Page

Div. 4. Salt River Community Property Development and Asset Management Company CD1:12
Div. 5. Salt River Community Golf Enterprises CD1:19
Div. 6. Salt River Financial Services Institution ... CD1:22
Div. 7. Saddleback Communications Company..... CD1:34
Div. 8. Phoenix Cement Company CD1:37
Div. 9. Salt River Sand and Rock Company CD1:39
Div. 10. Salt River Commercial Landfill Company . CD1:41
Div. 11. Salt River Community Gaming Enterprises CD1:52
Div. 12. Salt River Fields at Talking Stick CD1:56
Art. III. Committees CD1:61
Div. 1. Generally..... CD1:61
Div. 2. Retirement/Benefit Plan Coordination of Law CD1:61
Div. 3. Senior Home Repair or Replacement Program Committee CD1:63
Art. IV. Nonprofit Organizations CD1:66

2. Community Membership CD2:1
Art. I. In General CD2:3
Art. II. Membership as a Matter of Right CD2:3
Art. III. Removal from Membership Rolls CD2:7

3. Voting and Elections CD3:1
Art. I. In General CD3:3
Art. II. Run-Off and Special Elections CD3:17
Div. 1. Generally..... CD3:17
Div. 2. Run-Off..... CD3:17
Div. 3. Special CD3:17
Art. III. Post Election CD3:18
Art. IV. Initiative, Referendum and Recall Elections ... CD3:18
Div. 1. Generally..... CD3:18
Div. 2. Petitions..... CD3:18
Art. V. Violations of Election Process CD3:33

4. Courts Generally CD4:1
Art. I. In General CD4:3
Art. II. Judges CD4:6
Art. III. Appeals CD4:16
Art. IV. Bonds and Witness Expenses..... CD4:19
Art. V. Rulemaking of the Court CD4:20
Art. VI. Defendant's Rights CD4:20

4.5. Law Enforcement and Legal Offices CD4.5:1
Art. I. Police Department..... CD4.5:3
Art. II. Department of Community Prosecutor..... CD4.5:4

5. Rules of the Community Court CD5:1
Art. I. In General CD5:9
Art. II. Civil Procedure CD5:9
Art. III. Receivers..... CD5:10
Art. IV. Rules of Criminal Procedure CD5:11
Div. 1. Scope, Purpose and Construction CD5:11

Chapter Page

Div. 2. Preliminary Proceedings CD5:12
Div. 3. Rights of Parties CD5:15
Div. 4. Pretrial Motions and Discovery CD5:21
Div. 5. Trial CD5:33
Div. 6. Post-Trial Proceedings and Sentencing CD5:39
Div. 7. Probation and Parole CD5:44
Div. 8. Powers of the Court CD5:48
Div. 9. Deferred Prosecution and Sentence CD5:49
Div. 10. Motions and Time Computations CD5:50
Art. V. Rules of Civil Appellate Procedure CD5:53
Art. VI. Rules of Criminal Appellate Procedure CD5:69
Art. VII. Community Rules of Evidence CD5:82
Div. 1. General Provisions CD5:82
Div. 2. Judicial Notice CD5:84
Div. 3. Presumptions in Civil Cases CD5:84
Div. 4. Relevance and Its Limits CD5:84
Div. 5. Privileges CD5:88
Div. 6. Witnesses CD5:91
Div. 7. Opinions and Expert Testimony CD5:94
Div. 8. Hearsay CD5:95
Div. 9. Authentication and Identification CD5:100
Div. 10. Contents of Writings, Recordings, and Photographs CD5:103

5.5. Civil Offenses CD5.5:1

6. Criminal Code CD6:1
Art. I. In General CD6:5
Art. II. Offenses Against Public Administration CD6:11
Div. 1. Generally CD6:11
Div. 2. Court-Related Offenses CD6:13
Art. III. Offenses Against Persons CD6:14
Div. 1. Generally CD6:14
Div. 2. Sexual Offenses CD6:17
Art. IV. Offenses Against Minors and Dependents CD6:19
Div. 1. Generally CD6:19
Div. 2. Sexual Contact With Children CD6:21
Art. V. Offenses Against Property CD6:22
Div. 1. Generally CD6:22
Div. 2. Real or Tangible Property CD6:23
Div. 3. Trespass CD6:25
Art. VI. Drug-Related Offenses CD6:27
Art. VII. Weapons and Explosives CD6:28

6.5. Sex Offender Registration and Community Notification . . . CD6.5:1

7. Extradition and Exclusion CD7:1
Art. I. Extradition CD7:3
Art. II. Detainee as a Witness in a Criminal Proceeding in a Foreign Jurisdiction CD7:9
Art. III. Exclusion from Community Territory CD7:10

Chapter	Page
8. Sentencing	CD8:1
9. Probate	CD9:1
Art. I. In General	CD9:3
Art. II. Trust and Restricted Lands	CD9:3
10. Domestic Relations	CD10:1
Art. I. Paternity	CD10:5
Art. II. Marriage, Divorce, Annulment, Separate Maintenance	CD10:12
Div. 1. Generally	CD10:12
Div. 2. Child Support	CD10:15
Art. III. Adoption	CD10:29
Art. IV. Guardianship	CD10:32
Div. 1. Generally	CD10:32
Div. 2. Guardianship for Minors	CD10:32
Div. 3. Guardians for Incompetent Adults	CD10:45
Div. 4. Guardian Ad Litem	CD10:46
Art. V. Protection for Elderly and Vulnerable Adults	CD10:47
Art. VI. Commitment and Treatment of Mentally Ill Persons	CD10:62
Art. VII. Domestic Violence	CD10:65
Art. VIII. Office of Public Fiduciary	CD10:70
11. Minors	CD11:1
Art. I. In General	CD11:5
Art. II. Juvenile Court	CD11:8
Art. III. Community Prosecutor	CD11:14
Art. IV. Child Protective Services	CD11:14
Art. V. Rights and Responsibilities	CD11:15
Art. VI. Juvenile Justice	CD11:15
Art. VII. Child Protection	CD11:23
Art. VIII. Curfew	CD11:47
Art. IX. Rights of Child Victims or Witnesses of Crime	CD11:49
Art. X. Investigation of Persons Working With Children	CD11:50
Art. XI. Truancy	CD11:51
12. Animals and Fowl	CD12:1
Art. I. In General	CD12:3
Art. II. Rabies Control	CD12:7
Art. III. Wild Free-Roaming Horses and Burros	CD12:11
Art. IV. Sonoran Desert Nesting Bald Eagle Protection Act	CD12:13
13. Health and Sanitation	CD13:1
Art. I. In General	CD13:3
Art. II. Alcoholism	CD13:7
Art. III. Tuberculosis	CD13:11
Art. IV. Pesticides	CD13:12
Art. V. Food Service Establishments and Retail Food Stores	CD13:18

Chapter	Page
14. Alcoholic Beverages and Prohibited Substances	CD14:1
Art. I. In General	CD14:3
Art. II. Alcoholic Beverage Control	CD14:3
Div. 1. Generally	CD14:3
Div. 2. Licenses	CD14:6
Art. III. Unlawful Acts	CD14:17
Art. IV. Possession in a Public Place	CD14:20
Art. V. Possession and Use of Narcotics, Hallucinogens or Dangerous Drugs; Seizure of Vehicles	CD14:21
15. Licensing and Permitting	CD15:1
Art. I. In General	CD15:5
Art. II. Business Licenses Generally	CD15:5
Art. III. Specific Licenses	CD15:8
Div. 1. Hunting and Fishing Licenses	CD15:8
Div. 2. Trailer Space Rental Business	CD15:8
Div. 3. Sale of Cigarettes at Retail	CD15:11
Div. 4. Amusement Licenses	CD15:14
Div. 5. Public Dance Permits	CD15:17
Div. 6. Public Dance Hall	CD15:19
Div. 7. Fireworks and Pyrotechnics	CD15:19
15.1. Taxation	CD15.1:1
Art. I. In General	CD15.1:3
Art. II. Transaction Privilege Tax	CD15.1:14
Art. III. Possessory Interest Tax	CD15.1:17
Art. IV. Utilities Tax	CD15.1:19
Art. V. Luxury Tax	CD15.1:19
Art. VI. Privilege License	CD15.1:20
15.5. Gaming	CD15.5:1
16. Traffic and Motor Vehicles	CD16:1
Art. I. In General	CD16:7
Art. II. Registration, Licensing and Inspection	CD16:14
Art. III. Equipment	CD16:17
Div. 1. Generally	CD16:17
Div. 2. Lights, Lamps, Reflectors and Illuminating Devices	CD16:23
Div. 3. Seat Belt Requirements	CD16:30
Art. IV. Size, Weight and Load	CD16:32
Art. V. Traffic-Control Devices	CD16:37
Art. VI. Operation of Vehicles	CD16:40
Div. 1. Generally	CD16:40
Div. 2. Right-of-Way and Passing	CD16:46
Div. 3. Stopping, Standing and Parking	CD16:48
Div. 4. Speed Restrictions	CD16:51
Div. 5. Driving While Under the Influence; Reckless Driving	CD16:54
Div. 6. Truck Routes	CD16:59
Art. VII. Accidents	CD16:60

Chapter		Page
	Art. VIII. Procedure in Traffic Cases	CD16:64
	Div. 1. General Provisions for All Traffic Cases	CD16:64
	Div. 2. Rules of Procedure for Criminal Traffic Offenses	CD16:65
	Div. 3. Rules of Procedure for Civil Traffic Offenses	CD16:66
	Div. 4. Juvenile Traffic Offenses Provisions	CD16:69
	Div. 5. Appeals	CD16:70
	Art. IX. Pedestrians' Rights and Duties	CD16:70
	Art. X. Abandoned and Seized Vehicles	CD16:71
	Art. XI. Bicycles and Play Vehicles	CD16:73
17.	Development, Real Property and Housing	CD17:1
	Art. I. In General	CD17:5
	Art. II. Eminent Domain	CD17:12
	Art. III. Roadway Construction	CD17:16
	Art. IV. Street Numbers and Names	CD17:17
	Art. V. Homesites	CD17:18
	Div. 1. Generally	CD17:18
	Div. 2. Homesite Leases on Tribal Lands	CD17:19
	Div. 3. Homesites on Allotted Lands	CD17:21
	Div. 4. Homesites Generally	CD17:22
	Art. VI. Forcible Entry and Detainer	CD17:24
	Art. VII. Outdoor Advertising Signs	CD17:27
	Art. VIII. Uniform Road and Utility Corridors	CD17:29
	Art. IX. Highway Rights-of-Way	CD17:30
	Art. X. Subdivisions	CD17:34
	Art. XI. Encumbrance of Land	CD17:39
	Div. 1. Generally	CD17:39
	Div. 2. Mortgages	CD17:39
	Div. 3. Deeds of Trust	CD17:45
	Art. XII. Development Fees	CD17:58
17.5.	Floodplain and Drainage	CD17.5:1
18.	Water and Other Natural Resources	CD18:1
	Art. I. In General	CD18:3
	Art. II. Groundwater Management	CD18:3
	Art. III. Environmental Protection	CD18:7
	Art. IV. Surface Water Management	CD18:11
	Art. V. GRUSP Groundwater Recharge Control and Quality Protection	CD18:16
	Art. VI. Agriculture Fugitive Dust Control	CD18:18
19.	Cultural Resources	CD19:1
	Art. I. In General	CD19:3
	Art. II. Memorial Hall	CD19:4
20.	Finances	CD20:1
	Art. I. In General	CD20:3
	Art. II. Distribution of Moneys from "Outer Loop" Highway	CD20:3

Chapter	Page
Art. III. Sale of Securities	CD20:4
Art. IV. Welfare Assistance	CD20:6
Art. V. Unclaimed Personal Property	CD20:11
21. Graffiti	CD21:1
22. Reserved	CD22:1
23. Labor and Employment	CD23:1
Art. I. In General	CD23:3
Art. II. Right to Work	CD23:3
Art. III. Workers' Compensation	CD23:6
Div. 1. Generally	CD23:6
Div. 2. Dispute Resolution; Appeal and Settlement	CD23:14
Art. IV. Retirement/Benefit Compliance and Advisory Committee	CD23:20
24. Business and Commerce	CD24:1
Art. I. Limited Liability Company Act	CD24:3
Art. II. Formation and Certificate of Organization	CD24:7
Art. III. Relations of Members and Managers to Persons Dealing With Limited Liability Company	CD24:8
Art. IV. Membership, Contributions, Distributions and Management	CD24:9
Art. V. Transfer of Membership Interest	CD24:12
Art. VI. Dissolution and Winding Up	CD24:12
Art. VII. Merger, Conversion, and Domestication	CD24:14
Code Comparative Table—1976 Code	CCT:1
Code Comparative Table—1981 Code	CCT:3
Code Comparative Table—2012 Code	CCT:7
Code Comparative Table—Ordinances	CCT:11
Constitution Index	CSTi:1
Code Index	CDi:1

Checklist of Up-to-Date Pages

(This checklist will be updated with the printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

Page No.	Supp. No.	Page No.	Supp. No.
Title page	OC	CD1:7, CD1:8	OC
iii, iv	1	CD1:9, CD1:10	OC
v	1	CD1:11, CD1:12	1
vii, viii	1	CD1:13, CD1:14	1
ix	1	CD1:17, CD1:18	OC
xiii, xiv	1	CD1:19, CD1:20	OC
xv, xvi	1	CD1:21, CD1:22	OC
xvii, xviii	1	CD1:23, CD1:24	OC
xix	1	CD1:25, CD1:26	OC
SH:1	1	CD1:27, CD1:28	OC
CST:1, CST:2	OC	CD1:29, CD1:30	OC
CST:3, CST:4	1	CD1:31, CD1:32	OC
CST:5, CST:6	OC	CD1:33, CD1:34	OC
CST:7, CST:8	OC	CD1:35, CD1:36	OC
CST:9, CST:10	OC	CD1:37, CD1:38	OC
CST:11, CST:12	OC	CD1:39, CD1:40	OC
CST:13	OC	CD1:41, CD1:42	OC
CSTCT:1	OC	CD1:43, CD1:44	OC
CD1:1, CD1:2	1	CD1:45, CD1:46	OC
CD1:3	OC	CD1:47, CD1:48	OC
CD1:5, CD1:6	OC	CD1:49, CD1:50	OC

Page No.	Supp. No.	Page No.	Supp. No.
CD1:51, CD1:52	OC	CD4:13, CD4:14	1
CD1:53, CD1:54	OC	CD4:15, CD4:16	1
CD1:55, CD1:56	OC	CD4:17, CD4:18	1
CD1:57, CD1:58	OC	CD4:19, CD4:20	1
CD1:59, CD1:60	OC	CD4.5:1	OC
CD1:61, CD1:62	OC	CD4.5:3, CD4.5:4	OC
CD1:63, CD1:64	OC	CD5:1, CD5:2	OC
CD1:65, CD1:66	OC	CD5:3, CD5:4	OC
CD1:67	OC	CD5:5, CD5:6	OC
CD2:1	OC	CD5:7	OC
CD2:3, CD2:4	OC	CD5:9, CD5:10	OC
CD2:5, CD2:6	OC	CD5:11, CD5:12	OC
CD2:7, CD2:8	OC	CD5:13, CD5:14	OC
CD2:9	OC	CD5:15, CD5:16	OC
CD3:1, CD3:2	OC	CD5:17, CD5:18	OC
CD3:3, CD3:4	OC	CD5:19, CD5:20	OC
CD3:5, CD3:6	1	CD5:21, CD5:22	OC
CD3:7, CD3:8	1	CD5:23, CD5:24	OC
CD3:9, CD3:10	1	CD5:25, CD5:26	OC
CD3:11, CD3:12	OC	CD5:27, CD5:28	OC
CD3:13, CD3:14	OC	CD5:29, CD5:30	OC
CD3:15, CD3:16	OC	CD5:31, CD5:32	OC
CD3:17, CD3:18	1	CD5:33, CD5:34	OC
CD3:19, CD3:20	1	CD5:35, CD5:36	OC
CD3:21, CD3:22	OC	CD5:37, CD5:38	OC
CD3:23, CD3:24	OC	CD5:39, CD5:40	OC
CD3:25, CD3:26	OC	CD5:41, CD5:42	OC
CD3:27, CD3:28	OC	CD5:43, CD5:44	OC
CD3:29, CD3:30	OC	CD5:45, CD5:46	OC
CD3:31, CD3:32	OC	CD5:47, CD5:48	OC
CD3:33, CD3:34	OC	CD5:49, CD5:50	OC
CD3:35, CD3:36	OC	CD5:51, CD5:52	OC
CD4:1	1	CD5:53, CD5:54	OC
CD4:3, CD4:4	OC	CD5:55, CD5:56	OC
CD4:5, CD4:6	OC	CD5:57, CD5:58	OC
CD4:7, CD4:8	OC	CD5:59, CD5:60	OC
CD4:9, CD4:10	1	CD5:61, CD5:62	OC
CD4:11, CD4:12	1	CD5:63, CD5:64	OC

CHECKLIST OF UP-TO-DATE PAGES

Page No.	Supp. No.	Page No.	Supp. No.
CD5:65, CD5:66	OC	CD6:31, CD6:32	1
CD5:67, CD5:68	OC	CD6:33, CD6:34	1
CD5:69, CD5:70	OC	CD6:35	1
CD5:71, CD5:72	OC	CD6.5:1	OC
CD5:73, CD5:74	OC	CD6.5:3, CD6.5:4	1
CD5:75, CD5:76	OC	CD6.5:5, CD6.5:6	1
CD5:77, CD5:78	OC	CD6.5:7, CD6.5:8	OC
CD5:79, CD5:80	OC	CD6.5:9, CD6.5:10	OC
CD5:81, CD5:82	OC	CD6.5:11, CD6.5:12	OC
CD5:83, CD5:84	OC	CD6.5:13, CD6.5:14	OC
CD5:85, CD5:86	OC	CD6.5:15, CD6.5:16	1
CD5:87, CD5:88	OC	CD6.5:16.1	1
CD5:89, CD5:90	OC	CD6.5:17, CD6.5:18	OC
CD5:91, CD5:92	OC	CD7:1	OC
CD5:93, CD5:94	OC	CD7:3, CD7:4	OC
CD5:95, CD5:96	OC	CD7:5, CD7:6	OC
CD5:97, CD5:98	OC	CD7:7, CD7:8	OC
CD5:99, CD5:100	OC	CD7:9, CD7:10	OC
CD5:101, CD5:102	OC	CD7:11, CD7:12	OC
CD5:103, CD5:104	OC	CD8:1	OC
CD5.5:1	OC	CD8:3, CD8:4	OC
CD5.5:3	OC	CD8:5	OC
CD6:1, CD6:2	OC	CD9:1	OC
CD6:3	1	CD9:3	OC
CD6:5, CD6:6	1	CD10:1, CD10:2	OC
CD6:6.1	1	CD10:3	1
CD6:7, CD6:8	OC	CD10:5, CD10:6	OC
CD6:9, CD6:10	OC	CD10:7, CD10:8	OC
CD6:11, CD6:12	OC	CD10:9, CD10:10	OC
CD6:13, CD6:14	OC	CD10:11, CD10:12	OC
CD6:15, CD6:16	OC	CD10:13, CD10:14	OC
CD6:17, CD6:18	OC	CD10:15, CD10:16	OC
CD6:19, CD6:20	OC	CD10:17, CD10:18	OC
CD6:21, CD6:22	OC	CD10:19, CD10:20	OC
CD6:23, CD6:24	OC	CD10:21, CD10:22	OC
CD6:25, CD6:26	OC	CD10:23, CD10:24	OC
CD6:27, CD6:28	1	CD10:25, CD10:26	OC
CD6:29, CD6:30	1	CD10:27, CD10:28	1

Page No.	Supp. No.	Page No.	Supp. No.
CD10:29, CD10:30	OC	CD11:23, CD11:24	OC
CD10:31, CD10:32	1	CD11:25, CD11:26	OC
CD10:33, CD10:34	1	CD11:27, CD11:28	1
CD10:35, CD10:36	OC	CD11:29, CD11:30	OC
CD10:37, CD10:38	OC	CD11:31, CD11:32	OC
CD10:39, CD10:40	1	CD11:33, CD11:34	OC
CD10:41, CD10:42	OC	CD11:35, CD11:36	OC
CD10:43, CD10:44	OC	CD11:37, CD11:38	OC
CD10:45, CD10:46	1	CD11:39, CD11:40	OC
CD10:47, CD10:48	OC	CD11:41, CD11:42	OC
CD10:49, CD10:50	OC	CD11:43, CD11:44	OC
CD10:51, CD10:52	OC	CD11:45, CD11:46	OC
CD10:53, CD10:54	OC	CD11:47, CD11:48	OC
CD10:55, CD10:56	OC	CD11:49, CD11:50	OC
CD10:57, CD10:58	OC	CD11:51, CD11:52	OC
CD10:59, CD10:60	OC	CD11:53, CD11:54	OC
CD10:61, CD10:62	OC	CD11:55, CD11:56	OC
CD10:63, CD10:64	OC	CD12:1, CD12:2	OC
CD10:65, CD10:66	OC	CD12:3, CD12:4	OC
CD10:67, CD10:68	OC	CD12:5, CD12:6	OC
CD10:69, CD10:70	1	CD12:7, CD12:8	OC
CD10:71, CD10:72	1	CD12:9, CD12:10	OC
CD10:73, CD10:74	1	CD12:11, CD12:12	OC
CD10:75	1	CD12:13, CD12:14	OC
CD11:1, CD11:2	1	CD12:15	OC
CD11:3	1	CD13:1, CD13:2	OC
CD11:5, CD11:6	OC	CD13:3, CD13:4	OC
CD11:7, CD11:8	OC	CD13:5, CD13:6	OC
CD11:9, CD11:10	OC	CD13:7, CD13:8	OC
CD11:11, CD11:12	OC	CD13:9, CD13:10	OC
CD11:13, CD11:14	OC	CD13:11, CD13:12	OC
CD11:15, CD11:16	OC	CD13:13, CD13:14	OC
CD11:17, CD11:18	OC	CD13:15, CD13:16	OC
CD11:19, CD11:20	OC	CD13:17, CD13:18	OC
CD11:21, CD11:22	1	CD13:19, CD13:20	OC
CD11:22.1, CD11:22.2	1	CD14:1, CD14:2	OC
CD11:22.3, CD11:22.4	1	CD14:3, CD14:4	1
CD11:22.5	1	CD14:5, CD14:6	1

CHECKLIST OF UP-TO-DATE PAGES

Page No.	Supp. No.	Page No.	Supp. No.
CD14:6.1	1	CD15.5:13, CD15.5:14	1
CD14:7, CD14:8	OC	CD15.5:15, CD15.5:16	1
CD14:9, CD14:10	OC	CD15.5:17, CD15.5:18	1
CD14:11, CD14:12	OC	CD15.5:19, CD15.5:20	1
CD14:13, CD14:14	OC	CD15.5:21, CD15.5:22	1
CD14:15, CD14:16	OC	CD15.5:23, CD15.5:24	1
CD14:17, CD14:18	OC	CD15.5:25, CD15.5:26	1
CD14:19, CD14:20	1	CD16:1, CD16:2	OC
CD14:21, CD14:22	OC	CD16:3, CD16:4	OC
CD14:23, CD14:24	OC	CD16:5, CD16:6	OC
CD15:1, CD15:2	OC	CD16:7, CD16:8	OC
CD15:3	OC	CD16:9, CD16:10	OC
CD15:5, CD15:6	1	CD16:11, CD16:12	OC
CD15:7, CD15:8	OC	CD16:13, CD16:14	OC
CD15:9, CD15:10	OC	CD16:15, CD16:16	OC
CD15:11, CD15:12	1	CD16:17, CD16:18	OC
CD15:13, CD15:14	1	CD16:19, CD16:20	OC
CD15:14.1	1	CD16:21, CD16:22	OC
CD15:15, CD15:16	OC	CD16:23, CD16:24	OC
CD15:17, CD15:18	OC	CD16:25, CD16:26	OC
CD15:19, CD15:20	OC	CD16:27, CD16:28	OC
CD15.1:1, CD15.1:2	OC	CD16:29, CD16:30	OC
CD15.1:3, CD15.1:4	OC	CD16:31, CD16:32	OC
CD15.1:5, CD15.1:6	OC	CD16:33, CD16:34	OC
CD15.1:7, CD15.1:8	OC	CD16:35, CD16:36	OC
CD15.1:9, CD15.1:10	OC	CD16:37, CD16:38	OC
CD15.1:11, CD15.1:12	OC	CD16:39, CD16:40	OC
CD15.1:13, CD15.1:14	OC	CD16:41, CD16:42	OC
CD15.1:15, CD15.1:16	OC	CD16:43, CD16:44	OC
CD15.1:17, CD15.1:18	1	CD16:45, CD16:46	OC
CD15.1:19, CD15.1:20	OC	CD16:47, CD16:48	OC
CD15.1:21	OC	CD16:49, CD16:50	OC
CD15.5:1	1	CD16:51, CD16:52	OC
CD15.5:3, CD15.5:4	1	CD16:53, CD16:54	OC
CD15.5:5, CD15.5:6	1	CD16:55, CD16:56	OC
CD15.5:7, CD15.5:8	1	CD16:57, CD16:58	OC
CD15.5:9, CD15.5:10	1	CD16:59, CD16:60	OC
CD15.5:11, CD15.5:12	1	CD16:61, CD16:62	OC

Page No.	Supp. No.	Page No.	Supp. No.
CD16:63, CD16:64	OC	CD17:55, CD17:56	OC
CD16:65, CD16:66	OC	CD17:57, CD17:58	1
CD16:67, CD16:68	OC	CD17:59, CD17:60	1
CD16:69, CD16:70	OC	CD17:61, CD17:62	1
CD16:71, CD16:72	OC	CD17:63, CD17:64	1
CD16:73, CD16:74	OC	CD17:65, CD17:66	1
CD16:75, CD16:76	OC	CD17:67, CD17:68	1
CD16:77, CD16:78	OC	CD17:69, CD17:70	1
CD16:79, CD16:80	OC	CD17:71, CD17:72	1
CD16:81, CD16:82	OC	CD17:73, CD17:74	1
CD17:1, CD17:2	OC	CD17:75, CD17:76	1
CD17:3, CD17:4	1	CD17:77, CD17:78	1
CD17:5, CD17:6	OC	CD17:79	1
CD17:7, CD17:8	OC	CD17.5:1	OC
CD17:9, CD17:10	OC	CD17.5:3, CD17.5:4	OC
CD17:11, CD17:12	OC	CD17.5:5, CD17.5:6	OC
CD17:13, CD17:14	OC	CD17.5:7, CD17.5:8	OC
CD17:15, CD17:16	OC	CD17.5:9, CD17.5:10	OC
CD17:17, CD17:18	1	CD17.5:11, CD17.5:12	OC
CD17:19, CD17:20	1	CD17.5:13	OC
CD17:21, CD17:22	1	CD18:1, CD18:2	OC
CD17:23, CD17:24	OC	CD18:3, CD18:4	OC
CD17:25, CD17:26	OC	CD18:5, CD18:6	OC
CD17:27, CD17:28	OC	CD18:7, CD18:8	OC
CD17:29, CD17:30	OC	CD18:9, CD18:10	OC
CD17:31, CD17:32	OC	CD18:11, CD18:12	OC
CD17:33, CD17:34	OC	CD18:13, CD18:14	OC
CD17:35, CD17:36	OC	CD18:15, CD18:16	OC
CD17:37, CD17:38	OC	CD18:17, CD18:18	OC
CD17:39, CD17:40	OC	CD18:19, CD18:20	OC
CD17:41, CD17:42	OC	CD18:21, CD18:22	OC
CD17:43, CD17:44	OC	CD19:1	OC
CD17:45, CD17:46	1	CD19:3, CD19:4	OC
CD17:46.1	1	CD19:5	OC
CD17:47, CD17:48	OC	CD20:1	OC
CD17:49, CD17:50	OC	CD20:3, CD20:4	OC
CD17:51, CD17:52	OC	CD20:5, CD20:6	OC
CD17:53, CD17:54	OC	CD20:7, CD20:8	OC

Page No.	Supp. No.	Page No.	Supp. No.
CD20:9, CD20:10	OC	CCT:23, CCT:24	OC
CD20:11, CD20:12	OC	CCT:25, CCT:26	OC
CD20:13	OC	CCT:27, CCT:28	OC
CD21:1	OC	CCT:29, CCT:30	OC
CD21:3, CD21:4	OC	CCT:31, CCT:32	1
CD21:5, CD21:6	OC	CCT:33	1
CD22:1	OC	CSTi:1, CSTi:2	OC
CD23:1, CD23:2	OC	CDi:1, CDi:2	OC
CD23:3, CD23:4	OC	CDi:3, CDi:4	OC
CD23:5, CD23:6	OC	CDi:5, CDi:6	OC
CD23:7, CD23:8	OC	CDi:7, CDi:8	OC
CD23:9, CD23:10	OC	CDi:9, CDi:10	OC
CD23:11, CD23:12	OC	CDi:11, CDi:12	OC
CD23:13, CD23:14	OC	CDi:13, CDi:14	OC
CD23:15, CD23:16	OC	CDi:15, CDi:16	OC
CD23:17, CD23:18	OC	CDi:17, CDi:18	OC
CD23:19, CD23:20	OC	CDi:19, CDi:20	OC
CD23:21	OC	CDi:21, CDi:22	1
CD24:1, CD24:2	OC	CDi:23, CDi:24	1
CD24:3, CD24:4	OC	CDi:25, CDi:26	1
CD24:5, CD24:6	OC	CDi:27, CDi:28	1
CD24:7, CD24:8	OC	CDi:29, CDi:30	1
CD24:9, CD24:10	OC	CDi:31, CDi:32	1
CD24:11, CD24:12	OC	CDi:33, CDi:34	1
CD24:13, CD24:14	OC	CDi:35, CDi:36	1
CD24:15, CD24:16	OC	CDi:37, CDi:38	1
CD24:17	OC	CDi:39, CDi:40	1
CCT:1, CCT:2	OC	CDi:41, CDi:42	1
CCT:3, CCT:4	OC	CDi:43, CDi:44	1
CCT:5, CCT:6	OC	CDi:45, CDi:46	1
CCT:7, CCT:8	OC	CDi:47, CDi:48	1
CCT:9, CCT:10	OC	CDi:49, CDi:50	1
CCT:11, CCT:12	OC	CDi:51, CDi:52	OC
CCT:13, CCT:14	OC	CDi:53, CDi:54	OC
CCT:15, CCT:16	OC	CDi:55, CDi:56	OC
CCT:17, CCT:18	OC	CDi:57, CDi:58	OC
CCT:19, CCT:20	OC	CDi:59, CDi:60	1
CCT:21, CCT:22	OC	CDi:61, CDi:62	1

Page No.	Supp. No.
CDi:63, CDi:64	1
CDi:64.1	1
CDi:65, CDi:66	OC
CDi:67, CDi:68	OC
CDi:69, CDi:70	OC
CDi:71, CDi:72	1
CDi:73, CDi:74	OC
CDi:75, CDi:76	OC
CDi:77, CDi:78	OC
CDi:79, CDi:80	OC
CDi:81, CDi:82	OC
CDi:83, CDi:84	1
CDi:85, CDi:86	1
CDi:87	OC

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Municipal Code will be able to gain a more complete picture of the Code's historical evolution.

Ord./Res. No.	Date Adopted	Include/Omit	Supp. No.
Supplement No. 1			
SRO-434-2014	1-15-2014	Include	1
SRO-435-2014	2-12-2014	Include	1
SRO-436-2014	1-15-2014	Omit	1
SRO-437-2014	2-26-2014	Include	1
SRO-438-2014	2-26-2014	Include	1
SRO-439-2014	3- 5-2014	Include	1
SRO-440-2014	3-26-2014	Include	1
SRO-441-2014	4-16-2014	Include	1
SRO-442-2014	4-16-2014	Include	1
SRO-443-2014	6- 4-2014	Include	1
SRO-444-2014	7- 2-2014	Include	1
SRO-445-2014	7- 2-2014	Include	1
SRO-446-2014	7-30-2014	Include	1
SRO-447-2014	7-30-2014	Include	1
SRO-448-2014	8-20-2014	Include	1
SRO-449-2014	8-27-2014	Include	1
SRO-450-2014	9-24-2014	Include	1
SRO-451-2015	10- 1-2014	Include	1
SRO-452-2015	10-22-2014	Include	1
SRO-453-2015	10-22-2014	Include	1
SRO-454-2015	12-10-2014	Include	1
SRO-455-2015	1- 7-2015	Include	1
SRO-456-2015	1-21-2015	Include	1
SRO-457-2015	1-28-2015	Include	1
SRO-458-2015	1-28-2015	Include	1
SRO-459-2015	2- 4-2015	Include	1

PART I

CONSTITUTION OF THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY*

Preamble

Article I. Territory

Article II. Membership

Sec. 1. Membership By Right.
Sec. 2. Membership of Minors Enrolled Elsewhere.
Sec. 3. Court Jurisdiction.
Sec. 4. Future Membership.
Sec. 5. Membership Roll.

Article III. Executive Branch

Sec. 1. President.
Sec. 2. Vice President.
Sec. 3. Secretary.
Sec. 4. Other Officers.
Sec. 5. Officers Defined.
Sec. 6. Oath of Office.
Sec. 7. Salaries of Officers.

Article IV. Legislative Branch

Sec. 1. Governing Body, Number of Members.
Sec. 2. Qualifications For The President and Vice President.
Sec. 3. Qualifications For Council Members.
Sec. 4. Term of Office.
Sec. 5. Community Council Members Not To Hold Other Offices.
Sec. 6. Meetings of Community Council.
Sec. 7. Attendance Required.

Article V. Electoral Districts

Sec. 1. Districts Defined.
Sec. 2. Districts Apportionment.

Article VI. Nominations and Elections

Sec. 1. Election Board.
Sec. 2. Elections.
Sec. 3. Nominations of President And Vice President.
Sec. 4. Voter Qualifications.
Sec. 5. Absentee Voting.
Sec. 6. Secret Ballot.

***Editor's note—**The Constitution was approved February 28, 1990, by election and approved on March 19, 1990, by Mr. Ronald Eden, Acting Deputy to the Assistant Secretary - Indian Affairs (Tribal Services). Amendment No. 1 was approved by the Community on February 27, 1996, and on April 23, 1996, by the Bureau of Indian Affairs. Amendment No. 2 was approved August 15, 2005, by the Bureau of Indian Affairs. The provisions have been included as enacted; however, catchlines which are not a part of the Constitution, as enacted, to facilitate indexing have been supplied in brackets.

Article VII. Powers of the Community Council

Sec. 1.
Sec. 2. Review of Secretary of the Interior.

Article VIII. Initiative and Referendum

Sec. 1. Initiative.
Sec. 2. Referendum.

Article IX. Removal and Recall From Office

Sec. 1. Removal.
Sec. 2. Recall.

Article X. Vacancies

Sec. 1. Council Member.
Sec. 2. President.
Sec. 3. Vice President.
Sec. 4. Vacancy of Both Offices.

Article XI. Land

Sec. 1. Policy Against Alienation of Land.
Sec. 2. Land Acquisition Program.
Sec. 3. Land Exchange.
Sec. 4. Land Retention.

Article XII. Bill of Rights

Article XIII. Amendments

Article XIV. Adoption of Constitution

Article XV. Repeal of Previous Constitution and Savings Clause

Sec. 1.
Sec. 2.

Article XVI. Certificate of Results of Election

PREAMBLE

We, the Pimas and Maricopas of the Salt River Pima-Maricopa Indian Community, within the State of Arizona, in order to maintain our culture and independence of our people, to provide the continued self-government of our Community; to encourage the economic well-being of our people; and to promote the rights of our people and their common welfare, do ordain and establish this Constitution for the Pimas and Maricopas of the Salt River Pima-Maricopa Indian Community henceforth to be known as the Salt River Pima-Maricopa Indian Community which shall replace the Constitutions and Bylaws of the Salt River Pima-Maricopa Indian Community approved by the Secretary of the Interior on June 11, 1940, and March 18, 1971. (Note: The Constitution has been amended twice since March 19, 1990. The first amendment was approved on April 23, 1996, by the Bureau of Indian Affairs (BIA) and the second amendment was approved on August 15, 2005, by the BIA.)

ARTICLE I. TERRITORY

The jurisdiction of the Salt River Pima-Maricopa Indian Community shall extend to all lands within the boundaries of the Salt River Pima-Maricopa Indian Community established pursuant to the Act of February 28, 1859 (11 Stat. 401), and Executive Orders, to such other lands as may in the future be added thereto and to all land which may from time to time be owned by the Salt River Pima-Maricopa Indian Community.

ARTICLE II. MEMBERSHIP

Sec. 1. Membership By Right.

The membership of the Salt River Pima-Maricopa Indian Community shall consist of:

(a) All persons of Indian blood whose names appear, or rightfully should appear, on the official allotment roll of the Salt River Pima-Maricopa Indian Community; and

(b) All persons whose names validly appear on the latest duly certified membership roll of the Salt River Pima-Maricopa Indian Community; provided that, the Community Council may correct such roll in accordance with applicable Community law; and

(c) Any biological lineal descendent of an original Salt River allottee who meets all of the following:

(1) Is at least one-fourth (1/4) degree Indian blood; and

(2) Is the biological child or biological grandchild of an enrolled member of the Salt River Pima-Maricopa Indian Community; and

(3) Is a United States citizen; and

(4) Is not enrolled in any other federally recognized tribe; and

(5) Has never relinquished enrollment from any other federally recognized tribe (with exception to Article II, Section 2).

Sec. 2. Membership of Minors Enrolled Elsewhere.

Any person enrolled in any other federal recognized tribe before reaching the age of 18 years is eligible for enrollment by right with the Salt River Pima-Maricopa Indian Community if such person:

(a) (1) Is a biological lineal descendent of an original Salt River allottee; and

(2) Is a t least one-fourth (1/4) degree Indian blood; and

(3) Is the biological child or biological grandchild of an enrolled member of the Salt River Pima-Maricopa Indian Community; and

(4) Is a United States citizen;

(b) Files an application for enrollment with the Community within one hundred and eighty (180) days after turning eighteen (18) years of age; and

(c) Relinquishes membership in any other federally recognized tribe before filing an application for enrollment with the Community.

Sec. 3. Court Jurisdiction.

No decree of an outside court determining membership in the Salt River Pima-Maricopa Indian Community shall be recognized. All questions relating to the paternity of an applicant for enrollment shall be decided by the Community court and the decision of the court shall be final.

Sec. 4. Future Membership.

The Community Council shall have the power to enact ordinances governing membership of the Salt River Pima-Maricopa Indian Community consistent with the provisions of this article.

Sec. 5. Membership Roll.

The Community Council shall provide for the establishment and maintenance of an up-to-date roll of members of the Salt River Pima-Maricopa Indian Community and shall provide for a fair hearing to any claimant to membership aggrieved by the omission or deletion of his or her name to such roll.

ARTICLE III. EXECUTIVE BRANCH

Sec. 1. President.

The president shall be the chief executive officer of the Salt River Pima-Maricopa Indian Community and president of the Community and presiding chairman of the Community Council, and shall see that the ordinances thereof are enforced. He shall regularly report to the Community Council in regard to the affairs of the Salt River Pima-Maricopa Indian Community and make recommendations to assist in the governing of the Salt River Pima-Maricopa Indian Community. The president shall be a full voting participant on the Community Council. The president may take command of the police and govern the Salt River Pima-Maricopa Indian Community by proclamation during times of great public danger.

Sec. 2. Vice President.

The vice president shall preside over the Community Council in the absence of the president and shall perform all duties of the president during such periods as the office is vacant or the Community Council declares the president to be incapacitated. The vice president shall perform such duties of the president, subject to supervision of the president, as the president may from time to time delegate. The vice president shall be a full voting participant on the Community Council.

Sec. 3. Secretary.

The Community Council shall appoint a secretary, who shall not be a member of the Community Council, to maintain all records of the community and perform such other duties as the Community Council may prescribe. The secretary shall hold office at the pleasure of the Community Council.

Sec. 4. Other Officers.

The Community Council may create other offices, and prescribe the qualifications and duties thereof, and the manner in which they shall be filled.

Sec. 5. Officers Defined.

The president, vice president, secretary, all council members and all other persons specifically designated by the Community Council shall be officers of the Salt River Pima-Maricopa Indian Community.

Sec. 6. Oath of Office.

Before any officer of the Salt River Pima-Maricopa Indian Community enters upon the duties of his or her office he or she shall take and subscribe the following oath:

> I, _____, do solemnly (swear) (affirm) that I will support the Constitution and laws of the Salt River Pima-Maricopa Indian Community and the Constitution of the United States; that I will bear true faith and allegiance to the same, and defend them against all enemies whatsoever, and that I will faithfully and impartially discharge the duties of my office.

The foregoing oath shall be taken before the president or vice president of the Salt River Pima-Maricopa Indian Community, or any judge

of the community court of the Salt River Pima-Maricopa Indian Community and shall be filed with the secretary or such other officer as the Community Council may designate.

Sec. 7. Salaries of Officers.

The salaries and other compensation of the members of the Community Council and the president and vice president and other officers shall be determined by the Community Council.

ARTICLE IV. LEGISLATIVE BRANCH

Sec. 1. Governing Body, Number of Members.

The governing body of the Salt River Pima-Maricopa Indian Community shall be the Salt River Pima-Maricopa Indian Community Council and shall consist of the president, Vice President and seven (7) council members to be chosen as follows:

President. By popular vote of the registered voters of the Salt River Pima-Maricopa Indian Community.

Vice President. By popular vote of the registered voters of the Salt River Pima-Maricopa Indian Community.

Five (5) council members. By popular vote of the registered voters resident of the Salt River District as defined in Article V, Section 1; and

Two (2) council members. By popular vote of the registered voters resident of the Lehi District as defined in Article V, Section 1.

Sec. 2. Qualifications For The President and Vice President.

A person shall be eligible to be nominated for the office of president or vice president if such member is an enrolled member of the Salt River Pima-Maricopa Indian Community registered to vote in Community elections and has physically resided in the Salt River Pima-Maricopa Indian Community for at least one (1) year immediately preceding the election date and is twenty-five (25) years of age.

Sec. 3. Qualifications For Council Members.

A person shall be eligible to be nominated for the office of council member if such person is an enrolled member of the Salt River Pima-Maricopa Indian Community registered to vote in Community elections and has physically resided in the Salt River Pima-Maricopa Indian Community for at least one (1) year and in the district as provided in Article V, Section 1 for at least six (6) months immediately preceding the election date and is twenty-five (25) years of age.

Sec. 4. Term of Office.

The president and vice president and members of the council shall be elected for terms of four (4) years. The officers in office or elected to office at the time this constitution is adopted shall complete their full term of office and if for any reason any such officer fails to complete the full term, the replacement for the office will complete the term of office.

Sec. 5. Community Council Members Not To Hold Other Offices.

No member of the Community Council shall be an employee of or hold other constitutional office in the Salt River Pima-Maricopa Indian Community government. Nor shall any member of the Community Council be employed in any branch of the United States Government nor shall any member of the Community Council hold any elective office in any other governmental body. The office of any member shall be vacant at the time a member of the Community Council assumes employment or elective office prohibited by this section. The Community Council may adopt ordinances which restrict or annul the right to hold office as a member of the Community Council of any member who is an employee of a business or other enterprise owned by the Salt River Pima-Maricopa Indian Community.

Sec. 6. Meetings of Community Council.

The Community Council shall hold its regular meeting on the date set by the Community Council unless there is no quorum for such meeting. Special meetings shall be held at the call of the president or at the call of three (3) members of the

Community Council. A majority of the members of the Community Council shall constitute a quorum for the transaction of business. Meetings shall be held in any place within the Salt River Pima-Maricopa Indian Community the members present deem convenient. Meetings may be held outside the Salt River Pima-Maricopa Indian Community upon the assent of six (6) members of the Community Council. In the absence of the president and vice president from any regular or special meeting, the council shall choose a presiding officer for such meeting from among the members of the council present.

Sec. 7. Attendance Required.

If a member of the Community Council fails to attend two (2) successive meetings of the Community Council, the council office held by that member shall be vacant at the adjournment of the next succeeding regular council meeting unless that member was excused by the Community Council or was absent because of illness. At any time prior to the time the office becomes vacant the Community Council may determine by appropriate action that the member's absence was due to reasons satisfactory to the Community Council which were beyond the control of the member. Upon such an action of the Community Council the council office will not become vacant.

ARTICLE V. ELECTORAL DISTRICTS

Sec. 1. Districts Defined.

There shall be two (2) electoral districts: the Salt River District consisting of all the Salt River Pima-Maricopa Indian Community lying west of the west boundary of Section 35, T.3N., R.5E, and Sections 2, 11, 14, 23, 26 and 35 in T.2N., R.5E, G & SRB & M from which five (5) council members shall be elected; and the Lehi District consisting of all the remaining land of the said Salt River Pima-Maricopa Indian Community from which two (2) council members shall be elected.

Sec. 2. Districts Apportionment.

The Community Council shall have the power to enlarge and to decrease its membership only as to the representatives from the Salt River District and the Lehi District, but no additional members may be added until the position has been voted on in a regular general election, and no member may be removed because of decrease in size of the Community Council until the term normally expires. The Community Council shall never contain less that seven (7) council members—five (5) from the Salt River District and two (2) from the Lehi District.

ARTICLE VI. NOMINATIONS AND ELECTIONS

Sec. 1. Election Board.

The Community Council shall enact ordinances to provide for the appointment of election boards and officials as are necessary to impartially and fairly supervise elections conducted under this constitution.

Sec. 2. Elections.

Elections for president, Vice President and council members shall be held on the first Tuesday in September in each even numbered year. The candidates who are certified as elected by the Salt River Pima-Maricopa Indian Community Council shall be installed in office two (2) weeks prior to the first day of January, except when such date falls on a Sunday, then on the following Monday. Elections shall be held only for those positions of council members whose terms are to expire during the year of the election. All elected officers and council members shall hold office until their successors have been elected and installed.

Sec. 3. Nominations of President And Vice President.

(a) At least twenty (20) days before nominations of candidates for council members are made, no less than two (2) candidates for each office of president and vice president shall be nominated at the general community meeting called for that purpose.

(b) Nominations of Council Members. Nominations shall be made at a meeting in each of the electoral districts called for that purpose. No less

that two (2) candidates for each office of council member shall be nominated at a general community meeting called for that purpose.

Sec. 4. Voter Qualifications.

(a) Any member of the Salt River Pima-Maricopa Indian Community who is at least eighteen (18) years of age and registered to vote in accordance with the ordinances of the Salt River Pima-Maricopa Indian Community may vote at any election conducted in the electoral district of which such member has been a resident for at least one (1) year; or in such district in which such member is registered pursuant to any ordinance authorizing the voter registration of non-resident members as may be enacted by the Community Council, unless such person is a prisoner in any jail or prison on the date of election or has been declared by a court of competent jurisdiction to be incompetent subsequent to registration.

(b) Registration To Vote. Any member who is a resident of the Salt River Pima-Maricopa Indian Community and will be at least eighteen (18) years of age on the date of the next general election and who has not been declared incompetent by a court of competent jurisdiction may be registered to vote under uniform standards by ordinance adopted.

Sec. 5. Absentee Voting.

The Community Council may enact ordinances to provide uniform and standard forms for voting by absentee ballot so as to allow persons to vote who are otherwise qualified and who are absent from the Salt River Pima-Maricopa Indian Community on the date of any election for reasons of occupation, business, health or educational advancement.

Sec. 6. Secret Ballot.

All elections for offices within the Salt River Pima-Maricopa Indian Community shall be conducted with secret ballots.

ARTICLE VII. POWERS OF THE COMMUNITY COUNCIL

Sec. 1.

The Community Council shall have authority to exercise any power now or hereafter vested in the Salt River Pima-Maricopa Indian Community, subject to the limitations of Federal law and this constitution. Without limiting the foregoing, the Community Council shall have the following powers:

(a) *Legislative Branch.* To regulate its own procedures, to appoint committees, to employ sergeants-at-arms, advisors and clerks, and to provide for the safekeeping of its records;

(b) *Executive Branch.* To establish and disestablish departments and offices in the executive branch of the community government, to provide for personnel, prescribe the functions, powers and procedures of the executive branch and the qualifications and duties of its personnel;

(c) *Police Power.* To exercise the police power of the Salt River Pima-Maricopa Indian Community by providing ordinances:

(1) To govern the conduct of members of the Salt River Pima-Maricopa Indian Community and visitors within its territory;

(2) To establish a community court system;

(3) To establish law enforcement agencies within the community;

(4) To protect the public health and morals and public and private property rights;

(5) To provide for the public welfare and particularly the welfare and protection of children, the poor, unfortunate, disabled and aged;

(6) To regulate domestic regulations of members of the Salt River Pima-Maricopa Indian Community;

(7) To regulate the use and disposition of private property within its territory insofar as such use and disposition may affect the welfare of the Salt River Pima-Maricopa Indian Community at large;

(8) To prescribe rules of inheritance and to enact ordinances to provide for the administration of probate estates;

(9) To regulate hunting and fishing;

(10) To preserve historic and prehistoric arts, crafts, sites and other things culturally important to the people of the Salt River Pima-Maricopa Indian Community.

(d) *To Administer Land And Other Public Property:*

(1) To prevent the sale or encumbrance of tribal lands and interests in lands without the consent of the members of the Salt River Pima-Maricopa Indian Community by referendum;

(2) To lease and otherwise grant to private persons and public bodies the right to use tribal land;

(3) To enter into agreements concerning the use, exploration, development and extraction of the natural and mineral resources of the Salt River Pima-Maricopa Indian Community;

(4) To acquire lands or other property by gift, escheat, exchange of purchase; and to acquire lands or other property needed for public purposes by negotiation or condemnation as provided by law;

(5) To provide for the proper use and development and prevent the misuse of the lands, natural resources and other public property of the Salt River Pima-Maricopa Indian Community.

(e) *Fiscal Powers:*

(1) To adopt annually a budget and general appropriations ordinance which shall determine and limit the amounts of money to be spent for the various and particular functions of community government;

(2) To enact and levy taxes or assessments on persons, transactions and property within the Salt River Pima-Maricopa Indian Community to the extent the Community Council deems necessary to provide for the support of the public purposes and common welfare of the Salt River Pima-Maricopa Indian Community;

(3) To borrow money for public purposes and to secure the repayment thereof.

(f) *To Charter And Regulate Organizations.* To authorize, charter and regulate voluntary associations and corporations formed by members or by the Community Council of the Salt River Pima-Maricopa Indian Community for business or charitable purposes; to authorize formation of corporations under State or Federal law for economic, charitable or public purposes;

(g) *Exclusion.* To remove and exclude from the territory of the Salt River Pima-Maricopa Indian Community nonmembers whose presence is found detrimental to the peace, health or morals of the Salt River Pima-Maricopa Indian Community or violates tribal laws or ordinances.

(h) *Agreements With Government.* To consult, negotiate, contract, conclude and perform agreements with Federal, State, local, governments and Indian tribal governments on behalf of the Salt River Pima-Maricopa Indian Community;

(i) *Employment of Lawyers.* To employ legal counsel consistent with the requirements of Federal law;

(j) *To Advise and Recommend to the Federal Government.* To advise and to recommend to the United States Government;

(k) *To Take Necessary Action to Exercise Its Powers.* To make all laws and take such action as shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the government of the Salt River Pima-Maricopa Indian Community.

Sec. 2. Review of Secretary of the Interior.

Any resolution or ordinance which by the terms of any law of the United States is subject to review or requires the approval of the Secretary of the Interior before it may become effective, and

any legislation which the Community Council wishes to become effective only with the approval of the Secretary of the Interior, shall be presented to the local Bureau of Indian Affairs representative, who, having Bureau authority to do so, shall within ten (10) days thereafter, approve or disapprove the same in writing to the president of the Salt River Pima-Maricopa Indian Community and forward the resolution or ordinance with approval or disapproval endorsed thereon to the Secretary of the Interior. If the local Bureau representative has no such Bureau authority, the representative shall within five (5) days thereafter transmit the resolution or ordinance to the bureau office having such authority who shall within ten (10) days thereafter, approve or disapprove the same in writing to the president of the Salt River Pima-Maricopa Indian Community and forward the resolution or ordinance with approval or disapproval endorsed thereon to the Secretary of the Interior. If such ordinance or resolution is approved by the appropriate representative, it shall become effective at the time of such approval. The Secretary of the Interior may, within sixty (60) days of the date of receipt of the ordinance or resolution, unless under Federal law a longer or shorter period is provided, in which case the period provided in Federal law will apply, rescind the ordinance or resolution for any cause by notifying the Salt River Pima-Maricopa Indian Community Council of the action.

If the appropriate Bureau representative refuses to approve a resolution or ordinance, the representative shall advise the Salt River Pima-Maricopa Indian Community of the reason therefore. The Community Council may, by majority vote of the members present, a quorum existing, refer the ordinance or resolution to the Secretary of the Interior directly, who may within sixty (60) days of the date of receipt, or within such other period of time as specifically provided by Federal law, approve or disapprove the same in writing. If the Secretary of the Interior fails to take action within the time provided, the resolution or ordinance shall become effective one (1) days after the period of time for determination has expired.

ARTICLE VIII. INITIATIVE AND REFERENDUM

Sec. 1. Initiative.

Upon receipt of a petition in writing signed by no less than fifteen (15) percent of the total number of registered voters of the Salt River Pima-Maricopa Indian Community and calling for a vote to consider the enactment of any ordinance or resolution and if the Community Council fails to take action within fifteen (15) days to conform with the petition, the Community Council shall hold an election to consider the enactment of such ordinance or resolution. The election shall take place no less than thirty (30) days nor more than sixty (60) days of receipt of the petition by the Community Council. If the vote of a majority of the registered voters voting is in favor of the enactment of such an ordinance or resolution, the ordinance or resolution shall be enacted. No action undertaken by this procedure shall be repealed by the Community Council except with the express approval of the registered voters of the community voting in an election called for that purpose by the Community Council. No initiative petition shall be effective if its enactment would impair the obligations of any contract previously authorized by an ordinance or resolution enacted or adopted by the Community Council.

Sec. 2. Referendum.

The Community Council may refer to the registered voters of the community proposals for the enactment of ordinances or resolutions which shall be enacted only after the approval by a majority of the registered voters who vote in such an election. No action undertaken by this procedure shall be repealed by the Community Council except with the express approval of the majority of the registered voters of the community voting in an election called for that purpose by the Community Council.

ARTICLE IX. REMOVAL AND RECALL FROM OFFICE

Sec. 1. Removal.

The office of any elected officer of the Salt River Pima-Maricopa Indian Community shall be for-

feited and declared vacant if during such officer's term of office the officer is found guilty by a court of competent jurisdiction of any felony. Any elected officer convicted by a court of competent jurisdiction of a misdemeanor involving moral turpitude or who is found guilty by the Community Council of neglect of duty, malfeasance in office, or misconduct reflecting on the dignity and integrity of the community government may be removed from office by majority vote of the Community Council after a hearing before the Community Council. Five (5) days before such hearing a written statement of the charges shall be served on such person and at that hearing an opportunity to answer such charges shall be allowed. The decision of the Community Council shall be final.

Sec. 2. Recall.

The Community Council shall call a recall election when there is filed with the community secretary a petition demanding the recall of any elected officer signed by at least thirty-five (35) percent of the registered voters of the district from which such person was elected, or in the case of the president or vice president a petition bearing the signatures of at least thirty five (35) percent of the registered voters of the community, Provided That the office held by such person shall not be subject to election at a regular general election within sixty (60) days of the date the recall petition is filed. Such election shall be called and held not less than twenty-five (25) nor more than forty (40) days from the date of the filing of the petition. No council member or other elected official shall be recalled unless a majority of those voting vote in favor of the recall and unless at least thirty (30) percent of the registered voters of the district or districts vote in the election.

ARTICLE X. VACANCIES

Sec. 1. Council Member.

If for any reason a council member's office becomes vacant, the Community Council shall within thirty (30) days call and hold a special election for the purpose of the election of a new council member to serve the unexpired term of the former council member unless said death or removal occurs within sixty (60) days of the next general election and in which case the vacancy in office shall be filled at the next general election for the balance of the term.

Sec. 2. President.

Upon the death, resignation, recall or removal from office of the president, the vice president of the community shall perform the duties of the president until a new president shall have been elected. The Community Council shall within thirty (30) days call and hold a special election to fill the unexpired term of the president unless the vacancy in office occurs within sixty (60) days of the next general election in which case the vacancy in office shall be filled at the next general election for the balance of the term.

Sec. 3. Vice President.

Upon the death, resignation, removal or recall from office of the vice president, the Community Council shall within thirty (30) days call and hold a special election for the purpose of the election of a new vice president to serve for the unexpired term of the former vice president unless said death or removal occurs within sixty (60) days of the next general election in which case the vacancy in office shall be filled at the next general election for the balance of the term.

Sec. 4. Vacancy of Both Offices.

If the offices of both the president and vice president are vacant under the conditions set out in Sections 2 and 3 of this article, the Community Council shall within twenty-four (24) hours appoint one (1) of its members to serve as acting president until the offices of the president and vice president shall have been filled by election as provided above in Sections 2 and 3 for the balance of the term.

ARTICLE XI. LAND

Sec. 1. Policy Against Alienation of Land.

It is the public policy of the Salt River Pima-Maricopa Indian Community that all land within

the boundaries of the Salt River Pima-Maricopa Indian Community shall be owned by the Salt River Pima-Maricopa Indian Community or its individual members forever.

Sec. 2. Land Acquisition Program.

The Community Council shall, consistent with Federal law, establish a program to acquire by purchase, escheat, condemnation or otherwise, all land within the boundaries of the Salt River Pima-Maricopa Indian Community which is not owned by the Salt River Pima-Maricopa Indian Community or its members. The acquisition of such land is declared to be a public purpose of the Salt River Pima-Maricopa Indian Community.

Sec. 3. Land Exchange.

The Community Council may exchange unallotted Community land for allotted land located within the boundaries of the Salt River Pima-Maricopa Indian Community for public purposes and upon reasonable terms.

Sec. 4. Land Retention.

The Community Council shall establish a program to insure that land owned by the community or its members will not be divested into the ownership of others.

ARTICLE XII. BILL OF RIGHTS

No law shall be made under this constitution or action taken by an officer of the Salt River Pima-Maricopa Indian Community:

1. Respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people of this community peaceably to assemble, and to petition the government for a redress of grievances.
2. Depriving any person of life, liberty or property or to be expelled from this community without due process of law as understood through the cultural experience of the people of this community.
3. Violating the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.
4. Granting irrevocably any privilege, franchise or immunity.
5. Compelling any person in a criminal case to give evidence against himself or be twice put in jeopardy for the same offense.
6. Taking any private property for a public use without just compensation.
7. Requiring excessive bail, imposing excessive fines, inflicting cruel and unusual punishment, imposing for conviction of any one offense any penalty or punishment greater than is authorized by the laws of the United States to be imposed by Indian tribal courts.
8. Denying to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense; to deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.
9. Constituting a bill of attainder, ex post facto law, or law impairing the obligation of contracts.
10. Denying to any person within its jurisdiction the equal protection of its laws consistent with the right of the people of the Salt River Pima-Maricopa Indian Community to maintain the integrity of their culture and their community.

ARTICLE XIII. AMENDMENTS

This constitution may be amended by a majority vote of the registered voters of the Salt River

Pima-Maricopa Indian Community voting in an election called for that purpose by the Secretary of the Interior, Provided That at least thirty (30) percent of those who in accordance with Secretarial regulations are registered to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Community Council or upon receipt of a petition signed by not less than two hundred (200) registered voters of the community.

ARTICLE XIV. ADOPTION OF CONSTITUTION

This constitution when adopted by a majority vote of the registered voters of the Pima-Maricopa Indians of the Salt River Pima-Maricopa Indian Community voting at a special election authorized by the Secretary of the Interior in which at least thirty (30) percent of those registered in accordance with Secretarial regulations to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be in force from the date of such approval.

ARTICLE XV. REPEAL OF PREVIOUS CONSTITUTION AND SAVINGS CLAUSE

Sec. 1.

The Constitution of the Salt River Pima-Maricopa Indian Community approved by the Secretary of the Interior on March 18, 1971, shall be considered revoked upon ratification and approval of this constitution.

Sec. 2.

All prior laws, ordinances and resolutions enacted by the Salt River Pima-Maricopa Indian Community shall remain in full force and effect to the extent that they are not inconsistent with this constitution until such time as they might be duly rescinded or repealed pursuant to the provisions of this constitution.

ARTICLE XVI. CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an order issued by Hazel E. Elbert, Deputy to the Assistant Secretary — Indian Affairs (Tribal Services), on November 21, 1989, the foregoing Constitution of the Salt River Pima-Maricopa Indian Community was submitted to the qualified voters of the Salt River Pima-Maricopa Indian Community and on February 28, 1990, was duly adopted/rejected by a vote of 58 for, and 20 against, and 0 cast ballots found separated or mutilated, in an election in which at least thirty (30) percent of the 189 (number) members entitled to vote, cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial Election authorized by Walter R. Mills, Phoenix Area Director, on September 28, 1995, the attached Amendment No. 1 to the Salt River Pima-Maricopa Indian Community's Constitution and Bylaws was submitted to the qualified voters of the Salt River Indian Community, and on February 27, 1996 was duly adopted/rejected by a vote of 144 for, and 124 against and 4 cast ballots found or mutilated in an election in which at least thirty percent (30%) of the 541 members entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 13, 1934, (48 Stat. 984) as amended by the Act of June 15, 1934, (49 Stat. 378).

Proposed Amendment A, Article II, Sections 1 and 2—Membership:

Pursuant to a Secretarial Election authorized by the Western Regional Director, on March 25, 2006, Proposed Amendment A to the Constitution and Bylaws of the Salt River Pima-Maricopa Indian Community of Arizona, was submitted to the registered voters of the Community and on July 26, 2005, was duly adopted by a vote of 471 for, and 68 against and 1 cast ballots found spoiled or mutilated in an election in which at least thirty percent (30%) of the 886 members

entitled to vote, cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

/s/ _____
Chairman, Election Board

/s/ _____
Election Board Member

/s/ _____
Election Board Member

Date: August 1, 2005

APPROVAL

I, Bryan Bowker, Acting Regional Director, Western Regional Office, Bureau of Indian Affairs, by virtue of the authority delegated to the Assistant Secretary—Indian Affairs by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me, do hereby approve the foregoing Amendment No. II to the Constitution and Bylaws of the Salt River Pima-Maricopa Indian Community of Arizona; provided that nothing in this approval shall be construed as authorizing any action under the Constitution and Bylaws that would be contrary to Federal law.

/s/ _____
Acting Regional Director,
Western Regional Office
Bureau of Indian Affairs

Date: August 15, 2005

CONSTITUTION COMPARATIVE TABLE

ORDINANCES

This table shows the location of the sections of the basic Constitution and any amendments thereto.

Referendum Date	Approval Date	Section	Section this Constitution
2-28-1990	3-19-1990		Const. (note)

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS AND ENTERPRISES, DIVISIONS AND BOARDS

Article I. Code

Sec. 1-1. Codification ratified.
Sec. 1-2. Publication required.
Sec. 1-3. Powers of codifier.
Sec. 1-4. History notes.
Sec. 1-5. Enacting, repealing, and amending sections within the Community Code of Ordinances.
Sec. 1-6. Construction of Community Code of Ordinances provisions.
Sec. 1-7. Construction of catchlines.
Sec. 1-8. Severability of parts of Code.
Sec. 1-9. Amendments to Code.
Secs. 1-10—1-34. Reserved.

Article II. Community, Enterprises, Divisions and Boards

Division 1. Preamble To Enterprises

Sec. 1-35. Authorization.
Secs. 1-36—1-58. Reserved.

Division 2. Salt River Pima-Maricopa Community Schools Division

Sec. 1-59. Established.
Sec. 1-60. Capitalization; financial responsibility.
Secs. 1-61—1-78. Reserved.

Division 3. Community Housing Program

Sec. 1-79. Community housing program; purpose and responsibilities.
Secs. 1-80—1-103. Reserved.

Division 4. Salt River Community Property Development and Asset Management Company

Sec. 1-104. Established.
Sec. 1-105. Capitalization; financial responsibility.
Secs. 1-106—1-123. Reserved.

Division 5. Salt River Community Golf Enterprises

Sec. 1-124. Established.
Sec. 1-125. Capitalization; financial responsibility.
Secs. 1-126—1-148. Reserved.

Division 6. Salt River Financial Services Institution

Sec. 1-149. Established.

Sec. 1-150. Powers.
Sec. 1-151. Financial duties and responsibilities of the institution.
Sec. 1-152. The board of directors.
Sec. 1-153. The institution's officers.
Sec. 1-154. Executive director.
Sec. 1-155. Indian preference in employment.
Sec. 1-156. Reports to the Community Council.
Sec. 1-157. Miscellaneous.
Sec. 1-158. Compliance with certification requirements.
Secs. 1-159—1-184. Reserved

Division 7. Saddleback Communications Company

Sec. 1-185. Established.
Sec. 1-186. Capitalization; financial responsibility.
Secs. 1-187—1-210. Reserved.

Division 8. Phoenix Cement Company

Sec. 1-211. Established.
Sec. 1-212. Capitalization; financial responsibility.
Secs. 1-213—1-232. Reserved.

Division 9. Salt River Sand and Rock Company

Sec. 1-233. Established.
Sec. 1-234. Capitalization; financial responsibility
Secs. 1-235—1-261. Reserved.

Division 10. Salt River Commercial Landfill Company

Sec. 1-262. Established.
Sec. 1-263. Powers.
Sec. 1-264. Financial duties and responsibilities.
Sec. 1-265. Chief executive officer.
Sec. 1-266. Board of directors.
Sec. 1-267. The officers.
Sec. 1-268. Indian preference in employment.
Sec. 1-269. Reports to the Community Council.
Sec. 1-270. Miscellaneous.
Sec. 1-271. Repeal of prior ordinances.
Sec. 1-272. Effective date.
Secs. 1-273—1-292. Reserved.

Division 11. Salt River Community Gaming Enterprises

Sec. 1-293. Established.
Sec. 1-294. Capitalization; financial responsibility.
Secs. 1-295—1-321. Reserved.

Division 12. Salt River Fields At Talking Stick

Sec. 1-322. Enterprise established.
Sec. 1-323. Capitalization; financial responsibility.
Sec. 1-324. Spectator injuries.
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.
Sec. 1-348. Coordination of federal and tribal law.
Secs. 1-349—1-353. Reserved.

Division 3. Senior Home Repair or Replacement Program Committee

Sec. 1-354. Title.
Sec. 1-355. Purpose.
Sec. 1-356. Senior home repair or replacement program (SHRRP) committee.
Sec. 1-357. Definitions.
Sec. 1-358. Eligibility and prioritization.
Sec. 1-359. Categories.
Sec. 1-360. Purpose of category "A."
Sec. 1-361. Purpose of category "B."
Sec. 1-362. Purpose of category "C."
Sec. 1-363. Purpose of category "D."
Sec. 1-364. Application.
Sec. 1-365. Application review.
Sec. 1-366. Funding.
Sec. 1-367. Appeals.
Secs. 1-368—1-392. Reserved.

Article IV. Nonprofit Organizations

Sec. 1-393. Established.
Sec. 1-394. Purposes of the foundation.
Sec. 1-395. Board of trustees; duties; fiscal year.
Sec. 1-396. Contributions to the foundation.

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 designated 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 appointed 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 Community 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.

[The next page is CD1:17]

(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 compliance 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 of 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 programs 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 be 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 Community 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.

(l) 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 division 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 experience 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 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 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 administrative 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 gaming 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 if 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 facility, 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' employees 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 Community 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 construed 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 Constitution 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)

Chapter 2

COMMUNITY MEMBERSHIP

Article I. In General

Sec. 2-1. Office of membership services.
Sec. 2-2. Definitions.
Secs. 2-3—2-22. Reserved.

Article II. Membership As A Matter of Right

Sec. 2-23. Membership criteria.
Sec. 2-24. Criteria for membership of minors enrolled elsewhere.
Sec. 2-25. Verification of criteria.
Sec. 2-26. Application and review process.
Sec. 2-27. Secretary to coordinate information.
Sec. 2-28. Burden of proof with applicant.
Sec. 2-29. Timeframe for decision.
Sec. 2-30. Notification.
Sec. 2-31. Finality of Community Council decision.
Sec. 2-32. Jurisdiction over membership decisions.
Sec. 2-33. Truthfulness in the application process; civil fines.
Secs. 2-34—2-54. Reserved.

Article III. Removal From Membership Rolls

Sec. 2-55. Petition for disenrollment of a minor or adult.
Sec. 2-56. Relinquishment.
Sec. 2-57. Dual enrollment or otherwise ineligible for enrollment.

ARTICLE I. IN GENERAL

Sec. 2-1. Office of membership services.

(a) The office of membership services ("membership office") is hereby established to employ staff and develop policies, consistent with this article, to implement the Community laws regarding membership (including enrollment, relinquishment, disenrollment and other relevant matters affecting a person's status as a member of the Community).

(b) The membership office is responsible for carrying out its functions to ensure that membership decisions are administered in a fair, consistent and uniform manner pursuant to the Community Constitution and this article.

(c) The membership office shall maintain a current roll of the enrolled members of the Community.
(Code 1981, § 2-0; Code 2012, § 2-0; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-0, 5-30-2012)

Sec. 2-2. Definitions.

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

Applicant means a person or a minor's parent or legal guardian who applies for membership pursuant to this article.

Community means the Salt River Pima-Maricopa Indian Community.

Complete enrollment application means a membership application submitted in conjunction with the following documentation:

(1) Evidence of one-fourth degree Indian blood;

(2) Evidence that the applicant is a biological child or biological grandchild of an enrolled member of the Community;

(3) Evidence of United States citizenship;

(4) Evidence of nonenrollment in any other federally recognized tribe; and

(5) Evidence that the applicant has never relinquished enrollment from another federally recognized tribe (if applicable).

Council means the Community Council, the governing body of the Community.

Disenrollment means the removal of a member's name from the current roll of the enrolled members of the Community and, therefore, such person is ineligible for Community benefits.

Relinquishment means the voluntary request by an Community member for his or her name to be removed from the current roll of the enrolled members of the Community, thus becoming ineligible for Community benefits.

Salt River Pima-Maricopa Indian Community (SRPMIC) means the Community.
(Code 1981, § 2-1; Code 2012, § 2-1; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-1, 5-30-2012)

Secs. 2-3—2-22. Reserved.

ARTICLE II. MEMBERSHIP AS A MATTER OF RIGHT

Sec. 2-23. Membership criteria.

The following persons shall be enrolled as members of the Community:

(1) Any person of Indian blood whose name appears or rightfully should appear on the official allotment roll of Community; and

(2) All persons whose names validly appear on the latest duly certified membership roll of Community; provided that, the Community Council may correct such roll in accordance with applicable Community law; and

(3) Any biological lineal descendant of an original Salt River allottee who meets all of the following criteria:

a. Is at least one-fourth degree Indian blood;

b. Is the biological child or biological grandchild of an enrolled member of the Community;

c. Is a United States citizen;

d. Is not enrolled in any other federally recognized tribe; and

e. Has never relinquished enrollment from another federally recognized tribe except as provided by article II, section 2 of the Community Constitution.

(Code 1981, § 2-2(a); Code 2012, § 2-2(a); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(a), 5-30-2012)

Sec. 2-24. Criteria for membership of minors enrolled elsewhere.

Any person enrolled in any other federally recognized tribe before reaching the age of 18 years is eligible for enrollment by right with Community:

(1) If such person is:

a. A biological lineal descendant of an original Salt River allottee;

b. At least one-fourth degree Indian blood;

c. The biological child or grandchild of an enrolled member of the Community;

d. A United States citizen; and

(2) If such person files an application for enrollment with the Community within 180 days after turning 18 years of age; and

(3) If such person relinquishes membership in any other federally recognized tribe before filing an application for enrollment with the Community.

(Code 1981, § 2-2(b); Code 2012, § 2-2(b); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(b), 5-30-2012)

Sec. 2-25. Verification of criteria.

(a) The membership office shall enroll an applicant if the applicant provides satisfactory evidence that the applicant meets the criteria in sections 2-23 and 2-24 establishing his or her eligibility for enrollment. An applicant has the burden to establish his or her eligibility of enrollment and is responsible for any and all costs associated with his or her application for enrollment. The following evidence shall be sufficient evidence for Community enrollment purposes:

(1) *One-fourth degree Indian blood.*

a. An affidavit or official certification from a federally recognized tribe attesting that the applicant has at least one-fourth degree of Indian blood; or

b. An official certificate of degree of Indian blood (CDIB) issued by the Bureau of Indian Affairs attesting that the applicant has at least one-fourth degree of Indian blood.

(2) *Biological child or biological grandchild.*

a. Proof of descent from an official government issued birth certificate providing satisfactory evidence that the applicant is a biological lineal descendant of an original Salt River allottee; or

b. Community court decree determining that the applicant is a biological lineal descendant of an enrolled member of the Community. The Community court may use certified DNA evidence from a DNA lab accredited by the American Association of Blood Banks.

(3) *United States citizenship.*

a. Official government issued certificate of birth;

b. Official United States Passport; or

c. Any other federal issued certification that specifically attests that the applicant is a United States citizen.

(4) *Nonenrollment in any other federally recognized tribe and nonrelinquishment status.*

a. The applicant's affidavit attesting that he or she has never been:

1. Enrolled in another federally recognized tribe; and

2. Has never relinquished membership in any other federally recognized tribe; or

b. In the case of an applicant that is within 180 days of turning 18 years of age and proceeding pursuant to section 2-24, the applicant shall provide an affidavit attesting that he or she has relinquished his or her membership before filing the application consistent with section 2-24(3); and

c. In addition to the applicant's affidavit, the applicant must submit an official certification from any other federally recognized Indian tribe that the applicant is eligible to be enrolled in attesting that the applicant:

1. Is not enrolled in the tribe; and

2. Has never relinquished membership in the tribe (unless the applicant relinquished membership in another federally recognized tribe in order to apply for membership in the Community within 180 days from turning 18 years of age).

(b) If the applicant is unable to secure the required official certification documentation from another federally recognized tribe after the applicant has made bona fide efforts to obtain such documentation, the applicant may seek technical assistance from the Community membership staff who may assist in attempting to secure such documentation.

(Code 1981, § 2-2(c); Code 2012, § 2-2(c); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(c), 5-30-2012)

Sec. 2-26. Application and review process.

(a) *Application.* A person seeking to begin the enrollment process must submit an application for membership to the membership office. Applications for membership within the Community shall be in a form prescribed by the membership office.

(b) *Preapplication review.* The membership office shall provide each applicant with a documentation checklist for a complete enrollment application and an initial evaluation regarding the sufficiency of the applicant's documentation.

(c) *Confirmation of initial receipt of application.* The membership office shall issue a written letter confirming receipt of a submitted application and supporting documentation.

(1) The confirmation letter will be sent within five business days of receipt of the application.

(2) The confirmation letter does not imply or convey any rights or benefits of the applicant in regards to membership within the Community.

(d) *Review of application and supporting documentation.* Within 60 calendar days of the receipt of a complete enrollment application, the membership office shall review the application and the submitted documentation to determine whether the application meets the membership criteria. The membership office shall inform the applicant that the membership office is processing the application and verifying all relevant information.

(1) If after verifying applicant's submitted information, the membership office determines that the applicant meets the membership criteria, then the membership office shall assign the applicant an enrollment number.

a. The membership office shall notify the applicant in writing that his or her application has been approved and shall also provide the applicant with his or her Community enrollment number. The membership office shall send the applicant notice of

their decision via standard and certified/registered mail or personal service.

b. Community enrollment is effective on the date the membership office approves his or her membership. Membership is not retroactive to the date of submission of the enrollment application packet.

(2) If after verifying the applicant's submitted documentation and completed enrollment package, the membership office determines that the applicant does not meet the membership criteria, then the membership office shall inform the applicant of their deficiencies. The membership office shall send the applicant a denial letter via standard and certified or registered mail.

(e) *Appeal process.* An applicant, or parent or legal guardian of an applicant, may file a written statement appealing the denial of the applicant's application and supporting documentation.

(1) The applicant's written appeal must provide a statement of reasons for the appeal.

(2) The applicant must file his or her written appeal with the council secretary within 14 calendar days from the date of service of the membership office's decision. If the applicant mails the written appeal request, it must be postmarked within 14 calendar days from the date of service of the membership office's decision.

(3) The council secretary shall forward the appeal request to the council within seven business days of receiving the request, at which time, the council shall determine if there is a claim upon which relief can be granted and as such warrants a hearing upon the merits.

(4) The Community Council shall schedule a hearing within 14 business days after receiving the appeal from the council secretary. The council secretary shall notify the appellant and the membership office of the hearing's date, time and place.

a. Appellate hearings involving the enrollment or membership status of a minor under the age of 18 shall be conducted in executive session.

b. Hearings involving the enrollment or membership status of an applicant over the age of 18 shall be conducted in open general session.

(Code 1981, § 2-2(d); Code 2012, § 2-2(d); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(d), 5-30-2012)

Sec. 2-27. Secretary to coordinate information.

The council secretary shall coordinate any required legal review or programmatic information that council determines is necessary to evaluate the membership office's decision.

(Code 1981, § 2-2(e); Code 2012, § 2-2(e); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(e), 5-30-2012)

Sec. 2-28. Burden of proof with applicant.

The applicant has the burden to prove his or her entitlement to enrollment pursuant to this article and the Community Constitution.

(1) The membership office shall first present an explanation of its decision.

(2) After the membership office has presented its case, the applicant may testify and present witnesses to show his or her entitlement to enrollment. The Community Council may allow other witnesses to testify.

(3) The standard of review for the hearing is de novo.

(4) If an applicant is unable to submit official certification from any other federally recognized tribe attesting that the applicant has never been enrolled in such tribe and the applicant is denied membership within the Community for this reason, then the council may consider the applicant's ef-

forts to obtain such information when taking the applicant's appeal under consideration.

(Code 1981, § 2-2(f); Code 2012, § 2-2(f); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(f), 5-30-2012)

Sec. 2-29. Timeframe for decision.

The Community Council shall make a decision within ten business days after the hearing.

(Code 1981, § 2-2(g); Code 2012, § 2-2(g); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(g), 5-30-2012)

Sec. 2-30. Notification.

The council secretary shall notify the applicant and the membership office in writing of the council's decision within five business days of the council's final decision. Notice to the applicant shall be provided via certified or registered mail or via personal service.

(Code 1981, § 2-2(h); Code 2012, § 2-2(h); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(h), 5-30-2012)

Sec. 2-31. Finality of Community Council decision.

The council's decision shall be final.

(1) *Applicant entitled to membership.* If the Community Council determines that the applicant is entitled to membership within the Community, the council shall determine the effective date of membership and the membership office shall include the applicant's name on the official Community membership roll.

(2) *Applicant denied membership.* If the Community Council determines that the applicant is not eligible for membership or otherwise failed to establish his or her entitlement to membership, the council will inform the applicant in writing of the deficiencies with the application or evidence. This section does not prohibit the applicant from applying for Community membership in the future.

(Code 1981, § 2-2(i); Code 2012, § 2-2(i); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-2(i), 5-30-2012)

Sec. 2-32. Jurisdiction over membership decisions.

(a) *Review by court.* No court shall have jurisdiction to review any decision of the Community Council made pursuant to this article.

(b) *Paternity decisions.* All questions relating to the paternity of an applicant for enrollment shall be decided by the Community court and the decision of the Community court shall be final.

(c) *Biological relationship decisions.* For purposes of this article only, when the Community court makes a determination regarding an applicant's required biological relationship, such decision shall be based on an evidentiary hearing where witnesses are called and/or evidence is presented.

(Code 1981, § 2-3; Code 2012, § 2-3; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3, 5-30-2012)

Sec. 2-33. Truthfulness in the application process; civil fines.

Any person who knowingly submits false or inaccurate information for the purposes of obtaining enrollment with Community or aiding another person in obtaining membership with the Community may be prosecuted and liable for a civil fine up to $5,000.00.

(Code 1981, § 2-3.1; Code 2012, § 2-3.1; Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.1, 5-30-2012)

Secs. 2-34—2-54. Reserved.

ARTICLE III. REMOVAL FROM MEMBERSHIP ROLLS

Sec. 2-55. Petition for disenrollment of a minor or adult.

A parent or legal guardian (petitioner) may petition the council in writing to have an enrolled

minor (respondent) disenrolled. Petitioner must establish that he or she has legal custody of the minor. In addition, any Community member (petitioner) may petition the council in writing if the petitioner has reason to believe that an adult enrolled Community member (respondent) is not entitled to enrollment based on the enrollment criteria in place at the time of the respondent's enrollment.

(1) The petitioner shall provide a written statement to the council secretary of the reasons for the petition for disenrollment and may provide documentation supporting the petition. The Community Council secretary shall forward the written statement to the council and to the respondent within seven business days of receiving the petition.

(2) The Community Council shall provide a copy of the petition for disenrollment to the membership office and the membership office shall report to council regarding respondent's membership status and/or qualifications based on the membership criteria in place at the time of respondent's enrollment.

(3) The membership office shall report back to council within 14 days. For good cause, the membership office can request an extension of time to provide its report to council by submitting a written request to the council secretary.

(4) After receiving the membership office's report, council shall determine whether there is a claim upon which relief can be granted and therefore a hearing upon the merits is necessary. The council secretary shall notify the petitioner, respondent (both of respondent's parents in the case of a minor), and the membership office of council's decision to either deny the petition without a hearing, or to hold a hearing on a particular date, time and location.

a. Generally, disenrollment hearings shall be conducted in an open regular council meeting, except that:

1. Disenrollment hearings involving minors shall be conducted in executive session with the minor's parent(s) or legal guardian present.

2. For good cause, an adult respondent can request that council conduct his or her hearing in executive session. Council shall determine whether good cause exists to conduct the hearing in open or executive session.

b. The council secretary shall coordinate any required legal review or programmatic information that council determines is necessary to evaluate the petition.

(5) The petitioner shall bear the burden of proving by clear and convincing evidence that the respondent did not meet the applicable membership criteria governing at the time of the respondent's enrollment within the Community.

a. At the hearing, the petitioner, respondent, and the membership office may testify and present witnesses regarding the respondent's eligibility to be enrolled with the Community based upon the membership criteria governing at the time the respondent was enrolled. The council may allow other witnesses to testify.

1. Petitioner shall first present his or her petition and evidence in support thereof.

2. The membership office shall then provide the results of its verification efforts.

3. Respondent may then address the council regarding his or her entitlement to membership within the Community.

b. The standard of review for the hearing is de novo.

(6) Council determination.

a. If council determines that the petitioner has not met his or her burden

of proof, the respondent shall remain a duly enrolled member of the Community.

b. If council determines that the petitioner has satisfied his or her burden of proof, the respondent shall be removed from the Community membership roll and the respondent shall no longer be eligible for Community benefits, including per capita distributions, except that a disenrolled minor may reapply for membership pursuant to section 2-26.

c. The decision of council is final and not subject to any appeal or review by any other court forum.

(7) Any person who knowingly presents or who aids in the presentation of a frivolous petition to have another member disenrolled may be prosecuted and liable for a civil fine up to $5,000.00.

(Code 1981, § 2-3.2(a); Code 2012, § 2-3.2(a); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.2(a), 5-30-2012)

Sec. 2-56. Relinquishment.

An enrolled member may choose to voluntarily relinquish his or her SRPMIC membership. Such relinquishment request shall be in writing and submitted to the membership office.

(1) The membership office shall evaluate the petition and prepare a recommendation regarding the request.

(2) The membership office shall submit the petition and recommendation to the council secretary who shall forward the documents to the council.

(3) Council will consider the petition and recommendation when determining whether to grant or deny the petition for relinquishment.

(4) Upon council's granting of a relinquishment request, the individual shall no longer be eligible for Community benefits, including per capita distributions.

(5) Any person who voluntarily relinquishes his or her Community membership shall be ineligible to reapply for membership.

(Code 1981, § 2-3.2(b); Code 2012, § 2-3.2(b); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.2(b), 5-30-2012)

Sec. 2-57. Dual enrollment or otherwise ineligible for enrollment.

If the membership office determines that an Community member is enrolled in another federally recognized Indian tribe or has otherwise become ineligible for enrollment, the membership office shall inform the member of membership office's findings and attempt to remedy the matter with the member. If the matter remains unresolved, the membership office shall initiate a petition for disenrollment before the Community Council.

(1) The matter shall be heard by council pursuant to the appeal process outlined in section 2-55(1) through (6), and the membership office shall bear the burden of proof.

(2) The Community member charged with dual enrollment or for being otherwise ineligible for enrollment shall be provided the written notice and opportunity afforded to the applicant in the appeal process outlined in section 2-55(1) through (6).

(Code 1981, § 2-3.2(c); Code 2012, § 2-3.2(c); Ord. No. SRO-354-2010, 10-28-2009; Ord. No. SRO-402-2012, § 2-3.2(c), 5-30-2012)

Chapter 3

VOTING AND ELECTIONS

Article I. In General

Sec. 3-1. Purpose and scope.
Sec. 3-2. Definitions.
Sec. 3-3. Election board.
Sec. 3-4. Voters.
Sec. 3-5. Candidates.
Sec. 3-6. Conduct of elections.
Sec. 3-7. Canvass.
Secs. 3-8—3-32. Reserved.

Article II. Run-Off and Special Elections

Division 1. Generally

Secs. 3-33—3-47. Reserved.

Division 2. Run-Off

Sec. 3-48. Run-off election.
Secs. 3-49—3-64. Reserved.

Division 3. Special

Sec. 3-65. Special election.
Secs. 3-66—3-81. Reserved.

Article III. Post Election

Sec. 3-82. Post election.
Secs. 3-83—3-100. Reserved.

Article IV. Initiative, Referendum and Recall Elections

Division 1. Generally

Sec. 3-101. Call for special, initiative and referendum elections.
Secs. 3-102—3-117. Reserved.

Division 2. Petitions

Sec. 3-118. Required use.
Sec. 3-119. Petitions for recall elections.
Sec. 3-120. Petitions for initiative elections.
Sec. 3-121. Certification.
Sec. 3-122. Return.
Sec. 3-123. Disposition of petitions.
Sec. 3-124. Recordkeeping.
Sec. 3-125. Recall and initiative petition appeals.
Sec. 3-126. Penalties.
Sec. 3-127. Applicability of this division within this Community Code of Ordinances.
Secs. 3-128—3-143. Reserved.

Article V. Violations of Election Process

Sec. 3-144. Purpose.
Sec. 3-145. Applicability.
Sec. 3-146. Candidate forum responsibility.
Sec. 3-147. Permissible conduct.
Sec. 3-148. Violation of election process.
Sec. 3-149. Violations by actions of candidates or issue supporters.
Sec. 3-150. Violations by action of election officers.
Sec. 3-151. Violations by voters.
Sec. 3-152. Penalties.
Sec. 3-153. Reported incidents.
Sec. 3-154. Violators prohibited from holding office.

ARTICLE I. IN GENERAL

Sec. 3-1. Purpose and scope.

(a) *Purpose.* The purpose of this chapter is to ensure that all Community elections are conducted and carried out in an accurate and fair manner pursuant to the requirements of the Community's Constitution.

(b) *Scope.* This chapter shall apply to all Community elections, except those elections that pertain to candidates or initiatives/referendums involving the federal or state governments or BIA Secretarial Elections.
(Ord. No. SRO-427-2014, § 3-1, 11-13-2013)

Sec. 3-2. Definitions.

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

Business days means Monday through Friday, excluding weekends and council approved holidays.

Campaign or *campaigning* is an action or a series of actions designed to influence an election and includes the displaying of campaign posters, signs or other campaign materials, distribution of campaign materials, food or other items, and solicitation of votes for or against any person, political party, or position.

Community means the Salt River Pima-Maricopa Indian Community.

Days means calendar days, including weekends and council approved holidays.

Electioneering means a demonstration of express support for or opposition to a candidate or ballot measure which appears on a ballot, including the use of any candidates or political party's name or ballot measure's name.

Fraud means unlawful or otherwise improper conduct committed in an election, including but not limited to fraudulent voting such as voting twice, voting under another's name, or similar dishonest conduct.

Home district only applies to nonresident voters, and is the place of origin, lineage, ancestry and/or that place which a voter considers to be their residence if the voter physically resides outside the boundaries of the Community.

Immediate family shall mean a parent, sibling, spouse, or child.

Legal name means a person's first and last name as it appears on the official Community membership records.

Measure means a valid recall petition, initiative petition or referendum that has been qualified to be placed on the ballot.

Official list of registered voters means the list of voters that has been certified by majority vote of the election board as meeting the Community's Constitution and Community Code of Ordinances requirements to vote in a Community election.

Physically reside means that an eligible candidate must have continuously lived within the boundaries of the Community or the relevant district within the Community for the required length of time, and temporary absence from the Community for purposes of employment, education, military service, illness or physical disability shall not otherwise affect the residency status of a candidate.
(Ord. No. SRO-427-2014, § 3-2, 11-13-2013)

Sec. 3-3. Election board.

Pursuant to Article VI, Section 1 of the Community's Constitution, the Community Council enacts this chapter to provide for the appointment of the election board to ensure that Community elections are impartially, fairly and accurately conducted.

(1) *Powers of the board.* The election board shall have the power and authority to:

a. Conduct and carry out all Community elections;

b. Certify that the nominated candidates, voters and elections meet all the requirements of the Community Constitution and Community Code of Ordinances;

c. Maintain a certified voters' list for each district;

d. Certify the ballot box or the automated election machine, whichever is appropriate;

e. To enter into, make and perform contracts with any person or entity to aid in carrying out elections;

f. To hear and make determinations in regards to candidate, voter and election challenges;

g. To adopt regulations and policies reasonably necessary to carry out the provisions of this chapter; and

h. Take any action necessary and reasonable to ensure a fair and accurate Community election process consistent with the Community Constitution and in the best interest of the Community.

(2) *Term and compensation.*

a. Election board members shall be appointed by the council for a period of four year terms effective on the date of his or her appointment, and the terms of such board members shall be staggered.

b. Each election board member shall serve until his or her replacement has been appointed by the Community Council.

c. The Community Council may appoint alternates to the election board when an election board member is unable to serve, when it is necessary for the election board to have more members due to the expected turnout of an election or when necessary. All alternates appointed to the election board must meet the following criteria:

1. Be an enrolled Community members;

2. Not a candidate for office; and

3. Not have a conflict-of-interest (as prescribed in this chapter) with any of the candidates running for office.

d. Election board members shall be compensated at a rate prescribed by the Community Council.

(3) *Composition and qualifications.*

a. The standing, unified election board shall consist of nine members which are the following: one judge for each district, two clerks for each district, one marshal for each district, and the council secretary who shall serve as the election coordinator.

1. The election coordinator shall not be a voting member of the election board.

2. The voting members of the election board shall by majority vote determine who will serve as chair and vice-chair of the standing, unified election board.

b. All election board members shall be enrolled Community members.

c. No candidate for office shall be eligible for appointment on the election board.

d. All election board members, except for the marshals and the election coordinator, shall be residents of the district for which they serve.

e. Temporary election board members may assist the standing election board when there is a temporary vacancy on the board or additional board members are necessary to meet the needs of a particular election.

(4) *Responsibilities of election board members.* Each election board member shall be responsible for the conduct of Community elections to ensure a fair and accurate election process.

(5) *Duties of individual election board members.*

a. *Judge.*

1. The judge of each electoral district shall serve as the chairperson of their district's election board.

2. The judge of each electoral district shall maintain the official list of registered voters for that district.

3. The judge shall be responsible for the receipt of the ballots and ballot box for each district before the election, for their safekeeping during the election, and for their delivery to the Community Council after the tally.

4. The judge shall also supervise the tallying of the votes for each district.

5. Any other responsibilities as may be prescribed in the election board by-laws.

b. *Clerks.*

1. The clerks shall inspect the voters' Community identification card, supervise each voter's signature on the registered voter list, and check off the names of the voters on the registered voter list. If a person's name does not appear on the official list of registered voters, then the clerk shall inform the judge of the situation and the judge will make a determination of the person's eligibility to vote.

2. The clerks shall also supervise the tallying of the votes, and assist in the verification of the final tally.

3. Each clerk shall maintain a separate registered voter list and a separate tally, and the judge shall frequently cross-check their work to ensure accuracy.

4. Any other responsibilities as may be prescribed in the election board by-laws.

c. *Marshal.*

1. The marshal shall maintain order at the polls and enforce the election laws.

2. The marshal shall have the power of a tribal peace officer within the 150-foot limit restriction prescribed in section 3-6(e) from the opening of the polls until the council issues its preliminary certification of the election results.

3. Any other responsibilities as may be prescribed in the election board by-laws.

(6) *Code of ethics, temporary removal, removal and resignation.*

a. *Code of ethics.* Election board members shall act with candor, good faith, objectivity and neutrality when carrying out their responsibilities and obligations pursuant to the Community Constitution and this chapter of the Community Code of Ordinances.

b. *Temporary removal.*

1. *Voluntary recusal.* If an election board member determines that a conflict of interest or potential conflict of interest exists, then he or she may choose to voluntarily recuse themselves from participating in, being assigned responsibilities related to or voting on any matter that is associated or related to the conflict of interest or potential conflict of interest.

2. *Mandatory recusal.* If a nominee for any Community election is an immediate family member of an election board member or if a majority of the members of the election board determine there is conflict of

interest between an election board member and a nominee or ballot measure, then the election board member shall be temporarily removed from participating in all election board activities for the remaining term of this specific election.

3. *Council imposed recusal.* If a majority of council members determine that a conflict of interest or a potential conflict of interest exists regarding an election board member and a candidate or ballot measure, then the election board member shall be temporarily removed from the election board for a period of time prescribed by the Community Council.

c. *Permanent removal.*The Community Council shall have the authority to remove an election board member by a majority vote of the Community Council for the following reasons:

1. *Ineligible.* An election board member shall be removed for any act or omission that would prevent him or her from being eligible to be appointed to the election board.

2. *Misconduct.* An election board member may be removed for misconduct or unethical behavior, including but not limited to the following, committing a violation of confidentiality or participating in an election where there is a conflict of interest, or upon conviction of a felony in any jurisdiction while serving on the election board.

3. *Not in the best interest.* An election board member may be removed for conduct and behavior that is not in the best interest of the Community.

4. *Resignation.* Resignation of an election board member or alternate shall be made in writing and delivered to the election coordinator or the Community Council. If the resignation letter is provided to the election coordinator, the election coordinator shall provide written notification to the Community Council at the next regularly scheduled council meeting.

(Code 1981, § 3-5; Code 2012, § 3-5; Ord. No. SRO-1974-94, § 1, 6-1-1994; Ord. No. SRO-312-06, 6-21-2006; Ord. No. SRO-331-08, 4-23-2008; Ord. No. SRO-402-2012, § 3-5, 5-30-2012; Ord. No. SRO-427-2014, § 3-3, 11-13-2013)

Sec. 3-4. Voters.

(a) *Qualifications of voters and certification of official list of registered voters.*

(1) *Qualifications of voters.* Any enrolled Community member who meets the following criteria shall be considered registered to vote and eligible to vote in any Community election:

a. Is at least 18 years of age on or before the date set for an election;

b. Is a resident of an electoral district for at least one year or a nonresident of the district but eligible to vote pursuant to subsection (a)(3) of this section;

c. Is not a prisoner in any jail or in prison on the date of the election; and

d. Has not been declared by a court of competent jurisdiction to be incompetent.

(2) *Official list of registered voters.*

a. All voters must provide any address changes to the office of membership services 15 days before an election.

b. The office of membership services shall provide the registered voter list to the election board at least seven days before each election so

that the election board may review, amend and certify the official list of registered voters.

c. The official list of registered voters shall be in such form as may be prescribed from time-to-time by the election board.

(3) *Nonresident voters.* Any enrolled Community member, who meets all other voter eligibility requirements and whose primary residence is located outside the boundaries of the Community, may vote in any election governed by this chapter.

a. Nonresident voters shall vote in the district which they declare to be their home district.

b. Nonresident voters may only declare one home district.

c. Nonresident voters shall declare their home district in writing with the office of membership services.

d. Once a nonresident voter declares their home district, the non-resident voter shall only have voting privileges in their declared home district. The only time a voter's home district is changed is if the voter moves within the boundaries of the Community and is no longer a nonresident voter.

(4) *Certification of voters.* The board certifies the official list of registered voters to ensure that all voters meet the requirements of Community Constitution.

a. The office of membership services generates the list of eligible voters, and once this list is reviewed and certified by the election board, it becomes the official list of registered voters for that particular election.

b. On the day of the election, the election board for each district has the authority to address voter eligibility disputes.

(b) *Nonresident absentee voter.*

(1) *Notice to nonresident voters.* The election coordinator/Community secretary shall give notice of each election to eligible voters who do not reside within the Community.

a. Notice will be given by a letter mailed to the nonresident eligible voters at the addresses shown on the official list of registered voters.

b. The letter will advise nonresident eligible voters of the date of the election and the procedure for voting by absentee ballot.

c. Unless the election is a run-off or special election, notices to nonresident eligible voters required by this section shall be mailed at least 21 days before the date of the election. Reasonable notice shall be provided to nonresident eligible voters for run-off and special elections.

(2) *Requests for absentee ballots.* A nonresident eligible voter may request an absentee ballot from the election coordinator/Council secretary by telephone, mail or facsimile. The nonresident shall vote in his or her home district elections.

(3) *Standing nonresident absentee ballot list.* A nonresident may request to be placed on the standing absentee ballot list and they will always be sent an absentee ballot to all their home district elections. In order to be removed from the standing nonresident absentee ballot list, the voter must send a written request to the election coordinator requesting removal from this list.

(4) *Nonresident absentee voter.* The voting process for a nonresident who is voting by absentee ballot is as follows:

a. The envelope containing the ballot must be signed by the nonresident and it must state the nonresident's enrollment number, date of birth, and home district.

b. The envelope must be returned by mail or personal delivery to the election coordinator/Community secretary by the close of business of the day prior to the election or it may be

hand delivered by the voter to a polling site on the day of the election during the polling hours.

(c) *Resident absentee voter.* An eligible voter who is a resident of the Community and who intends to be absent from the Community on the date of the election may vote by absentee ballot in the manner prescribed for nonresidents in subsection (b) of this section. Notices to residents regarding voting by absentee ballot will be published in the newspaper, the Community's intranet and digital signage 14 calendar days before the date of the election.

(d) *Home voting by disabled Community members within a 25 mile radius.* An eligible voter who is unable to vote because they are bedridden, disabled or severely ill may make a request to the election coordinator/council secretary, at least three business days before the date of the election, to vote at home or at any care center within a 25 mile radius of the Community. The election board shall render any necessary assistance to the disabled person seeking to vote in accordance with this provision.
(Ord. No. SRO-427-2014, § 3-4, 11-13-2013)

Sec. 3-5. Candidates.

(a) *Eligibility.* Any person who meets the following criteria pursuant to Article IV, Sections 2 and 3 of the Community's Constitution shall be eligible to be a candidate for the offices of president, vice-president or council.

(1) *President and vice-president.* An eligible candidate for either the office of the president or vice-president shall meet the following criteria:

a. An enrolled member of the Community;

b. Registered to vote in Community elections;

c. Physically residing in the Community for at least one year immediately preceding the election; and

d. At least 25 years of age.

(2) *Council members.* An eligible candidate for the office of council member shall be:

a. An enrolled member of the Community;

b. Registered to vote in Community elections;

c. Physically residing in the Community for at least one year immediately preceding the election;

d. Physically residing in the district for which they are running at least six months immediately preceding the election; and

e. At least 25 years of age.

(b) *Candidate nomination process.*

(1) *Nominating chairperson.* The election board shall appoint a nominating chairperson for each district of the Community. The nominating chairperson has the authority to:

a. Open and adjourn the nomination meeting; and

b. To conduct the nomination meeting in a fair and objective manner.

(2) *Nominating meetings for president and vice-president.* At least 20 days before nominations of candidates for council members are made, a meeting shall be held to hear nominations of the offices of president and vice-president.

a. A person who is nominating a candidate for the office of president or vice-president must be present at the nomination meeting.

b. A person who is nominating a candidate for the office of president or vice-president must be a registered voter of the Community.

(3) *Nominating meetings for council.* At least 31 days before the general election, the nominating chairperson for each district

shall call a separate district meeting to secure nominees for the office of Community Council.

a. A person who is nominating a candidate for the office of Community Council member must be present at the nomination meeting.

b. A person who is nominating a candidate for the office of Community Council member must be a registered voter of the Community.

c. A person who nominates a candidate for office of Community Council member must be either a resident of the particular district that they are providing nominations for or their home district must be the same as the district in which the candidate is nominated to represent.

(4) *Acceptance and declination of nomination.* Each person nominated for an office shall accept or decline their nomination on the form prescribed by the election board.

a. Each nominee shall indicate on the form whether the nominee accepts or declines the nomination, and within two business days after the nominating meeting, return the form to the district nominating chairperson, or the election coordinator/council secretary.

b. Nominees shall only accept the nomination for one elected office during an election cycle.

c. Failure to return or file the form within the time in subsection (b)(4)(a) of this section shall be a conclusive determination that the nominee declines the nomination.

d. When accepting the nomination, a nominee shall provide the election board with their legal name as listed on the official Community's membership records.

e. When accepting a nomination, it is the nominees burden to establish that they meet the requirements of Article IV, Sections 2 and 3 of the Community's Constitution and all nominees shall provide the election board with the following information:

i. *Proof of residency.* For example, utility bills, telephone bills and water bills in the candidate's name with a street address listed that documents that the nominee meets the residency requirements of this chapter and the Community Constitution.

ii. *Proof of age.* Valid driver's license, Community identification card, or birth certificate.

iii. *Proof of enrollment.* Valid Community identification card.

(5) *Candidate employed by the Community government and its departments, divisions and enterprises.* All candidates, except for those who are the sitting president, vice-president, council members and chief judge are required to take at least a two-week leave of absence from their employment with the Community government and its departments, divisions or enterprises. This two-week leave of absence shall occur during the two weeks immediately preceding the primary and general election for the office that the candidate is running for.

(c) *Certification of candidates.*

(1) *Election board certification of nominees for office. The* election board shall certifying nominees as candidates for the official ballot of the Community.

a. Certification meetings for the Community Council nominees shall be separate from meetings for the president and vice-president nominees, and shall each take place within five business days after the respective nomination meetings.

b. At least two days before each certification meeting, notice of the time and place of the meetings shall be posted in the lobby of the Lehi Community building, the Community Two Waters Administrative Complex, and the Community's intranet and digital signage.

c. Certification of candidates shall be determined by the election board based upon the qualifications of the candidates as provided in Article IV, Sections 2 and 3 of the Community's Constitution.

(2) *Certification appeal to council.* Within two days of the certification meeting, any nominee not certified by the election board to be a candidate for the office of the president, vice-president or Community Council may file an appeal to the Community Council requesting a hearing regarding their certification status.

a. Within two days after a nominee has filed an appeal with the council secretary, the Community Council shall hold a hearing and determine whether or not to uphold the determination of the election board.

b. The hearing shall be open to the public.

(d) *Write-in candidates.*

(1) Generally, ballots in Community elections shall provide space for voters to write-in the names of a candidate qualified to run for Community office according to the requirements of Article IV, Sections 2 and 3 of the Community Constitution.

(2) Write-in votes for any write-in candidate qualified to hold the office shall be counted as if the name had been placed on the ballot. A valid write-in vote must provide the candidate's legal name, be legibly written on the ballot and marked in the correct manner indicating the vote for a write-in candidate.

(3) If a write-in candidate gathers enough votes to become elected to office, within 48 hours of the election, the election board shall hold a certification meeting, providing reasonable public notice of the meeting. At this meeting, the candidate shall meet their burden to satisfy the relevant requirements of Article IV, Sections 2 and 3 of the Community's Constitution.

(4) Only after being certified as meeting the requirements of Article IV, Sections 2 and 3 of the Community's Constitution by the election board may a write-in candidate be declared the winner of an election by the Community Council.

(5) For the positions of president, vice-president and council member, write-in candidates are only eligible during a primary election, unless a primary election was not held or if a candidate is running unopposed.

(6) For the position of chief judge, write-in candidates are not authorized due to the requirements of section 4-33.

(Code 1981, § 3-3; Code 2012, § 3-3; Ord. No. SRO-1974-94, § 1, 6-1-1994; Ord. No. SRO-375-2010, 12-8-2010; Ord. No. SRO-402-2012, § 3-3, 5-30-2012; Ord. No. SRO-427-2014, § 3-5, 11-13-2013)

Sec. 3-6. Conduct of elections.

(a) *Primary elections.*

(1) *Primary election for offices of the president and vice-president.* On the first Tuesday of August during election years when the positions of the president and vice-president are being elected, a primary election shall be held if there are more than two certified candidates running for the office of either the president or the vice-president.

a. If there is a tied vote among more than two candidates, then a run-off election shall occur within seven to ten calendar days of the primary election.

b. If there are only two certified candidates running for the office of the president or vice-president, respec-

tively, then there shall be no primary election for that specific office.

c. At the primary election, the method of voting and canvassing of ballots shall be made in the same manner as provided for in this article.

d. Once the council has certified the election results and the challenge period is over, the two persons having the largest number of votes for the office of the president and/or the vice-president shall be entitled to have their name placed on the official ballot at the ensuing general election.

e. Primary elections are not held when there is a special election to fill the Office of the president or vice-president.

(2) *Primary election for offices of council members.* On the first Tuesday of August during election years when positions for council members are being elected, a primary election shall be held if any of the requirements in subsection (a) of this section are met.

a. *Holding of primary election.*

i. If there is one council member seat that will be elected during a general election, then the two persons having the largest numbers of votes for that office shall have their name placed on the official ballot of the next general election.

ii. If there are two council member seats that will be elected during a general election, then the four persons having the largest number of votes for that office shall have their name placed on the official ballot of the next general election.

iii. If there are three council member seats that will be elected during a general election, then the five persons having the largest number of votes for that office shall have their name placed on the official ballot of the next general election.

iv. If there are four council member seats that will be elected during a general election, then the six persons having the largest number of votes for that office shall have their name placed on the official ballot of the next general election.

v. If there are five or more council member seats that will be elected during a general election, then the eight persons having the largest number of votes for that office shall have their name placed on the official ballot of the next general election.

b. *No primary election held.*

i. If the number of certified candidates running for the office of council member meet or are under the amount listed in subsection (a) of this section, then there shall be no primary election for that specific office or election cycle.

ii. Primary elections are not held when there is a special election to fill the office of a council member.

c. *Tied vote.* If there is a tied vote among two or more candidates in the primary election and one of the candidate's names would be eliminated because of this tie, then all the names of the tied candidates shall appear on the general ballot.

d. *Conduct of the election.* At the primary election, the method of voting and canvassing of ballots shall be made in the same manner as provided for in this article.

(3) *Candidate withdrawal or unable to participate in general election.* If a candidate who received the necessary amount of

votes in the primary election to be placed on the ballot in the general election withdraws or is unable to run for office in the general election, then the candidate with the next highest votes will be placed on the ballot for the general election.

(b) *General election.* General elections for purposes of electing the president, vice-president, council members and chief judge shall be held on the first Tuesday in September in each even numbered year. The conduct of such elections shall be governed by this chapter.

(c) *Polling places.* The council shall designate one polling place within each district, as provided in Article V of the Community's Constitution, where the election shall be held. At least 15 days before each election, notice of the polling locations shall be posted in the Community's newspaper, intranet and digital signage.

(d) *Hours of voting.* For any election called pursuant to the Community's Constitution, the polls shall open at each polling place on the day of election at 6:00 a.m. and close at 6:00 p.m. Any voter who at the moment of closing is in line waiting to vote will be allowed to cast his or her ballot.

(e) *Seventy-five foot limit ("campaign free zone") and 150-foot limit ("designated campaign area").*

(1) *Campaign free zone; 75 foot limit.* To preserve the integrity of the voting process, prevent voter intimidation and election fraud, no electioneering or campaigning shall be allowed within 75 feet of a polling place.

a. The election board shall place notices identifying the 75-foot limit at each polling place.

b. No persons except election board members, election staff and persons actually voting shall be allowed to remain within 75-feet of any polling place.

c. No campaign posters, signs or other campaign literature may be displayed on or inside any polling place or within the 75-foot limit.

(2) *Designated campaign area outside the 75 foot limit and within the 150 foot limit.* The election board shall place notices identifying a 150-foot area surrounding the polling place. There shall be no electioneering or campaigning within 150-feet of the polling place, unless it occurs within the election board's designated campaign area.

a. For every election, the election board shall designate a designated campaign area at each polling place that is outside the 75-foot limit but within the 150-foot limit.

b. The designated campaign area is for candidates or sponsors of an initiative or referendum to campaign at by providing food, campaign literature or other items to voters and supporters. The candidate or sponsors may set up a table(s) with chairs, tent(s), and/or a food stand(s) within their assigned area.

c. The designated campaign area shall be placed in a manner so as not to create a public safety hazard, jeopardize the integrity of the voting process or block voters from the polling place.

i. At least seven days before each election, the election coordinator/council secretary shall provide notice of the designated campaign designation area to certified candidates via mail and shall also post notice of each designated campaign area at each polling place, provided that the area may be relocated due to emergency weather conditions or public safety concerns.

ii. The election board may establish a system to assign the location and size of the space for each candidate or sponsor of an initiative or referendum who is campaigning within the designated campaign area.

iii. No part of this section shall apply to private property within the 150 foot limit.

(3) Election marshals are authorized to act as tribal peace officers within the 150 foot limit for purposes of enforcing election laws and maintaining order at the polls.

(f) *Ballots.*

(1) The election coordinator shall oversee the preparing of any election ballot governed by this chapter.

(2) Election ballots shall be pre-numbered consecutively, beginning with No. 1; and the form and contents of each ballot shall be as follows:

a. Designation, if the ballot is an absentee ballot;

b. The name of the district;

c. The list of the offices or issues to be voted on in the following order (if applicable) president, vice-president, council members for each district, chief judge of the court, and any measure;

d. The list of the names of the certified candidates in alphabetical order by the candidate's legal last name (accompanied by an official photograph, if available), segregated by the various offices listed above;

e. The candidates legal name will appear on the ballot, and at the candidate's request, their middle name or middle initial may also be listed on the ballot with their legal name;

f. There will be no candidate "nicknames" or "also known as ("a.k.a.")" names on the ballot;

g. Space where write-in candidates may be included on the ballot (if applicable); and

h. If the election is a recall, initiative or referendum election, then the ballot shall contain the initiative or referendum language that the voters are being asked to vote "yes" or "no" to.

(g) *Method of voting.*

(1) Upon entering the polls, each voter shall give his or her legal name, place of residence and Community identification card to the clerk who is in charge of the signature roster.

(2) A clerk shall ascertain if the name of the voter appears on the official list of registered voters for that district, and the voter shall sign his or her name on the signature roster to acknowledge receipt of the ballot.

(3) The judge shall hand the voter a ballot.

(4) In elections where there are two or more council members to be elected, the voter shall have the option of voting for only one of the candidates. It shall not be necessary for the voter to vote for the exact number of council members to be elected into office.

(5) If the voter desires to cast a write-in ballot, then the voter may write the name of the person of their choosing on the blank lines printed on the ballot (if that office is eligible for write-in candidates).

(h) *Spoiled ballots.*

(1) If the election board cannot determine from the ballot what the intent of the voter is and the voter incorrectly indicates whom or what his or her vote was, then the vote for that office or measure shall be deemed spoiled. If the voter properly indicated their vote for other offices or measures on the same ballot, those votes will be considered valid.

(2) If a voter accidentally spoils the entire ballot, the voter shall present the spoiled ballot to the judge who shall place the spoiled ballot in an envelope clearly marked "SPOILED".

(3) Immediately after being presented to the judge, the election board shall review the spoiled ballot and certify by signature that the ballot is spoiled.

(i) *Unused ballots.* Ballots that remain unused at the end of the voting shall be accounted for and placed in the ballot box and mark unused.

(j) *The tally.* At the close of the voting, the judge shall supervise the electronic or hand count of the ballots. At the end of the tally, the judge shall place the pile of counted ballots, spoiled ballots and unused ballots into the designated container.

(k) *Rejected ballots.* A ballot for a particular office or the ballot in its entirety shall be rejected if the election board, during the tally, is unable to determine from the ballot a choice of the voter.

(l) *Abstract.* At the end of the tally, the election board shall determine the total vote cast for each candidate, referendum or initiative. Together with the number of rejected and spoiled ballots, the results shall be tabulated and certified by each election board member signing his or her name thereto. The judge shall read aloud the abstract to the public, and thereafter shall deliver the abstracts and tally sheets to the Community Council.

(m) *Witnesses.* The tallying of the vote shall be open to public observation; however, the public shall remain at a reasonable distance from the judge, clerks and the ballot box, and the public must remain quiet and in no way interfere with the orderly tallying. If order cannot be maintained, the judge shall halt the tallying until such time as order has been restored.
(Code 1981, § 3-6; Code 2012, § 3-6; Ord. No SRO-1974-94, § 1, 6-1-1994; Ord. No. SRO-337-08, 7-23-2008; Ord. No. SRO-402-2012, § 3-6, 5-30-2012; Ord. No. SRO-427-2014, § 3-6, 11-13-2013)

Sec. 3-7. Canvass.

(a) *Method.* The Community Council, assembled in open meeting on the night of an election, shall receive from the judge of each district election board the tally sheets and the abstract of the vote for that district. The Community Council shall by majority vote certify the preliminary election results, pending any appeals or challenges related to the entire election or a particular office or measure.

(b) *Automatic recount.* If an abstract shows that the highest votes cast for two or more candidates or a ballot measure is tied or if the highest vote is larger than the next highest vote less than one percent of the total votes cast for that office, there shall be an automatic recount.

(1) The Community Council shall oversee the recounting of the ballots cast, including spoiled and rejected ballots.

(2) The Community Council shall reject any ballots for an office in which the Community Council is unable to determine the choice or intent of the voter.

(3) A new abstract shall be prepared and read aloud to the public. Resolution of a tie vote shall be by a run-off election within 30 calendar days of the recount.

(c) *Contesting the talley.* When the abstract is read aloud at an open meeting of the Community Council, each candidate for office or official sponsor of a Measure shall have an opportunity to contest the vote for that office.

(1) If a vote is contested, the Community Council shall examine only the rejected ballots for that office, and add the votes of any improperly rejected ballots to the votes of the corresponding abstract.

(2) A new abstract shall be prepared and read aloud.

(3) The abstract prepared from this recount shall be final.

(d) *Preliminary certification of the election and declaration of the election.* The Community Council shall certify the election results. The declaration of the election results shall be automatically final, 24 hours from the time of the Community Council's preliminary certification, unless there was a properly submitted election challenge.

(e) *Election challenge.* Any eligible candidate may challenge the results of an election within 24 hours of the Community Council preliminary certification of the election results.

(1) Any challenge of the election results must be filed first with the election board, within

24 hours, excluding weekends and holidays, of the Community Council's preliminary certification of the election results.

(2) After receipt of a properly filed election challenge, the election board, shall hold a hearing and issue a decision in regards to the election challenge within 48 hours, excluding weekends and holidays, of the filing of the election challenge with the election board unless the election results challenge pertains to allegations against the actions of the entire election board. If the complaint is against the actions of the entire election board, then the challenger shall proceed directly to the Community Council. All other allegations challenging the results of an election must first be raised with the election board.

a. The person who is filing the election challenge shall file a written statement providing the basis for the election challenge. This statement shall include any documentation or evidence that the person would like the election board to consider.

b. If the challenge pertains to the actions of a candidate or another person or entity, the candidate, person or entity shall be provided notice of the allegations made against them and also the opportunity to provide testimony and evidence in their own behalf.

c. The hearing shall be informal and the formal rules of evidence shall not apply.

d. If there is more than one election challenge, the election board may consolidate those challenges at their election board's discretion.

e. The election board shall make best efforts to provide public notice of this hearing.

f. It shall be the burden of the candidate challenging the election results to prove by clear and convincing evidence that the irregularities or misconduct in the election affected the results of the election or impeached the fairness of the results of the election. When considering the appeal, the election board shall be guided by the following principles:

1. Election results are presumed to be regular and proper;

2. Irregularities or misconduct in an election which does not tend to affect the result or impeach the fairness of the result of the election will not be considered;

3. Elections will not be set aside unless the facts definitely show fraud in the election process and/or that there was not a fair election; and

4. The election board's decision shall include detailed findings of fact, the basis of their decision and the actual decision.

(3) The election board's decision in regards to a challenge of the election results may be appealed to the Community Council, or if the complaint is against the entire election board, the Community Council may hear the matter directly.

a. Any appeal of an election challenge decision of the election board shall be filed with the council within 24 hours, excluding weekends and holidays, of when the decision by the election board's decision was provided to the challenger; or if the matter pertains to a complaint against the entire election board member, the challenger shall file a complaint within 24 hours, excluding weekend and holidays of when the preliminary certification of the election was made by the council.

b. After receipt of a properly filed election challenge, the Community Council, shall hold a hear-

ing and issue a decision in regards to the election challenge within 48 hours, excluding weekends and holidays, of when the election challenge was filed with the Community Council.

c. If the allegations underlying the election challenge pertain to the actions of a candidate, person or entity, that candidate, person or entity shall be provided notice of the allegations made against then and also the opportunity to provide testimony and evidence in their behalf.

d. The Community Council shall give deference to the election board's decision, if applicable.

e. It shall be the burden of the challenger to prove by clear and convincing evidence that irregularities or misconduct in the election affected the results of the election or impeached the fairness of the results of the election.

f. When considering the appeal, the Community Council shall be guided by the following principles:

i. Election results are presumed to be regular and proper;

ii. Irregularities or misconduct in an election which does not tend to affect the result or impeach the fairness of the result of the election will not be considered; and

iii. Elections will not be set aside unless the facts definitely show fraud in the election process and/or that there was not a fair election.

(f) *Hearing of allegations of fraud by Community court.*

1. *Jurisdiction.* The Community court shall have jurisdiction only to hear an allegation of election fraud.

2. *Timeframes.* Any allegation of election fraud that is ultimately appealed to the Community court within 24 hours of when the Community Council's decision was provided to the challenger by the Community Council. Any allegation of election fraud must be heard and decided within 72 hours, excluding weekends and holidays, of when the complaint alleging election fraud was filed in the Community court.

3. *Priority.* Upon the filing of a complaint alleging fraud in a Community election, the chief judge or in the case of a conflict of interest, the most senior judge of the Community's court shall immediately assign the case and ensure that the Community court meets the timeframe requirements of this chapter.

4. *Exhaustion of administrative remedies.* All allegations of fraud must first be heard and a decision issued by the election board, if relevant, and the Community Council; and these administrative remedies must be exhausted before filing a complaint before the Community court. Before the Community court can overrule the determination of the Community Council of the results of an election, the Community court must determine by clear and convincing evidence, that the election fraud decisively affected and changed the election and the Community Council hearing results.

5. *Appeal.* The Community's court of appeals is the only authority that may hear an appeal regarding an allegation of election fraud. Any appeal filed before the Community's court of appeals must be filed within 48 hours of when the Community's court order was served on the

parties, or if the Community court has not issued an order within the required 72 hours, excluding weekends and holidays.

(Code 1981, § 3-7; Code 2012, § 3-7; Ord. No. SRO-1974-94, § 1, 6-1-1994; Ord. No. SRO-402-2012, § 3-7, 5-30-2012; Ord. No. SRO-427-2014, § 3-7, 11-13-2013)

Secs. 3-8—3-32. Reserved.

ARTICLE II. RUN-OFF AND SPECIAL ELECTIONS

DIVISION 1. GENERALLY

Secs. 3-33—3-47. Reserved.

DIVISION 2. RUN-OFF

Sec. 3-48. Run-off election.

If the abstract shows that the vote cast for or against a measure, or for or against two or more candidates is tied, a run-off election shall be held not more than 30 days after the election.

(1) A person elected in a run-off election shall be installed in office at the time of the inauguration pursuant to Article VI(2) of the Community's Constitution, unless that is not possible and then such person shall be installed in office within ten days of the date in which the election results became final.

(2) The run-off election shall be governed by the procedures of this chapter.

(Code 1981, § 3-8(a); Code 2012, § 3-8(a); Ord. No. SRO-1974-94, § 1, 6-1-1994; Ord. No. SRO-402-2012, § 3-8(a), 5-30-2012; Ord. No. SRO-427-2014, § 3-8(a), 11-13-2013)

Editor's note—Per direction by the Community, subsection (2) was relocated to § 3-65 and renumbered subsection (6). The remaining subsection (3) was renumbered (2) at the editor's discretion.

Secs. 3-49—3-64. Reserved.

DIVISION 3. SPECIAL

Sec. 3-65. Special election.

If a person elected into office fails to meet the qualifications of a candidate for office, or an elected office becomes vacant, the Community Council will issue a call for a special election. In addition a call for an initiative, referendum or recall election shall also be considered a special election.

(1) Timeframes related to sections 3-4, 3-5, and 3-6 may be shortened provided that there is sufficient public notice to meet the timeframe requirements for special elections.

(2) For a vacant office, any special election shall be to fill the remainder of the term left by the vacancy of that office.

   a. A special election called for because of a vacancy shall be held within the timeframes prescribed by Article X, Section 1 of the Community's Constitution.

   b. The persons elected in any special election shall be installed in office within ten days of the day in which the election results became final.

(3) An initiative or referendum election shall also be governed by Article VIII of the Community's Constitution and section 3-11.

(4) A recall election shall also be governed by Article IX, Section 2 of the Community's Constitution and pursuant to section 3-11.

(5) A special election shall be governed by the procedures of this chapter.

(6) A ballot measure that is successfully passed by a vote of the people shall be implemented by the Community Council as soon as reasonably possible.

(Code 1981, § 3-8(a); Code 2012, § 3-8(a); Ord. No. SRO-1974-94, § 1, 6-1-1994; Ord. No. SRO-402-2012, § 3-8(a), 5-30-2012; Ord. No. SRO-427-2014, § 3-8(b), 11-13-2013)

Secs. 3-66—3-81. Reserved.

ARTICLE III. POST ELECTION

Sec. 3-82. Post election.

(a) *Council members not employed by Community government or its divisions, departments and/or enterprises.*

(1) No employee of a business, division or other enterprise owned by the Community may become or remain a member of the Community Council.

(2) If a member of the Community Council shall be employed by a business, division or other enterprise owned by the Community, and such person does not resign such employment within seven days of receiving written notice from the council president concerning the contents of this chapter, the president shall promptly declare that person's office on the Community Council vacant and a special election to fill such office shall be conducted.

(b) *Election records retention.*

(1) After the Community Council has certified the election results, the ballot boxes and other related official election records shall be impounded and delivered to the Salt River Police Department's Property and Evidence Bureau until the election challenge period is over, and once the election challenge period has expired, then the election records shall be transferred to the council secretary/election coordinator.

(2) Unless otherwise governed by other federal or Community law, all Community election records shall be retained for a period of three years. After three years, only such records necessary for Community archival purposes shall be kept by the council secretary or the records archivist for the Community, and all other election records shall be destroyed.

(Ord. No. SRO-427-2014, § 3-9, 11-13-2013)

Secs. 3-83—3-100. Reserved.

ARTICLE IV. INITIATIVE, REFERENDUM AND RECALL ELECTIONS

DIVISION 1. GENERALLY

Sec. 3-101. Call for special, initiative and referendum elections.

(a) The Community Council will issue a call for any election held pursuant to this section. The call of the election shall designate the date that the election will be held, the polling places for Districts No. 1 and No. 2, the period during which eligible voters may request absentee ballots, and such other information as the council deems appropriate. The Community Council may in its discretion amend the call of the election provided that notice of any amendment will be given in accordance with subsection (b) of this section.

(b) The secretary of the Community shall give notice of the election by posting and publishing the call of the election within the Community. The Community secretary shall mail the notice to nonresident members within five business days after it is issued or within such other period of time as the council shall direct.

(Code 1981, § 3-10; Code 2012, § 3-10; Ord. No. SRO-229-97, 8-20-1997; SRO-240-98, § 3, 6-24-1998; Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-402-2012, § 3-10, 5-30-2012)

Secs. 3-102—3-117. Reserved.

DIVISION 2. PETITIONS

Sec. 3-118. Required use.

This division within this Community Code of Ordinances shall govern formal written requests to the Salt River Pima-Maricopa Indian Community (SRPMIC or Community) council for recall and initiative elections. No petitions for recall or initiative elections shall be heard by Community Council unless in compliance with this division within this Community Code of Ordinances.

(Code 1981, § 3-11(a); Code 2012, § 3-11(a); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(a), 5-30-2012)

Sec. 3-119. Petitions for recall elections.

(a) *Limitations on recall elections.*

(1) *Time.* A recall petition shall not be circulated against any elected official until he or she has held office for at least six months from the date of inauguration for his or her elected term of office.

(2) *Frequency.* After two recall petitions and elections, no further recall petition shall be filed against the same officer during the term for which he or she was elected unless, at the time of the application for a third or any other subsequent recall petition, the petitioners signing the petition first pays all expenses of the preceding recall election into the public treasure from which such election expenses were paid.

(3) *Scope.* A recall petition application and petition shall only be directed against one elected official. If an applicant desires to subject two or more elected officials to recall, the applicant must submit a separate application for each elected official.

(b) *Application for recall petition.* A person or organization intending to file a recall petition shall, before causing the petition to be printed and circulated, file an application with the council secretary or his or her designee's office. The petition must be filed and signed by an enrolled member of the Community. If the petition is filed by an organization and then at least two enrolled members of the Community must sign and submit a recall petition as officers of the organization.

(c) *Form of application.* The application shall be in no less than eight-point type, and on a form to be provided by the council secretary or his or her designee, and shall set forth the following:

(1) The applicant's name or, if an organization, its names and the names and titles of its officers;

(2) The applicant's or organization's address;

(3) A statement of the applicant's intention to circulate and file a petition, and a statement of no more than 100 words naming the elected official and his or her office, why this elected official should be recalled, and identifying the electoral district from which the official was elected, except in the case of the president or vice president of the Community; and

(4) The signature of the person or, if an organization, the signature of two officers of the organization applying for the petition.

(d) *Receipt of application.*

(1) *Normal business hours.* The council secretary or his or her designee will receive applications for petitions during normal business hours.

(2) *Date-stamp, time-stamp and serial numbers.* On receipt of the application, the council secretary or his or her designee shall:

a. Date-stamp and time-stamp the application;

b. Assign an official serial number to the petition, which number shall appear in the lower right-hand corner of each side of each copy thereof; and

c. Issue that number to the applicant.

Numbers shall be assigned to the petitions by the council secretary or his or her designee in numerical sequence, and a record shall be maintained in his or her office of each application received and of the numbers assigned and issued to each applicant.

(3) *Copy of ordinance section.* The council secretary or his or her designee shall print and furnish to each applicant, at the time the application is submitted, a copy of the text of this division within this Community Code of Ordinances and any rules, policies or procedures adopted by the Community related to this division within this Community Code of Ordinances.

(e) *Standard form of petition.*

(1) *Procedure.* Within five business days of the receipt of the application, the council secretary or his or her designee shall produce a form for the petition.

---

(2) *Contents of petition.* This form of petition for a recall election shall contain the following:

a. The following caption and body:

> *Recall Petition*
>
> We, the eligible voters of electoral district _____ (or of the Salt River Pima-Maricopa Indian Community if recall is sought for the President or Vice President) from which _____ was elected, demand his or her recall from the office of _____ because he or she _____. Unless modified by this petition, his or her term ends on _____.

---

b. A statement that: "We, the undersigned members of the Salt River Pima-Maricopa Indian Community (SRPMIC), respectfully demand that the following recall question shall be submitted to the eligible voters of the SRPMIC, for their approval or rejection at a special election, and each for himself/herself says: 'I have personally signed this petition with my first and last names, as my name appears on the membership rolls of the SRPMIC. I have not signed any other petition for the same recall. I am an eligible voter of the SRPMIC.'"

c. The following warning: "Warning. It is a criminal offense for any person to knowingly sign a recall petition with a name other than his or her own, except in a circumstance where he or she signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his or her own name because of physical infirmity, or to knowingly sign such petition when he or she is not an eligible voter."

d. A statement that: "The SRPMIC government cannot guarantee the confidentiality or nondisclosure of the information that a person may provide on this recall petition."

---

(3) *Template.* Each of the signature sheets shall follow the following format:

SRPMIC Enrollment Number	*Name (first and last name printed)*	*Signature*	*Arizona Street Address, City, State and Zip Code*	*Telephone Number*	*Date Signed*	*Circulator Initial*
(Fifteen lines for signatures which shall be numbered)						

SRPMIC Enrollment Number	*Name (first and last name printed)*	*Signature*	*Arizona Street Address, City, State and Zip Code*	*Telephone Number*	*Date Signed*	*Circulator Initial*
The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the back of the sheet.						
						Number _____

(4) *Circulator.*

a. *Eligibility.* Each person circulating an initiative petition must be an eligible voter in the Community at all times during his or her circulation of a petition sheet. Signatures obtained by anyone who is not an eligible voter in the Community shall be void and shall not be counted in determining the legal sufficiency of the petition.

b. *Present at time of signing.* Every eligible voter signing a petition shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification. At the time of signing, the eligible voter shall sign his or her first and last names as they appear on the membership rolls of the Community in the spaces provided and the eligible voter so signing or the person circulating the petition shall print his or her Community enrollment number, first and last names and write, in the appropriate spaces following the signature, the signer's residence address, giving street and number, and if he or she has no street address, a mailing address or a description of his or her residence location, and phone number. The eligible voter so signing or the person circulating the petition shall write, in the appropriate spaces following the elector's address, the date on which the eligible voter signed the petition and the circulator shall also sign his or her initials after obtaining the eligible voter's required information.

(5) *Signature sheets.*

a. *Eligibility.* Every eligible voter of the Community may sign a recall petition concerning any elected officer for whom he or she is legally entitled to vote.

b. *Attachments.* In the case of the recall election, the signature sheets shall be attached at all times during circulation to a full and correct copy of the caption and body of the recall petition. The caption and body shall be in at least eight-point type.

(f) *Filing.*

(1) *Generally.* Signature sheets filed shall:

a. Be in the form prescribed by law.

b. Have printed in the lower right-hand corner, on each side of such sheet, the official serial number assigned to the petition by the council secretary or his or her designee.

c. Be attached to a full and correct copy of the title and text of the measure proposed by the petition or to the caption and body of the recall petition.

d. Be printed in at least eight-point type.

e. Be printed in black ink on white legal-size pages.

f. Have spaces for only 15 signatures per sheet.

g. Blank signature sheets may be obtained from the council secretary or his or her designee.

(2) *Receipt by council secretary or his or her designee.* For the purposes of this division within this Community Code of Ordinances, a petition is filed by the applicant when the signature sheets are first filed with the council secretary or his or her designee.

a. Applicant shall submit a written letter with the petition containing the following: the number of signature sheets, an estimate of the number of signatures submitted, and an explanation and identification of the petition sheet(s), which were provided to the applicant but not submitted for verification and certification purposes; at which time a receipt shall be immediately issued by the council secretary or his or her designee based on an estimate made to the council secretary or his or her designee of the purported number of sheets and signatures filed.

b. After issuance of the receipt by the council secretary or his or her designee, no additional signature sheets in support of this petition shall be accepted by the council secretary or his or her designee.

(3) *Handling.* Petitions may be filed with the council secretary or his or her designee in numbered sections for convenience in handling.

(4) *Number of signatures.* Not more than 15 signatures on one sheet shall be counted.

(5) *Time limit.* The council secretary or his or her designee shall not accept a petition after 185 days from the date in which the application for such petition was filed with the council secretary or his or her designee.

(6) *Processing of signature sheets.*

a. *Notice to officer and statement of defense in the case of a recall election.* Upon the filing of the recall petition signature sheets, the council secretary or his or her designee shall, within 48 hours, excluding Saturdays, Sundays or other legal holidays, give written notice to the person against whom it is filed. The notice shall state that a recall petition has been filed and shall notify the person to whom it is addressed that the person has the right to prepare and have printed on the ballot a statement containing not more than 200 words defending the person's official conduct. If the person fails to deliver the defensive statement to the officer giving notice within ten days thereafter, the right to have a statement printed on the ballot shall be considered waived.

b. *Copies and transmittal.*

1. *Governmental copies.* Upon issuance of the receipt for signature sheets for a recall petition, the council secretary or his or her designee shall immediately

make two copies of all pages of signature sheets. One copy shall be kept in the secretary's office. The council secretary or his or her designee shall then deliver the original signature sheets and the second copy of the signature sheets to the office of membership services. The office of membership services shall use the second copy as a working copy, upon which he or she may annotate.

2. *Applicant copy.* Applicant may request in writing that the council secretary or his or her designee make one copy of all pages submitted by the applicant.

3. *Public copies.* If an enrolled Community member provides a written request to review the submitted petition, the council secretary shall provide a copy that has been redacted to provide only the names and signatures of the petitioners.

c. *Verification.*

1. *Original sheets.* The original signature sheets shall not be marked upon, altered, damaged or destroyed by the council secretary or his or her designee or office of membership services.

2. *Disqualification.* Within 15 days, excluding Saturdays, Sundays, and legal holidays, of the filing of a petition, signature sheets, and issuance of receipt, the office of membership services together with the election board shall determine which signatures of individuals shall be disqualified for any of the following reasons:

(i) No residence address or description of residence location is provided.

(ii) No mailing address is provided.

(iii) No date of signing is provided.

(iv) The signature and printed name are illegible and the signer is otherwise unidentifiable.

(v) The address provided is illegible or nonexistent.

(vi) The individual was not at least 18 years of age or otherwise ineligible to vote on the date of signing the petition or affidavit.

(vii) The signature was disqualified after comparison with the signature on file at the office of membership services.

(viii) If a petitioner signed more than once, all but one otherwise valid signature shall be disqualified.

(ix) Signatures in excess of the 15 signatures allowed per signature sheet.

(x) Signatures obtained by a circulator who did not meet the requirements of this division within this Community Code of Ordinances.

(xi) The individual was an eligible voter at the time of signing but was deceased or incarcerated at the time the signature sheets were filed.

d. *Certification.*

1. No later than the end of the 15-day period as provided for in subsection (f)(6)c.2 of this section, the office of membership services together with the election board shall certify:

(i) The name of each individual, if any, whose signa-

ture was disqualified by the office of membership services and the election board together with the petition page and line number of the disqualified signature; and

(ii) The total number of signatures transmitted to the office of membership services and the election board for verification and the total number of signatures disqualified.

2. If the office of membership services and the election board determine that at least 50 signatures over the constitutionally required amount of signatures necessary to initiate a recall election have been certified, and that disqualification and certification of the remaining amount of signatures is not necessary to initiate the recall process, then the office of membership services and the election board may proceed without conducting the certification and verification process for the remaining signatures.

e. *Return.* During the same 15-day period provided in subsection (f)(6)c.2 of this section, the office of membership services shall return the originals and copies of signature sheets to the council secretary or his or her designee.

(7) *Disposition of petitions.* If the actual number of signatures of signatures pursuant to subsection (f)(6)d of this section on the remaining sheets after disqualifications is less than the minimum number required by the Constitution, then the council secretary or his or her designee shall:

---

a. *Insufficient number of signatures.*

1. *Notice to the applicant.* Send, to the person or organization that submitted the petition, a statement stating that, for the following reasons, the petition lacks the minimum number of signatures required by law:

"Signature sheets bearing Council secretary or his or her designee serial numbers _____ and bearing signatures of ____ persons appeared on petitions containing a defective circulator's affidavit. A total of ____ signatures on the remaining petition sheets were disqualified."

---

2. *Notice to the Community Council.* Notify the Community Council that an insufficient number of petition signatures were filed and provide a copy of the certified statement described in subsection (f)(7)a.1 of this section.

b. *Sufficient number of signatures.* If the actual number of signatures pursuant to subsection (f)(6)d of this section on the remaining sheets after subtraction of the disqualified signatures equals or exceeds the minimum number required by the Community Constitution, then within 48 hours, excluding Saturdays, Sundays, and other legal holidays, after return of the signature sheets and the certification of the office of mem-

bership services and election board, the council secretary or his or her designee shall:

1. *Receipt to applicant.* Issue the following receipt, signed and sealed, to the person or organization that submitted them:

   "Of the total number of _____ signatures, a total of _____ signatures were invalidated by the Office of Membership Services and the Election Board. The actual number of remaining signatures for such recall petition is equal to or in excess of the minimum required by the Community Constitution to place a measure on the recall election ballot."

2. *Return original signature sheet to applicant.* Return the original signature sheets to the person or organization that submitted the recall application and petition.

3. *Notice to Community Council.* Notify the Community Council that a sufficient number of signatures were filed and that the council is to take action in the manner provided by law.

   (i) In the case of a recall petition, notify the officer against whom the recall petition was filed that a sufficient number of signatures was filed and that he or she has five days in which to tender a resignation if he or she so desires.

   (ii) If the officer against whom a recall petition is filed desires to resign, the officer may do so by filing a written tender thereof with the council secretary or his or her designee within five days, excluding Saturdays, Sundays, and other legal holidays, after receipt of the written notice described in subsection (f)(7)b of this section. In such event, the person's resignation shall be accepted by the Community Council and the vacancy shall be filled as provided by law.

   (iii) If the officer against whom a petition is filed does not resign, then the Community Council shall call a recall election as provided by law.

(Code 1981, § 3-11(b); Code 2012, § 3-11(b); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(b), 5-30-2012)

Sec. 3-120. Petitions for initiative elections.

(a) *Application for initiative petition.* A person or organization intending to propose a new law, amendment to an existing law, or other initiative measure by initiative petition shall, before causing the petition to be printed and circulated, file an application with the council secretary or his or her designee's office. The petition must be filed and signed by an enrolled member of the Community. If the petition is filed by an organization and then at least two enrolled members of the Community must sign and submit an initiative petition as officers of the organization.

(b) *Form of application.* The application shall be in no less than eight-point type, shall be on a form to be provided by the council secretary or his or her designee, and shall set forth the following:

(1) The applicant's name or, if an organization, its names and the names and titles of its officers;

(2) The applicant's or organization's address;

(3) A statement of the applicant's intention to circulate and file a petition;

(4) The text of the proposed measure and a description of no more than 100 words of the principal provisions of the proposed measure; and

(5) The signature of the person or the signature of at least two officers of the organization applying for the petition.

(c) *Receipt of application.*

(1) *Normal business hours.* The council secretary or his or her designee will receive applications for petitions during normal business hours.

(2) *Date-stamp, time-stamp and serial numbers.* On receipt of the application, the council secretary or his or her designee shall:

a. Date-stamp and time-stamp the application;

b. Assign an official serial number to the petition, which number shall appear in the lower right-hand corner of each side of each copy thereof; and

c. Issue that number to the applicant.

Numbers shall be assigned to the petitions by the council secretary or his or her designee in numerical sequence, and a record shall be maintained in his or her office of each application received and of the numbers assigned and issued to each applicant.

(3) *Copy of ordinance section.* The council secretary or his or her designee shall print and furnish to each applicant, at the time the application is submitted, a copy of the text of this division within this Community Code of Ordinances and any rules, policies or procedures adopted by the Community related to this division within this Community Code of Ordinances.

(d) *Standard form of petition.*

(1) *Procedure.* Within five business days of the receipt of the application, the council secretary or his or her designee shall produce a form for the petition. Within the five day period, the office of the general counsel shall review the text of the proposed initiative measure. This review shall be limited to the following: 1) consideration to errors in drafting of the measure, 2) confusing, conflicting or inconsistent provisions within the measure, 3) conflicts with the Community's Constitution or federal law, or 4) whether or not the proposed text addresses more than one subject matter.

a. The office of general counsel may prepare recommendations to improve the text of the measure.

b. The person or organization proposing the measure may accept, modify or reject any recommendations made of the office of the general counsel.

(2) *Substance.*

a. *Contents of initiative petition.* This form of a petition for an initiative election shall contain the following which shall be based on the description provided by the applicant in the initiative application filed with the council secretary or his or her designee.

1. The title of the proposed measure; and

2. Text of the principal provisions of the proposed measure in no more than 100 words.

(i) A statement that: "This is only a description of the proposed measure, prepared by the sponsor of the measure. It need not include every provision in the measure. Before signing, make sure the title and text of the measure are attached. You have the right to read or examine the title and text before signing."

(ii) A statement that: "We, the undersigned members of the Salt River Pima-Maricopa Indian Commu-

nity (SRPMIC), respectfully demand that the following proposed measure shall be submitted to the eligible voters of the SRPMIC, for their approval or rejection at an initiative election, and each for himself or herself says: 'I have personally signed this petition with my first and last names as they appear on the membership rolls of the SRPMIC. I have not signed any other signature sheets for this same petition. I am an eligible voter of the SRPMIC."

(iii) The following warning: "Warning. It is a criminal offense for any person to knowingly sign an initiative petition with a name other than his or her own, except in a circumstance where he or she signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his or her own name because of physical infirmity, or to knowingly sign such petition when he or she is not an eligible voter."

(iv) A statement that: "The SRPMIC government cannot guarantee the confidentiality or nondisclosure of the information that a person may provide on this initiative petition."

b. *One-subject rule.* An initiative or referendum measure shall only pertain to one subject matter and the text of a measure that pertains to two or more subject matters may not be submitted to the voters or have the effect of law.

c. *Constitutional requirement.* No initiative or referendum measure shall require that the Community Council or the Community government violate the Community Constitution.

---

(3) *Template.* Each of the signature sheets shall follow the following format:

SRPMIC Enrollment Number	*Name (first and last name printed)*	*Signature*	*Arizona Street Address, City, State and Zip Code*	*Telephone Number*	*Date Signed*	*Circulator Initial*
(Fifteen lines for signatures which shall be numbered)						

SRPMIC Enrollment Number	*Name (first and last name printed)*	*Signature*	*Arizona Street Address, City, State and Zip Code*	*Telephone Number*	*Date Signed*	*Circulator Initial*
The validity of signatures on this sheet must be sworn to by the circulator before a notary public on the form appearing on the back of the sheet.						
						Number _____

(4) *Circulator.*

a. *Eligibility.* Each person circulating an initiative petition must be an eligible voter in the Community at all times during his or her circulation of a petition sheet. Signatures obtained by anyone who is not an eligible voter in the Community shall be void and shall not be counted in determining the legal sufficiency of the petition.

b. *Present at time of signing.* Every eligible voter signing a petition shall do so in the presence of the person who is circulating the petition and who is to execute the affidavit of verification. At the time of signing, the eligible voter shall sign his or her first and last names as they appear on the membership rolls of the Community in the spaces provided and the eligible voter so signing or the person circulating the petition shall print his or her Community enrollment number, first and last names and write, in the appropriate spaces following the signature, the signer's residence address, giving street and number, and if he or she has no street address, a mailing address or a description of his or her residence location, and phone number. The eligible voter so signing or the person circulating the petition shall write, in the appropriate spaces following the elector's address, the date on which the eligible voter signed the petition and the circulator shall also sign his or her initials after obtaining the eligible voter's required information.

(5) *Signature sheets.*

a. *Eligibility.* Every eligible voter of the Community may sign an initiative petition upon a measure upon which he or she is legally entitled to vote.

b. *Attachments.* In the case of the initiative election, the signature sheets shall be attached at all times during circulation to a full and correct copy of the title and text of the measure proposed by the petition. The title and text shall be in at least eight-point type and shall include both the original and the amended text. The text shall indicate material deleted, if any, by printing the material with a line drawn through the center of the letters of the material and shall indicate material added or new material by printing the letters of the material in capital letters.

(e) *Filing.*

(1) *Generally.* Signature sheets filed shall meet the following criteria:

a. Be in the form prescribed by law.

b. Have printed in the lower right-hand corner, on each side of such sheet, the official serial number assigned to the petition by the council secretary or his or her designee.

c. Be attached to a full and correct copy of the title and text of the measure

proposed by the petition or to the caption and body of the recall petition.

d. Be printed in at least eight-point type.

e. Be printed in black ink on legal sized white pages.

f. Have spaces for only 15 signatures per sheet.

g. Blank signature sheets may be obtained from the council secretary or his or her designee.

(2) *Receipt by council secretary or his or her designee.* For the purposes of this division within this Community Code of Ordinances, a petition is filed by the applicant when the signature sheets are first filed with the council secretary or his or her designee.

a. Applicant shall submit a written letter with the petition containing the following: the number of signature sheets, an estimate of the number of signatures submitted, and an explanation and identification of the petition sheet(s), which were provided to the applicant but not submitted for verification and certification purposes; at which time a receipt shall be immediately issued by the council secretary or his or her designee based on an estimate made to the council secretary or his or her designee of the purported number of sheets and signatures filed.

b. After the issuance of the receipt by the council secretary or his or her designee, no additional signature sheets in support of this petition shall be accepted by the council secretary or his or her designee.

(3) *Handling.* Petitions may be filed with the council secretary or his or her designee in numbered sections for convenience in handling.

(4) *Number of signatures.* Not more than 15 signatures on one sheet shall be counted.

(5) *Time limit.* The council secretary or his or her designee shall not accept a petition after 185 days from the date in which the application for such petition was filed with the council secretary or his or her designee.

(6) *Processing of signature sheets.*

a. *Copies and transmittal.*

1. *Governmental copies.* Upon issuance of the receipt for signature sheets for an initiative, the council secretary or his or her designee shall immediately make two copies of all pages of signature sheets. One copy shall be kept in the secretary's office. The council secretary or his or her designee shall then deliver the original signature sheets and the second copy of the signature sheets to the office of membership services. The office of membership services shall use the second copy as a working copy, upon which he or she may annotate.

2. *Applicant copy.* Applicant may request in writing that the council secretary or his or her designee make one copy of all pages submitted by the applicant.

3. *Public copies.* If an enrolled Community member provides a written request to review the submitted petition, the council secretary shall provide a copy that has been redacted to provide only the name and signature of the petitioners.

b. *Verification.*

1. *Original sheets.* The original signature sheets shall not be marked upon, altered, damaged, or destroyed by the council secretary or his or her designee or office of membership services.

2. *Disqualification.* Within 15 days, excluding Saturdays, Sundays, and legal holidays, of the filing of a petition, signature sheets, and issuance of receipt, the office of membership services together with the election board shall determine which signatures of individuals shall be disqualified for any of the following reasons:

   (i) No residence address or description of residence location is provided.

   (ii) No mailing address is provided.

   (iii) No date of signing is provided.

   (iv) The signature and printed name are illegible and the signer is otherwise unidentifiable.

   (v) The address provided is illegible or nonexistent.

   (vi) The individual was not at least 18 years of age or otherwise ineligible to vote on the date of signing the petition or affidavit.

   (vii) The signature was disqualified after comparison with the signature on file at the office of membership services.

   (viii) If a petitioner signed more than once, all but one otherwise valid signature shall be disqualified.

   (ix) Signatures in excess of the 15 signatures allowed per signature sheet.

   (x) Signatures obtained by a circulator who did not meet the requirements of this division within this Community Code of Ordinances.

   (xi) The individual was an eligible voter at the time of signing but was deceased or incarcerated at the time the signature sheets were filed.

(Code 1981, § 3-11(c); Code 2012, § 3-11(c); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(c), 5-30-2012; Ord. No. SRO-427-2014, § 3-11(c), 11-13-2013)

Sec. 3-121. Certification.

(a) No later than the end of the 15-day period as provided for in section 3-79(e)(6)b.2 the office of membership services together with the election board shall certify:

(1) The name of each individual, if any, whose signature was disqualified by the office of membership services and the election board together with the petition page and line number of the disqualified signature; and

(2) The total number of signatures transmitted to the office of membership services and the election board for verification and the total number of signatures disqualified.

(b) If the office of membership services and the election board determine that at least over 50 signatures over the constitutionally required amount of signatures necessary to initiate an initiative election has been certified, and that disqualification and certification of the remaining amount of signatures is not necessary to initiate the initiative process, then the office of membership services and the election board may proceed without conducting the certification and verification process for the remaining signatures.

(Code 1981, § 3-11(d); Code 2012, § 3-11(d); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(d), 5-30-2012)

Sec. 3-122. Return.

During the same 15-day period provided in section 3-79(e)(6)b.2, the office of membership

services shall return the originals and copies of signature sheets to the council secretary or his or her designee.
(Code 1981, § 3-11(e); Code 2012, § 3-11(e); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(e), 5-30-2012)

Sec. 3-123. Disposition of petitions.

(a) *Insufficient number of signatures.* After disqualification pursuant to section 3-79(e)(6)b.2, if the actual number of signatures remaining on the submitted initiative petition sheets are less than the minimum number required by the Community Constitution, then the council secretary or his or her designee shall:

(1) *Notice to applicant.* Send, to the person or organization that submitted the petition, a statement stating that, for the following reason(s), the petition lacks the minimum number of signatures required by law:

"Signature sheets bearing Council secretary or his or her designee serial numbers ____ and bearing signatures of ____ persons appeared on petitions containing a defective circulator's affidavit. A total of ____ signatures on the remaining petition sheets were disqualified."

(2) *Notice to Community Council.* Notify the Community Council that an insufficient number of petition signatures were filed and provide a copy of the certified statement described in subsection (a)(1) of this section.

(b) *Sufficient number of signatures.* If the actual number of signatures pursuant to section 3-79(e)(6)b.2 on the remaining sheets after subtraction of the disqualified signatures equals or exceeds the minimum number required by the Community Constitution, then within 48 hours, excluding Saturdays, Sundays, and other legal holidays, after return of the signature sheets and the certification of the office of membership services and the election board, the council secretary or his or her designee shall:

(1) Issue the following receipt, signed and sealed, to the person or organization that submitted them:

"Of the total number of ____ signatures, a total of ____ signatures were invalidated by the Office of Membership Services and the Election Board. The actual number of remaining signatures for such initiative is equal to or in excess of the minimum required by the Community Constitution to place a measure on an initiative election ballot."

(2) Return the original signature sheets to the person or organization that submitted them.

(3) Notify the Community Council that a sufficient number of signatures were filed and that the Community Council is to take action in the manner provided by law.

(Code 1981, § 3-11(f); Code 2012, § 3-11(f); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(f), 5-30-2012)

Sec. 3-124. Recordkeeping.

(a) *Length of recordkeeping.* The council secretary or his or her designee shall retain the official filed recall or initiative petition for at least 185 days after the applicant's filing of such signed petition unless it is required for an appeal or

other court matter. After 185 days from filing of the official petition or upon conclusion of any court process which ever is later, the council secretary or his or her designee shall properly discard of the original petition unless federal or tribal law requires the archiving of such petition.

(b) *Availability of petition for appeals hearings.* The official filed recall or initiative petition shall be made available for any appeal hearing filed pursuant to section 3-84 or any other court matter which requires the petitions.
(Code 1981, § 3-11(g); Code 2012, § 3-11(g); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(g), 5-30-2012)

Sec. 3-125. Recall and initiative petition appeals.

(a) *Actions subject to appeal.* The following reasons given by the office of membership services and the election board for the disqualification of an individual signing an initiative or a recall petition are subject to appeal:

(1) The individual was not an eligible voter on the date of signing the petition; or

(2) The signature was disqualified after comparison with the signature on the affidavit of registration.

(b) *Appeals procedure.*

(1) *Election board.*

a. Any enrolled member of the Community may apply, within ten calendar days after an allegedly improper action listed in section 3-79(e)(6)b.2, to the election board for reconsideration of the action.

b. The election board, in its discretion, may hold a hearing to take evidence and hear oral arguments. If there is more than one appeal, the election board may consolidate the hearings. The election board's decision shall include detailed findings of fact, the basis of its decision, and its decision.

c. If the election board finds that the disputed action was improper, the election board shall reverse the action. The standard of review by the election board shall be clear and convincing.

d. Within 72 hours of the application for reconsideration, the election board shall state, in writing, the grounds for its decision and provide this writing and the supporting documentation to the enrolled member of the Community who appealed the action.

e. The appellant shall immediately be notified by certified mail, personal service or both of the decision reached by the election board.

(2) *Administrative appeal panel.*

a. If the election board fails or refuses to reverse the allegedly improper action, any enrolled member of the Community may appeal, within 15 calendar days after the failure or refusal to reverse the allegedly improper action, to the council secretary or his or her designee to set up an appeal panel to determine the appeal.

b. The administrative appeal panel shall consist of three members, one chosen by the appellant, one chosen by the election board and one chosen by the other two members.

c. Election board members shall not serve on the administrative appeals panel.

d. The decision of the election board shall be given deference by the administrative appeals panel and the review shall be limited to whether the decision of the election board is sustained by sufficient evidence on the record.

e. Except in rare cases with good cause shown as to why additional evidence should be considered, the administrative appeals panel's review will be limited to review of the record of

the election board proceedings and the evidence before the election board at the time of its decision. Unless good cause is shown for a hearing before the administrative appeals panel shall not hold a hearing.

(Code 1981, § 3-11(h); Code 2012, § 3-11(h); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(h), 5-30-2012)

Sec. 3-126. Penalties.

(a) *Generally.*

(1) Any person or officer who violates section 3-126(b)(1) and (b)(2) shall be guilty of a criminal offense and, upon conviction, shall be subject to penalty as defined in section 3-152(1) or (4).

(2) Any person or officer who violates section 3-126(b)(3) or (b)(4) shall be guilty of a civil violation and, upon a court determination, shall be subject to penalty as defined in section 3-152(2) through (4).

(b) *Unlawful acts.*

(1) *Signing petition for profit.* Anyone who knowingly gives or receives money or any other thing of value for signing an initiative or recall petition is guilty of an offense.

(2) *Coercion or intimidation with respect to petitions.* A person who knowingly coerces any other person by menace or threat, or threatens any other person to the effect that the other person will or may be injured in his or her business, or discharged from employment, or that he or she will not be employed, to sign or subscribe, or to refrain from signing or subscribing his or her name to an initiative or recall petition, or, after signing or subscribing his or her name, to have his or her name taken therefrom, is guilty of an offense.

(3) *Signing name other than own.* A person knowingly signing any name other than his or her own to an initiative or recall petition, except in a circumstance where he or she signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his or her own name because of physical infirmity, is guilty of an offense.

(4) *Ineligible voter.* A person who intentionally signs an initiative or recall petition, knowing that at the time of signing an initiative or recall petition he or she is not an eligible voter of the Community, is guilty of an offense.

Sec. 3-127. Applicability of this division within this Community Code of Ordinances.

This division within this Community Code of Ordinances shall be applicable to all initiative and recall efforts initiated after the effective date of July 25, 2007.

(Code 1981, § 3-11(i); Code 2012, § 3-11(i); Ord. No. SRO-303-05, 3-30-2005; Ord. No. SRO-319-07, 7-25-2007; Ord. No. SRO-402-2012, § 3-11(i), 5-30-2012)

Secs. 3-128—3-143. Reserved.

ARTICLE V. VIOLATIONS OF ELECTION PROCESS

Sec. 3-144. Purpose.

The purpose of this article is to uphold and ensure the fairness and integrity of the Community election process.

(Code 1981, § 3-12(a); Code 2012, § 3-12(a); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(a), 5-30-2012)

Sec. 3-145. Applicability.

This article shall apply to all Community elections overseen by the Community election board.

(Code 1981, § 3-12(b); Code 2012, § 3-12(b); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(b), 5-30-2012)

Sec. 3-146. Candidate forum responsibility.

Candidate forums are the responsibility of the Community relations departments and these forums are not under the management or oversight of the election board.
(Code 1981, § 3-12(c); Code 2012, § 3-12(c); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(c), 5-30-2012; Ord. No. SRO-427-2014, § 3-12(c), 11-13-2013)

Sec. 3-147. Permissible conduct.

The following acts are not considered to be violations of this article:

(1) Providing transportation to the voting polls for any voter;

(2) Providing food, campaign literature or items of nominal value at a political rally or gathering on any date preceding election day, so long as the rally is open to the public;

(3) Providing food, campaign literature or items of nominal value at a designated political campaign demonstration area on the day of an election so long as such food or literature is open to all and is not forced upon or denied to any person;

(4) Making any campaign promise that does not conflict with section 3-121(d), or violate any law of the Community; or

(5) Use of Community buildings to hold campaign meetings or rallies, in accordance with tribal building and administrative procedures.

(Code 1981, § 3-12(d); Code 2012, § 3-12(d); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(d), 5-30-2012)

Sec. 3-148. Violation of election process.

It is unlawful for any individual or group of individuals to knowingly attempt to circumvent any Community election or voting rule, requirement, regulation, procedure or law as set forth in this Community Code of Ordinances, regulations and/or election board guidelines or procedures.
(Code 1981, § 3-12(e); Code 2012, § 3-12(e); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(e), 5-30-2012)

Sec. 3-149. Violations by actions of candidates or issue supporters.

(a) *Coercion of voter/supporter.* It is unlawful to use or to threaten force, or request another person to use or threaten force, in order to influence any person's vote in any election, or to prevent any person from voting in any election.

(b) *False statements/misrepresentation.* It is unlawful to knowingly by act or omission provide election board officials with false information that is relied upon to certify a candidate's eligibility to be a candidate in the Community election process.

(c) *Interference with or corruption of election official.* It is unlawful for any person to offer or give a bribe to any member of the election board, or to influence or attempt to influence any such officers in the performance of their official duties by means of force or threats or promises of any nature.

(d) *Bribery of voter.* It is unlawful to give or promise money, position of employment, business opportunity, or any other thing of value that exceeds $10.00 to any person to vote or refrain from voting at any Community election or to vote or refrain from voting for any particular candidate or issue at any Community election for any of the following reasons:

(1) For the purpose of influencing a person's vote;

(2) With the intent that any part of the money or thing of value be used for bribery in connection with an election; or

(3) Knowingly giving or promising as reimbursement for money or thing of value expended in whole or in part for bribery at any Community election.

(e) *Intimidation of Community member employees by employer.* It is unlawful for any employer to:

(1) Threaten any employee with dismissal from employment, reduction of pay, loss of seniority, transfer, or less favorable working conditions, for the purpose of influencing the employee to vote or refrain from voting for any particular person or issue, in any Community election; or

(2) Prohibit or attempt to prohibit, limit or restrict the political activities of any Community member employee beyond the scope of applicable Community administrative policies, law or regulations.

For the purposes of this article, the term "employee" means any person, association of persons or agent of such person or persons who acts in a supervisory capacity, including but not limited to Community government officials, Community enterprise officials, independent contractors, corporation officials, or other business officials operating within the SRPMIC boundary employing one or more Community members or engaging their services under contract.

(f) *Campaigning in and around the workplace during Community business hours, except for Community schools.* It is unlawful for any person to solicit votes, signatures, campaign contributions or participate in election campaigning activities within and directly outside of any Community government, division or enterprise building which serves as a workplace during the business hours of that particular government department, division or enterprise. It is the public policy of the Community that government programs be administered in an unbiased manner and without favoritism for or against any political candidate, party or group in order to promote public confidence in government, governmental integrity and the efficient delivery of governmental services and to ensure that all employees are free from any express or implied requirement or any political or other pressure of any kind to engage or not engage in any political campaigning activity. Toward this end, any person or entity charged with the interpretation of this article shall take into account the policy of this article and shall construe any of its provisions accordingly.

(g) *Use of Community property for election campaigning.* It shall be unlawful for any person to use Community property, including but not limited to Community photocopiers, fax machines, computers, vehicles, and other property to advocate for or against an Community election candidate or a Community initiative campaign.

(h) *Campaigning in and around Community school buildings and campus.* It is unlawful for a person to solicit votes, signatures, campaign contributions or participate in election campaigning activities in or around a Community education building or school campus unless they are participating at an official Community administered election forum. This provision does not apply to student council election activities or other official school activities.

(Code 1981, § 3-12(f); Code 2012, § 3-12(f); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(f), 5-30-2012; Ord. No. SRO-427-2014, § 3-12(f), 11-13-2013)

Sec. 3-150. Violations by action of election officers.

It is unlawful for any member of the Community election board to knowingly and willfully fail or neglect any duty under any part of this article in any manner prescribed by this article or to accept any money or other thing of value from any candidate or from anyone acting or purporting to act on behalf of any candidate.

(Code 1981, § 3-12(g); Code 2012, § 3-12(g); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(g), 5-30-2012)

Sec. 3-151. Violations by voters.

It shall be unlawful:

(1) For any person who does not possess the qualifications for voter eligibility to knowingly vote in a Community election.

(2) For any person to vote more than once in any Community election.

(3) For any voter to knowingly vote in any district except the district to which the person has been assigned or declared and is officially recorded with the Community enrollment office.

(4) For any person who is a member of any other tribe other than or in addition to the Community to vote in a Community election.

(5) For any person to tamper with or alter in any way any election ballots, voting machines, tallies, voting materials, or any other compilations of summaries, or totals of voting results by destroying, defac-

ing, writing on, changing marks or totals on any such ballots or voting materials or results.

(Code 1981, § 3-12(h); Code 2012, § 3-12(h); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(h), 5-30-2012)

Sec. 3-152. Penalties.

It shall be at the Community prosecutor's discretion to determine whether to pursue criminal or civil penalties pursuant to subsections (1) and (2) of this section. It shall be the Community manager's discretion to determine if administrative penalties should be implemented pursuant to subsection (3) of this section. It shall be the council's discretion to determine if removal or exclusion pursuant to subsection (4) of this section shall be implemented.

(1) *Criminal penalties.* Any person who violates any provision of this article shall be subject to penalty not to exceed one year in jail and/or $3,000.00 fine, plus costs, for each separate violation.

(2) *Civil penalties.* In addition to or in lieu of any other penalties herein, any person who violates any provision in this article maybe fined an amount not to exceed $5,000.00. Additionally, the Community may notify other jurisdictions of activity that may violate any federal, state or county law.

(3) *Administrative penalties.* Any Community employee, as defined in section 3-121(e), who violates any provisions of this article shall be subject to termination, consistent with Community administrative policy in this article based upon conduct that is not deemed compatible with the best interests of the Community.

(4) *Removal and exclusion from the Community by council action.* Whenever a non-Indian or nonmember Indian is found to have violated any provision of this article, proceedings for removal and exclusion of the nonmember from the Community may be initiated and determined by council in accordance with chapter 7.

(Code 1981, § 3-12(i); Code 2012, § 3-12(i); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(i), 5-30-2012)

Sec. 3-153. Reported incidents.

Any alleged violations of this article must be reported to the Community police department for investigation as soon as reasonably possible.

(Code 1981, § 3-12(j); Code 2012, § 3-12(j); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(j), 5-30-2012)

Sec. 3-154. Violators prohibited from holding office.

Any person who has been elected, upon having been found to violate a provision of this article, shall be immediately removed from his or her elected office pursuant to article IX, section 1 of the Community Constitution.

(Code 1981, § 3-12(k); Code 2012, § 3-12(k); Ord. No. SRO-313-06, 6-28-2006; Ord. No. SRO-402-2012, § 3-12(k), 5-30-2012)

Chapter 4

COURTS GENERALLY

Article I. In General

Sec. 4-1. Jurisdiction.
Sec. 4-2. Court administrator.
Sec. 4-3. Court records.
Sec. 4-4. Professional attorneys and lay advocates.
Sec. 4-5. Consecutive sentencing.
Sec. 4-6. Limitation for bringing civil actions and criminal prosecutions into Community courts.
Secs. 4-7—4-30. Reserved.

Article II. Judges

Sec. 4-31. Generally.
Sec. 4-32. Qualifications of judges.
Sec. 4-33. Election of chief judge.
Sec. 4-34. Appointment and term of juvenile and associate judges; vacancy.
Sec. 4-35. Judicial conduct and discipline commission.
Sec. 4-36. Request for change of judge; judge recusal; conflict of interest.
Sec. 4-37. Appointment of judges.
Secs. 4-38—4-84. Reserved.

Article III. Appeals

Sec. 4-85. Appellate division.
Sec. 4-86. Jurisdiction of the court of appeals.
Sec. 4-87. Appellate justices.
Sec. 4-88. Composition of the court of appeals.
Sec. 4-89. Appointment to the court of appeals.
Sec. 4-90. Designation and responsibilities of presiding justice.
Sec. 4-91. Oath of office.
Sec. 4-92. Advisory opinions.
Sec. 4-93. Consideration of the appeal.
Sec. 4-94. Opinions, memoranda, and orders.
Sec. 4-95. Disqualification and removal.
Sec. 4-96. Justices by designation.
Sec. 4-97. Attorneys and advocates.
Sec. 4-98. Effective date.
Secs. 4-99—4-185. Reserved.

Article IV. Bonds and Witness Expenses

Sec. 4-186. Bonds and witness expenses.
Secs. 4-187—4-210. Reserved.

Article V. Rulemaking of the Court

Sec. 4-211. Preparation, proposal and circulation.
Secs. 4-212—4-231. Reserved.

Article VI. Defendant's Rights

Sec. 4-232. Explanation of charges; judge to advise legal rights.

ARTICLE I. IN GENERAL

Sec. 4-1. Jurisdiction.

(a) *Court of original and appellate jurisdiction.* The Salt River Pima-Maricopa Indian Community Court is the court of original and appellate jurisdiction within the Community.

(b) *Subject matter jurisdiction limited by council action.* The Community court shall have jurisdiction in all cases involving disputes in contract, tort, and the exercise of the power of eminent domain over any land located within the boundaries of the reservation and shall determine such cases upon the customary law of the Community as may be augmented by the common law as understood in the state to the extent that the court requires, in order to do substantial justice to the parties in the dispute. In all other respects the jurisdiction of the Community court is limited to the subject matter of those cases, causes, disputes and prosecutions which the Community Council by enactment accords to the court.

(c) *Criminal jurisdiction over persons.*

(1) The court of the Community shall have jurisdiction over all offenses enumerated in this Community Code of Ordinances when committed by any person otherwise subject to the jurisdiction of the Community court.

(2) Any person otherwise subject to the jurisdiction of the Community court who enters upon the Community shall be deemed to have consented to the jurisdiction of the Community court.

(3) The Community shall be taken to include all territory within the reservation boundaries, including fee-patented lands, rights-of-way, roads, water, bridges and land used for schools, churches or agency purposes.

(d) *Civil jurisdiction over persons.* The Community court shall have jurisdiction in all cases wherein:

(1) The defendant is a member of the Community;

(2) The defendant is domiciled or residing within the Community;

(3) The defendant has caused an event to occur within the Community out of which the claim which is the subject matter of the complaint arose;

(4) The counter-defendant has filed an action in Community court against the counterclaimant arising out of the subject matter of such action, and which counterclaim might be brought under the federal rules of civil procedure;

(5) The defendant is a real party in interest to a lease of land and/or improvements within the Community and then as to matters involving such leasehold interests; or

(6) The defendant is a real party in interest regarding the ownership of land and/or improvements located within the reservation boundaries and sought to be acquired pursuant to the powers of eminent domain.

In all the events or circumstances set out in subsections (d)(2) through (6) of this section, the defendants or counter-defendants are deemed to have waived any objection they might have otherwise had to the jurisdiction of the Community court as a result of the status or event described in said subsections. No judgment shall be given on any suit unless the defendant has actually received notice of such suit. Evidence of receipt of the notice shall be kept as a part of the record in the case. In all civil suits, except actions for eminent domain, divorce, separate maintenance or annulment, the complainant may be required to deposit with the clerk of the court a fee for security in a reasonable amount to cover costs and disbursements in the case. In actions of divorce, annulment or separate maintenance, a complainant and the counter-complainant, if there be such, shall be required to deposit with the clerk of the court the sum of $40.00.

(Code 1981, § 4-1; Code 2012, § 4-1; Amd. to Ord. No. SRO-33-75, § 1.1, 5-5-1980; Ord. No. SRO-69A-81, 2-25-1981; Ord. No. SRO-111-88, §§ 1, 2, 2-17-1988; Ord. No. SRO-141-91, § 1, 8-28-1991; Ord. No. SRO-402-2012, § 4-1, 5-30-2012)

Sec. 4-2. Court administrator.

(a) *Selection.* The position of court administrator shall be filled in accordance with the Community's established guidelines for hiring. Applicants for this position shall be chosen solely on the basis of qualification and merit.

(b) *Duties.* The court administrator shall have general administrative responsibility for the operation of the Community court except for the control of the functions reserved to the chief judge and associate judges. The court administrator's duties shall include the preparation of the court's budget for submission to the Community manager, oversight in regard to the budget, hiring of all personnel, operation of the clerk's office, supervising the receipt, creating and filing of all court records and the issuance of all necessary court documents, assisting the department of public safety and other departments of Community government as well as members of the Community in the proceedings of the court, administering oaths and collecting and accounting for fines and court fees. The duties of the court administrator may be undertaken by assistant administrators, clerks or other personnel under the supervision of the court administrator. The court administrator shall provide a security bond in an amount set by the council within 30 days of the time the council sets the bond.
(Code 1981, § 4-2; Code 2012, § 4-2; Amd. to Ord. No. SRO-33-75, § 1.12(a), 5-5-1980; Ord. No. SRO-113-88, 6-22-1988; Ord. No. SRO-193-95, § 1, 3-29-1995; Ord. No. SRO-402-2012, § 4-2, 5-30-2012)

Sec. 4-3. Court records.

The clerk of the Community court shall keep for inspection a record of all proceedings of the court which record shall reflect the title of the case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, by whom conducted, the findings of the court, the judgment and all other appropriate facts or circumstances.
(Code 1981, § 4-3; Code 2012, § 4-3; Amd. to Ord. No. SRO-33-75, § 1.12(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-3, 5-30-2012)

Sec. 4-4. Professional attorneys and lay advocates.

(a) *Professional attorneys.* Any person appearing before the Community court shall have the right to have the assistance of a professional attorney in eminent domain matters, provided that this must be at his or her own expense, and provided that any professional attorney making an appearance before the Community court must be admitted to practice pursuant to the rules of the Community court. Professional attorneys shall not be permitted to practice before the court in civil matters other than the eminent domain. If the Community court determines that the civil rights of any person appearing before the court in a juvenile proceeding include the right to have the assistance of a professional attorney, or if the juvenile chapter of this Community Code of Ordinances so requires, the court shall permit a professional attorney to represent that person. In all criminal matters, a person shall be appointed the assistance of counsel in accordance with the rules of criminal procedure, which rules may be amended from time to time.

(b) *Lay advocates.* Any person appearing before the Community court shall have the right at his or her own expense to have the assistance of a lay advocate. The term "lay advocate" means any member of the Community who is duly admitted to practice before the Community court pursuant to the rules of the Community court.

(c) *Insurance carriers; advocates for the Community.*

(1) *Cooperative agreements with insurance carriers.* The Community manager may, on behalf of the Community, enter into written agreements with insurance carriers who have issued policies of insurance in favor of the Community for specified risks which will allow the insurance carriers to have the assistance of the Community in the defense of actions filed in Community court for claims insured by such policies of insurance and which will ensure the full coverage of the policies of insurance and the defense of the insured parties. Any such agreement will specify the assistance to be rendered by the Community to

the insurance carrier and that such assistance is consistent with and will not constitute a breach or modification of the agreements or conditions of the policies of insurance. The assistance that may be agreed to by the Community manager will consist of the services of a lay advocate employed in the office of the Community's staff attorney and working under the supervision of the Community's staff attorney. The extent of the services will be a subject of the agreement. The agreement will provide for the payment by the insurance carrier of all costs for the services rendered.

(2) *Designation of lay advocate.* The Community manager shall designate a lay advocate employed in the office of the Community's staff attorney to have the responsibility to represent the Community, its divisions, departments, officers and employees in any civil action filed in the Community court in which any of them is a:

a. Defendant and when such case involves an official action of the Community or any of its divisions or departments; or an alleged action or breach of duty of any officer or employee of the Community or any of its divisions or departments acting in his or her official capacity, and when the claim asserted is not insured against, by the Community, or if the claim is insured against, only after an agreement satisfying the requirements of subsection (c)(1) of this section is entered into; and

b. Plaintiff or nominal plaintiff in a civil action brought by or on behalf of the Community or any of its divisions.

Such designated lay advocate shall work under the supervision of the staff attorney.

(3) The enactment of subsections (c)(1) and (2) of this section does not waive the sovereign immunity of the Community against suit beyond any amount for which the Community, its officers and employees and its divisions and their officers and employees are insured and any judgment is satisfied.

(Code 1981, § 4-4; Code 2012, § 4-4; Amd. to Ord. No. SRO-33-75, § 1.13, 5-5-1980; Ord. No. SRO-111-88, § 3, 2-17-1988; Ord. No. SRO-265-2000, 3-29-2000; Ord. No. SRO-396-2012, 4-4, 6-1-2012; Ord. No. SRO-402-2012, § 4-4, 5-30-2012)

Sec. 4-5. Consecutive sentencing.

Judges of the Community court have the authority and such judicial discretion as needed to impose consecutive sentences upon criminal defendants convicted of multiple offenses of this Code of Ordinances.

(Code 1981, § 4-5; Code 2012, § 4-5; Ord. No. SRO-145-92, § 1, 2-5-1992; Ord. No. SRO-402-2012, § 4-5, 5-30-2012)

Sec. 4-6. Limitation for bringing civil actions and criminal prosecutions into Community courts.

(a) Actions arising under tort for which no limitation is otherwise prescribed shall be brought within two years after the cause of action accrues, and not afterward.

(b) Actions arising under contract for which no limitation is otherwise prescribed shall be brought within three years after the cause of action accrues, and not afterward.

(c) There shall be commenced and prosecuted within four years after the cause of action accrues, and not afterward, all criminal and civil offenses set forth in this Community Code of Ordinances.

(d) The Community shall not be barred by the limitations of actions prescribed in this section.

(e) If a person entitled to bring an action is at the time the cause of action accrues either:

(1) Under 18 years of age;

(2) Adjudicated as being of unsound mind or otherwise incompetent; or

(3) Imprisoned and thereby unable to discover his or her right to bring the action.

The period of such disability shall not be deemed a portion of the period limited for commencement of the action.

(f) When a person against whom there is a criminal or civil cause of action is outside of the Community:

(1) At the time the civil cause of action accrues; or

(2) At any time during which the criminal action may have been prosecuted or the civil cause of action maintained, such action may be brought against the person after his or her return to the Community.

The time of such person's absence shall not be counted or taken as a part of the time limited by the provisions of this section.

(g) The accrual of the cause of action means as to criminal violations the time of commission of the crime, and as to civil causes of action the point of occurrence or of discovery with due diligence of tort injuries, and the point of breach or default as to contract injuries.

(Code 1981, § 4-6; Code 2012, § 4-6; Ord. No. SRO-155-92, §§ 1—6, 6-24-1992; Ord. No. SRO-351-09, 9-30-2009; Ord. No. SRO-402-2012, § 4-6, 5-30-2012)

Secs. 4-7—4-30. Reserved.

ARTICLE II. JUDGES

Sec. 4-31. Generally.

(a) *Judges of the court.* The Community court shall be composed of a chief judge, associate judges, licensed judges and appellate judges and other judges as are authorized by the Community Council.

(1) Judges shall hear cases in which the Community court has jurisdiction.

(2) Salaries for judges shall be determined by the council, consistent with the Community's human resources policies.

(b) *Authority of the chief judge.*

(1) The chief judge shall assign cases to the associate and licensed judges of the Community court.

(2) The chief judge, by this delegation of authority from the council, has day-to-day supervisory authority over associate and licensed judges.

(3) The chief judge shall perform annual performance reviews of associate and licensed judges.

(4) Subject to the budget approved by the council, the chief judge may request that the Community hire probation officers, bailiffs and other court assistants necessary to carry out the function of the Community court.

(Code 1981, § 4-21; Code 2012, § 4-21; Amd. to Ord. No. SRO-33-75, § 1.2, 5-5-1980; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-389-2012, § 4-21, 1-11-2012; Ord. No. SRO-402-2012, § 4-21, 5-30-2012)

Sec. 4-32. Qualifications of judges.

The qualifications of judges of the Community shall be as follows:

(1) *Chief judge (elected).* The qualifications of the chief judge are as follows:

a. 30 years of age or older;

b. A graduate from high school or is proficient in reading, writing and speaking the English language;

c. Has never been convicted of a felony, and within one year of the date of the application filed with the Community Council, has not been convicted of a serious misdemeanor. A serious misdemeanor shall be conviction of behavior proscribed in chapter 6, whether committed on the reservation or in another jurisdiction;

d. Is of good moral character;

e. Consents to undergo such training as the Community Council or Community president specifies;

f. Is a member of the Community.

(2) *Associate judge (including juvenile).* The qualifications of an associate judge are as follows:

a. 30 years of age or older;

b. Possess a two-year degree (Associate of Arts, certificate, etc.) or higher preferably in a law related field (e.g., law degree, criminal justice, administration of justice, Police Science, paralegal) or have at least three years consecutive bench experience within the past five years of appointment to the bench;

c. Be an enrolled member of the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Ak-Chin Indian Community or the Tohono O'odham Nation with preference given to enrolled members of the Salt River Pima-Maricopa Indian Community;

d. Has never been convicted of a felony in any jurisdiction, and has not been convicted of a misdemeanor within five years of the date of the judicial application filed with the Community Council. A misdemeanor shall be conviction of the type of behavior proscribed in chapters 6 and 10 and sections 16-231 through 16-236, dealing with DWI and reckless driving, whether committed on the Community or in another jurisdiction;

e. Is of good moral character. In determining character, council shall consider, among other things, the laws, customs and traditions of the Community;

f. Consents to undergo such training as the Community Council, president or the chief judge may specify in order to obtain and/or maintain the competence needed as a judge;

g. Must pass a test administered to persons applying to practice before the Community court and/or other applicable tests;

h. Shall serve a one-year probationary period;

i. Has never been removed for good cause from a judge position in any jurisdiction;

j. Shall be subject to Community administrative policies regarding employees, except when such policies are inconsistent with the status and duties of a judge, including but not limited to employee grievance, recruitment and selection, and underfill policies. Notwithstanding the administrative policies, section 4-35 shall apply to all removal or suspension of judges;

k. Shall be subject to the Community court rules of professional conduct, section 2, judicial rules of professional conduct and as these rules may be amended;

l. For any judge who is reappointed without a break in service, the council may, in its discretion, waive subsections (2)g and/or (2)h of this section;

(3) *Commercial issues.*

a. The Community Council may, in its discretion, create a judicial seat to hear and decide issues involving commercial law.

b. Such judge must be licensed to practice law in any state and must be a member in good standing in the jurisdiction in which he or she is licensed, and meet other requirements as listed in subsection (2) of this section.

(4) *Licensed judge.* The qualifications of a licensed judge are as follows:

a. Must be at least 30 years of age;

b. Must have graduated from an accredited law school;

c. Must be a member for at least three years and in good standing with a state bar association;

d. Of good moral character and any assessment of moral character shall be consistent with the customs and traditions of the Akimel O'odham and Xalychidom Piiipaash peoples;

e. Has never been removed for good cause as a judge in any jurisdiction;

f. Has never been convicted of a felony in any jurisdiction and has not been convicted of a misdemeanor (not including violations that are generally considered civil traffic violations) within the past five years;

g. Preference will be given to enrolled members of the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Ak-Chin Indian Community and the Tohono O'odham Nation; and

h. Shall serve a one-year probationary period.

(Code 1981, § 4-22; Code 2012, § 4-22; Amd. to Ord. No. SRO-33-75, § 1.5, 5-5-1980; Ord. of 2-25-1981; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-323-08, 10-31-2007; Ord. No. SRO-389-2012, § 4-22(d), 1-11-2012; Ord. No. SRO-402-2012, § 4-22, 5-30-2012)

Sec. 4-33. Election of chief judge.

(a) *By popular vote.* The chief judge shall be elected by popular vote of the registered voters of the Community.

(b) *Filing for candidacy.* No more than 90 days nor less than 30 days prior to the date set for the regular election of members of the Community Council, every person who wishes to be a candidate for chief judge shall submit to the Community Council:

(1) A nominating paper declaring such person's interest to become a candidate for such office;

(2) A petition, consisting of one or more pages, signed by at least 25 registered voters, supporting the candidacy; and

(3) A statement signed by the person desiring to be a candidate that he or she meets the qualifications of section 4-32 and attested to by two members of the Community. The nominating paper, petition and statement shall be on forms prepared by the secretary of the Community Council.

(c) *Determination of qualification.* The Community Council shall determine if a person submitting the documents required by subsection (b) of this section meets the requirements of the law to be a candidate. All persons meeting such qualifications shall have their names placed upon the ballot for the regular election by the Community Council.

(d) *Election declared.* The candidate receiving the highest number of votes in the regular election shall be declared to be elected to the office of chief judge of the Community court.

(e) *Term.* The chief judge shall have a four-year term of office, unless he or she resigns or is removed pursuant to section 4-35 or can no longer perform the duties of office because of death or incapacitation.

(f) *Vacancy.*

(1) *More than two years left in term.* If a vacancy occurs in the office of chief judge of the Community court and there are more than two years remaining in the term of office, the Community Council shall call an election to be held at a time to be determined by the Community Council, but in no event more than 30 days after the date the vacancy occurs. Subsections (a), (b), (c) and (d) of this section shall be applicable to the filing of the office of chief judge by election, pursuant to this section except as is provided for in this section and except that the submission required under subsection (b) of this section shall be made no less than 15 days before the day set for the special election.

(2) *As a result of nullified election.* If the vacancy has occurred as the result of a nullification of a regular election for the office of chief judge, the person occupying the office immediately prior to the day the

office became vacant shall remain as chief judge until the office is filled by the special election.

(3) *Less than two years in term.* If a vacancy occurs in the office of chief judge and there are less than two years remaining in the term of the office, the Community president, with the advice and consent of a majority of the Community Council, shall appoint a new Community judge to serve the balance remaining of the unexpired term of office.

(Code 1981, § 4-23; Code 2012, § 4-23; Amd. to Ord. No. SRO-33-75, § 1.3, 5-5-1980; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-402-2012, § 4-23, 5-30-2012)

Sec. 4-34. Appointment and term of juvenile and associate judges; vacancy.

(a) Associate and licensed judges shall be appointed by a majority vote of the council from a list of recommendations of not less than three persons. The recommendations will come from a judicial selection committee appointed by council as set forth by regulations adopted by council.

(b) Associate and licensed judges shall have a term of office of four years.

(c) If a judicial vacancy occurs, any judge appointed by the council to fill the vacancy shall serve a four-year term and be appointed pursuant to the requirements of subsection (a) of this section.

(Code 1981, § 4-24; Code 2012, § 4-24; Amd. to Ord. No. SRO-33-75, § 1.4, 5-5-1980; Ord. No. SRO-213-96, 2-7-1996; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-389-2012, § 4-24, 1-11-2012; Ord. No. SRO-402-2012, § 4-24, 5-30-2012)

Sec. 4-35. Judicial conduct and discipline commission.

(a) *Name.* The judicial conduct and discipline commission, an independent commission, is hereby established by the Community Council.

(b) *Policy and purposes.*

(1) The council has the authority pursuant to article VII, section 1(c)(2) of the Constitution of the Community to establish a Community court system and as such, the council has the authority to oversee the conduct and discipline of the judges of the Community court system.

(2) The council desires to enhance the public confidence in the Community court by providing a fair, impartial and expeditious forum to investigate and hear complaints or grievances regarding the conduct and behavior of judicial officials.

(3) The establishment of an independent commission strengthens the judiciary by encouraging judges to maintain high standards of professional and personal conduct.

(4) It is also the policy of the council to ensure that complaints against judicial officials are investigated and heard in an objective and nonpartisan forum.

(5) The council, through the provisions of this section, hereby delegates to the commission certain authority to receive complaints, investigate, deliberate, and if appropriate, sanction judges for misconduct in office.

(c) *Scope.*

(1) The commission shall have the authority to review and adjudicate allegations of judicial misconduct pertaining to all elected, appointed and other judges (including pro temp and appellate judges) of the Community court.

(2) The commission shall have the authority to investigate and hear matters that relate to the following instances of judicial misconduct:

a. Willful misconduct in office;

b. Willful or persistent failure to perform the duties of a judge;

c. Mental or physical incapacity that adversely affects the judge's ability to perform judicial functions;

d. Violations of the Community's judicial code of conduct; or

e. Conduct that brings the judiciary into disrepute.

(3) The commission's primary focus is judicial behavior, not judicial decisions. The commission is not a court and cannot change a judge's decision, intervene in a pending case, remove a judge from a case, or award damages or other monetary relief to litigants.

(4) Filing a complaint with the commission does not remove a presiding judge from an existing case pending before the Community court, and a complaint filed before the commission is not a substitute for a motion to remove or change a judge from a pending case.

(5) Even if a complaint is filed with the commission against a presiding judge, a complainant's underlying court case should not be delayed or suspended, and a complaint with the commission is separate and independent from the case pending before the Community court.

(d) *Definitions.*

Attorney-work product means writings, notes, memoranda, reports on conversations with clients or witnesses, research and/or confidential materials that reflect an attorney's impressions, conclusions, opinions, or legal research.

Clear and convincing means proof that the truths of the facts asserted are highly probable or reasonably certain to have occurred.

Commission means the judicial discipline and conduct commission established pursuant to this section.

Complainant means the individual who files a written complaint regarding the conduct of a judge of the Community court.

Council means the Salt River Pima-Maricopa Indian Community's governing body.

Ex parte communication means a communication between counsel and the court when opposing counsel is not present regarding a pending issue before the court.

Misconduct means that a judicial official is alleged to or has committed an improper, unethical, or unlawful act.

Privileged means written or unwritten information that is prepared by an attorney or a member of the commission in anticipation of litigation or a judicial disciplinary proceeding.

Respondent means the judge whom a person has filed a complaint against, and this complaint is before the commission.

(e) *Commission.*

(1) The commission shall be comprised of the following three members who are as follows:

a. One sitting, retired or former federal, state or tribal judges (who is not currently a sitting judge of the Community court);

b. One licensed attorney, admitted to and in good standing with the Arizona State Bar Association or other state bar association, who does not practice before the SRPMIC Court, but has experience in Federal Indian law and working with Indian tribal communities;

c. One Community member with or without legal, advocate or judicial experience (who is not a current sitting judge of the SRPMIC Court).

(2) The council shall appoint each member of the commission for a four-year term. One of the initial commissioners shall serve only a 24-month term in order to ensure that the commission will have staggered terms.

(3) No commission members shall have ever been convicted of a felony, or convicted of two or more misdemeanors (other than non-criminal traffic tickets) in the past seven years. Prior to appointment to the commission, candidates will be required to disclose whether or not they have a criminal history, what that criminal history is, and then submit to a criminal history background check administered by the human resources department.

(4) Two of the commissioners shall constitute a quorum for the transaction of business.

(5) The commission shall meet only when necessary to conduct the business of the commission.

(6) Staff support services shall be provided to the commission by the SRPMIC Office of General Counsel. Budget support services shall be provided to the commission by the office of budget and records.

(f) *Commission protocols.*

(1) *Burden of proof.* The complainant bears the burden of proof. The standard of review for any proceeding before the commission shall be clear and convincing evidence.

(2) *Right to counsel.* The respondent and the complainant shall be entitled to retain counsel and to have the assistance of counsel at every stage of the proceeding.

a. Parties shall be responsible to pay for their own legal fees and costs.

b. If the complaint against the respondent is determined to be unfounded, the council may consider reimbursing the respondent for reasonable attorney or advocate fees/expenses.

(3) *Ex parte communications.* Members of the commission shall not engage in ex parte communications with the respondent or the complainant.

(4) *Confidentiality.*

a. Before the filing and service of formal charges, all proceedings and information relating to the complaint shall be confidential unless the commission determines that a disclosure of information is necessary to protect a person, or the public.

b. All information relating to a complaint that has been dismissed without formal charges being filed shall be held confidential by the commission.

c. Any attorney-work product, commission deliberations and records of the commission's deliberations shall not be disclosed.

d. After the filing and service of formal charges, all proceedings of the commission shall be public, unless they pertain to matters involving a minor child.

(5) *Immunity from civil suits.*

a. Communications and testimony to the commission, commission legal counsel and staff relating to judicial misconduct shall be privileged, and no civil law suit predicated thereon may be instituted against any complainant or witness.

b. Members of the commission, commission legal counsel, and staff shall be immune from civil suit for their conduct in the course of their official commission duties.

(6) *Service of process.* Service upon the respondent of formal charges in any disciplinary proceeding shall be made by personal service upon the judge or the judge's counsel. All other papers may be served by standard and registered/certified mail.

(7) *Oaths and subpoena power.*

a. Oaths and affirmations may be administered by the commission.

b. The commission may compel by subpoena the attendance of a respondent or witness and the production of pertinent books, papers and documents for purposes of the investigation, deposition or hearing into the complaint.

(8) *Interim suspension.* Upon the receipt of sufficient evidence demonstrating that a respondent poses a substantial threat of serious harm to the public or the administration of justice, the commission may recommend to the council that the respondent be placed on administrative leave with pay. Such administrative leave shall not exceed 60 days without further council action.

(g) *Commission review and formal hearing process.*

(1) *Filing of a complaint.*

a. All complaints received under this section must be submitted in writing in a form prescribed by the commission. All forms must include the name and signature of the person or individuals filing the complaint. The commission shall not accept anonymous complaints.

b. The complaint form will be filed with the office of the general counsel. The complaint shall be date and time stamped.

c. The complaint must be filed within one year of the incident in question. If the complaint pertains to a series of actions that are alleged to be misconduct, then the complaint must be filed within one year of the latest incident of alleged misconduct. If the complaint is filed after one year of when the incident occurred, the commission does not have jurisdiction to hear the complaint.

d. Any person may file a complaint before the commission.

e. The complainant shall receive acknowledgement that the complaint has been received by the commission within 72 hours (excluding weekends) of the filing of the complaint.

1. The commission's letter of receipt shall include a statement that the commission shall provide an initial review of the complaint within 15 business days.

f. All processes and proceedings conducted by the commission, including a hearing, shall be conducted in as informal nature as possible while still promoting the objective of a fair and independent judicial conduct and discipline process. For example, if a hearing is held, the formal rules of evidence shall not be applied.

g. The commission may make its own internal rules, regulations or policies to assist in a fair and efficient investigation, adjudication, and deliberation of any complaint before it.

(2) *Initial screening.*

a. The commission shall evaluate an initial complaint and if the complaint and any relevant information, that if true, would not constitute misconduct then the commission shall dismiss the complaint or if appropriate, refer the matter to another agency or entity.

1. Referral of a complaint to another governmental agency does not violate any confidentiality provisions of this section.

2. If in the future, additional information becomes known to the commission regarding a complaint that has been dismissed before the filing of formal charges, the allegations may be reinvestigated by the commission.

b. If the complaint and any relevant information submitted raise allegations, that if true, would constitute judicial misconduct then the commission shall open a formal investigation and appoint an investigator within the commission's budgeting guidelines.

(3) *Investigator.*

a. The commission shall appoint an independent investigator to investigate the allegations made in the complaint. If the commission proceeds with formal charges, the investigator shall present the case before the commission.

b. The investigator shall be an Arizona licensed attorney who is not an em-

ployee of the Community or who does not practice before the Community court. The investigator shall have experience in Federal Indian law and working with Indian tribal communities.

(4) *Investigation.* Once the commission appoints an investigator to investigate the allegations made in the complaint, the commission shall notify the respondent of the following:

a. A specific statement of the allegations being investigated and the canon or rules allegedly violated, with a provision that the investigation can be expanded, if appropriate;

b. The respondent's duty to cooperate and respond;

c. The respondent's opportunity to present before the commission if formal charges are filed by the commission; and

d. The name of the complainant unless the commission determines that there is good cause to withhold that information.

(5) *Dismissal of complaint after initial investigation.* After an initial investigation has been conducted, and the commission determines that the complaint does not state a claim for which the law provides a remedy or the complaint is legally insufficient or without merit, the commission shall issue a letter to the complainant and the respondent notifying them that the complaint has been dismissed with or without prejudice.

(6) *Formal charges.*

a. If the commission determines that based on the information gathered in the investigation, that the alleged facts are likely true then the commission shall file formal charges against the respondent. The formal charges shall provide fair and adequate notice of the alleged misconduct and shall be served upon the respondent with proof of service.

b. The council shall be provided written notice of the formal charges.

(7) *Answer to formal charges.* The respondent shall file a written answer with the commission within 20 calendar days of the date of service of the formal charges. The commission may grant an extension of time for the answer, for good cause.

(8) *Failure to answer or appear.*

a. *Respondent.*

1. Failure of the respondent to answer the formal charges shall constitute an admission of the factual allegations.

2. If the respondent should fail to appear when specifically ordered by the commission, the respondent shall be deemed to have admitted the factual allegations which were the subject of the appearance and also to have conceded the merits of any motion or recommendations to be considered at such appearance. Absent good cause, the commission shall not continue or delay proceedings because of the respondent's failure to appear.

b. *Complainant.* Absent good cause, if the complainant fails to appear when specifically ordered by the commission, the complaint shall be dismissed with prejudice.

(9) *Discipline by consent.*

a. At any time after the filing of formal charges and before final disposition, the respondent may agree with the commission's charges and admit to any and all of the formal charges in exchange for a stated sanction.

b. Discipline with the consent of the respondent must be in writing and contain the following information:

1. That the respondent consents to the discipline;

2. Admits to judicial misconduct as defined by this section; and

3. That the respondent's consent is free and voluntary.

c. The commission shall file the consent to discipline with the council. The consent to discipline shall remain confidential until it is formally accepted by the council.

(10) *Disciplinary hearing.*

a. Upon receipt of the respondent's answer or upon expiration of the time to answer, the commission shall schedule a public hearing (unless there is a compelling justification to hold the hearing in executive session) and notify the respondent of the date, time and place of the hearing.

b. The conduct of the hearing shall be as follows:

1. All testimony shall be under oath;

2. The investigator shall present evidence on the formal charges;

3. The investigator may call the respondent as a witness;

4. Both parties shall be permitted to present evidence and produce and cross-examine witnesses;

5. The hearing shall be recorded; and

6. The investigator and the respondent may submit proposed findings, conclusions and recommendations for either the sanctioning of the respondent or an order of dismissal of the complaint.

c. By majority vote of the commission, the commission shall dismiss the complaint, sanction the respondent or recommend that the council remove the respondent from office.

d. Within 15 calendar days, the commission shall file with the council with a copy to the respondent, a report of the proceeding setting forth a written summary, proposed findings of fact, conclusions of law, any minority opinions and the order of sanction or recommendation for removal from office.

(11) *Sanctions.* The sanctions that the commission may consider are limited to the following:

a. Recommendation to the council for removal of the respondent as a judge before the SRPMIC Court;

b. Suspension, without pay, for up to 15 days (any proposed suspension of more than 15 days must be done by council action);

c. Private reprimand by the commission (the commission may recommend that the council provide public notice of this reprimand; however, the council will determine whether public notice of such reprimand is warranted);

d. Discipline by consent as defined in subsection (g)(9) of this section.

(12) *Recommendation for removal from office.* If the commission recommends removal of the respondent from their office as a judge, then the recommendation shall be provided to the council. The council by majority vote will determine whether to uphold the commission's recommendation for removal. If the council does not uphold the commission's recommendation for removal of a judge from office, then the council may determine the appropriate disciplinary action.

a. If there are further allegations filed against the respondent while the

council is reviewing the commission's decision, the council may wait for the commission's determination on the new allegations before issuing a decision on whether to remove the judge from office.

b. Upon the recommendation of the commission, the council may impose a single sanction covering all recommendations for discipline from the commission.

c. The council shall file a written decision with the council secretary.

(h) *Annual report.*

(1) The commission shall file and present to council an annual report at the end of each calendar year. This annual report shall include the following:

a. The number of complaints that were received by the commission during the year;

b. The number of complaints filed against each judge;

c. The final outcome of the commission's review regarding all filed complaints, including complaints that were determined to not have merit; and

d. Any other related information that the commission deems appropriate.

(2) The council shall publish the commission's annual report.

(Code 1981, § 4-25; Code 2012, § 4-25; Amd. to Ord. No. SRO-33-75, § 1.6, 5-5-1980; Ord. No. SRO-264-2000, § 2, 3-15-2000; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-402-2012, § 4-25, 5-30-2012; Ord. No. SRO-435-2014, §§ 4-25a—4-25h, 2-12-2014)

Editor's note—Ord. No. SRO-435-2014, adopted Feb. 12, 2014, replaced the former § 4-35 with the provisions set out herein. The former § 4-35 pertained to removal or suspension of judges. Ord. No. SRO-435-2014 is effective upon the appointment of commission members by the council.

Sec. 4-36. Request for change of judge; judge recusal; conflict of interest.

(a) *Request for change.*

(1) In any civil action pending in the Community court, the parties are entitled as a matter of right to a change of judge. The right may be exercised by either party. A party wishing to exercise the right to change of judge shall file a pleading entitled "Notice of Change of Judge." The notice shall be signed by the party, it shall state the name of the judge to be changed, and it shall neither specify grounds nor be accompanied by an affidavit. The request for change of judge shall be immediately honored.

(2) In any criminal action pending in the Community court, the prosecutor or the defendant shall, prior to trial or a hearing, be entitled to a change of judge if the assigned judge cannot conduct a fair and impartial hearing or trial without prejudice or bias. All change of judge requests shall be in accordance with Rule 10 of the rules of criminal procedure (as may be amended).

(b) *Conflict of interest.* No judge shall be qualified to act in any case wherein he or she has an interest in the outcome or where he or she is a relative to the first degree by marriage or blood whatsoever to any party.

(c) *Self disqualification; filing of affidavit.* A judge may remove himself or herself from acting in a case if he or she is not qualified to act under the provision of subsection (b) of this section, or a party may cause the judge to be removed if he or she is not qualified to act under the provisions of subsection (b) of this section, if the party files an affidavit that the judge is not qualified under the provision of subsection (b) of this section or is biased against the party filing the affidavit or in favor of the other party in the action. The judge against whom the affidavit has been field shall hold a hearing within ten days after the affidavit has been field to determine whether the affidavit correctly states the facts. If the judge determines that the affidavit correctly states the facts, then the judge shall be disqualified. If the judge deter-

mines that the affidavit does not correctly state the facts and that the judge is not disqualified under the provisions of subsection (b) of this section, then the judge shall continue to act in the case. The determination of qualification shall be made at the conclusion of the hearing.

(d) *Time limit upon requests, filing.* No requests for change of judge and no affidavit of disqualification or bias shall be filed more than five days after the date on which the answer to the complaint is to be filed. No request for change of judge or affidavit of disqualification or bias shall be filed after the assigned judge has ruled on any substantive matter in the proceedings or has ruled in an earlier related case or proceeding.
(Code 1981, § 4-26; Code 2012, § 4-26; Amd. to Ord. No. SRO-33-75, § 1.7, 5-5-1980; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-396-2012, 4-26, 6-1-2012; Ord. No. SRO-402-2012, § 4-26, 5-30-2012)

Sec. 4-37. Appointment of judges.

(a) *Appointment authority.* The chief judge may appoint judges pro tempore to preside over trial court cases only when necessary.

(b) *Qualifications.* A judge pro tempore must, at a minimum, meet the qualifications and standards of the court's trial court judges as set forth in section 4-32(2)a, b, d and k or (4) or be a sitting or former judge, in good standing, with the Community or another Indian tribe.

(c) *Compensation.* Judges pro tempore shall be compensated for time served in performing judicial duties on a per diem basis, in the amount to be regularly set by the Community manager of the Community and shall in addition be allowed mileage and other expenses ordinarily allowed by the Community.
(Code 1981, § 4-27; Code 2012, § 4-27; Amd. to Ord. No. SRO-33-75, § 1.8, 5-5-1980; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-393-2012, 2-29-2012; Ord. No. SRO-402-2012, § 4-27, 5-30-2012; Ord. No. SRO-442-2014, § 4-37, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-37, 1-21-2015, eff. 2-1-2015)

Editor's note—Ord. No. SRO-442-2014, adopted Apr. 16, 2014, amended the catchline of § 4-37 to read as herein set out. Said section was formerly catchlined "Judge Pro Tempore."

Secs. 4-38—4-84. Reserved.

ARTICLE III. APPEALS

Sec. 4-85. Appellate division.

The appellate division of the Community court shall consist of appellate justices of the Community court approved by the Community Council. No justice shall sit on a court of appeals in a case in which the original proceedings were tried by that justice or if that justice was disqualified pursuant to this Community Code of Ordinances.
(Code 1981, § 4-31; Code 2012, § 4-31; Amd. to Ord. No. SRO-33-75, § 1.9(a), 5-5-1980; Ord. No. SRO-402-2012, § 4-31, 5-30-2012; Ord. No. SRO-411-2013, § 4-31, 3-1-2013; Ord. No. SRO-442-2014, § 4-85, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-85, 1-21-2015, eff. 2-1-2015)

Sec. 4-86. Jurisdiction of the court of appeals.

The court of appeals has jurisdiction to decide the following:

(1) Appeals from all final judgments or final orders of the Community court in civil matters;

(2) Appeals from all judgments of conviction of the Community court in criminal matters; and

(3) Special actions as defined by the Rules of Civil and Criminal Appellate Procedure.

(Ord. No. SRO-442-2014, § 4-86, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-86, 1-21-2015, eff. 2-1-2015)

Sec. 4-87. Appellate justices.

(a) *Appointments.* The court of appeals shall consist of no less than three justices appointed by the Community Council. The Community Council may appoint additional justices to serve in a pool of justices to enable the presiding justice to select panels of three available justices when needed. Justices appointed to the court of appeals must meet the qualifications set forth in section 4-88.

(b) *Burden of establishing qualifications.* Applicants for judicial appointment have the burden of establishing that they satisfactorily meet the qualifications set forth in section 4-88. Appointment decisions by Community Council are not subject to review or appeal or any grievance process.

(c) *Compensation.* Justices will be compensated as directed by the Community Council and in accordance with Community human resources department policies and procedures, except that such compensation will not be diminished during a justice's term in office.
(Ord. No. SRO-442-2014, § 4-87, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-87, 1-21-2015, eff. 2-1-2015)

Sec. 4-88. Composition of the court of appeals.

Pursuant to section 4-93 and the Rules of Civil and Criminal Appellate Procedure, a panel of three justices will consider and decide the merits of any appeals, petitions, or motions. Each panel shall be comprised of two licensed justices and one associate justice as defined below.

(1) *Licensed justices.* No less than two justices appointed to a panel of the court of appeals shall be attorneys licensed to practice law and members in good standing in all state bar associations to which they are admitted and shall meet the qualifications set forth in section 4-32(4).

a. Justices appointed pursuant to this section must have practiced as an attorney or judge in the area of federal Indian law and have a minimum of two years' experience in an employment or appointed capacity working with tribal governments.

b. Preference will be given to candidates with prior judicial experience.

c. Preference will be given to candidates who are members of the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Ak-Chin Indian Community, the Tohono O'odham Nation, or other federally recognized tribe.

(2) *Associate justices.* One justice appointed to each panel of the court of appeals may be a non-attorney who meets the qualifications set forth in sections 4-32(2)(a), (b), (d), (e), (h), (i), and (k).

a. A justice appointed pursuant to this section shall be familiar with the customs and traditions of the Akimel O'odham and Xalychidom Piipaash people and how those customs and traditions can be applied to matters pending before the Community court.

b. A justice appointed pursuant to this section must have at least five years of judicial or law-related experience.

c. Preference will be given to candidates with prior tribal court judicial experience.

d. Preference will be given to candidates who are members of the Salt River Pima-Maricopa Indian Community, the Gila River Indian Community, the Ak-Chin Indian Community, the Tohono O'odham Nation, or other federally recognized tribe.

(Ord. No. SRO-442-2014, § 4-88, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-88, 1-21-2015, eff. 2-1-2015)

Sec. 4-89. Appointment to the court of appeals.

(a) *Length of term.* Upon appointment by the Community Council, a justice of the court of appeals will serve a term of four years.

(b) *Reappointment.* Justices may serve an indefinite number of terms subject to reappointment by the Community Council.

(c) *Expiration.* If the term of appointment for a justice of the court of appeals expires while the justice is presiding over a case or cases, the justice may continue to preside over the case or cases until a final opinion, memorandum, or order is issued but under no circumstances will the justice continue to serve more than six months following

the expiration of his or her appointment. The presiding justice is authorized to allow a justice to continue serving pursuant to this section.
(Ord. No. SRO-442-2014, § 4-89, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-89, 1-21-2015, eff. 2-1-2015)

Sec. 4-90. Designation and responsibilities of presiding justice.

(a) *Designating a presiding justice.* The Community Council will designate a justice appointed pursuant to section 4-88(a) to serve as the presiding justice of the court of appeals.

(b) *Responsibilities.* In addition to his or her role as a member of the court of appeals and other duties set forth in this article, the presiding justice will be responsible for:

(1) Making case assignments;

(2) After considering recommendations from each panel, assigning justices to author court of appeals' opinions;

(3) Exercising supervisory responsibility for court of appeals' members and providing judicial direction to staff;

(4) Directing training and professional development of appellate justices and court of appeals' staff;

(5) Issuing an annual report to the Community Council regarding the number of appellate cases pending, the number of cases heard by, and the number of final orders issued by the court of appeals during that past year, in addition to any other relevant information regarding the performance of the court of appeals.

(Ord. No. SRO-442-2014, § 4-90, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-90, 1-21-2015, eff. 2-1-2015)

Sec. 4-91. Oath of office.

Upon appointment by the Community Council, justices appointed to the court of appeals shall take an oath to uphold the Constitution, laws, and ordinances of the Community and only to the extent applicable, the Indian Civil Rights Act and other federal law.
(Ord. No. SRO-442-2014, § 4-91, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-91, 1-21-2015, eff. 2-1-2015)

Sec. 4-92. Advisory opinions.

The court of appeals is authorized to issue advisory opinions:

(1) Upon request by a judge of the Community court on questions of law; and

(2) Upon request by a state or federal court on questions of law and custom.

(Ord. No. SRO-442-2014, § 4-92, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-92, 1-21-2015, eff. 2-1-2015)

Sec. 4-93. Consideration of the appeal.

(a) *Selecting a panel.* Once a notice of appeal has been filed, the presiding justice will assign the matter to a panel, which may include the presiding justice, of three appellate justices who will consider the appeal.

(b) *Preliminary rulings.* The full panel will determine requests for oral argument and other preliminary matters and will designate a member of the panel who will be responsible for issuing preliminary orders.
(Ord. No. SRO-442-2014, § 4-93, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-93, 1-21-2015, eff. 2-1-2015)

Sec. 4-94. Opinions, memoranda, and orders.

Unless otherwise noted, all opinions, memoranda, and orders of the court of appeals on all matters within its jurisdiction are final.

(1) *Request for rehearing.* Any request for a rehearing must be filed in the manner set forth in the appropriate rules of appellate procedure.

(2) *Review of pending cases.* The justices of the court of appeals will review all pend-

ing cases no less than once each month until a final, written opinion, memoranda, or order is entered.

(3) *Time for issuing opinions, memoranda, and orders.* All opinions, memoranda, and orders of the court of appeals will be entered within six months of oral arguments or the deadline for submission of the respondent's brief, whichever is later.

(4) *Failure to comply.* Failure to comply with this section may constitute cause for which a justice may be removed from office.

(Ord. No. SRO-442-2014, § 4-94, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-94, 1-21-2015, eff. 2-1-2015)

Sec. 4-95. Disqualification and removal.

(a) *Self-disqualification.* All justices are encouraged to assess their individual qualifications to serve on a case and may disqualify themselves in any instance they deem appropriate.

(b) *Request for removal of a justice.* Any party may file a request pursuant to section 4-36 with the presiding justice of the court of appeals to remove an individual appellate justice from a case.

(1) After reviewing the request, the presiding justice will issue a written order granting or denying the request and stating the reasons for the decision.

(2) If a party seeks to remove the presiding justice from a case, the request will be considered by the entire panel and the appellate justice assigned to author the opinion will enter the order granting or denying the request.

(3) This order will be final and not subject to additional appeal.

(c) *Removal and suspension.* Justices appointed pursuant to this article are not subject to removal or suspension except for cause as determined by the Community Council after notice and an opportunity to be heard and as provided in section 4-35.

(Ord. No. SRO-442-2014, § 4-95, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-95, 1-21-2015, eff. 2-1-2015)

Sec. 4-96. Justices by designation.

(a) *Appellate justices pro tempore.* If for any reason the presiding justice is unable to select three justices from the pool of justices established pursuant to section 4-87(a) to form a panel, the presiding justice will select an appellate justice pro tempore to sit on the case by designation.

(b) *Qualifications.* Appellate justices pro tempore sitting by designation shall meet the qualifications set forth in section 4-88 depending on whether a justice is to fill a licensed or associate justice position.

(Ord. No. SRO-442-2014, § 4-96, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-96, 1-21-2015, eff. 2-1-2015)

Sec. 4-97. Attorneys and advocates.

Any party to an appeal filed in the court of appeals may, at their own expense, have the assistance of counsel who may be either an attorney or an advocate and who must be admitted to practice in the Community court.

(Ord. No. SRO-442-2014, § 4-97, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-97, 1-21-2015, eff. 2-1-2015)

Sec. 4-98. Effective date.

The amendments set forth in sections 4-86 through 4-98 will govern appeals filed on or after February 1, 2015.

(Ord. No. SRO-442-2014, § 4-98, 4-16-2014, eff. 7-1-2014; Ord. No. SRO-456-2015, § 4-98, 1-21-2015, eff. 2-1-2015)

Secs. 4-99—4-185. Reserved.

ARTICLE IV. BONDS AND WITNESS EXPENSES

Sec. 4-186. Bonds and witness expenses.

(a) *Criminal bond.* In a criminal case, the judge may require that a bond be posted in an amount set at the discretion of the judge.

(b) *Civil bond.* In a civil case, the judge may require that a bond be posted in an amount equal to value of the judgment, including costs. A cash

deposit for the amount of the judgment or the value of the property, plus costs, may be made in lieu of a bond.
(Code 1981, § 4-34; Code 2012, § 4-34; Amd. to Ord. No. SRO-33-75, § 1.10, 5-5-1980; Ord. No. SRO-402-2012, § 4-34, 5-30-2012; Ord. No. SRO-411-2013, § 4-34, 3-1-2013)

Secs. 4-187—4-210. Reserved.

ARTICLE V. RULEMAKING OF THE COURT

Sec. 4-211. Preparation, proposal and circulation.

The chief judge of the Community court may from time to time propose rules for the governance of the court and for the procedure to be followed in matters before the court so long as such rules are not contrary to the Code of Ordinances. The rules proposed to be adopted shall be submitted to the Community manager for circulation, comment and consideration by the Community Council pursuant to general administrative, Policy 1-1, governing the adoption of administrative policies. The Community manager shall circulate the proposed rules, in addition to as provided in general administrative, Policy 1-1, to all professional attorneys and lay advocates admitted to practice before the Community court as well as all judges of the Community court.
(Code 1981, § 4-41; Code 2012, § 4-41; Amd. to Ord. No. SRO-33-75, § 1.11, 5-5-1980; Ord. No. SRO-402-2012, § 4-41, 5-30-2012)

Editor's note—The policies of the Community are available on file in the Community offices.

Secs. 4-212—4-231. Reserved.

ARTICLE VI. DEFENDANT'S RIGHTS

Sec. 4-232. Explanation of charges; judge to advise legal rights.

Before any defendant is asked to plead to any criminal charge, the judge before whom he or she appears shall do the following:

(1) Read the charge and the language of the ordinance establishing the offense and fixing the penalty;

(2) Explain the charge in language the defendant can understand; and

(3) Advise the defendant of his or her legal rights as more particularly described in the rules of criminal procedure.

(Code 1976, § 10.1; Code 1981, § 4-42; Code 2012, § 4-42; Ord. No. SRO-396-2012, 4-42, 6-1-2012; Ord. No. SRO-402-2012, § 4-42, 5-30-2012)

Chapter 4.5

LAW ENFORCEMENT AND LEGAL OFFICES

Article I. Police Department

Sec. 4.5-1. Establishment.
Sec. 4.5-2. Powers and duties.
Secs. 4.5-3—4.5-22. Reserved.

Article II. Department of Community Prosecutor

Sec. 4.5-23. Established.
Sec. 4.5-24. Selection.
Sec. 4.5-25. Duties.

ARTICLE I. POLICE DEPARTMENT

Sec. 4.5-1. Establishment.

(a) There shall be a Community police department which is responsible pursuant to the provisions of the Constitution of the Community for carrying out orders of the Community court, maintaining law and order within the Community, and protection of the Community's safety, health, and welfare.

(b) There is further established the office of chief of police, who shall direct the operation of the department, who shall be directly responsible to the president/vice president and to the Community manager, and who shall be appointed according to the personnel policies of the Community. The police chief is authorized to delegate to qualified persons within the police department such authority as is necessary to carry out the functions and responsibilities of his or her office. (Code 1981, § 5-81; Code 2012, § 5-81; Ord. No. SRO-162-93, § 1, 1-27-1993; Ord. No. SRO-402-2012, § 5-81, 5-30-2012)

Sec. 4.5-2. Powers and duties.

The police chief shall uphold the Constitution of the laws of the Community and applicable laws of the United States. Further, the police chief shall:

(1) Preserve the peace.

(2) Arrest and take before a Community court judge for examination all persons who attempt to commit or who have committed a public offense.

(3) Attend all courts when an element of danger is anticipated and attendance is requested by a judge, and obey lawful orders, warrants, and directions issued by the judge.

(4) Take charge of and keep the Community jail and the prisoners therein and provide for the duties and functions of employees of the jail.

(5) Keep such records as are necessary to the effective operation of the police department and execution of the duties of the office.

(6) Serve process and notices in the manner prescribed by law and certify under the police chief's hand upon the process or notices the manner and time of service, or if the police chief fails to make service, the reasons for failure, and return them without delay.

(7) In his or her discretion and in the execution of the duties prescribed in this section, command the aid of as many residents of the Community as the police chief deems necessary.

(8) Conduct or coordinate, within the Community, search or rescue operations involving the life or health of any person, or in his or her discretion, assist in such operations in another jurisdiction at the request of that jurisdiction's chief law enforcement official, and request assistance from any persons or agencies in the fulfillment of duties under this subsection.

(9) Prescribe procedures for use of department personnel, facilities, equipment, supplies, and other resources to further carry out the provisions of this section and the functions and responsibilities of the police chief and the police department as set forth herein and as provided in regulations pursuant to this article and approved by the Community Council.

(10) In his or her discretion and in the execution of the duties prescribed in that section, request the assistance of federal, state and local police authorities.

(11) Take into protective custody any juvenile member of the Community whose parents have failed or refused to take custody of such juvenile pursuant to section 11-222 if said juvenile is in the custody of a law enforcement officer outside the boundary of the Community.

(Code 1981, § 5-82; Code 2012, § 5-82; Ord. No. SRO-162-93, § 2, 1-27-1993; Ord. No. SRO-177-94, 6-22-1994; Ord. No. SRO-402-2012, § 5-82, 5-30-2012)

Secs. 4.5-3—4.5-22. Reserved.

ARTICLE II. DEPARTMENT OF COMMUNITY PROSECUTOR

Sec. 4.5-23. Established.

The department of Community prosecutor is established. The director of the department shall be the Community prosecutor responsible to the Community manager whose duties, as the need arises, may be delegated to assistant Community prosecutors and other employees of the department.
(Code 1981, § 5-91; Code 2012, § 5-91; Ord. No. SRO-163-93, § 1(a), 1-27-1993; Ord. No. SRO-402-2012, § 5-91, 5-30-2012)

Sec. 4.5-24. Selection.

The position of Community prosecutor shall be filled in accordance with the Community's established guidelines for hiring. Applicants for this position shall be chosen solely on the basis of qualifications and merit.
(Code 1981, § 5-92; Code 2012, § 5-92; Ord. No. SRO-163-93, § 1(b), 1-27-1993; Ord. No. SRO-402-2012, § 5-92, 5-30-2012)

Sec. 4.5-25. Duties.

The Community prosecutor shall uphold the Constitution and the laws of Community and the applicable laws of the United States. Further, the Community prosecutor shall:

(1) Conduct, on behalf of the Community, exercising sound discretion, all prosecutions in the Community court for public offenses under the Community's Code of Ordinances;

(2) Institute proceedings before Community court judges for the arrest of persons charged with or reasonably suspected of public offenses when the Community prosecutor has information that the offenses have been committed;

(3) File claims and prosecute actions to recover bonds forfeited in the Community court and prosecute actions in the Community court for recovery of fines, penalties, and forfeitures accruing to the Community;

(4) Keep a register of official business, and enter therein every action prosecuted and an account of the proceedings of such actions;

(5) Maintain close liaison with the Community police department.

(Code 1981, § 5-93; Code 2012, § 5-93; Ord. No. SRO-163-93, § 1(c), 1-27-1993; Ord. No. SRO-402-2012, § 5-93, 5-30-2012)

Chapter 5

RULES OF THE COMMUNITY COURT

Article I. In General

Sec. 5-1. Application of law.
Secs. 5-2—5-20. Reserved.

Article II. Civil Procedure

Secs. 5-21—5-34. Reserved.
Sec. 5-35. Juries.
Secs. 5-36—5-58. Reserved.

Article III. Receivers

Sec. 5-59. Application for appointment.
Sec. 5-60. Hearing on application.
Sec. 5-61. Findings of fact.
Sec. 5-62. Qualifications of receiver.
Sec. 5-63. Bond.
Sec. 5-64. Removal or suspension of receiver; termination of receivership.
Secs. 5-65—5-90. Reserved.

Article IV. Rules of Criminal Procedure

Division 1. Scope, Purpose and Construction

Rule 1. Scope.
Rule 2. Interpretation.
Rule 2.1. Definitions.
Secs. 5-91—5-120. Reserved.

Division 2. Preliminary Proceedings

Rule 3. Commencement of criminal proceeding.
Rule 3.1. Arrest without a warrant.
Rule 3.2. Initial appearance of an arrested person.
Rule 3.3. Complaint against an arrested person; form of complaint; prosecution of complaint.
Rule 4. Arrest warrant; presumption of summons.
Rule 4.1. Search warrants.
Rule 5. Arraignment.
Rule 5.1. Setting of trial date.
Secs. 5-121—5-149. Reserved.

Division 3. Rights of Parties

Rule 6. Assistance of counsel.
Rule 6.1. Appointment of counsel for indigent defendant (reserved).
Rule 7. Right to trial by jury.
Rule 7.1. Speedy trial rights.
Rule 7.2. Excluded periods and continuances.
Rule 7.3. Remedy for denial of speedy trial rights.
Rule 8. Consideration for release pending trial.
Rule 9. Defendant's right to be present.
Rule 9.1. Defendant's waiver of his or her presence.

Rule 9.2. Defendant serving sentence in other jurisdiction.
Rule 10. Change of judge.
Rule 10.1. Unavailability of judge.
Rule 10.2. Competency to stand trial.
Secs. 5-150—5-182. Reserved.

Division 4. Pretrial Motions and Discovery

Rule 11. Pleas.
Rule 12. Pretrial motions.
Rule 12.1. Notice of an alibi defense.
Rule 12.2. Notice of an insanity defense; mental examination.
Rule 12.3. Notice of a public authority defense.
Rule 13. Joinder.
Rule 14. Relief from prejudicial joinder.
Rule 15. General standards governing discovery.
Rule 15.1. Discovery by prosecutor.
Rule 15.2. Disclosure by defendant.
Rule 15.3. Depositions.
Rule 15.4. Disclosure by order of the court.
Rule 15.5. Excision and protective orders.
Rule 15.6. Continuing duty to disclose.
Rule 15.7. Sanctions.
Rule 16. Pretrial conference.
Rule 16.1. Procedure on pretrial motions to suppress.
Rule 16.2. Withdrawal of jury trial request or waiver of jury trial.
Rule 16.3. Dismissals of prosecution.
Secs. 5-183—5-210. Reserved.

Division 5. Trial

Rule 17.1. Jury or nonjury trial.
Rule 17.2. Challenges.
Rule 17.3. Procedure for selecting the trial jury.
Rule 17.4. Preparation of jurors.
Rule 18. Trial proceedings.
Rule 18.1. Exclusion of witnesses and public.
Rule 18.2. Presence of defendant.
Rule 19. Directed verdict.
Rule 20.1. Requests for instructions and forms of verdict.
Rule 20.2. Rulings on instructions and forms of verdict.
Rule 21.1. Retirement of jurors.
Rule 21.2. Materials used during deliberation.
Rule 21.3. Further review of evidence and additional instructions.
Rule 21.4. Assisting jurors at impasse.
Rule 21.5. Discharge.
Rule 22.1. Jury verdict.
Rule 22.2. Types of verdicts.
Rule 22.3. Conviction of necessarily included offenses (reserved).
Rule 22.4. Polling of the jury.
Secs. 5-211—5-246. Reserved.

Division 6. Post-Trial Proceedings and Sentencing

Rule 23. Motions for new trial.
Rule 24.1. Motion to vacate sentence.
Rule 24.2. Motion to modify or correct sentence.
Rule 25. Sealed proceedings and records.
Rule 26.1. Definitions for post-verdict proceedings.
Rule 26.2. Time for rendering judgment.

Rule 26.3. Date of sentencing; extension.
Rule 26.4. Presentence report.
Rule 26.5. Contents of the presentence report.
Rule 26.6. Request for aggravation or mitigation hearing.
Rule 26.7. Notice of objections; special duty of the prosecutor; corrections to presentence report.
Rule 26.8. Presence of the defendant.
Rule 26.9. Pronouncement of judgment and sentence.
Rule 26.10. Duty of the court after pronouncing sentence.
Rule 26.11. Fines and restitution.
Rule 26.12. Resentencing.
Rule 26.13. Entry of judgment and sentence.
Secs. 5-247—5-289. Reserved.

Division 7. Probation and Parole

Rule 27.1. Manner of imposing probation and parole.
Rule 27.2. Modification and clarification of conditions and regulations.
Rule 27.3. Early termination of probation and no early termination of parole.
Rule 27.4. Order and notice of discharge.
Rule 27.5. Initiation of revocation proceedings; securing the probationer's presence; notice.
Rule 27.6. Initial appearance after arrest.
Rule 27.7. Revocation of probation.
Rule 27.8. Admissions by the probationer.
Rule 27.9. Revocation of parole.
Rule 27.10. Rejection of probation.
Secs. 5-290—5-316. Reserved.

Division 8. Powers of the Court

Rule 29.1. Subpoenas.
Rule 29.2. Contempt of court.
Rule 29.3. Procedure for contempt committed in the presence of the court.
Rule 29.4. Disposition and notice of contempt committed outside the presence of the court.
Rule 29.5. Punishment for contempt and disqualification of judge.
Secs. 5-317—5-345. Reserved.

Division 9. Deferred Prosecution and Sentence

Rule 30.1. Application for suspension of prosecution.
Rule 30.2. Resumption of prosecution and sentence.
Rule 30.3. Dismissal of prosecution.
Secs. 5-346—5-374. Reserved.

Division 10. Motions and Time Computations

Rule 31.1. Motions.
Rule 31.2. Hearing; oral arguments.
Rule 31.3. Requests to be in writing.
Rule 31.4. Service and filing.
Rule 31.5. Time.
Sec. 5-375. Forms.
Secs. 5-376—5-433. Reserved.

Article V. Rules of Civil Appellate Procedure

Rule 1. Scope of rule.

Rule 1.1. Definitions.
Rule 2. Parties permitted to appeal.
Rule 3. Time for filing notice of appeal and consolidation of appeals.
Rule 4. Form and contents of the notice of appeal.
Rule 5. Responsibility of the parties; transcripts.
Rule 6. Record on appeal.
Rule 7. Transmission of the record.
Rule 8. Filing and service.
Rule 9. Time computation and extension of time.
Rule 10. Motions.
Rule 11. Motion to dismiss.
Rule 12. Briefs.
Rule 12.1. Briefs on cross-appeals.
Rule 12.2. Accelerated appeals.
Rule 13. Oral arguments.
Rule 14. Stay of appeal.
Rule 15. Disposition and orders.
Rule 16. Stays and injunctive relief.
Rule 17. Certified questions.
Rule 18. Composition of justices.
Rule 19. Opinions and disposition.
Rule 20. Entry of judgment.
Rule 21. Petitions for panel rehearing.
Rule 22. Issuance of mandate.
Rule 23. Substitution of parties.
Rule 24. Withdrawal of counsel.
Rule 25. Amicus curiae.
Rule 26. Extraordinary writs.
Rule 27. Writ of habeas corpus.
Rule 28. Appeal as indigent.
Rule 29. Interest on civil judgments.
Rule 30. Prevailing party may be entitled to costs.
Rule 31. Sealed proceedings and records.
Rule 32. Suspension of rules.
Secs. 5-434—5-465. Reserved.

Article VI. Rules of Criminal Appellate Procedure

Rule 1. Scope of rule.
Rule 1.1. Definitions.
Rule 2. Appeal rights in criminal cases.
Rule 2.1. Appeal rights in juvenile cases.
Rule 3. Time for filing notice of appeal, special action, and consolidation of appeals.
Rule 4. Form and contents of the notice of appeal.
Rule 5. Responsibility of the parties.
Rule 6. Record on appeal.
Rule 7. Transmission of the record.
Rule 8. Filing and service.
Rule 9. Time computation and extension of time.
Rule 10. Motions.
Rule 11. Motion to dismiss.
Rule 12. Briefs.
Rule 12.1. Briefs on cross-appeals.
Rule 13. Oral arguments.
Rule 14. Stay of appeal.
Rule 15. Disposition and orders.
Rule 16. Stays.
Rule 17. Certified questions.
Rule 18. Composition of justices.

Rule 19. Opinions and disposition.
Rule 20. Entry of judgment.
Rule 21. Petitions for panel rehearing.
Rule 22. Issuance of mandate.
Rule 23. Death of party.
Rule 24. Withdrawal of counsel.
Rule 25. Amicus curiae.
Rule 26. Sealed proceedings and records.
Rule 27. Suspension of rules.
Sec. 5-466. Notice of appeal form.
Secs. 5-467—5-495. Reserved.

Article VII. Community Rules of Evidence

Division 1. General Provisions

Rule 101. Title; definitions.
Rule 102. Purpose and applicability of the rules.
Rule 103. Rulings on evidence.
Rule 104. Preliminary questions.
Rule 105. Limiting evidence.
Rule 106. Remainder of or related writings or recorded statements.
Secs. 5-496—5-520. Reserved.

Division 2. Judicial Notice

Rule 201. Judicial notice of adjudicative facts.
Secs. 5-521—5-555. Reserved.

Division 3. Presumptions In Civil Cases

Rule 301. Presumptions in civil cases generally.
Secs. 5-556—5-585. Reserved.

Division 4. Relevance and Its Limits

Rule 401. Test for relevant evidence.
Rule 402. General admissibility of relevant evidence.
Rule 403. Exclusion of relevant evidence for special circumstances.
Rule 404. Character evidence; crimes or other acts.
Rule 405. Methods of proving character.
Rule 406. Habit; routine practice.
Rule 407. Subsequent remedial measures.
Rule 408. Compromise offers and negotiations.
Rule 409. Offers to pay medical and similar expenses.
Rule 410. Pleas, plea discussions and related statements.
Rule 411. Liability insurance.
Rule 412. Sex-offense cases: the victim's sexual behavior.
Rule 413. Character evidence in sexual misconduct cases.
Secs. 5-586—5-613. Reserved.

Division 5. Privileges

Rule 501. Privilege in general.
Rule 502. Counsel-client privilege and work product; limitations on waiver.
Rule 503. Physician-patient privilege.
Rule 504. Religious or spiritual communications.
Rule 505. Marital privilege.
Secs. 5-614—5-630. Reserved.

Division 6. Witnesses

Rule 601. Competency to testify in general.
Rule 602. Need for personal knowledge.
Rule 603. Oath or affirmation to testify truthfully.
Rule 604. Interpreter.
Rule 605. Judge's competency as a witness.
Rule 606. Juror's competency as a witness.
Rule 607. Who may impeach a witness.
Rule 608. A witness' character for truthfulness or untruthfulness.
Rule 609. Impeachment by evidence of a criminal conviction.
Rule 610. Religious beliefs or opinions.
Rule 611. Mode and order of examining witnesses and presenting evidence.
Rule 612. Writing used to refresh a witness' memory.
Rule 613. Witness' prior statements.
Rule 614. Court's calling or examining a witness.
Rule 615. Excluding witnesses.
Secs. 5-631—5-664. Reserved.

Division 7. Opinions and Expert Testimony

Rule 701. Opinion testimony by lay witnesses.
Rule 702. Testimony by expert witnesses.
Rule 703. Bases of an expert's opinion testimony.
Rule 704. Opinion on an ultimate issue.
Rule 705. Disclosing the facts or data underlying an expert's opinion.
Rule 706. Court appointed expert witnesses.
Secs. 5-665—5-693. Reserved.

Division 8. Hearsay

Rule 801. Definitions that apply to this division within this Community Code of Ordinances; exclusions from hearsay.
Rule 802. The rule against hearsay.
Rule 803. Exceptions to the rule against hearsay; regardless of whether the declarant is available as a witness.
Rule 804. Exceptions to the rule against hearsay; when the declarant is unavailable as a witness.
Rule 805. Hearsay within hearsay.
Rule 806. Attacking and supporting the declarant's credibility.
Rule 807. Residual exception.
Secs. 5-694—5-725. Reserved.

Division 9. Authentication and Identification

Rule 901. Authenticating or identifying evidence.
Rule 902. Evidence that is self-authenticating.
Rule 903. Subscribing witness' testimony.
Secs. 5-726—5-750. Reserved.

Division 10. Contents of Writings, Recordings, and Photographs

Rule 1001. Definitions that apply to this division within this Community Code of Ordinances.
Rule 1002. Requirement of the original.
Rule 1003. Admissibility of duplicates.
Rule 1004. Admissibility of other evidence of content.
Rule 1005. Copies of public records to prove content.

Rule 1006. Summaries to prove content.
Rule 1007. Testimony or statement of a party to prove content.
Rule 1008. Functions of the court and jury.

ARTICLE I. IN GENERAL

Sec. 5-1. Application of law.

(a) In all actions before the courts of the Community, the law of the Community shall be controlling. The law of the Community consists of this Community Code of Ordinances and common law of the Community. The common law of the Community is composed of both the customary law of the Community and the rules of law and decisions of the Community court.

(b) In cases where this Community Code of Ordinances is silent as to an issue of procedural law, the court may, in its discretion, use procedural rules or laws of the United States to fashion a remedy.

(c) In determining issues of law, the Community court may use as a resource cases decided by the courts of the following:

(1) Indian tribes;

(2) The United States; and

(3) The several states and territories of the United States.

(Code 1981, § 5-1; Code 2012, § 5-1; Ord. No. SRO-164-93, § 1, 2-3-1993; Ord. No. SRO-402-2012, § 5-1, 5-30-2012)

Secs. 5-2—5-20. Reserved.

ARTICLE II. CIVIL PROCEDURE*

Secs. 5-21—5-34. Reserved.

Sec. 5-35. Juries.

(a) *Jury trials in civil cases.* Jury trials may be ordered by the court in civil cases only upon the stipulation in writing of all of the plaintiffs and defendants. The court shall have the discretion in cases where such a stipulation is filed with it to either order a jury trial or not. The court's order shall not be subject to appeal.

(b) *Jury trials in traffic violation cases.* There shall be no jury trials in cases where a person is charged with a traffic violation when:

(1) The exclusive penalty is a fine; or

(2) The court determines after a request for jury trial is made that no penalty of imprisonment shall be imposed in the event the defendant is found guilty.

In cases where the possibility of imprisonment exists, the defendant shall have the right to elect a trial by jury.

(c) *Jury procedure.*

(1) *Jury list to be prepared.* Within 30 days prior to January 1 of each calendar year, the Community Council shall cause a jury list to be prepared consisting of all of the members of the Salt River Pima-Maricopa Indian Community over the age of 18 years who are not judges of the Community court, employees of the Community court or employees of the Community police department. This list shall be present to the Community court when it is completed.

(2) *How constituted.* A jury shall consist of six members of the Salt River Pima-Maricopa Indian Community, drawn from the jury list. The drawing will be by some disinterested person or persons appointed by the judge. A minimum of ten names shall be drawn from which the selections will be made. Any party to the case may challenge not more than two members of the panel so chosen, except for cause.

(3) *Cause for excusing a prospective juror.* The judge may excuse a prospective juror only if the prospective juror states that any circumstances of relationship or kinship with any of the parties will cause that juror to be biased as to any of the parties, or that a prospective juror's knowledge of facts in regard to the case to be presented will predispose the prospective juror to make a decision without regard to what is presented in the case, and the judge shall

*__Editor's note__—The Community Court's Rules of Civil Procedure are publically available on the Community Court's internet site. The Court Rules Committee is currently revising the Rules of Civil Procedure and when enacted these amended rules will be codified in this article.

excuse a prospective juror in such circumstances only if the judge is satisfied that the juror's statement is true and correct.

(4) *Conduct of voir dire.* Only the judge shall question the prospective jurors in regard to their qualifications to serve on a jury. The parties or their attorneys or advocates may submit questions to the judge for such questioning and the judge may use such questions.

(5) *Verdict.* The judge shall instruct the jury in the law governing the case; and the jury shall bring a verdict for the complainant or the defendant. The judge shall render judgment in accordance with the verdict and existing laws. In civil cases, a majority of four of the six jurors is necessary for a verdict.

(6) *Jurors' fees.* All persons who are subpoenaed to serve as members of a panel from which a jury is to be chosen shall be entitled to compensation for each day or part thereof such services are required in court. The amount of such compensation shall be determined from time to time by resolution of the Salt River Pima-Maricopa Indian Community Council. Such compensation shall be uniform for all members of any such panel.

(Code 1981, § 5-25; Code 2012, § 5-25; Ord. No. SRO-161-93, § 1, 1-27-1993; Ord. No. SRO-397-2012, 6-1-2012; Ord. No. SRO-402-2012, § 5-25, 5-30-2012)

Secs. 5-36—5-58. Reserved.

ARTICLE III. RECEIVERS

Sec. 5-59. Application for appointment.

Application for the appointment of a receiver shall be in the form of a verified petition filed in the Community court. The petition shall set forth the facts supporting the application. The petition shall be accompanied with affidavits concerning the debts of the entity that is the subject of the receivership.

(Code 1981, § 5-50; Code 2012, § 5-50; Ord. No. SRO-98-85, 4-24-1985; Ord. No. SRO-402-2012, § 5-50, 5-30-2012)

Sec. 5-60. Hearing on application.

The Community court shall hold a public hearing within 30 days of the filing of the petition. Notice of the hearing shall be given to all interested parties by registered mail or in such other manner as the court may by order provide.

(Code 1981, § 5-51; Code 2012, § 5-51; Ord. No. SRO-98-85, 4-24-1985; Ord. No. SRO-402-2012, § 5-51, 5-30-2012)

Sec. 5-61. Findings of fact.

The judge of the Community presiding at the hearing shall make findings of fact concerning the eligibility of the receiver, the scope of the receiver's duties, any bond required to be posted by the receiver, compensation to the receiver and requirements concerning periodic accountings to the Community court.

(Code 1981, § 5-52; Code 2012, § 5-52; Ord. No. SRO-98-85, 4-24-1985; Ord. No. SRO-402-2012, § 5-52, 5-30-2012)

Sec. 5-62. Qualifications of receiver.

(a) The Community court shall not appoint as a receiver a member of the immediate family of any owner of the subject matter of the receivership, any employee or officer of the Community, or any person otherwise interested in the subject matter of the receivership except under the provisions of subsection (b) of this section.

(b) After such notice as the Community court shall find is adequate, and if no party shall have objected, the court may appoint a person interested in the subject matter of the receivership if the court finds the subject matter of the receivership has been abandoned or that the duties of the receiver will consist chiefly of physical preservation of the property (including crops growing thereon), collection of rents or the maturing, harvesting and disposition of crops then growing thereon.

(Code 1981, § 5-53; Code 2012, § 5-53; Ord. No. SRO-98-85, 4-24-1985; Ord. No. SRO-402-2012, § 5-53, 5-30-2012)

Sec. 5-63. Bond.

Before entering upon his or her duties, the receiver, if the Community court so requires, shall

file a bond to be approved by the Community court. The bond shall be in the amount fixed by the order of appointment and conditioned that the receiver shall faithfully discharge his or her duties and obey orders of the Community court. The receiver shall make an oath to the same effect, which oath shall be endorsed on the bond. The clerk of the Community court shall thereupon deliver to the receiver a certificate of his or her appointment. The certificate shall contain a description of the property involved in the action.
(Code 1981, § 5-54; Code 2012, § 5-54; Ord. No. SRO-98-85, 4-24-1985; Ord. No. SRO-402-2012, § 5-54, 5-30-2012)

Sec. 5-64. Removal or suspension of receiver; termination of receivership.

(a) *Dismissal of action.* An action wherein a receiver has been appointed shall not be dismissed except by order of the Community court.

(b) *Termination of receivership.* A receivership may be terminated upon motion served with at least ten days notice upon all parties who have appeared in the proceedings. In the notice of hearing, the Community court shall require that a final account and report be filed and served upon all parties served with the notice. The final account and report shall include an audit of the books and records of receivership. An opportunity for written objections to said account shall be provided. In the termination proceedings the court shall take such evidence as is appropriate and shall make such order as is just concerning its termination, including all necessary orders in regard to the fees and costs of the receivership.

(c) *Suspension; removal of receiver.* The Community court may at any time suspend a receiver and may, upon notice, remove a receiver and appoint another.
(Code 1981, § 5-55; Code 2012, § 5-55; Ord. No. SRO-98-85, 4-24-1985; Ord. No. SRO-402-2012, § 5-55, 5-30-2012)

Secs. 5-65—5-90. Reserved.

ARTICLE IV. RULES OF CRIMINAL PROCEDURE

DIVISION 1. SCOPE, PURPOSE AND CONSTRUCTION

Rule 1. Scope.

These rules govern the procedure in all criminal proceedings in the Community court. These rules shall be known as the Salt River Pima-Maricopa Indian Community Rules of Criminal Procedure (SR-RCP).
(Code 2012, § 5-31(rule 1); Ord. No. SRO-395-2012, § 5-31(rule 1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 1), 5-30-2012)

Rule 2. Interpretation.

These rules shall be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate delay and unjustifiable expense.
(Code 2012, § 5-31(rule 2); Ord. No. SRO-395-2012, § 5-31(rule 2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 2), 5-30-2012)

Rule 2.1. Definitions.

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

Advocate means a person who is authorized to practice law before the Community court and who is not a licensed attorney.

Arrest means the person has been taken into custody by a police officer.

Attorney means a person who meets the following criteria: the person must be a graduate of a law school, licensed to practice law in any state of the United States, and has been authorized to practice law by the Community court.

Code means this Community Code of Ordinances of the Salt River Pima-Maricopa Indian Community.

Community or *SRPMIC* means Salt River Pima-Maricopa Indian Community.

Court means the Salt River Pima-Maricopa Indian Community Court as defined in this Community Code of Ordinances.

Counsel has the same meaning as the term "advocate" or "attorney."

Incompetent means a person is unable to understand the criminal proceedings against the person or a person is unable to assist in the person's own defense in criminal prosecution.

Mental health professional means a licensed psychiatrist or psychologist.

Probable cause means an existence of circumstances that would lead to a reasonable belief that a criminal offense was committed or is being committed by the person charged with or arrested for the offense.

Prosecutor means a person or persons authorized by the Community under article II, chapter 4.5 to represent the Community in criminal cases.

Voluntary means a person acts of own free will without coercion or force.

Working or business day means any day except weekends and designated Community holidays.
(Code 2012, § 5-31(rule 2.1); Ord. No. SRO-395-2012, § 5-31(rule 2.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 2.1), 5-30-2012)

Secs. 5-91—5-120. Reserved.

DIVISION 2. PRELIMINARY PROCEEDINGS

Rule 3. Commencement of criminal proceeding.

Criminal actions are commenced by filing a complaint with the court or by an arrest of a person without a warrant as set forth in Rule 3.1. Traffic offenses with criminal sanctions may be commenced by a traffic citation, an arrest of a person under Rule 3.1, or by a complaint.
(Code 2012, § 5-31(rule 3); Ord. No. SRO-395-2012, § 5-31(rule 3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 3), 5-30-2012)

Rule 3.1. Arrest without a warrant.

If a person is arrested without a warrant, the arresting officer, without unreasonable delay, shall prepare the probable cause statement, which shall be delivered either physically or by electronic means to the court by the arresting officer or the officer's agent without delay.
(Code 2012, § 5-31(rule 3.1); Ord. No. SRO-395-2012, § 5-31(rule 3.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 3.1), 5-30-2012)

Rule 3.2. Initial appearance of an arrested person.

(a) *Time limits and purpose.* An arrested person shall be brought before a judge no later than 48 hours after arrest for the person's initial appearance. At the arrested person's initial appearance, the court shall:

(1) Obtain the arrested person's true name, physical and mailing addresses;

(2) Advise the arrested person of the nature of the charge(s);

(3) Advise the arrested person of the right to remain silent;

(4) Advise the arrested person of the right to counsel;

(5) Determine whether probable cause exists to believe a criminal and/or a traffic offense has been committed in violation of this Community Code of Ordinances. If no probable cause is found, the judge shall order the release of the arrested person for the arrested offense.

(b) *Finding of probable cause.* If probable cause is found by the judge, the judge shall:

(1) Determine the conditions of release pursuant to Rule 8;

(2) Advise the defendant of the next court appearance date.

(c) *Appointment of counsel.* If an arrested person is appointed counsel under Rule 6, the judge shall direct the defendant to meet with his or her counsel within 72 hours after release.

(d) *A defendant not arrested.* A defendant who has not been arrested does not have a right to initial appearance under this rule.

(e) *A defendant arrested on a failure to appear warrant.* If a defendant is arrested for failing to appear for a court appearance and the defendant has been previously advised of defendant's rights either at initial appearance or arraignment, the judge shall inform the defendant the reason for the arrest and may advise the defendant of the rights enumerated in subsection (a) of this rule. The judge shall also consider the factors under Rule 8, to determine whether the defendant should be detained or released with or without conditions.

(Code 2012, § 5-31(rule 3.2); Ord. No. SRO-395-2012, § 5-31(rule 3.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 3.2), 5-30-2012)

Rules committee comment note to subsection (a) of this rule. Although the Rule allows for the defendant's initial appearance to occur within 48 hours of arrest, the court should make best efforts to schedule the initial appearance within 24 hours of arrest.

Rule 3.3. Complaint against an arrested person; form of complaint; prosecution of complaint.

(a) *Complaint against an arrested person.* If a person was arrested without a warrant, a prosecutor shall file a complaint bearing a prosecutor's signature within 72 hours of the person's arrest. If a complaint that bears the signature of a prosecutor is not filed within 72 hours of the person's warrantless arrest, the person shall be released immediately. If a prosecutor's office files a notice of declination of prosecution, the defendant shall be released from custody for the arrested offense.

(b) *Contents of criminal complaint.* The complaint shall be in writing and contain a statement of the essential facts constituting the offense charged, the name of the defendant, the approximate date and time of the offense charged, the place where the offense occurred, and a citation of this Community Code of Ordinances provision under which the offense is charged. The complaint shall bear the original signature of a duly authorized prosecutor. Technical errors in the complaint that do not deprive the defendant of fair notice of the offenses charged shall not be grounds for dismissal and the complaint may be amended for technical errors at the discretion of the court.

(c) *Prosecution of complaint.* The Community shall prosecute all such complaints through an authorized prosecutor, including, but not limited to a special prosecutor.

(Code 2012, § 5-31(rule 3.3); Ord. No. SRO-395-2012, § 5-31(rule 3.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 3.3), 5-30-2012)

Rule 4. Arrest warrant; presumption of summons.

(a) *Issuance.* A judge may issue an arrest warrant or summons upon request of the prosecutor, after a complaint has been filed, and the judge determines that there is probable cause to believe the offense has been committed and the defendant committed the offense.

(b) *Presumption of summons.* There shall be a presumption in favor of issuing a summons, unless the court finds:

(1) The defendant has no reliable address within the Community at which to receive a summons;

(2) The defendant has confirmed active warrants in any jurisdiction;

(3) The nature of the offense poses a threat to the health, safety and welfare of the victim or the Community;

(4) The offense is related to an escape from lawful custody or resistance of lawful arrest;

(5) The defendant has other criminal matters pending at the time the offense was alleged to have occurred; or

(6) The defendant has a history of failures to appear that indicate defendant is unlikely to respond to the summons.

(c) *Arrest warrant procedure.* An arrest warrant will be issued by the court when the judge reasonably believes that the warrant is necessary. The arrest warrant shall be delivered to the defendant at the time of the arrest or no later

than the initial appearance of the defendant. When an arresting officer is not in possession of the arrest warrant at the time of arrest, the officer shall inform the defendant that such a warrant has been issued, that the officer is acting pursuant to the arrest warrant and that a copy of the warrant will be delivered to the defendant by his or her initial appearance.

(d) *Form of warrant.* A warrant must contain the name of the defendant, information by which the person arrested may be identified with reasonable certainty, and a description of the offenses charged. The warrant must be signed by a Community judge. A warrant of arrest shall not be invalidated, nor shall any person in custody be discharged because the warrant contains technical or clerical errors. The warrant may be amended by any judge to remedy the defect.

(e) *Execution of a warrant.* A warrant is executed by arresting the defendant. Upon an arrest, the arresting officer shall notify the defendant of the existence of the warrant and of the offenses charged. After executing the warrant, the warrant shall be returned to the issuing court before whom the defendant is brought. Only officers authorized under the ordinance to make arrests or a federal police officer may arrest a person pursuant to a Community arrest warrant.

(f) *Authority for a warrantless arrest.* A Community police officer or federal law enforcement officer may arrest a person when the officer has probable cause.

(g) *Summons.* A summons shall contain the same information as a warrant, but shall also include the date, time and location that the defendant is ordered to appear. If a defendant fails to appear after having been served with a summons, the court may issue an arrest warrant.
(Code 2012, § 5-31(rule 4); Ord. No. SRO-395-2012, § 5-31(rule 4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 4), 5-30-2012)

Rule 4.1. Search warrants.

Any judge of the Community shall have the authority to issue warrants for search and seizure of the premises or property of any person, and traits of a person including, but not limited to blood, saliva, voice exemplar, handwriting exemplar, and fingerprints, under the jurisdiction of Community, or under rules of comity. No search warrant shall be issued except on probable cause, supported by a sworn affidavit, that an offense has been committed in violation of this Community Code of Ordinances, naming or describing the property to be seized and the place to be searched. Service of warrants of search and seizure shall be made only by a Community police officer or federal law enforcement officer. If the warrant is domesticated pursuant to rules of comity, the warrant may be executed by the authorized agent of the issuing jurisdiction. All warrants shall bear the signature of a judge of the Community court.
(Code 2012, § 5-31(rule 4.1); Ord. No. SRO-395-2012, § 5-31(rule 4.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 4.1), 5-30-2012)

Rule 5. Arraignment.

(a) *Time period.* Within ten calendar days after initial appearance under Rule 3.2, the defendant shall appear before a judge for arraignment. If a defendant appears on a summons, the arraignment shall proceed on the defendant's first appearance before a judge.

(b) *Arrest without a warrant.* If a defendant is arrested without a warrant, a complaint meeting requirements of Rule 3.3, must be filed prior to arraignment.

(c) *Procedure.*

(1) The judge shall read the complaint to the defendant in the language that the defendant understands; and

(2) The judge shall also advise the defendant of the following:

a. The right to remain silent.

b. The right to a trial by jury.

c. The right to confront and cross examine his or her accusers, to plead not guilty, and to call witnesses.

d. The right to have the assistance of counsel for the charges.

e. The right to be considered for release pending trial or if the defendant is released, any modification of release conditions.

f. The maximum sentence that could be imposed if the defendant were to be found guilty or plead guilty to the charges.

g. After the defendant is advised of his or her rights set forth in subsection (c)(2) of this rule, the defendant shall be asked to enter a plea to the charges. If the defendant refuses or is unable to enter a plea, the court shall enter a plea of "not guilty" on behalf of the defendant.

(3) A copy of the complaint shall be given to the defendant or to defendant's counsel.

(Code 2012, § 5-31(rule 5); Ord. No. SRO-395-2012, § 5-31(rule 5), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 4.2), 5-30-2012)

Rule 5.1. Setting of trial date.

If a plea is "not guilty," the court shall set a trial date pursuant to Rule 7.1. If the defendant is not notified of a trial date at the time of his or her entry of a not guilty plea, no later than ten days after arraignment, the court shall give notice to the defendant of a trial date.

(Code 2012, § 5-31(rule 5.1); Ord. No. SRO-395-2012, § 5-31(rule 5.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 5.1), 5-30-2012)

Secs. 5-121—5-149. Reserved.

DIVISION 3. RIGHTS OF PARTIES

Rule 6. Assistance of counsel.

(a) *Right to be represented by counsel.* A defendant shall be entitled to be represented by counsel in any criminal proceeding.

(1) If the defendant is facing incarceration of one year or less as a sanction for each charged offense, the judge shall cause to be appointed counsel for the defendant.

(2) If the defendant is facing a sentence of imprisonment greater than one year for a single offense, the judge shall cause to be appointed an attorney to represent the defendant.

(3) The right to be represented shall include the right to consult in private with counsel or the counsel's agent as soon as feasible after a defendant is taken into custody, at reasonable times thereafter and sufficiently in advance of a proceeding to allow adequate preparation thereof.

(4) The defendant may reject an appointed counsel and inform the court of the intention to retain counsel at own expense.

(b) *Waiver of right to counsel.* A defendant may waive his or her right to counsel under subsection (a) of this section, in open court, after the court has ascertained that he or she knowingly, intelligently and voluntarily desires to forego counsel. A defendant may withdraw a waiver of his or her right to counsel at any time. A subsequent retention of counsel shall not entitle the defendant to repeat any previous proceedings. If there is a question of a defendant's competency, defendant shall have appointed counsel until the defendant has been found to be competent.

(c) *Unreasonable delay in retaining counsel.* If a defendant appears without counsel at any proceeding after having been given a reasonable opportunity to retain counsel, the court may proceed with the matter, with or without securing a waiver of counsel under subsection (b) of this section.

(d) *Notice of appearance.* At his or her first appearance on behalf of a defendant, privately retained counsel for the defendant shall file a notice of appearance with the court. No counsel shall make an appearance without first being authorized to practice within the Community courts. With the court's permission, a counsel who has not yet been authorized to practice in the Community court, may make a limited appearance on behalf of the defendant upon submission of an application. The counsel shall inform the clerk of the court and the office of the prosecutor or its designee, of all contact information including, but not limited to, mailing address, e-mail address, telephone number and facsimile number.

(e) *Duty of continuing representation.* The counsel representing the defendant at any proceeding shall continue to represent the defendant in all further proceedings in the court, including filing the notice of appeal unless the court permits the counsel to withdraw. The counsel's duty to represent the defendant will continue until either a notice of appeal is filed or the time to file the notice of appeal has expired.
(Code 2012, § 5-31(rule 6); Ord. No. SRO-395-2012, § 5-31(rule 6), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 6), 5-30-2012)

Rule 6.1. Appointment of counsel for indigent defendant (reserved).

The court should appoint counsel for the defendant where defendant faces incarceration as a potential punishment upon finding of guilt for the charged offense if a defendant is unable to obtain counsel at his or her own expense. Before appointing counsel, the court should first determine that the defendant is indigent. The defendant shall be examined under oath regarding defendant's financial resources by the court. The court may order the defendant to reimburse the Community for the whole or partial cost of counsel as a condition of appointment of counsel. The court shall appoint an attorney to represent the defendant if the defendant is charged with an offense that carries a potential sentence of imprisonment exceeding one year upon a conviction for a single offense. In all other cases, the court may appoint an advocate or an attorney.
(Code 2012, § 5-31(rule 6.1); Ord. No. SRO-395-2012, § 5-31(rule 6.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 6.1), 5-30-2012)

Rule 7. Right to trial by jury.

(a) *Demand for jury trial.* If a defendant is charged with an offense where the maximum sentence of imprisonment after a conviction for each charged offense carries a sentence of imprisonment not exceeding six months, the defendant may demand a jury trial. The defendant shall demand the jury trial in writing at least 30 days prior to a trial date or another date set by the court. If a demand is not made within the time limits set forth in this rule, the right to jury trial is waived. For good cause, the court may permit the defendant to request a jury trial after the deadline for demand for jury trial has elapsed.

(b) *Right to jury trial.* If a defendant is charged with an offense where the maximum sentence of imprisonment is greater than six months for a conviction for each charged offense, defendant shall be entitled to a jury trial. If a defendant is charged with more than one offense in the complaint and the maximum sentence of imprisonment is greater than six months for a conviction for any of the charged offense in the same complaint, the defendant shall be entitled to a jury trial without a demand. Defendant may waive the right to a jury trial by submitting a written request.

(c) *Traffic offenses without imprisonment.* There shall be no right to a jury trial where a person is charged with a traffic violation when:

(1) The exclusive penalty is a fine; or

(2) The court determines after a request for jury trial is made that no penalty of imprisonment shall be imposed in the event the defendant is found guilty.

(Code 2012, § 5-31(rule 7); Ord. No. SRO-395-2012, § 5-31(rule 7), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 7), 5-30-2012)

Rule 7.1. Speedy trial rights.

(a) *All defendants.* Every person against whom a complaint is filed shall be tried within 150 days of the arraignment except for those excluded periods set forth in Rule 7.2.

(b) *Defendants in custody.* A defendant who has been ordered detained shall be tried within 120 days from the date of defendant's arraignment for the offenses that was the basis for the order of detention.

(c) *Defendants released from custody.* Every person released from custody under Rule 8, shall be tried within 150 days from arraignment.

(d) *New trial.* A trial ordered after a mistrial, upon a motion for new trial, or reversed on appeal shall commence within 60 days of the order or mandate.

(e) *Extension of time limits.* These time limits may be extended by Rule 7.2.
(Code 2012, § 5-31(rule 7.1); Ord. No. SRO-395-2012, § 5-31(rule 7.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 7.1), 5-30-2012)

Rule 7.2. Excluded periods and continuances.

The following periods shall be excluded from the computation of time limits set forth in Rule 7.1:

(1) *Delays on behalf of the defendant.* Delays occasioned on behalf of or for the benefit of the defendant, including but not limited to:

a. Determine competency of the defendant;

b. If the defendant is incarcerated in another jurisdiction;

c. While the defendant is on absconder status;

d. Defendant's request to prepare for trial; and

e. While the plea agreement is under consideration by the court.

(2) *Interest of justice.* Any delays resulting from continuances granted by the court at the request of a party to serve the interest of justice. A continuance may only be granted as long as it is necessary to serve the interests of justice. The court shall state the specific reasons for the continuance and the excluded period of time.

(Code 2012, § 5-31(rule 7.2); Ord. No. SRO-395-2012, § 5-31(rule 7.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 7.2), 5-30-2012)

Rule 7.3. Remedy for denial of speedy trial rights.

(a) *Dismissal.* If the court determines that the defendant's speedy trial rights under Rule 7.1, have been violated, the court shall dismiss the complaint upon defendant's motion or on its own motion. The court shall have the discretion to dismiss the case with or without prejudice.

(b) *Duties of parties.* All parties shall notify the court of any speedy trial time violations under Rule 7.1.
(Code 2012, § 5-31(rule 7.3); Ord. No. SRO-395-2012, § 5-31(rule 7.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 7.3), 5-30-2012)

Rules committee note to this rule. The burden of ensuring that speedy trial rights are not violated should fall on the parties as well as the court. There may be circumstances where the court may make mathematical errors and if it is discovered by either party, the matter should be brought to the attention of the court prior to the speedy trial violation occurring.

Rule 8. Consideration for release pending trial.

The court shall impose conditions that will ensure the appearance of the defendant and the safety of the Community prior to trial.

(1) *Release on own recognizance.* At initial appearance or arraignment, any defendant charged with the violation of law may be ordered released pending trial on own recognizance unless the judge determines that such release will not reasonably ensure the appearance of the defendant for trial.

(2) *Release on conditions.* If the court determines that a release on own recognizance will not reasonably ensure the defendant's appearance for trial or ensure the safety of the Community, the court may release defendant with conditions as follows:

a. Execution of an unsecured personal bond in an amount specified by the court;

b. Execution of a cash bond;

c. Placing the person in the custody of a designated person or organization agreeing to supervise him or her;

d. Restriction on the person's travel, association, curfew or place of residence during the period released;

e. Any other condition which the court deems reasonably necessary, including electronic monitoring.

(3) *Revocation and modification of conditions of release.* Upon motion of any party or on the court's own motion and with notice to all parties, the court may amend the conditions of release at any time. If there is reason to believe that the defendant has knowingly violated the terms of conditions of release, the court on its own motion or at the request of the prosecutor may issue a warrant for the arrest of the defendant to determine if the defendant has violated the conditions of release. If the court finds by a preponderance of evidence that the defendant has violated the conditions of release, the court may detain the defendant pending trial.

(4) *Detention after determination of guilt.* If a defendant is found guilty or pleads guilty to an offense which is likely to result in a sentence of imprisonment, the court may order that the defendant be taken into custody. The defendant shall receive credit for any presentence incarceration towards the offense of conviction.

(5) *Forfeiture of bond.*

a. *Notice and hearing.* If, the court has issued an arrest warrant for the defendant under subsection (3) of this rule, the court shall notify the person posting the bond in writing that the warrant was issued within ten days of the issuance of the warrant. The court shall also set a hearing within a reasonable time not to exceed 30 days requiring the defendant and the person posting the bond to show cause as to why the bond should not be forfeited. The court shall notify the defendant, the person posting the bond, and the prosecution of the hearing in writing. The hearing may proceed without the defendant or the person posting the bond if sufficient proof exists that the defendant and the person posting the bond, if any, were given notice of the hearing.

b. *Forfeiture.* If at the hearing, the violation is not explained or excused, the court may enter an appropriate order of judgment forfeiting all or part of the amount of the bond, which shall be enforceable by the Community as any civil judgment.

c. *Order of forfeiture.* After entering an order of forfeiture, the court shall forward:

1. A copy of the forfeiture order to the defendant, the defendant's counsel, and the person posting the bond; and

2. A copy of a signed forfeiture order to the Community. The bond shall be forfeited to the Community. A forfeiture of bond under this rule does not preclude the court from setting new bond or other conditions of release.

(6) *Bond forfeiture hearing.* Prosecution may be permitted to participate in the bond forfeiture hearing, but shall not be required to participate in the hearing.

(7) *Right of counsel at hearing.* The defendant or the person posting the bond may have counsel at his or her own expense at the bond forfeiture hearing.

(8) *Return of bond.*

a. *Termination of proceeding.* If the defendant has complied with the conditions of release or the case is dismissed prior to trial, the bond shall be returned to the person who posted the bond.

b. *At any time before violation of release conditions.* Upon a motion of the defendant or the Community, if the court finds that there is no further need for an appearance bond, it shall exonerate the appearance bond and order the return of bond to the person who posted the bond.

(Code 2012, § 5-31(rule 8); Ord. No. SRO-395-2012, § 5-31(rule 8), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 8), 5-30-2012)

Rule 9. Defendant's right to be present.

A defendant shall have a right to be present for arraignment, pretrial proceedings, at every stage of the trial, and at the imposition of sentence. The defendant may waive his or her right to be present pursuant to Rules 9.1 and 9.2.
Code 2012, § 5-31(rule 9); Ord. No. SRO-395-2012, § 5-31(rule 9), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 9), 5-30-2012)

Rule 9.1. Defendant's waiver of his or her presence.

(a) *Proceeding in defendant's absence.* A defendant may waive his or her right to be present at a proceeding if the defendant voluntarily absents himself or herself from the proceeding. If the defendant fails to appear for a proceeding, the proceeding in the defendant's absence may occur upon the motion of the prosecutor if the court determines that the defendant's absence is voluntary and proceeding in the defendant's absence would be in the interest of justice. In determining whether the defendant' absence is voluntary, the court shall consider whether the defendant had personal notice of the time of the proceeding, informed of the right to be present at the proceeding, the defendant's past appearance or failure to appear for proceeding in the case, and any warning given to the defendant that the matter would proceed if the defendant fails to appear for the matter. Interest of justice factors that the court may consider are the hardship and inconvenience to victims and/or witnesses, the prejudice to the prosecutor's case, as well as any inconvenience to the court if the proceeding does not go forward. The defendant shall not be sentenced in his or her absence without the defendant's written consent.

(b) *Disruptive or disorderly conduct.* A defendant who voluntarily engages in disruptive or disorderly conduct after having been warned by the court that the continued disruptive or disorderly conduct will result in forfeiture of his or her right to be present for the proceeding shall forfeit his or her right to be present at the proceeding. A defendant may reacquire his or her right to be present for the proceeding if the defendant gives personal assurance to the court of his or her intended good behavior. A defendant may be excluded from the proceeding without any additional warning if the defendant engages in further disruptive or disorderly conduct. If the defendant has been removed under this rule, the court shall use reasonable means to enable the defendant to hear, observe, or be informed of the proceedings and give the defendant reasonable opportunity to consult with defendant's counsel at reasonable intervals.

(c) *Additional sanctions.* In addition to sanctions imposed for disruptive or disorderly conduct by the defendant, the court may impose sanctions under Rule 29.2 for contempt.
(Code 2012, § 5-31(rule 9.1); Ord. No. SRO-395-2012, § 5-31(rule 9.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 9.1), 5-30-2012)

Rule 9.2. Defendant serving sentence in other jurisdiction.

If a defendant is serving a sentence of imprisonment/jail in another jurisdiction and the defendant has a charge pending in the court, the defendant may request by writing to the court and to the prosecutor to plead guilty to the Community offense(s) and to have his or her sentence that he/she is serving in another jurisdiction be credited towards any sentence imposed in his or her Community charge(s). Under this rule, a defendant and the prosecutor may reach an agreement on the charge(s) and the sentence for the court's consideration. A defendant who makes this request agrees to give up his or her right to be present for the guilty plea and sentence hearing. The court may accept the agreement reached by the defendant and the prosecutor and make a determination of guilt and impose a sentence without the defendant being personally present. The clerk of the court shall forward a copy of the determination of guilt and sentence to the defendant. This rule does not give the defendant the right to resolve the case.
(Code 2012, § 5-31(rule 9.2); Ord. No. SRO-395-2012, § 5-31(rule 9.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 9.2), 5-30-2012)

Rule 10. Change of judge.

(a) *For cause.* Prior to trial or a hearing, the prosecutor or the defendant shall be entitled to a change of judge if the assigned judge cannot

conduct a fair and impartial hearing or trial without prejudice or bias. The party requesting the change of judge must file a motion verified by affidavit of the moving party and must allege specific grounds for the change of judge prior to commencement of the hearing or trial. A party may make an oral request for change of judge with leave of court. The hearing on the motion for change of judge for cause shall be heard by a judge other than the challenged judge. If the hearing judge determines by preponderance of evidence that grounds exist for bias or prejudice, the matter shall be reassigned to another judge.

(b) *Entitlement.* In any criminal case, each party has a matter of right to a change of judge. The party requesting the change in judge shall file a "notice of change of judge" within ten days of arraignment. A party loses the right to change of judge under Rule 10(b), if the party participates in any contested matter in the case, pretrial hearing, or trial before the challenged judge or fails to file the notice no later than ten days after arraignment. Each party may exercise this right once in any case.*

(c) *Reassignment of a judge.* If a change of judge is granted for cause, the case shall be immediately reassigned to another judge.

(d) *Duties of a challenged judge.* Upon filing a motion for a change of judge for cause, the challenged judge shall proceed no further on the case except to issue temporary orders as may be necessary in the interest of justice before the case can be reassigned. The challenged judge may enter an order recusing himself/herself from the case.
(Code 2012, § 5-31(rule 10); Ord. No. SRO-395-2012, § 5-31(rule 10), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 10), 5-30-2012)

Rule 10.1. Unavailability of judge.

If the judge before whom a trial or other criminal proceeding is pending becomes unavailable, the case shall be immediately reassigned to another judge. If, in the opinion of the new judge, after a review of the record, the continuation of the proceeding would be prejudicial to either the prosecutor or a defendant, the judge shall order a new trial or proceeding.
(Code 2012, § 5-31(rule 10.1); Ord. No. SRO-395-2012, § 5-31(rule 10.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 10.1), 5-30-2012)

Rule 10.2. Competency to stand trial.

(a) *Policy.* A person shall not be tried, convicted, sentenced or punished for a violation of Community law while, as a result of a mental illness, defect, or disability, the person is unable to understand the proceedings against him or her or to assist in his or her own defense. Mental illness, defect or disability means a psychiatric or neurological disorder that is evidenced by behavioral or emotional symptoms, including congenital mental conditions, conditions resulting from injury or disease, and developmental disabilities. The presence of a mental illness, defect, or disability alone is not grounds for finding a defendant incompetent to stand trial.

(b) *Procedure.* At any time after a complaint is filed, the defendant or the prosecutor may request in writing or the court on its own motion may order, an examination of the defendant to determine whether a defendant is competent to understand the proceedings against the defendant. The motion shall state the facts upon which the mental examination is sought. If the court determines that an examination to determine defendant's competency is warranted, the court shall order that the defendant undergo a mental health evaluation by a mental health professional to determine the defendant's competency to stand trial. On the motion of the defendant or with the defendant's consent, the court may order a screening examination for a guilty except insane plea to be conducted by a mental health professional.

(c) *Medical records and records related to the offense.* All available medical records and records related to the offense in the party's control shall be provided to the examining mental health expert by the party seeking the examination within seven days of the court's order authorizing the examination.

*__Note—__Currently, only the civil parties have a right to a change of judge as a matter of right under Code § 4-36. Subsection (b) cannot be implemented until sufficient number of judges are appointed/assigned to handle criminal cases.

(d) *Report of examination.* Within 45 days of the court's order authorizing examination of the defendant to determine the defendant's competency to stand trial, the examiner shall submit a written report to the court. Upon receipt of the report, the court will copy and distribute the expert's report to defendant's counsel. The defendant's counsel shall have five business days to redact any statements of the defendant or summary of the defendant's statements pertaining to the charged offense from the written report and submit a copy of the report, with any redactions, to the court for distribution to the prosecution. In any event, statements of the defendant obtained under these provisions regarding the charged offense(s) or other crimes shall not be admissible at or at any subsequent proceeding to determine guilt or innocence, without the defendant's consent. For good cause, the time for filing the report by the examiner may be extended for additional 30 days.

(e) *Hearing.* Within 30 days after the mental health professional's report has been submitted to the court, the court shall hold a hearing to determine the defendant's competency. The parties may introduce other evidence regarding the defendant's mental condition, or by written stipulation, submit the matter on the report(s).

(f) *Orders.* After the hearing, if the court:

(1) Finds by preponderance of evidence that the defendant is competent, proceedings shall continue within 60 days. The defendant is entitled to repeat any proceeding if there are reasonable grounds to believe defendant was prejudiced by defendant's previous incompetency;

(2) Determines that the defendant is incompetent the court shall:

a. Release the defendant from custody for the charges if in custody;

b. Dismiss the charges with prejudice;

c. Refer the matter to Community prosecutor's office to pursue civil commitment of the defendant if the defendant poses danger to himself/herself or to the Community or if the defendant is severely disabled;

d. Appoint a guardian ad litem.

(g) *Confidentiality of the reports.* The examination reports under this rule shall be treated as confidential by the court and counsel in all respects. After the case proceeds to trial or the defendant is found to be unable to regain competence, the court shall order the reports sealed. The court may order the reports opened only for further competency evaluation or examination or when necessary to assist in mental health treatment or in a proceeding for civil commitment. (Code 2012, § 5-31(rule 10.2); Ord. No. SRO-395-2012, § 5-31(rule 10.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 10.2), 5-30-2012)

Secs. 5-150—5-182. Reserved.

DIVISION 4. PRETRIAL MOTIONS AND DISCOVERY

Rule 11. Pleas.

(a) *Entering a plea.*

(1) *Conditional plea.* With the consent of the court and the prosecutor, a defendant may enter a conditional plea of guilty or no contest, reserving in writing the right to have an appellate court review an adverse determination of a specified pretrial motion. A defendant who prevails on appeal may then withdraw the plea.

(2) *No contest plea.* Before accepting a plea of no contest, the court must consider the parties' views and the public interest in the effective administration of justice. The court may not accept a plea of no contest without the consent of the prosecutor.

(b) *Considering and accepting a guilty or no contest plea.*

(1) *Advising and questioning the defendant.* Before the court accepts a plea of guilty or no contest, the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:

a. The right to plead not guilty, or having so pled, to persist in that plea;

b. The right to a jury trial;

c. The right to be represented by counsel at trial and at every other stage of the proceeding;

d. The right at trial to confront and cross examine witnesses who are against the defendant, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses;

e. The defendant's waiver of these trial rights if the court accepts a plea of guilty or no contest;

f. The nature of each charge to which the defendant is pleading;

g. Any maximum possible penalty, including imprisonment, fine and term of probation;

h. Any mandatory minimum penalty;

i. The court's authority to order restitution; and

j. The terms of any plea agreement provision waiving the right to appeal.

(2) *Ensuring that a plea is voluntary.* Before accepting a plea of guilty or no contest, the court must address the defendant personally in open court and determine that the plea is voluntary and did not result from force, threats, or promises (other than promises in a plea agreement).

(3) *Determining the factual basis for a plea.* Before entering judgment on a guilty plea, the court must determine that there is a factual basis for the plea.

(c) *Plea agreement procedure.*

(1) *In general.* The parties may discuss and reach a plea agreement. The assigned trial judge must not participate in these discussions without the consent of both parties. If the defendant pleads guilty or no contest to either a charged offense or a lesser or related offense, the plea agreement may specify that the prosecutor will:

a. Not bring, or will move to dismiss other charges;

b. Recommend, or agree not to oppose the defendant's request for a particular sentence; and

c. Agree that a specific sentence is the appropriate disposition of the case.

(2) *Disclosing a plea agreement.* Plea agreements shall be entered on the record and in open court unless the court finds that good cause exists to seal the proceedings.

(3) *Rejecting a plea agreement.* If the court rejects a plea agreement containing stipulations of the parties, the court must do the following on the record and in open court unless the court finds that good cause exists to seal the proceedings:

a. Inform the parties that the court rejects the plea agreement;

b. Advise the defendant personally that the court is not required to follow the plea agreement and give the defendant the opportunity to withdraw the plea;

c. Advise the defendant personally that if the plea is not withdrawn, the court may dispose of the case less favorably toward the defendant than the plea agreement contemplated; and

d. The parties are entitled to reassignment of the case to a judge.

(d) *Withdrawing a guilty or no contest plea.* If the court rejects a plea agreement, a defendant may withdraw a plea of guilty or no contest plea. After the court imposes the sentence, the defendant may not withdraw a plea of guilty or no contest, and the plea may be set aside only on direct appeal. The court may allow a defendant to withdraw his or her guilty or no contest plea prior to sentencing to correct a manifest injustice as long as the defendant's withdrawal of the plea does not prejudice the Community. If the defendant's guilty or no contest plea is withdrawn, all

the original charges that existed before any changes or dismissal were made as part of the plea agreement shall be reinstated.

(e) *Inadmissibility of a plea, plea discussions, and related statements.* If the court rejects the plea agreement, or the judgment is vacated or reversed, neither the plea discussions nor any statements made at a hearing on the plea shall be admissible against the defendant in any criminal or forfeiture proceedings.

(Code 2012, § 5-31(rule 11); Ord. No. SRO-395-2012, § 5-31(rule 11), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 11), 5-30-2012; Ord. No. SRO-412-2013, 3-1-2013)

Rules committee note to subsection (d) of this rule. There may be limited circumstances where a defendant should be allowed to withdraw his or her plea of guilt or no contest to avoid manifest injustice prior to sentencing. The following are nonexhaustive examples where a defendant should be allowed to withdraw his or her plea of guilt or no contest: the plea was entered involuntarily; the defendant did not have effective assistance of counsel where the defendant was represented by counsel; the defendant did not understand the nature of the charges; there was insufficient factual basis for the plea; or change in law.

Rule 12. Pretrial motions.

(a) *Pretrial motions.*

(1) *In general.* All motions, other than one made during a trial or a hearing, must be made in writing and comply with Rule 31.1. Motions may be made orally with the court's permission.

(2) *Motions that may be made before trial.* A party may raise by pretrial motion any defense, objection, or request that the court can determine without a trial of the general issue.

(3) *Motions that must be made before trial.* The following shall be raised before trial:

a. A motion alleging a defect in instituting the prosecution;

b. A motion alleging a defect in the complaint, but at any time while the case is pending, the court may hear a claim that the complaint fails to invoke the court's jurisdiction or to state an offense;

c. A motion to suppress evidence or suppress statements;

d. A Rule 15, motion for discovery.

(b) *Motions deadline.* The court may set a deadline for the parties to make pretrial motions and may also schedule a motion hearing. If the court does not set a deadline for motions, the motion deadline shall be 30 days prior to trial. Parties may make motions in limine at any time. Generally, motions, defenses, or requests not timely raised should be precluded unless the party making the motion did not know the basis for the motion exercising reasonable diligence and the party raises the motion promptly upon learning of the basis of the motion.

(c) *Ruling on a motion.* The court must decide every pretrial motion before trial unless it finds good cause to defer a ruling. The court must not defer ruling on a pretrial motion if the deferral will adversely affect a party's right to appeal. When factual issues are involved in deciding a motion, the court must state its essential findings on the record.

(Code 2012, § 5-31(rule 12); Ord. No. SRO-395-2012, § 5-31(rule 12), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 12), 5-30-2012)

Rule 12.1. Notice of an alibi defense.

(a) *Notice to prosecutor.* If the defendant intends to raise the defense of alibi, the defendant must serve written notice to the prosecutor of any intended alibi defense. The defendant's notice must state:

(1) Each specific place where the defendant claims to have been at the time of the alleged offense; and

(2) The name/aliases, if available, address, and telephone number of each alibi witness on whom the defendant intends to rely.

(b) *Disclosing prosecutor witnesses.* If the defendant serves a notice as set forth in subsection (a) of this rule, the prosecutor must disclose in

writing to the defendant or the defendant's counsel 15 days after receiving the defendant's notice:

(1) The name, address, and telephone number of each witness the prosecutor intends to rely on to establish the defendant's presence at the scene of the alleged offense; and

(2) Each prosecutor's rebuttal witness to the defendant's alibi defense.

(c) *Continuing duty to disclose.* Both prosecutor and the defendant must promptly disclose in writing to the other party the name, address, and telephone number of each additional witness if:

(1) The disclosing party learns of the witness before or during trial; and

(2) The witness should have been disclosed under subsection (a) or (b) of this rule if the disclosing party had known of the witness earlier.

(d) *Exceptions.* For good cause, the court may grant an exception to any requirement of subsections (a) through (c) of this rule.

(e) *Timeliness.* The defendant shall comply with subsection (a) of this rule within the time period set forth for filing pretrial motions or at any later time the court sets. The names of the intended alibi witnesses and rebuttal witnesses shall be filed with the court.

(f) *Failure to comply.* If a party fails to comply with this rule, the court may exclude the testimony of any undisclosed witness regarding the defendant's alibi. This rule does not limit the defendant's right to testify.

(g) *Inadmissibility of withdrawn intention.* Evidence of an intention to rely on an alibi defense, later withdrawn, or of a statement made in connection with that intention, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.
(Code 2012, § 5-31(rule 12.1); Ord. No. SRO-395-2012, § 5-31(rule 12.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 12.1), 5-30-2012)

Rule 12.2. Notice of an insanity defense; mental examination.

(a) *Notice of an insanity defense.* A defendant who intends to assert a defense that the person was insane at the time of the alleged offense must so notify the prosecutor in writing within the time provided for filing a pretrial motion, or at any later time the court sets, and file a copy of the notice with the clerk. A defendant who fails to give notice is precluded from asserting an insanity defense. The court may, for good cause, allow the defendant to file the notice late, grant additional trial preparation time or make other appropriate orders.

(b) *Notice of expert evidence of a mental condition.* If a defendant intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on the issue of guilt, the defendant must, within the time provided for filing a pretrial motion or at any later time the court sets, notify the prosecutor in writing of such intention and file a copy of the notice with the clerk. The court may, for good cause, allow the defendant to file the notice late, grant the parties additional trial preparation time, or make other appropriate orders.

(c) *Mental examination.*

(1) *Authority to order an examination; procedures.*

a. The court may order the defendant to submit to a mental health examination under Rule 10.2.

b. If the defendant provides notice under subsection (a) of this rule, the court must, upon the Community's motion, order the defendant to be examined by a mental health professional. If the defendant provides notice under subsection (b) of this rule the court may, upon the Community's motion, order the defendant to be examined under procedures ordered by the court.

c. The parties may stipulate to determination of mental illness based upon the defendant's past mental health and medical records.

(2) *Inadmissibility of a defendant's statements.* No statement made by a defendant in the course of any examination conducted under this rule (whether conducted with or without the defendant's consent), no testimony by the expert based on the statement, and no other fruits of the statement may be admitted into evidence against the defendant in any criminal proceeding except on an issue regarding mental condition on which the defendant has introduced evidence of incompetency or evidence requiring notice under subsection (a) or (b) of this rule.

(d) *Failure to comply.* If the defendant fails to give notice under subsection (b) of this rule or does not submit to an examination when ordered under subsection (c) of this rule, the court may preclude the defendant from offering any mental health professional's testimony or opinion evidence on the issue of the defendant's mental disease, mental defect, or any other mental condition bearing on the defendant's guilt.

(e) *Inadmissibility of withdrawn intention.* Evidence of an intention as to which notice was given under subsection (a) or (b) of this rule, later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.

(f) *Burden of proof.* To prevail on the defense of insanity, the defendant shall bear the burden of proof by clear and convincing evidence that at the time of the charged offense:

(1) The defendant had a mental defect or disease; and

(2) As a result of this mental defect or disease, the defendant lacked substantial capacity either to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law.

(Code 2012, § 5-31(rule 12.2); Ord. No. SRO-395-2012, § 5-31(rule 12.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 12.2), 5-30-2012)

Rule 12.3. Notice of a public authority defense.

(a) *Notice of the defense and disclosure of witnesses.*

(1) *Notice in general.* If a defendant intends to assert a defense of actual or believed exercise of public authority on behalf of a law enforcement agency at the time of the alleged offense, the defendant must notify the prosecutor in writing and must file a copy of the notice with the court within the time provided for filing a pretrial motion, or at any later time the court sets. The notice may be filed under seal with the court's approval.

(2) *Contents of notice.* The notice must contain the following information:

a. The law enforcement agency involved;

b. The agency member on whose behalf the defendant claims to have acted; and

c. The time during which the defendant claims to have acted with public authority.

(3) *Response to the notice.* The prosecutor must serve a written response on the defendant or the defendant's counsel within ten days after receiving the defendant's notice, but no later than 20 days before trial. The response must admit or deny that the defendant exercised the public authority identified in the defendant's notice.

(4) *Disclosing witnesses.*

a. *Prosecutor's request.* The prosecutor may request in writing that the defendant disclose the name, address, and telephone number of each witness the defendant intends to rely on to establish a public authority defense. Prosecutor may serve the request when the prosecutor serves its response to the defendant's notice

under subsection (a)(3) of this rule, or later, but must serve the request no later than 20 days before trial.

b. *Defendant's response.* Within seven days after receiving the prosecutor's request, the defendant must serve the prosecutor a written statement of the name, address, and telephone number of each witness.

c. *Prosecutor's reply.* Within seven days after receiving the defendant's statement, prosecutor must serve on the defendant or the defendant's counsel a written statement of the name, address, and telephone number of each witness the prosecutor intends to rely on to oppose the defendant's public authority defense.

(5) *Additional time.* The court may, for good cause, allow a party additional time to comply with this rule.

(b) *Continuing duty to disclose.* Both counsel for the defendant and the prosecutor must promptly disclose in writing to the other party the name, address, and telephone number of any additional witness if:

(1) The disclosing party learns of the witness before or during trial; and

(2) The witness should have been disclosed under subsection (a)(4) of this rule if the disclosing party had known of the witness earlier.

(c) *Failure to comply.* If a party fails to comply with this rule, the court may exclude the testimony of any undisclosed witness regarding the public-authority defense. This rule does not limit the defendant's right to testify.

(d) *Protective procedures unaffected.* This rule does not limit the court's authority to issue appropriate protective orders or to order that any filings be under seal.

(e) *Inadmissibility of withdrawn intention.* Evidence of an intention as to which notice was given under subsection (a) of this rule, later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.

(Code 2012, § 5-31(rule 12.3); Ord. No. SRO-395-2012, § 5-31(rule 12.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 12.3), 5-30-2012)

Rule 13. Joinder.

Upon a motion by the prosecutor or the defendant(s), the court may order that separate cases or separate defendants be tried together as though brought in a single complaint if all offenses and all defendants could have been joined in a single complaint. In determining whether the cases or defendants should be consolidated, the court shall consider whether the offenses are:

(1) Of similar or the same character;

(2) Based upon the same conduct or are otherwise connected together; and/or

(3) Alleged to have been part of a common scheme.

(Code 2012, § 5-31(rule 13); Ord. No. SRO-395-2012, § 5-31(rule 13), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 13), 5-30-2012)

Rule 14. Relief from prejudicial joinder.

(a) *Relief.* If the joinder of offenses or defendants in a complaint, or a consolidation for trial appears to prejudice a defendant or the prosecutor, the defendant(s) or prosecutor may request the court to order separate trials of counts, sever the defendants' trials, or provide any other relief that justice requires.

(b) *Defendant's statements.* Before ruling on a defendant's motion to sever, the court may order the prosecutor to disclose any of the defendant's statement that the prosecutor intends to use as evidence. The court may also order that the defendant's statements be redacted to ensure fairness to defendant(s).

(Code 2012, § 5-31(rule 14); Ord. No. SRO-395-2012, § 5-31(rule 14), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 14), 5-30-2012)

Rules committee note to subsection (b) of this rule. Under Indian Civil Rights Act, a defendant has right to confrontation. Any statements of a nontestifying defendant that incriminates a co-defendant should not be admitted without proper redaction of the names of the co-defendants.

Rule 15. General standards governing discovery.

The following shall apply to all discovery under this rule:

(1) *Statements.*

a. *Definition.* Whenever it appears in this rule, the term "statement" means:

1. A writing signed or otherwise adopted or approved by a person;

2. A mechanical, electrical or other recording of a person's oral communications or a transcript thereof; and

3. A writing containing a verbatim record or a summary of a person's oral communications.

b. *Superseded notes.* Handwritten notes which have been substantially incorporated into a statement shall not be considered a statement.

(2) *Materials not subject to disclosure.*

a. *Work product.* Disclosure shall not be required of legal research or of records, correspondence, reports or memoranda to the extent that they contain the opinions, theories or conclusions of the prosecutor, members of the prosecutor's legal or investigative staff or law enforcement officers, or of defense counsel or defense counsel's legal or investigative staff.

b. *Informants.* Disclosure of the existence of an informant or of the identity of an informant who will not be called to testify shall not be required where disclosure would result in substantial risk to the informant or to the informant's operational effectiveness, provided that the failure to disclose will not infringe the constitutional rights of the accused unless the disclosure is ordered by the court under Rule 15.4.

(3) *Failure to call a witness or raise a defense.* The fact that a witness' name is on a list furnished under this rule, or that a matter contained in the notice of defenses is not raised, shall not be commented upon at the trial, unless the court on motion of a party, allows such comment after finding that the inclusion of the witness' name or defense constituted an abuse of the applicable disclosure rule.

(4) *Use of materials.* Any materials furnished to counsel pursuant to this rule shall not be disclosed to the public, but only to others to the extent necessary to the proper conduct of the case.

(Code 2012, § 5-31(rule 15); Ord. No. SRO-395-2012, § 5-31(rule 15), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15), 5-30-2012)

Rules committee note to this rule. The purpose of discovery is to notify the opposition of the party's case-in-chief in return for reciprocal discovery and to avoid unnecessary delay and surprise. The rules pertaining to discovery should be read to promote the purpose behind requiring disclosure. As a practical matter, without liberal disclosure, defendants and the prosecutor may not be able make an informed decision to settle a case or proceed to trial.

Rule 15.1. Discovery by prosecutor.

(a) *Matters relating to guilt, innocence or punishment.* No later than ten working days after the arraignment or at such time as the court may direct, prosecutor shall serve the defendant with copies of the following materials and information within the prosecutor's possession or control:

(1) The names and physical addresses, if known, of all persons whom the prosecutor will call as witnesses in the case-in-chief together with relevant written or recorded statements of those witnesses;

(2) All statements of the defendant and of any person who will be tried with the defendant;

(3) The names and addresses of experts who have personally examined a defendant or any evidence in the particular case, together with the results of physical examinations and of scientific tests, experiments or comparisons, including all written reports or statements made by them in connection with the particular case;

(4) A list of all papers, documents, photographs or tangible objects which the prosecutor will use at trial or which were obtained from or purportedly belong to the defendant;

(5) A list of all prior convictions of the defendant which the prosecutor will use at trial or at sentencing;

(6) A list of all prior acts of the defendant which the prosecutor will use to prove motive, intent, or knowledge or otherwise use at trial;

(7) All material or information which tends to mitigate or negate the defendant's guilt as to the offense charged, or which would tend to reduce the defendant's punishment therefor, including all Community conviction(s) that goes to the credibility of the witness(es) whom the prosecutor expects to call at trial;

(8) Original reports, any supplemental reports, search warrant affidavits and return, and probable cause statements prepared by law enforcement agency in connection with the charged offense.

(b) *Possible collateral issues.* At the same time the prosecutor shall inform the defendant and make available to the defendant for examination and reproduction any written or recorded material or information within the prosecutor's possession or control regarding:

(1) Whether there has been any electronic surveillance of any conversations to which the accused was a party, or of the accused's business or residence;

(2) Whether a search warrant has been executed in connection with the case; and

(3) Whether or not the case involved an informant, and, if so, the informant's identity, if the defendant is entitled to know either or both of these facts under Rule 15.5(a).

(c) *Additional disclosure upon request and specification.* The prosecutor, upon written request, shall disclose to the defendant a list of the prior convictions of a specified defense witness which the prosecutor will use to impeach the witness at trial, and make available to the defendant for examination, testing and reproduction any specified items contained in the list submitted under subsection (a)(4) of this rule. The prosecutor may impose reasonable conditions, including an appropriate stipulation concerning chain of custody, to protect physical evidence produced under this section.

(d) *Extent of prosecutor's duty to obtain information.* The prosecutor's obligation under this rule extends to material and information in the possession or control of members of the prosecutor's staff and of any other persons who have participated in the investigation or evaluation of the case and who are under the prosecutor's control.

(e) *Disclosure of rebuttal evidence.* Upon receipt of the notice of defenses required from the defendant under Rule 15.2(b), the prosecutor shall disclose the names and addresses of all persons whom the prosecutor will call as rebuttal witnesses together with their relevant written or recorded statements.

(Code 2012, § 5-31(rule 15.1); Ord. No. SRO-395-2012, § 5-31(rule 15.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15.1), 5-30-2012)

Rules committee note to this rule. At the present time, the Community does not have the authority to utilize National Criminal Information Center (NCIC) or Arizona Criminal Information Center (ACIC) that are maintained by the Federal Bureau of Investigations and Arizona Department of Public Safety. Mandatory disclosures pertaining to a witness's or defendant's criminal convictions are limited only to convictions arising in Community court.

Rule 15.2. Disclosure by defendant.

(a) *Physical evidence.* At any time after the filing of a complaint, upon written request of the prosecutor, the defendant, in connection with the particular crime with which the defendant is charged, shall:

(1) Appear in a lineup;

(2) Speak for identification by witnesses;

(3) Be fingerprinted, palm-printed, footprinted or voiceprinted;

(4) Pose for photographs not involving reenactment of an event;

(5) Try on clothing;

(6) Permit the taking of samples of his or her hair, blood, saliva, urine or other specified materials which involve no unreasonable intrusions of his or her body;

(7) Provide specimens of his or her handwriting; or

(8) Submit to a reasonable physical or medical inspection of his or her body, provided such inspection does not include psychiatric or psychological examination.

The defendant shall be entitled to the presence of counsel at the taking of such evidence. This rule shall supplement and not limit any other procedures established by law.

(b) *General notice of defenses.* Within 20 working days after the arraignment or at such other time as the court may direct, the defendant shall provide the prosecutor with a written notice specifying all defenses as to which the defendant will introduce evidence at trial, in addition to those required to be disclosed under Rules 12.1 through 12.3, self-defense, entrapment, impotency, marriage, insufficiency of a prior conviction, mistaken identity, and good character. The notice shall specify for each defense the persons, including the defendant, whom the defendant will call as witnesses at trial in support thereof. It may be signed by either the defendant or defendant's counsel, and shall be filed with the court.

(c) *Disclosures by defendant.* Simultaneously with the notice of defenses submitted under subsection (b) of this rule, the defendant shall serve the prosecutor's office information and copies of the following:

(1) The names and physical addresses, if known, of all persons, other than that of the defendant, whom he or she will call as witnesses at trial, together with all statements made by them in connection with the particular case;

(2) The names and addresses of experts whom the defendant will call at trial, together with the results of the defendant's physical examinations and of scientific tests, experiments or comparisons, including all written reports and statements, made by them in connection with the particular case; and

(3) A list of all papers, documents, photographs and other tangible objects which the defendant will use at trial.

(d) *Additional disclosure upon request and specification.* The defendant, upon written request, shall make available to the prosecutor for examination, testing, and reproduction any specified items contained in the list submitted under subsection (c)(3) of this section.

(e) *Extent of defendant's duty to obtain information.* The defendant's obligation under this rule extends to material and information within the possession or control of the defendant, his or her counsel and agents.
(Code 2012, § 5-31(rule 15.2); Ord. No. SRO-395-2012, § 5-31(rule 15.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15.2), 5-30-2012)

Rule 15.3. Depositions.*

(a) *Availability.* Upon motion of any party or a witness, the court may in its discretion order the examination of any person except the defendant upon oral deposition under the following circumstances:

(1) A party shows that the person's testimony is material to the case and that there is a substantial likelihood that the person will not be available at the time of trial;

(2) A party shows that the person's testimony is material to the case or necessary to adequately prepare a defense or investigate the offense, that the person was not a witness at the preliminary hearing or at the probable cause phase of the juvenile transfer hearing, and that the person will not cooperate in granting a personal interview.

(b) *Motion for taking deposition.* A motion for deposition shall specify the time and place for taking the deposition and the name and address of each person to be examined, together with designated papers, documents, photographs or

*__Note__—Enactment of SRO-421-2013 unreserved this Rule.

other tangible objects, not privileged, to be produced at the same time and place. The court may change such terms and specify any additional conditions governing the conduct of the proceeding.

(c) *Manner of taking.* Except as otherwise provided herein or by order of the court, depositions shall be taken in the manner provided in civil actions. With the consent of the defendant, the court may order that a deposition be taken on written interrogatories in the manner provided in civil actions. Any statement of the witness being deposed which is in the possession of any party shall be made available for examination and use at the taking of the deposition to any party who would be entitled thereto at trial. A deposition may be recorded by other than stenographic means, such as, by an audio or video recording device. If a deposition is recorded by other than stenographic means, the party taking the deposition shall provide the opposing party with a copy of the recording within 14 days after the taking of the deposition or not less than ten days before trial, whichever is earlier. The parties may stipulate, or the court may order, that a deposition be taken by telephone, consistent with the provisions of Rule 15.3(d).

(d) *Presence of defendant.* A defendant shall have the right to be present at any examination under Rule 15.3(a)(1) and (a)(2). If a defendant is in custody, the officer having custody shall be notified by the moving party of the time and place set for the examination and shall, unless the defendant waives, in writing, the right to be present, produce the defendant at the examination and remain with the defendant during it.

(e) *Use* Depositions may be used in the manner consistent with Rules of Evidence adopted by the court.

(f) *Expenses.* The party seeking the deposition shall bear the cost of the deposition.

(g) *Objection to deposition testimony.* Objections to the deposition testimony or evidence and the grounds for the objection shall be stated at the time of taking of the deposition.

(h) *Deposition by agreement.* Nothing shall preclude the taking of the deposition, the use of the deposition, by the agreement of the parties with consent of the court.

(Code 2012, § 5-31(rule 15.3); Ord. No. SRO-395-2012, § 5-31(rule 15.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15.3), 5-30-2012; Ord. No. SRO-422-2013, § 5-31(rule 15.3), 6-1-2013)

Rule 15.4. Disclosure by order of the court.

Upon motion of the defendant or the prosecutor showing that the defendant or the prosecutor has substantial need in the preparation of defendant's or prosecutor's case for additional material or information not otherwise covered by Rule 15.1 or 15.2, and that the defendant or the prosecutor is unable without undue hardship to obtain the substantial equivalent by other means, the court in its discretion may order any person to make it available to him or her. The court may, upon the request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive.

(Code 2012, § 5-31(rule 15.4); Ord. No. SRO-395-2012, § 5-31(rule 15.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15.4), 5-30-2012)

Rule 15.5. Excision and protective orders.

(a) *Discretion of the court to deny, defer or regulate discovery.* Upon motion of any party showing good cause the court may at any time order that disclosure of the identity of any witness be deferred for any reasonable period of time not to extend beyond five days prior to the date set for trial, or that any other disclosures required by this rule be denied, deferred or regulated when it finds that:

(1) The disclosure would result in a risk or harm outweighing any usefulness of the disclosure to any party; and

(2) The risk cannot be eliminated by a less substantial restriction of discovery rights.

(b) *Discretion of the court to authorize excision.* Whenever the court finds, on motion of any party, that only a portion of a document or other material is discoverable under these rules, it may

authorize the party disclosing it to excise that portion of the material which is nondiscoverable and disclose the remainder.

(c) *Protective and excision order proceedings.* On motion of the party seeking a protective or excision order, or submitting for the court's determination the discoverability of any material or information, the court may permit the party to present the material or information for the inspection of the judge alone. The counsel for all other parties shall be entitled to be present when such presentation is made, but is not entitled to view the submission.

(d) *Preservation of record.* If the court enters an order that any material, or any portion thereof, is not discoverable under this rule, the entire text of the material shall be sealed and preserved in the record to be made available to the appellate court in the event of an appeal.
(Code 2012, § 5-31(rule 15.5); Ord. No. SRO-395-2012, § 5-31(rule 15.5), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15.5), 5-30-2012)

Rule 15.6. Continuing duty to disclose.

If, at any time after an initial disclosure has been made, any party who discovers additional information or material which would be subject to disclosure had it then been known, such party shall promptly notify all other parties of the existence of such additional material, and make an appropriate disclosure. Each party shall continue to disclose materials subject to disclosure in Rules 15.1 and 15.2, as it becomes available and exercise due diligence in obtaining and disclosing materials that are subject to disclosure in Rules 15.1 and 15.2.
(Code 2012, § 5-31(rule 15.6); Ord. No. SRO-395-2012, § 5-31(rule 15.6), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15.6), 5-30-2012)

Rule 15.7. Sanctions.

(a) *Failure to comply.* If at any time during the course of the proceeding it is brought to the attention of the court that a party has failed to comply with any provisions of this rule or any order issued pursuant thereto, the court may impose any sanction which it finds just under the circumstances, including, but not limited to:

(1) Ordering disclosure of the information not previously disclosed;

(2) Granting a continuance;

(3) Holding a witness, party, or counsel in contempt;

(4) Precluding a party from calling a witness, offering evidence, or raising a defense not disclosed;

(5) Declaring a mistrial when necessary to prevent a miscarriage of justice; or

(6) Dismissal of a case with or without prejudice.

(b) *Cessation of prosecutor's obligations.* If the defendant fails to comply with Rule 15.2, the prosecution need make no further disclosure except material or information which tends to mitigate or negate defendant's guilt as to the offense charged as set forth in Rule 15.1(a)(7), or as ordered by the court.
(Code 2012, § 5-31(rule 15.7); Ord. No. SRO-395-2012, § 5-31(rule 15.7), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 15.7), 5-30-2012)

Rules committee note to this rule. The severity of the sanction imposed should be proportional to the severity of the violation. Only in rare circumstances should a case be dismissed for a discovery violation. Likewise, only in rare circumstances should a defendant be precluded from presenting a defense for a discovery violation. In determining the appropriate sanction, the court should consider whether the violator acted in good faith or bad faith and whether the sanctions would promote the interests of justice.

Rule 16. Pretrial conference.

(a) *Pretrial order.* If a pretrial conference is set in a non-jury trial, the court shall set out the pretrial conference at least 30 days prior to the trial date.

(b) *Issues addressed.* If a pretrial conference is ordered, the following issues may be addressed:

(1) Outstanding pretrial motions;

(2) Stipulations of fact or particular legal issues to be tried;

(3) Jury instructions to be given at trial.

(c) *Additional issues addressed.* The court may identify other issues to be resolved at the pretrial conference. Where issues at the pretrial conference go beyond those set forth in subsection (b) of this rule, the court shall give notice to the parties of the issues to be addressed at the time the notice of pretrial conference is sent out by the court.

(d) *Mandatory when jury trial set.* When a request for a jury trial is made or when the defendant is entitled to a jury trial, a pretrial conference shall be scheduled at the time of the request. The pretrial conference shall be held no less than 15 days before the trial date. At the pretrial conference, the prosecutor and the defendant shall:

(1) Finalize the list of witness to be called at the trial. After the pretrial conference, no additions to the list shall be allowed except upon a showing to the court that the existence of the witness or the content of the witness' proposed testimony could not have been discovered earlier;

(2) Finalize the list of exhibits and mark them for identification;

(3) Specify what additional pretrial motions will be filed;

(4) Determine whether the parties have reached a disposition.

(e) *Additional pretrial conference.* The court may set additional pretrial conferences either on its own or upon the request of either party.
(Code 2012, § 5-31(rule 16); Ord. No. SRO-395-2012, § 5-31(rule 16), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 16), 5-30-2012)

Rule 16.1. Procedure on pretrial motions to suppress.

(a) *Duty of court to inform defendant.* Whenever an issue concerning the constitutionality of the use of specific evidence against the defendant arises before trial, and the defendant is not represented by counsel, the court shall inform the defendant that:

(1) The defendant may, but need not, testify at a pretrial hearing on the circumstances surrounding the acquisition of the evidence;

(2) If the defendant testifies at the hearing, the defendant will be subject to cross examination;

(3) If the defendant testifies at the hearing, the defendant does not waive his or her right to remain silent during the trial; and

(4) If the defendant testifies at the hearing, neither this fact nor defendant's testimony at the hearing shall be mentioned at the actual trial unless the defendant testifies at trial concerning the same matters. If a defendant testifies at both the pretrial suppression hearing and at trial, the defendant may be subject to cross examination at trial regarding defendant's previous testimony given at the pretrial suppression hearing.

(b) *Burden of proof on pretrial motions to suppress evidence.* The prosecutor shall have the burden of proving, by a preponderance of the evidence, the lawfulness in all respects of the acquisition of all evidence which the prosecutor will use at trial.
(Code 2012, § 5-31(rule 16.1); Ord. No. SRO-395-2012, § 5-31(rule 16.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 16.1), 5-30-2012)

Rule 16.2. Withdrawal of jury trial request or waiver of jury trial.

(a) *Withdrawal of jury trial demand.* Demand for jury trial shall only be withdrawn on consent of the defendant.

(b) *Form of withdrawal or waiver.* A withdrawal or waiver of jury trial demand under this rule shall be made in writing or in open court on the record.
(Code 2012, § 5-31(rule 16.2); Ord. No. SRO-395-2012, § 5-31(rule 16.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 16.2), 5-30-2012)

Rule 16.3. Dismissals of prosecution.

(a) *On prosecutor's motion.* The court, on motion of the prosecutor shall order that a prosecution be dismissed at any time upon finding that the purpose of the dismissal is not to avoid the provisions of Rule 7.1.

(b) *On defendant's motion.* The court, on motion of the defendant, shall order that a prosecution be dismissed upon finding that the complaint is insufficient as a matter of law.

(c) *Record.* The court shall state, on the record, its reasons for ordering dismissal of any prosecution.

(d) *Effect of dismissal.* Dismissal of a prosecution shall be without prejudice to commencement of another prosecution, unless the court order finds that the interests of justice require that the dismissal be with prejudice.

(e) *Release of defendant; exoneration of bond.* When a prosecution is dismissed, the defendant shall be released from custody only on the charges being held for the dismissed charge and any appearance bond for the dismissed charges shall be exonerated.
(Code 2012, § 5-31(rule 16.13); Ord. No. SRO-395-2012, § 5-31(rule 16.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 16.3), 5-30-2012)

Secs. 5-183—5-210. Reserved.

DIVISION 5. TRIAL

Rule 17.1. Jury or nonjury trial.

(a) *Jury size and fees generally.* In general, a jury consists of six members of the Community, drawn from the jury list prepared pursuant to section 5-35(c)(1). Any fees payable for jury service shall be pursuant to section 5-35(c)(6).

(b) *Stipulation for a smaller jury.* At any time before the verdict, the parties may, with the court's approval, stipulate in writing or pronounce in open court that the jury may consist of fewer than six persons.

(c) *Nonjury trial.* In a case tried without a jury, the court must find the defendant guilty or not guilty or if applicable, not guilty by reason of insanity. If a party requests, before the finding of guilty or not guilty, the court must state its specific findings of fact in open court or in a written decision or opinion. If the trial judge does not issue a decision at the conclusion of the trial, the trial judge shall issue a decision within five business days after the conclusion of the trial.
(Code 2012, § 5-31(rule 17.1); Ord. No. SRO-395-2012, § 5-31(rule 17.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 17.1), 5-30-2012)

Rule 17.2. Challenges.

(a) *Challenge to the panel.* Either party may challenge the panel on the ground that in its selection there has been a material departure from the requirements of law. Challenges to the panel shall specify the facts on which the challenge is based. Challenges shall be made and decided before any individual juror is examined.

(b) *Challenge for cause.* When there is reasonable ground to believe that a juror cannot render a fair and impartial verdict, the court, on its own initiative, or on motion of any party, shall excuse the juror from service in the case. A challenge for cause may be made at any time, but may be denied for failure of the party making it to exercise due diligence.

(c) *Peremptory challenges.*

(1) In general. Both parties shall be allowed two peremptory challenges. A party may exercise fewer than the allowable peremptory challenge(s) subject to limitations in Rule 17.3(g).

(2) If an alternate juror is selected under Rule 17.3(h), neither party shall be entitled to additional peremptory challenges.

(Code 2012, § 5-31(rule 17.2); Ord. No. SRO-395-2012, § 5-31(rule 17.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 17.2), 5-30-2012)

Rule 17.3. Procedure for selecting the trial jury.

(a) *Swearing panel.* All members of the panel shall swear or affirm that they will truthfully answer all questions concerning their qualifications.

(b) *Calling jurors for examination.* The court or clerk shall then call to the jury box a number of jurors equal to the number to serve plus the number of alternates plus the number of peremptory challenges allowed the parties. Alternatively,

and at the court's discretion, all prospective jurors may be examined by court and counsel. There shall be at least ten names drawn from the jury list.

(c) *Inquiry by the court.* The court shall initiate the examination of jurors by identifying the parties and their counsel, briefly outlining the nature of the case, and explaining the purposes of the examination. The court shall ask any questions which it thinks necessary to determine the prospective jurors' qualifications to serve in the case on trial.

(d) *Voir dire examination.* The court shall conduct a thorough oral examination of prospective jurors. Upon the request of any party, the court shall permit that party a reasonable time to conduct a further oral examination of the prospective jurors. The court may impose reasonable limitations with respect to questions allowed during a party's examination of the prospective jurors, giving due regard to the purpose of such examination. In addition, the court may terminate or limit voir dire on grounds of abuse. Nothing in this rule shall preclude the use of written questionnaires to be completed by the prospective jurors, in addition to oral examination. Parties are encouraged to submit written proposed voir dire questions at least seven days prior to trial.

(e) *Scope of examination.* The examination of prospective jurors shall be limited to inquiries directed to challenge for cause or to information to enable the parties to exercise intelligently their peremptory challenges.

(f) *Challenge for cause.* At any time that cause for disqualifying a juror appears, the court shall excuse the juror before the parties are called upon to exercise their peremptory challenges. Challenges for cause shall be made out of the hearing of the jurors, but a record shall be made.

(g) *Exercise of peremptory challenges.* Following examination of the jurors, the parties shall exercise their peremptory challenges on the clerk's list by alternating strikes, beginning with the prosecutor, until the peremptory challenges are exhausted. Failure of a party to exercise a challenge in turn shall operate as a waiver of the party's remaining challenges, but shall not deprive the other party of any remaining challenges. If the parties fail to exercise the full number of challenges allowed, the clerk shall strike the jurors on the bottom of the list until only the number to serve, plus an alternate, if any remain. Peremptory challenges shall be made outside the presence of the jurors.

(h) *Selection of jury and an alternate juror.* The persons remaining in the jury box or on the list of the panel of prospective jurors shall constitute the jurors for the trial. Just before the jury retires to begin deliberations, the clerk shall, by lot, determine the juror or jurors to be designated as an alternate. The alternate, upon being physically excused by the court, shall be instructed to continue to observe the admonitions to jurors until the alternate juror is informed that a verdict has been returned or the jury has been discharged. In the event a deliberating juror is excused due to inability or disqualification to perform required duties, the court may substitute an alternate juror, unless disqualified, to join in the deliberations. If an alternate joins the deliberations, the jury shall be instructed to begin deliberations anew. In general, the court may empanel no more than two alternate jurors in addition to the regular jury.

(Code 2012, § 5-31(rule 17.3); Ord. No. SRO-395-2012, § 5-31(rule 17.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 17.3), 5-30-2012)

Rule 17.4. Preparation of jurors.

(a) *Oath.* Each juror shall take the following oath: "Do you swear or affirm that you will give careful attention to the proceedings, abide by the court's instructions, and render a verdict in accordance with the law and evidence presented to you?"

(b) *Preliminary instructions.* Immediately after the jury is sworn, the court shall instruct the jury concerning its duties, its conduct, the order of proceedings, the procedure for submitting written questions of witnesses or of the court as set forth in subsection (d) of this section, and the elementary legal principles that will govern the proceeding.

(c) *Note taking; access to juror notes and notebooks.* The court shall instruct the jurors that they may take notes regarding the evidence presented. The court shall provide materials suitable for this purpose. In its discretion, the court may authorize documents and exhibits to be included in notebooks for use by jurors during trial to aid them in performing their duties. Jurors shall have access to their notes and notebooks during recesses and deliberations. After the jury has rendered its verdict, the notes shall be collected by the bailiff or clerk who shall destroy them promptly.

(d) *Juror questions.* Jurors shall be instructed that they are permitted to submit to the court written questions directed to witnesses or to the court; and that opportunity will be given to counsel to object to such questions out of the presence of the jury.

(e) *Court may prohibit.* Notwithstanding the foregoing, for good cause, the court may prohibit or limit the submission of questions to witnesses. (Code 2012, § 5-31(rule 17.4); Ord. No. SRO-395-2012, § 5-31(rule 17.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 17.4), 5-30-2012)

Rule 18. Trial proceedings.

(a) *Order of proceedings.* The trial shall proceed in the following order unless otherwise directed by the court:

(1) The complaint shall be read and the plea of the defendant stated.

(2) The prosecutor may make an opening statement.

(3) The defendant may then make an opening statement or may defer such opening statement until the close of the prosecution's evidence.

(4) The prosecutor shall offer the evidence in support of the charge.

(5) The party calling the witness shall proceed first with direct examination. The noncalling party shall have the opportunity to cross examine the witness. If the noncalling party has exercised its right to cross examine the witness, the party calling the witness shall have a right to conduct a redirect of the witness. The redirect shall be limited in scope to areas covered on cross examination. Re-cross examination shall not be permitted without explicit permission of the court and if permission is granted, the scope of the recross examination shall be to the redirect examination.

(6) The defendant may then make an opening statement if it was deferred, and offer evidence in his or her defense. If the defendant has no evidence to offer and deferred making an opening statement, defendant shall not be allowed to make an opening statement.

(7) If a defendant offers evidence in his or her defense, the prosecutor may offer rebuttal evidence.

(8) The parties may present closing arguments, the prosecutor proceeding first and then defense, and finally prosecution's rebuttal.

(9) The judge shall then charge the jury.

(10) With the permission of court, the parties may agree to any other method of proceeding.

(b) *Proceedings when defendant is charged with prior convictions.* In all prosecutions in which a prior conviction is alleged as a sentencing enhancement, the procedure shall be as follows:

(1) The trial shall proceed initially as though the sentencing allegations were not alleged. When the complaint is read all reference to prior offenses or sentencing allegations shall be omitted. During the trial of the case, no instructions shall be given, reference made, nor evidence received concerning the sentencing allegations, except as permitted by the court after notice of intent to use the prior conviction(s) has been provided to the defendant prior to trial.

(2) If the verdict is guilty, the trial judge shall determine, unless the defendant has admitted to the allegation, the existence of the allegation or prior conviction(s). The

defendant may only be tried on the prior convictions that have been previously disclosed under Rule 15.1. The prosecutor shall bear the burden of proof beyond a reasonable doubt.

(Code 2012, § 5-31(rule 18); Ord. No. SRO-395-2012, § 5-31(rule 18), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 18), 5-30-2012)

Rule 18.1. Exclusion of witnesses and public.

(a) *Witnesses.* Upon motion of either party or on its own motion, the court shall exclude the witnesses(es) from the courtroom during the opening statements and the testimony of other witnesses. The court shall further direct the witnesses(es) not to discuss the case with any other witnesses until all of the witnesses(es) have testified. Once a witness has testified on direct examination and has been made available to all parties for cross examination, the witness shall be allowed to remain in the courtroom unless the court finds that the presence of the witness would be prejudicial to a fair trial.

(b) *Public.* All proceedings shall be open to the public unless the court finds upon a motion by the defendant, the open proceeding would jeopardize the defendant's right to a fair trial by an impartial jury. If the proceeding is closed to the public, a complete record shall be kept of the closed proceeding and made available following the completion of the case.

(c) *Testimony of a child witness or witness with special needs.* At the request of the prosecutor, the defendant, or the guardian ad litem, if any, the court may take protective steps to protect the child witness during testimony. The protective measures include the use of closed circuit television or other such similar recording device for the purposes of interviewing or court testimony when appropriate, and to have an advocate remain with the child prior to and during any recording sessions. The use of closed circuit television or other such similar recording device is appropriate when the trial court, after hearing evidence, determines this procedure is necessary to protect the particular child witness' welfare; and specifically finds the child would be traumatized, not by the courtroom generally, but by the defendant's presence and finds that the emotional distress suffered by the child in the defendant's presence is more than de minimus.

(d) *Investigator.* If the court orders the exclusion of the witnesses, the court may not exclude the investigator for the defendant or the prosecutor.

(e) *Victim.* If a person is designated as a victim of a crime, the victim shall be allowed to be present in the courtroom for the entire proceeding.

(Code 2012, § 5-31(rule 18.1); Ord. No. SRO-395-2012, § 5-31(rule 18.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 18.1), 5-30-2012)

Rule 18.2. Presence of defendant.

The defendant has the right to be present at every stage of the trial, including impaneling of the jury, the giving of jury instructions, and the return of the verdict. If the defendant has been given notice of the trial date and the court determines, after reviewing the factors identified in Rule 9.1, that the defendant voluntarily has not appeared for trial, the trial may proceed in the absence of the defendant at the request of the prosecutor.

(Code 2012, § 5-31(rule 18.2); Ord. No. SRO-395-2012, § 5-31(rule 18.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 18.2), 5-30-2012)

Rule 19. Directed verdict.

(a) *Before verdict.* On motion of the defendant or on its own motion, the court shall enter a judgment of acquittal of one or more offenses charged in the complaint after the evidence on either side is closed if there is no substantial evidence to warrant a conviction. The court's decision on a defendant's motion shall not be reserved, but shall be made with all possible speed. Proceedings under this rule shall be conducted outside the presence of the jury.

(b) *After verdict.* A motion for judgment of acquittal made before the verdict may be renewed by a defendant within ten days after the verdict was returned.

(Code 2012, § 5-31(rule 19); Ord. No. SRO-395-2012, § 5-31(rule 19), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 19), 5-30-2012)

Rule 20.1. Requests for instructions and forms of verdict.

At the close of the evidence or at such earlier time as the court directs, counsel for each party shall submit to the court counsel's written requests for instructions and forms of verdict and shall furnish copies to the other parties.
(Code 2012, § 5-31(rule 20.1); Ord. No. SRO-395-2012, § 5-31(rule 20.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 20.1), 5-30-2012)

Rule 20.2. Rulings on instructions and forms of verdict.

(a) *Conference.* The court shall confer with counsel and inform them of its proposed action upon requests for instructions and forms of verdict prior to final argument to the jury.

(b) *Duty of the court.* The court shall not inform the jury which instructions, if any, are included at the request of a particular party.

(c) *Waiver of error.* No party may assign as error on appeal the court's giving or failing to give any instruction or portion thereof or to the submission or the failure to submit a form of verdict unless the party objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which the party objects and the grounds for the objection.

(d) *Jurors' copies.* The court's preliminary and final instructions on the law shall be in written form. A copy of the final instructions shall be furnished to jurors before the jury retires for deliberations.
(Code 2012, § 5-31(rule 20.2); Ord. No. SRO-395-2012, § 5-31(rule 20.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 20.2), 5-30-2012)

Rule 21.1. Retirement of jurors.

(a) *Retirement.* After instructing the jury, the court shall appoint or instruct the jurors to elect a foreperson. The jurors shall then retire in the custody of a court officer and consider their verdict.

(b) *Permitting the jury to disperse.* The court may in its discretion permit the jurors to disperse after their deliberations have commenced, instructing them when to reassemble. The court shall further instruct the jury that they are not to discuss the matter among themselves unless all jurors are reassembled. The jury shall be also admonished not to converse with involved parties, witnesses(es) or to view any evidence that was not presented during trial.
(Code 2012, § 5-31(rule 21.1); Ord. No. SRO-395-2012, § 5-31(rule 21.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 21.1), 5-30-2012)

Rule 21.2. Materials used during deliberation.

Upon retiring for deliberation, the jurors shall take with them:

(1) Forms of verdict approved by the court, which shall not indicate in any manner the punishment subscribed to the offense(s);

(2) All jurors' copies of written or recorded instructions;

(3) Their notes; and

(4) Such tangible evidence as the court in its discretion shall direct.

(Code 2012, § 5-31(rule 21.2); Ord. No. SRO-395-2012, § 5-31(rule 21.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 21.2), 5-30-2012)

Rule 21.3. Further review of evidence and additional instructions.

After the jurors have retired to consider their verdict, if they desire to have any testimony repeated, or if they or any party request additional instructions, the court may recall them to the courtroom and order the testimony read or give appropriate additional instructions. The court may also order other testimony read or give other instructions, so as not to give undue prominence to the particular testimony or instructions requested. Such testimony may be read or instructions given only after notice is given to the parties and the parties shall have a right to be present before any testimony is read to the jury or any additional instructions are given.
(Code 2012, § 5-31(rule 21.3); Ord. No. SRO-395-2012, § 5-31(rule 21.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 21.3), 5-30-2012)

Rule 21.4. Assisting jurors at impasse.

If the jury advises the court that it has reached an impasse in its deliberations, the court may, in the presence of counsel, inquire of the jurors to determine whether and how court and counsel can assist them in their deliberative process. After receiving the jury's response, if any, the judge may direct that further proceedings occur as appropriate.
(Code 2012, § 5-31(rule 21.4); Ord. No. SRO-395-2012, § 5-31(rule 21.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 21.4), 5-30-2012)

Rule 21.5. Discharge.

The court shall discharge the jurors when:

(1) Their verdict has been recorded as set forth in Rule 22.1;

(2) Upon expiration of such time as the court deems proper, it appears that there is no reasonable probability that the jurors can agree upon a verdict; or

(3) A necessity exists for their discharge.
(Code 2012, § 5-31(rule 21.5); Ord. No. SRO-395-2012, § 5-31(rule 21.5), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 21.5), 5-30-2012)

Rule 22.1. Jury verdict.

The verdict of the jury shall be in writing, signed by all of the jurors and returned to the judge in open court. The verdict must be unanimous.
(Code 2012, § 5-31(rule 22.1); Ord. No. SRO-395-2012, § 5-31(rule 22.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 22.1), 5-30-2012)

Rule 22.2. Types of verdicts.

(a) *General verdicts.* Except as otherwise specified in this rule, the jury shall in all cases render a verdict finding the defendant either guilty or not guilty.

(b) *Insanity verdicts.* When the jury determines that a defendant is not guilty by reason of insanity, the verdict shall so state. If the jury returns a verdict of not guilty by reason of insanity, the court shall refer the matter to prosecutor's office to pursue civil commitment of the defendant if the defendant poses danger to himself/herself or to the Community or if the defendant is severely disabled.

(c) *Different offenses.* If different counts or offenses are charged in the complaint, the verdict shall specify each count or offense of which the defendant has been found guilty or not guilty.

(d) *Different degrees (reserved).* When the verdict of guilty is to an offense which is divided into degrees, the verdict shall specify the degree of which the defendant has been found guilty.*
(Code 2012, § 5-31(rule 22.2); Ord. No. SRO-395-2012, § 5-31(rule 22.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 22.2), 5-30-2012)

Rule 22.3. Conviction of necessarily included offenses (reserved).†

Forms of verdicts shall be submitted to the jury for all offenses necessarily included in the offense charged, an attempt to commit the offense charged or an offense necessarily included therein, if such attempt is an offense. The defendant may not be found guilty of any offense for which no form of verdict has been submitted to the jury.
(Code 2012, § 5-31(rule 22.3); Ord. No. SRO-395-2012, § 5-31(rule 22.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 22.3), 5-30-2012)

Rule 22.4. Polling of the jury.

After the verdict is returned and before the jury is discharged, the jury shall be polled at the request of any party or upon the court's own initiative. If the responses to the jurors do not support the verdict, the court may direct them to retire for further deliberations or they may be discharged.
(Code 2012, § 5-31(rule 22.4); Ord. No. SRO-395-2012, § 5-31(rule 22.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 22.4), 5-30-2012)

***Note—**At the present time, this Code does not contain any offenses that distinguish the severity of the offense by use of different degrees. This provision should be implemented if this Code changes in the future to distinguish the severity of an offense by use of different degrees.

†**Note—** At the present time, attempt to commit a crime is not a lesser included offense. If this Code is amended to include attempt as a lesser included crime, this rule should be implemented.

Secs. 5-211—5-246. Reserved.

DIVISION 6. POST-TRIAL PROCEEDINGS AND SENTENCING

Rule 23. Motions for new trial.

(a) *Defendant's motion.* Upon the defendant's motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires. If the case was tried without a jury, the court may take additional testimony and enter a new judgment.

(b) *Grounds.* The court may grant a new trial for any of the following reasons:

(1) The verdict is contrary to law or the weight of the evidence;

(2) The prosecutor was guilty of misconduct;

(3) A juror(s) has been guilty of misconduct by:

a. Receiving evidence not properly admitted during the trial;

b. Deciding verdict by lot;

c. Perjuring himself/herself or willfully failing to respond fully to a direct question posed during the voir dire examination;

d. Receiving a bribe or pledging his or her vote in any way;

e. Becoming intoxicated during the course of the trial or deliberations;

f. Conversing before the verdict with any interested party about the outcome of the case;

(4) The court has erred in the decision of a matter of law, or in the instruction of the jury on a matter of law to the substantial prejudice of a party;

(5) Newly discovered evidence that was discovered after trial and the defendant had exercised due diligence in securing the newly discovered evidence prior to trial and the evidence would have probably changed the outcome of the trial;

(6) The defendant did not receive a fair trial;

(7) If the defendant was tried in absentia, the defendant establishes by preponderance of evidence that the defendant's absence was not voluntary or was through no fault of the defendant.

(c) *Time to file based upon newly discovered evidence.* Any motion for a new trial grounded on newly discovered evidence must be filed within one year after the verdict or finding of guilty. If an appeal is pending, the court may not grant a motion for a new trial until the appellate court confers jurisdiction back to the Community court.

(d) *Other grounds.* Any motion for a new trial grounded on any reason other than newly discovered evidence must be filed within 30 days after the verdict or finding of guilty, or within such further time as the court sets during the 30-day period.

(Code 2012, § 5-31(rule 23); Ord. No. SRO-395-2012, § 5-31(rule 23), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 23.1), 5-30-2012)

Rule 24.1. Motion to vacate sentence.

The defendant or the prosecutor may move to vacate the sentence if no jurisdiction existed at the time of the conviction or the conviction was obtained in violation of the Community Constitution or laws. The parties shall have one year from the entry of judgment under this rule to seek to vacate the sentence.

(Code 2012, § 5-31(rule 24.1); Ord. No. SRO-395-2012, § 5-31(rule 24.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 24.1), 5-30-2012)

Rule 24.2. Motion to modify or correct sentence.

The court may correct any unlawful sentence or one imposed in unlawful manner within 30 days of the entry of judgment and sentence after giving notice to the parties. The court may correct any clerical errors or mistakes with notice to parties. Parties shall have 30 days to file objections to correction of any clerical errors or mistakes after receiving notice.

(Code 2012, § 5-31(rule 24.2); Ord. No. SRO-395-2012, § 5-31(rule 24.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 24.2), 5-30-2012)

Rule 25. Sealed proceedings and records.

(a) *Public access.* To ensure the public's perception of the integrity and fairness of the courts, the public should have access to the court files. The presumption may be overcome when a compelling reason exists that the public's right of access is outweighed by the interests of the Community and the parties in protecting the court's files from public review.

(b) *Request for sealing of record or proceeding.* The court, any party, or any interested person may request to seal or redact the court records. If the court sets a hearing, a reasonable notice of a hearing must be given to the parties. The court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest.

(c) *Access to sealed or redacted record.* Sealed and redacted court records shall not be accessible to the public or unauthorized court personnel without a court order. Sealed and redacted records shall be kept in a sealed envelope with notice that access is allowed only with an order of the court.

(Code 2012, § 5-31(rule 25); Ord. No. SRO-395-2012, § 5-31(rule 25), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 25), 5-30-2012)

Rule 26.1. Definitions for post-verdict proceedings.

(a) *Judgment.* The term "judgment" means the adjudication of the court based upon the verdict of the jury, upon the plea of the defendant, or upon its own finding following a bench trial that the defendant is guilty or not guilty.

(b) *Sentence.* The term "sentence" means the pronouncement by the court of the penalty imposed upon the defendant after a judgment of guilt.

(c) *Determination of guilt.* The term "determination of guilt" means a verdict of guilty by a jury, a finding of guilt by the court following a bench trial, or the acceptance of the plea of guilty or no contest.

(Code 2012, § 5-31(rule 26.1); Ord. No. SRO-395-2012, § 5-31(rule 26.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.1), 5-30-2012)

Rule 26.2. Time for rendering judgment.

(a) *Upon acquittal.* When a defendant is acquitted of any charge, or of any count of any charge, judgment pertaining to that count or to that charge shall be pronounced and entered immediately.

(b) *Upon conviction.* Upon a determination of guilt on any charge, or on any count of any charge, judgment pertaining to that count or to that charge shall be pronounced and entered together with the sentence.

(c) *Factual determination.* In the event the trial court did not make an affirmative finding of a factual basis for the plea pursuant to Rule 11, before the entry of the judgment of guilt, the trial court shall make such determination. One or more of the following sources may be considered:

(1) Statements made by the defendant;

(2) Police reports; and

(3) Other satisfactory information.

(Code 2012, § 5-31(rule 26.2); Ord. No. SRO-395-2012, § 5-31(rule 26.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.2), 5-30-2012)

Rule 26.3. Date of sentencing; extension.

(a) *Date of sentencing.* Upon a determination of guilt, the court may immediately proceed to sentencing unless the court upon its own motion or upon a request of the parties may set another date for sentencing. The sentencing shall be held within five days after determination of guilt except in cases where a presentence report is required by this Community Code of Ordinances. The date may be extended for good cause.

(b) *Extension of time.* If a presentencing hearing is requested under Rule 26.6, or if good cause is shown, the trial court may reset the date of sentencing within 60 days after the determination of guilt.

(Code 2012, § 5-31(rule 26.3); Ord. No. SRO-395-2012, § 5-31(rule 26.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.3), 5-30-2012)

Rule 26.4. Presentence report.

(a) *When prepared.* A presentence report shall be prepared in all cases mandated by this Community Code of Ordinances. The court may require a presentence report in all cases in which it has discretion over the penalty to be imposed. A presentence report shall not be prepared until after the determination of guilt has been made or the defendant has entered a plea of guilty or no contest. If a presentence report is ordered, the sentencing date shall not be set earlier than 35 days after determination of guilt.

(b) *When due.* Except when a request under Rule 26.3(a), has been granted, the presentence report shall be delivered to the sentencing judge and to parties at least ten calendar days before the date set for sentencing.
(Code 2012, § 5-31(rule 26.4); Ord. No. SRO-395-2012, § 5-31(rule 26.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.4), 5-30-2012)

Rule 26.5. Contents of the presentence report.

(a) *In general.* If ordered, the probation officer must conduct a presentence investigation and submit a report to the court before the court imposes its sentence.

(b) *Restitution.* The probation officer must make reasonable efforts to obtain restitution information and submit a report that contains sufficient information for the court to order restitution.

(c) *Interviewing the defendant.* The probation officer who interviews a defendant as part of a presentence investigation must, on request, give the defendant's counsel reasonable notice of the time and place of the interview and a reasonable opportunity to attend the interview.

(d) *Presentence report.* The presentence report must contain the following information:

(1) The defendant's history and characteristics, including:

a. Any verified criminal convictions of the defendant regardless of the jurisdiction of the conviction;

b. The defendant's financial condition; and

c. Any circumstances affecting the defendant's behavior that may be helpful in imposing sentence or in correctional treatment;

(2) Verified information, stated in a nonargumentative style, that assesses the financial, social, psychological, and medical impact on any individual against whom the offense has been committed; when appropriate, the nature and extent of nonincarceration programs and resources available to the defendant;

(3) When the law provides for restitution, information sufficient for a restitution order; any other information that the court requires.

(e) *Exclusions.* The presentence report must exclude the following:

(1) Any diagnoses that, if disclosed, might seriously disrupt a rehabilitation program;

(2) Any sources of information obtained upon a promise of confidentiality; and

(3) Any other information that, if disclosed, might result in physical or other harm to the defendant or others.

(f) *Victim input.* The probation officer shall make reasonable efforts to obtain the views of the victim regarding the offense and to obtain victim's recommendation regarding sentencing. The victim's input shall be included in the presentence report. If a victim is a juvenile, the probation officer shall comply with the provisions of section 11-255.

(g) *Disclosing the report and recommendation.*

(1) *Time to disclose.* Unless the defendant has consented in writing, the probation officer must not submit a presentence report to the court or disclose its contents to anyone until the defendant has pleaded guilty or no contest or has been found guilty.

(2) *Sentence recommendation.* If the probation officer makes a sentencing recommen-

dation to the court, the sentencing recommendation shall be disclosed to the parties.
(Code 2012, § 5-31(rule 26.5); Ord. No. SRO-395-2012, § 5-31(rule 26.5), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.5), 5-30-2012)

Rules committee note to subsection (d)(1)(A) of this rule. Under section 8-2, the court is required to consider defendant's prior conduct in determining the sentence to be imposed. Additionally, under section 8-6, the court is required to consider the issues that may have contributed to the offense conviction. The committee attempted to strike a balance by only including verified criminal convictions and excluding arrests that did not result in a conviction. The committee felt that the judge should know the defendant's prior criminal record, regardless of the jurisdiction of the conviction, to ensure that the needs of the defendant will be addressed and to protect the Community. A judge may presume the accuracy of verified criminal conviction records unless rebutted by the party opposing the use of the criminal conviction.

Rule 26.6. Request for aggravation or mitigation hearing.

(a) *Request for a presentencing hearing.* When the court has discretion as to the penalty to be imposed, it may on its own initiative, and shall on the request of any party, hold a presentencing hearing at any time prior to sentencing to consider any mitigating or aggravating information.

(b) *Nature, time and purpose of the presentencing hearing.* A presentencing hearing shall not be held until the parties have had an opportunity to examine any reports prepared under Rules 26.4 and 26.5. At the hearing, any party may introduce any reliable, relevant evidence, including hearsay, in order to show aggravating or mitigating circumstances, to show why sentence should not be imposed, or to correct or amplify the presentence, diagnostic or mental health reports, the hearing shall be held in open court and a complete record of the proceedings made.
(Code 2012, § 5-31(rule 26.6); Ord. No. SRO-395-2012, § 5-31(rule 26.6), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.6), 5-30-2012)

Rule 26.7. Notice of objections; special duty of the prosecutor; corrections to presentence report.

(a) *Notice of objections.* Prior to sentencing or presentence hearing, each party shall notify the court and all other parties of any objection it has to the contents of any presentence report prepared under Rule 26.5. The party shall state the reason and any applicable authority for the objection.

(b) *Special duty of the prosecutor.* The prosecutor shall disclose any information upon discovery by the prosecutor, if not already disclosed, which would tend to reduce the punishment to be imposed.

(c) *Corrections to presentence report.* In the event that the court sustains any objections to the contents of a presentence report, the court may take such action as it deems appropriate under the circumstances, including, but not limited to:

(1) Excision of objectionable language or sections of the report.

(2) Ordering a new presentence report with specific instructions and directions.

(3) Directing a new presentence report to be prepared by a different probation officer.

(4) Directing the probation officer to make corrections to the presentence report.

(d) *Disclosure of corrected presentence report.* If the court exercises its authority under subsection (c) of this rule, the probation officer shall disclose the new, excised, corrected, or amended presentence report to the parties within ten calendar days of the court's order. Parties shall have three calendar days to file any objections to the new, excised, corrected, or amended presentence report.
(Code 2012, § 5-31(rule 26.7); Ord. No. SRO-395-2012, § 5-31(rule 26.7), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.7), 5-30-2012)

Rule 26.8. Presence of the defendant.

The defendant has a right to be present at the presentence hearing and shall be present at sentencing unless a defendant has requested a resolution of his or her case under Rule 9.2.
(Code 2012, § 5-31(rule 26.8); Ord. No. SRO-395-2012, § 5-31(rule 26.8), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.8), 5-30-2012)

Rule 26.9. Pronouncement of judgment and sentence.

(a) *Pronouncement of judgment.* In pronouncing judgment, the court shall set forth the defendant's plea, the offense of which the defendant was convicted or found guilty, and a determination of whether any sentencing enhancements are applicable.

(b) *Pronouncement of sentence.* The court shall:

(1) Give the defendant an opportunity to speak on his or her own behalf;

(2) State that it has considered the time the defendant has spent in custody, if any, on the present charge;

(3) Explain to the defendant the terms of the sentence or probation;

(4) Specify the commencement date for the term of imprisonment and any presentence incarceration time that should be credited towards the sentence imposed;

(5) Direct the clerk of court to send to the Community department of corrections or probation office the sentencing order; and

(6) Issue a written judgment within three calendar days of sentencing.

(c) *Sentencing policy.* The court should impose a sentence consistent with the policy set forth in chapter 8.
(Code 2012, § 5-31(rule 26.9); Ord. No. SRO-395-2012, § 5-31(rule 26.9), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.9), 5-30-2012)

Rule 26.10. Duty of the court after pronouncing sentence.

After trial, the court shall, in pronouncing judgment and sentence:

(1) *Appeal rights.* Inform the defendant of his or her right to appeal from the judgment, sentence or both within the time limits established in this Community Code of Ordinances after the entry of judgment and advise the defendant that failure to file a timely appeal will result in the loss of the right to appeal.

(2) *Right to assistance of counsel.*

a. *Own expense.* If the sentence of imprisonment is one year or less for each offense of conviction, the court shall advise the defendant that the defendant has the right to retain counsel at the defendant's own expense.

b. *Appointed counsel.* If the sentence of imprisonment is more than one year for each offense of conviction, the court shall advise the defendant that the defendant has a right to an assistance of attorney and if the defendant is unable to obtain an attorney at the defendant's own expense, an attorney will be appointed on behalf of the defendant.*

(Code 2012, § 5-31(rule 26.10); Ord. No. SRO-395-2012, § 5-31(rule 26.10), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.10), 5-30-2012)

Rule 26.11. Fines and restitution.

(a) *Method of payment; installments.* The court may permit payment of any fine or restitution, or both, to be made within a specified period of time or in specified installments. Restitution shall be payable as promptly as possible in light of the defendant's ability to pay.

(b) *Method of payment; to whom.* The payment of a fine, restitution, or both shall be made to the court, unless the court expressly directs otherwise. Monies received from the defendant shall be applied first to satisfy the restitution order and the payment of any restitution in arrears. The court or the agency or person authorized by the Community to accept payments should, as promptly as practicable, forward restitution payments to the victim.

(c) *Action upon failure to pay a fine.*

(1) *For defendants not on probation.* If a defendant fails to pay a fine or any installment thereof within the prescribed time, the agency or person authorized to accept

*__Note__—Enactment of SRO-418-2013 unreserved subsection (2)b of this rule.

payments shall, within five days, notify the prosecutor and the Community court.

(2) *For defendants on probation.* If a defendant on probation fails to pay a fine, restitution or any installment thereof within the prescribed time, the agency or person authorized to accept payments shall give notice of such delinquency to the defendant's probation officer within five days of the failure to make payments.

(3) *Court action upon failure of defendant not on probation to pay fine or restitution.* Upon the defendant's failure to pay a fine or restitution, the court shall require the defendant to show cause why said defendant should not be held in contempt of court and may issue a summons or a warrant for the defendant's arrest.

(Code 2012, § 5-31(rule 26.11); Ord. No. SRO-395-2012, § 5-31(rule 26.11), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.11), 5-30-2012)

Rule 26.12. Resentencing.

Where a judgment or sentence, or both have been set aside on appeal or on a post-trial motion, the court may not impose a sentence for the same offense, or a different offense based on the same conduct, which is more severe than the prior sentence unless:

(1) It concludes, on the basis of evidence concerning conduct by the defendant occurring after the original sentencing proceeding, that the prior sentence is inappropriate;

(2) The original sentence was unlawful and on remand it is corrected and a lawful sentence imposed; or

(3) Other circumstances exist under which there is no reasonable likelihood that the increase in the sentence is the product of actual vindictiveness by the sentencing judge.

(Code 2012, § 5-31(rule 26.12); Ord. No. SRO-395-2012, § 5-31(rule 26.12), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.12), 5-30-2012)

Rule 26.13. Entry of judgment and sentence.

The judgment of conviction and sentence shall be complete and valid as of the time of their oral pronouncement in open court. If the written judgment differs from oral pronouncement, the oral pronouncement shall control unless the sentences has been modified or corrected pursuant to Rules 24.1 and 24.2.

(Code 2012, § 5-31(rule 26.13); Ord. No. SRO-395-2012, § 5-31(rule 26.13), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 26.13), 5-30-2012)

Secs. 5-247—5-289. Reserved.

DIVISION 7. PROBATION AND PAROLE

Rule 27.1. Manner of imposing probation and parole.

(a) *Probation.* The sentencing court may impose on a probationer such conditions that will promote rehabilitation. In addition, the appropriate probation officer or other person designated by the court may impose on the probationer regulations which are necessary to implement the conditions imposed by the court and are not inconsistent with them. All conditions and regulations shall be in writing, and a copy of them given to the probationer. The probationer shall sign an acknowledgment of conditions and regulations of probation at the time of sentencing.

(1) Probation conditions shall be imposed to assist persons convicted to address the issues that may have contributed to the conviction. Conditions may include, but shall not be limited to: counseling and treatment for drug abuse, alcohol abuse, and/or other issues that may affect criminal behaviors. Probation conditions shall be reasonably related to the offender's conviction, the safety of the Community, and the rehabilitation of the offender.

(2) The length of probation may be for a period of time that exceeds the possible time for incarceration. The length of the probation term shall be as long as necessary to address any of the issues that may have contributed to the conviction, but

the length of probationary period shall not exceed the maximum time permitted under chapter 8.

(b) *Parole eligibility and conditions.*

(1) Any person sentenced to incarceration by the Community court who is eligible for parole, under chapter 8, may petition the court for parole by filing a request for parole with the clerk of the court.

(2) A judge of the Community court must conduct a hearing prior to issuing any order granting parole. No parole shall be granted without an order bearing the signature of the judge of the Community court. The prosecutor and the victim shall have an opportunity to address the court prior to any grant of parole. The court shall notify the prosecutor and the victim at least five business days prior to the hearing.

(3) Parole shall be supervised by a probation officer and conditions of parole shall be imposed consistent with chapter 8.

(4) Parole shall not be available to offenders whose charged offense requires mandatory incarceration under this Community Code of Ordinances. If a defendant is serving multiple sentences of incarceration that have been ordered to serve consecutively, the defendant shall not be eligible for parole until the defendant has served at least one-half of each of the sentences that was imposed and the sentence imposed was not mandatory under this Community Code of Ordinances.

(Code 2012, § 5-31(rule 27.1); Ord. No. SRO-395-2012, § 5-31(rule 27.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.1), 5-30-2012)

Rule 27.2. Modification and clarification of conditions and regulations.

(a) *Notice prior to modification or clarification.* The sentencing court may modify or clarify any condition which it has imposed and any regulation imposed by a probation officer after notice has been provided to the prosecutor and the defendant of the proceedings.

(b) *Time for request.* At any time prior to absolute discharge, a probationer, probation officer, counsel for the defendant, or prosecutor may request the sentencing court to modify or clarify any condition or regulation. Additionally, persons entitled to restitution pursuant to a court order, based upon a change of circumstances, may request the sentencing court at any time prior to absolute discharge to modify the manner in which restitution is paid.

(c) *Hearing.* The court may, where appropriate, hold a hearing on any request for modification or clarification. The court should hold a hearing on the requests for modification if it would adversely affect the probationer. The court also may accept a probationer's written consent to an adverse modification of the terms of probation without a hearing. A probationer is not entitled to a hearing if the modification is in the defendant's favor or the request is for a clarification of the terms of probation.

(d) *Acknowledgement.* A written copy of any modification or clarification shall be given to the probationer.

(Code 2012, § 5-31(rule 27.2); Ord. No. SRO-395-2012, § 5-31(rule 27.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.2), 5-30-2012)

Rule 27.3. Early termination of probation and no early termination of parole.

(a) *Eligibility for early termination of probation.* After having been placed on probation for one-half of the term ordered and upon motion of the probation officer, the prosecutor's motion, or the defendant's motion or on its own initiative, the sentencing court, after notifying the prosecutor, may terminate probation and discharge the probationer absolutely. The probation term shall not be terminated early if the defendant owes any restitution. If the prosecutor objects to the early termination, the court shall conduct a hearing before proceeding under this rule.

(b) *No early termination of parole.* A person placed on parole is ineligible for early termination of parole.

(Code 2012, § 5-31(rule 27.3); Ord. No. SRO-395-2012, § 5-31(rule 27.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.3), 5-30-2012)

Rule 27.4. Order and notice of discharge.

Upon expiration or early termination of probation, the probationer is discharged absolutely. Upon early termination, the court, upon request, shall furnish the probationer with a copy of the order of discharge.
(Code 2012, § 5-31(rule 27.4); Ord. No. SRO-395-2012, § 5-31(rule 27.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.4), 5-30-2012)

Rule 27.5. Initiation of revocation proceedings; securing the probationer's presence; notice.

(a) *Petition to revoke probation.* If there is reasonable cause to believe that a probationer has violated a written condition or regulation of probation, the probation officer or the prosecutor may petition the sentencing court to revoke probation. If the petition is filed by the probation office, the probation office shall forward a copy of the petition to the prosecutor. A petition to revoke probation shall not automatically stay the term of probation. However, upon a request by the Community, the judge may stay the term of probation when the petition to revoke probation has been filed.

(b) *Securing the probationer's presence.* After a petition to revoke has been filed, the court may issue a summons directing the probationer to appear on a specified date for a revocation hearing or may issue a warrant for the probationer's arrest. Unless a summons has been requested by the probation officer or the prosecutor, the court should issue a warrant for the arrest of the probationer.
(Code 2012, § 5-31(rule 27.5); Ord. No. SRO-395-2012, § 5-31(rule 27.5), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.5), 5-30-2012)

Rule 27.6. Initial appearance after arrest.

When a probationer is arrested on a warrant issued under Rule 27.5(b), his or her probation officer, if any, shall be notified within 24 hours by the court, and the probationer shall be taken before the court at next scheduled initial appearance. The court shall advise the probationer of his or her rights to counsel under Rule 6, inform the probationer that any statement he or she makes prior to the hearing may be used against him or her, right to call witness(es) and to have those witness(es) summoned to court, right to cross examine the witness(es) who are testifying against the defendant, set the date of the revocation hearing, and make a release determination under Rule 8. A presumption of detention shall exist unless the defendant establishes good cause.
(Code 2012, § 5-31(rule 27.6); Ord. No. SRO-395-2012, § 5-31(rule 27.6), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.6), 5-30-2012)

Rule 27.7. Revocation of probation.

(a) *Probation violation arraignment.*

(1) The probation violations arraignment shall be held on the date stated on the summons or within seven days of the probationer's initial appearance under Rule 27.6, before the court.

(2) The court shall inform the probationer of each alleged violation of probation and the probationer shall admit or deny each allegation.

(3) If no admission is made or if an admission is not accepted, the court will set a violation hearing. Both parties may consent to the violation hearing proceeding immediately.

(b) *Probation violation hearing.*

(1) A hearing to determine whether a probationer has violated a written condition or regulation of probation shall be held before the sentencing court within ten days after the probation violation arraignment. The court, upon the request of the probationer or the prosecutor, made in writing or in open court on the record, may set the hearing date beyond the ten day time limitation for good cause.

(2) The probationer shall be present at the hearing unless the probationer voluntarily absents himself or herself.

(3) A violation must be established by a preponderance of the evidence. Each party may present evidence and shall have the right to cross examine witnesses who tes-

tify. The court may receive any reliable evidence not legally privileged, including hearsay.

(4) If the court finds that a violation of a condition or regulation of probation occurred, it shall make specific findings of the facts which establish the violation and shall set a disposition hearing.

(c) *Disposition.*

(1) The disposition shall be held immediately after a determination that a probationer has violated a condition or regulation of probation.

(2) Upon a determination that a violation of a condition or regulation of probation occurred, the court may revoke, modify or continue probation. If probation is revoked, the court shall pronounce sentence in accordance with the procedures in Rules 26.10 through 26.14. Upon revocation, the court may reinstate the original suspended sentence or upon a motion by the prosecutor, the court may reduce the original sentence. Probation shall not be revoked for violation of a condition or regulation of which the probationer has not received a written copy.

(3) Disposition upon determination of guilt of subsequent offense. If there is a determination of guilt, as defined by Rule 26.1(c), of a subsequent criminal offense committed in the Community by the probationer after being placed on probation by the court which placed the probationer on probation, no violation hearing shall be required and the court shall set the matter down for a disposition hearing at the time set for entry of judgment on the new criminal offense. The prosecutor shall not be precluded from proceeding on a violation based upon the subsequent charged offense where the defendant was acquitted or where the subsequent charge was dismissed.

(d) *Record.* A complete record of the probation violation arraignment, probation violation hearing and disposition shall be made.

(Code 2012, § 5-31(rule 27.7); Ord. No. SRO-395-2012, § 5-31(rule 27.7), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.7), 5-30-2012)

Rule 27.8. Admissions by the probationer.

(a) Before accepting an admission by a probationer that he or she has violated a condition or regulation of probation, the court shall address the probationer personally and shall determine that he or she understands the following:

(1) The nature of the violation of probation to which an admission is offered.

(2) The right to counsel if he or she is not represented by counsel.

(3) The right to cross examine the witnesses who testified against him or her.

(4) The right to present witnesses in his or her behalf and to have the witnesses summoned into court.

(5) The right to be presumed innocent.

(6) That by admitting a violation of a condition or regulation of probation, the probationer will waive the right to have the appellate court review the proceedings by way of direct appeal.

(7) If the alleged violation involves a criminal offense for which he or she has not yet been tried, the probationer shall be advised that regardless of the outcome of the present proceeding, he or she may still be tried for that offense, and any statement made by the probationer at the proceeding may be used to impeach his or her testimony at the trial.

(b) The court shall also determine that the probationer waives these rights, that his or her admission is voluntary and not the result of force, threats or promises and that there is a factual basis for the admission.

(Code 2012, § 5-31(rule 27.8); Ord. No. SRO-395-2012, § 5-31(rule 27.8), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.8), 5-30-2012)

Rule 27.9. Revocation of parole.

The same procedures as set forth in Rules 27.5 through 27.8, shall apply to parole revocation procedures except:

(1) The parolee shall not be eligible for release pending the disposition;

(2) If the parolee has been found to have violated the conditions of parole, the parolee shall serve out the remainder of the original sentence.

(Code 2012, § 5-31(rule 27.9); Ord. No. SRO-395-2012, § 5-31(rule 27.9), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.9), 5-30-2012)

Rule 27.10. Rejection of probation.

Any probationer may reject probation. A probationer who wishes to reject probation must notify the probation office or the court. Upon request by the probationer of his or her intention to reject probation, the court shall set the matter for a hearing within 14 days and the proceedings shall be commenced pursuant to Rule 27.7. Once the court finds the probationer has rejected probation, the probationer shall be ordered to serve the entire suspended sentence immediately.

(Code 2012, § 5-31(rule 27.10); Ord. No. SRO-395-2012, § 5-31(rule 27.10), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 27.10), 5-30-2012)

Secs. 5-290—5-316. Reserved.

DIVISION 8. POWERS OF THE COURT

Rule 29.1. Subpoenas.

(a) *Content.* A subpoena must state the court's name and the title of the proceeding, and command the witness to attend and testify at the time and place the subpoena specifies. The party requesting the subpoena must provide the clerk of the court with the name and the current address(es) of the witness(es). The party must submit the request for subpoena at least 15 days prior to the trial or hearing date or by any deadlines set by the court. If a hearing or trial date is continued for less than 15 days from the original setting, the party's original submission shall satisfy this provision.

(1) *Issuance.* The clerk of the Community court may issue subpoenas for the attendance of witnesses on the request of any of the parties to the case, which subpoenas shall bear the signature of the clerk issuing it.

(2) *Service.* Subpoenas shall be served by the Community police or such other person authorized to serve subpoenas within the Community. Subpoenas shall be served within the Community in the same manner as civil summons and complaints are served. If a subpoena has not been served at least five days before trial, the party requesting the subpoena shall be notified of the nonservice.

(3) *Failure to obey subpoenas.* Failure to obey a properly served subpoena shall be deemed an offense and shall be punishable under section 6-42.

(b) *Producing documents and objects.*

(1) *In general.* A subpoena may order the witness to produce any books, papers, documents, data, or other objects the subpoena designates. The court may direct the witness to produce the designated items to the requesting party before trial

(2) *Quashing or modifying the subpoena.* On motion made promptly, the court may quash or modify the subpoena if compliance would be unreasonable or oppressive.

(c) *Place of service.* In the Community, a subpoena requiring a witness to attend a hearing or trial may be served at any place within the exterior boundaries of the Community. If the witness resides outside the exterior boundaries of the Community, the witness still may be served by certified mail with return receipt.

(d) *Alternative form of subpoena.* Any subpoena requiring attendance at a criminal proceeding may, at the option of the requesting party, allow the person subpoenaed to hold himself or herself available on a given date to appear at a specified place on 30 minutes' notice, if he or she can provide on the return of service a telephone number at which the witness can be reached during regular court hours on that date and produce themselves at trial within the same timeframe.

(Code 2012, § 5-31(rule 29.1); Ord. No. SRO-395-2012, § 5-31(rule 29.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 29.1), 5-30-2012)

Rule 29.2. Contempt of court.

Any person who willfully disobeys a lawful writ, process, order or judgment of a court by doing or not doing an act or thing forbidden or required, or who engages in any other willfully disobedient conduct which obstructs the administration of justice, or which lessens the dignity and authority of the court, may be held in contempt of the court.
(Code 2012, § 5-31(rule 29.2); Ord. No. SRO-395-2012, § 5-31(rule 29.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 29.2), 5-30-2012)

Rule 29.3. Procedure for contempt committed in the presence of the court.

(a) *Summary procedure.* The court may summarily find in contempt any person who commits contempt in the actual presence of the court and timely notifying the person of such finding. The judge shall prepare and file a written order reciting the grounds for the finding, including a statement that the judge saw or heard the conduct constituting the contempt.

(b) *Punishment.* The court shall inform the person of the specific conduct on which the contempt finding is based upon and give the person a brief opportunity to present evidence or argument relevant to the sanction to be imposed. For each incident of contempt, the court may not impose a fine exceeding $500.00 or incarceration exceeding 24 hours.
(Code 2012, § 5-31(rule 29.3); Ord. No. SRO-395-2012, § 5-31(rule 29.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 29.3), 5-30-2012)

Rule 29.4. Disposition and notice of contempt committed outside the presence of the court.

If a person commits contempt outside the presence of the court, a person shall not be found in contempt without a hearing held after notice of the charge. The hearing shall be set so as to allow a reasonable time for the preparation of the defense; the notice shall state the time and place of the hearing, and the essential facts constituting the contempt charged, the notice may be given orally by the judge in open court in the presence of the person charged, or by an order to show cause. The defendant is entitled to subpoena witnesses on his or her behalf and will have a right to be represented by counsel if facing incarceration as a form of sanction. The defendant shall not be held in custody pending the contempt proceeding. The court must request the prosecutor to prosecute the contempt unless the interest of justice requires appointment of a special prosecutor. Punishment for conviction under this section shall be controlled by Rule 29.5.
(Code 2012, § 5-31(rule 29.4); Ord. No. SRO-395-2012, § 5-31(rule 29.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 29.4), 5-30-2012)

Rule 29.5. Punishment for contempt and disqualification of judge.

The court may not punish a person under the provisions of this rule by imprisonment or a fine greater than allowed under section 6-42. If the conduct involves gross disrespect or a personal attack upon the character of the judge, or if the judge's conduct is so integrated with the contempt that the judge contributed to or was otherwise involved in it, the citation will be referred to another judge who shall hold a hearing to determine the guilt and imposition of any sentence.
(Code 2012, § 5-31(rule 29.5); Ord. No. SRO-395-2012, § 5-31(rule 29.5), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 29.5), 5-30-2012)

Secs. 5-317—5-345. Reserved.

DIVISION 9. DEFERRED PROSECUTION AND SENTENCE

Rule 30.1. Application for suspension of prosecution.

(a) *Deferred prosecution.* Whenever after filing of the complaint, but prior to a plea of guilty or trial, the prosecutor determines that it would serve the ends of justice to defer prosecution of the defendant, the prosecutor with the written stipulation of the defendant, shall notify the court of the intention to suspend prosecution. Upon receipt of such notice, the court shall order that further proceedings be suspended for up to two years. Time limits under Rule 7.2, shall be excluded during the period of deferred prosecution.

(b) *Deferred sentencing.* Whenever after entry of a plea of guilty, the prosecutor determines that it would serve the ends of justice to defer sentencing to allow the defendant to participate in a rehabilitation program, the prosecutor with the stipulation of the defendant may by written motion, apply to the court to defer sentencing. After filing of the motion by the prosecutor for deferred sentencing, the court may order that the sentencing be deferred for up to two years.
(Code 2012, § 5-31(rule 30.1); Ord. No. SRO-395-2012, § 5-31(rule 30.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 30.1), 5-30-2012)

Rule 30.2. Resumption of prosecution and sentence.

(a) *Deferred prosecution.* If the defendant fails to fulfill the terms of the deferred prosecution, the prosecutor may file a written motion requesting that the order suspending prosecution be vacated. The prosecutor shall serve a copy of the written motion to the defendant or to defendant's counsel. Upon filing of the motion to resume prosecution, the court shall vacate the order suspending prosecution and order that the prosecution of the defendant be resumed.

(b) *Deferred sentence.* If the defendant fails to fulfill the conditions of the deferred sentence, the prosecutor may file a written motion requesting that the order deferring sentence be vacated and the matter be set for sentencing. The prosecutor shall serve a copy of the written motion to the defendant or to defendant's counsel. Upon filing of the motion for setting of the sentencing date, the court shall vacate the order deferring sentencing and order that a sentencing date be set within five days of the entry of the order.
(Code 2012, § 5-31(rule 30.2); Ord. No. SRO-395-2012, § 5-31(rule 30.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 30.2), 5-30-2012)

Rule 30.3. Dismissal of prosecution.

At the expiration of time period for suspension of prosecution or deferred sentencing, the court shall order the prosecution dismissed. If the defendant satisfactorily completes the deferred prosecution program, the court shall dismiss the charges with prejudice, after giving notice to the prosecutor. If the defendant satisfactorily completes the deferred sentencing program, the court shall vacate the finding of guilt and dismiss the case with prejudice.
(Code 2012, § 5-31(rule 30.3); Ord. No. SRO-395-2012, § 5-31(rule 30.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 30.3), 5-30-2012)

Secs. 5-346—5-374. Reserved.

DIVISION 10. MOTIONS AND TIME COMPUTATIONS

Rule 31.1. Motions.

(a) *Form and content.* All motions shall be on 8.5-inch by 11-inch paper and shall contain a short precise statement of the precise nature of the relief requested, shall be accompanied by a brief memorandum stating the specific factual grounds therefore and indicating the precise legal points and shall be served to the opposing party. Each party may file a written response within 15 days and serve a response to the moving party. The moving party may file a reply within five days of after service of response. The reply shall not raise any new issues and shall be directed only to matters raised in a response. If no response is filed, the motion shall be deemed submitted on the record before the court.

(b) *Length limitations.* A motion including its supporting memorandum and the response, including the supporting memorandum, shall not exceed 15 pages, exclusive of attachments. The reply shall not exceed eight pages, exclusive of attachments.
(Code 2012, § 5-31(rule 31.1); Ord. No. SRO-395-2012, § 5-31(rule 31.1), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 31.1), 5-30-2012)

Rule 31.2. Hearing; oral arguments.

Upon request of any party or on its own motion, the court may set any motion for argument or an evidentiary hearing.
(Code 2012, § 5-31(rule 31.2); Ord. No. SRO-395-2012, § 5-31(rule 31.2), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 31.2), 5-30-2012)

Rule 31.3. Requests to be in writing.

All requests for oral arguments or an evidentiary hearing shall be in writing, served upon the opposing party and filed with the clerk.
(Code 2012, § 5-31(rule 31.3); Ord. No. SRO-395-2012, § 5-31(rule 31.3), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 31.3), 5-30-2012)

Rule 31.4. Service and filing.

A party shall file motions or other pleadings under these rules by filing an original with the clerk of the Community court and serving a copy to the opposing party. The party shall serve a copy of the motion by United States Postal Service mail or personal service to the opposing party. If the parties consent to service by electronic means, a party is in compliance with the service requirement under these rules by serving an electronic copy to the consenting party by verifiable electronic means. The parties shall be required to keep an updated and serviceable address on file with the court.
(Code 2012, § 5-31(rule 31.4); Ord. No. SRO-395-2012, § 5-31(rule 31.4), 6-1-2012; Ord. No. SRO-402-2012, § 5-31(rule 31.4), 5-30-2012)

Rule 31.5. Time.

(a) *Computation.* In computing any time period, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or Community-designated holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. In any event that the Community Council authorizes less than a full business day as a holiday, that entire day shall be excluded from time computation. Unless specified as calendar days or specific number of hours, when a period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and designated Community holidays shall be excluded in the computation.

(b) *Enlargement of time.* When an act is required or allowed to be done at or within a specified time, the court may order the period enlarged if the request is made before the expiration of the specified time period prescribed with or without cause. If the request is made after the expiration of the specified time period, the court may enlarge the time period only if good cause exists.

(c) *Additional time after service by mail.* Whenever a party has the right or is required to do an act within a specified period of time after the service of notice or other paper upon that party and the notice or other paper is served by mail, five calendar days shall be added to the prescribed period.
(Code 2012, § 5-31; Ord. No. SRO-395-2012, § 5-31, 6-1-2012; Ord. No. SRO-402-2012, § 5-31, 5-30-2012)

Sec. 5-375. Forms.

Waiver of Counsel

Salt River Pima-Maricopa Indian Community Case # _____
-vs-

_____
Defendant
The purpose of this form is to advise you of your right to have counsel assist you and to allow you to give up that right if you choose.

I have been informed of my right to have counsel represent me at every stage of the proceedings in this case, and that if I cannot afford to hire my own counsel, this Court will assign the Defense Advocate Office to represent me. I have been advised that I may withdraw this waiver upon due notice to the Court at any time and that if waiver of counsel is withdrawn, I have the right to appointed or retained counsel at any stage of the proceedings. I understand that I will not be entitled to repeat any proceeding held or waiver prior to that withdrawal solely on the ground of the subsequent appointment or retention of counsel.

I Choose to Proceed in This Matter Without Counsel and Waive My Right to Assistance of Counsel.

_____ _____
Signature of Defendant Date

Certificate of Judge
I hereby certify that the above named defendant has been informed, by me, of the right to assistance of counsel in accordance with Rule 6 of Salt River Pima-Maricopa Indian Rules of Criminal Procedure; that the defendant has knowingly elected to proceed without counsel and

____ has executed a waiver of counsel in my presence;
____ has refused to sign a waiver.

_____ _____
Signature of Judge Date

Waiver of Jury Trial

Salt River Pima-Maricopa Indian Community Case # _____
-vs-

_____
Defendant

The purpose of this form is to advise you of your right to trial by jury and to allow you to give up that right if you choose.

I understand that I have been charged with a crime of
_____
_____
_____

_____ and that if I am found guilty, I can be given severe punishment, including imprisonment, a fine, and other penalty.

I understand that I am entitled to a trial by jury on these charges. The right to a trial by jury means the right to have my guilt or innocence decided by six members of the Community whose decision must be unanimous.

I understand that once I made the decision to give up my right to jury trial, I may only change my mind only with the permission of the Court, and may not change my mind at all once the trial has actually begun.

Do Not Sign This Form if You Want to Have Jury Trial.

_____ _____
Signature of Defendant Date

I have explained to the defendant the right to a trial by jury and consent to the defendant's waiver of it.

_____ _____
Signature of Defense Counsel Date

Certificate of Judge
I approve of the waiver of the jury trial in this case.

_____ _____
Signature of Judge Date

(Code 2012, app.; Ord. No. SRO-395-2012, app., 6-1-2012; Ord. No. SRO-402-2012, app., 5-30-2012)

Secs. 5-376—5-433. Reserved.

ARTICLE V. RULES OF CIVIL APPELLATE PROCEDURE

Rule 1. Scope of rule.

These rules govern the procedure in appeal of all civil cases adjudicated by Community court and extraordinary writs in the Community court of appeals. These rules shall be known as Salt River Pima-Maricopa Indian Community Rules of Civil Appellate Procedure (SR-CAP) and shall be liberally construed to promote substantial justice and fairness to parties.
(Code 1981, § 4-32(rule 1); Code 2012, § 4-32(rule 1); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 1), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 1), 3-1-2013)

Rule 1.1. Definitions.

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

Advocate means a person who is authorized to practice law in the Community court and who is not a licensed attorney.

Appellant or *petitioner* means the party seeking the appeal.

Appellate clerk means the clerk of the court of appeals or another person, in the absence of clerk of the court of appeals, who has been designated as the person responsible for docketing and maintaining the records of the court of appeals.

Appellee or *respondent* means the party responding to the appeal.

Attorney means a person who meets the following criteria:

(1) Must be a graduate of a law school;

(2) Licensed to practice law in any state of the United States; and

(3) Has been authorized to practice law in the Community court.

Civil cases mean where a party involved in the case did not face any criminal sanctions as a result of adjudication by Community court.

Code means this Community Code of Ordinances of the Community.

Community or *SRPMIC* means Salt River Pima-Maricopa Indian Community.

Counsel has the same meaning as the term "advocate" or "attorney."

Court administrator means the person responsible for duties under section 4-2.

Court of appeals or *court* means the appellate division of the Community court as defined in this Community Code of Ordinances.

Decision means the disposition by order, opinion or memorandum by the court of appeals.

Juvenile, minor or *child* means a person who was under 18 years old at the time of the initiation of the action in trial court and who was subject to the jurisdiction of the trial court.

Personal administrator means a person who has been appointed by the court to manage the legal affairs of another because of incapacity or death. A personal representative manages and dispenses the assets of an estate according to the law.

Trial court means the Community court that had original jurisdiction to hear the case.

(Code 1981, § 4-32(rule 1.1); Code 2012, § 4-32(rule 1.1); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 1.1), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 1.1), 3-1-2013)

Rule 2. Parties permitted to appeal.

(a) *Final case-dispositive orders and judgments in civil cases.* Any party aggrieved by the verdict or final judgment in a civil action may bring an appeal.

(b) *Special action.* To avoid piecemeal litigation, only final orders and judgments should be appealable. However, a nonfinal order or judgment may be appealed through a special action if the nonfinal order or judgment meets the following criteria:

(1) The order must conclusively determine the disputed question;

(2) Resolve an important issue completely separate from the merits of the action; and

(3) The party will not have issue reviewable on appeal after final judgment.

(c) *Examples.* Some examples of nonfinal orders that may be appealed through a special action are:

(1) A contempt finding for violation of trial court's order compelling disclosure of privileged or confidential information;

(2) An order granting, denying, or modifying of injunctive relief;

(3) A temporary child custody orders; or

(4) An order forfeiting or exonerating bond in criminal cases.

(Code 1981, § 4-32(rule 2); Code 2012, § 4-32(rule 2); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 2), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 2), 3-1-2013)

Rule 3. Time for filing notice of appeal and consolidation of appeals.

(a) *Time for filing.* The party appealing the adverse ruling or judgment shall have 14 calendar days from entry of adverse ruling to file a notice of appeal with the trial court. If the trial court announces its ruling orally and states that a written order or judgment will issue, but does not issue a written order or judgment within five business days, the time for filing the notice of appeal shall run from the fifth day following the oral pronouncement of the trial court's order or judgment. If the trial court does not indicate at the time of oral pronouncement that a written order or judgment will issue, the time period for filing the appeal will run from the date of the oral pronouncement.

(b) *Dismissal of late appeals.* Failure of a party to timely file the notice of appeal shall result in a dismissal of the appeal.

(c) *Extension of time to file appeal.* Upon the party's motion, the trial court may extend the time to file an appeal by an additional 14 calendar days.

(d) *Consolidation of appeals.* Appeals may be consolidated by order of the court of appeals upon its own motion, or upon motion of a party, or by stipulation of the parties to the several appeals.
(Code 1981, § 4-32(rule 3); Code 2012, § 4-32(rule 3); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 3), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 3), 3-1-2013)

Rule 4. Form and contents of the notice of appeal.

(a) *Filing the notice of appeal.* An appeal shall be taken by filing a notice of appeal with the clerk of the trial court within the time limitations set forth in Rule 3 along with a filing fee of $50.00. A notice of cross-appeal shall be filed within five business days after service of the notice of the appeal along with a filing fee of $50.00. If the Community or an agency of the Community is the appellant, cross-appellant, or petitioner, filing fee will not be required.

(b) *Contents of the notice of appeal.* The Notice of appeal shall identify the order or judgment appealed from and shall be signed by the appellant, or if represented by counsel, the appellant's counsel. The caption shall be the same as the trial court caption, including the case number, except the party filing the appeal shall be designated as the appellant or as petitioner.

(c) *Additional information required.* The notice of appeal filed by the appellant shall contain the name, telephone number, email address, and physical and mailing addresses, if known, of the appellant, the appellant's counsel, the appellee, and appellee's counsel. Each party shall be responsible for keeping the court of appeals informed of current addresses, e-mail address, and telephone number. Failure to comply with this subsection shall not be grounds for dismissal, but the party shall comply with the requirements of this subsection within five business days of receiving notice from the appellate clerk regarding any deficiency.

(d) *Service of notice of appeal.* After receiving a notice of appeal, the clerk of the trial court shall file stamp the notice of appeal and forward a file stamped copy to the appellate clerk and appellee or respondent. After receiving a file stamped copy from the clerk of the trial court, the appellate clerk shall assign an appellate docket number.

(e) *Special considerations for appeals involving minors.* Any appeal taken from the order or judgment involving minors shall be filed under seal by the appellate clerk. All opinions, decisions, or orders of the court of appeals shall not identify the minor by the minor's full name and the court of appeals should ordinarily identify the minor by initials of first and last name only.
(Code 1981, § 4-32(rule 4); Code 2012, § 4-32(rule 4); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 4), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 4), 3-1-2013)

Rule 5. Responsibility of the parties; transcripts.

The appellant shall be responsible for arranging the preparation of the transcript of the proceedings and designating the record with the trial

court clerk. If the appellant only orders partial transcripts of the proceedings, the appellant must notify the opposing party of its intention to order partial transcripts. The opposing party then shall have five business days from receipt of the notice to request the additional transcripts. The party requesting the transcripts shall be responsible for the costs of the preparation of the transcripts. Any transcripts shall be prepared by a transcriptionist who has been approved by the Community court. The clerk of the Community court shall maintain a list of transcriptionists who have been approved by the Community court. In lieu of transcripts, the appellant may request that the entire recording of the trial be designated as part of the trial record.
(Code 1981, § 4-32(rule 5); Code 2012, § 4-32(rule 5); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 5), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 5), 3-1-2013)

Rule 6. Record on appeal.

(a) *Composition.* The record on appeal as prepared by the trial court clerk shall include the following:

(1) A certified copy of the transcripts or the entire recording of the trial court proceedings;

(2) All documents, papers, books and photographs introduced into evidence;

(3) All pleadings and documents in the trial court file; and

(4) Minute entries.

The clerk of the trial court shall also prepare an index of the record and make the index part of the record. The parties may request by stipulation deletion of papers, documents or photographs that are deemed unnecessary for the appeal.

(b) *Unavailability of recording of proceedings.* If the recording of the proceeding is unavailable, the clerk of the trial court shall immediately serve on the parties and the appellate clerk the unavailability of the recordings. Within ten business days of the receipt of such notice, the appellant may prepare a statement of the evidence or proceedings from the best available means which shall be filed with the trial judge who presided over the matter and a copy sent to the appellee's counsel or if unrepresented, to appellee. Within ten business days after service of the appellant's statement, the appellee may prepare objections and propose amendments to the appellant's statements and submit them to the trial judge for approval. If the appellant does not prepare a statement of the evidence or proceedings, the appellee may prepare his or her own statement within 21 calendar days of notice of unavailability of the recordings and submit it to the trial court for approval.

(c) *Correction or modification of the record when record is unavailable.* If a dispute arises as to what actually occurred at the trial court, parties shall request the trial court to settle any differences or disputes. The trial court shall have limited jurisdiction to resolve any disputed part of the record and shall resolve the dispute within ten calendar days after the parties have filed their statements under this rule.

(d) *Stipulated record.* In lieu of record on appeal, the parties may prepare and sign a statement of the case showing how the issue(s) presented by the appeal arose and the trial court's ruling.
(Code 1981, § 4-32(rule 6); Code 2012, § 4-32(rule 6); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 6), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 6), 3-1-2013)

Rule 7. Transmission of the record.

(a) *Time for transmission.* Within 14 calendar days after the filing of the notice of appeal, the clerk of the trial court shall transmit to the appellate clerk, a copy of the pleadings, documents, transcripts, recordings, and minute entries and the original paper and photographic exhibits of a manageable size that were filed with the Community court along with an index of the record set forth in this rule.

(b) *Extension of time limits.* The clerk of the trial court may have an additional seven calendar days for transmission of the record by giving notice to the parties and to the appellate clerk. If the clerk of the trial court needs an extension

longer than seven calendar days, the clerk of the trial court must request the extension in writing to the court of appeals.

(c) *Notice to parties.* Upon receipt of the record, the appellate clerk shall docket the date of the receipt of the record and give notice to all parties that the complete record has been filed. A copy of the record shall also be prepared for each party. Each party shall be responsible for obtaining the copy of the record from the appellate clerk.

(d) *Appeals involving minors.* If a party to the appeal is a minor or the appeal involves custody or dependency action under chapter 10 or 11, the clerk of the Community court shall transmit the record on appeal to the appellate clerk within ten calendar days of filing of the notice of appeal. No extension of time to prepare the record shall be allowed unless approved by the court of appeals.
(Code 1981, § 4-32(rule 7); Code 2012, § 4-32(rule 7); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 7), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 7), 3-1-2013)

Rule 8. Filing and service.

(a) *Service.* Copies of all papers filed by any party shall, at or before the time of filing, be served by the party on all other parties to the appeal. Service on a party represented by counsel shall be made on counsel. Service may be personal or by mail. Personal service includes delivery of the copy to the other party's counsel or if unrepresented, to the other party's physical address that is on record with the court of appeals. A party's obligation for service by mail is complete on mailing if the service is made by certified mail. The parties may agree to service by means other than by mail or personal service.

(b) *Certification.* All briefs, petitions, motions, and notices presented for filing shall contain a certification of service in the form of a statement of the date and manner of service and the names of the persons served, certified by the person who made service.

(c) *Number of copies.* An original and three copies of all briefs, petitions, motions, responses, replies and notices shall be filed with the appellate clerk.
(Code 1981, § 4-32(rule 8); Code 2012, § 4-32(rule 8); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 8), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 8), 3-1-2013)

Rule 9. Time computation and extension of time.

(a) *Computation.* In computing any time period, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or Community-designated holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. In any event that the Community Council authorizes less than a full business day as a holiday, that entire day shall be excluded from time computation. Unless specified as calendar days, when a period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and designated Community holidays shall be excluded in the computation.

(b) *Extension of time.* When an act is required or allowed to be done at or within a specified time, the court of appeals may order the period extended if the request is made before the expiration of the specified time period prescribed with or without cause. If the request is made after the expiration of the specified time period, the court may extend the time period only if good cause exists. The court of appeals may not extend the time for filing the notice of appeal.

(c) *Additional time after service by mail.* Whenever a party has the right or is required to do an act within a specified period of time after the service of notice or other paper upon that party and the notice or other paper is served by mail, five business days shall be added to the prescribed period.
(Code 1981, § 4-32(rule 9); Code 2012, § 4-32(rule 9); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-

1980; Ord. No. SRO-402-2012, § 4-32(rule 9), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 9), 3-1-2013)

Rule 10. Motions.

(a) *Form and content.* All motions shall be on 8.5-inch by 11-inch paper and shall contain a short statement of the precise nature of the relief requested and shall be accompanied by a brief memorandum stating the specific factual grounds therefore and indicating the relevant legal points. Each party may file a written response within 15 calendar days after the moving party has complied with service under Rule 8. The moving party may file a reply within seven calendar days after the responding party has complied with service under Rule 8. The reply shall not raise any new issues and shall be directed only to matters raised in a response. If no timely response is filed, the court shall decide the motion based upon the record before the court and the opposing party gives up or loses the right to file a response.

(b) *Length limitations.* A motion including its supporting memorandum and the response, including the supporting memorandum shall not exceed 15 pages, double spaced, exclusive of attachments, and shall be prepared in a proportionally faced typeface, font size 13 or larger. The reply shall not exceed eight pages, double spaced, exclusive of attachments and shall be prepared in a proportionally faced typeface, font size 13 or larger.

(c) *Effect of motions on briefing schedule.* The filing of a motion will not automatically affect the briefing schedule as set in Rule 12 or in Rule 12.1. If a party wishes to reset the briefing schedule, the moving party should request a new briefing schedule at the time of the filing of the motion.

(d) *Notice of supplemental authority.* If after the completion of the briefing and before a decision is issued and a party becomes aware of a significant and pertinent authority, the party may advise the court of the significant and pertinent authority. The party must state why the supplemental authority is significant and pertinent.

(e) *Compliance with Rule 8.* All parties shall comply with requirements set forth in Rule 8.

(Code 1981, § 4-32(rule 10); Code 2012, § 4-32(rule 10); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 10), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 10), 3-1-2013)

Rules Committee Note: The committee had concerns that if the filing of a motion would result in an automatic resetting of the briefing schedule, some individuals may file a frivolous motion to obtain an automatic extension on the briefing schedule. The committee agreed that the court of appeals should have the final say to deny an extension of time to file the briefs if a party files a frivolous motion.

Rule 11. Motion to dismiss.

(a) *Voluntary dismissal.* If all the parties to the appeal file a stipulation requesting the dismissal of the appeal, the appeal shall be dismissed. The appellant may, prior to filing of the appellant's opening brief, move to dismiss the appeal.

(b) *Involuntary dismissal.* The court of appeals may dismiss the appeal upon its own motion or upon motion of the appellee for want of prosecution unless good cause is shown why the appeal should not be dismissed. A failure of the appellant to file a brief will result in dismissal of the appeal.

(c) *Effect of cross-appeals on dismissal of appeal.* If a cross-appeal is pending and the court dismisses the appeal, the cross-appellant may proceed with the cross-appeal. The opening brief for the cross-appellant will be due 21 calendar days from the date that appellant's opening brief was due and the response and reply briefs will conform to Rule 12.

(Code 1981, § 4-32(rule 11); Code 2012, § 4-32(rule 11); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 11), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 11), 3-1-2013)

Rule 12. Briefs.

(a) *Time for filing.* The appellant or petitioner shall have 21 calendar days to file its principal brief after the complete record is transmitted to the court of appeals. The appellee or respondent shall have 21 calendar days to file its principal brief after the appellant's compliance with service of its principal brief under Rule 8. The appellant may file a reply brief within ten calendar days after the appellee's compliance with service of its

principal brief under Rule 8. The brief is deemed timely filed if it is received by the appellate clerk within the time limits set forth in this rule.

(b) *Form and length of the briefs.* A brief shall be on 8.5-inch by 11-inch paper and shall be stapled or bound so that the brief stays together and shall have a cover page. The front cover page shall contain:

(1) The name of the court;

(2) The assigned appellate case number and the trial court case number;

(3) The title of the case;

(4) The title of the brief (e.g., principal brief);

(5) The name, telephone number and the mailing address of the counsel representing the party or if unrepresented, the name, telephone number and the mailing address of the party.

Except by permission of the court, a principal brief may not exceed 35 pages, double spaced and be prepared in proportionately spaced typeface with a font size 13 or larger. Any reply brief may not exceed 20 pages, double spaced, and be prepared proportionately spaced typeface with a font size 13 or larger.

(c) *Contents of appellant's brief.* The appellant's brief shall include the following:

(1) A table of contents with page references;

(2) A table of authorities, alphabetically arranged with references to the pages mentioned or cited on the brief;

(3) A statement of the case, indicating briefly the basis for the appellate court's jurisdiction, the nature of the case, the course of proceedings and the disposition in the trial court;

(4) A statement of facts relevant to the issues presented for review with appropriate references to the record. The statement of facts shall not contain arguments and may be combined with the statement of the case;

(5) A statement of issue(s) presented for review. The court of appeals will consider the statement of issue(s) presented for review to contain every subsidiary issue fairly comprised;

(6) An argument which shall contain the contentions of the appellant with respect to the issues presented and the reasons with citations to the authorities consistent with section 5-1 and the parts of the record relied upon for the argument. The argument may contain a brief summary. With each issue presented for review, the proper standard of review* shall be identified with relevant authority at the outset of the discussion of the issue; and

(7) A short conclusion stating the precise remedy requested.

(d) *Contents of appellee's brief.* The appellee's brief shall contain the same contents as appellant's brief except that no statement of the case is required.

(e) *Contents of reply brief.* The reply brief shall be confined to the response to questions of law or fact raised by the appellee's brief.

(f) *No further brief.* Unless the court of appeals permits a party to file additional briefing, no further briefing shall be allowed.

(g) *Noncompliance.* The court of appeals may strike a brief which does not substantially conform to the requirements of this rule or is illegible. After striking the brief, the court may permit the party to file an amended brief in compliance with this rule and set a new briefing schedule.

(h) *Briefs involving multiple appellants or appellees.* In cases involving more than one appellant or appellee, including cases consolidated for appeal, any number of appellant or appellee may join in a single brief and the appellant or appellee may adopt by reference any part of the brief of another.

(i) *Time to file briefs where a minor is a party to appeal or subject of the appeal.* If a party to the appeal is a minor or the appeal involves custody or dependency action under chapter 10 or 11, an appellant/petitioner shall have 14 calendar days after the complete appellate record is transmitted to the court of appeals to file the principal brief.

An appellee/respondent shall 14 calendar days after the appellant's compliance with service of its principal brief under Rule 8. An appellant shall have seven calendar days after the appellee/respondent's compliance with of its principal brief under Rule 8 to file a reply brief.

(Code 1981, § 4-32(rule 12); Code 2012, § 4-32(rule 12); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 12), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 12), 3-1-2013)

Subsection (c)(6). To assist the practitioners, the Committee has drafted an outline regarding the applicable standard of review. Please see Committee Note attached as an Appendix.

Rules Committee Note: The court of appeals should give latitude to pro-per litigants in complying with Rule 12. The court should exercise its discretion and not strike a brief filed by a pro-per litigant even if the brief does not substantially comply with the requirement of Rule 12 and accept the brief if accepting the brief would promote justice and fairness.

Rule 12.1. Briefs on cross-appeals.

(a) *Applicability.* This rule applies to a case in which a cross-appeal is filed.

(b) *Designation of appellant.* The party who files a notice of appeal first is the appellant for the purposes of this rule. If notices are filed on the same day, the plaintiff in the prior proceeding is the appellant. These designations may be modified by the parties' agreement or by court order. The trial clerk shall be responsible for designating and notifying the parties of their status either as an appellant or as an appellee.

(c) *Briefs.*

(1) *Appellant's principal brief.* The appellant must file a principal brief in the appeal. That brief must comply with Rule 12(b) and (c).

(2) *Appellee's principal and response brief.* The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. That appellee's brief must comply with Rule 12(b) and (c), except that the brief need not include a statement of the case or a statement of the facts unless the appellee is dissatisfied with the appellant's statement.

(3) *Appellant's response and reply brief.* The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 12(b) and (c), except that none of the following need appear unless the appellant is dissatisfied with the appellee's statement in the cross-appeal:

a. The jurisdictional statement;

b. The statement of the issues;

c. The statement of the case;

d. The statement of the facts; and

e. The applicable standard of review.

(4) *Appellee's reply brief.* The appellee may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 12(b) and (c) and must be limited to the issues presented by the cross-appeal.

(5) *No further briefs.* Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.

(d) *Time to serve and file a brief.* Briefs must be served and filed as follows:

(1) The appellant's principal brief, within 21 calendar days after the record is filed;

(2) The appellee's principal and response brief, within 21 calendar days after the appellant's compliance with service of its principal brief under Rule 8;

(3) The appellant's response and reply brief, within 21 calendar days after the appellee's compliance with service of its principal and response brief under Rule 8; and

(4) The appellee's reply brief, within ten calendar days after the appellant's compliance with service of its response and reply brief under Rule 8.

(e) *Additional time limitation to file briefs where any party to the cross-appeal is a minor.* If any party to the appeal is a minor or the appeal involves custody or dependency action under chapter 10 or 11, an appellant shall have 14 calendar days after the complete appellate record is trans-

mitted to the court of appeals to file the principal brief. An appellee/respondent shall have 14 calendar days to file a principal and response brief after the appellant's compliance with service of the appellant's principal brief under Rule 8. An appellant shall have seven calendar days to file a response and reply brief after the appellee's compliance with service of appellee's principal and response brief under Rule 88. An appellee shall have seven calendar days to file a reply brief after appellant's compliance with service of appellant's response and reply brief under Rule 88.
(Code 1981, § 4-32(rule 12.1); Code 2012, § 4-32(rule 12.1); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 12.1), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 12.1), 3-1-2013)

Rule 12.2. Accelerated appeals.

At any time after filing of the appeal, but before the due date of the appellant's opening brief, the parties may file a stipulated motion to accelerate the briefing schedule.
(Code 1981, § 4-32(rule 12.2); Code 2012, § 4-32(rule 12.2); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 12.2), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 12.2), 3-1-2013)

Rule 13. Oral arguments.

(a) *Request and setting of oral arguments.* Any party may request an oral argument prior to the date that the reply brief is due. The request must be made in writing. If no request for oral arguments is made, the court of appeals may still schedule oral arguments. If the court grants a party's request for oral arguments or sets one on its own initiative, the appellate clerk shall schedule the oral arguments to occur within 30 calendar days of the completion of the briefing and notify the parties of the date and place for oral arguments at least 14 calendar days prior to the date fixed for oral arguments. The court of appeals may consider the appeal without oral arguments if the court of appeals finds that the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral arguments.

(b) *Time limitations.* Unless ordered otherwise by the court of appeals, each side may have 30 minutes for oral arguments. Arguments of multiple parties or amicus curiae for the appellant or appellee shall be allocated by the parties to conform to these limits. A party does not have use all of the time allowed. The appellant opens and concludes the argument.

(c) *Hearing of appeals in open court.* All oral arguments, except where a minor is a party to or the subject of the appeal, shall be heard in open court. A recording of the oral arguments shall be made.

(d) *Failure to appear at oral arguments.* If a party fails to appear, the court of appeals may hear arguments from the party who is present, and the case will be decided on the briefs and the argument heard. If neither party appears for oral arguments, the case will be decided on the briefs.
(Code 1981, § 4-32(rule 13); Code 2012, § 4-32(rule 13); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 13), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 13), 3-1-2013)

Rule 14. Stay of appeal.

The court of appeals on motion of the party or on its own initiative may stay an appeal while a motion for new trial is pending. If any stay is ordered, the appellate clerk shall notify all parties and the clerk of the trial court. Any proceedings in the court of appeals, including the preparation of the record, shall be stayed until further order of the court of appeals. The appellant shall have 14 calendar days to notify the appellate clerk after the trial court rules on the motion for new trial either to reinstate the appeal or to dismiss the appeal.
(Code 1981, § 4-32(rule 14); Code 2012, § 4-32(rule 14); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 14), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 14), 3-1-2013)

Rule 15. Disposition and orders.

(a) *Ancillary orders.* The court of appeals may issue such orders as needed for the effective administration of the court of appeals.

(b) *Disposition.* The court of appeals may reverse, affirm, or remand the action of the trial court and issue any necessary and appropriate orders.

(Code 1981, § 4-32(rule 15); Code 2012, § 4-32(rule 15); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 15), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 15), 3-1-2013)

Rule 16. Stays and injunctive relief.

(a) *Motion for stay.*

(1) *Initial motion in the trial court.* A party must ordinarily move first in the trial court for a stay of the judgment or order of a trial court pending appeal.

(2) *Motion in the court of appeals; conditions on relief.* A motion for stay of the judgment or order of a trial court pending appeal may be made to the court of appeals.

a. Requirements.

1. The motion must show that moving first in the trial court would be impracticable; or the trial court denied the motion or failed to afford the relief requested and state any reasons given by the trial court for its action.

2. The motion must also include the reasons for granting the relief requested and the facts relied on, originals or copies of affidavits or other sworn statements supporting facts subject to dispute, and relevant parts of the record.

b. The moving party must give reasonable notice of the motion to all parties.

c. A motion under this rule must be filed with the appellate clerk and normally will be considered by a three-justice panel of the court of appeals. In an exceptional case in which time requirements make that procedure impracticable, the motion may be made to and considered by a single justice. If a single justice decides the motion, any party may request a three-justice panel to reconsider the matter by filing the request within five business days of the decision.

d. The court may condition relief on a party's filing a bond or other appropriate security in the trial court.

(b) *Automatic stays of judgments involving monetary awards.* If a judgment is award of monetary amount only, a judgment shall be stayed upon the party filing a bond equal to the amount of the monetary award with the clerk of the trial court.

(Code 1981, § 4-32(rule 16); Code 2012, § 4-32(rule 16); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 16), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 16), 3-1-2013)

Rule 17. Certified questions.

(a) *Requirements.* The trial court may certify a question for special action in its order involving Community law to the court of appeals if it meets the following criteria:

(1) The certified question must control the outcome of the case pending before the trial court;

(2) The certified question involves a controlling question of law as to which there is substantial ground for difference of opinion;

(3) An immediate appeal from the order may materially advance the ultimate termination of the litigation; and

(4) The parties stipulate to the submission of the certified question.

(b) *Time for filing and content.* If the parties receive certification from the trial court, the parties may file a joint petition seeking special action and containing the following:

(1) The question of law to be answered;

(2) A statement of all relevant facts necessary to answer the certified question; and

(3) A copy of an order, or opinion, or parts of the record for an understanding of the matters set forth in the petition.

(c) *Compliance with Rule 8.* All parties shall comply with requirements set forth in Rule 8.

(d) *Acceptance of jurisdiction.* The court of appeals shall review the certification request and may accept jurisdiction.

(1) If jurisdiction is accepted, the court of appeals may order the parties to file additional briefs addressing the certified question.

(2) If briefing is ordered, the order shall set forth the time periods for filing briefs and may also set a date for oral arguments.

(3) If the jurisdiction is not accepted, the court of appeals should issue an order explaining why it is declining jurisdiction.

(e) *Stay of proceedings.* An appeal under this rule shall stay proceedings in the trial court.
(Code 1981, § 4-32(rule 17); Code 2012, § 4-32(rule 17); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 17), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 17), 3-1-2013)

Rule 18. Composition of justices.

A panel consisting of three justices will consider and decide the merits of any appeals, petitions, or motions. Any justice disqualified under section 4-36(b) or (c) shall not serve on the appellate panel. If a justice is disqualified, another qualified justice shall be chosen to complete the three-justice panel. The parties shall be advised of the assignment of justices by notice from the appellate clerk. A party shall have five business days after receiving notice of assigned justices to file a motion to disqualify a justice for cause.
(Code 1981, § 4-32(rule 18); Code 2012, § 4-32(rule 18); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 18), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 18), 3-1-2013)

Rule 19. Opinions and disposition.

(a) *Time limitations.* The court of appeals shall issue an opinion, memorandum or order within 30 calendar days after hearing oral arguments or completion of any supplemental briefing, whichever occurs later.

(b) *Disposition by opinion.* The court of appeals should issue an opinion when a majority of the justices determines that the disposition:

(1) Establishes, alters, modifies or clarifies a rule of law;

(2) Calls attention to a rule of law which appears to have been generally overlooked;

(3) Criticizes existing law;

(4) Involves a legal or factual issue of unique interests or substantial public importance; or

(5) If the disposition of a matter is accompanied by separate concurring or dissenting opinion of a justice.

(c) *Disposition by memorandum.* Memorandum decisions and orders shall not be used as precedent nor cited in any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

(d) *Precedent.* Only opinions shall be used as precedent.

(e) *Designation of disposition.* The disposition of the case shall contain in the caption the designation opinion, memorandum or order.

(f) *Notification to parties.* After the court of appeals issues its opinion, memorandum, or order, the appellate clerk, shall forward a copy of the decision, memorandum or order to all parties within one business day.
(Code 1981, § 4-32(rule 19); Code 2012, § 4-32(rule 19); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 19), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 19), 3-1-2013)

Rule 20. Entry of judgment.

(a) *Entry.* A judgment is entered when it is recorded in the docket. The appellate clerk must enter the judgment within 21 calendar days after receiving the court's opinion, memorandum or order if a petition for panel rehearing is not requested. If a petition for panel rehearing has been filed, the appellate clerk shall enter the judgment within five calendar days after the court of appeals has ruled on the petition for panel rehearing.

(b) *Notice to parties.* Within one business day after the judgment is entered, the appellate clerk shall serve a copy of the judgment by mail, electronic delivery, or by personal service to the parties a copy of the opinion, memorandum, order or the judgment, and the date the judgment was entered.
(Code 1981, § 4-32(rule 20); Code 2012, § 4-32(rule 20); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 20), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 20), 3-1-2013)

Rule 21. Petitions for panel rehearing.

(a) *Time to file.* Except as otherwise provided in this rule, a petition for panel rehearing may be filed within 15 calendar days after the appellate court issues its decision or memorandum by filing an original and three copies of the petition with the appellate clerk. The opposing party is not required to file an answering petition unless ordered by the court. The court should not grant a panel rehearing without first giving the opposing party an opportunity to file an answering petition.

(b) *Grounds for panel rehearing.* A petition for panel rehearing may be presented only on the following grounds:

(1) A fact or law, material to the decision, was overlooked by the panel of the court of appeals;

(2) The decision is in conflict with an express statute or controlling decision; or

(3) The court of appeals employed inappropriate procedures or considered facts outside the record on appeal.

(c) *Time limitations for decision.* Upon a majority vote of the panel, the court of appeals may grant or deny the petition for rehearing within 15 calendar days after receipt of the petition or answering petition, if any. If granted, the parties shall submit briefs as provided in Rule 12 on the issues permitted to be raised. The court of appeals may grant oral arguments.
(Code 1981, § 4-32(rule 21); Code 2012, § 4-32(rule 21); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 21), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 21), 3-1-2013)

Rule 22. Issuance of mandate.

(a) *Petition for rehearing not filed.* When no petition for rehearing is filed, the clerk of the court of appeals shall issue a mandate within seven business days of the expiration of time for filing a petition for rehearing. The mandate consists of the certified copy of the judgment and a copy of the court's opinion or memorandum.

(b) *Petition for rehearing filed.* A mandate shall not issue until the court of appeals has disposed of a petition for rehearing.

(c) *Effective date of mandate.* The mandate will be effective from the date the mandate is issued. The issuance of the mandate shall terminate the proceeding in the court of appeals.
(Code 1981, § 4-32(rule 22); Code 2012, § 4-32(rule 22); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 22), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 22), 3-1-2013)

Rule 23. Substitution of parties.

(a) *Death of a party.* If a party to an appeal dies while the appeal is pending;

(1) The personal administrator of the deceased party may be substituted in the deceased party's place, upon motion of any party.

(2) The motion shall be served upon all parties to the appeal.

(3) If the deceased party has no personal administrator, then any party may advise

the court of appeals of the death and the court of appeals will direct appropriate proceedings.

(b) *Substitution for reasons other than death.* If a substitution of a party is necessary for any reason other than death, substitution shall be made in accordance with the procedure prescribed in subsection (a)(1) of this section.

(c) *Public officers; death or separation from office.* When a public officer in his or her official capacity is a party to an appeal and ceases to hold the office while the appeal is pending, his or her successor shall be automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but failure to enter such an order shall not affect the substitution. When a public officer in his or her official capacity is a party to an appeal, he/she may be described as a party by his or her official title rather than by name, but the appellate court may require that his/her name be added.
(Code 1981, § 4-32(rule 23); Code 2012, § 4-32(rule 23); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 23), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 23), 3-1-2013)

Rule 24. Withdrawal of counsel.

A counsel who files the notice of appeal, motions, briefs, or petitions in the court of appeals is considered counsel of record until the court of appeals allows the counsel to withdraw as counsel of record.
(Code 1981, § 4-32(rule 24); Code 2012, § 4-32(rule 24); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 24), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 24), 3-1-2013)

Rule 25. Amicus curiae.

(a) *Only permitted with leave of court.* An amicus curiae brief shall be filed only with permission of the court of appeals.

(b) *Motion for leave to file.* The motion for leave to file must be accompanied by the proposed brief and state:

(1) The interest of the applicant; and

(2) The reasons why applicant's amicus curiae brief is necessary and why the matters asserted by the applicant are relevant.

(c) *Contents of brief.* An amicus brief must comply with Rule 12(b). An amicus brief does not need to comply with Rule 12(c), but must include the following:

(1) A table of contents, with page references;

(2) A table of authorities;

(3) The identity of the amicus curiae;

(4) The counsel or party who authored the brief; and

(5) A certificate of service in compliance with Rule 8.

(d) *Time to file.* An amicus curiae brief supporting a party shall be filed within seven days of the filing of the principal brief by the party being supported. If the amicus curiae brief does not support either the appellant or the appellee, the brief shall be filed within seven days of the filing of the appellee's principal brief.
(Code 1981, § 4-32(rule 25); Code 2012, § 4-32(rule 25); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 25), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 25), 3-1-2013)

Rule 26. Extraordinary writs.

(a) *Writs of mandamus and prohibition.* A party petitioning for a writ of mandamus or of prohibition shall file a petition with the appellate clerk along with the filing fee of $50.00 within the time limitations set forth in Rule 3. If the Community or an agency of the Community is the petitioner, filing fee will not be required. The filing fee shall not be required if the party has been given permission to proceed as indigent. The petition shall contain:

(1) A statement of acts necessary for an understanding of the issues presented;

(2) A statement of issues presented;

(3) A reason why the writ should be issued;

(4) A statement of the relief sought;

(5) A copy of any order, or opinion, or parts of the record which is necessary for an understanding of the matters set forth in the petition; and

(6) A certification of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service.

(b) *Designation of parties.* All parties to the proceeding in the trial court, other than the petitioner are respondents for all purposes under this rule.

(c) *Compliance with Rule 8.* The petitioner shall comply with requirements set forth in Rule 8.

(d) *Action on the petition.*

(1) If the court of appeals is of the opinion that the writ should not be granted, it shall summarily deny the petition. Otherwise, the court of appeals shall order the respondent to answer within a fixed period of time.

(2) The appellate clerk shall serve the order on all respondents. Two or more respondents may file a joint answer.

(3) The court of appeals may invite or order the trial court to address the petition or may invite an *amicus curiae* to address the petition. A trial court is not permitted to file an answer without leave of the court of appeals.

(4) The appellate clerk shall advise the parties of the date of oral argument if ordered by the court of appeals. Rule 13 shall govern the procedure for arguments and, for purposes of Rule 13, petitioner shall be substituted in as appellant and respondent shall be substituted as appellee.

(5) The appellate clerk shall send a copy of the final disposition order to the trial court.

(e) *Other extraordinary writs.* Petitions for extraordinary writs, other than those for mandamus, prohibition, or habeas corpus shall conform so far as practicable to the procedures prescribed in this rule.

(Code 1981, § 4-32(rule 26); Code 2012, § 4-32(rule 26); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 26), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 26), 3-1-2013)

Rule 27. Writ of habeas corpus.

(a) *Filing and contents.* An application for writ of habeas corpus shall be filed with the appellate clerk along with a filing fee of $25.00. If the Community or an agency of the Community is the petitioner, filing fee will not be required. The filing fee shall not be required if the party has been given permission to proceed as indigent. The petition shall state at a minimum the following:

(1) The name and location of the petitioner;

(2) The name and address of the person having custody or will have custody of the petitioner;

(3) The date of judgment or conviction and the terms and length of confinement;

(4) The criminal offenses involved, and any pleas entered;

(5) The reasons the petitioner believes he/she is being held illegally, with facts supporting each reason; and

(6) The relief sought.

(b) *Service of petition.* The petition shall be served on the prosecutor's office and the person having custody of the petitioner, who shall be the respondent. Service shall be made on the respondent on the same date the petition is filed with the appellate court clerk.

(c) *Answer; reply.* The respondent shall file an answer to the petition within 14 calendar days of the date the petition is filed with the appellate court clerk. The petitioner may file a reply to the answer within seven calendar days of service of the answer or notify the appellate court clerk that a reply will not be filed.

(d) *Application to Community court.* A party must apply to Community court for writ of habeas corpus before seeking relief from the court of appeals. If a party seeks writ of habeas corpus without first seeking relief in the Community court, the court may summarily dismiss the request for writ of habeas corpus or transfer the case to the Community court.
(Code 1981, § 4-32(rule 27); Code 2012, § 4-32(rule 27); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 27), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 27), 3-1-2013)

Rule 28. Appeal as indigent.

A party who desires to proceed on appeal as indigent shall file with the court of appeals a motion for leave so to proceed together with a sworn statement showing the party's inability to pay the fees and costs of the appeal or to give security, the party's belief that the party is entitled to redress, and a statement of the issues the party intends to present on appeal. If the court of appeals grants the request, the payment of fees or costs or the giving of security is waived. If the court of appeals denies the request, the party shall have 15 calendar days to submit necessary filing fees, costs, or security. If a party fails to submit the fees, costs, or security after being denied indigent status, the party's appeal, special action, or writ shall be dismissed by the appellate clerk.
(Code 1981, § 4-32(rule 28); Code 2012, § 4-32(rule 28); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 28), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 28), 3-1-2013)

Rule 29. Interest on civil judgments.

If a judgment for money is affirmed, whatever interest is allowed by law and ordered by the trial court shall be payable from the date the judgment was rendered in the trial court. If a judgment is modified or reversed with a direction that a judgment for money be entered in the trial court, the judgment shall contain instructions with respect to interest.
(Code 1981, § 4-32(rule 29); Code 2012, § 4-32(rule 29); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 29), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 29), 3-1-2013)

Rule 30. Prevailing party may be entitled to costs.

The court shall have the discretion to award costs on appeal and in original proceedings to the successful party against the other party; provided, however, that costs awarded to appellant in special proceedings to review the trial court's rulings, orders, or judgments will ordinarily be assessed against the real party in interest, namely, the party interested in upholding the trial court's action, rather than against the Community or the Community court.
(Code 1981, § 4-32(rule 30); Code 2012, § 4-32(rule 30); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 30), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 30), 3-1-2013)

Rule 31. Sealed proceedings and records.

(a) *Public access.* Except for appeals involving minors, the public should have access to the court files to ensure the public's perception of the integrity and fairness of the courts. The presumption may be overcome when a compelling reason exists that the public's right of access is outweighed by the interests of the Community and the parties in protecting the court's files from public review.

(b) *Request for sealing of record or proceeding.* The court, any party, or any interested person may request to seal or redact the court records. If the court sets a hearing, a reasonable notice of a hearing must be given to the parties. The court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest.

(c) *Access to sealed or redacted record.* Sealed and redacted court records shall not be accessible to the public or unauthorized court personnel without a court order. Sealed and redacted re-

cords shall be kept in a sealed envelope with notice that access is allowed only with an order of the court.

(Code 1981, § 4-32(rule 31); Code 2012, § 4-32(rule 31); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 31), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 31), 3-1-2013)

Rule 32. Suspension of rules.

Except for provisions in Rule 3(c), the court of appeals may, on its own or a party's motion, upon good cause, suspend the requirements or provisions of any of these rules in a particular case and may order proceedings in accordance with its direction.

(Code 1981, § 4-32(rule 32); Code 2012, § 4-32(rule 32); Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32(rule 32), 5-30-2012; Ord. No. SRO-411-2013, § 4-32(rule 32), 3-1-2013)

APPENDIX

Rules Committee Note to Rule 12(c)(6): The Rules require the parties to advise the court of appeals of the applicable standard of review on appeals. The following is a brief outline of standard of review and errors. This committee note is not intended to bind the court of appeals, but is a guide for parties filing an appeal with the court of appeals. A party using this outline should remember that the committee note is for reference only and the court of appeals will be the ultimate decider of the applicable standard of review and errors that will be used in the Community.

Generally, there are four standards of review: *de novo*, abuse of discretion, clearly erroneous, and substantial evidence.

The de novo review literally means to review anew or afresh. The court of appeals gives no deference to the lower court's determination and reviews the case as if the court of appeals was sitting as the trial court. Questions of statutory interpretation, jurisdiction, and questions of law are generally subject to *de novo* review.

A second standard and much more deferential to the trial court's decision is Abuse of Discretion. A trial court is given wide latitude in exercising its decision making authority. Questions involving discovery issues, sanctions for violations of discovery, exclusion of evidence/witnesses, and denial/grant of motion to continue would be reviewed for abuse of discretion. A trial court would abuse its discretion if the trial court's decision is based upon an erroneous interpretation of the law or the court makes a clearly erroneous finding of fact.

A third standard of review is clearly erroneous. The standard gives great deference to the trial court's findings of fact. It is not whether the court of appeals would have reached a different outcome if it were the finder of facts, but whether the trial court's findings are plausible in context to the entire record. To find that a trial court's findings are clearly erroneous, the court of appeals would have to be definitively and firmly convinced that the trial court made a mistake.

A fourth standard of review is substantial evidence for jury verdicts. Substantial evidence is defined as whether a reasonable person might accept as adequate to support a conclusion even if it is possible to draw a contrary conclusion from the evidence. Additionally, the court of appeals will not assess the credibility of the witnesses or weigh the evidence.

Sometimes, the applicable standard of review will be determined by its context where it involves a mixed question of law and facts. It will be a *de novo* review if the question of law dominates the review or a clearly erroneous standard if the question of fact is the predominant issue.

Even if a party had objected to the error, the court of appeals may uphold the outcome at the trial if the error is harmless. An error is harmless if it is more probable than not that the prejudice resulting from the error did not materially affect the verdict.

In addition to the harmless error, there are additional types of errors that the court of appeals may review.

Structural Error. Structural errors infect the entire trial process which undermines the integrity of the judicial proceeding. Examples of structural errors include: denial of right to counsel, trial by a biased judge, denial of public trial, denial of jury trial, and denial of right to self-representation. If a structural error occurs, the court of appeals will not conduct any prejudice analysis. Instead, there will be an automatic reversal of the conviction.

Invited Error. If a trial judge takes a certain action(s) at the request of the party, the party cannot then later claim that the trial judge erred by granting the party's request. Examples include jury instructions and evidentiary rulings. In these situations, the party would be denied relief based upon an invited error doctrine.

Fundamental Error. A fundamental error is an "error going to the foundation of the case, error that takes from the defendant a right essential to his or her defense, and error of such magnitude that the defendant could not possibly have received a fair trial." *Arizona v. Hunter*, 688 P.2d 980 (1984). The error has to be clear, egregious, and only curable by a new trial or sentence. The defendant also bears the burden of proof that the error was fundamental and that the error caused prejudice. Examples include misleading jury instructions on the burden of proof and illegal sentences. Arizona uses fundamental error analysis.

Plain Error. To obtain relief under plain error, the defendant must show that the error is plain, that affects substantial rights and the error seriously affected the fairness, integrity or public reputation of judicial proceedings. An error is plain if it is clear or obvious. The defendant also bears the burden to show that the defendant was prejudiced by the error. Additionally, the court of appeals decision to grant/deny relief is discretionary even if the court notices the plain error.

(Code 1981, § 4-32; Code 2012, § 4-32; Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-402-2012, § 4-32, 5-30-2012; Ord. No. SRO-411-2013, § 4-32(app.), 3-1-2013)

Secs. 5-434—5-465. Reserved.

ARTICLE VI. RULES OF CRIMINAL APPELLATE PROCEDURE

Rule 1. Scope of rule.

These rules govern the appeal procedure in all criminal cases and juvenile cases adjudicated under chapter 11, article VI, Juvenile Justice. These rules shall be known as the Salt River Pima-Maricopa Indian Community Criminal Rules of Appellate Procedure (SR-RAP) and shall be liberally construed to promote substantial justice and fairness to parties.
(Code 1981, § 4-33(rule 1); Code 2012, § 4-33(rule 1); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 1), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 1), 3-1-2013)

Rule 1.1. Definitions.

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

Advocate means a person who is authorized to practice law in the Community court and who is not a licensed attorney.

Appellant or *petitioner* means the party seeking the appeal.

Appellate clerk means the clerk of the court of appeals or another person, in the absence of clerk of the court of appeals, who has been designated as the person responsible for docketing and maintaining the records of the court of appeals.

Appellee or *respondent* means the party responding to the appeal.

Attorney means a person who meets the following criteria: the person must be a graduate of a law school, licensed to practice law in any state of the United States, and has been authorized to practice law in the Community court.

Code means this Community Code of Ordinances of the Community.

Community or *SRPMIC* means Salt River Pima-Maricopa Indian Community.

Counsel has the same meaning as the term "advocate" or "attorney."

Court administrator means the person responsible for duties under section 4-2.

Court of appeals or *court* means the appellate division of the Community court as defined in this Community Code of Ordinances.

Decision means the disposition by order, opinion, or memorandum by the court of appeals.

Juvenile, minor or *child* means a person who was under 18 years old at the time of the initiation of the action in trial court and who was subject to the jurisdiction of the trial court.

Trial court means the Community court that had original jurisdiction to hear the case.
(Code 1981, § 4-33(rule 1.1); Code 2012, § 4-33(rule 1.1); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 1.1), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 1.1), 3-1-2013)

Rule 2. Appeal rights in criminal cases.

(a) *Final orders and judgments.*

(1) Defendants may appeal final entry of judgment, final orders, and sentence.

(2) Community may only appeal the following adverse orders or judgment:

a. A dismissal of a case opposed by the Community;

b. Any modification of a jury verdict;

c. An illegal sentence; or

d. An order granting a new trial.

(b) *Special actions.* To avoid piecemeal litigation, only final orders and judgments should be appealable. However, a nonfinal order or judgment may be appealed through a special action if the nonfinal order or judgment meets the following criteria:

(1) The order must conclusively determine the disputed question;

(2) Resolve an important issue completely separate from the merits of the case; and

(3) The party will not have the issue reviewable on appeal after final judgment.

(c) *Examples.*

(1) Some examples of nonfinal orders or judgments that may be appealed through a special action are:

a. Order of forfeiture/return of bond;

b. Denial of motion to dismiss on double jeopardy grounds;

c. Contempt finding for violation of trial court's order compelling disclosure of privileged or confidential information; or

d. Lack of jurisdiction.

(2) Community may pursue through special action:

a. Quashing an arrest or search warrant; and

b. The suppression of evidence, confession or statements.

(d) *Exclusion of speedy trial time.* The time period while the special action is pending shall be excluded from speedy trial time in Rule 7.1 rules of criminal procedure.

(Code 1981, § 4-33(rule 2); Code 2012, § 4-33(rule 2); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 2), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 2), 3-1-2013)

Rule 2.1. Appeal rights in juvenile cases.

A party aggrieved by a final order, decree, or judgment in a juvenile proceeding adjudicated under section 11-25(a)(1) may file an appeal. The juvenile or the Community, who has been adversely affected by the trial court's ruling, may appeal a grant or denial of transfer request made under section 11-25(f).

(Code 1981, § 4-33(rule 2.1); Code 2012, § 4-33(rule 2.1); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 2.1), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 2.1), 3-1-2013)

Rule 3. Time for filing notice of appeal, special action, and consolidation of appeals.

(a) *Time for filing.* The party appealing the adverse ruling or judgment shall have 14 calendar days from entry of adverse ruling to file a notice of appeal with the trial court. If the trial court announces its ruling orally and states that a written order or judgment will issue, but does not issue an order within five business days, the time for filing the notice of appeal shall run from the fifth day following the oral pronouncement of the trial court's order or judgment. If the trial court does not indicate at the time of oral pronouncement that a written order or judgment will issue, the time period for filing the appeal will run from the date of the oral pronouncement.

(b) *Dismissal of late appeals.* Failure of a party to timely file the notice of appeal shall result in a dismissal of the appeal.

(c) *Extension of time to file appeal.* Upon the party's motion, the trial court may extend the time to file an appeal by an additional 14 calendar days.

(d) *Consolidation of appeals.* Appeals may be consolidated by order of the court of appeals upon its own motion, or upon motion of a party, or by stipulation of the parties to the several appeals.

(Code 1981, § 4-33(rule 3); Code 2012, § 4-33(rule 3); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 3), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 3), 3-1-2013)

Rule 4. Form and contents of the notice of appeal.

(a) *Filing the notice of appeal.* An appeal shall be taken by filing a notice of appeal with the clerk of the trial court within the time limitations set forth in Rule 3. A notice of cross-appeal shall be filed within five business days after service of the notice of the appeal.

(b) *Contents of the notice of appeal.* The notice of appeal shall identify the order, judgment, or sentence appealed from and shall be signed by the appellant, or if represented by counsel, the appellant's counsel. The caption shall be the same as the trial court caption, including the case number, except the party filing the appeal shall be designated as the appellant or as petitioner.

(c) *Additional information required.* The notice of appeal filed by the appellant shall contain the name, telephone number, e-mail address, and physical and mailing addresses, if known, of the

appellant, the appellant's counsel, the appellee, and appellee's counsel. Each party shall be responsible for keeping the court of appeals informed of current addresses and telephone number. Failure to comply with this subsection shall not be grounds for dismissal, but the party shall comply with the requirements of this subsection within five business days of receiving notice from the appellate clerk regarding any deficiency.

(d) *Service of notice of appeal.* After receiving a notice of appeal, the clerk of the trial court shall file stamp the notice of appeal and forward a file stamped copy to the appellate clerk and appellee(s) or respondent(s). After receiving a file stamped copy from the clerk of the trial court, the appellate clerk shall assign an appellate docket number.

(e) *Special considerations for appeals involving juveniles.* Any appeal taken from the order or judgment involving juveniles shall be filed under seal by the appellate clerk. All opinions, decisions, or orders of the court of appeals shall not identify the juvenile by the juvenile's full name and the court of appeals should ordinarily identify the juvenile by initials of first and last name only.
(Code 1981, § 4-33(rule 4); Code 2012, § 4-33(rule 4); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 4), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 4), 3-1-2013)

Rule 5. Responsibility of the parties.

The appellant shall be responsible for arranging the preparation of the transcript of the proceedings and designating the record with the trial court clerk. If the appellant only orders partial transcripts of the proceedings, the appellant must notify the opposing party of its intention to order partial transcripts. The opposing party then shall have five business days from receipt of the notice to request the additional transcripts. The party requesting the transcripts shall be responsible for the costs of the preparation of the transcripts. Any transcripts shall be prepared by a transcriptionist who has been approved by the Community court. The clerk of the Community court shall maintain a list of transcriptionists who have been approved by the Community court. In lieu of transcripts, the appellant or appellee may request that the entire recording of the trial be designated as part of the trial record.
(Code 1981, § 4-33(rule 5); Code 2012, § 4-33(rule 5); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 5), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 5), 3-1-2013)

Rule 6. Record on appeal.

(a) *Composition.* The record on appeal as prepared by the trial court clerk shall include the following:

(1) A certified copy of the transcripts or the entire recording of the trial court proceedings;

(2) All documents, papers, books and photographs introduced into evidence;

(3) All pleadings and documents in the trial court file; and

(4) Minute entries.

The clerk of the trial court shall also prepare an index of the record and make the index part of the record. The parties may request by stipulation deletion of papers, documents, or photographs that are deemed unnecessary for the appeal.

(b) *Unavailability of recording of proceedings.* If the recording of the trial court proceeding is unavailable, defendant's conviction and sentence shall be vacated and new trial ordered unless the defendant consents to submission of the appeal or special action on a stipulated record. If a juvenile is a party to the appeal and the recording of the trial proceeding is unavailable, the juvenile's disposition shall be vacated and a new delinquency proceeding ordered.

(c) *Stipulated record.* In lieu of record on appeal, the parties may prepare and sign a statement of the case showing how the issue(s) presented by the appeal arose and the trial court's ruling.
(Code 1981, § 4-33(rule 6); Code 2012, § 4-33(rule 6); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 6), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 6), 3-1-2013)

Rule 7. Transmission of the record.

(a) *Time for transmission.* Within 14 calendar days after the filing of the notice of appeal, the clerk of the trial court shall transmit to the appellate clerk a copy of the pleadings, documents, transcripts, recordings, and minute entries and the original paper and photographic exhibits of a manageable size that were filed with the Community court along with an index of the record set forth in Rule 6.

(b) *Extension of time limits.* The clerk of the trial court may have an additional seven calendar days for transmission of the record by giving notice to the parties and to the appellate clerk. If the clerk of the trial court needs an extension longer than seven calendar days, the clerk of the trial court must request the extension in writing to the court of appeals.

(c) *Notice to parties.* Upon receipt of the record, the appellate clerk shall docket the date of the receipt of the record and give notice to all parties that the complete record has been filed. A copy of the record shall also be prepared for each party. Each party shall be responsible for obtaining the copy of the record from the appellate clerk.

(d) *Appeals involving juveniles.* If any party to the appeal is a juvenile, the Clerk of the Community court shall transmit the record on appeal to the appellate clerk within ten calendar days of filing of the notice of appeal. No extension of time to prepare the record shall be allowed unless approved by the court of appeals.
(Code 1981, § 4-33(rule 7); Code 2012, § 4-33(rule 7); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 7), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 7), 3-1-2013)

Rule 8. Filing and service.

(a) *Service.* Copies of all papers filed by any party shall, at or before the time of filing, be served by the party on all other parties to the appeal. Service on a party represented by counsel shall be made on counsel. Service may be personal or by mail. Personal service includes delivery of the copy to the other party's counsel or if unrepresented, to the other party's physical address that is on record with the court of appeals. A party's obligation for service by mail is complete on mailing if the service is made by certified mail. The parties may agree to service by means other than by mail or personal service.

(b) *Certification.* All briefs, petitions, motions, and notices presented for filing shall contain a certification of service in the form of a statement of the date and manner of service and the name(s) of the person(s) served, certified by the person who made service.

(c) *Number of copies.* An original and three copies of all briefs, petitions, motions, responses, replies, and notices shall be filed with the appellate clerk.
(Code 1981, § 4-33(rule 8); Code 2012, § 4-33(rule 8); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 8), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 8), 3-1-2013)

Rule 9. Time computation and extension of time.

(a) *Computation.* In computing any time period, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or Community-designated holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. In any event that the Community Council authorizes less than a full business day as a holiday, that entire day shall be excluded from time computation. Unless specified as calendar days, when a period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and designated Community holidays shall be excluded in the computation.

(b) *Extension of time.* When an act is required or allowed to be done at or within a specified time, the court of appeals may order the period extended if the request is made before the expiration of the specified time period prescribed with or without cause. If the request is made after the expiration of the specified time period, the court may extend the time period only if good cause exists. The court of appeals may not extend the time for filing the notice of appeal.

(c) *Additional time after service by mail.* Whenever a party has the right or is required to do an act within a specified period of time after the service of notice or other paper upon that party and the notice or other paper is served by mail, five business days shall be added to the prescribed period.
(Code 1981, § 4-33(rule 9); Code 2012, § 4-33(rule 9); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 9), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 9), 3-1-2013)

Rule 10. Motions.

(a) *Form and content.* All motions shall be on 8.5-inch by 11-inch paper and shall contain a short statement of the precise nature of the relief requested and shall be accompanied by a brief memorandum stating the specific factual grounds thereof and indicating the relevant legal points. Each party may file a written response within 15 calendar days after the moving party has complied with service under Rule 8. The moving party may file a reply within seven calendar days after the responding party has complied with service under Rule 8. The reply shall not raise any new issues and shall be directed only to matters raised in a response. If no response is timely filed, the court shall decide the motion based upon the record before the court and the opposing party gives up or loses the right to file a response.

(b) *Length limitations.* A motion, including its supporting memorandum, and the response, including the supporting memorandum shall not exceed 15 pages, double spaced, exclusive of attachments, and shall be prepared in a proportionally faced typeface, font size 13 or larger. The reply shall not exceed eight pages, double spaced, exclusive of attachments and shall be prepared in a proportionally faced typeface, font size 13 or larger.

(c) *Effect of motions on briefing schedule.* A filing of a motion will not automatically affect the briefing schedule as set in Rule 12 or Rule 12.1. If a party wishes to reset the briefing schedule, the moving party should request a new briefing schedule at the time of the filing of the motion.

(d) *Notice of supplemental authority.* If after the completion of the briefing and before a decision is issued and a party becomes aware of a significant and pertinent authority, the party may advise the court of the significant and pertinent authority. The party must state why the supplemental authority is significant and pertinent.

(e) *Compliance with Rule 8.* All parties shall comply with requirements set forth in Rule 8.
(Code 1981, § 4-33(rule 10); Code 2012, § 4-33(rule 10); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 10), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 10), 3-1-2013)

Rules Committee Note: The Committee had concerns that if the filing of a motion would result in an automatic resetting of the briefing schedule, some individuals may file a frivolous motion to obtain an automatic extension on the briefing schedule. The Committee agreed that the court of appeals should have the final say to deny an extension of time to file the briefs if a party files a frivolous motion.

Rule 11. Motion to dismiss.

(a) *Voluntary dismissal.* If all the parties to the appeal file a stipulation requesting the dismissal of the appeal, the appeal shall be dismissed. The appellant may, prior to filing of the appellant's opening brief, move to dismiss the appeal.

(b) *Involuntary dismissal.* The court of appeals may dismiss the appeal upon its own motion or upon motion of the appellee for want of prosecution unless good cause is shown why the appeal should not be dismissed. A failure of the appellant to file a brief will result in dismissal of the appeal.

(c) *Effect of cross-appeals on dismissal of appeal.* If a cross-appeal is pending and the court dismisses the appeal, the cross-appellant may proceed with the cross-appeal. The opening brief for the cross-appellant will be due 21 calendar days from the date that appellant's opening brief was due and the response and reply briefs will conform to Rule 12.
(Code 1981, § 4-33(rule 11); Code 2012, § 4-33(rule 11); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 11), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 11), 3-1-2013)

Rule 12. Briefs.

(a) *Time for filing.* The appellant or petitioner shall have 21 calendar days to file its principal brief after the complete record is transmitted to the court of appeals. The appellee or respondent shall have 21 calendar days to file its principal brief after the appellant's compliance with service of its principal brief under Rule 8. The appellant may file a reply brief within ten calendar days after the appellee's compliance with service of its principal brief under Rule 8. The brief is deemed timely filed if it is received by the appellate clerk within the time limits set forth in this subsection.

(b) *Form and length of the briefs.* A brief shall be on 8.5-inch by 11-inch paper and shall be stapled or bound so that the brief stays together and shall have a cover page. The front cover page shall contain:

(1) The name of the court;

(2) The assigned appellate case number and the trial court case number;

(3) The title of the case;

(4) The title of the brief (e.g., principal brief);

(5) The name, telephone number, and the mailing address of the counsel representing the party or if unrepresented, the name, telephone number, and the mailing address of the party.

Except by permission of the court, a principal brief may not exceed 25 pages, double spaced and be prepared in a proportionately spaced typeface, font size 13 or larger. Any reply brief may not exceed 15 pages, double spaced and be prepared in a proportionately spaced typeface, font size 13 or larger.

(c) *Contents; appellant.* The appellant's brief shall include the following:

(1) A table of contents with page references;

(2) A table of authorities, alphabetically arranged with references to the pages mentioned or cited on the brief;

(3) A statement of the case, indicating briefly the basis for the appellate court's jurisdiction, the nature of the case, the course of proceedings and the disposition in the trial court;

(4) A statement of facts relevant to the issues presented for review with appropriate references to the record. The statement of facts shall not contain arguments and may be combined with the statement of the case;

(5) A statement of issue(s) presented for review. The court of appeals will consider the statement of issue(s) presented for review to contain every subsidiary issue fairly comprised;

(6) An argument which shall contain the contentions of the appellant with respect to the issues presented and the reasons with citations to the authorities consistent with section 5-1 and the parts of the record relied upon for the argument. The argument may contain a brief summary. With each issue presented for review, the proper standard of review* shall be identified with relevant authority at the outset of the discussion of the issue; and

(7) A short conclusion stating the precise remedy requested.

(d) *Contents; appellee.* The appellee's brief shall contain the same contents as appellant's brief except that no statement of the case is required.

(e) *Contents; reply brief.* The reply brief shall be confined to the response to questions of law or fact raised by the appellee's brief.

(f) *No further briefs.* Unless the court of appeals permits a party to file additional briefing, no further briefing shall be allowed.

(g) *Noncompliance.* The court of appeals may strike a brief which does not substantially conform to the requirements of this rule or is illegible. After striking the brief, the court may permit the party to file an amended brief in compliance with Rule 12 and set a new briefing schedule.

(h) *Briefs involving multiple appellants or appellees.* In cases involving more than one appellant or appellee, including cases consolidated for appeal, any number of appellant or appellee may

join in a single brief and the appellant or appellee may adopt by reference any part of the brief of another.

(i) *Time to file briefs where any party to an appeal is a juvenile.* If any party to the appeal is a juvenile, an appellant/petitioner shall have 14 calendar days after the complete appellate record is transmitted to the court of appeals to file the principal brief. An appellee/respondent shall 14 calendar days after appellant's compliance with service of its principal brief under Rule 8 to file a principal brief. An appellant/petitioner shall have seven calendar days after appellee/respondent's compliance with service of its principal brief under Rule 8 to file a reply brief.

(Code 1981, § 4-33(rule 12); Code 2012, § 4-33(rule 12); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 12), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 12), 3-1-2013)

Note—Subsection (c)(6). To assist the practitioners, the Committee has drafted an outline regarding the applicable standard of review. Please see Committee Note attached as an Appendix.

Rules Committee Note: The court of appeals should give latitude to pro-per litigants in complying with Rule 12. The court should exercise its discretion and not strike a brief filed by a pro-per litigant even if the brief does not substantially comply with the requirement of Rule 12 and accept the brief if accepting the brief would promote justice and fairness.

Rule 12.1. Briefs on cross-appeals.

(a) *Applicability.* This rule applies to a case in which a cross-appeal is filed.

(b) *Designation of appellant.* The party who files a notice of appeal first is the appellant for the purposes of this rule. If notices are filed on the same day, the plaintiff in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order. The trial clerk shall be responsible for designating and notifying the parties of their status either as an appellant or as an appellee.

(c) *Briefs.*

(1) *Appellant's principal brief.* The appellant must file a principal brief in the appeal. The brief must comply with Rule 12(b) and (c).

(2) *Appellee's principal and response brief.* The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. The appellee's brief must comply with Rule 12(b) and (c), except that the brief need not include a statement of the case or a statement of the facts unless the appellee is dissatisfied with the appellant's statement.

(3) *Appellant's response and reply brief.* The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. The brief must comply with Rule 12(b) and (c), except that none of the following need appear unless the appellant is dissatisfied with the appellee's statement in the cross-appeal:

a. The jurisdictional statement;

b. The statement of the issues;

c. The statement of the case;

d. The statement of the facts; and

e. The applicable standard of review.

(4) *Appellee's reply brief.* The appellee may file a brief in reply to the response in the cross-appeal. The brief must comply with Rule 12(b) and (c) and must be limited to the issues presented by the cross-appeal.

(5) *No further briefs.* Unless the court permits, no further briefs may be filed in a case involving a cross-appeal.

(d) *Time to serve and file a brief.* Briefs must be served and filed as follows:

(1) The appellant's principal brief, within 21 calendar days after the record is filed;

(2) The appellee's principal and response brief, within 21 calendar days after the appellant's compliance with service of its principal brief under Rule 8;

(3) The appellant's response and reply brief, within 21 calendar days after the appellee's compliance of service of its principal and response brief under Rule 8; and

(4) The appellee's reply brief, within ten calendar days after the appellant's compliance with service under Rule 8 of its response and reply brief.

(e) *Additional time limitation to file briefs where any party to cross-appeal is a juvenile.* If any party to the cross-appeal is a juvenile, an appellant/petitioner shall have 14 calendar days after the complete appellate record is transmitted to the court of appeals to file its principal brief. An appellee/respondent shall have 14 calendar days to file a principal and response brief after the appellant's compliance with service of its principal brief under Rule 8. An appellant shall have 14 calendar days to file a response and reply brief after appellee/respondent's compliance with service of its principal and response brief under Rule 8. An appellee/respondent shall have seven calendar days to file a reply brief after appellant/petitioner's compliance with service of its response and reply brief under Rule 8.
(Code 1981, § 4-33(rule 12.1); Code 2012, § 4-33(rule 12.1); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 12.1), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 12.1), 3-1-2013)

Rule 13. Oral arguments.

(a) *Request and setting of oral arguments.* Any party may request an oral argument prior to the date that the reply brief is due. The request must be made in writing. If no request for oral arguments is made, the court of appeals may still schedule oral arguments. If the court grants a party's request for oral arguments or sets one on its own initiative, the appellate clerk shall schedule the oral arguments to occur within 30 calendar days of the completion of the briefing and notify the parties of the date and place for oral arguments at least 14 calendar days prior to the date fixed for oral arguments. The court of appeals may consider the appeal without oral arguments if the court of appeals finds that the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral arguments.

(b) *Time limitations.* Unless ordered otherwise by the court of appeals, each side may have 30 minutes for oral arguments. Arguments of multiple parties or amicus curiae for the appellant or appellee shall be allocated by the parties to conform to these limits. A party does not have use all of the time allowed. The appellant opens and concludes the argument.

(c) *Hearing of appeals in open court.* All oral arguments, except where a juvenile is a party to the appeal, shall be heard in open court. A recording of the oral arguments shall be made.

(d) *Failure to appear at oral arguments.* If a party fails to appear, the court of appeals may hear arguments from the party who is present, and the case will be decided on the briefs and the argument heard. If neither party appears for oral arguments, the case will be decided on the briefs.
(Code 1981, § 4-33(rule 13); Code 2012, § 4-33(rule 13); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 13), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 13), 3-1-2013)

Rule 14. Stay of appeal.

The court of appeals on motion of the party or on its own initiative may stay an appeal while a motion for new trial is pending. If any stay is ordered, the appellate clerk shall notify all parties and the clerk of the trial court. Any proceedings in the court of appeals, including the preparation of the record, shall be stayed until further order of the court of appeals. The appellant shall have 14 calendar days to notify the appellate clerk after the trial court rules on the motion for new trial either to reinstate the appeal or to dismiss the appeal.
(Code 1981, § 4-33(rule 14); Code 2012, § 4-33(rule 14); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 14), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 14), 3-1-2013)

Rule 15. Disposition and orders.

(a) *Ancillary orders.* The court of appeals may issue such orders as needed for the effective administration of the court of appeals.

(b) *Disposition.* The court of appeals may reverse, affirm, or remand the action of the trial court and issue any necessary and appropriate orders.

(Code 1981, § 4-33(rule 15); Code 2012, § 4-33(rule 15); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 15), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 15), 3-1-2013)

Rule 16. Stays.

(a) *Motion for stay.*

(1) *Initial motion in the trial court.* A party must ordinarily move first in the trial court for a stay of the judgment or order of a trial court pending appeal.

(2) *Motion in the court of appeals; conditions on relief.* A motion for stay of the judgment or order of a trial court pending appeal may be made to the court of appeals.

a. Requirements.

1. The motion must show that moving first in the trial court would be impracticable;

2. The trial court denied the motion or failed to afford the relief requested and state any reasons given by the trial court for its action; or

3. The motion must also include the reasons for granting the relief requested and the facts relied on, originals or copies of affidavits or other sworn statements supporting facts subject to dispute, and relevant parts of the record.

b. The moving party must give reasonable notice of the motion to all parties.

c. A motion under this rule must be filed with the appellate clerk and normally will be considered by a three-justice panel of the court of appeals. In an exceptional case in which time requirements make that procedure impracticable, the motion may be made to and considered by a single justice. If a single justice decides the motion, any party may request a three-justice panel to reconsider the matter by filing the request within five business days of the decision.

d. The court may condition relief on a party's filing a bond or other appropriate security in the trial court.

(b) *Stay of sentence.* The trial court may stay the execution of sentence if the trial court determines that reasonable grounds exist to believe that the conviction may be set aside, reversed, or vacated. The court of appeals, on motion of the defendant, may move the lower court for release of defendant from custody if the court of appeals determines it would be justified under the facts of the case.

(Code 1981, § 4-33(rule 16); Code 2012, § 4-33(rule 16); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 16), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 16), 3-1-2013)

Rule 17. Certified questions.

(a) *Requirements.* The trial court may certify a question for special action in its order involving Community law to the court of appeals if it meets the following criteria.

(1) The certified question must control the outcome of the case pending before the trial court;

(2) The certified question involves a controlling question of law as to which there is substantial ground for difference of opinion;

(3) An immediate appeal from the order may materially advance the ultimate termination of the litigation; and

(4) Both the Community and the defendant stipulate to the submission of the certified question.

(b) *Time for filing and content.* If the parties receive certification from the trial court, the parties may file a joint petition seeking special action and containing the following:

(1) The question of law to be answered;

(2) A statement of all relevant facts necessary to answer the certified question; and

(3) Copies of an order, or opinion, or parts of the record necessary for an understanding of the matters set forth in the petition.

(c) *Compliance with Rule 8.* All parties shall comply with requirements set forth in Rule 8.

(d) *Acceptance of jurisdiction.* The court of appeals shall review the certification request and may accept jurisdiction.

(1) If jurisdiction is accepted, the court of appeals may order the parties to file additional briefs addressing the certified question.

(2) If briefing is ordered, the order shall set forth the time periods for filing briefs and may also set a date for oral arguments.

(3) If the jurisdiction is not accepted, the court of appeals should issue an order explaining why it is declining jurisdiction.

(e) *Stay of proceedings.* An appeal under this rule shall stay proceedings in the trial court.

(f) *Exclusion of speedy trial time.* The time period while the special action through certified question is pending shall be excluded from speedy trial time in Rule 7.1 of the rules of criminal procedure.

(Code 1981, § 4-33(rule 17); Code 2012, § 4-33(rule 17); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 17), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 17), 3-1-2013)

Rule 18. Composition of justices.

A panel consisting of three justices will consider and decide the merits of any appeals, petitions, or motions. Any justice disqualified under section 4-36(b) and (c) shall not serve on the appellate panel. If a justice is disqualified, another qualified justice shall be chosen to complete the three-justice panel. The parties shall be advised of the assignment of justices by notice from the appellate clerk. A party shall have five business days after receiving notice of assigned justices to file a motion to disqualify a justice for cause.

(Code 1981, § 4-33(rule 18); Code 2012, § 4-33(rule 18); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 18), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 18), 3-1-2013)

Rule 19. Opinions and disposition.

(a) *Time limitations.* The court of appeals shall issue an opinion, memorandum, or order within 30 calendar days after hearing oral arguments or completion of any supplemental briefing, whichever occurs later.

(b) *Disposition by opinion.* The court of appeals should issue an opinion when a majority of the justices determines that the disposition:

(1) Establishes, alters, modifies, or clarifies a rule of law;

(2) Calls attention to a rule of law which appears to have been generally overlooked;

(3) Criticizes existing law;

(4) Involves a legal or factual issue of unique interests or substantial public importance; or

(5) If the disposition of a matter is accompanied by separate concurring or dissenting opinion of a justice.

(c) *Disposition by memorandum.* Memorandum decisions and orders shall not be used as precedent nor cited in any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

(d) *Precedent.* Only opinions shall be used as precedent.

(e) *Designation of disposition.* The disposition of the case shall contain in the caption the designation opinion, memorandum or order.

(f) *Notification to parties.* After the court of appeals issues its opinion, memorandum, or order, the appellate clerk shall forward a copy of the decision, memorandum, or order to all parties within one business day.
(Code 1981, § 4-33(rule 19); Code 2012, § 4-33(rule 19); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 19), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 19), 3-1-2013)

Rule 20. Entry of judgment.

(a) *Entry.* A judgment is entered when it is recorded in the docket. The appellate clerk must enter the judgment within 21 calendar days after receiving the court's opinion, memorandum, or order if a petition for panel rehearing is not requested. If a petition for panel rehearing has been filed, the appellate clerk shall enter the judgment within five business days after the court of appeals has ruled on the petition for panel rehearing.

(b) *Notice to parties.* Within one business day after the judgment is entered, the appellate clerk shall serve a copy of the judgment by mail, electronic delivery, or by personal service to the parties a copy of the opinion, memorandum, order, or the judgment, and the date the judgment was entered.
(Code 1981, § 4-33(rule 20); Code 2012, § 4-33(rule 20); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 20), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 20), 3-1-2013)

Rule 21. Petitions for panel rehearing.

(a) *Time to file.* Except as otherwise provided in this rule, a petition for panel rehearing may be filed within 15 calendar days after the appellate court issues its decision or memorandum by filing an original and three copies of the petition with the appellate clerk. The opposing party is not required to file an answering petition unless ordered by the court. The court should not grant a panel rehearing without first giving the opposing party an opportunity to file an answering petition.

(b) *Grounds for panel rehearing.* A petition for panel rehearing may be presented only on the following grounds:

(1) A fact or law, material to the decision, was overlooked by the panel of the court of appeals;

(2) The decision is in conflict with an express statute or controlling decision; or

(3) The court of appeals employed inappropriate procedures or considered facts outside the record on appeal.

(c) *Time limitations for decision.* Upon a majority vote of the panel, the court of appeals may grant or deny the petition for rehearing within 15 calendar days after receipt of the petition or answering petition, if any. If granted, the parties shall submit briefs as provided in Rule 12 on the issues permitted to be raised. The court of appeals may grant oral arguments.
(Code 1981, § 4-33(rule 21); Code 2012, § 4-33(rule 21); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 21), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 21), 3-1-2013)

Rule 22. Issuance of mandate.

(a) *Petition for rehearing not filed.* When no petition for rehearing is filed, the clerk of the court of appeals shall issue a mandate within seven business days of the expiration of time for filing a petition for rehearing. The mandate consists of the certified copy of the judgment and a copy of the court's opinion or memorandum.

(b) *Petition for rehearing filed.* A mandate shall not issue until the court of appeals has disposed of a petition for rehearing.

(c) *Effective date of mandate.* The mandate will be effective from the date the mandate is issued. The issuance of the mandate shall terminate the proceeding in the court of appeals.
(Code 1981, § 4-33(rule 22); Code 2012, § 4-33(rule 22); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 22), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 22), 3-1-2013)

Rule 23. Death of party.

The death of the defendant or the juvenile while the appeal is pending shall result in the dismissal of the appeal. Any conviction, sentence, or adjudication that was the subject of the appeal shall also be vacated.
(Code 1981, § 4-33(rule 23); Code 2012, § 4-33(rule 23); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 23), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 23), 3-1-2013)

Rule 24. Withdrawal of counsel.

A counsel who files the notice of appeal, motions, briefs, or petitions in the court of appeals is considered counsel of record until the court of appeals allows the counsel to withdraw as counsel of record.
(Code 1981, § 4-33(rule 24); Code 2012, § 4-33(rule 24); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 24), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 24), 3-1-2013)

Rule 25. Amicus curiae.

(a) *Only permitted with leave of court.* An amicus curiae brief shall be filed only with permission of the court of appeals.

(b) *Motion for leave to file.* The motion for leave to file must be accompanied by the proposed brief and state:

(1) The interest of the applicant; and

(2) Reasons why applicant's amicus curiae brief is necessary and why the matters asserted by the applicant are relevant.

(c) *Contents of brief.* An amicus brief must comply with Rule 12(b). An amicus brief does not need to comply with Rule 12(c), but must include the following:

(1) The table of contents, with page references;

(2) A table of authorities;

(3) The identity of the amicus curiae;

(4) The counsel or party who authored the brief; and

(5) A certificate of service in compliance with Rule 8.

(d) *Time to file.* An amicus curiae brief supporting a party shall be filed within seven days of filing of the principal brief by the party being supported. If the amicus curiae brief does not support either the appellant or the appellee, the brief shall be filed within seven days of the filing of the appellee's principal brief.
(Code 1981, § 4-33(rule 25); Code 2012, § 4-33(rule 25); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 25), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 25), 3-1-2013)

Rule 26. Sealed proceedings and records.

(a) *Public access.* Except for appeals involving juveniles, the public should have access to the court files to ensure the public's perception of the integrity and fairness of the courts. The presumption may be overcome when a compelling reason exists that the public's right of access is outweighed by the interests of the Community and the parties in protecting the court's files from public review.

(b) *Request for sealing of record or proceeding.* The court, any party, or any interested person may request to seal or redact the court records. If the court sets a hearing, a reasonable notice of a hearing must be given to the parties. The court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest.

(c) *Access to sealed or redacted record.* Sealed and redacted court records shall not be accessible to the public or unauthorized court personnel without a court order. Sealed and redacted records shall be kept in a sealed envelope with notice that access is allowed only with an order of the court.
(Code 1981, § 4-33(rule 26); Code 2012, § 4-33(rule 26); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 26), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 26), 3-1-2013)

Rule 27. Suspension of rules.

Except for provisions in Rule 3(c), the court of appeals may, on its own or a party's motion, upon good cause, suspend the requirements or provisions of any of these rules in a particular case and may order proceedings in accordance with its direction.

(Code 1981, § 4-33(rule 27); Code 2012, § 4-33(rule 27); Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-402-2012, § 4-33(rule 27), 5-30-2012; Ord. No. SRO-411-2013, § 4-33(rule 27), 3-1-2013)

APPENDIX

Rules Committee Note to Rule 12(c)(6): The Rules require the parties to advise the court of appeals of the applicable standard of review on appeals. The following is a brief outline of standard of review and errors. This committee note is not intended to bind the court of appeals, but is a guide for parties filing an appeal with the court of appeals. A party using this outline should remember that the committee note is for reference only and the court of appeals will be the ultimate decider of the applicable standard of review and errors that will be used in the Community.

Generally, there are four standards of review: *de novo*, abuse of discretion, clearly erroneous, and substantial evidence.

The de novo review literally means to review anew or afresh. The court of appeals gives no deference to the lower court's determination and reviews the case as if the court of appeals was sitting as the trial court. Questions of statutory interpretation, jurisdiction, and questions of law are generally subject to *de novo* review.

A second standard and much more deferential to the trial court's decision is Abuse of Discretion. A trial court is given wide latitude in exercising its decision making authority. Questions involving discovery issues, sanctions for violations of discovery, exclusion of evidence/witnesses, and denial/grant of motion to continue would be reviewed for abuse of discretion. A trial court would abuse its discretion if the trial court's decision is based upon an erroneous interpretation of the law or the court makes a clearly erroneous finding of fact.

A third standard of review is clearly erroneous. The standard gives great deference to the trial court's findings of fact. It is not whether the court of appeals would have reached a different outcome if it were the finder of facts, but whether the trial court's findings are plausible in context to the entire record. To find that a trial court's findings are clearly erroneous, the court of appeals would have to be definitively and firmly convinced that the trial court made a mistake.

A fourth standard of review is substantial evidence for jury verdicts. Substantial evidence is defined as whether a reasonable person might accept as adequate to support a conclusion even if it is possible to draw a contrary conclusion from the evidence. Additionally, the court of appeals will not assess the credibility of the witnesses or weigh the evidence.

Sometimes, the applicable standard of review will be determined by its context where it involves a mixed question of law and facts. It will be a *de novo* review if the question of law dominates the review or a clearly erroneous standard if the question of fact is the predominant issue.

Even if a party had objected to the error, the court of appeals may uphold the outcome at the trial if the error is harmless. An error is harmless if it is more probable than not that the prejudice resulting from the error did not materially affect the verdict.

In addition to the harmless error, there are additional types of errors that the court of appeals may review.

Structural Error. Structural errors infect the entire trial process which undermines the integrity of the judicial proceeding. Examples of structural errors include: denial of right to counsel, trial by a biased judge, denial of public trial, denial of jury trial, and denial of right to self-representation. If a structural error occurs, the court of appeals will not conduct any prejudice analysis. Instead, there will be an automatic reversal of the conviction.

Invited Error. If a trial judge takes a certain action(s) at the request of the party, the party cannot then later claim that the trial judge erred by granting the party's request. Examples include jury instructions and evidentiary rulings. In these situations, the party would be denied relief based upon an invited error doctrine.

Fundamental Error. A fundamental error is an "error going to the foundation of the case, error that takes from the defendant a right essential to his or her defense, and error of such magnitude that the defendant could not possibly have received a fair trial." *Arizona v. Hunter*, 688 P.2d 980 (1984). The error has to be clear, egregious, and only curable by a new trial or sentence. The defendant also bears the burden of proof that the error was fundamental and that the error caused prejudice. Examples include misleading jury instructions on the burden of proof and illegal sentences. Arizona uses fundamental error analysis.

Plain Error. To obtain relief under plain error, the defendant must show that the error is plain, that affects substantial rights and the error seriously affected the fairness, integrity or public reputation of judicial proceedings. An error is plain if it is clear or obvious. The defendant also bears the burden to show that the defendant was prejudiced by the error. Additionally, the court of appeals decision to grant/deny relief is discretionary even if the court notices the plain error.

(Amd. to Ord. No. SRO-33-75, § 1.9(b), 5-5-1980; Ord. No. SRO-411-2013, § 4-33(app.), 3-1-2013)

Sec. 5-466. Notice of appeal form.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, Plaintiff/Appellee,	NOTICE OF APPEAL

vs. Case # _____
DEFENDANT X. DOE,
Defendant/Appellant.

Notice is hereby given that Defendant X. Doe appeals to the Salt River Pima-Maricopa Indian Community Court of Appeals from the jury verdict and judgment and sentence entered in this action on _____ by the Community Court. The sentence imposed was xx months of imprisonment.

Respectfully submitted this _____ day of _____, 20____.

_____
Attorney Doe

I hereby certify that on the _____ of a copy of the foregoing was mailed to Community Prosecutor.

_____
Attorney Doe

(Amd. to Ord. No. SRO-33-75, § 1.9(c), 5-5-1980; Ord. No. SRO-411-2013, § 4-33(app.), 3-1-2013)

Secs. 5-467—5-495. Reserved.

ARTICLE VII. COMMUNITY RULES OF EVIDENCE

DIVISION 1. GENERAL PROVISIONS

Rule 101. Title; definitions.

(a) *Title.* These rules may be known and cited as the Salt River Pima-Maricopa Indian Community Rules of Evidence ("SRE").

(b) *Definitions.* In these rules:

Advocate means a person authorized to practice law before the Community or relevant jurisdiction.

Attorney means a person who is licensed to practice law in the State of Arizona or another state or relevant jurisdiction.

Civil case means a civil action or proceeding.

Counsel means an advocate or attorney.

Criminal case includes a criminal proceeding.

Public office includes a public agency.

Record includes a written correspondence, memorandum, report, or data compilation; a reference to any kind of written material or any other medium includes electronically stored information.
(Ord. No. SRO-421-2013, Rule 101, 6-1-2013)

Rule 102. Purpose and applicability of the rules.

(a) *Purpose.* The purpose of these rules is to establish rules for the admission of reliable and relevant evidence in order to best administer court proceedings to determine the truth, to promote the fair administration of justice, and to ensure that these rules are consistent with the right of the people of the Community to maintain the integrity and culture of the Community.

(b) *To courts and judges.* These rules apply to all courts of the Community and masters and referees in actions, cases, and proceedings and to the extent hereinafter set forth.

(c) *To cases and proceedings generally.* Unless otherwise specifically provided in other provisions of the Community Code of Ordinances, these

rules apply generally to civil cases and proceedings, to contempt proceedings except those in which the court may act summarily, and to criminal cases and proceedings except as otherwise provided in the Salt River Community Court Rules of Criminal Procedure. A party who wishes to have the Salt River Rules of Evidence apply to domestic relations or child dependency cases must give notice to the court and to the opposing party at least 30 days prior to a hearing or trial.

(d) *Exceptions.* These rules, except for those on privilege, do not apply to the following:

(1) The court's determination, under Rule 104(a), on a preliminary question of fact governing admissibility; and

(2) Miscellaneous proceedings such as:

a. Extradition or rendition;

b. Issuance of an arrest warrant, criminal summons, or search warrant;

c. Sentencing;

d. Granting or revoking probation; and

e. Considering whether to release on bail, whether to modify or revoke bail conditions, or otherwise.

(e) *Other laws and rules.* A Community law or a rule may provide for admitting or excluding evidence independently from these rules.
(Ord. No. SRO-421-2013, Rule 102, 6-1-2013)

Rule 103. Rulings on evidence.

(a) *Preserving a claim of error.* A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and:

(1) If the ruling admits evidence, a party, on the record:

a. Timely objects or moves to strike; and

b. States the specific ground, unless it was apparent from the context; or

(2) If the ruling excludes evidence, a party informs the court of its substance by an offer of proof, unless the substance was apparent from the context.

(b) *Not needing to renew an objection or offer of proof.* Once the court rules definitively on the record, either before or at trial, a party need not renew an objection or offer of proof to preserve a claim of error for appeal.

(c) *Court's statement about the ruling; directing an offer of proof.* The court may make any statement about the character or form of the evidence, the objection made, and the ruling. The court may direct that an offer of proof be made in question-and-answer form.

(d) *Preventing the jury from hearing inadmissible evidence.* To the extent practicable, the court must conduct a jury trial so that inadmissible evidence is not suggested to the jury by any means.
(Ord. No. SRO-421-2013, Rule 103, 6-1-2013)

Rule 104. Preliminary questions.

(a) *In general.* The court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the court is not bound by evidence rules, except those on privilege.

(b) *Relevance that depends on a fact.* When the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof will be introduced later.

(c) *Conducting a hearing outside the presence of a jury.* The court must conduct any hearing on a preliminary question so that the jury cannot hear it if:

(1) The hearing involves the admissibility of a confession;

(2) A defendant in a criminal case is a witness and so requests; or

(3) Justice so requires.

(d) *Cross-examining a defendant in a criminal case.* By testifying on a preliminary question, a defendant in a criminal case does not become subject to cross-examination on other issues in the case.

(e) *Evidence relevant to weight and credibility.* This rule does not limit a party's right to introduce before the jury evidence that is relevant to the weight or credibility of other evidence.
(Ord. No. SRO-421-2013, Rule 104, 6-1-2013)

Rule 105. Limiting evidence.

If the court admits evidence that is admissible against a party or for a purpose, but not against another party or for another purpose, the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly. However, if evidence is admitted under Rules 404(b) or 413, the court must instruct the jury regarding the limited use of such evidence unless the opponent of the offered evidence objects.
(Ord. No. SRO-421-2013, Rule 105, 6-1-2013)

Rule 106. Remainder of or related writings or recorded statements.

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part, or any other writing or recorded statement, that in fairness ought to be considered at the same time.
(Ord. No. SRO-421-2013, Rule 106, 6-1-2013)

Secs. 5-496—5-520. Reserved.

DIVISION 2. JUDICIAL NOTICE

Rule 201. Judicial notice of adjudicative facts.

(a) *Scope.* This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

(b) *Kinds of facts that may be judicially noticed.* Upon motion of a party or its own motion, the court may acknowledge or may order the jury to acknowledge a fact that is not subject to reasonable dispute if the fact:

(1) Is generally known within the jurisdiction of this court; or

(2) Is capable of accurate and ready determination by reference to sources whose accuracy cannot be reasonably questioned.

(c) *Taking notice.* The court:

(1) May take judicial notice on its own; or

(2) Must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) *Timing.* The court may take judicial notice at any stage of the proceeding.

(e) *Opportunity to be heard.* On timely request, a party is entitled to be heard on the appropriateness of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) *Instructing the jury.* In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.
(Ord. No. SRO-421-2013, Rule 201, 6-1-2013)

Secs. 5-521—5-555. Reserved.

DIVISION 3. PRESUMPTIONS IN CIVIL CASES

Rule 301. Presumptions in civil cases generally.

In a civil case, unless an ordinance or these rules provide otherwise, the party against whom a presumption is directed has the burden of producing evidence to rebut the presumption. But this rule does not shift the burden of persuasion, which remains on the party who had it originally.
(Ord. No. SRO-421-2013, Rule 301, 6-1-2013)

Secs. 5-556—5-585. Reserved.

DIVISION 4. RELEVANCE AND ITS LIMITS

Rule 401. Test for relevant evidence.

Evidence is relevant if:

(1) The evidence has any tendency to make a fact more or less probable than it would be without the evidence; and

(2) The fact is of consequence in determining the action.

(Ord. No. SRO-421-2013, Rule 401, 6-1-2013)

Rule 402. General admissibility of relevant evidence.

Relevant evidence is admissible unless any of the following provides otherwise:

(1) Applicable Community law;

(2) Applicable federal law; or

(3) These rules.

Irrelevant evidence is not admissible.

(Ord. No. SRO-421-2013, Rule 402, 6-1-2013)

Rule 403. Exclusion of relevant evidence for special circumstances.

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of any one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

(Ord. No. SRO-421-2013, Rule 403, 6-1-2013)

Rule 404. Character evidence; crimes or other acts.

(a) *Character evidence.*

(1) *Prohibited uses.* Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.

(2) *Exceptions for a defendant or victim in a criminal case.* The following exceptions apply in a criminal case:

a. A defendant may offer evidence of the defendant's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it;

b. Subject to the limitation in Rule 412, a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may:

1. Offer evidence to rebut it; and

2. Offer evidence of the defendant's same trait; and

c. In a homicide case or in a case where the victim is incapacitated and unable to testify as a result of the crime alleged to be perpetrated by the defendant against the victim, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

(3) *Exceptions for a witness.* Evidence of a witness' character may be admitted under Rules 607, 608, and 609.

(b) *Crimes, wrongs, or other acts.*

(1) *Prohibited uses.* Evidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character.

(2) *Permitted uses; notice in a criminal case.* This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. The prosecutor must provide notice of the general nature of any such evidence that the prosecutor intends to offer at trial pursuant to rules of criminal procedure.

(3) *Preliminary questions determined by the court.* Before the offered evidence may be admitted, the court must determine that the evidence offered is admissible under Rules 401, 402, and 403 and that the evidence is sufficient to permit the trier of fact to find that the defendant committed the other acts.

(Ord. No. SRO-421-2013, Rule 404, 6-1-2013)

Rules Committee Note: If the evidence is admitted under Rule 404(b), the court should give the following or a similar limiting instruction unless the opponent of the offered evidence objects: "Evidence of other acts has been presented. You may consider [this act] [these acts] only if you find that the Community has proved by preponderance of evidence that the defendant committed [this act][these acts]. You may only consider [this act] [these acts] to establish the defendant's [motive], [opportunity], [intent], [preparation], [plan], [knowledge], [identity], [absence of mistake or accident]. You must

not consider [this act] [these acts] to determine the defendant's character or character trait, or to determine that the defendant acted in conformity with the defendant's character or character trait and therefore committed the charged offense. Evidence of these acts does not lessen the Community's burden to prove the defendant's guilt beyond a reasonable doubt"

Rule 405. Methods of proving character.

(a) *By reputation or opinion.* When evidence of a person's character or character trait is admissible, it may be proved by testimony about the person's reputation or by testimony in the form of an opinion. On cross-examination of the character witness, the court may allow an inquiry into relevant specific instances of the person's conduct.

(b) *By specific instances of conduct.* When a person's character or character trait is an essential element of a charge, claim, or defense, the character or trait may also be proved by relevant specific instances of the person's conduct.
(Ord. No. SRO-421-2013, Rule 405, 6-1-2013)

Rule 406. Habit; routine practice.

Evidence of a person's habit or an organization's routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.
(Ord. No. SRO-421-2013, Rule 406, 6-1-2013)

Rule 407. Subsequent remedial measures.

When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove:

(1) Negligence;

(2) Culpable conduct;

(3) A defect in a product or its design; or

(4) A need for a warning or instruction.

But the court may admit this evidence for another purpose, such as impeachment or, if disputed, proving ownership, control, or the feasibility of precautionary measures.
(Ord. No. SRO-421-2013, Rule 407, 6-1-2013)

Rule 408. Compromise offers and negotiations.

(a) *Prohibited uses.* Evidence of the following is not admissible, on behalf of any party, either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

(1) Furnishing, promising, or offering, or accepting, promising to accept, or offering to accept, a valuable consideration compromising or attempting to compromise the claim; and

(2) Conduct or a statement made during compromise negotiations about the claim, except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.

(b) *Exceptions.* The court may admit this evidence for another purpose, such as proving a witness' bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.
(Ord. No. SRO-421-2013, Rule 408, 6-1-2013)

Rule 409. Offers to pay medical and similar expenses.

Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.
(Ord. No. SRO-421-2013, Rule 409, 6-1-2013)

Rule 410. Pleas, plea discussions and related statements.

(a) *Prohibited uses.* In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

(1) A guilty plea that was later withdrawn;

(2) A no contest plea;

(3) A statement made during a proceeding on either of those pleas under rules of criminal procedure Rule 11 or a comparable federal or state procedure; or

(4) A statement made during plea discussions with an attorney or advocate for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

(b) *Exceptions.* The court may admit a statement described in subsection (a)(3) or (4) of this rule:

(1) In any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or

(2) In a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

(Ord. No. SRO-421-2013, Rule 410, 6-1-2013)

Rule 411. Liability insurance.

Evidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully. But the court may admit this evidence for another purpose, such as proving a witness' bias or prejudice or proving agency, ownership, or control.

(Ord. No. SRO-421-2013, Rule 411, 6-1-2013)

Rule 412. Sex-offense cases: the victim's sexual behavior.

(a) *When inadmissible.* In a criminal case in which a person is accused of a sexual offense against another person, the following is not admissible:

(1) Evidence of reputation or opinion regarding the other sexual behavior of the victim of the sexual offense alleged.

(2) Evidence of specific instances of sexual behavior of an alleged victim with persons other than the accused offered on the issue of whether the alleged victim consented to the sexual behavior with respect to the sexual offense alleged.

(b) *Exceptions.* The rule does not require the exclusion of evidence of:

(1) Specific instances of sexual behavior if offered for a purpose other than the issue of consent, including proof of the source of semen, pregnancy, disease, injury, mistake or the intent of the accused;

(2) False allegations of sexual offenses; or

(3) Sexual behavior with other than the accused at the time of the event giving rise to the sexual offense alleged.

(c) *Procedure to determine admissibility.*

(1) *Motion.* If a party intends to offer evidence under subsection (b) of this rule, the party must:

a. File a motion that specifically describes the evidence and states the purpose for which it is to be offered;

b. Do so at least 45 days before trial unless the court, for good cause, sets a different time;

c. Serve the motion on all parties; and

d. Notify the victim or, when appropriate, the victim's guardian or representative.

(2) *Hearing.* Before admitting evidence under this rule, the court must conduct a closed hearing and give the victim and parties a right to attend and be heard.

Unless the court orders otherwise, the motion, related materials, and the record of the hearing must be and remain sealed.

(d) *Definition of "victim."* In this rule, "victim" includes an alleged victim.

(Ord. No. SRO-421-2013, Rule 412, 6-1-2013)

Rule 413. Character evidence in sexual misconduct cases.

In a criminal case in which a defendant is charged with having committed a sexual offense, or a civil case in which a claim is predicated on a

party's alleged commission of a sexual offense, evidence of other crimes, wrongs, or acts may be admitted by the court if relevant to show that the defendant had a character trait giving rise to an aberrant sexual propensity to commit the offense charged. In such a case, evidence to rebut the proof of other crimes, wrongs, or acts, or an inference therefrom, may also be admitted.

(1) In all such cases, the court shall admit evidence of the other act only if it first finds each of the following:

a. The evidence is sufficient to permit the trier of fact to find that the defendant committed the other act.

b. The commission of the other act provides a reasonable basis to infer that the defendant had a character trait giving rise to an aberrant sexual propensity to commit the crime charged.

c. The evidentiary value of proof of the other act is not substantially outweighed by danger of unfair prejudice, confusion of issues, or other factors mentioned in Rule 403.

In making that determination under Rule 403, the court shall also take into consideration the following factors, among others:

1. Remoteness of the other act;
2. Similarity or dissimilarity of the other act;
3. The strength of the evidence that defendant committed the other act;
4. Frequency of the other acts;
5. Surrounding circumstances;
6. Relevant intervening events;
7. Other similarities or differences; and
8. Other relevant factors.

d. The court shall make specific findings with respect to each of subsections (1)a, b, and c of this rule.

(2) In all cases in which evidence of another act is admitted pursuant to this subsection, the court shall instruct the jury as to the proper use of such evidence.

(3) In all criminal cases in which the prosecution intends to offer evidence of other acts pursuant to this rule, the prosecution shall make disclosure to the defendant as to such acts as required by rules of criminal procedure. The defendant shall make disclosure as to rebuttal evidence pertaining to such acts as required by rules of criminal procedure. In all civil cases in which a party intends to offer evidence of other acts pursuant to this rule, the parties shall make disclosure as required by the rules of civil procedure.

(Ord. No. SRO-421-2013, Rule 413, 6-1-2013)

Rules Committee Notes: If the evidence is admitted under Rule 413, the court should give the following or a similar limiting instruction unless objected by the opponent of the evidence being offered. "Evidence of other sexual acts has been presented. [Evidence to rebut this has also been presented.] You may consider this evidence in determining whether the defendant had a character trait that predisposed [him] [her] to commit the [crime] [crimes] charged. You may determine that the defendant had a character trait that predisposed [him] [her] to commit the [crime] [crimes] charged only if you decide that the Community has proved by clear and convincing evidence that:

1. The defendant committed these acts; and
2. These acts show the defendant's character predisposed [him] [her] to commit abnormal or unnatural sexual acts.

You may not convict the defendant of the [crime] [crimes] charged simply because you find that [he][she] committed these acts, or that [he] [she] had a character trait that predisposed [him][her] to commit the [crime] [crimes] charged. Evidence of these acts does not lessen the Community's burden to prove the defendant's guilt beyond a reasonable doubt."

Secs. 5-586—5-613. Reserved.

DIVISION 5. PRIVILEGES

Rule 501. Privilege in general.

(a) *Applicability of these rules.* This article shall govern claims of privilege and shall apply to all stages of a case or proceeding unless any of the following provides otherwise:

(1) An applicable Community law;

(2) Applicable federal law; or

(3) These rules.

But in a civil case, Community law governs privilege regarding a claim or defense for which Community law supplies the rule of decision.

(b) *Privileged communication and waiver.*

(1) To be privileged, a communication must come within these rules and the communication must occur during the relationship covered by these rules.

(2) Generally the privilege does not cease upon the termination of the relationship.

(3) The privilege does not extend to communications in furtherance of an illegal purpose or fraud.

(4) Communications not made in confidence, e.g., intended to be relayed to third parties, made in the presence of third parties, etc., are not within the privilege.

(5) Waiver of the privilege can only be effected by the holder; e.g., by the client or patient, and not by the professional. In matters of nonprofessional privilege, the waiver can only be effected by the one making the communications.

(6) A third person unknown to the privilege holder cannot testify about the communication between the parties if the conversation took place in a location where there was a reasonable expectation of privacy.

(c) *Inadvertent disclosure.* The disclosure does not operate as a waiver if:

(1) The disclosure is inadvertent;

(2) The holder of the privilege or protection took reasonable steps to prevent disclosure; and

(3) The holder promptly took reasonable steps to rectify the error, including following the applicable Salt River Rules of Civil Procedure, if any.

(d) *Disclosure made in a federal, state, or another tribal court proceeding.* When the disclosure is made in a proceeding in a federal, state, or another tribal court and is not subject of a court order concerning waiver, the disclosure does not operate as a waiver in a Community proceeding if the disclosure:

(1) Would not be a waiver under this rule if it had been made in a Community proceeding; or

(2) Is not a waiver under the law governing the federal, state or other tribal proceeding where the disclosure occurred.

(e) *Controlling effect of a court order.* A Community court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court- in which event the disclosure is also not a waiver in any other proceeding.

(f) *Controlling effect of a party agreement.* An agreement on the effect of disclosure in a Community proceeding is binding only on the parties to the agreement, unless it is incorporated into a court order.

(g) *Definition of "confidential communication".* "Confidential communication" means information disclosed between parties having a relationship defined under Rules 502 through 507 that was not intended to be disclosed to any third party.
(Ord. No. SRO-421-2013, Rule 501, 6-1-2013)

Rule 502. Counsel-client privilege and work product; limitations on waiver.

(a) "Client" is a person, corporation, public officer, association, or other organization or entity, either public or private, who is rendered professional legal services by a lawyer or an advocate, or who, consults with a lawyer or an advocate with the view of obtaining professional legal services from the lawyer or advocate.

(b) For purposes of this rule, "counsel' means a person authorized or reasonably believed by the client to be authorized to practice law in the Community, state, or relevant jurisdiction.

(c) A counsel shall not, without consent of the client, be examined as to any communication made by the client to counsel or the counsel's advice given in the course of professional representation.

(d) The counsel's staff, including secretary, clerk, stenographer, etc., shall not be examined concerning any fact or knowledge that was acquired in such capacity.

(e) Exceptions. There is no privilege under this rule where:

(1) The services sought or obtained were to enable someone in the furtherance of a crime or fraud, which the client knew or reasonably should have known to be a crime or fraud;

(2) The communication is relevant to an issue of an alleged breach of duty by the counsel to the client, or by the client to client's counsel; or

(3) The communication is relevant to a matter of common interest between two or more clients if the communication was made by any of them to a counsel retained or consulted in common, when offered in an action between any of the clients.

(Ord. No. SRO-421-2013, Rule 502, 6-1-2013)

Rule 503. Physician-patient privilege.

A physician, health care provider, or mental health professional shall not, without the consent of the patient, be examined as to any communication made by the patient with reference to any physical or mental disease or disorder or supposed physical or mental disease or disorder or as to any such knowledge obtained by personal examination of the patient. The patient has the privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, made for the purpose of diagnosis, treatment, or consultation of the patient's physical or mental condition, among himself/herself, the physician or any persons who are participating in the diagnosis, treatment or consultation under the direction of the physician.

(1) A "physician" "health care provider" or "mental health professional" is a person authorized in a state or tribe or reasonably believed by the patient to provide medical or mental health services, treatment, diagnosis or consultation including a person trained in the Native American healing practices. This provision also applies to staff of physician, health care provider, or mental health professional.

(2) A "patient" is a person who consults, or is examined or interviewed by a physician, health care provider, or mental health professional.

(3) The patient, by placing his or her medical condition at issue, e.g., by filing a personal injury suit, waives this privilege.

(Ord. No. SRO-421-2013, Rule 503, 6-1-2013)

Rule 504. Religious or spiritual communications.

A person has a privilege to refuse to disclose and prevent another from disclosing a confidential communication by the person to the person's spiritual advisor in his or her professional capacity as a spiritual advisor.

(1) A "spiritual advisor" is a minister, priest, rabbi, Native American spiritual advisor or other similar functionary of a religious organization, including such which is recognized by the customs of the Tribe, or an individual reasonably believed to be so by the person consulting the spiritual advisor.

(2) A spiritual advisor may claim the privilege on behalf of the person, if that person has not done so nor waived the privilege. Such authority to assert the privilege by the spiritual advisor is presumed unless evidence is presented to overcome the presumption.

(Ord. No. SRO-421-2013, Rule 504, 6-1-2013)

Rule 505. Marital privilege.

(a) In any action before the court, as to events occurring during the marriage, a husband may not be examined for or against his wife, without her consent, nor a wife for or against her husband without his consent, except as provided in subsection (c) of this rule.

(b) Communications. Neither husband nor wife may be examined during the marriage or after the marriage as to any communications made by one

or the other during the marriage without the consent of the other, i.e., the speaker. Only the speaker may waive the privilege.

(c) Privileges under this rule shall not apply under the following circumstances:

(1) In any action for divorce or a civil action by one against the other;

(2) In a criminal action or proceeding for a crime committed by one against the other or against any person residing in the same household; and

(3) In any judicial proceeding for abandonment, failure to support or provide for, or failure or neglect to furnish the necessities of life to the spouse or the minor children.

(d) For this subsection to apply, the party invoking the privilege shall be married to a person of an opposite sex and hold a valid marriage license from a state.
(Ord. No. SRO-421-2013, Rule 505, 6-1-2013)

Secs. 5-614—5-630. Reserved.

DIVISION 6. WITNESSES

Rule 601. Competency to testify in general.

Every person is competent to be a witness unless these rules or an applicable ordinance provide otherwise.
(Ord. No. SRO-421-2013, Rule 601, 6-1-2013)

Rule 602. Need for personal knowledge.

A witness may testify about a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness' own testimony. This rule does not apply to a witness' expert testimony under Rule 703.
(Ord. No. SRO-421-2013, Rule 602, 6-1-2013)

Rule 603. Oath or affirmation to testify truthfully.

Before testifying in the Community court, every witness shall first state before the judge, parties, and spectators that the witness will testify truthfully pursuant to an oath prescribed by the court. It must be in a manner designed to impress that duty on the witness' conscience.
(Ord. No. SRO-421-2013, Rule 603, 6-1-2013)

Rule 604. Interpreter.

All interpreters before the court are subject to the administration of an oath or affirmation to make a true interpretation. An interpreter must be qualified and must give an oath or affirmation to make a true translation.
(Ord. No. SRO-421-2013, Rule 604, 6-1-2013)

Rule 605. Judge's competency as a witness.

The presiding judge may not testify as a witness at the trial. A party need not object to preserve the issue.
(Ord. No. SRO-421-2013, Rule 605, 6-1-2013)

Rule 606. Juror's competency as a witness.

(a) *At the trial.* A juror may not testify as a witness before the other jurors at the trial. If a juror is called to testify, the court must give a party an opportunity to object outside the jury's presence.

(b) *During an inquiry into the validity of a verdict.*

(1) *Prohibited testimony or other evidence.* During an inquiry into the validity of a verdict, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything on that juror's or another juror's vote; or any juror's mental processes concerning the verdict. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.

(2) *Exceptions.* A juror may testify about whether:

a. Extraneous prejudicial information was improperly brought to the jury's attention;

b. An outside influence was improperly brought to bear on any juror; or

c. A mistake was made in entering the verdict on the verdict form.

(Ord. No. SRO-421-2013, Rule 606, 6-1-2013)

Rule 607. Who may impeach a witness.

Any party, including the party that called the witness, may attack the witness' credibility.

(Ord. No. SRO-421-2013, Rule 607, 6-1-2013)

Rule 608. A witness' character for truthfulness or untruthfulness.

(a) *Reputation or opinion evidence.* A witness' credibility may be attacked or supported by testimony about the witness' reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness' character for truthfulness has been attacked.

(b) *Specific instances of conduct.* Except for criminal convictions under Rule 609, extrinsic evidence is not admissible to prove specific instances of witness' conduct in order to attack or support the witness' character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:

(1) The witness; or

(2) Another witness the witness being cross-examination has testified about.

By testifying on another matter, a witness does not waive any privilege against self-incrimination for testimony that relates only to the witness' character for truthfulness.

(Ord. No. SRO-421-2013, Rule 608, 6-1-2013)

Rule 609. Impeachment by evidence of a criminal conviction.

(a) *In general.* For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted if elicited from the witness or established with public record, if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect and:

(1) If the crime was punishable as a serious offense under subsection (e) of this rule; or

(2) For any crime regardless of the punishment if the court can readily determine that establishing the elements of the crime required proving, or the witness' admitting, a dishonest act or false statement.

(b) *Limit on using the evidence after ten years.* If more than ten years have passed since the witness' conviction or release from confinement for it, whichever is later, the conviction may not be used under this rule.

(c) *Effect of a pardon, annulment, or certificate of rehabilitation.* Evidence of a conviction is not admissible if:

(1) The conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding that the person has been rehabilitated, and the person has not been convicted of a later crime punishable by death or by imprisonment for more than one year; or

(2) The conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) *Pendency of an appeal.* A conviction that satisfies this rule is admissible even if an appeal is pending. Evidence of the pendency of the appeal is also admissible.

(e) *Serious offense.* A "serious offense" for purposes of this rule is defined as any offense designated a Class A offense under this Community Code of Ordinances, even if the offense was committed prior to the enactment of section 8-3(a), or any offense committed outside this jurisdiction that would be punishable as a Class A offense if committed within this jurisdiction.

(Ord. No. SRO-421-2013, Rule 609, 6-1-2013)

Rule 610. Religious beliefs or opinions.

Evidence of a witness' religious beliefs or opinions is not admissible to attack or support the witness' credibility.
(Ord. No. SRO-421-2013, Rule 610, 6-1-2013)

Rule 611. Mode and order of examining witnesses and presenting evidence.

(a) *Control by the court; purposes.* The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:

(1) Make those procedures effective for determining the truth;

(2) Avoid wasting time; and

(3) Protect witnesses from harassment or undue embarrassment.

(b) *Scope of cross-examination.* A witness may be cross-examined on any relevant matter.

(c) *Leading questions.* Leading questions should not be used on direct examination except as necessary to develop the witness' testimony. Ordinarily, the court should allow leading questions:

(1) On cross-examination; and

(2) When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party.

(Ord. No. SRO-421-2013, Rule 611, 6-1-2013)

Rule 612. Writing used to refresh a witness' memory.

(a) *Scope.* This rule gives an adverse party certain options when a witness uses a writing to refresh memory:

(1) While testifying; or

(2) Before testifying, if the court decides that justice requires the party to have those options.

(b) *Adverse party's options; deleting unrelated matter.* An adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness' testimony. If the producing party claims that the writing includes unrelated matter, the court must examine the writing in camera, delete any unrelated portion, and order that the rest be delivered to the adverse party. Any portion deleted over objection must be preserved for the record.

(c) *Failure to produce or deliver the writing.* If a writing is not produced or is not delivered as ordered, the court may issue any appropriate order. But if the prosecution does not comply in a criminal case, the court must strike the witness' testimony or, if justice so requires, declare a mistrial.
(Ord. No. SRO-421-2013, Rule 612, 6-1-2013)

Rule 613. Witness' prior statements.

(a) *Showing or disclosing the statement during examination.* When examining a witness about the witness' prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party's counsel.

(b) *Extrinsic evidence of a prior inconsistent statement.* Extrinsic evidence of a witness' prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subsection (b) does not apply to an opposing party's statement under Rule 801(d)(2).
(Ord. No. SRO-421-2013, Rule 613, 6-1-2013)

Rule 614. Court's calling or examining a witness.

(a) *Calling.* The court may call a witness on its own if none of the parties object. Each party is entitled to cross-examine the witness.

(b) *Examining.* The court may examine a witness regardless of who calls the witness. A party may object to the court's examining a witness at that time. The court shall allow each party to ask follow-up question(s) to the witness after the court completes its questioning. The follow-up question(s) by a party shall be limited in scope to the matters inquired into by the court.
(Ord. No. SRO-421-2013, Rule 614, 6-1-2013)

Rule 615. Excluding witnesses.

At a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony. On its own, the court may order witnesses excluded. But this rule does not authorize excluding:

(1) A party who is a natural person;

(2) An officer or employee of a party, after being designated as the party's representative by its counsel;

(3) A person, whose presence, a party shows to be essential to presenting the party's claim or defense;

(4) A person authorized by applicable law to be present; or

(5) A victim of crime, as defined by applicable law, who wishes to be present during proceedings against the defendant.

(Ord. No. SRO-421-2013, Rule 615, 6-1-2013)

Secs. 5-631—5-664. Reserved.

DIVISION 7. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion testimony by lay witnesses.

If the witness is not testifying as an expert, the witness' testimony in the form of opinion or inferences is limited to those opinions or inferences which are:

(1) Rationally based on the perception of the witness;

(2) Helpful to a clear understanding of his or her testimony or the determination of a fact in issue; and

(3) Not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

(Ord. No. SRO-421-2013, Rule 701, 6-1-2013)

Rule 702. Testimony by expert witnesses.

(a) *Scientific based evidence.* A witness who is qualified as an expert by experience, training, or education may testify in the form of an opinion or otherwise if:

(1) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(2) The testimony is based on sufficient facts or data;

(3) The testimony is the product of reliable principles and methods; and

(4) The expert has reliably applied the principles and methods to the facts of the case.

(b) *Non-scientific based evidence.* A witness qualified as an expert based upon specialized knowledge or skill may testify in the form of an opinion or otherwise if a witness' specialized knowledge or skill will assist the trier of fact to understand the evidence or to determine a fact in issue.

(Ord. No. SRO-421-2013, Rule 702, 6-1-2013)

Rule 703. Bases of an expert's opinion testimony.

(a) An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed.

(b) If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.

(c) But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.

(Ord. No. SRO-421-2013, Rule 703, 6-1-2013)

Rule 704. Opinion on an ultimate issue.

(a) *In general; not automatically objectionable.* Testimony in the form of an opinion otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

(b) *Exception.* In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.
(Ord. No. SRO-421-2013, Rule 704, 6-1-2013)

Rule 705. Disclosing the facts or data underlying an expert's opinion.

Unless the court orders otherwise, an expert may state an opinion, and give the reasons for it, without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.
(Ord. No. SRO-421-2013, Rule 705, 6-1-2013)

Rule 706. Court appointed expert witnesses.

(a) *Appointment process.* On a party's motion or on its own, the court may order the parties to show cause why expert witnesses should not be appointed and may ask the parties to submit nominations. The court may appoint any expert that the parties agree on and any of its own choosing. The court may only appoint someone who consents to the appointment.

(b) *Expert's role.* The court must inform the expert of the expert's duties. The court may do so in writing and have a copy filed with the clerk or may do so orally at a conference in which the parties have an opportunity to participate. The expert:

(1) Must advise the parties of any findings the expert makes;

(2) May be deposed by any party;

(3) May be called to testify by the court or any party; and

(4) May be cross-examined by any party, including the party that called the expert.

(c) *Compensation.* The court shall determine the appropriate compensation:

(1) In a criminal case or in a civil case involving just compensation under SRPMIC Const., Article XII Bill of Rights num. 6, from any funds that are provided by law; and

(2) In any other civil case, by the parties in the proportion and at the time that the court directs, and the compensation is then charged like other costs.

(d) *Disclosing the appointment to the jury.* The court may authorize disclosure to the jury that the court appointed the expert.

(e) *Parties' choice of their own experts.* This rule does not limit a party in calling its own experts.
(Ord. No. SRO-421-2013, Rule 706, 6-1-2013)

Secs. 5-665—5-693. Reserved.

DIVISION 8. HEARSAY

Rule 801. Definitions that apply to this division within this Community Code of Ordinances; exclusions from hearsay.

(a) *Statement.* "Statement" means a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion.

(b) *Declarant.* "Declarant" means the person who made the statement.

(c) *Hearsay.* "Hearsay" means a statement that:

(1) The declarant does not make while testifying at the current trial or hearing; and

(2) A party offers in evidence to prove the truth of the matter asserted in the statement.

(d) *Statements that are not hearsay.* A statement that meets the following conditions is not hearsay:

(1) *A declarant-witness' prior statement.* The declarant testifies and is subject to cross-examination about a prior statement, and the statement:

a. Is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;

b. Is consistent with the declarant's testimony and is offered to rebut an express or implied charge that the

declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or

c. Identifies a person as someone the declarant perceived earlier.

(2) *An opposing party's statement.* The statement is offered against an opposing party and:

a. Was made by the party in an individual or representative capacity;

b. Is one the party manifested that it adopted or believed to be true;

c. Was made by a person whom the party authorized to make a statement on the subject;

d. Was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or

e. Was made by the party's co-conspirator during and in furtherance of the conspiracy.

The statement must be considered, but does not by itself establish the declarant's authority under subsection (2)c of this rule; the existence or scope of the relationship under subsection (2)d of this rule; or the existence of the conspiracy or participation in it under subsection (2)e of this rule.

(Ord. No. SRO-421-2013, Rule 801, 6-1-2013)

Rule 802. The rule against hearsay.

Hearsay is not admissible unless any of the following provides otherwise:

(1) An applicable law; or

(2) These rules.

(Ord. No. SRO-421-2013, Rule 802, 6-1-2013)

Rule 803. Exceptions to the rule against hearsay; regardless of whether the declarant is available as a witness.

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(1) *Present sense impression.* A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.

(2) *Excited utterance.* A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) *Then-existing mental, emotional, or physical condition.* A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health). This does not include a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

(4) *Statement made for medical diagnosis or treatment.* A statement that:

a. Is made for, and is reasonably pertinent to, medical diagnosis or treatment; and

b. Describes medical history; past or present symptoms or sensations; their inception; or their general cause.

(5) *Recorded recollection.* A record that:

a. Is on a matter the witness once knew about, but now cannot recall well enough to testify fully and accurately;

b. Was made or adopted by the witness when the matter was fresh in the witness' memory; and

c. Accurately reflects the witness' knowledge.

If admitted, the record may be read into evidence, but may be received as an exhibit only if offered by an adverse party.

(6) *Records of a regularly conducted activity.* A record of an act, event, condition, opinion, or diagnosis if:

a. The record was made at or near the time by, or from information transmitted by, someone with knowledge;

b. The record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;

c. Making the record was a regular practice of that activity;

d. All these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with Rule 902(11) or (12) or with an applicable law permitting certification; and

e. Neither the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness.

(7) *Absence of a record of a regularly conducted activity.* Evidence that a matter is not included in a record described in subsection (6) of this rule if:

a. The evidence is admitted to prove that the matter did not occur or exist;

b. Record was regularly kept for a matter of that kind; and

c. Neither the possible source of the information nor other circumstances indicate a lack of trustworthiness.

(8) *Public records.* A record or statement of a public office if:

a. It sets out:

1. The office's activities;

2. A matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or

3. In a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and

b. Neither the source of information nor other circumstances indicate a lack of trustworthiness.

(9) *Public records of vital statistics.* A record of a birth, death, or marriage, if reported to a public office in accordance with a legal duty.

(10) *Absence of a public record.* Testimony, or a certification under Rule 902, that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:

a. The record or statement does not exist; or

b. Matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.

(11) *Records of religious organizations concerning personal or family history.* A statement of birth, legitimacy, ancestry, marriage, divorce, death, relationship by blood or marriage, or similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) *Certificates of marriage, baptism, and similar ceremonies.* A statement of fact contained in a certificate:

a. Made by a person who is authorized by a religious organization or by law to perform the act certified;

b. Attesting that the person performed a marriage or similar ceremony or administered a sacrament; and

c. Purporting to have been issued at the time of the act or within a reasonable time after it.

(13) *Family records.* A statement of fact about personal or family history contained in a family record, such as a Bible, genealogy, chart, engraving on a ring, inscription on a portrait, or engraving on an urn or burial marker.

(14) *Records of documents that affect an interest in property.* The record of a document that purports to establish or affect an interest in property if:

a. The record is admitted to prove the content of the original recorded document, along with its signing and its delivery by each person who purports to have signed it;

b. The record is kept in a public office; and

c. A law authorizes recording documents of that kind in that office.

(15) *Statements in documents that affect an interest in property.* A statement contained in a document that purports to establish or affect an interest in property if the matter stated was relevant to the document's purpose, unless later dealings with the property are inconsistent with the truth of the statement or the purport of the document.

(16) *Statements in ancient documents.* A statement in a document that is at least 20 years old and whose authenticity is established.

(17) *Market reports and similar commercial publications.* Market quotations, lists, directories, or other compilations that are generally relied on by the public or by persons in particular occupations.

(18) *Statements in learned treatises, periodicals, or pamphlets.* A statement contained in a treatise, periodical, or pamphlet if:

a. The statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and

b. The publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.

If admitted, the statement may be read into evidence, but not received as an exhibit.

(19) *Reputation concerning personal or family history.* A reputation among a person's family by blood, adoption, or marriage, or among a person's associates or in the Community, concerning the person's birth, adoption, legitimacy, ancestry, marriage, divorce, death, relationship by blood, adoption, or marriage, or similar facts of personal or family history.

(20) *Reputation concerning boundaries or general history.* A reputation in a Community, arising before the controversy, concerning boundaries of land in the Community or customs that affect the land, or concerning general historical events important to that Community, state, or nation.

(21) *Reputation concerning character.* A reputation among a person's associates or in the Community concerning the person's character.

(22) *Judgment of a previous conviction.* Evidence of a final judgment of conviction if:

a. The judgment was entered after a trial or guilty plea, but not a nolo contendere plea;

b. The conviction was for a crime punishable by death or by imprisonment for more than one year;

c. The evidence is admitted to prove any fact essential to the judgment; and

d. When offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.

The pendency of an appeal may be shown, but does not affect admissibility.

(23) *Judgments involving personal, family, or general history or a boundary.* A judgment that is admitted to prove a matter of personal, family, or general history, or boundaries, if the matter:

a. Was essential to the judgment; and

b. Could be proved by evidence of reputation.

(Ord. No. SRO-421-2013, Rule 803, 6-1-2013)

Rule 804. Exceptions to the rule against hearsay; when the declarant is unavailable as a witness.

(a) *Criteria for being unavailable.* A declarant is considered unavailable as a witness if the declarant:

(1) Is exempted from testifying about the subject matter of the declarant's statement because the court rules that a privilege applies;

(2) Refuses to testify about the subject matter despite a court order to do so;

(3) Testifies to not remembering the subject matter;

(4) Cannot be present or testify at the trial or hearing because of death or a then-existing infirmity, physical illness, or mental illness; or

(5) Is absent from the trial or a hearing and the statement's proponent has been unable, by process or other reasonable means to procure the declarant's attendance or testimony, or in the case of a hearsay exception under subsection (b)(2), (3), or (4) of this rule.

But this subsection (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying.

(b) *The exceptions.* The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:

(1) *Former testimony.* Testimony that:

a. Was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and

b. Is now offered against a party who had, or, in a civil case, whose predecessor in interest had, an opportunity and similar motive to develop it by direct, cross, or redirect examination.

(2) *Statement under the belief of imminent death.* In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.

(3) *Statement against interest.* A statement that:

a. A reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

b. If it is offered in a criminal case as one that tends to expose the declarant to criminal liability, is supported by corroborating circumstances that clearly indicate its trustworthiness.

(4) *Statement of personal or family history.* A statement about:

a. The declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or

b. Another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.

(5) *Statement offered against a party that wrongfully caused the declarant's unavailability.* A statement offered against a party that wrongfully caused, or acquiesced in wrongfully causing, the declarant's unavailability as a witness, and did so intending that result.

(c) *Only applicable to civil cases:* A proponent may offer a former testimony of an expert witness given as a witness at a trial, hearing, or lawful deposition against a party if the party had an opportunity to develop the former testimony by direct, cross, or redirect examination regardless of the witness' unavailability if:

(1) The proponent first gives notice to the opposing party its intent to use this rule at least 30 days in advance; and

(2) The court determines that such admission would be in the interest of justice.

A proponent may also offer the former testimony of an expert witness given at a trial, hearing, or lawful deposition against a party if the party's predecessor in interest had an opportunity and similar motive to develop the former testimony by direct, cross, or redirect examination regardless of the witness' unavailability if the proponent complies with the requirements under subsections (c)(1) and (c)(2) of this rule. The parties may also stipulate to the use of former testimony.
(Ord. No. SRO-421-2013, Rule 804, 6-1-2013)

Rule 805. Hearsay within hearsay.

Hearsay within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.
(Ord. No. SRO-421-2013, Rule 805, 6-1-2013)

Rule 806. Attacking and supporting the declarant's credibility.

When a hearsay statement, or a statement described in Rule 801(d)(2)c, d, or e, has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.
(Ord. No. SRO-421-2013, Rule 806, 6-1-2013)

Rule 807. Residual exception.

(a) *In general.* Under the following circumstances, a hearsay statement is not excluded by the rule against hearsay even if the statement is not specifically covered by a hearsay exception in Rule 803 or 804:

(1) The statement has equivalent circumstantial guarantees of trustworthiness;

(2) It is offered as evidence of a material fact;

(3) It is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts; and

(4) Admitting it will best serve the purposes of these rules and the interests of justice.

(b) *Notice.* The statement is admissible only if, before the trial or hearing, the proponent gives an adverse party reasonable notice of the intent to offer the statement and its particulars, including the declarant's name and address, so that the party has a fair opportunity to challenge it.
(Ord. No. SRO-421-2013, Rule 807, 6-1-2013)

Rules Committee Note to Rule 807: Hearsay evidence that has sufficient indicia of reliability and trustworthiness based upon accepted customs and cultural values of different Tribes, such as oral family history, should be admitted under Rule 807 if it would serve the purposes stated under Rule 102.

Secs. 5-694—5-725. Reserved.

DIVISION 9. AUTHENTICATION AND IDENTIFICATION

Rule 901. Authenticating or identifying evidence.

(a) *In general.* To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

(b) *Examples.* The following are examples only, not a complete list, of evidence that satisfies the requirement:

(1) *Testimony of a witness with knowledge.* Testimony that an item is what it is claimed to be.

(2) *Nonexpert opinion about handwriting.* A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) *Comparison by an expert witness or the trier of fact.* A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) *Distinctive characteristics and the like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) *Opinion about a voice.* An opinion identifying a person's voice, whether heard firsthand or through mechanical or electronic transmission or recording, based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) *Evidence about a telephone conversation.* For a telephone conversation, evidence that a call was made to the number assigned at the time to:

a. A particular person, if circumstances, including self-identification, show that the person answering was the one called; or

b. A particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) *Evidence about public records.* Evidence that:

a. A document was recorded or filed in a public office as authorized by law; or

b. A purported public record or statement is from the office where items of this kind are kept.

(8) *Evidence about ancient documents or data compilations.* For a document or data compilation, evidence that it:

a. Is in a condition that creates no suspicion about its authenticity;

b. Was in a place where, if authentic, it would likely be; and

c. Is at least 20 years old when offered.

(9) *Evidence about a process or system.* Evidence describing a process or system and showing that it produces an accurate result.

(10) *Methods provided by a law or rule.* Any method of authentication or identification allowed by the Community Code of Ordinances.

(Ord. No. SRO-421-2013, Rule 901, 6-1-2013)

Rule 902. Evidence that is self-authenticating.

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(1) *Domestic public documents that are sealed and signed.* A document that bears:

a. A seal purporting to be that of the United States; any tribe, any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

b. A signature purporting to be an execution or attestation.

(2) *Domestic public documents that are not sealed but are signed and certified.* A document that bears no seal if:

a. It bears the signature of an officer or employee of an entity named in Rule 902(1)(A); and

b. Another public officer who has a seal and official duties within that same entity certifies under seal, or its equivalent, that the signer has the official capacity and that the signature is genuine.

(3) *Foreign public documents.* A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attester, or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of

certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the court may, for good cause, either:

a. Order that it be treated as presumptively authentic without final certification; or

b. Allow it to be evidenced by an attested summary with or without final certification.

(4) *Certified copies of public records.* A copy of an official record, or a copy of a document that was recorded or filed in a public office as authorized by law, if the copy is certified as correct by:

a. The custodian or another person authorized to make the certification; or

b. A certificate that complies with Rule 902(1), (2), or (3), or the Community Code of Ordinances.

(5) *Official publications.* A book, pamphlet, or other publication purporting to be issued by a public authority.

(6) *Newspapers and periodicals.* Printed material purporting to be a newspaper or periodical.

(7) *Trade inscriptions and the like.* An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.

(8) *Acknowledged documents.* A document accompanied by a certificate of acknowledgment that is lawfully executed by a notary public or another officer who is authorized to take acknowledgments.

(9) *Commercial paper and related documents.* Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(10) *Presumptions under a Community law.* A signature, document, or anything else that a Community law declares to be presumptively or prima facie genuine or authentic.

(11) *Certified domestic records of a regularly conducted activity.* The original or a copy of a domestic record that meets the requirements of Rule 803(6)a—c, as shown by a certification of the custodian or another qualified person that complies with the Community Code of Ordinances. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record, and must make the record and certification available for inspection, so that the party has a fair opportunity to challenge them.

(12) *Certified foreign records of a regularly conducted activity.* In a civil case, the original or a copy of a foreign record that meets the requirements of Rule 902(11), modified as follows: the certification, rather than complying with the Community Code of Ordinances, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of Rule 902(11).

(Ord. No. SRO-421-2013, Rule 902, 6-1-2013)

Rule 903. Subscribing witness' testimony.

A subscribing witness' testimony is necessary to authenticate a writing only if required by the law of the jurisdiction that governs its validity.
(Ord. No. SRO-421-2013, Rule 903, 6-1-2013)

Secs. 5-726—5-750. Reserved.

DIVISION 10. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

Rule 1001. Definitions that apply to this division within this Community Code of Ordinances.

In this division within this Community Code of Ordinances:

(1) A "writing" consists of letters, words, numbers, or their equivalent set down in any form.

(2) A "recording" consists of letters, words, numbers, or their equivalent recorded in any manner.

(3) A "photograph" means a photographic image or its equivalent stored in any form.

(4) An "original" of a writing or recording means the writing or recording itself or any counterpart intended to have the same effect by the person who executed or issued it. For electronically stored information, "original" means any printout, or other output readable by sight, if it accurately reflects the information. An "original" of a photograph includes the negative or a print from it. If data is stored in a computer, an electronic device capable of capturing digital images, or similar device, any printout or other output readable by sight, shown to reflect the data accurately is an original.

(5) A "duplicate" means a counterpart produced by a mechanical, photographic, chemical, electronic, or other equivalent process or technique that accurately reproduces the original.

(Ord. No. SRO-421-2013, Rule 1001, 6-1-2013)

Rule 1002. Requirement of the original.

An original writing, recording, or photograph is required in order to prove its content unless these rules or a federal statute provides otherwise.
(Ord. No. SRO-421-2013, Rule 1002, 6-1-2013)

Rule 1003. Admissibility of duplicates.

A duplicate is admissible to the same extent as the original unless a genuine question is raised about the original's authenticity or the circumstances make it unfair to admit the duplicate.
(Ord. No. SRO-421-2013, Rule 1003, 6-1-2013)

Rule 1004. Admissibility of other evidence of content.

An original is not required and other evidence of the content of writing, recording, or photograph is admissible if:

(1) All the originals are lost or destroyed, and not by the proponent acting in bad faith;

(2) An original cannot be obtained by any available judicial process;

(3) The party against whom the original would be offered had control of the original; was at that time put on notice, by pleadings or otherwise, that the original would be a subject of proof at the trial or hearing; and fails to produce it at the trial or hearing; or

(4) The writing, recording, or photograph is not closely related to a controlling issue.

(Ord. No. SRO-421-2013, Rule 1004, 6-1-2013)

Rule 1005. Copies of public records to prove content.

The proponent may use a copy to prove the content of an official record, or of a document that was recorded or filed in a public office as authorized by law, if these conditions are met: the record or document is otherwise admissible; and the copy is certified as correct in accordance with Rule 902(4) or is testified to be correct by a witness who has compared it with the original. If no such copy can be obtained by reasonable diligence, then the proponent may use other evidence to prove the content.
(Ord. No. SRO-421-2013, Rule 1005, 6-1-2013)

Rule 1006. Summaries to prove content.

The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot

be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place. And the court may order the proponent to produce them in court.
(Ord. No. SRO-421-2013, Rule 1006, 6-1-2013)

Rule 1007. Testimony or statement of a party to prove content.

The proponent may prove the content of a writing, recording, or photograph by the testimony, deposition, or written statement of the party against whom the evidence is offered. The proponent need not account for the original.
(Ord. No. SRO-421-2013, Rule 1007, 6-1-2013)

Rule 1008. Functions of the court and jury.

Ordinarily, the court determines whether the proponent has fulfilled the factual conditions for admitting other evidence of the content of a writing, recording, or photograph under Rule 1004 or 1005. But in a jury trial, the jury determines, in accordance with Rule 104(b), any issue about whether:

(1) An asserted writing, recording, or photograph ever existed;

(2) Another one produced at the trial or hearing is the original; or

(3) Other evidence of content accurately reflects the content.

(Ord. No. SRO-421-2013, Rule 1008, 6-1-2013)

Chapter 5.5

CIVIL OFFENSES

Sec. 5.5-1. Pedicabs.
Sec. 5.5-2. Ticket reselling.

Sec. 5.5-1. Pedicabs.

(a) It shall be unlawful for any person or entity to operate, or cause to be operated, a pedicab within the exterior boundaries of the Community. The term "pedicab" means either a bicycle or motorized electric- or gas-powered bicycle or tricycle that transports or is held out to the public as available to transport passengers for hire, including a bicycle or a motorized electric or gas powered bicycle or tricycle that pulls, or to which is attached, a trailer, sidecar or similar device.

(b) A person or entity who violates this section shall be subject to a fine not to exceed $1,000.00 for each violation.

(Code 1981, § 16-61; Code 2012, § 5.5-1; Ord. No. SRO-377-2011, 2-2-2011; Ord. No. SRO-402-2012, § 5.5-1, 5-30-2012)

Sec. 5.5-2. Ticket reselling.

It shall be unlawful for any person or entity to resell or attempt to resell a ticket for admission to public events held at Salt River Fields at Talking Stick, including spring training baseball games, on land within the exterior boundaries of the Community. A person or entity who violates this section shall be subject to a civil fine not to exceed $1,000.00 for each violation.

(Code 2012, § 5.5-2; Ord. No. SRO-376-2011, 5-5-2011; Ord. No. SRO-402-2012, § 5.5-2, 5-30-2012)

Chapter 6

CRIMINAL CODE

Article I. In General

Sec. 6-0. Authority to maintain law and order.
Sec. 6-1. Eligible age for court jurisdiction.
Sec. 6-2. Aiding or abetting.
Sec. 6-3. Unlawful imprisonment; kidnapping.
Sec. 6-4. Maintaining a public nuisance.
Sec. 6-5. Disorderly conduct.
Sec. 6-6. Gambling.
Sec. 6-7. Criminal street gangs.
Sec. 6-8. Promoting jail or detention contraband.
Sec. 6-9. False reporting.
Sec. 6-10. Interference with the peaceful conduct of educational institutions.
Sec. 6-11. Rights of crime victims.
Sec. 6-12. Facilitation of a crime.
Secs. 6-13—6-30. Reserved.

Article II. Offenses Against Public Administration

Division 1. Generally

Sec. 6-31. Resisting lawful arrest.
Sec. 6-32. Duty to assist law enforcement officer.
Sec. 6-33. Escape.
Sec. 6-34. Impersonation of peace officer or Community officer.
Sec. 6-35. Failure to report suspicious death; failure to report missing child.
Sec. 6-36. Violence or assault on a Community law enforcement officer or judge.
Sec. 6-37. Tampering with a victim, witness, or informant.
Sec. 6-38. False reporting to law enforcement; interfering with police officer.
Sec. 6-39. Concealment of fugitives and escapees; accessory after the fact.
Sec. 6-40. Unlawful flight from a pursuing law enforcement vehicle.

Division 2. Court-Related Offenses

Sec. 6-41. Contempt of court.
Sec. 6-42. Disobedience to lawful orders of court.
Sec. 6-43. Destroying evidence.
Sec. 6-44. Perjury.
Secs. 6-45—6-50. Reserved

Article III. Offenses Against Persons

Division 1. Generally

Sec. 6-51. Assault; aggravated assault.
Sec. 6-52. Homicide.
Sec. 6-53. Threatening or intimidating.
Sec. 6-54. Use of telephone or electronic device to commit offense.
Sec. 6-55. Stalking
Secs. 6-56—6-60. Reserved.

Division 2. Sexual Offenses

Sec. 6-61. Definitions.
Sec. 6-62. Prostitution.
Sec. 6-63. Indecent exposure.
Sec. 6-64. Abusive sexual contact.
Sec. 6-65. Sexual assault; aggravated sexual assault.
Secs. 6-66, 6-67. Reserved.
Sec. 6-68. Incest.
Secs. 6-69—6-80. Reserved.

Article IV. Offenses Against Minors and Dependents

Division 1. Generally

Sec. 6-81. Failure to provide care of dependent persons.
Sec. 6-82. Child abuse; aggravated child abuse.
Sec. 6-83. Contributing to the delinquency and dependency of a minor.
Sec. 6-84. Selling tobacco, paper or wrappers to minors.
Sec. 6-85. Custodial interference.

Division 2. Sexual Contact With Children

Sec. 6-86. Definitions.
Sec. 6-87. Sexual contact with a child.
Sec. 6-88. Sexual abuse of a child.
Sec. 6-89. Continuous sexual abuse of a child.
Sec. 6-90. Child prostitution.
Sec. 6-91. Reserved.

Article V. Offenses Against Property

Division 1. Generally

Sec. 6-92. Receiving stolen property.
Sec. 6-93. Bribery.
Sec. 6-94. Fraudulent schemes and practices.
Sec. 6-95. Extortion.
Sec. 6-96. Forgery.
Sec. 6-97. Embezzlement.
Sec. 6-98. Disposing of property of an estate.
Sec. 6-99. Taking identity of another person.
Sec. 6-100. Reserved.

Division 2. Real or Tangible Property

Sec. 6-101. Injury to public property.
Sec. 6-102. Criminal damage.
Sec. 6-103. Burglary.
Sec. 6-104. Theft and robbery.
Sec. 6-105. Cutting fence.
Sec. 6-106. Cutting timber without permit.
Sec. 6-107. Misbranding.
Sec. 6-108. Negligent handling of campfire and/or negligent starting of a fire.
Sec. 6-109. Short-handled hoes.
Sec. 6-110. Arson.

Division 3. Trespass

Sec. 6-111. Criminal trespass.
Sec. 6-112. Policy of the Community.
Sec. 6-113. Use of land for illegal dumping.
Sec. 6-114. Use of off-the-road vehicles prohibited without license and landowner's permission.
Sec. 6-115. Police officer to seize vehicle.
Sec. 6-116. Police officer to file notice of seizure.
Sec. 6-117. Owner's answer to notice.
Sec. 6-118. Procedure for hearing.
Sec. 6-119. Judgment.
Sec. 6-120. Reserved.

Article VI. Drug-Related Offenses

Sec. 6-121. Possession or use of narcotics and drugs.
Sec. 6-122. Reserved.
Secs. 6-123—6-129. Reserved.

Article VII. Weapons and Explosives

Sec. 6-130. Reserved.
Sec. 6-131. Unlawful discharge of firearm.
Sec. 6-132. Reserved.
Sec. 6-133. Reserved.
Sec. 6-134. Endangerment.
Sec. 6-135. Reserved.
Sec. 6-136. Reserved.
Sec. 6-137. Reserved.
Sec. 6-138. Reserved.
Sec. 6-139. Discharge of a firearm at an occupied structure; definitions; sentencing.
Sec. 6-140. Discharge of a firearm at an occupied structure; seizure of vehicle used.
Secs. 6-141—6-149. Reserved.
Sec. 6-150. Misconduct involving weapons; definitions.
Sec. 6-151. Misconduct involving weapons; permits.
Sec. 6-152. Misconduct involving weapons; offenses.
Sec. 6-153. Effective date.

ARTICLE I. IN GENERAL

Sec. 6-0. Authority to maintain law and order.

The Community has the inherent authority to maintain law and order within its territory and jurisdiction. This authority is a fundamental sovereign attribute intimately connected to the Community's ability to protect the integrity and order of its territory and welfare of its members.
(Code 2012, § 6-0; Ord. No. SRO-402-2012, § 6-0, 5-30-2012)

Sec. 6-1. Eligible age for court jurisdiction.

The Community court shall have no jurisdiction to try any person under the age of 18 years as an adult, unless the juvenile court finds that the interests of the Community or of the juvenile in question would be served better if a juvenile 16 years of age or older were tried as an adult.
(Code 1976, § 6.1; Code 1981, § 6-1; Code 2012, § 6-1; Ord. No. SRO-37-76, 8-20-1975; Ord. No. SRO-402-2012, § 6-1, 5-30-2012; Ord. No. SRO-418-2013, § 6-1, 3-6-2013)

Sec. 6-2. Aiding or abetting.

A person who counsels or aids another in the commission of an act in violation of this Community Code of Ordinances shall be deemed guilty of an offense of aiding or abetting and, upon conviction thereof, shall be sentenced to a fine or imprisonment not to exceed sentence of the person charged and convicted of a crime under this Community Code of Ordinances.
(Code 1976, § 6.5; Code 1981, § 6-2; Code 2012, § 6-2; Ord. No. SRO-402-2012, § 6-2, 5-30-2012; Ord. No. SRO-418-2013, § 6-2, 3-6-2013)

Sec. 6-3. Unlawful imprisonment; kidnapping.

(a) *Unlawful imprisonment.* Any person who knowingly restrains another person shall be deemed guilty of unlawful imprisonment, unless the restraint was accomplished by a police officer acting in good faith in the lawful performance of his or her duty. Unlawful imprisonment is a Class C offense.

(b) *Kidnapping.* Any person who knowingly restrains another person with the intent to hold for ransom, as a shield, or as a hostage; inflict death, physical injury, or a sexual offense; place a person in reasonable apprehension of imminent physical injury; or aid in the commission of any Class A or Class B offense shall be deemed guilty of kidnapping. Kidnapping is a Class A offense.

(c) *Definition.* For purposes of this section, the term "restrain" means to restrict a person's movements without consent, without legal authority, and in a manner that interferes substantially with such person's liberty, by either moving such person from one place to another or by confining such person.
(Code 1976, § 6.34; Code 1981, § 6-3; Code 2012, § 6-3; Ord. No. SRO-402-2012, § 6-3, 5-30-2012; Ord. No. SRO-418-2013, § 6-3, 3-6-2013)

Sec. 6-4. Maintaining a public nuisance.

Any person who shall maintain a place which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by a considerable number of persons, or which unlawfully obstructs the free passage or use in the customary manner, of any lake, river, canal or Community property shall be deemed guilty of an offense, and may be required to remove or cease such nuisance when so ordered by the court. Maintaining a public nuisance is a Class D offense.
(Code 1976, § 6.44; Code 1981, § 6-4; Code 2012, § 6-4; Ord. No. SRO-402-2012, § 6-4, 5-30-2012; Ord. No. SRO-418-2013, § 6-4, 3-6-2013)

Sec. 6-5. Disorderly conduct.

(a) *Prohibited activities.* A person commits disorderly conduct if, in a public or private place, with the intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, or recklessly creating a risk thereof, such person:

(1) Engages in fighting, violence, or seriously disruptive behavior;

(2) Uses or employs abusive, profane language or gestures;

(3) Makes unreasonable noise by engaging in any of the following:

a. Operating a motor vehicle not equipped with a muffler in good working order, operating a motor vehicle equipped with a device that amplifies motor noise or exhaust noise, operating a motor vehicle while using a horn or noise device for any purposes other than those allowed by law, operating a vehicle in an erratic manner or operating a motor vehicle while unnecessarily causing excessive revving of the vehicle engine;

b. Operating any radio, loudspeaker, sound producing equipment, sound reproducing equipment or sound amplification equipment which emits noise that can be heard from within closed residential structures; or

c. Allowing to originate from any property in their possession, any noise that can be heard within closed residential structures.

(b) *Exceptions.* The following noises shall be exempt from the provisions of this section:

(1) Emergency signals, emergency vehicles, and emergency situations;

(2) Customary noise produced in the normal conduct of business; and

(3) Non-amplified crowd noise resulting from planned and approved activities.

(c) *Penalties.*

(1) Disorderly conduct under subsection (a)(1) is a class B offense.

(2) Disorderly conduct under subsection (a)(2), (a)(3)a., (a)(3)b. and (a)(3)c. is a class E offense.

(d) *Effective date.* The amendments set forth above will govern cases filed on or after September 1, 2014.

(Code 1976, § 6.24; Code 1981, § 6-5; Code 2012, § 6-5; Ord. No. SRO-27-74, 5-3-1974; Ord. No. SRO-33-75, 8-7-1974; Ord. No. SRO-37-76, 8-20-1975; Ord. No. SRO-114-88, § A, 8-10-1988; SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-5, 5-30-2012; Ord. No. SRO-418-2013, § 6-5, 3-6-2013; Ord. No. SRO-446-2014, § 6-5, 7-30-2014, eff. 9-1-2014)

Sec. 6-6. Gambling.

Any person who participates in any game for a chance to win money or other valuable consideration or any person who operates a place or device where a risk is taken on a chance of winning money or other valuable consideration shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 30 days or to a fine not to exceed $60.00, or to both such imprisonment and fine, with costs; provided that:

(1) Bingo games conducted for charitable fundraising purposes shall be exempt from the application of this section, provided that no item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of bingo pursuant to this section except for bona fide expenses of a reasonable amount. Expenses may be incurred only for the following purposes:

a. The purchase of goods, wares and merchandise furnished;

b. Payment for services rendered which are reasonably necessary for repairs of equipment, operating or conducting the game of bingo;

c. For rent if the premises are rented, or for janitorial services if not rented;

d. Accountant's fees;

e. License fees;

f. Utility expenses.

On or before July 1 of each year, each organization conducting bingo games for charitable fundraising purposes shall file with the Community police commission a duly verified statement covering the preceding calendar year showing the amount of the gross receipts derived during such periods from games of bingo, the expenses incurred or paid, and a brief description of

the classification of such expenses and the purposes of such expenditure and the net profits derived from each such game of bingo. Each organization conducting bingo games shall maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

(2) Games of chance conducted in private residences shall be exempt from the application of this section, provided that no person shall receive any benefit or consideration from such games of chance because of the game of chance being held at his or her residence nor shall any other benefit be received by any player or other person except as pursuant to the generally accepted rules of the game in which the players are participating.

(Code 1976, § 6.37; Code 1981, § 6-6; Code 2012, § 6-6; Ord. No. SRO-402-2012, § 6-6, 5-30-2012; Ord. No. SRO-418-2013, § 6-6, 3-6-2013)

Sec. 6-7. Criminal street gangs.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Criminal street gang means any group of three or more persons which engages in or has its purpose to engage in offenses which are proscribed by this chapter.

Gang clothing means anything displaying gang insignias, monikers, color patterns, bandannas, hats, jewelry, clothing, belts, or any other clothing or personal property with any gang significance.

Community building or facility includes but is not limited to: the Community multipurpose building, the Lehi Multi-Purpose Building, Memorial Hall, the Lehi Pool, the Community library, the Community museum, Community schools and educational institutions, the Community cemeteries including the Lehi cemetery, the Community administration building, the Community court building, any Community building housing the various departments performing Community governmental functions, and any other building owned and controlled by the Community, not being law-

fully used for private residence. Any driveways, parking lots or curtilage of any of these described buildings or facilities shall constitute a Community building or facility for purposes of this section.

Community event means any event that is open to the public, or any Community-sponsored event, or any event authorized by the Community to take place on the grounds of a Community building or facility, including, but not limited to: funerals, memorials, wakes, dances, parades, pow wows, Community sporting events, Fourth of July events, Thanksgiving events, Christmas or winter holiday events, New Year's Eve events, Indian Day events, Salt River Day events and other cultural events.

(b) *Participating in or assisting a criminal street gang.* Any person who commits any of the following shall be guilty of the offense of participating in or assisting a criminal street gang:

(1) Intentionally organizes, manages, directs or supervises a criminal street gang with the intent to promote or further the criminal objectives of the criminal street gang;

(2) Knowingly entices or induces, or attempts to entice or induce, others to engage in violence or intimidation to promote or further the criminal objectives of a criminal street gang;

(3) Knowingly furnishes advice or direction in the conduct, financing or management of a criminal street gang's affairs with the intent to promote or further the criminal objectives of a criminal street gang;

(4) Knowingly hires, engages or uses a minor for any conduct preparatory to or in completion of any offense in this section;

(5) Committing any offense under this chapter with the intent to promote or further the objectives of a criminal street gang; or

(6) Intentionally wears or displays criminal street gang clothing or attire at a Community event or Community building or facility.

(c) *Sentencing for convictions of subsection (b) of this section.* Any person who shall violate subsection (b) of this section shall be deemed guilty of participating in or assisting a criminal street gang.

(1) Participating in or assisting a criminal street gang is a Class A offense, if committed in violation of subsection (b)(1), (2), (3), (4) or (5) of this section, and shall be punished by a minimum sentence of no less than one year imprisonment and a fine of $5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until the minimum sentence is served.

(2) Participating in or assisting a criminal street gang is a Class B offense, if committed in violation of subsection (b)(6) of this section.

(d) *Evidence of gang membership.* Evidence concerning indicia of gang membership, including gang-related paraphernalia, tattoos, clothing or colors, may be submitted into evidence in any case brought under this section with proper foundation, which may include expert testimony from a person with training and experience related to gangs within the Community.

(e) *Failure to adequately supervise minor.* Any parent(s), legal guardian(s) or other adult person(s) authorized by said parent(s) or guardian(s) to have the care and custody of a minor, who knowingly permits or by insufficient control allows, a minor to violate subsection (b) of this section, is guilty of failure to adequately supervise a minor. Failure to adequately supervise a minor is a Class B offense.

(Code 1981, § 6-7; Code 2012, § 6-7; Ord. No. SRO-176-94, §§ 1—5, 6-22-1994; Ord. No. SRO-347-09, 3-4-2009; Ord. No. SRO-402-2012, § 6-7, 5-30-2012; Ord. No. SRO-418-2013, § 6-7, 3-6-2013)

Sec. 6-8. Promoting jail or detention contraband.

(a) Any person, not otherwise authorized by law, commits promoting jail or detention contraband:

(1) By knowingly taking contraband into any Community jail or detention facility or the grounds of said jail or facility;

(2) By knowingly conveying or assisting in the conveyance of contraband to any person confined in any Community jail or detention facility; or

(3) By knowingly making, obtaining, or possessing contraband while being confined in any Community jail or detention facility or lawfully in transit to or from said jail or facility.

(b) For purposes of this section, the term "contraband" means those items defined under section 14-133 and such items, without limitation, as ammunition, explosive materials or devices, or any other article whose use or possession would endanger the safety, security, or reservation of order in a jail or detention facility or of any person therein. This subsection does not apply to a prisoner who possesses or carries any tool, instrument or implement used by him or her at the direction of or with the express permission of detention officials for a duration of time.

(c) Promoting jail or detention contraband is a Class B offense.
(Code 1976, § 6.37; Code 1981, § 6-7; Code 2012, § 6-7; Ord. No. SRO-176-94, §§ 1—5, 6-22-1994; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-347-09, 3-4-2009; Ord. No. SRO-402-2012, § 6-7, 5-30-2012; Ord. No. SRO-418-2013, § 6-8, 3-6-2013)

Sec. 6-9. False reporting.

(a) A person commits false reporting by initiating or circulating a report of the existence of a bomb, a bombing, fire or other similar emergency knowing that such report is false and intending:

(1) That it will cause action of any sort by an official or volunteer agency organized to deal with emergencies;

(2) That it will place a person in fear of imminent serious physical injury; or

(3) That it will prevent or interrupt the occupation or use of any building, room, place of assembly, public place or means of transportation.

(b) False reporting is a Class B offense.
(Code 1976, § 6.37; Code 1981, § 6-9; Code 2012, § 6-9; Ord. No. SRO-278-2001, 9-9-2001; Ord. No. SRO-402-2012, § 6-9, 5-30-2012; Ord. No. SRO-418-2013, § 6-9, 3-6-2013)

Sec. 6-10. Interference with the peaceful conduct of educational institutions.

(a) A person commits interference with the peaceful conduct of educational institutions by knowingly:

(1) Going upon or remaining upon the property of any educational institution in violation of any rule of such institution or for the purpose of interfering with the lawful use of such property by others or in such manner as to deny or interfere with the lawful use of such property by others; or

(2) Refusing to obey a lawful order given pursuant to subsection (b) of this section.

(b) When the chief administrative officer of an educational institution or an officer or employee designated by him or her to maintain order has reasonable grounds to believe that any person or persons are committing any act which interferes with or disrupts the lawful use of such property by others at the educational institution or has reasonable grounds to believe any person has entered upon the property for the purpose of committing such an act, such officer or employee may order such person to leave the property of the educational institution.

(c) For purposes of this section, the term "education institution" means, except as otherwise provided, any Community college, high school, elementary school, kindergarten, or early preschool child care center or facility.

(d) For purposes of this section, the term "property" means all land, buildings and other facilities owned, operated or controlled by the governing board of an educational institution and devoted to educational purposes.

(e) Interference with the peaceful conduct of educational institutions is a Class B offense.
(Code 1976, § 6.37; Code 1981, § 6-10; Code 2012, § 6-10; Ord. No. SRO-281-2001, 5-9-2001; Ord. No. SRO-402-2012, § 6-10, 5-30-2012; Ord. No. SRO-418-2013, § 6-10, 3-6-2013)

Sec. 6-11. Rights of crime victims.

(a) *Rights enumerated.* To preserve and protect crime victims and their rights to justice and due process, a victim of a crime enumerated in any chapter of this Community Code of Ordinances has the following rights:

(1) The right to be informed of the rights pursuant to this section;

(2) The right to be reasonably protected from the accused;

(3) The right to be treated with fairness and respect for the crime victim's dignity and privacy, and to be free from intimidation, harassment, or abuse throughout the criminal justice process;

(4) The right to be informed, upon request, when the accused or convicted person is released from custody or has escaped;

(5) The right, upon request, to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime, or of any release or escape of the accused;

(6) The right to be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing;

(7) The right to refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney or advocate, or any other person acting on behalf of the defendant;

(8) The reasonable right to confer with the attorney for the Community in the case;

(9) The right to read pre-sentence reports relating to the crime against the crime victim, whenever such reports are available to the defendant;

(10) The right to receive full and timely restitution;

(11) The right to be heard at any proceeding when any post-conviction release from confinement is being considered;

(12) The right to a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence; and

(13) The right to have all rules governing criminal procedure and admissibility of evidence in all criminal proceedings protect victim's rights and to have these rules be subject to amendment or repeal by the Tribal Council to ensure protection of these rights.

(b) *Exercise of rights.* A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(c) *Best efforts to afford rights.*

(1) *Government.* Officers and employees of the police department, the office of the prosecutor, and other departments and agencies of the Community engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and afforded, the rights described in subsection (a) of this section.

(2) *Advice of attorney.* The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a) of this section.

(3) *Notice.* Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

(d) *Enforcement and limitations.*

(1) *Rights.* The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a) of this section. A person accused of the crime may not obtain any form of relief under this chapter.

(2) *Multiple crime victims.* In a case where the court finds that the number of crime victims makes it impracticable to afford all of the crime victims the rights de-

scribed in subsection (a) of this section, the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

(3) *Error.* In any appeal in a criminal case, the Community prosecutor may assert as error the tribal court's denial of any crime victim's right in the proceeding to which the appeal relates.

(4) *Limitation on relief.* In no case shall a failure to afford a right under this chapter provide grounds for a new trial.

(5) *No cause of action.* Nothing in this section shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the Community or any of its officers or employees could be held liable in damages. Nothing in this section shall be construed to impair the prosecutorial discretion of the Community prosecutor or any officer under his or her direction.

(e) *Definition.* For the purposes of this chapter, the term "crime victim" means a person directly and proximately harmed as a result of the commission of a tribal offense. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this section, but in no event shall the defendant be named as such guardian or representative.

(f) *Future action.* The Tribal Council, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section.

(g) *Effective date.*

(1) To the fullest extent possible as determined by the judge in each individual case, this section shall be applied to all court proceedings underway at the time this section is enacted.

(2) This section shall be applied to all future court proceedings initiated after this section is enacted without exception.

(Ord. No. SRO-429-2014, 11-13-2013)

Sec. 6-12. Facilitation of a crime.

(a) A person is guilty of facilitation of crime when, acting with knowledge that another person is committing or intends to commit a crime, such person, engages in conduct, which knowingly provides the other person with means or opportunity for the commission of the crime, and which in fact aids such person to commit the crime.

(b) Definitions. For purpose of this section:

Crime shall mean any act which constitutes an offense under federal or tribal law in which a person convicted of such offense is eligible for incarceration as a sentence.

Knowingly provides may include, but is not limited to, failing to take all reasonable efforts to exclude the person(s) from the private residence or property.

Means or opportunity may include, but is not limited to, permitting the use of a private residence or property for the purpose of committing a crime.

Owner of controlling residence means a person who has legal ownership, title, legal residency or dominion of a residence, building or property or a person who has been extended that right by the legal owner.

(c) Evidence. Evidence of previous criminal activity at a particular location if under the same control of owner or controlling resident, by named individuals or the affiliates known to the owner or controlling resident, may be admitted against the owner or controlling resident for the crime of facilitation.

(d) No defense. It is no defense to a prosecution for criminal facilitation that:

(1) The person facilitated was not guilty of the underlying crime owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct in question

or to other factors precluding the mental state required for the commission of such crime; or

(2) The person facilitated has not been prosecuted for or convicted of the underlying crime, or has previously been acquitted thereof; or

(3) The defendant is not guilty of the facilitated crime because the defendant did not act with the intent or other culpable mental state required for the commission thereof.

(e) Corroboration. A person shall not be convicted of criminal facilitation solely upon the testimony of a person who has committed the crime charged to have been facilitated. Such testimony must be corroborated by such other evidence as tends to connect the defendant with such facilitation.

(f) Facilitation of crime is a Class B offense. When the conviction for facilitation of crime is based upon a crime of violence, the convicted person shall be sentenced to imprisonment for a period of not less than 15 days, which shall not to be deferred, deleted or suspended.
(Ord. No. SRO-432-2014, § 6-12, 12-4-2013)

Secs. 6-13—6-30. Reserved.

ARTICLE II. OFFENSES AGAINST PUBLIC ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 6-31. Resisting lawful arrest.

Any person who shall, willfully or knowingly, by force or violence resist or assist another person in resisting a lawful arrest shall be deemed guilty of resisting arrest. Resisting arrest is a Class B offense. If injuries are sustained by the officer as a result of making the arrest, the sentence shall not be suspended.
(Code 1976, § 6.56; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-418-2013, § 6-31, 3-6-2013)

Sec. 6-32. Duty to assist law enforcement officer.

Any person who shall refuse to assist a duly appointed law enforcement officer in the arrest of any person or in conveying such person to the nearest place of confinement shall be deemed guilty of a Class D offense.
(Ord. No. SRO-418-2013, § 6-32, 3-6-2013)

Sec. 6-33. Escape.

Any person who, having been arrested for, charged with, or found guilty of an offense, knowingly escapes or attempts to escape; or who knowingly permits or assists another person in escaping from lawful custody shall be deemed guilty of escape. Escape is a Class B offense.
(Ord. No. SRO-418-2013, § 6-33, 3-6-2013)

Sec. 6-34. Impersonation of peace officer or Community officer.

A person who falsely impersonates a peace officer or any other appointed or elected officer of the Community in either his or her private or official capacity, and in such assumed character receives money or property, knowing that it is intended to be delivered to the individual so impersonated, with intent to convert the money or property to his or her own use or that of another person, or to deprive the true owner thereof, or who in such assumed character does any other act whereby any benefit might accrue to the party impersonating or to any other person, shall be guilty of impersonation of peace officer or Community officer. Impersonation of peace officer or Community officer is a Class C offense.
(Ord. No. SRO-418-2013, § 6-34, 3-6-2013)

Sec. 6-35. Failure to report suspicious death; failure to report missing child.

(a) It shall be the duty of any person having direct knowledge of a death by foul play to report such death to the coroner or the police without delay. Any person who has direct knowledge of and fails to report such death shall be deemed guilty of failure to report suspicious death. Failure to report suspicious death is a Class B offense.

(b) It shall be the duty of any person having knowledge of a missing child to report such missing child to the police without delay. Any person who knowingly fails to report a missing child, or who gives false information to a law enforcement officer who is conducting a missing child investigation, with the intent to mislead the officer or impede the investigation, shall be deemed guilty of failure to report a missing child. Failure to report a missing child is a Class B offense.

(c) For purposes of this section, the term "child" means a person under the age of 18 years.
(Ord. No. SRO-418-2013, § 6-35, 3-6-2013)

Sec. 6-36. Violence or assault on a Community law enforcement officer or judge.

(a) Any person who shall knowingly or intentionally, by force or violence, or expelled bodily fluids, render physical abuse or place a Community law enforcement officer or judge or other officer of the Community court in fear of imminent physical injury shall be deemed guilty of violence or assault on a Community law enforcement officer or judge, a Class B offense.

(b) If the assault involves biting, scratching, spitting, or transferring blood or other bodily fluids on or through the skin or membranes of the law enforcement officer or judge, then the defendant shall submit to testing for the human immunodeficiency virus, common blood borne diseases, or other diseases.

(c) For purposes of this section, the term "law enforcement officer, judge or other officer of the Community court" means police officer, judge, probation officer, corrections officer, court security officer, firefighter, emergency medical technician or prosecutor.
(Ord. No. SRO-418-2013, § 6-36, 3-6-2013)

Sec. 6-37. Tampering with a victim, witness, or informant.

Any person who knowingly uses bribery, misrepresentation, intimidation, force or threats of force, or who attempts to do so, or who engages in misleading conduct toward another person, or who corruptly persuades another person with the intent to influence, obstruct, delay, or prevent the communication of information to a peace officer, or the testimony of any person in an official proceeding shall be deemed guilty of a Class B offense.
(Ord. No. SRO-418-2013, § 6-37, 3-6-2013)

Sec. 6-38. False reporting to law enforcement; interfering with police officer.

(a) Any person who knowingly makes to a law enforcement agency having any criminal jurisdiction in the Community, a false, fraudulent or unfounded report or statement or who knowingly misrepresents a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a police or other duly authorized law enforcement officer shall be deemed guilty of a Class C offense.

(b) Any person who knowingly engages in conduct whose purpose is to impair, obstruct, hinder, or prevent a police or other duly authorized law enforcement officer from discharging his or her official duties, shall be deemed guilty of a Class C offense.
(Code 1981, § 6-9; Code 2012, § 6-9; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-278-2001, 9-9-2001; Ord. No. SRO-402-2012, § 6-9, 5-30-2012; Ord. No. SRO-418-2013, § 6-38, 3-6-2013)

Sec. 6-39. Concealment of fugitives and escapees; accessory after the fact.

(a) Any person who conceals a person for whom an arrest warrant or process has been issued under the provisions of any law of the Community so as to prevent his or her discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for apprehension of such person, shall be deemed guilty of a Class C offense.

(b) Any person, knowing that a criminal offense against the Community has been committed who receives, relieves, comforts, or assists the offender in order to hinder or prevent his or her apprehension, trial, or punishment is an accessory after the fact and shall be deemed guilty of a Class C offense.

(c) Any person who willfully harbors or conceals a prisoner after escape from lawful custody, after notice or knowledge of the fact of said prisoner's escape, shall be deemed guilty of a Class B offense.
(Ord. No. SRO-418-2013, § 6-39, 3-6-2013)

Sec. 6-40. Unlawful flight from a pursuing law enforcement vehicle.

(a) A driver of a motor vehicle who willfully flees or attempts to elude a pursuing official law enforcement vehicle is guilty of unlawful flight from a pursuing law enforcement vehicle.

(b) Unlawful flight from a pursuing law enforcement vehicle is a Class B offense. Any person who commits unlawful flight from a pursuing law enforcement vehicle shall be sentenced to imprisonment for a period of not less than 15 days and a fine of not less than $1,000.00, and shall not be eligible for suspension or deferment of sentence, probation, or parole or any other form of release from custody until the minimum 15-day sentence is served.

(c) For purposes of this section, the term "official law enforcement vehicle" means any law enforcement vehicle operated by a duly authorized agent of the Community law enforcement agency or any other law enforcement agency where the pursuit originated, and the law enforcement vehicle was appropriately marked to show that it is an official law enforcement vehicle, and the lights and sirens of that vehicle must have been activated while the vehicle was in motion.
(Ord. No. SRO-418-2013, § 6-40, 3-6-2013)

DIVISION 2. COURT-RELATED OFFENSES

Sec. 6-41. Contempt of court.

Any person guilty of contempt of court of any of the following kinds is also guilty of a Class D offense:

(1) Disorderly, contemptuous or insolent behavior committed during the sitting of a court of justice in immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair respect due to authority.

(2) Behavior of like character committed in the presence of a referee while actually engaged in a trial or hearing, pursuant to the order of a court, or in the presence of a jury, while actually sitting during a trial of a cause or upon an inquest or other proceeding authorized by law.

(3) Any breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of a court.

(4) Willful disobedience of process or an order lawfully issued by a court.

(5) Resistance willfully offered to the lawful order or process of a court.

(6) The unlawful refusal to be sworn as a witness, or when so sworn, refusal to answer a material question.

(7) The publication of a false or grossly inaccurate report of proceedings of a court.

(Code 1976, § 6.17; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-418-2013, § 6-41, 3-6-2013)

Sec. 6-42. Disobedience to lawful orders of court.

Any person who shall willfully disobey an order, subpoena, warrant or command duly issued, made or given by the Community court or any officer thereof, or disobey any signs posted around the Community jail shall be deemed guilty of an offense and upon conviction thereof, shall be deemed guilty of a Class C offense.
(Code 1976, § 6.23; Code 1981, § 6-42; Code 2012, § 6-42; Ord. No. SRO-398-2012, 6-1-2012; Ord. No. SRO-402-2012, § 6-42, 5-30-2012; Ord. No. SRO-418-2013, § 6-42, 3-6-2013)

Sec. 6-43. Destroying evidence.

Any person who shall willfully or knowingly destroy any evidence that could be used in the trial of a case with the intent to prevent same from being used is guilty of an offense and, upon conviction thereof, shall be deemed guilty of a Class C offense.
(Code 1976, § 6.22; Code 1981, § 6-43; Code 2012, § 6-43; Ord. No. SRO-402-2012, § 6-43, 5-30-2012; Ord. No. SRO-418-2013, § 6-43, 3-6-2013)

Sec. 6-44. Perjury.

Any person who shall willfully or deliberately, in any judicial proceeding in any court of the Community, falsely swear or interpret, or shall make a sworn statement or affidavit knowing the same to be untrue, or shall induce or produce another person to do so, shall be deemed guilty of perjury, and upon conviction thereof, shall be deemed guilty of a Class C offense.
(Code 1976, § 6.51; Code 1981, § 6-44; Code 2012, § 6-44; Ord. No. SRO-402-2012, § 6-44, 5-30-2012; Ord. No. SRO-418-2013, § 6-44, 3-6-2013)

Secs. 6-45—6-50. Reserved

ARTICLE III. OFFENSES AGAINST PERSONS

DIVISION 1. GENERALLY

Sec. 6-51. Assault; aggravated assault.

(a) Assault. A person commits an assault by:

(1) Intentionally, knowingly, or recklessly causing any physical injury to another person;

(2) Intentionally placing another person in reasonable apprehension of imminent physical injury; or

(3) Knowingly touching another person with the intent to injure, insult, or provoke such person.

(b) Aggravated assault. A person commits aggravated assault if the person commits assault as defined in subsection (a) of this section under any of the following circumstances:

(1) If the person causes serious physical injury;

(2) If the person uses a deadly weapon or dangerous instrument;

(3) If the person commits the assault while the victim is bound or otherwise physically restrained; or

(4) If the person commits the assault while the victim's capacity to resist is substantially impaired.

(c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dangerous instrument means anything that under the circumstances in which it is used, attempted to be used, or threatened to be used is readily capable of causing death or serious physical injury.

Deadly weapon means anything designed for lethal use, including a firearm.

Firearm means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

Physical injury means the impairment of physical condition.

Serious physical injury means physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health, or loss or protracted impairment of the function of any bodily organ or limb.

(d) Assault is a Class C offense if committed in violation of subsection (a)(2) or (a)(3) of this section.

(e) Assault is a Class B offense if committed in violation of subsection (a)(1) of this section.

(f) Aggravated assault is a Class A offense.
(Code 1976, § 6.57; Code 1981, § 6-51; Code 2012, § 6-51; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-114-88, § C, 8-10-1988; Ord. No. SRO-402-2012, § 6-51, 5-30-2012; Ord. No. SRO-418-2013, § 6-51, 3-6-2013)

Sec. 6-52. Homicide.

(a) *Negligent homicide.*

(1) A person commits negligent homicide if with criminal negligence the person causes the death of another person, including an unborn child.

(2) Negligent homicide is a Class A offense and shall be punished by no less than a minimum sentence of one year imprisonment and a fine of $5,000.00. If the victim was a child, then the convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.

(b) *Manslaughter*. A person commits manslaughter by:

(1) Recklessly causing the death of another person;

(2) Committing murder as defined in subsection (c) of this section upon a sudden quarrel or heat of passion resulting from adequate provocation by the victim;

(3) Intentionally aiding another to commit suicide;

(4) Committing murder as defined in subsection(c) of this section, while being coerced to do so by the use or threatened immediate use of unlawful deadly physical force upon such person or a third person, which a reasonable person in his or her situation would have been unable to resist; or

(5) Knowingly or recklessly causing the death of an unborn child by any physical injury to the mother.

Manslaughter is a Class A offense and shall be punished by no less than a minimum sentence of two years imprisonment and a fine of $5,000.00. If the victim was a child, then the convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.

(c) *Murder*. A person commits murder if:

(1) The person intentionally causes the death of another person, including an unborn child, or as a result of intentionally causing the death of another person, causes the death of an unborn child; or knowing that the person's conduct will cause death or serious physical injury, the person causes the death of another person, including an unborn child or, as a result of knowingly causing the death of another person, causes the death of an unborn child; or

(2) Under circumstances manifesting extreme indifference to human life, the person recklessly engages in conduct that creates a grave risk of death and thereby causes the death of another person, including an unborn child or as a result of recklessly causing the death of another person, causes the death of an unborn child.

Murder is a Class A offense and shall be punished by no less than a minimum sentence of three years imprisonment and a fine of $5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.
(Code 1981, § 6-52; Code 2012, § 6-52; Ord. No. SRO-367-2010, 8-18-2010; Ord. No. SRO-402-2012, § 6-52, 5-30-2012; Ord. No. SRO-418-2013, § 6-52, 3-6-2013)

Sec. 6-53. Threatening or intimidating.

(a) A person commits the offense of threatening if such person threatens by word or conduct to cause physical injury to another person or serious damage to property of another.

(b) A person commits the offense of intimidating if such person threatens by word or conduct to cause physical injury to another person or damage to the property of another with the intent to induce another to do an act against his or her will or to refrain from doing a lawful act.

(c) Threatening or intimidating is a Class B offense.
(Code 1981, § 6-53; Code 2012, § 6-53; Ord. No. SRO-279-2001, 5-9-2001; Ord. No. SRO-402-2012, § 6-53, 5-30-2012; Ord. No. SRO-418-2013, § 6-53, 3-6-2013)

Editor's note—Ord. No. SRO-279-2001, adopted May 9, 2001, pertained to threatening or intimidating. Such ordinance did not specify manner of codification, but was designated by the editor as section 6-53.

Sec. 6-54. Use of telephone or electronic device to commit offense.

(a) It shall be unlawful for any person, with intent to terrify, intimidate, threaten, harass, annoy, offend, or to conduct or solicit sexual activity, to use a telephone or electronic device to convey in interstate or foreign communications and transmitting within or across Community boundaries:

(1) Any obscene, lewd or profane language;

(2) A suggestion of any lewd or lascivious act; or

(3) A threat to inflict injury or physical harm to the person or property of any person.

(b) It shall be unlawful for any person to disturb by means of repeated telephone calls or electronic messages, anonymous or otherwise, the peace, quiet or right of privacy of any person.

(c) It shall be unlawful for any person knowingly to permit any telecommunications facility under his or her control to be used for any activity prohibited by this section with the intent that it be used for such activity.

(d) The use of obscene, lewd or profane language or the making of a threat or statement as set forth in subsection (a) of this section shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy or offend.

(e) Any offense committed by use of a telephone or electronic device as set forth in this section shall be deemed to have been committed at either the place where the telephone call(s) or electronic message(s) originated or at the place where the telephone call(s) or electronic message(s) were received. For purposes of this section, the term "electronic device" means any computerized equipment capable of receiving and or sending any written communication.

(f) Use of telephone or electronic device to commit an offense is a Class B offense.

(Code 1981, § 6-54; Code 2012, § 6-54; Ord. No. SRO-280-2001, 5-9-2001; Ord. No. SRO-402-2012, § 6-54, 5-30-2012; Ord. No. SRO-418-2013, § 6-54, 3-6-2013)

Editor's note—Ord. No. SRO-280-2001, adopted May 9, 2001, pertained to use of telephone of electronic device to commit offense. Such ordinance did not specify manner of codification, but was designated by the editor as section 6-54.

Sec. 6-55. Stalking

(a) A person commits stalking if that person intentionally or knowingly engages in a course of conduct that is directed toward another person and, if that conduct would either cause a reasonable person to fear:

(1) For his or her safety or the safety of his or her family or household member and that person in fact fears for his or her safety or the safety of his or her family or household members; or

(2) Death of that person or that person's family or household member, and that person in fact fears death for oneself or his or her family or household member.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Course of conduct.

(1) The term "course of conduct" means any contact with another person, either directly or through a third party that is initiated or continued without the consent of the person, or in disregard of that person's expressed desire that the contact be avoided or discontinued. The term "course of conduct" includes, but is not limited to, any of the following:

a. Following or appearing within the sight of that person;

b. Approaching or confronting that person in a public place or on private property;

c. Appearing at the work place or residence of that person;

d. Entering onto or remaining on property that is owned, leased, or occupied by that person;

e. Contacting that person by telephone;

f. Sending mail or electronic communications to that person; or

g. Placing an object on, or delivering an object to, property owned, leased, or occupied by that person.

(2) The term "course of conduct" does not include constitutionally protected activity.

(c) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person intentionally or knowingly engaged in a prohibited course of conduct.

(d) Stalking is a Class C offense if committed in violation of subsection (a)(1) of this section.

(e) Stalking is a Class B offense if committed in violation of subsection (a)(2) of this section.
(Ord. No. SRO-418-2013, § 6-55, 3-6-2013)

Secs. 6-56—6-60. Reserved.

DIVISION 2. SEXUAL OFFENSES

Sec. 6-61. 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:

Oral sexual contact means oral contact with the penis, anus, or vulva.

Prostitution means the act or practice of engaging in sexual contact or intercourse for money or its equivalent.

Sexual contact means any touching or manipulating of any part of the genitals, anus, or female breast by any part of the body, or by an object, for the purpose of gratifying sexual desire of either party.

Sexual intercourse means penetration, however slight, into the penis, vulva, or anus by any part of the body or by any object, or masturbatory contact with the penis, vulva, or anus.

Without consent includes any of the following:

(1) The victim was coerced by the use or threatened use of force against a person or property;

(2) The victim was incapable of consent by reason of mental disorder or defect, drugs, alcohol, sleep, or other similar impairment, and such condition was known or should reasonably have been known by the defendant;

(3) Mental disorder or defect rendering the victim incapable of comprehending the sexual nature of the conduct;

(4) The victim is incapable of understanding or exercising the right to refuse to engage in the conduct; or

(5) The defendant intentionally deceived the victim as to the nature of the act.
(Ord. No. SRO-418-2013, § 6-61, 3-6-2013)

Sec. 6-62. Prostitution.

Any person who shall practice prostitution or procure a prostitute or prostitutes, or who shall knowingly keep, maintain, rent or lease any house, room, tent, vehicle, or other place for the purpose of prostitution shall be deemed guilty of a Class C offense.
(Code 1976, § 6.53; Code 1981, § 6-62; Code 2012, § 6-62; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-62, 5-30-2012; Ord. No. SRO-418-2013, § 6-62, 3-6-2013)

Sec. 6-63. Indecent exposure.

(a) Any person who intentionally exposes his or her genitals, or her areola or nipple of her breast or breasts, and another person is present, and the defendant is reckless about whether the other person, as a reasonable person, would be offended or alarmed by the act shall be deemed guilty of indecent exposure. Indecent exposure does not include the act of breastfeeding by a mother.

(b) Indecent exposure to a person over the age of 14 years is a Class C offense.

(c) Indecent exposure to a person under the age of 14 years is a Class B offense.
(Ord. No. SRO-418-2013, § 6-63, 3-6-2013)

Sec. 6-64. Abusive sexual contact.

Any person who intentionally or knowingly engages in sexual contact with any person over the age of 14 years without consent of that person, or with any person who is under the age of 14 years if the sexual contact involves only the female breast shall be deemed guilty of abusive sexual contact. Abusive sexual contact with a person over the age of 14 years is a Class B offense. Abusive sexual contact with a person under the age of 14 years is a Class A offense.
(Ord. No. SRO-418-2013, § 6-64, 3-6-2013)

Sec. 6-65. Sexual assault; aggravated sexual assault.

(a) *Sexual assault.* Any person who intentionally or knowingly engages in sexual intercourse or oral sexual contact with a person without consent of such person, or who attempts to do so, shall be deemed guilty of sexual assault.

(b) *Aggravated sexual assault.* A person commits aggravated sexual assault if the person commits sexual assault as defined in subsection (a) of this section under any of the following circumstances:

(1) If the person causes serious physical injury;

(2) If the person uses a deadly weapon or dangerous instrument;

(3) If the person commits the assault while the victim is bound or otherwise physically restrained; or

(4) If the person commits the assault while the victim's capacity to resist is substantially impaired.

(c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dangerous instrument means anything that under the circumstances in which it is used, attempted to be used, or threatened to be used is readily capable of causing death or serious physical injury.

Deadly weapon means anything designed for lethal use, including a firearm.

Firearm means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

Physical injury means the impairment of physical condition.

Serious physical injury means physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health, or loss or protracted impairment of the function of any bodily organ or limb.

(d) *Sexual assault offense.* Sexual assault is a Class A offense.

(e) *Aggravated assault offense.* Aggravated sexual assault is a Class A offense, and shall be punished by no less than a minimum sentence of one year imprisonment and a fine of $5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.
(Ord. No. SRO-418-2013, § 6-65, 3-6-2013)

Secs. 6-66, 6-67. Reserved.

Sec. 6-68. Incest.

Any person who knowingly or intentionally commits the act of sexual intercourse with another person who is known to be related to said person within the degree wherein marriage is prohibited by law or custom shall be deemed guilty of a Class B offense. For purposes of this section, marriage shall be presumed prohibited by law or custom if the parties are within the third degree of sanguinity.
(Code 1976, § 6.41; Code 1981, § 6-68; Code 2012, § 6-68; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-68, 5-30-2012; Ord. No. SRO-418-2013, § 6-68, 3-6-2013)

Secs. 6-69—6-80. Reserved.

ARTICLE IV. OFFENSES AGAINST MINORS AND DEPENDENTS

DIVISION 1. GENERALLY

Sec. 6-81. Failure to provide care of dependent persons.

Any person who shall intentionally, knowingly, or negligently refuse or neglect to furnish food, shelter or care to those dependent upon such person shall be deemed guilty of a Class D offense. (Code 1976, § 6.12; Code 1981, § 6-81; Code 2012, § 6-81; Ord. No. SRO-402-2012, § 6-81, 5-30-2012; Ord. No. SRO-418-2013, § 6-81, 3-6-2013)

Sec. 6-82. Child abuse; aggravated child abuse.

(a) Child abuse. Any person who intentionally, knowingly, recklessly, or with criminal negligence causes a child to suffer physical injury or unjustifiable physical pain; or having care or custody of a child, who causes or permits the person or health of the child to be injured; or who causes or permits a child to be placed in a situation where the person or health of the child is endangered; or who engages in emotional abuse of a child shall be deemed guilty of child abuse.

(b) Aggravated child abuse. A person commits aggravated child abuse if the person commits child abuse as defined in subsection (a) of this section under any of the following circumstances:

(1) If the person causes serious physical injury;

(2) If the person uses a deadly weapon or dangerous instrument;

(3) If the person commits the abuse while the child is bound or otherwise physically restrained;

(4) If the person commits the abuse while the child's capacity to resist is substantially impaired; or

(5) If the person commits the abuse in violation of the definition as set forth in subsection (c) of this section of the term "unjustifiable physical pain" in subsection (3), (5) or (6) of that definition.

(c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abuse means the infliction or allowing of physical injury, impairment of bodily function, disfigurement, or the infliction or of allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior, which has been diagnosed by a medical doctor or psychiatrist. Abuse includes inflicting or allowing sexual abuse pursuant to section 6-87, 6-88, 6-89 or 6-90.

Child means a person under the age of 18 years.

Dangerous instrument means anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury.

Deadly weapon means anything designed for lethal use, including a firearm.

Emotional abuse means a pattern of ridiculing or demeaning a child, making derogatory remarks to a child, or threatening to inflict physical or emotional harm to a child.

Firearm means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

Physical injury means the impairment of physical condition.

Serious physical injury means physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health, or loss or protracted impairment of the function of any bodily organ or limb.

Unjustifiable physical pain includes, but is not limited to, any pain associated with physical discipline under any of the following circumstances:

(1) When the punishment inflicted is not reasonably proportionate to the behavior of the child, in consideration of the child's mental, physical and emotional abilities;

(2) When the person inflicting the punishment is intoxicated and not acting reasonably;

(3) When the punishment includes the application of heat, either by any heated instrument or water capable of scalding;

(4) When the punishment includes unreasonable and intentional exposure to natural weather elements;

(5) When the punishment includes any human bite; or

(6) Any genital injury not inflicted for religious reasons or by a medical professional acting within his or her professional capacity.

(d) If committed recklessly or with criminal negligence, child abuse is a Class B offense.

(e) If committed intentionally or knowingly, child abuse is a Class A offense.

(f) Aggravated child abuse is a Class A offense, whether committed intentionally, knowingly, recklessly, or with criminal negligence. If committed intentionally or knowingly, aggravated child abuse shall be punished by no less than a minimum sentence of one year imprisonment and a fine of $5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.
(Ord. No. SRO-418-2013, § 6-82, 3-6-2013)

Sec. 6-83. Contributing to the delinquency and dependency of a minor.

(a) Any person who by any act causes, encourages or contributes to the dependency or delinquency of a child or who for any cause is responsible therefor shall be deemed guilty of a Class C offense.

(b) When the charge concerns the dependency of a child or children, the offense for convenience may be termed contributory dependency, and when the charge concerns the delinquency of a child or children, the offense for convenience may be termed contributory delinquency.

(c) In order to find a person guilty of violating the provisions of this section, it is not necessary to prove that the child has actually become dependent or delinquent if it appears from the evidence that through any act, neglect or omission of duty or by any improper act or conduct on the part of such person, the dependency or delinquency of a child may have been caused or merely encouraged.

(d) The term "delinquency" means an act or acts committed by a child which can be included in the term "juvenile offense" in section 11-2.

(e) The term "child" means a person under the age of 18 years.
(Code 1976, § 6.18; Code 1981, § 6-83; Code 2012, § 6-83; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-83, 5-30-2012; Ord. No. SRO-418-2013, § 6-83, 3-6-2013)

Sec. 6-84. Selling tobacco, paper or wrappers to minors.

Any person, who intentionally sells, exchanges, barters, disposes of or gives away to any person under the age of 18 years any tobacco or any cigarette paper or wrapper prepared or designed to be used for filling with tobacco shall be guilty of a Class E offense.
(Code 1976, § 6.46; Code 1981, § 6-84; Code 2012, § 6-84; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-84, 5-30-2012; Ord. No. SRO-418-2013, § 6-84, 3-6-2013)

Sec. 6-85. Custodial interference.

A person commits custodial interference if, knowing or having reason to know that he or she has no legal right to do so, such person knowingly takes, entices, keeps from lawful custody, or harbors any child less than 18 years of age or incompetent entrusted by authority of law to the

custody of another person or institution, and, if convicted of committing such act or acts, shall be guilty of a Class C offense.
(Code 1981, § 6-85; Code 2012, § 6-85; Ord. No. SRO-114-88, § H, 8-10-1988; Ord. No. SRO-203-95, 6-14-1995; Ord. No. SRO-402-2012, § 6-85, 5-30-2012; Ord. No. SRO-418-2013, § 6-85, 3-6-2013)

DIVISION 2. SEXUAL CONTACT WITH CHILDREN

Sec. 6-86. Definitions.

For the purpose of this division within this Community Code of Ordinances, the following terms shall have the meanings given in this section:

Child means a person under the age of 18 years.

Oral sexual contact means oral contact with the penis, vulva or anus.

Sexual contact means any touching or manipulating of any part of the genitals, anus, or female breast by any part of the body, or by an object, for the purpose of gratifying sexual desire of either party.

Sexual intercourse means penetration, however slight, into the penis, vulva or anus by any part of the body or by any object, or masturbatory contact with the penis, vulva or anus.

Spouse means a person who is legally married.
(Code 1981, § 6-86; Code 2012, § 6-86; Ord. No. SRO-108-87, § 1, 4-22-1987; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-86, 5-30-2012; Ord. No. SRO-418-2013, § 6-86, 3-6-2013)

Sec. 6-87. Sexual contact with a child.

A person who intentionally or knowingly engages in sexual contact with a child who is at least four years younger than the person so engaging shall be deemed guilty of sexual contact with a child. Sexual contact with a child is a Class A offense.
(Ord. No. SRO-418-2013, § 6-87, 3-6-2013)

Sec. 6-88. Sexual abuse of a child.

A person commits sexual abuse of a child by knowingly engaging in sexual intercourse or oral sexual contact with a child who is under the age of 14 years; or knowingly engaging in sexual intercourse or oral sexual contact with a child who has attained the age of 14 years and is at least four years younger than the person so engaging, or by attempting to do so. Sexual abuse of a child is a Class A offense shall be punished by no less than a minimum sentence of one year imprisonment and a fine of $5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.
(Ord. No. SRO-418-2013, § 6-88, 3-6-2013)

Sec. 6-89. Continuous sexual abuse of a child.

A person who over a period of three months or more in duration engages in three or more acts of sexual contact, sexual intercourse, or oral sexual contact with a child under 14 years of age shall be deemed guilty of continuous sexual abuse of a child, a Class A offense, and shall be punished by no less than a minimum sentence of two years imprisonment and a fine of $5,000.00. The convicted person shall not be eligible for suspension of sentence, probation, parole or any other release from custody until at least the minimum sentence of incarceration is served.
(Ord. No. SRO-418-2013, § 6-89, 3-6-2013)

Sec. 6-90. Child prostitution.

A person who causes any child to engage in prostitution, uses any child for purposes of prostitution, or permits any child under his or her care, custody, or control to engage in prostitution shall be deemed guilty of child prostitution, a Class A offense.
(Code 1981, § 6-89; Code 2012, § 6-89; Ord. No. SRO-108-87, § 4, 4-22-1987; Ord. No. SRO-402-2012, § 6-89, 5-30-2012; Ord. No. SRO-418-2013, § 6-90, 3-6-2013)

Sec. 6-91. Reserved.

ARTICLE V. OFFENSES AGAINST PROPERTY*

DIVISION 1. GENERALLY

Sec. 6-92. Receiving stolen property.

Any person who shall receive or conceal, or aid in concealing or receiving, any property, knowing the same to be stolen, embezzled or obtained by fraud, false pretense, robbery or burglary, shall be deemed guilty of a Class B offense.
(Code 1976, § 6.54; Code 1981, § 6-92; Code 2012, § 6-92; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-92, 5-30-2012; Ord. No. SRO-418-2013, § 6-92, 3-6-2013)

Sec. 6-93. Bribery.

(a) *Generally.* Any person who shall give or offer to give any money, property or service or anything else of value to another person with corrupt intent to influence another in the discharge of his or her public duties or conduct. Any person who shall accept, solicit or attempt to solicit any bribe, as above defined, shall be deemed guilty of a Class B offense.

(b) *Threats by public officers.* Any public officer of the Community who shall threaten any member of the judicial or law enforcement agency with dismissal or other loss of position shall be deemed guilty of a Class C offense.

(c) *Tribal officers.* Any person, who holds any tribal office who is convicted under this section, shall be removed under article IX, section 1 of the Constitution and bylaws of the Community.
(Code 1976, § 6.11; Code 1981, § 6-93; Code 2012, § 6-93; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-93, 5-30-2012; Ord. No. SRO-418-2013, § 6-93, 3-6-2013)

Sec. 6-94. Fraudulent schemes and practices.

Any person who, with intent to cheat and defraud, obtains or attempts to obtain from any other person, money, property or its equivalent, by means or by use of any false or bogus check or by any other printed, written or engraved instrument, or spurious coin or metal, or attempts to obtain money, property or valuable consideration by means or by use of any trick or deception, false or fraudulent representation, statement or pretense, or by any other means shall be deemed guilty of a Class B offense.
(Code 1976, § 6.16; Code 1981, § 6-94; Code 2012, § 6-94; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-94, 5-30-2012; Ord. No. SRO-418-2013, § 6-94, 3-6-2013)

Sec. 6-95. Extortion.

Any person who shall knowingly by making false charges against another person or by any other means whatsoever extort any money, goods, property or anything else of any value shall be deemed guilty of a Class B offense.
(Code 1976, § 6.30; Code 1981, § 6-95; Code 2012, § 6-95; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-95, 5-30-2012; Ord. No. SRO-418-2013, § 6-95, 3-6-2013)

Sec. 6-96. Forgery.

Any person who, with the intent to defraud falsely, makes, completes, or alters any written instrument shall be deemed guilty of a Class B offense.
(Code 1976, § 6.35; Code 1981, § 6-96; Code 2012, § 6-96; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-96, 5-30-2012; Ord. No. SRO-418-2013, § 6-96, 3-6-2013)

Sec. 6-97. Embezzlement.

Any person who shall, having lawful custody of property not his or her own, appropriate the same to his or her use with intent to deprive the owner thereof shall be deemed guilty of a Class B offense.
(Code 1976, § 6.27; Code 1981, § 6-97; Code 2012, § 6-97; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-97, 5-30-2012; Ord. No. SRO-418-2013, § 6-97, 3-6-2013)

***Editor's note—**In order to accommodate new, expanded provisions on trespass, the contents of section 6-91 have been renumbered as section 6-111 and included as part of division 3 of this article.

Sec. 6-98. Disposing of property of an estate.

Any person who, without proper authority, sells, trades or otherwise disposes of any property of an estate before determination of the heirs shall be deemed guilty of a Class B offense. The person convicted under this section shall also be required to reimburse the estate for the amount or value of the property disposed of.
(Code 1976, § 6.26; Code 1981, § 6-98; Code 2012, § 6-98; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-98, 5-30-2012; Ord. No. SRO-418-2013, § 6-98, 3-6-2013)

Sec. 6-99. Taking identity of another person.

Any person who knowingly takes, purchases, manufactures, records, possesses, or uses any personal identifying information of another person, including a real or fictitious person, without the consent of that person, with the intent to obtain or use the other person's identity for any unlawful purpose or to cause loss to a person, whether or not the person actually suffers any economic loss, shall be deemed guilty of a Class B offense.
(Ord. No. SRO-418-2013, § 6-99, 3-6-2013)

Sec. 6-100. Reserved.

DIVISION 2. REAL OR TANGIBLE PROPERTY

Sec. 6-101. Injury to public property.

Any person who shall, without proper authority, use or injure any public, government or Community property shall be deemed guilty a Class C offense.
(Code 1976, § 6.42; Code 1981, § 6-101; Code 2012, § 6-101; Ord. No. SRO-402-2012, § 6-101, 5-30-2012; Ord. No. SRO-418-2013, § 6-101, 3-6-2013)

Sec. 6-102. Criminal damage.

Any person, who shall intentionally or recklessly disturb, injure or destroy the property of another, shall be deemed guilty of a Class B offense. Restitution of damages may be ordered by the Community court.
(Code 1976, § 6.45; Code 1981, § 6-102; Code 2012, § 6-102; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-02, 5-30-2012; Ord. No. SRO-418-2013, § 6-10, 3-6-2013)

Sec. 6-103. Burglary.

(a) A person commits burglary by:

(1) Entering or remaining unlawfully in or on a nonresidential structure or in a fenced commercial or residential yard with the intent to commit any theft or offense therein;

(2) Making entry into any part of a motor vehicle, with the intent to commit any theft or offense in the motor vehicle;

(3) Entering or remaining unlawfully in or on a residential structure with the intent to commit any theft or offense therein; or

(4) Entering or remaining unlawfully in or on a residential structure with the intent to commit any theft or offense therein, while knowingly possessing explosives or a deadly weapon or dangerous instrument.

(b) If committed in violation of subsection (a)(1) or (2) of this section, burglary is a Class C offense.

(c) If committed in violation of subsection (a)(3) of this section, burglary is a Class B offense.

(d) If committed in violation of subsection (a)(4) of this section, burglary is a Class A offense.
(Code 1976, § 6.10; Code 1981, § 6-103; Code 2012, § 6-103; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-103, 5-30-2012; Ord. No. SRO-418-2013, § 6-103, 3-6-2013)

Sec. 6-104. Theft and robbery.

(a) *Theft.* Any person who shall control the property of another with the intent to deprive the other person of such property; or who converts for an unauthorized term or use; or who obtains property or services of another by means of any material misrepresentation with intent to deprive him or her of such property or services; or who obtains services known to such person to be

available only for compensation without paying or an agreement to pay such compensation, shall be deemed guilty of theft, a Class B offense.

(b) *Robbery.* Any person who shall, in the course of taking any property of another from his or her person or immediate presence and against his or her will, threaten or use force against any person with the intent either to coerce surrender of property or to prevent resistance to a person taking or retaining said property, shall be deemed guilty of robbery, a Class A offense.

(c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Force means any physical act directed against a person as a means of gaining control of property.

In the course of taking means any of the defendant's acts beginning with the initiation and extending through the flight from a robbery.

Threat means a verbal or physical menace of imminent physical injury to a person.
(Code 1976, § 6.58; Code 1981, § 6-104; Code 2012, § 6-104; Ord. No. SRO-114-88, § F, 8-10-1988; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 6-104, 5-30-2012; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-418-2013, § 6-104, 3-6-2013)

Sec. 6-105. Cutting fence.

Any person who shall willfully cut a fence of another person or Community fence line shall be deemed guilty of an offense and, upon conviction thereof, shall be deemed guilty of a Class D offense.
(Code 1976, § 6.20; Code 1981, § 6-105; Code 2012, § 6-105; Ord. No. SRO-402-2012, § 6-105, 5-30-2012; Ord. No. SRO-418-2013, § 6-105, 3-6-2013)

Sec. 6-106. Cutting timber without permit.

Any person who is not a Community member, who cuts, digs up or removes any timber or vegetation for any purpose without a proper permit, or who defaces vegetation, shall be deemed guilty of a Class D offense
(Code 1976, § 6.21; Code 1981, § 6-106; Code 2012, § 6-106; Ord. No. SRO-402-2012, § 6-106, 5-30-2012; Ord. No. SRO-418-2013, § 6-106, 3-6-2013)

Sec. 6-107. Misbranding.

Any person who shall knowingly or willfully misbrand or alter any brand or mark on any livestock of another person shall be deemed guilty of a Class C offense.
(Code 1976, § 6.47; Code 1981, § 6-107; Code 2012, § 6-107; Ord. No. SRO-402-2012, § 6-107, 5-30-2012; Ord. No. SRO-418-2013, § 6-107, 3-6-2013)

Sec. 6-108. Negligent handling of campfire and/or negligent starting of a fire.

Any person who builds a campfire upon the lands of the Community without clearing the ground immediately around it free from material which may carry fire, or who leaves thereon a campfire burning and unattended, or who permits a campfire to spread thereon, or who by throwing away a lighted cigar, cigarette or match or by use of firearms, or in any other manner starts a fire in a forest, or in any other area on the Community and leaves the fire unquenched shall be deemed guilty of a Class D offense, with costs and restitution of damages.
(Code 1976, § 6.49; Code 1981, § 6-108; Code 2012, § 6-108; Ord. No. SRO-402-2012, § 6-108, 5-30-2012; Ord. No. SRO-418-2013, § 6-108, 3-6-2013)

Sec. 6-109. Short-handled hoes.

(a) The use of a hoe with a handle less than four feet in length for weeding or thinning crops on farms within the Community is prohibited. This prohibition does not apply to the use of hoes in nursery or greenhouse operations.

(b) Any employer who requires the use of a hoe prohibited by this section shall be in violation of the terms of this section.

(c) The business license of any person who is in violation of the terms of this section may be suspended pursuant to section 15-36.
(Code 1981, § 6-109; Code 2012, § 6-109; Ord. No. SRO-92-85, §§ 1—3, 1-16-1985; Ord. No. SRO-402-2012, § 6-109, 5-30-2012; Ord. No. SRO-418-2013, § 6-109, 3-6-2013)

Editor's note—Inclusion of section 1 through 3 of SRO-92-85 as section 6-109 has been at the discretion of the editor.

Sec. 6-110. Arson.

A person commits arson of a structure or property, whether occupied or unoccupied, by knowingly and unlawfully damaging such structure or property by knowingly causing a fire or explosion. Arson is a Class B offense if the structure or property is commercial or an unoccupied residence. Arson is a Class A offense if the structure is an occupied dwelling.
(Code 1981, § 6-110; Code 2012, § 6-110; Ord. No. SRO-156-93, § 1, 10-28-1992; Ord. No. SRO-402-2012, § 6-110, 5-30-2012; Ord. No. SRO-418-2013, § 6-110, 3-6-2013)

DIVISION 3. TRESPASS*

Sec. 6-111. Criminal trespass.

(a) Any person who shall knowingly enter or remain unlawfully on any real property after reasonable notice of prohibited entry or a reasonable request to leave by the owner or controlling resident shall be deemed guilty of criminal trespass, a Class C offense.

(b) For purposes of this section, the term "real property" includes a residential structure, nonresidential structure, Community-owned structure, commercial structure, fenced residential yard, and fenced commercial yard.
(Code 1976, § 6.59; Code 1981, § 6-111; Code 2012, § 6-111; Ord. No. SRO-402-2012, § 6-111, 5-30-2012; Ord. No. SRO-418-2013, § 6-111, 3-6-2013)

Sec. 6-112. Policy of the Community.

(a) It is the policy of the Community that owners of the land be compensated for damage caused to their land by individuals riding vehicles over their land without permission, and that such vehicles so used be held as security for the payment of such compensation.

(b) It is the policy of the Community that owners of the land be compensated for damage caused by illegal dumping on their land.

(c) Any trespass onto land within the Community causes damage to such land or the owner's interest in it and is compensable. The amount of damages shall be the only issue after liability shall have been determined.
(Code 1981, § 6-112; Code 2012, § 6-112; Ord. No. SRO-91-85, § 3, 1-16-1985; Ord. No. SRO-402-2012, § 6-112, 5-30-2012; Ord. No. SRO-418-2013, § 6-112, 3-6-2013)

Sec. 6-113. Use of land for illegal dumping.

(a) It shall be unlawful for any person to dump any material within the Community outside of the tri-city landfill area at any time, or to dispose of any material within the Tri-City Landfill other than during its regular business hours and pursuant to its rules and regulations.

(b) Any person who shall enter within the fenced and posted area of the Community's tri-city landfill other than during its regular business hours and pursuant to its rules and regulations shall be deemed guilty of criminal trespass, a Class C offense.

(c) Any person who shall enter within the fenced and posted area of the Community's tri-city landfill other than during its regular business hours and pursuant to its rules and regulations shall be deemed guilty of civil trespass and, upon conviction thereof, shall be sentenced to a fine not to exceed $500.00, with costs.
(Code 1981, § 6-113; Code 2012, § 6-113; Ord. No. SRO-91-85, § 2, 1-16-1985; Ord. No. SRO-154-92, § 1, 6-3-1992; Ord. No. SRO-402-2012, § 6-113, 5-30-2012; Ord. No. SRO-418-2013, § 6-113, 3-6-2013)

Sec. 6-114. Use of off-the-road vehicles prohibited without license and landowner's permission.

It shall be unlawful for any person to drive any motor vehicle off of public or private road or road

*__Editor's note—__Transfer of § 6-91 to § 6-111 and inclusion of SRO-91-85 as §§ 6-112—6-119 has been at the editor's discretion.

shoulders within the Community without first obtaining a license for use off the road for said vehicle from the chief of the department of public safety and without obtaining the written permission of the landowners to ride over and on their land.
(Code 1981, § 6-114; Code 2012, § 6-114; Ord. No. SRO-91-85, § 1, 1-16-1985; Ord. No. SRO-402-2012, § 6-114, 5-30-2012; Ord. No. SRO-418-2013, § 6-114, 3-6-2013)

Sec. 6-115. Police officer to seize vehicle.

Any police officer who has observed a vehicle unlawfully riding upon the lands of the Community or who has observed a vehicle used in illegal dumping within the Community or has observed a vehicle used in the excavation of sites in violation of the antiquities ordinance set forth in chapter 19 within the Community or has observed a vehicle collecting and/or hauling solid waste from any commercial enterprise within the Community in violation of section 13-6(b) is authorized to seize the vehicle as security for payment of damages and civil penalties.
(Code 1981, § 6-115; Code 2012, § 6-115; Ord. No. SRO-91-85, § 4, 1-16-1985; Ord. No. SRO-102-86, § 9, 7-23-1986; Ord. No. SRO-188-95, § 4, 11-2-1994; Ord. No. SRO-402-2012, § 6-115, 5-30-2012; Ord. No. SRO-418-2013, § 6-115, 3-6-2013)

Sec. 6-116. Police officer to file notice of seizure.

A police officer who seizes a vehicle under the provisions of this section shall file a notice of seizure and a complaint to determine damages on behalf of the landowners of any land alleged to be damaged by the use of the seized vehicle with the clerk of the Community court and the clerk shall serve notice thereon on all owners of the vehicle, by one of the following methods:

(a) Upon an owner or claimant whose right, title or interest is of record in the division of motor vehicles of the state in which the automobile is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of said state.

(b) Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his or her last known address.

(c) Upon an owner or claimant, whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in the county.

(Ord. No. SRO-91-85, § 5, 1-16-1985; Ord. No. SRO-418-2013, § 6-116, 3-6-2013)

Sec. 6-117. Owner's answer to notice.

Within 20 days after the mailing or publication of a notice, as provided by section 6-116, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice and of the complaint. No extension of time shall be granted for the purpose of filing the answer.
(Code 1981, § 6-116; Code 2012, § 6-116; Ord. No. SRO-91-85, § 5, 1-16-1985; Ord. No. SRO-402-2012, § 6-116, 5-30-2012; Ord. No. SRO-418-2013, § 6-117, 3-6-2013)

Sec. 6-118. Procedure for hearing.

(a) If a verified answer to the notice and complaint given as prescribed by this section is not filed within the 20 days after the mailing or publication thereof, the court shall hear evidence upon the charge of unlawful use of the vehicle, the amount of damages to the land or the owner's interest in it and upon motion shall order the vehicle sold to pay such damages, subject to the provisions of subsection (d) of this section.

(b) If a verified answer is filed, the proceedings shall be set for a hearing on a day not less than 30 days after the answer is filed, and the proceedings shall have priority over other civil cases. Notice of the hearing shall be given to the respondent by ordinary mail at respondent's address as set out in respondent's answer.

(c) At the hearing, any owner or claimant who has a verified answer on file may show by competent evidence that the vehicle was not used unlawfully by an occupant of the vehicle, and may present competent evidence to mitigate the claim of damages.

(d) A claimant of any right, title or interest in the vehicle may provide his or her lien, mortgage or conditional sales contract to be bona fide, and that his or her right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser, and without knowledge that the vehicle was being, or was to be used for the purpose charged; but no person who has the lien dependent upon possession for the compensation to which he or she is legally entitled for making repairs or performing labor upon and furnishing supplies and materials for, and for the storage, repairs, safekeeping of any vehicle, and no person doing business under any law of any state or the United States relating to banks, trust companies, building and loan associations, and loan companies, credit unions or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles shall be required to prove that his or her right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant.
(Code 1981, § 6-118; Code 2012, § 6-118; Ord. No. SRO-91-85, § 7, 1-16-1985; Ord. No. SRO-402-2012, § 6-118, 5-30-2012; Ord. No. SRO-418-2013, § 6-118, 3-6-2013)

Sec. 6-119. Judgment.

(a) The judgment shall determine whether the vehicle was used unlawfully and if it was so used, what damages, if any, were sustained by the use of the vehicle on lands within the Community. The court shall also determine whether the interest in the vehicle belonging to any lien holder, mortgagee or vendor is equal to or in excess of the value of the vehicle as of the date of seizure. If the value is equal or in excess of the value of the vehicle at the date of seizure, the vehicle shall be released to said lien holder, mortgagee or vendor, it being the purpose of this section to use as security only the right, title or interest of the owner of the vehicle.

(b) If the court determines that the vehicle was used illegally and that there are damages and that there is value in excess of that belonging to a lien holder, mortgagee or vendor, then the court shall order the chief of the department of public safety to cause the vehicle to be sold at public auction and to pay out of the proceeds of said sale first the cost of said sale, second the interest of any lien holder, mortgagee or vendor in said vehicle, third compensation for the damages done, and fourth any balance to the titled owner of the vehicle.
(Code 1981, § 6-119; Code 2012, § 6-119; Ord. No. SRO-91-85, § 8, 1-16-1985; Ord. No. SRO-402-2012, § 6-119, 5-30-2012; Ord. No. SRO-418-2013, § 6-110, 3-6-2013)

Sec. 6-120. Reserved.

ARTICLE VI. DRUG-RELATED OFFENSES

Sec. 6-121. Possession or use of narcotics and drugs.

(a) *Prohibited generally.* It shall be unlawful for any person to possess, have under his or her control, dispense, use, transport, carry, sell, give away, prepare for sale, furnish, administer, or offer to sell, furnish, administer or give away any narcotic, hallucinogen or other dangerous drug except as pursuant to this section.

(b) *Inhalation prohibited.* It shall be unlawful for any person to inhale or sniff any substance for the purpose of becoming intoxicated.

(c) *Prescription drugs exempt.* This section shall not apply to persons who possess, have under their control, use, transport or carry narcotics pursuant to a prescription by a licensed physician, osteopath, dentist or veterinarian.

(d) *Certain professionals exempt.* This section shall not apply to manufacturers, wholesalers, apothecaries, physicians, osteopaths, dentists or veterinarians who have under their control, dispense, use, transport, sell, prepare for sale, furnish, administer, or offer to do the same any drug regulated by this section, so long as such acts are done without violation of any law of the United States.

(e) *Narcotics enumerated.* Narcotics regulated by this section include but are not limited to opium and opiates, including but not limited to

heroin, methadone, morphine and codeine; coca leaves and their derivatives, including but not limited to cocaine; and those narcotics listed in 21 USCA 812, schedules I, II, III, IV and V.

(f) *Hallucinogens enumerated.* Hallucinogens regulated by this section include but are not limited to mescal buttons, peyote buttons, marijuana, dimethyltryptamine (DMT) lysergic acid diethylamide (LSD), 4-methyl-2, 5-dimethoxyamphetamine (STP), and those hallucinogens listed in 21 USCA 812, schedules I, II, III, IV and V.

(g) *Dangerous drugs defined.* Dangerous drugs related by this section include the drugs and/or amounts of drugs prohibited in Title 21, USCA 812, and Title 13, A.R.S., section 3401, not included within subsection (e) and (f) of this section.

(h) *Sentencing.* Possession or use of narcotics and drugs is a Class B offense, unless the offense includes the element of sale, in which case it is a Class A offense.

(i) *Hospitalization of offender.* It shall be within the discretion of the judge pronouncing sentence upon any violator of this section to order the violator confined in a hospital facility for care and treatment, but that confinement shall not exceed six months.

(j) *Option to retain jurisdiction over nonmembers.* If there is probable cause to believe that a nonmember of the Community has violated a provision of this section, the tribal court shall have the option of retaining jurisdiction over that person or of placing the nonmember in the custody of the United States Marshal for prosecution in the federal courts or to the county authorities or the state law enforcement officials.
(Code 1976, § 6.64; Code 1981, § 6-121; Code 2012, § 6-121; Ord. No. SRO-18-73, 4-11-1973; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-402-2012, § 6-121, 5-30-2012; Ord. No. SRO-418-2013, § 6-121, 3-6-2013; Ord. No. SRO-433-2014, § 6-121(g), 12-4-2013)

Sec. 6-122. Reserved.

Editor's note—Ord. No. SRO-458-2015, adopted Jan. 28, 2015, in conformity with the enactment of Ord. No. SRO-330-08, repealed § 6-122, which pertained to seizure of vehicles used in narcotic violations and derived from Code 1976, § 6.65; Code 1981, § 6-122; Code 2012, § 6-122; Ord. No. SRO-18-73, adopted Apr. 11, 1973; Ord. No. SRO-159-93, § 1, adopted Jan. 27, 1993; Ord. No. SRO-402-2012, § 6-122, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-122, adopted March 6, 2013.

Secs. 6-123—6-129. Reserved.

ARTICLE VII. WEAPONS AND EXPLOSIVES

Sec. 6-130. Reserved.

Editor's note—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-130, which pertained to possession of firearms or explosive weapons and derived from Code 1976, § 6.15; Code 1981, § 6-130; Code 2012, § 6-130; Ord. No. SRO-27-74, adopted May 3, 1974; Ord. No. SRO-37-76, adopted Aug. 20, 1975; Ord. No. SRO-103-86, §§ 2—8, adopted Oct. 15, 1986; Ord. No. SRO-151-92, §§ 2, 4, adopted May 13, 1992; Ord. No. SRO-402-2012, § 6-130, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-130, adopted March 6, 2013.

Sec. 6-131. Unlawful discharge of firearm.

(a) A person who knowingly or with criminal negligence discharges a firearm within the Community boundaries commits unlawful discharge of firearm.

(b) A person who knowingly or with criminal negligence discharges a firearm within the Community boundaries, and who does so with reckless disregard for the risk to human life, commits unlawful discharge of firearm.

(c) This section shall not apply to police officers acting in the performance of their official duties.

(d) Unlawful discharge of a firearm is a Class B offense if committed in violation of subsection (a) of this section.

(e) Unlawful discharge of a firearm is a Class A offense if committed in violation of subsection (b) of this section.
(Code 1976, § 6.25; Code 1981, § 6-131; Code 2012, § 6-131; Ord. No. SRO-402-2012, § 6-131, 5-30-2012; Ord. No. SRO-418-2013, § 6-131, 3-6-2013)

Sec. 6-132. Reserved.

Editor's note—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-132, which pertained to misuse of firearms and derived from Code 1976,

§ 6.48; Code 1981, § 6-132; Code 2012, § 6-132; Ord. No. SRO-402-2012, § 6-132, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-132, adopted March 6, 2013.

Sec. 6-133. Reserved.

Editor's note—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-133, which pertained to carrying concealed weapons and derived from Code 1976, § 6.14; Code 1981, § 6-133; Code 2012, § 6-133; Ord. No. SRO-37-76, adopted Aug. 20, 1975; Ord. No. SRO-151-92, § 3, adopted May 13, 1992; Ord. No. SRO-402-2012, § 6-133, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-133, adopted March 6, 2013.

Sec. 6-134. Endangerment.

Any person who recklessly endangers another person with a substantial risk of imminent death or serious physical injury shall be deemed guilty of endangerment, a Class A offense.
(Code 1976, § 6.3; Code 1981, § 6-134; Code 2012, § 6-134; Ord. No. SRO-37-76, 8-20-1975; Ord. No. SRO-112-88, 12-16-1987; Ord. No. SRO-114-88, § D, 8-10-1988; Ord. No. SRO-184-95, 10-12-1994; Ord. No. SRO-345-09, 11-12-2008; Ord. No. SRO-402-2012, § 6-134, 5-30-2012; Ord. No. SRO-418-2013, § 6-134, 3-6-2013)

Sec. 6-135. Reserved.

Editor's note—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-135, which pertained to violating restrictions on carrying firearms and derived from Code 1981, § 6-135; Code 2012, § 6-135; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-135, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-135, adopted March 6, 2013.

Sec. 6-136. Reserved.

Editor's note—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-136, which pertained to public uses of firearms and derived from Code 1981, § 6-136; Code 2012, § 6-136; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-136, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-136, adopted March 6, 2013.

Sec. 6-137. Reserved.

Editor's note—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-137, which pertained to prohibited possession of a firearm and derived from Code 1981, § 6-137; Code 2012, § 6-137; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-137, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-137, adopted March 6, 2013.

Sec. 6-138. Reserved.

Editor's note—Ord. No. SRO-447-2014, adopted July 30, 2014, effective Sept. 1, 2014, repealed § 6-138, which pertained to explosives and derived from Code 1976, § 6.29; Code 1981, § 6-138; Code 2012, § 6-138; Ord. No. SRO-112-88, adopted Dec. 16, 1987; Ord. No. SRO-184-95, adopted Oct. 12, 1994; Ord. No. SRO-402-2012, § 6-138, adopted May 30, 2012; Ord. No. SRO-418-2013, § 6-138, adopted March 6, 2013.

Sec. 6-139. Discharge of a firearm at an occupied structure; definitions; sentencing.

(a) *Definitions.*

(1) Discharge of a firearm at an occupied structure means propulsion of any explosive or explosive device in the direction of an occupied structure, when there is a reasonable belief that one or more persons are inside the structure.

(2) Firearm means any, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

(3) Participant. If a vehicle is used in the commission of a violation of this section, any person inside the vehicle on his or her own will at the time of the offense shall be considered a participant.

(b) *Mandatory sentencing.* Discharge of a firearm at an occupied structure is a Class A offense. Any person convicted of an offense defined in this section shall be sentenced to imprisonment and shall not be eligible for suspension of sentence, probation, parole or any other release from custody until the sentence imposed by the court is served.

(c) *Sentencing.* Any person who is a participant in discharge of a firearm at an occupied structure shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not less than one year, and a fine of not less than $5,000.00.
(Code 1981, § 6-139; Code 2012, § 6-139; Ord. No. SRO-175-94, §§ 1—3, 6-22-1994; Ord. No. SRO-402-2012, § 6-139, 5-30-2012; Ord. No. SRO-418-2013, § 6-139, 3-6-2013)

Editor's note—Ord. No. SRO-175-94, §§ 1—3, adopted June 276, 1994, did not specifically amend the Code; hence, inclusion herein as section 6-139 was at the discretion of the editor.

Sec. 6-140. Discharge of a firearm at an occupied structure; seizure of vehicle used.

(a) *Seizure by officer.* Any vehicle used in discharge of a firearm at an occupied structure shall be seized by any peace officer of the Community police department.

(b) *Notice of seizure.* A peace officer who seizes a vehicle under the provisions of this section shall file within ten days after seizure a notice of seizure and a complaint with the clerk of the Community court and the clerk shall, within three days of filing, serve notice thereof on all owners of the vehicle, by one of the following methods:

(1) Upon an owner or a claimant whose right, title or interest is of record in the division of motor vehicles of the state in which the automobile is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of such state.

(2) Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his or her last known address.

(3) Upon an owner or claimant whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in the county.

(c) *Owner's answer to notice.* Within 20 days after the mailing or publication of a notice, as provided by section 6-116, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice and of the complaint and raise such other defenses as are provided for in subsection (e)(3) of this section. No extension of time shall be granted for the purpose of filing the answer.

(d) *Claimant's answer to notice.* Within 20 days after the mailing or publication of a notice, as provided in section 6-116, a claimant of any right, title or interest in the vehicle may file a verified answer to the notice and complaint showing his or her lien, mortgage or conditional sales contract to be bona fide, and that his or her right, title or interest was created after a reasonable investigation of the purchaser, and without knowledge that the vehicle was being, or was to be, used for the purpose charged; but no person who has the lien dependent upon possession for the compensation to which he or she is legally entitled for making repairs or performing labor upon and furnishing supplies and materials for, and for the storage, repairs, safekeeping of any vehicle, and no person doing business under any law of any state or the United States relating to banks, trust companies, credit unions or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles shall be required to prove that his or her right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant, and such claimants need only allege the lien, mortgage or conditional sales contract in the vehicle is bona fide.

(e) *Procedure for hearing.*

(1) If a verified answer to the notice and complaint given as prescribed by this section is not filed within the 20 days after the mailing or publication thereof, the court shall hear evidence upon the charge of unlawful use of the vehicle, and if the court determines the vehicle was used in violation of subsection (a) of this section, the court shall order the vehicle sold, subject to the provisions of subsection (e)(4) of this section.

(2) If a verified answer is filed, the proceedings shall be set for a hearing on a day not less than 30 days after the answer is filed, and the proceedings shall have the priority over other civil cases. Notice of the hearing shall be given to the respondent by ordinary mail at the respondent's address as set out in the respondent's answer.

(3) At the hearing, any owner who has a verified answer on file may show by competent evidence that the vehicle was not used in violation of subsection (a) of this

section by an occupant of the vehicle, and that the owner did not consent or act negligently in regard to the vehicle as defined in subsection (e)(1) of this section.

(4) At the hearing, any claimant may show by competent evidence that his or her lien, mortgage or conditional sales contract in the vehicle is bona fide.

(f) *Judgment.*

(1) The court shall determine whether the vehicle was used in violation of subsection (a) of this section, and whether the owner consented to the use of the vehicle by a person in the vehicle at the time of the discharge of a firearm or by a person who supplied the vehicle to the person or persons in the vehicle at the time of the discharge of a firearm, knowing or having reason to know that the vehicle would be used in violation of the law, or negligently allowed such a person to take possession of the vehicle knowing or having reason to know that such a person would use the vehicle to violate the law. If the court determines that the vehicle was used in violation of subsection (a) of this section, and the owner of the vehicle acted in a manner described in this subsection, the court shall enter its order as provided in subsection (e)(2) of this section. If the court determines that the vehicle was not used in violation of subsection (a) of this section, and/or the owner neither consented nor acted negligently as described in this subsection, the court will dismiss the seizure notice and complaint and order the return of the vehicle to the owner. If the court finds there was a violation of subsection (a) of this section, and consent and negligence by the owner as described in this subsection, then the court shall also determine whether the interest in the vehicle belonging to any lienholder, mortgagee, or vendor is equal to or in excess of the value of the vehicle as of the date of seizure. If the value is equal to or in excess of the value of the vehicle at the date of seizure, the vehicle shall be released to such lienholder, mortgagee or vendor, it being the purpose of this section to secure damages only from the right, title or interest of a consorting or negligent owner of the vehicle.

(2) If the court determines that the vehicle was used in violation of subsection (a) of this section, and that the owner consented to the use of the vehicle or was negligent, and that there is a value in excess of that belonging to a lienholder, mortgagee or vendor, then the court shall order the chief of the department of police to cause the vehicle to be sold at public auction and to pay out of the proceeds of such sale: first, the cost of such sale; second, the interest of any lienholder, mortgagee or vendor in such vehicle; third, compensation for the damages done; and fourth, any balance to the titled owner of the vehicle.

(3) No amount will be paid for compensation or to the titled owner of the vehicle until a final judgment on a claim for damages resulting from a violation of subsection (a) of this section has been entered and submitted to the court with a petition for payment out of the proceeds of the sale or until the statute of limitations in regard to such claim has expired. The court shall make orders that are appropriate to the circumstance.

(Code 1981, § 6-140; Code 2012, § 6-140; Ord. No. SRO-206-95, 7-5-1995; Ord. No. SRO-402-2012, § 6-140, 5-30-2012; Ord. No. SRO-418-2013, § 6-13, 3-6-2013; Ord. No. SRO-418-2013, § 6-140, 3-6-2013)

Editor's note—Ord. No. SRO-206-95, adopted July 5, 1995, amended chapter 6 by adding new provisions, but did not provide for specific designation; hence, codification of such provisions as section 6-140 was at the discretion of the editor.

Secs. 6-141—6-149. Reserved.

Sec. 6-150. Misconduct involving weapons; definitions.

Definitions. The following words, terms, and phrases, when used in sections 6-151 and 6-152

shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ammunition means cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

Armor piercing ammunition means:

(1) A projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

(2) A full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

Community building or facility includes but is not limited to: the Salt River Pima-Maricopa Indian Community Multi-Purpose building, the Lehi Multi-Purpose building, Memorial Hall, the Lehi Pool, the Salt River Pima-Maricopa Indian Community Library, the Salt River Pima-Maricopa Indian Community Museum, Salt River Pima-Maricopa Indian Community schools and educational institutions, the Salt River Pima-Maricopa Indian Community cemeteries, including the Lehi cemetery, the Salt River Pima-Maricopa Indian Community Administration building, the Salt River Pima-Maricopa Indian Community Court building, any Community parks, any Salt River Pima-Maricopa Indian Community building housing the various departments performing Community governmental functions, and any other building owned and controlled by the Salt River Pima-Maricopa Indian Community, not being lawfully used for a private residence. Any driveways, parking lots, or curtilage of any of these described buildings or facilities shall constitute a "Community building or facility" for purposes of this section.

Community event means any event that is open to the public, or any Community-sponsored event, or any event authorized by the Community to take place on the grounds of a Community building or facility, including, but not limited to, the following: funerals, memorials, wakes, dances, parades, pow wows, Community sporting events, Fourth of July events, Thanksgiving events, Christmas or winter holiday events, New Year's Eve and New Year's Day events, Indian Day events, Salt River Day events, and other cultural celebrations or events.

Deadly weapon means anything that is designed for lethal use. The term includes a firearm.

Deface means to remove, alter, or destroy the manufacturer's serial number.

Destructive device means:

(1) Any explosive, incendiary, or poison gas;

(2) Bomb;

(3) Grenade;

(4) Rocket having a propellant charge of more than four ounces;

(5) Missile having an explosive or incendiary charge of more than one-quarter ounce;

(6) Mine;

(7) Any device similar to any of the devices described in the preceding clauses;

(8) Any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which as any barrel with a bore of more than one-half inch in diameter; or

(9) Any combination of parts either designed or intended for use in converting any device into any destructive devise described in subsection (1) or (2) of this definition and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; or any other device that is not likely to be used as a

weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

Explosive means any dynamite, nitroglycerine, black powder, or other similar explosive material, including plastic explosives. "Explosive" does not include ammunition or ammunition components such as primers, percussion caps, smokeless powder, black powder and black powder substitutes used for hand loading purposes.

Firearm means:

(1) Any weapon (including a starter gun) which will, or is designed to, or may readily be converted to expel a projectile by the action of an explosive but does not include an antique firearm or any device that expels a projectile by means of compressed air;

(2) The frame or receiver of any such weapon;

(3) Any firearm muffler or firearm silencer; or

(4) Any destructive device. Such term does not include an antique firearm.

Improvised explosive device means a device that incorporates explosives or destructive, lethal, noxious, pyrotechnic or incendiary chemicals, and that is designed to destroy, disfigure, terrify or harass.

Prohibited possessor means any person:

(1) Who has been found to constitute a danger to self or to others or to be persistently or acutely disabled or gravely disabled, or who has been adjudicated as a mental defective, or who has been committed to a mental institution, and whose right to possess a firearm has not been restored pursuant to applicable tribal, state, or federal law;

(2) Who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(3) Who is a fugitive from justice;

(4) Who is at the time of possession serving a term of imprisonment in any correctional or detention facility;

(5) Who is at the time of possession serving a term of parole or probation resulting from a conviction in any jurisdiction;

(6) Who has been discharged from the armed forces under dishonorable conditions;

(7) Who has been convicted in any tribal, state, or federal court of any crime of domestic violence;

(8) Who is subject to a court order that:

a. Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

b. Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

c. Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

d. By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

Prohibited weapon includes the following:

(1) A firearm that is defaced;

(2) Armor-piercing ammunition;

(3) An item that is a bomb, grenade, rocket having a propellant charge of more than four ounces or mine and that is explosive, incendiary or poison gas;

(4) A firearm muffler, firearm silencer, or any device that is designed, made, or adapted to muffle the report of a firearm;

(5) A firearm that is capable of shooting more than one shot automatically, without manual reloading, by a single function of the trigger;

(6) A short-barreled shotgun, a short-barreled rifle, or rifle with a barrel length of less than 16 inches, or shotgun with a barrel length of less than 18 inches, or any firearm that is made from a rifle or shotgun and that, as modified, has an overall length of less than 26 inches;

(7) An instrument, including a nunchaku, that consists of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense;

(8) A breakable container that contains a flammable liquid with a flash point of 150 degrees Fahrenheit or less and that has a wick or similar device capable of being ignited;

(9) A chemical or combination of chemicals, compounds or materials, including dry ice, that is possessed or manufactured for the purpose of generating a gas to cause a mechanical failure, rupture or bursting or an explosion or detonation of the chemical or combination of chemicals, compounds or materials;

(10) An improvised explosive device; or

(11) Any combination of parts or materials that is designed and intended for use in making or converting a device into an item set forth in subsection (1), (6) or (8) of this definition.

(12) The term "prohibited weapon" does not include the following:

a. Any fireworks that are imported, distributed or used in compliance with tribal, state, or local ordinances;

b. Any propellant, propellant-actuated devices or propellant-actuated industrial tools that are manufactured, imported or distributed for their intended purposes; or

c. A device that is commercially manufactured primarily for the purpose of illumination.

Rifle means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

Short-barreled rifle means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than 26 inches.

Short-barreled shotgun means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than 26 inches.

Shotgun means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

Trafficking means to sell, transfer, distribute, dispense or otherwise dispose of a weapon or explosive to another person, or to buy, receive, possess or obtain control of a weapon or explosive, with the intent to sell, transfer, distribute, dispense or otherwise dispose of the weapon or explosive to another person.
(Ord. No. SRO-447-2014, § 6-150, 7-30-2014, eff. 9-1-2014)

Sec. 6-151. Misconduct involving weapons; permits.

A permit issued by the Salt River Police Department is required to possess a firearm or ammunition in the Community. The Salt River Police Department may issue a permit authorizing possession by persons within the Salt River Pima-Maricopa Indian Community of non-prohibited weapons, and weapons for which a certificate of inoperability has been issued.

(1) *Conditions on permit.* Application for a permit shall be conditioned on the appli-

cant's acceptance of the jurisdiction of the Salt River Pima-Maricopa Indian Community in any civil action for damages resulting from the possession or operation of the weapon by the applicant.

(2) *Limitations on permit.* Without exception, prohibited possessors are not eligible to apply for or be issued permits to possess firearms or ammunition within the Salt River Pima-Maricopa Indian Community.

(3) *Regulation of permits.* The Salt River Police Department shall regulate the application and approval process for firearms and weapons permits using policies and procedures approved by the Salt River Pima-Maricopa Indian Community Tribal Council. Such regulation shall incorporate the prohibitions included in this section.

(Ord. No. SRO-447-2014, § 6-151, 7-30-2014, eff. 9-1-2014)

Sec. 6-152. Misconduct involving weapons; offenses.

(a) *Possession without a permit.* It shall be unlawful for any person to operate, possess, receive, transport, or ship any firearm or ammunition within the Salt River Pima-Maricopa Indian Community unless such person has obtained a permit from the Salt River Police Department. Possession without a permit is a class B offense.

(b) *Possession by minors.* It shall be unlawful for any person under the age of 18 years to operate, possess, receive, transport, or ship any firearm, or ammunition within the Salt River Pima-Maricopa Indian Community, unless such minor is under direct supervision of a parent or legal guardian, and such legal guardian has a lawful permit. Possession by minors is a class B offense.

(c) *Possession at a Community building or facility.* It shall be unlawful for any person to carry, operate, possess, receive, transport, or ship any firearm, or ammunition at a Community event or Community building or facility within the Salt River Pima-Maricopa Indian Community. Possession at a Community building or facility is a class B offense.

(d) *Possession of prohibited weapon.* It shall be unlawful for any person to operate, possess, receive, transport, or ship any prohibited weapon unless such weapon has been rendered permanently inoperable and such inoperability has been certified by the Salt River Police Department. Possession of prohibited weapon is a class A offense.

(e) *Possession by a prohibited possessor.* It shall be unlawful for any prohibited possessor to operate, possess, receive, transport, or ship any firearm or ammunition within the Salt River Pima-Maricopa Indian Community. Possession by a prohibited possessor is a class A offense.

(f) *Prohibited trafficking of a firearm.*

(1) It shall be unlawful for any person to engage in trafficking of any prohibited weapon.

(2) It shall be unlawful for any person to engage in trafficking of any firearm with any person who has not been lawfully issued a permit by the Salt River Police Department.

(3) Prohibited trafficking of a firearm as described in subsections (1) and (2) above is a class B offense.

(g) *Forfeiture of weapon.* Any person convicted of a violation of this section shall forfeit all firearms, ammunition, and weapons seized pursuant to the investigation. Such forfeiture shall not be limited only to the specific firearm, ammunition, or weapon in the count specific to any conviction, but shall include all firearms, ammunition, and weapons lawfully seized.

(h) *Law enforcement exception.* This section shall not apply to police officers acting in the lawful performance of their official duties.

(Ord. No. SRO-447-2014, § 6-152, 7-30-2014, eff. 9-1-2014)

Sec. 6-153. Effective date.

The amendments set forth in sections 6-150 through 6-152 will govern cases filed on or after September 1, 2014.

(Ord. No. SRO-447-2014, § 6-153, 7-30-2014, eff. 9-1-2014)

Chapter 6.5

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION

Sec. 6.5-1. Policy.
Sec. 6.5-2. Creation of registries.
Sec. 6.5-3. Definitions.
Sec. 6.5-4. Sex offender registration and covered offenses.
Sec. 6.5-5. Tiered offenses.
Sec. 6.5-6. Required information.
Sec. 6.5-7. Frequency, duration and reduction.
Sec. 6.5-8. Registration.
Sec. 6.5-9. Failure to appear for registration and absconding.
Sec. 6.5-10. Residency restrictions.
Sec. 6.5-11. Community notification.
Sec. 6.5-12. Law enforcement notification.
Sec. 6.5-13. Immunities.
Sec. 6.5-14. Failure to register.

Sec. 6.5-1. Policy.

Sex offenders present a clear and present danger to the mental, emotional and physical well-being of the members and residents of the Community. The policy of the Community Council is that such behavior by any person shall not be tolerated or excused. Nonmembers shall be on notice that any violations shall be reported to the proper state or federal authorities for immediate action. Therefore the Community has adopted this sex offender registration ordinance in order to regulate such activities in conformity with the Adam Walsh Child Protection and Safety Act of 2006, but this chapter is not intended to be additional punishment.
(Ord. No. SRO-405-2012, § 6-149, 7-18-2012)

Sec. 6.5-2. Creation of registries.

(a) *Sex offender registry established.* There is hereby established a sex offender registry, which the Community police department shall maintain and operate pursuant to the provisions of this Community Code of Ordinances.

(b) *Public website.* There is hereby established a public sex offender registry website, as authorized and implemented by SR-2941-2011, which the Community police department shall maintain and operate pursuant to the provisions of this Community Code of Ordinances.
(Ord. No. SRO-405-2012, § 6-150, 7-18-2012)

Sec. 6.5-3. Definitions.

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

Absconder means a sex offender who has left a registration jurisdiction without updating his or her registration information as required by law and cannot be located.

Convicted.

(1) The term "convicted," as applied to an adult sex offender, means the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

(2) The term "convicted," as applied to a juvenile offender, means the juvenile offender is:

a. Prosecuted and found guilty as an adult for a sex offense;

b. Adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in either 18 USC 2241(a) or (b)), or was an attempt or conspiracy to commit such an offense; or

c. Adjudicated delinquent as a juvenile for a violation of a sex offense as described in this Community Code of Ordinances.

Dru Sjodin National Sex Offender Public Website (NSOPW) means the public website maintained by the Attorney General of the United States pursuant to 42 USC 16920.

Employee includes, but is not limited to, an individual who is employed by the Community, self-employed or works for any other entity, regardless of compensation. Volunteers of a Community department, agency or organization are included within the definition of employee for registration purposes.

Foreign conviction means a conviction obtained outside of the United States, notwithstanding chapter 7 of this Community Code of Ordinances.

Immediate and *immediately* mean within three business days.

Imprisonment means incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state prison as well as in a federal, military, foreign, BIA, private or contract facility, or a local or Community jail. Persons under "house arrest" following conviction of a covered sex offense are required to

register pursuant to the provisions of this Community Code of Ordinances during their period of "house arrest."

Jurisdiction refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian Nation.

Juvenile means an individual who has not attained the age of 18 years.

Juvenile offender means a child who has been adjudicated to have committed an act, which, if committed by an adult, would be a criminal offense.

Juvenile offense means an act by a child, which, if committed by an adult, would be a criminal offense.

National Sex Offender Registry (NSOR) means the national database maintained by the Attorney General of the United States and the Federal Bureau of Investigations (FBI).

Resides means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives or sleeps.

Sex offender means a person convicted of a sex offense.

Sex offense includes those offenses contained in 42 USC 16911(5) and those offenses of a sexual nature under Community law, or the law of any other jurisdiction. An offense involving consensual sexual conduct is not a sex offense for the purposes of this chapter if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than four years older than the victim.

Sexual act means:

(1) Contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;

(2) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(3) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(4) The intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Sexual contact means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of any person with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desires of any person.

Sex offender registry means the registry of sex offenders, and a notification program, maintained by the Community police department.

SMART office means the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 USC 16945.

SORNA means the Sex Offender Registration and Notification Act (title I of the Adam Walsh Child Protection and Safety Act of 2006 PL 109-248), 42 USC 16901 et seq., as amended.

Student means a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education and includes interns, externs, or participants in apprenticeship programs who are involved in educational or vocational activities in the Community.

Tier 1 sex offender or *sex offender designated as tier 1* means a person that has been convicted of a tier 1 sex offense as defined in section 6.5-5(a).

Tier 2 sex offender or *sex offender designated as tier 2* means a person that has been convicted of a tier 2 sex offense as defined in section 6.5-5(b).

Tier 3 sex offender or *sex offender designated as tier 3* means a person that has been convicted of a tier 3 sex offense as defined in section 6.5-5(c). (Ord. No. SRO-405-2012, § 6-151, 7-18-2012)

Sec. 6.5-4. Sex offender registration and covered offenses.

(a) *Mandatory registration.* Any individual who resides within the exterior boundaries of the reservation or otherwise resides on property owned by the Community in fee or trust regardless of location; is employed within the exterior boundaries of the reservation or on property owned by the Community in fee or trust regardless of location; or who attends school within the exterior boundaries of the Community or on property owned by the Community in fee or trust regardless of location, that has been convicted of, admitted to under oath, or pleaded guilty or no contest to a violation or attempted violation of any of the registrable offenses provided in subsection (b) of this section or who has been convicted of, admitted to under oath, or pleaded guilty or no contest to an offense in any jurisdiction which if committed within the Community or within the state would be a violation or attempted violation of the registrable sexual offenses provided in subsection (b) of this section, must register with the Community police department. For purposes of this chapter, an individual who is required to register for any registrable sexual offense will be known as a "registrable sex offender."

(b) *Registrable sexual offenses.* Individuals convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this Community Code of Ordinances:

(1) *Code sections for offenses.* Any violation of the following sections of this Community Code of Ordinances:

a. Attempted rape pursuant to section 6-61.

b. Rape pursuant to section 6-61.1.

c. Carnal knowledge of person under 18 years of age pursuant to section 6-66.

d. Unnatural sex act pursuant to 6-67.

e. Incest pursuant to section 6-68.

f. Oral copulation with a minor, or aiding and abetting another's oral copulation with a minor pursuant to section 6-87.

g. Penetration of genital or anal opening of a minor by foreign object pursuant to section 6-88.

h. Enticement for purposes of prostitution or procuring or procuring for illicit intercourse by false pretenses pursuant to section 6-90.

i. Sodomy with a child or aiding and abetting sodomy with a child pursuant to section 6-90.

j. Unlawful sexual intercourse pursuant to section 6-90.1.

k. Lewd or lascivious acts or use of force or violence pursuant to section 6-90.2.

l. Any conviction under the Code in which the underlying facts admitted or found on the record involve any sexual exploitation of a minor, including, but not limited to, possessing, producing, or obtaining child pornography.

Note—In this subsection, the Community Code of Ordinances references prior provisions of law that were in effect before March 6, 2013. Convictions of these prior offenses are still eligible for registration under this chapter.

(2) *Federal offenses.* A conviction for any of the following, and any other offense hereafter included in the definition of the term "sex offense" at 42 USC 16911(5):

a. 18 USC 1591 (sex trafficking of children);

b. 18 USC 1801 (video voyeurism of a minor);

c. 18 USC 2241 (aggravated sexual abuse);

d. 18 USC 2242 (sexual abuse);

e. 18 USC 2243 (sexual abuse of a minor or ward);

f. 18 USC 2244 (abusive sexual contact);

g. 18 USC 2245 (offenses resulting in death);

h. 18 USC 2251 (sexual exploitation of children);

i. 18 USC 2251(A) (selling or buying of children);

j. 18 USC 2252 (material involving the sexual exploitation of a minor);

k. 18 USC 2252(A) (material containing child pornography);

l. 18 USC 2252(B) (misleading domain names on the internet);

m. 18 USC 2252(C) (misleading words or digital images on the internet);

n. 18 USC 2260 (production of sexually explicit depictions of a minor for import into the United States);

o. 18 USC 2421 (transportation of a minor for illegal sexual activity);

p. 18 USC 2422 (coercion and enticement of a minor for illegal sexual activity);

q. 18 USC 2423 (Mann Act);

r. 18 USC 2424 (failure to file factual statement about an alien individual);

s. 18 USC 2425 (transmitting information about a minor to further criminal sexual conduct).

(3) *State or tribal offenses.* Any violation requiring registration under any state statute or pursuant to an order of conviction from a state or tribal criminal proceeding.

(4) *Foreign offenses.* Any conviction for a sex offense involving any conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

(5) *Military offenses.* Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note.)

(6) *Juvenile offenses or adjudications.* Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 USC 2241) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

(Ord. No. SRO-405-2012, § 6-152, 7-18-2012)

Sec. 6.5-5. Tiered offenses.

(a) *Tier 1 offenses.*

(1) *Sex offenses.* A tier 1 offense includes any sex offense for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a tier 2 or tier 3 offense.

(2) *Offenses involving minors.* A tier 1 offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to section 6.5-4 that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.

(3) *Misdemeanors.* Any sex offense covered by this act where punishment was eligible

to no more than one year in jail shall be considered a tier 1 sex offense, unless otherwise specified.

(4) *Certain federal offenses.* Conviction for any of the following federal offenses shall be considered a conviction for a tier 1 offense:

a. 18 USC 1801 (video voyeurism of a minor);

b. 18 USC 2252 (receipt or possession of child pornography);

c. 18 USC 2252(A) (receipt or possession of child pornography);

d. 18 USC 2252(B) (misleading domain names on the internet);

e. 18 USC 2252(C) (misleading words or digital images on the internet);

f. 18 USC 2422(a) (coercion to engage in prostitution);

g. 18 USC 2423(b) (travel with the intent to engage in illicit conduct);

h. 18 USC 2423(c) (engaging in illicit conduct in foreign places);

i. 18 USC 2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain, if committed by an adult);

j. 18 USC 2424 (failure to file factual statement about an alien individual); or

k. 18 USC 2425 (transmitting information about a minor to further criminal sexual conduct).

(5) *Certain military offenses.* Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note) that is similar to those offenses outlined in section 6.5-5(a) shall be considered a tier 1 offense.

(b) *Tier 2 offenses.*

(1) *Recidivism and felonies.* Any sex offense that is not the first sex offense for which a person has been convicted and that is punishable by more than one year in jail is considered a tier 2 offense.

(2) *Offenses involving minors.* A tier 2 offense includes any sex offense against a minor for which a person has been convicted, or an attempt or conspiracy to commit such an offense, notwithstanding subsection (a)(3) of this section, that involves:

a. The use of minors in prostitution, including solicitations;

b. Enticing a minor to engage in criminal sexual activity;

c. Sexual contact with a minor 13 years of age or older, whether directly or indirectly through the clothing, that involves the intimate parts of the body;

d. The use of a minor in a sexual performance;

e. The production or distribution of child pornography; or

f. A nonforcible sexual act with a minor 16 or 17 years old.

(3) *Certain federal offenses.* Conviction for any of the following federal offenses shall be considered a conviction for a tier 2 offense:

a. 18 USC 1591 (sex trafficking by force, fraud, or coercion);

b. 18 USC 2244 (abusive sexual contact, where the victim is 13 years of age or older);

c. 18 USC 2251 (sexual exploitation of children);

d. 18 USC 2251(A) (selling or buying of children);

e. 18 USC 2252 (material involving the sexual exploitation of a minor);

f. 18 USC 2252(A) (production or distribution of material containing child pornography);

g. 18 USC 2260 (production of sexually explicit depictions of a minor for import into the United States);

h. 18 USC 2421 (transportation of a minor for illegal sexual activity);

i. 18 USC 2422(b) (coercing a minor to engage in prostitution);

j. 18 USC 2423(a) (transporting a minor to engage in illicit conduct);

k. 18 USC 2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain, if committed by a juvenile offender).

(4) *Certain military offenses.* Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note) that is similar to those offenses outlined in section 6.5-5(b)(1)—(3) shall be considered a tier 2 offense.

(c) *Tier 3 offenses.*

(1) *Recidivism and felonies.* Any sex offense that is punishable by more than one year in jail where the offender has at least one prior conviction for a tier 2 sex offense, or has previously become a tier 2 sex offender, is a tier 3 offense.

(2) *General offenses.* A tier 3 offense includes any sex offense, for which a person has been convicted, or an attempt or conspiracy to commit such an offense, notwithstanding subsection (a)(3) of this section, that involves:

a. Nonparental kidnapping of a minor;

b. A sexual act with another by force or threat;

c. A sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate; or

d. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing.

(3) *Certain federal offenses.* Conviction for any of the following federal offenses shall be considered conviction for a tier 3 offense:

a. 18 USC 2241(a), (b) and (c) (aggravated sexual abuse);

b. 18 USC 2242 (sexual abuse); or

c. Where the victim is 12 years of age or younger, 18 USC 2244 (abusive sexual contact).

d. 18 USC 2243 (sexual abuse of a minor or ward).

(4) *Certain military offenses.* Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 USC 951 note) that is similar to those offenses outlined in section 6.5-5(c)(1)—(3) shall be considered a tier 3 offense.

(Ord. No. SRO-405-2012, § 6-153, 7-18-2012)

Sec. 6.5-6. Required information.

(a) *General requirements.*

(1) *Duties.* A sex offender who is required to register with the Community pursuant to section 6.5-4 shall provide all of the information detailed in this section to the Community police department and the Community police department shall obtain all of the information detailed in this section pertaining to sex offenders who are required to register with the Community in accordance with this Community Code of Ordinances and shall implement any relevant policies and procedures in furtherance thereof.

(2) *Digitization.* All information obtained under this Community Code of Ordinances shall be, at a minimum, maintained by the Community police department in a digitized format.

(3) *Electronic database.* A sex offender registry shall be maintained in an electronic

database by the Community police department and shall be in a form capable of electronic transmission.

(b) *Criminal history.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:

(1) The date of all arrests;

(2) The date of all convictions;

(3) The sex offender's status of parole, probation or supervised release;

(4) The sex offender's registration status; and

(5) Any outstanding arrest warrants.

(c) *Date of birth.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:

(1) The sex offender's actual date of birth; and

(2) Any other date of birth used by the sex offender.

(d) *DNA sample.*

(1) *DNA.* If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Community police department or designee a sample of his or her DNA.

(2) *CODIS.* Any DNA sample obtained from a sex offender shall be submitted to the FBI criminal lab for analysis and entry of the resulting DNA profile in to CODIS.

(e) *Driver's licenses, identification cards, passports and immigration documents.*

(1) *Driver's license.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.

(2) *Identification cards.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction. All sex offenders required to register pursuant to section 6.5-4 who are enrolled members of the Community shall be required to obtain and maintain a valid tribal identification card for the duration of their period of registration.

(3) *Passports.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.

(4) *Immigration documents.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

(f) *Employment information.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

(1) The name of the sex offender's employer,

(2) The address of the sex offender's employer, and

(3) Similar information related to any transient or day labor employment.

(g) *Fingerprints and palm prints.* The Community police department or designee shall obtain, and a covered sex offender shall provide, both fingerprints and palm prints of the sex offender.

(h) *Internet identifiers.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's internet-related activity:

(1) Any and all email addresses used by the sex offender;

(2) Any and all Instant Message addresses and identifiers;

(3) Any and all URL addresses or websites registered to or by the sex offender;

(4) Any and all other designations or monikers used for self-identification in internet communications or postings; and

(5) Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings.

(i) *Name.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:

(1) The sex offender's full primary given name,

(2) Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and

(3) Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

(j) *Phone numbers.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:

(1) Any and all land line telephone numbers;

(2) Any and all cellular telephone numbers; and

(3) Any and all voice over internet protocol (VoIP) numbers or URLs.

(k) *Picture; update requirements.* The Community police department or designee shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender. Unless the appearance of a sex offender has not changed significantly, a digitized photograph shall be collected:

(1) Every 90 days for tier 3 sex offenders;

(2) Every 180 days for tier 2 sex offenders; and

(3) Every year for tier 1 sex offenders.

(l) *Physical description.* The Community police department or designee shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:

(1) A physical description;

(2) A general description of the sex offender's physical appearance or characteristics;

(3) Any identifying marks, such as, but not limited to, scars, moles, birthmarks, piercings or tattoos; and

(4) A photograph of any identifying marks, such as, but not limited to scars, moles, birthmarks, piercings or tattoos shall be taken upon registration and in-person appearances and verifications.

(m) *Professional licensing information.* The Community police department or designee shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

(n) *Residence address.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:

(1) The address of each residence at which the sex offender resides or will reside; and

(2) Any address, location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

(o) *School.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:

(1) The address of each school where the sex offender is or will be a student; and

(2) The name of each school the sex offender is or will be a student.

(p) *Social security number.* The SRPMIC police department or designee shall obtain, and a covered sex offender shall provide, the following information:

(1) A valid social security number for the sex offender; and

(2) Any social security number the sex offender has used in the past, valid or otherwise.

(q) *Temporary lodging.* Lodging information. the Community police department or designee shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his or her residence for seven days or more:

(1) Identifying information of the temporary lodging locations including addresses and names; and

(2) The dates the sex offender will be staying at each temporary lodging location.

(r) *Travel abroad.* In the event the sex offender will be traveling outside of the United States for more than seven days, the Community police department or designee shall immediately provide this information to INTERPOL. The sex offender shall provide notice to the Community police department at least 21 days prior to travel outside of the United States. The Community police department must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.

(s) *Offense information.* The Community police department or designee shall obtain the text of each provision of law defining the criminal offense for which the sex offender is registered.

(t) *Vehicle information.* The Community police department or designee shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

(1) A copy of the vehicle registration;

(2) License plate numbers;

(3) Registration numbers or identifiers;

(4) General description of the vehicle to include color, make, model, and year; and

(5) Any permanent or frequent location where any covered vehicle is kept.

(Ord. No. SRO-405-2012, § 6-154, 7-18-2012)

Sec. 6.5-7. Frequency, duration and reduction.

(a) *Registration.* A sex offender who is required to register shall, at a minimum, appear in person at the Community police department for purposes of verification and keeping their registration current in accordance with the following timeframes:

(1) For tier 1 offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

(2) For tier 2 offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

(3) For tier 3 offenders, once every 90 days for the rest of their lives.

(b) *Reduction of registration periods.* A sex offender may have their period of registration reduced as follows:

(1) A tier 1 offender may have his or her period of registration reduced to ten years if he or she has maintained a clean record for ten consecutive years;

(2) A tier 3 offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required tier 3 registration and he or she has maintained a clean record for 25 consecutive years.

(c) *Clean record.* For purposes of subsection (b) of this section, a person has a clean record if:

(1) He or she has not been convicted of any offense, for which imprisonment for more than one year may be imposed;

(2) He or she has not been convicted of any sex offense;

(3) He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and

(4) He or she has successfully completed an appropriate sex offender treatment program certified by the Community, another jurisdiction, or by the Attorney General of the United States.

(d) *Requirements for in person appearances.*

(1) *Photographs.* At each in person verification, the sex offender shall permit the Community police department to take a photograph of the offender.

(2) *Review of information.* At each in person verification, the sex offender shall review existing information for accuracy, and provide corrections and/or updates.

(3) *Notification.* If any new information or change in information is obtained at an in person verification, the Community police department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

(4) *Capacity to register.* No sex offender shall be allowed to register or update information required by this chapter if the sex offender is mentally impaired due to drug or alcohol use or medical condition. Any impairment or incapacity to register will be ascertained by the Community police department or its designee. Such impairment will not exempt the sex offender from registration requirements pursuant to this chapter.

(Ord. No. SRO-405-2012, § 6-155, 7-18-2012)

Sec. 6.5-8. Registration.

(a) *Required registration locations.*

(1) *Jurisdiction of conviction.* A sex offender must initially register with the Community police department if the sex offender was convicted by the Community court of a covered sex offense regardless of the sex offender's actual or intended residency.

(2) *Jurisdiction of incarceration.* A sex offender must register with the Community police department if the sex offender is incarcerated by the Community department of corrections while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

(3) *Jurisdiction of residence.* A sex offender must register with the Community police department if the sex offender resides within lands subject to the jurisdiction of the Community.

(4) *Jurisdiction of employment.* A sex offender must register with the Community police department if he or she is employed by the Community in any capacity or otherwise is employed within lands subject to the jurisdiction of the Community.

(5) *Jurisdiction of school attendance.* A sex offender must register with the Community police department if the sex offender is a student in any capacity within lands subject to the jurisdiction of the Community.

(b) *Timing of registration.* A sex offender must appear in person to register with the Community police department. Any person required to register under this section must do so at the earliest of the following:

(1) Within 24 hours of release from custody in any jail, prison, or rehabilitative facility.

(2) Upon the sentencing date, if the offender is not immediately taken into custody.

(3) Within 24 hours of establishing or re-establishing a residence or temporary lodging within the Community.

(4) Immediately if the offender is currently residing or temporarily domiciled within the Community upon the enactment of this chapter.

(5) If convicted by Community for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration.

(6) Within three business days of commencing employment, or becoming a student on lands subject to the jurisdiction of the Community.

(c) *Duties of Community police department.* The Community police department shall have policies and procedures in place to ensure the following:

(1) Any sex offender incarcerated or sentenced by the Community for a covered sex offense completes their initial registration with the Community;

(2) The sex offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement;

(3) The sex offender is registered; and

(4) Upon entry of the sex offender's information into the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

(d) *Retroactive registration.* The Community police department shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this Community Code of Ordinances:

(1) Sex offenders incarcerated or under the supervision of the Community, whether for a covered sex offense or other crime;

(2) Sex offenders already registered or subject to a preexisting sex offender registration requirement under this Community Code of Ordinances; and

(3) Sex offenders reentering the justice system due to conviction for any crime.

(e) *Timing of recapture.* The Community police department shall ensure recapture of the sex offenders mentioned in this section within the following timeframe to be calculated from the date of passage of this Community Code of Ordinances:

(1) For tier 1 sex offenders, one year;

(2) For tier 2 sex offenders, 180 days; and

(3) For tier 3 sex offenders, 90 days.

(f) *Keeping registration current.*

(1) *Jurisdiction of residency.* All sex offenders required to register in this jurisdiction shall immediately appear in person to the Community police department to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform the Community police department of any changes to their temporary lodging information, vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, the sex offender and the Community police department shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.

(2) *Jurisdiction of school attendance.* Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the Community regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Community police department to update that information. The Community police department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

(3) *Jurisdiction of employment.* Any sex offender, who is employed by the Commu-

nity in any capacity or otherwise is employed within lands subject to the jurisdiction of the Community regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Community police department to update that information. The Community police department shall ensure that each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change.

(4) *Duties of Community police department.* With regard to changes in a sex offender's registration information, the Community police department or designee shall immediately notify:

a. All jurisdictions where a sex offender intends to reside, work, or attend school;

b. Any jurisdiction where the sex offender is either registered or required to register; and

c. Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, the U.S. Marshals Service, and INTERPOL, if necessary. The Community police shall also ensure this information is updated on NSOR.

(Ord. No. SRO-405-2012, § 6-156, 7-18-2012)

Sec. 6.5-9. Failure to appear for registration and absconding.

(a) *Failure to appear.* In the event a sex offender fails to register with the Community as required by this Community Code of Ordinances, the Community police department or designee shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance within the Community that the sex offender failed to appear for registration.

(b) *Absconded sex offenders.* If the Community police department or designee receives information that a sex offender has absconded the Community police department shall make an effort to determine if the sex offender has actually absconded.

(1) The Community police department or designee shall ensure that the Community police and any other appropriate law enforcement agency is notified that a determination of absconding cannot be made, and the reasoning for such determination.

(2) If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the notifying jurisdiction shall be informed that the sex offender has failed to appear and register with the Community police department.

(3) If an absconded sex offender cannot be located, then the Community police shall take the following steps:

a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located;

b. Notify the U.S. Marshals Service;

c. Seek a warrant for the sex offender's arrest. The U.S. Marshals' Service or FBI may be contacted in an attempt to obtain a federal warrant for the sex offender's arrest;

d. Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located; and

e. Enter the sex offender into the National Crime Information Center Wanted Person File.

(c) *Failure to register.* In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this Community Code of Ordinances, the

Community police department shall take all appropriate follow-up measures including those outlined in subsection (b) of this section. The Community police department shall first make an effort to determine if the sex offender is actually employed or attending school in lands subject to the tribe's jurisdiction.
(Ord. No. SRO-405-2012, § 6-157, 7-18-2012)

Sec. 6.5-10. Residency restrictions.

(a) A registered sex offender is prohibited from residing or working within 1,000 feet of, or loitering within 500 feet of:

(1) The residence(s) of the victim(s) of the crime(s) for which he or she is registered; or

(2) Any school, preschool or day care center, playground, youth center, public swimming pool, marked or routinely used bus stop, temporary or permanent amusement center or event, or any facility where children receive services, go to for sports, games or other entertainment, or otherwise gather together. However, Tier 1 and Tier 2 registered sex offenders are exempt from the residency restriction described in this subsection (a)(2) if:

a. The sex offender is in compliance with all provisions of this chapter 6.5;

b. The sex offender established a permanent residence at a location within the zone covered by subsection (a)(2) before March 16, 2005, or before a facility described in subsection (a)(2) was built or established; and

c. The sex offender has maintained a clean record as defined in section 6.5-7(c) for ten consecutive years.

d. The burden of establishing qualifications for an exemption lies with the sex offender. To obtain an exemption under this subsection, a sex offender must file a petition with the Community court and a judge of the Community court must find, based on the submission of clear and convincing evidence, that the sex offender is eligible for an exemption. The tribal prosecutor's office must be given notice of any petition filed by a sex offender under this subsection, must have a meaningful opportunity to respond to the petition, and the Community court must consider the tribal prosecutor's position before granting an exemption.

(b) A registered sex offender is prohibited from residing in a household with children under the age of 18 years.

(c) For purposes of this section, the term "loiter" means standing, sitting idly whether or not the person is in a vehicle, or remaining in or around any school, preschool, or day care center, playground, youth center, public swimming pool, marked bus stop, temporary or permanent amusement center or event, or any facility where children receive services, go to for sports, games or other entertainment, or otherwise gather together while not having a specific and legitimate reason, related to the location, for being at the location.

(d) *Medical exception.* An exception to the residency restriction set forth in subsection (a), but not subsection (b) of this section may be granted by the Community court upon a motion by a registered sex offender if all of the following conditions are met:

(1) The sex offender is in compliance with all provisions of this chapter;

(2) The sex offender provides reliable evidence that he or she has a temporary medical condition and because of that condition, he or she has no other place to live except a residence within the Community that is within the zone covered by subsection (a) of this section;

(3) The temporary medical condition is physically disabling and limits mobility;

(4) The Community prosecutor's office has an opportunity to review the evidence submitted and respond if appropriate;

(5) The Community court makes a finding based upon the evidence presented that because of the temporary medical condition which is physically disabling and limits mobility, the sex offender will not present a danger to children in the Community for the time period covered by the medical exception;

(6) The sex offender will promptly update the Community court if his or her temporary medical condition improves during the time period covered by the medical exception;

(7) The Community court limits the duration of the exception to a period not to exceed 90 days, which can be renewed upon the presentation of new or updated medical evidence;

(8) The Community prosecutor's office can seek to have the medical exception revoked if there is evidence that the sex offender no longer qualifies for the exception because his or her medical condition has improved or if he or she otherwise fails to comply with the remaining provisions of this article; and

(9) The Community police department will stay the enforcement of subsection (a) of this section against an individual sex offender one time only for a period not to exceed 30 days upon the filing of a motion seeking a medical exception under subsection (d) of this section.

(e) *Penalties for violation.* A violation of any provision of this section may result in arrest for a sex offender subject to the registration requirements contained in this chapter and upon conviction, a fine, term of imprisonment, or both or other penalty deemed appropriate by the Community court may be imposed.

(Ord. No. SRO-302-05, 3-16-2005; SRO-335-08, 6-25-2008; Ord. No. SRO-405-2012, § 6-158, 7-18-2012; Ord. No. SRO-420-2013, § 6-158, 3-6-2013; Ord. No. SRO-454-2015, § 6.5-10, 12-10-2014)

Sec. 6.5-11. Community notification.

(a) *Sex offender database.* The Community police department shall maintain a database that contains all sex offender profiles, notification requirements, and website.

(1) *Links.* The registry website shall include links to sex offender safety and education resources.

(2) *Instructions.* The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

(3) *Warnings.* The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

(4) *Search capabilities.* The registry website shall have the capability of conducting searches by the following means:

a. Name;

b. County, city, and/or town; and

c. Zip code and/or geographic radius.

(5) *Dru Sjodin National Sex Offender Public Website.* The Community shall include in the design of its website all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

(b) *Notification to victim, neighbors, schools, Community human resources department and offender's employer.* Within ten days of receiving registration information, the Community police shall distribute registration information in a manner to be determined by the Community police department's sex offenders registration and notification policies and procedures.

(1) Upon a sex offender's registration or update of information with the Community, the Community public sex offender registry website is immediately updated.

(2) The Community public sex offender website has a function that enables the general public to request an e-mail notice that will notify them when a sex offender commences residence, employment, or school attendance with the Community, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity so that the public can access the public registry for the new information.

(c) *Information available to the public.* Such information shall also be available to the public at the police department and substations, and may be available on the Community intranet and on the internet.

(1) *Required information.* The following information shall be made available to the public on the sex offender registry website:

a. If applicable, notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded;

b. All sex offenses for which the sex offender has been convicted;

c. The sex offense(s) for which the offender is currently registered;

d. The address of the sex offender's employer(s);

e. The name of the sex offender including all aliases;

f. A current photograph of the sex offender;

g. A physical description of the sex offender;

h. The residential address and, if relevant, a description of a habitual residence of the sex offender;

i. All addresses of schools attended by the sex offender; and

j. The sex offender's vehicle license plate number along with a description of the vehicle.

(2) *Prohibited information.* The following information shall not be available to the public on the sex offender registry website:

a. Any arrest that did not result in conviction;

b. The sex offender's social security number;

c. Any travel and immigration documents;

d. The identity of the victim; and

e. Internet identifiers (as defined in 42 USC 16911).

(3) *Witness protection.* For sex offenders who are under a witness protection program, the Community police may honor the request of the United States Marshal's Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

(d) *Notification upon failure to register.* If an offender fails to register as required by this chapter, the police department may assemble, print and distribute appropriate flyers of the offender as if the offender were registered.

(e) *Persons registered with the state.* If the Community police department receives credible information that a person residing, temporarily domiciled, employed, or attending school within the Community is a registered sex offender with the state pursuant to A.R.S. § 13-3821 et seq., and that person has not registered with the Community, the police department shall make, or attempt to make, contact with the sex offender for registration. If attempts to make contact with the sex offender are unsuccessful, within a reasonable time after receiving the information thereof, assemble, print and distribute appropriate flyers of the offender as if the offender were registered. If more than two attempts to make contact with the sex offender are unsuccessful, the Community police department shall take action pursuant to section 6.5-9, including notifying the U.S. Marshal's Service that the sex offender has failed to register and/or has absconded.

(f) *Notification regarding excluded persons.* If a person who is a registered sex offender with the Community is excluded from the Community, pursuant to chapter 7, the SRPMIC police department shall notify the jurisdiction where the offender intends to reside, and the jurisdiction of conviction.

(g) *Altering or removing a flyer.* Anyone found to have intentionally altered or removed a sex offender public notification flyer for the purpose of making the information contained in the flyer unavailable to the public shall be subject to a fine not to exceed $200.00 per offense.
(Ord. No. SRO-302-05, 3-16-2005; Ord. No. SRO-405-2012, § 6-159, 7-18-2012)

Sec. 6.5-12. Law enforcement notification.

Whenever a sex offender registers or updates his or her information with the Community, the Community police department shall:

(1) Immediately update or submit updates to NCIC/NSOR or other relevant databases.

(2) Immediately notify any agency, department, or program within the Community that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, police, FBI, Community prosecutors, and Community probation.

(3) Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.

(4) Immediately notify appropriate National Child Protection Act agencies, which in-

cludes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 USC 5119a) when a sex offender registers or updates registration.

(Ord. No. SRO-405-2012, § 6-160, 7-18-2012)

Sec. 6.5-13. Immunities.

(a) *No waiver of immunity.* Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Community, its officials, departments, agencies, employees, or agents.

(b) *Good faith.* Any person acting under good faith of this chapter shall be immune from any civil liability arising out of such actions.

(Ord. No. SRO-405-2012, § 6-161, 7-18-2012)

Sec. 6.5-14. Failure to register.

(a) *In general.* Whoever is subject to the criminal jurisdiction of the Community and violates section 6.5-7, 6.5-8 or 6.5-9 shall be guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for not less than 180 days nor more than one year, and a fine of not less than $2,000.00 nor more than $5,000.00 and shall not eligible for parole.

(b) *Hindrance of sex offender registration.* Whoever knowingly harbors, or attempts to harbor, or knowingly assists any other person in harboring or attempting to harbor a person in violation of this chapter; or who knowingly assists a person in violation of this chapter in eluding a law enforcement agency seeking to contact the person regarding compliance with the requirements of this chapter; or who knowingly provides false information to law enforcement regarding a person in violation of this chapter shall be guilty of an offense and shall be sentenced to imprisonment for not more than 90 days, a fine of not more than $5,000.00, or to both imprisonment and a fine.

(c) *Issuance of arrest warrant.* Upon the filing of a criminal complaint alleging a violation of subsection (a) of this section, and a finding of probable cause that there has been a violation, a judge of the Community court shall issue a warrant of arrest, consistent with the rules of criminal procedure, bearing the signature of a duly qualified judge of the Community court.

(d) *Concurrent jurisdiction.* If the violator is subject to the criminal jurisdiction of the Community, such violator may also be subject to prosecution in state or federal court for state or federal violations. Prosecution pursuant to this section does not preclude prosecution in other jurisdictions.

(e) *Aiding or abetting of failure to register as a sex offender.* Any person subject to the criminal jurisdiction of the Community and who violates this section shall be sentenced to a fine of no less than $1,000.00 and a maximum of $5,000.00 and/or imprisoned up to a maximum of 90 days.

(Ord. No. SRO-302-05, 3-16-2005; SRO-335-08, 6-25-2008; Ord. No. SRO-405-2012, § 6-162, 7-18-2012)

Chapter 7

EXTRADITION AND EXCLUSION

Article I. Extradition

Sec. 7-1. Definitions.
Sec. 7-2. Fugitives from justice; duty of chief executive.
Sec. 7-3. Applicability of chapter.
Sec. 7-4. Form of demand.
Sec. 7-5. President may investigate case.
Sec. 7-6. Extradition of persons imprisoned or awaiting trial in a state or another tribe or who have left the demanding jurisdiction under compulsion.
Sec. 7-7. Extradition of persons not present in demanding jurisdiction at time of commission of crime.
Sec. 7-8. Issue of president's warrant of arrest; recitals of fact.
Sec. 7-9. Manner and place of execution of warrant.
Sec. 7-10. Authority of arresting officer.
Sec. 7-11. Rights of accused person; application for writ of habeas corpus.
Sec. 7-12. Penalty for noncompliance with section 7-11.
Sec. 7-13. Confinement in jail when necessary.
Sec. 7-14. Arrest prior to requisition.
Sec. 7-15. Arrest without a warrant.
Sec. 7-16. Commitment to await requisition; bail.
Sec. 7-17. Bail; in what cases; conditions of bond.
Sec. 7-18. Extension of time of commitment; adjournment.
Sec. 7-19. Forfeiture of bail.
Sec. 7-20. Persons under criminal prosecution in the Community at time of requisition.
Sec. 7-21. Guilt or innocence of accused; when inquired into.
Sec. 7-22. President may recall warrant or issue alias.
Sec. 7-23. Fugitives from the Community; duty of president.
Sec. 7-24. Application for issuance of requisition; by whom made; contents.
Sec. 7-25. Costs and expenses.
Sec. 7-26. Immunity from service of process in certain civil actions.
Sec. 7-27. Written waiver of extradition proceedings.
Sec. 7-28. Nonwaiver by the Community.
Sec. 7-29. No right of asylum; no immunity for other criminal prosecutions while in this jurisdiction.
Secs. 7-30—7-48. Reserved

Article II. Detainee As A Witness In A Criminal Proceeding In A Foreign Jurisdiction

Sec. 7-49. Temporary removal or transfer of a detainee to attend as a witness in a criminal proceeding in a foreign jurisdiction.
Secs. 7-50—7-71. Reserved.

Article III. Exclusion From Community Territory

Sec. 7-72. Power to exclude persons from Community territory.
Sec. 7-73. Removal of trespassers.
Sec. 7-74. Removal of nonmember lawbreakers.
Sec. 7-75. Removal of nonmembers who are detrimental to the Community.

ARTICLE I. EXTRADITION

Sec. 7-1. Definitions.

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

Chief executive officer includes the governor, president, chairperson, business manager or chief administrative official who has been lawfully designated by an Indian tribal government to act in such executive capacity.

Executive authority includes any person who is the chief executive officer of a state or Indian tribe or such law enforcement, correction or probation officials or agencies of a state or Indian tribe who are by such state or Indian tribe authorized to perform the functions of demanding extradition from other jurisdictions.

Indian tribal government means any existing American Indian tribe recognized as a self-governing unit for the purposes of any federal governmental agency and which has a duly organized tribal court, court of Indian offenses, or traditional court.

President means the chief executive officer of the Community.

Prosecuting officer includes any person duly designated by legal authority to attend to the prosecution of criminal offenses on behalf of the government, including attorneys general, prosecutors, special prosecutors, district attorneys or special appointees.

State includes any state or territory, organized or unorganized, of the United States of America, including the District of Columbia.

Tribal court refers to any duly organized Indian court enforcing the laws of any American Indian Tribe pursuant to a Constitution or code of law and order, or any tribal court operating under the Code of Indian Offenses or the custom and tradition of that tribe.

Tribe is used in this chapter synonymously with the term "Indian tribal government."
(Code 1976, § 145(1); Code 1981, § 7-1; Code 2012, § 7-1; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-101-86, 7-23-1986; Ord. No. SRO-402-2012, § 7-1, 5-30-2012)

Sec. 7-2. Fugitives from justice; duty of chief executive.

Subject to the provisions of this chapter, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the president of the Community to have arrested and delivered to the executive authority of any state or county within the State of Arizona or other Indian tribe any person charged in that jurisdiction with a felony, who has fled from justice and is found in this tribal jurisdiction.
(Code 1976, § 145(2); Code 1981, § 7-2; Code 2012, § 7-2; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-68-81, 10-8-1980; Ord. No. SRO-144-92, § 1, 1-15-1992; Ord. No. SRO-402-2012, § 7-2, 5-30-2012)

Sec. 7-3. Applicability of chapter.

This article shall be applicable only in cases in which it is claimed that a felony has been committed. For purposes of this chapter, any act made a crime by the laws of any Indian tribe is a felony.
(Code 1976, § 145(3); Code 1981, § 7-3; Code 2012, § 7-3; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-68-81, 10-8-1980; Ord. No. SRO-402-2012, § 7-3, 5-30-2012)

Sec. 7-4. Form of demand.

No demand for extradition of a person charged with crime or crimes in a state or county within the State of Arizona or another tribal jurisdiction shall be recognized by the president unless the demand is in writing alleging, except in cases arising under section 7-6, that the accused was present in the demanding jurisdiction at the time of the commission of the alleged crime, and that thereafter he or she fled from that jurisdiction. Said demand must be accompanied by a copy of an affidavit made before a tribal court judge or magistrate there, together with a copy of any

warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof together with a statement by the executive authority of the demanding state or county within the State of Arizona or tribe that the person sought has escaped from confinement or has broken the terms of his or her bail, probation or parole. The indictment, information or affidavit made before the tribal court judge or magistrate must substantially charge that the person has committed a crime under the law of that state or tribe; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.
(Code 1976, § 145(4); Code 1981, § 7-4; Code 2012, § 7-4; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-144-92, § 2, 1-15-1992; Ord. No. SRO-402-2012, § 7-4, 5-30-2012)

Sec. 7-5. President may investigate case.

When a demand shall be made upon the president of the Community by the executive authority of a state or county within the State of Arizona or another Indian tribe for the surrender of a person so charged with crime, the president may call upon any prosecuting officer to investigate or assist in investigating the demand, and to report to him or her the situation and circumstances of the person sought and whether he or she should be surrendered.
(Code 1976, § 145(5); Code 1981, § 7-5; Code 2012, § 7-5; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-144-92, § 3, 1-15-1992; Ord. No. SRO-402-2012, § 7-5, 5-30-2012)

Sec. 7-6. Extradition of persons imprisoned or awaiting trial in a state or another tribe or who have left the demanding jurisdiction under compulsion.

(a) When it is desired to have returned to the Community a person who is charged in this jurisdiction with a crime, and that person is imprisoned or is held under criminal proceedings then pending against him or her in a state or other tribe, the president of the Community may agree with the executive authority of such state or tribe for the extradition of that person before the conclusion of those proceedings or his or her term of sentence in the other state or tribe, upon the condition that the person be returned to the other state or tribe at the expense of the Community as soon as the prosecution is terminated in this jurisdiction.

(b) The president may also surrender, on the demand of the executive secretary of any state or other tribe, any person in this jurisdiction who is charged in the manner provided in section 7-23 with having violated the laws of the state or tribe whose executive authority is making the demand, even though such person left the demanding jurisdiction involuntarily.
(Code 1976, § 145(6); Code 1981, § 7-6; Code 2012, § 7-6; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-6, 5-30-2012)

Sec. 7-7. Extradition of persons not present in demanding jurisdiction at time of commission of crime.

The president may also surrender, on demand of the executive authority of any state or county within the State of Arizona or other tribe, any person in this jurisdiction who is charged in such other state or tribe in the manner provided in section 7-3 with committing an act in this jurisdiction or in another state or another tribe, which intentionally resulted in a crime occurring in the jurisdiction whose executive authority is making the demand. The provisions of this chapter not otherwise inconsistent shall apply to such cases, even though the accused was not in that jurisdiction at the time of the commission of the crime, and has not fled therefrom.
(Code 1976, § 145(7); Code 1981, § 7-7; Code 2012, § 7-7; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-144-92, § 4, 1-15-1992; Ord. No. SRO-402-2012, § 7-7, 5-30-2012)

Sec. 7-8. Issue of president's warrant of arrest; recitals of fact.

If the president decides that the demand should be complied with, he or she shall sign a warrant of arrest which shall be directed to any police officer or other person whom he or she may deem fit to

entrust with the execution thereof. The warrant must substantially set forth the facts necessary to the validity of its issuance.
(Code 1976, § 145(8); Code 1981, § 7-8; Code 2012, § 7-8; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-8, 5-30-2012)

Sec. 7-9. Manner and place of execution of warrant.

Such warrant shall authorize the police officer or other person to whom directed, to arrest the accused at any time and any place where he or she may be found within the tribal jurisdiction and to command the aid of all police officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provision of this chapter to the duly authorized agent of the demanding state or tribe.
(Code 1976, § 145(9); Code 1981, § 7-9; Code 2012, § 7-9; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-9, 5-30-2012)

Sec. 7-10. Authority of arresting officer.

Every such officer or other person empowered to make the arrest shall have the same authority in arresting the accused to command assistance therein, as police officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.
(Code 1976, § 145(10); Code 1981, § 7-10; Code 2012, § 7-10; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-10, 5-30-2012)

Sec. 7-11. Rights of accused person; application for writ of habeas corpus.

No person arrested upon such warrant shall be delivered over to a duly designated agent of the demanding executive authority unless he or she shall first be taken forthwith before a Community court judge in this jurisdiction, who shall inform him or her of the demand made for his or her surrender. He or she must also be advised of the crime of which he or she is charged, and his or her right to demand and procure legal counsel. If the prisoner or his or her counsel desire to test the legality of his or her arrest, the judge of such court shall fix a reasonable time for him or her to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of time and place of hearing thereon shall be given to the prosecuting officer and to the said agent of the demanding state or tribe. At the hearing the judge may inquire into whether the accused can receive a fair trial in the demanding jurisdiction. If the judge determines that the accused probably cannot receive a fair trial in the demanding jurisdiction, then he or she shall release the accused from custody forthwith or hold a hearing early to determine if a fair trial can be had.
(Code 1976, § 145(11); Code 1981, § 7-11; Code 2012, § 7-11; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-11, 5-30-2012)

Sec. 7-12. Penalty for noncompliance with section 7-11.

Any officer who shall wrongfully deliver to the agent of the demanding state or tribe a person in his or her custody in willful disobedience of this chapter shall be guilty of an offense and, upon conviction, shall be fined not more than $500.00 or be imprisoned not more than six months, or both.
(Code 1976, § 145(12); Code 1981, § 7-12; Code 2012, § 7-12; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-12, 5-30-2012)

Sec. 7-13. Confinement in jail when necessary.

(a) The officer executing the president's warrant of arrest or the agent of the demanding jurisdiction to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the Community jail or any other existing facility for detention of Community prisoners; and the keeper of such jail must receive and safely keep the prisoner until the officer having charge of him or her proceeds on his or her route, such officer or agent being chargeable with the expense of keeping.

(b) The officer or agent of a demanding jurisdiction to whom a prisoner may have been delivered, following extradition proceedings in another state or another Indian tribe, or who may have jurisdiction over a prisoner, and who is merely passing through this jurisdiction with the pris-

oner for the purpose of immediately returning him or her to the demanding jurisdiction, may, when necessary, confine the prisoner in the Community jail or other detention facility. The keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him or her proceeds on his or her route. The officer or agent is responsible for the expense of keeping his or her prisoner; however, such officer or agent shall produce and show to the keeper of the jail satisfactory written evidence of the fact that he or she is actually transporting the prisoner to the demanding jurisdiction with legal authority. Such prisoner shall not be entitled to demand a new requisition while in the Community jurisdiction.
(Code 1976, § 145(13); Code 1981, § 7-13; Code 2012, § 7-13; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-13, 5-30-2012)

Sec. 7-14. Arrest prior to requisition.

Whenever any person within the Community is charged, by the oath of a credible person given before a judge of the Community, with having committed a crime in any state or in another tribe and, except in cases arising under section 7-6, with having fled from justice, or with having been convicted of a crime in that jurisdiction and having escaped from confinement, or having broken the terms of his or her bail, probation or parole; or whenever a complaint is made before a Community judge in this tribe on the affidavit of a credible person in another jurisdiction stating that a crime has been committed in that jurisdiction and that the accused has been charged with having committed that crime and, except in cases arising under section 7-6, has fled from justice, or that the accused has been convicted of a crime and has escaped from confinement, or that the accused has broken the terms of his or her bail, probation or parole, and is believed to be in this jurisdiction; such Community court judge shall issue a warrant directed to any police officer commanding him or her to apprehend the named person in this jurisdiction and to bring him or her before the Community court to answer the foregoing charges. A certified copy of the sworn charge of complaint and affidavit shall be attached to the warrant.
(Code 1976, § 145(14); Code 1981, § 7-14; Code 2012, § 7-14; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-14, 5-30-2012)

Sec. 7-15. Arrest without a warrant.

The arrest of a person may be lawfully made by any police officer without a warrant, upon reasonable information that the accused stands charged in the courts of a state or other tribe with a crime punishable by death or imprisonment for a term exceeding one year. When arrested, the accused must be taken before a Community judge with all practicable speed and a complaint must be made against him or her under oath setting forth the grounds for the arrest as if he or she had been arrested as in the section 7-14; and thereafter his or her answer shall be heard as if he or she had been arrested on warrant.
(Code 1976, § 145(15); Code 1981, § 7-15; Code 2012, § 7-15; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-15, 5-30-2012)

Sec. 7-16. Commitment to await requisition; bail.

If from the examination before the Community judge it appears that the person held is the same person who is charged with having committed the alleged crime and, except in cases arising under section 7-6, that he or she has fled from justice, the judge must, by a warrant reciting the accusation, commit him or her to the Community jail for a period of time not to exceed 30 days in order to enable the arrest of the accused to be made by the proper requisition procedures of the state or tribe having jurisdiction of the offense, subject to bail as provided in the next section, or until his or her legal discharge.
(Code 1976, § 145(16); Code 1981, § 7-16; Code 2012, § 7-16; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-16, 5-30-2012)

Sec. 7-17. Bail; in what cases; conditions of bond.

Unless the offense with which the prisoner is charged is punishable by death or life imprisonment under the laws of the state or tribe in which it was committed, a Community court judge in the Community may grant the person arrested bail, in such sum as he or she deems proper, conditioned for the prisoner's appearance at a time

specified in such bond, and for his or her surrender, for arrest upon the warrant of the president of the Community.
(Code 1976, § 145(17); Code 1981, § 7-17; Code 2012, § 7-17; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-17, 5-30-2012)

Sec. 7-18. Extension of time of commitment; adjournment.

If the accused has not been arrested under a warrant of the president by the expiration date as specified by the Community judge in accordance with section 7-15, such judge may discharge the prisoner, recommit him or her for a period not to exceed 60 days, or grant bail for this recommitment period as provided in section 7-16.
(Code 1976, § 145(18); Code 1981, § 7-18; Code 2012, § 7-18; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-18, 5-30-2012)

Sec. 7-19. Forfeiture of bail.

If the prisoner is admitted to bail, and fails to appear and surrender himself or herself according to the conditions of his or her bond, the tribal judge by proper order shall declare the bond forfeited and order his or her immediate arrest without warrant if he or she is within the Community's jurisdiction. Recovery may be had on such bond in the name of the Community as in the case of other bonds given by the accused in criminal proceedings.
(Code 1976, § 145(19); Code 1981, § 7-19; Code 2012, § 7-19; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-19, 5-30-2012)

Sec. 7-20. Persons under criminal prosecution in the Community at time of requisition.

If a criminal prosecution has been instituted against such person under the laws of the Community and is still pending, the chief executive officer, at his or her discretion, may either surrender him or her on demand of the executive authority of a state or county within the State of Arizona or other Indian tribe, or hold him or her until he or she has been tried and discharged or convicted and punished by the Community.
(Code 1976, § 145(20); Code 1981, § 7-20; Code 2012, § 7-20; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-144-92, § 5, 1-15-1992; Ord. No. SRO-402-2012, § 7-20, 5-30-2012)

Sec. 7-21. Guilt or innocence of accused; when inquired into.

Neither the president nor the Community court may inquire into the guilt or innocence of the accused, in any proceeding after the demand for extradition, except to identify the accused as the person who is charged with the crime and to ascertain if reasonable cause exists for such extradition.
(Code 1976, § 145(21); Code 1981, § 7-21; Code 2012, § 7-21; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-21, 5-30-2012)

Sec. 7-22. President may recall warrant or issue alias.

The president may recall his or her warrant of arrest or may issue another warrant whenever he or she deems proper.
(Code 1976, § 145(22); Code 1981, § 7-22; Code 2012, § 7-22; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-22, 5-30-2012)

Sec. 7-23. Fugitives from the Community; duty of president.

Whenever the president of the Community shall demand a person charged with crime or with escaping from confinement or breaking the terms of his or her bail, probation or parole in the Community, from the executive authority of any state or other tribe, or from the Chief Justice or as Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he or she shall issue a warrant to some agent, commanding him or her to receive the person so charged if delivered to him or her and convey him or her to the proper officer of this tribe.
(Code 1976, § 145(23); Code 1981, § 7-23; Code 2012, § 7-23; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-23, 5-30-2012)

Sec. 7-24. Application for issuance of requisition; by whom made; contents.

(a) When a return to the Community of a person charged with crime in this jurisdiction is required, the prosecuting officer shall present to the president his or her written application for a requisition for the return of the person charged,

in which application shall be stated the name of the person so charged, the crime charged against him or her, the approximate time, place and circumstances of its commission, the jurisdiction in which he or she is believed to be, including the location of the accused therein at the time the application is made, and certifying that, in the opinion of the said prosecuting officer, the ends of justice require the arrest and return of the accused to this tribe for trial and that the proceeding is not instituted to enforce a private claim.

(b) When the return to the Community is required of a person who has been convicted of a crime in the Community and has escaped from confinement or broken the terms of his or her bail, probation or parole, the prosecuting officer shall present to the governor a written application for a requisition for the return of such person, setting forth the name of the person, the crime of which he or she was convicted, the circumstances of his or her escape from confinement or of the breach of the terms of his or her bail, probation or parole, the jurisdiction in which he or she is believed to be, including the location of the person therein at the time application is made.

(c) The application shall be verified by affidavit, executed in duplicate and accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the Community court judge, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer may also attach such further affidavits and documents in duplicate as he or she shall deem proper to be submitted with such application. One copy of the application, with the action of the president endorsement thereon, and one of the certified copies of the indictment, complaint, information and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Community secretary, to remain on record in that office. The other copies of all papers shall be forwarded with the president's requisition.
(Code 1976, § 145(24.4); Code 1981, § 7-24; Code 2012, § 7-24; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-24, 5-30-2012)

Sec. 7-25. Costs and expenses.

In all cases where the punishment of the crime includes confinement, the expenses shall be paid out of the Community's treasury on the certification of the president. The expenses shall be the fees paid to the officers of the tribe or state on whose executive authority the requisition is made, and not exceeding the mileage fee then in effect by council policy for all necessary travel in returning such prisoner.
(Code 1976, § 145(25); Code 1981, § 7-25; Code 2012, § 7-25; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-25, 5-30-2012)

Sec. 7-26. Immunity from service of process in certain civil actions.

A person returned to the Community by or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings for which he or she has been returned, until he or she has been convicted in the criminal proceedings, or, if acquitted, until he or she has had reasonable opportunity to return to the state or tribe from which he or she was extradited.
(Code 1976, § 145(26); Code 1981, § 7-26; Code 2012, § 7-26; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-26, 5-30-2012)

Sec. 7-27. Written waiver of extradition proceedings.

(a) Any person arrested in the Community who is charged with having committed any crime in a state or other tribe or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 7-8 and 7-9 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a Community court judge a writing which states that he or she consents to return to the demanding jurisdiction; however, before such waiver shall be executed or subscribed by such person, it shall be the duty of such judge to inform such person of all his or her rights including the right to the issuance or

service of a warrant of extradition and his or her right to obtain a writ of habeas corpus as provided in section 7-11.

(b) If and when such consent has been duly executed it shall forthwith be forwarded to the office of the president of the Community and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state or tribe and shall deliver or cause to be delivered to such agent or agents a copy of such consent; however, nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding jurisdiction, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding jurisdiction or of the Community.
(Code 1976, § 145(27); Code 1981, § 7-27; Code 2012, § 7-27; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-27, 5-30-2012)

Sec. 7-28. Nonwaiver by the Community.

Nothing in this chapter contained shall be deemed to constitute a waiver by the Community of its sovereignty or rights, powers or privileges to try such demanded person for crime committed within this jurisdiction, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this jurisdiction. Nor shall any proceedings had under this chapter which result in, or fail to result in, extradition be deemed a waiver by this tribe of any of its sovereignty or rights, privileges or jurisdiction in any way whatsoever.
(Code 1976, § 145(28); Code 1981, § 7-28; Code 2012, § 7-28; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-28, 5-30-2012)

Sec. 7-29. No right of asylum; no immunity for other criminal prosecutions while in this jurisdiction.

After a person has been brought back to the Community by or after waiver of extradition proceedings, he or she may be tried in this jurisdiction for other crimes which he or she may be charged with having committed here as well as those specified in the requisition for his or her extradition.
(Code 1976, § 145(29); Code 1981, § 7-29; Code 2012, § 7-29; Ord. No. SRO-45-77, 2-16-1977; Ord. No. SRO-402-2012, § 7-29, 5-30-2012)

Secs. 7-30—7-48. Reserved

ARTICLE II. DETAINEE AS A WITNESS IN A CRIMINAL PROCEEDING IN A FOREIGN JURISDICTION

Sec. 7-49. Temporary removal or transfer of a detainee to attend as a witness in a criminal proceeding in a foreign jurisdiction.

(a) When the testimony of a material witness is required by the prosecution or defendant in a criminal action before a court in a foreign jurisdiction and the witness is a detainee in the custody of the Community department of corrections, the Community court may issue an order for the detainee's temporary removal from the Community department of corrections and from the boundaries of the Community to attend a court proceeding in a foreign jurisdiction, unless the detainee is a minor under the age of 15 years.

(b) The Community office of the prosecutor shall petition the Community court for temporary removal of the detainee from the Community department of corrections and the Community. The petition for temporary removal shall include an affidavit from the attorney representing the prosecution or defendant. The affidavit shall include the following:

(1) A statement that the detainee's testimony is material and necessary.

(2) If the request for the detainee's presence is from a prosecuting office, then the affidavit shall also include a statement that the laws of the foreign jurisdiction shall protect the detainee from arrest and the service of civil and criminal process.

(c) An order granting the temporary removal of a detainee is in the discretion of the Community court.

(1) The Community court shall make its determination within 48 hours of receipt of the petition from the Community office of the prosecutor.

(2) The Community court may make its determination on the record and without a hearing provided the Community court is satisfied that the petition and affidavit comply with subsection (b)(1) and (2) of this section, and the decisional process would not be significantly aided by holding a hearing.

(d) The Community office of the prosecutor shall also serve the detainee and the Community department of corrections copies of the petition and affidavit upon filing the petition before the court.

(e) The detainee may request the assistance of legal counsel upon receipt of the petition filed by the Community office of the prosecutor.

(f) An order granting temporary removal of a detainee shall be executed by the Community police department, who shall transport the detainee to and before the foreign court.

(1) The Community police department shall keep the detainee safe and when the detainee is no longer required as a witness, the detainee shall be returned to the Community department of corrections.

(2) The Community police department shall immediately notify the Community court in writing when the detainee has been returned to the custody of the Community department of corrections.

(Code 1981, § 7-50; Code 2012, § 7-50; Ord. No. SRO-378-2011, 3-23-2011; Ord. No. SRO-402-2012, § 7-50, 5-30-2012)

Secs. 7-50—7-71. Reserved.

ARTICLE III. EXCLUSION FROM COMMUNITY TERRITORY

Sec. 7-72. Power to exclude persons from Community territory.

The Community has the authority to exclude persons and entities from its territory. This exclusionary authority is a fundamental sovereign attribute intimately tied to the Community's ability to protect the integrity and order of its territory and the welfare of its members.

(Code 2012, § 7-60; Ord. No. SRO-402-2012, § 7-60, 5-30-2012)

Sec. 7-73. Removal of trespassers.

All persons, hunting, fishing, cutting wood, driving livestock, peddling or doing any commercial business on a trust Indian allotment without the permission of the owner or on Community land in the Community, without the permission of the Community Council may be prosecuted under Community law, forcibly ejected from the Community by a police officer, officer of the United States Indian Service or Community officer, and/or may be turned over to the custody of the United States marshal or sheriff or other officer of the State of Arizona for prosecution under federal or state law.

(Code 1976, § 7.11; Code 1981, § 2-4; Code 2012, § 7-61; Ord. No. SRO-402-2012, § 7-61, 5-30-2012)

Sec. 7-74. Removal of nonmember lawbreakers.

Any person not a member of the Community who within the Community commits any act which is a crime under Community, federal or state law may be prosecuted under Community law, forcibly ejected from the Community by any police officer, officer of the United States Indian Service or Community police officer, and or may be turned over to the custody of the United States marshal or sheriff or other officer of the State of Arizona for prosecution under federal or state law.

(Code 1976, § 7.12; Code 1981, § 2-5; Code 2012, § 7-62; Ord. No. SRO-402-2012, § 7-62, 5-30-2012)

Sec. 7-75. Removal of nonmembers who are detrimental to the Community.

(a) *Policy.* It is the policy of the Community to remove and exclude from the Community nonmembers whose presence is detrimental to the peace, health or morals of the Community, or who violate the laws of the Community.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Charged person means any nonmember:

(1) Who, having been charged by the Community department of public safety with a violation of a crime as defined by this Community Code of Ordinances, either refuses to waive any claimed right of immunity from trial by the Community court, or having waived such claimed right is convicted of such an offense; or

(2) Who has been charged by the Community department of public safety as a person whose presence within the Community is detrimental to the peace, health or morals of the Community in a written report delivered to the president or vice president of the Community.

Nonmember means any person not listed on the membership rolls of the Community.

(c) *Report of charged person.*

(1) The Community department of public safety or any member of the Community shall report to the president or vice president of the Community the name of any charged person and request that action be taken by the Community Council to remove and exclude such person from the Community.

(2) After receipt of such report and request, the president or vice president shall notify the Community Council at its next scheduled meeting of the report and request from the department of public safety and request that an inquiry be undertaken in regard to the report and request.

(d) *Committee of inquiry and council determination.*

(1) Upon notice of the receipt of the report and request, the Community Council will appoint a committee of inquiry composed of one of its members, as chairperson, a director of a Community government department and a Community member not employed by Community government, to determine whether the report is accurate, and if accurate, the recommendation of the committee to the Community Council as to whether the charged person ought to be removed and excluded from the Community.

(2) After receipt of the recommendation of the committee of inquiry, the Community Council shall decide whether to remove and exclude the charged person. The council's order shall be in writing and served upon the charged person in person or by U.S. mail.

(e) *Procedure.*

(1) The committee of inquiry shall notify the charged person of the report and request and of the appointment of the committee. The notice shall set the time and place for a hearing by the committee, shall state that the charged person shall have a right to an advocate or counsel and shall state that the hearing will be conducted informally. The recommendation of the committee of inquiry shall be in writing and transmitted to the Community Council, the person making the report and request, and the charged person.

(2) Any person to whom the recommendation is transmitted may within five days of receipt of the recommendation file a petition with the Community Council supporting or objecting to the recommendation. Any such petition may be responded to within five days by any person who has been sent a copy of the recommendation by the committee. A copy of any petition or response shall be delivered or mailed to the other parties.

(3) After the time for the filing of petitions and responses has expired, the Community Council shall make its determination and shall issue its order respecting the issue of removal and exclusion.

(4) At any time after notice has been given to the Community Council, it may, without a hearing and upon a finding that the charged person represents a present and substantial danger to the Community, order the removal and exclusion of the charged person until the Community Council's final determination is made. Notwithstanding such a temporary order, the charged person may appear at all hearings of the committee of inquiry as if no such order had been issued.

(5) The Community Council has exclusive jurisdiction over removal and exclusion proceedings; and no court shall have jurisdiction to hear a complaint against or appeals of its determination and order, either directly or collaterally.

(Code 1981, § 2-6; Code 2012, § 7-63; Ord. No. SRO-135-91, §§ 1—5, 11-7-1990; Ord. No. SRO-402-2012, § 7-63, 5-30-2012)

Chapter 8

SENTENCING

Sec. 8-1. General conditions of sentence.
Sec. 8-2. Determining factors.
Sec. 8-3. Sentencing classifications; restitution or alternative compensation; offense specific penalty or sentence.
Sec. 8-4. Failure to complete Community service; imprisonment or fine.
Sec. 8-5. Deposit and disposition of fine.
Sec. 8-6. Probation.
Sec. 8-7. Violation of probation.
Sec. 8-8. Parole.
Sec. 8-9. Violation of parole.

Sec. 8-1. General conditions of sentence.

Any person convicted in the Community court for a violation of any provision of this Community Code of Ordinances for which a penalty may be imposed at the court's discretion, may be fined, sentenced to serve time in the Community jail, ordered to complete Community service, required to pay full or partial restitution, and/or placed on probation or any combination of such. The court should impose a jail term where such is needed to protect the person or the public at large. No fine or time served shall exceed the maximum period set for the offense in this Community Code of Ordinances. The terms and provisions of this chapter shall apply to all violations under this Community Code of Ordinances, provided the offense does not provide for any mandatory sentencing terms.
(Code 1981, § 8-1; Code 2012, § 8-1; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-1, 5-30-2012)

Sec. 8-2. Determining factors.

In determining the character and duration of the sentence which shall be imposed, the court shall take into consideration the previous conduct of the defendant, the safety of the Community, the victim(s)' recommendations on the matter, the circumstances under which the offense was committed, whether the offense was malicious or willful, whether the offender has attempted to make amends, the extent of the offender's resources, and the needs of the offender's dependents.
(Code 1981, § 8-2; Code 2012, § 8-2; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-2, 5-30-2012)

Sec. 8-3. Sentencing classifications; restitution or alternative compensation; offense specific penalty or sentence.

(a) *Sentencing classifications and terms.* The following are sentencing classifications and terms:

(1) For a Class A offense, the maximum penalty that may be imposed upon any person convicted of the offense shall be no more than three years of incarceration, and/or a fine up to $15,000.00. In addition, the minimum sentence that may be imposed upon any person convicted of a Class A offense shall be one year of incarceration and a fine in the amount of $1,000.00.

(2) For a Class B offense, the maximum penalty that may be imposed upon any person convicted of the offense shall be no more than one year of incarceration, and/or a fine up to $5,000.00.

(3) For a Class C offense, the maximum penalty that may be imposed upon any person convicted of the offense shall be no more than six months of incarceration, and/or a fine up to $1,000.00.

(4) For a Class D offense, the maximum penalty that may be imposed upon any person convicted of the offense shall be no more than 30 days of incarceration, and/or a fine up to $750.00.

(5) For a Class E offense, the maximum penalty that may be imposed upon any person convicted of the offense shall be a fine up to $500.00.

(b) *Restitution or alternative compensation.* In addition to any other penalty, the court may require a person convicted of an offense, who has injured a person(s), property of a person(s) and/or entity in that offense, to make restitution or to compensate for the injury through the surrender of property, the payment of money damages or the performance of any other act for the benefit of the injured, or any combination of such. Such restitution or compensation is wholly separate from any fine imposed.

(c) *Offense specific penalty or sentence.* In no event shall the court impose a sentence or penalty in excess than what is permitted by the specific offense, or for the class of sentence assigned to the offense. If in any matter in which the sentence permitted by this section for the class of offense is inconsistent with the specific sentencing mandate in a particular criminal offense of tribal code, the specific sentencing term for the tribal offense shall be applied.
(Code 1981, § 8-3; Code 2012, § 8-3; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-3, 5-30-2012; Ord. No. SRO-419-2013, § 8-3, 3-6-2013)

Sec. 8-4. Failure to complete Community service; imprisonment or fine.

Any convicted person who has been sentenced to Community service, and willfully fails to complete said Community service, may be, at the court's discretion, sentenced to any suspended term of imprisonment or applicable fine.
(Code 1981, § 8-4; Code 2012, § 8-4; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-4, 5-30-2012)

Sec. 8-5. Deposit and disposition of fine.

(a) All money fines imposed for the commission of an offense shall be in the nature of an assessment for the payment of designated court expenses. Such expenses shall include the payment of the fees provided for in this chapter. The fines assessed shall be paid over by the clerk of the court to the Community for deposit as court funds to the credit of the proper Community official. The proper official shall withdraw such funds in accordance with existing regulations upon the order of the clerk of the court signed by a judge of the court, for the payment of specified fees. The Community official and the clerk of the court shall keep an account of all such deposits and withdrawals for the inspection of any person interested.

(b) Whenever such funds shall exceed the amount necessary, with a reasonable reserve for the payment of the court expenses mentioned in subsection (a) of this section, the Community Council shall designate further expenses for the work of the court which shall be paid by those funds, such costs having been previously paid from other sources or transferred to the Community fund for the use of the Community Council.

(c) Whenever a fine is paid in commodities, the commodities shall be turned over, under the supervision of the clerk of the court, or if the court so directs, shall be disposed of in other ways for the benefit of the Community. The proceeds of any sale of such commodities shall be deposited by the proper official in the court fund and recorded upon the accounts.
(Code 1981, § 8-5; Code 2012, § 8-5; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-5, 5-30-2012)

Sec. 8-6. Probation.

(a) Probation shall be available for persons convicted of an offense provided the offense does not provide for mandatory incarceration. Probation is not mandatory. A person sentenced to probation may reject probation at any time, but upon rejection shall be ordered to serve the entire suspended sentence.

(b) Probation conditions shall be imposed to assist persons convicted to address the issues that may have contributed to the conviction. Conditions may include, but shall not be limited to:

(1) Drug, alcohol, and/or other addiction abuse counseling;

(2) Drug and alcohol monitoring and screening;

(3) Domestic violence counseling;

(4) Sex offender counseling; or

(5) Any available counseling or treatment for any other issues that may affect criminal behaviors.

Probation conditions may also include any restitution and/or Community service ordered by the court. Probation conditions shall be reasonably related to the offender's conviction, the safety of the Community, and the rehabilitation of the offender.

(c) The length of probation may be for a period of time that exceeds the possible time for incarceration. The length of probation term shall be as long as necessary to address any of the issues that may have contributed to the conviction, but shall not exceed five years. For offenses that are sexual in nature and the named victim was a minor at the time of the offense, the court may sentence the person to probation for a period for up to 15 years.
(Code 1981, § 8-6; Code 2012, § 8-6; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-6, 5-30-2012)

Sec. 8-7. Violation of probation.

Any person who is found to have violated the terms of probation after a hearing may be re-

quired to serve any original suspended sentence, or his or her sentence may be reinstated with amended terms of probation.
(Code 1981, § 8-7; Code 2012, § 8-7; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-399-2012, 6-1-2012; Ord. No. SRO-402-2012, § 8-7, 5-30-2012; Ord. No. SRO-419-2013, § 8-7, 3-6-2013)

Sec. 8-8. Parole.

(a) Any person sentenced to incarceration by the Community court who has served one-half of the sentence, without misconduct while incarcerated, may be eligible for parole.

(b) Parole shall be granted only by a judge of the Community court upon the signing of an order granting parole after a hearing. The Community and the victim shall have an opportunity to address the court prior to any grant of parole.

(c) Parole shall be supervised by a probation officer and conditions of parole shall be imposed consistent with section 8-6.

(d) Parole shall not be available to offenders who have been convicted and sentenced for an offense that requires mandatory incarceration by law.
(Code 1981, § 8-8; Code 2012, § 8-8; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-8, 5-30-2012; Ord. No. SRO-419-2013, § 8-8, 3-6-2013)

Sec. 8-9. Violation of parole.

Any person who is found to have violated any of the provisions or conditions of parole after a hearing shall be required to serve the remainder of the original sentence.
(Code 1981, § 8-9; Code 2012, § 8-9; Ord. No. SRO-324-08, 10-31-2007; Ord. No. SRO-402-2012, § 8-9, 5-30-2012; Ord. No. SRO-419-2013, § 8-9, 3-6-2013)

Chapter 9

PROBATE

Article I. In General

Sec. 9-1. Determination of heirs; probate.
Sec. 9-2. Procedure of court.
Sec. 9-3. Approval of wills.
Secs. 9-4—9-24. Reserved.

Article II. Trust and Restricted Lands

Sec. 9-25. Qualifications for receipt of interest in trust or restricted lands.

ARTICLE I. IN GENERAL

Sec. 9-1. Determination of heirs; probate.

When any person dies leaving personal or real property situated within the Community other than an allotment or other trust property subject to the jurisdiction of the United States, any person claiming to be an heir to the decedent may bring suit in the Community court to have the court determine the heirs of the decedent and to divide among the heirs such property not including allotments or other trust property of the decedent. No determination of the heirs shall be made unless all the possible heirs known to the court, to the superintendent and to the claimant, have been notified of the suit and given full opportunity to come before the court and defend their interests. Possible heirs who are not residents of the Community under the jurisdiction of the court must be notified and a copy of the notice mailed to them must be preserved in the record of the case.
(Code 1976, § 4.1; Code 1981, § 9-1; Code 2012, § 9-1; Ord. No. SRO-169-93, § 1, 8-9-1993; Ord. No. SRO-402-2012, § 9-1, 5-30-2012)

Sec. 9-2. Procedure of court.

In the determination of heirs, the court shall apply the laws of the state. The court shall also be empowered to appoint a temporary custodian or administer to supervise and protect the assets of the estate. The court may also issue permits to sell such property as may be necessary before determination and the division of the property. The court may require a bond from the custodian or administrator for the fulfillment of his or her duties, and may also fix the fee, which is not to exceed in any case one percent of the appraised value of the estate.
(Code 1976, § 4.2; Code 1981, § 9-2; Code 2012, § 9-2; Ord. No. SRO-169-93, § 1, 8-9-1993; Ord. No. SRO-402-2012, § 9-2, 5-30-2012)

Sec. 9-3. Approval of wills.

When any person dies leaving a will disposing of personal or real property situated within the Community other than an allotment or other trust property subject to the jurisdiction of the United States, the Community court shall at the request of any person named in the will or any other interested party determine the validity of the will after giving notice and full opportunity to appear in court to tell all persons who might be heirs of the decedent, as under section 9-1. A will shall be deemed valid if the decedent had a sane mind and understood what he or she was doing when he or she made the will and was not subject to any undue influence of any kind from any person; and if the will was made in writing and signed by the decedent in the presence of two witnesses who also signed the will. If the court determines the will to be validly executed, it shall order the property described in the will not including allotments or other trust property to be given to the persons named in the will or to their heirs.
(Code 1976, § 4.3; Code 1981, § 9-3; Code 2012, § 9-3; Ord. No. SRO-169-93, § 1, 8-9-1993; Ord. No. SRO-402-2012, § 9-3, 5-30-2012)

Secs. 9-4—9-24. Reserved.

ARTICLE II. TRUST AND RESTRICTED LANDS

Sec. 9-25. Qualifications for receipt of interest in trust or restricted lands.

No person shall be entitled to receive by devise or descent any interest in trust or restricted lands within the Community or otherwise subject to the jurisdiction of the Community unless such person:

(1) Is a member of the Community; or

(2) Is a member of a federally recognized Indian tribe and is a lineal descendant of:

  a. A member of the Community;

  b. An original allottee of land within the Community; or

  c. Both a member of the Community and an original allottee of land within the Community.

(Code 1981, § 2-7; Code 2012, § 9-4; Ord. No. SRO-138-91, § 1, 3-27-1991; Ord. No. SRO-150-92, §§ 1, 2, 5-6-1992; Ord. No. SRO-402-2012, § 9-4, 5-30-2012)

Chapter 10

DOMESTIC RELATIONS

Article I. Paternity

Sec. 10-1. Purpose.
Sec. 10-2. Definitions.
Sec. 10-3. Jurisdiction; jurisdiction over nonresidents; notice.
Sec. 10-4. Paternity petition.
Sec. 10-5. Presumption of paternity.
Sec. 10-6. Initial paternity hearing; evidentiary paternity hearing; evidence relating to paternity.
Sec. 10-7. DNA testing; results; rebuttal; additional tests.
Sec. 10-8. Rules for adjudication of paternity.
Sec. 10-9. Paternity orders; default orders; paternity established by other jurisdictions.
Sec. 10-10. Disestablishment of presumed paternity.
Secs. 10-11—10-28. Reserved.

Article II. Marriage, Divorce, Annulment, Separate Maintenance

Division 1. Generally

Sec. 10-29. Authority of judges to perform marriages.
Sec. 10-30. Marriages to be according to state law.
Sec. 10-31. Marriages validated.
Sec. 10-32. Procedure for judgment of validity.
Sec. 10-33. Bigamy.
Sec. 10-34. Annulment of marriage.
Sec. 10-35. Divorce or separate maintenance.
Sec. 10-36. Procedure for annulment, divorce or separate maintenance.
Sec. 10-37. Legitimacy of children not affected by divorce.
Sec. 10-38. Permanent alimony, custody of children and costs.
Sec. 10-39. Modification of judgment affecting alimony and support of minor children.
Secs. 10-40—10-48. Reserved.

Division 2. Child Support

Sec. 10-49. Purpose.
Sec. 10-50. Definitions.
Sec. 10-51. Child support guidelines.
Sec. 10-52. Jurisdiction over nonresidents; notice; jurisdiction when modifying a child support order; modification of child support order of another jurisdiction.
Sec. 10-53. General provisions; service; back child support; duties of support.
Sec. 10-54. Representation by Community; modification of order by Community; liability of parents to bear expense.
Sec. 10-55. Petition for child support.
Sec. 10-56. Hearings; noncontested orders; orders generally; default hearing; modification; enforcement.
Sec. 10-57. Order for support; methods of payment; statute of limitations; notice.
Sec. 10-58. Order of assignment; ex parte order of assignment; responsibilities; violation; termination.
Sec. 10-59. Termination; determination of controlling order; sovereign immunity.

Secs. 10-60—10-76. Reserved.

Article III. Adoption

Sec. 10-77. Adoption of a minor.
Sec. 10-78. Age of person adopting.
Sec. 10-79. Consent of spouse.
Sec. 10-80. Consent to adoption by natural parents and by child over 12 years.
Sec. 10-81. Form and content of consent to adoption.
Sec. 10-82. Termination of parental rights.
Sec. 10-83. Hearing to be by juvenile court; ruling on grounds for termination.
Sec. 10-84. Hearing, order and rights under adoption order.
Sec. 10-85. Adoption of illegitimate child by father.
Secs. 10-86—10-96. Reserved.

Article IV. Guardianship

Division 1. Generally

Secs. 10-97—10-113. Reserved.

Division 2. Guardianship For Minors

Sec. 10-114. Definitions.
Sec. 10-115. Types of guardianship.
Sec. 10-116. Petition for guardianship.
Sec. 10-117. Service of the petition for guardianship; notice of hearing.
Sec. 10-118. Guardianship report and background study.
Sec. 10-119. Guardianship hearing.
Sec. 10-120. Jurisdiction over court-appointed guardians.
Sec. 10-121. Appointment by will.
Sec. 10-122. Rules for selection of court-appointed guardian.
Sec. 10-123. Rights and responsibilities of guardians.
Sec. 10-124. Removal of guardian; relinquishment proceedings; revocation of guardianship.
Sec. 10-125. Termination of powers of guardians appointed by court.
Sec. 10-126. Delegation of powers by parent or legally appointed guardian.
Secs. 10-127—10-150. Reserved.

Division 3. Guardians For Incompetent Adults

Sec. 10-151. Guardians of incompetent members.
Sec. 10-152. Duties; bond.
Sec. 10-153. Restoration of capacity.
Sec. 10-154. State laws applicable.
Secs. 10-155—10-160. Reserved.

Division 4. Guardian Ad Litem

Sec. 10-161. Purpose.
Sec. 10-162. Legal services office to administer.
Sec. 10-163. Scope of rules.
Sec. 10-164. Appointment of guardian ad litem.
Sec. 10-165. Training.
Sec. 10-166. Timing of appointments.
Sec. 10-167. Appointment procedure.
Secs. 10-168—10-178. Reserved.

Article V. Protection For Elderly and Vulnerable Adults

Sec. 10-179. Generally.
Sec. 10-180. Definitions.
Sec. 10-181. Reporting abuse, neglect or exploitation of an elderly or vulnerable adult.
Sec. 10-182. Procedure for investigation of allegations of abuse, exploitation or neglect of an elderly or vulnerable adult.
Sec. 10-183. Immunity of participants; nonprivileged communication.
Sec. 10-184. Medical and financial records.
Sec. 10-185. Causing or permitting imperilment of life, health or property; criminal penalties; civil remedies.
Sec. 10-186. Other violations; remedies.
Sec. 10-187. Court proceedings.
Sec. 10-188. Hearings.
Sec. 10-189. Orders prior to a final determination.
Sec. 10-190. Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation.
Sec. 10-191. General rules applicable to court proceedings under this article.
Secs. 10-192—10-220. Reserved.

Article VI. Commitment and Treatment of Mentally Ill Persons

Sec. 10-221. Policy.
Sec. 10-222. Definitions.
Sec. 10-223. Emergency apprehension.
Sec. 10-224. Petition for evaluation; filing time.
Sec. 10-225. Detention for evaluation; hearing.
Sec. 10-226. Hearing procedures.
Sec. 10-227. Patient's rights at hearings.
Sec. 10-228. Confidential records.
Secs. 10-229—10-249. Reserved.

Article VII. Domestic Violence

Sec. 10-250. Policy.
Sec. 10-251. Jurisdiction.
Sec. 10-252. Definitions.
Sec. 10-253. Offenses.
Sec. 10-254. Sentencing and penalties.
Sec. 10-255. Treatment and counseling.
Sec. 10-256. Orders of protection.
Sec. 10-257. Reporting domestic violence.
Secs. 10-258—10-299. Reserved.

Article VIII. Office of Public Fiduciary

Sec. 10-300. Purpose.
Sec. 10-301. Scope.
Sec. 10-302. Definitions.
Sec. 10-303. The office of the public fiduciary.
Sec. 10-304. Duties and standards.
Sec. 10-305. Office as conservator.
Sec. 10-306. Office as guardian.
Sec. 10-307. Annual audit.

ARTICLE I. PATERNITY

Sec. 10-1. Purpose.

The purpose of this chapter is to ensure that the father of each Community child or child residing on the Salt River Pima-Maricopa Indian Reservation is identified and paternity is established in order to protect the best interest of all children. Community children are the most vital and valued resource to the continued existence, the future, and integrity of the Community. The Community has a compelling interest in promoting and maintaining the health and well-being of all Community children.
(Code 1976, § 3.8; Code 1981, § 10-1(a); Code 2012, § 10-1(a); Ord. No. SRO-365-2010, § 10-1(a), 7-7-2010; Ord. No. SRO-402-2012, § 10-1(a), 5-30-2012)

Sec. 10-2. Definitions.

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

Adjudicated father means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.

Alleged father.

(1) The term "alleged father" means a man who alleges himself to be, or is alleged to be, the DNA father or a possible DNA father of a child, but whose paternity has not been determined.

(2) The term "alleged father" does not include:

a. A presumed father; or

b. A man whose parental rights have been terminated or declared not to exist.

Child means a person who is less than 18 years old who has not been emancipated by order of a court of competent jurisdiction or by legal marriage.

Community means the Salt River Pima-Maricopa Indian Community.

Court means the Community court.

DNA testing means deoxyribonucleic acid, hereafter referred to as DNA, paternity test to establish that the alleged father is the child's biological father with a probability of paternity of 95 percent or higher.

Expert means a person who is qualified, either by actual experience, education, training or skill to form definite opinions with in a particular subject.

Legal department means legal services office, office of the general counsel, Community prosecutor's office, and/or parents advocate's office.

Party means the parent, guardian, child, appointed guardian ad litem or Community to whom certain rights accrue, including, but not limited to, with certain restrictions and limitations:

(1) The right to be notified of proceedings;

(2) To retain counsel or, in some cases, to secure court-approved representation;

(3) To appear and present evidence;

(4) To call, examine, and cross examine witnesses;

(5) The unlimited or restricted right to discovery and the inspection of records; and

(6) The right to request a hearing or appeal a final order.

Paternity means a determination of the identity of the biological father. The term "establishing paternity" means identifying the father of a child and legally determining that he is the father.

Presumed father means a man who is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.

Presumption means a fact assumed to be true under law.

SRPMIC means the Salt River Pima-Maricopa Indian Community.

Subsequent documents means every order, every written pleading subsequent to the original

complaint, every written motion, and every written notice, appearance, judgment, or other document filed with the Community court.

Summons means a document issued by a court informing a person that a complaint has been filed against that person and notifies the respondent of his or her obligation to appear before the court.

Unavailable means an individual who has failed to appear in court either in person or in writing, or who is deceased.
(Code 1976, § 3.8; Code 1981, § 10-1(b); Code 2012, § 10-1(b); Ord. No. SRO-365-2010, § 10-1(b), 7-7-2010; Ord. No. SRO-402-2012, § 10-1(b), 5-30-2012)

Sec. 10-3. Jurisdiction; jurisdiction over nonresidents; notice.

(a) Personal jurisdiction over an individual under this article may be established where the parties are any of the following:

(1) Is member of the Community;

(2) Is domiciled or residing within the Community;

(3) Who engaged in sexual intercourse in the Community and the child may have been conceived by that act of intercourse;

(4) An individual who consents to the jurisdiction of the court by one of the following:

a. Filing an action with the court;

b. Knowingly and voluntarily giving written consent to the jurisdiction of the court;

c. Entering notice of appearance before the court in an action without concurrently preserving the defense of lack of personal jurisdiction or filing a motion to dismiss for lack of personal jurisdiction within 30 days of entering the notice of appearance;

d. Appearing in an action before the court without asserting the defense of lack of personal jurisdiction;

(5) Is a real party in interest to a lease of land and/or improvements within the Community and then as to matters involving such leasehold interests; or

(6) Is a real party in interest regarding the ownership of land and/or improvements located within the reservation boundaries and sought to be acquired pursuant to the powers of eminent domain.

(7) No other court outside of Community has jurisdiction or another jurisdiction has declined to exercise jurisdiction on the ground that the Community is the more appropriate forum, at least one of the parties resides in the Community and it is in the child's best interest that the court assume jurisdiction.

(b) The fact that the petitioner or child or both, petitioner and child, have never been residents of the Community shall not bar the proceedings.

(c) The court shall retain jurisdiction over the cause for the purpose of entering such order and any further orders as changing circumstances of the parties may in justice and equity require.

(d) Basis for jurisdiction over nonresident. In a proceeding to establish paternity under this section, the court may exercise personal jurisdiction over a nonresident individual or the individual's guardian if any of the following is true:

(1) The individual is personally served within the Community;

(2) The individual submits to the jurisdiction of the Community by consent, by entering a general appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in the Community;

(4) The individual resided in the Community and provided prenatal expenses or support for the child;

(5) The child resides in the Community as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in the Community and the child may have been conceived by that act of intercourse; or

(7) There is any other basis consistent with the Constitutions of the Community and the United States for the exercise of personal jurisdiction.

(e) Notice to persons outside the Community.

(1) Notice required for the exercise of jurisdiction if a person is outside the Community may be given in a manner prescribed by the law of the Community for service of process. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective. If notice is done by publication, publication must be done in the county that the respondent last resided in and in the Community.

(2) Proof of service may be made in the manner prescribed by the Community.

(f) Notice to respondents. Notice is not required if the person submits to the jurisdiction of the court.

(1) A person submits to the jurisdiction of the court by filing a responsive pleading; or

(2) A person appears at any hearing.

(Code 1981, § 10-2; Code 2012, § 10-2; Ord. No. SRO-365-2010, § 10-2, 7-7-2010; Ord. No. SRO-402-2012, § 10-2, 5-30-2012)

Sec. 10-4. Paternity petition.

(a) *Generally.*

(1) A paternity proceeding under this chapter may stand alone as a separate proceeding or it may be joined with an action to determine child support, divorce, annulment, custody or any other civil action in which paternity is an issue including dependency actions.

(2) If the paternity action has been joined with a dependency action, the establishment of paternity shall not prohibit the juvenile court from determining other issues before the court unless required by an ordinance.

(b) *Satisfying requirements under enrollment ordinance.* Establishing paternity under this chapter may not simultaneously satisfy the requirements under the enrollment ordinance.

(c) *Governing rule.* Any paternity action under this chapter shall be governed by the Community's civil rules of procedure unless otherwise provided.

(d) *Use of similar documents.* Any party may use documents other than those provided pursuant to this section if the documents are substantially similar pursuant to this section.

(e) *Who may file petition.* A petition to request the court to establish paternity may be filed by:

(1) An adult child, or, a child's legal guardian;

(2) The child's natural mother;

(3) Any adult female who is pregnant, or any individual who is the legal guardian of a pregnant minor child;

(4) Any alleged father of the child;

(5) Any Community legal department with an interest in determining parentage; or

(6) Any court appointed guardian ad litem with an interest in determining parentage.

(f) *Contents of petition.* A petition to establish paternity shall state:

(1) The names, dates of birth, addresses and whether such addresses are within the exterior boundary of the Community, and tribal affiliations, if any, of the natural mother, all potential fathers, the child, all others who have legal rights of custody, visitation, or support of the child, and of the petitioner. If any of the information is unknown, the petition should state the information is unknown;

(2) The basis for the court's jurisdiction pursuant to section 10-3(a)(1) through (6);

(3) Whether the natural mother and the alleged father are or were married, and the dates of marriage, separation, and divorce, if any;

(4) Whether the natural mother and alleged father agree that the alleged father is the natural father of the child;

(5) Whether there are other paternity proceedings, paternity affidavits or court orders concerning the child or whether parental rights have been terminated; and

(6) A certified copy of the child's birth certificate shall be attached to the petition or provided to the court at least five days before the first hearing.

(Code 1981, § 10-3; Code 2012, § 10-3; Ord. No. SRO-365-2010, § 10-3, 7-7-2010; Ord. No. SRO-402-2012, § 10-3, 5-30-2012)

Sec. 10-5. Presumption of paternity.

(a) A man is presumed to be the natural father of a child if:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution, or after a decree of separation is entered by a court;

(2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage formalized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within 300 days after the termination of cohabitation;

(3) After the child's birth, he and the child's natural mother have attempted to marry each other by a marriage formalized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and with his consent, he is named as the child's father on the child's birth certificate;

(4) He is named as the father by an official government issued birth certificate that is signed by both parents acknowledging paternity and both parent's signatures are notarized; or

(5) DNA testing affirms at least a 99 percent probability of paternity. DNA testing results must come from a DNA lab accredited by the American Association of Blood Banks and be certified.

(b) If a man has a presumption of paternity, he is considered the legal father by the court.

(c) A presumption of paternity established under this section may be rebutted only by adjudication as described herein and with clear and convincing evidence.

(Code 1981, § 10-4; Code 2012, § 10-4; Ord. No. SRO-365-2010, § 10-4, 7-7-2010; Ord. No. SRO-402-2012, § 10-4, 5-30-2012)

Sec. 10-6. Initial paternity hearing; evidentiary paternity hearing; evidence relating to paternity.

(a) *Generally.* The general public shall be excluded from the proceedings under this section. Only the parties and their counsel may attend the hearing. Any witnesses may attend the hearing but are not to remain in the courtroom until they are called to testify. After the witness has testified, the witness may be excluded and/or excused from the courtroom proceeding unless the parties have no objections to the witness's presence in the courtroom.

(b) *Service of subsequent documents.*

(1) If service of the original petition and summons was effectuated at respondent's residence, every subsequent document shall be served upon by first class mail.

(2) If a respondent files a responsive pleading or appears at any hearing, every subsequent document shall be served upon by first class mail.

(3) The parties shall inform the court of their mailing address and update their address within ten days of any change of address. A parties' failure to update the court of a

change of mailing address is not a defense for the individual's lack of a notice of any court action.

(c) *Initial paternity hearing.*

(1) The court shall set an initial paternity hearing 30 days after the respondents have been served with the original complaint and summons.

(2) At the initial paternity hearing, the court shall:

a. If paternity is being contested and the court finds that it is the best interest of the minor child, order the parties to submit to DNA testing unless good cause exists pursuant to subsection (d)(2)a of this section;

b. Determine the good cause basis pursuant to this subsection, if applicable;

c. Schedule an evidentiary hearing;

d. Resolve any discovery and disclosure disputes;

e. If the alleged father is unavailable and if the court finds that it is the best interest of the minor child to establish paternity by DNA, identify potential family members to submit to DNA testing; and

f. Any other orders the court deems appropriate.

(3) If the paternity proceeding has been joined with an action other than a dependency action, the court may:

a. Enter temporary orders in accordance with the stipulations of the parties, or if agreed to by the parties, based upon discussions, avowals, and arguments presented at the initial hearing.

b. Order evaluations, assessments, appraisals, appointments or other special procedures needed to properly manage the case and resolve the disputed issues.

(4) After the initial hearing is held, the court shall issue an order regarding the actions taken within two business days.

(d) *Evidentiary paternity hearing rules.* The following rules shall apply to evidentiary paternity hearings:

(1) The mother of the child and the alleged father shall be compelled to testify at the paternity hearing, if available. A woman may be excused from identifying or locating the father of her child when there is good cause not to reveal his identity or location. The court may hold a closed, ex parte hearing to determine whether good cause exists. Good cause is a case that involves incest, rape or as determined by the court;

(2) If the court finds it is the best interest of the minor child, the court may require the child, mother and alleged father's mother of the child to provide DNA samples prior to and for the paternity hearing. If the alleged father is unavailable, DNA samples may be sought pursuant to section 10-7(a)(6).

a. A woman may be excused from submitting to DNA testing or from identifying or locating the father of her child when there is good cause not to reveal his identity or location. The court may hold a closed, ex parte hearing to determine whether good cause exists. Good cause is a case that involves incest, rape or as determined by the court.

b. DNA results obtained pursuant to this section shall not be admissible for purposes of criminal prosecution.

(3) Testimony of a health care provider concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged for purposes of admitting this evidence;

(4) Medical records may be used, if the expert is not available to provide testimony. Unless the sources of information or other

circumstances indicate lack of trustworthiness, records, reports, statements or data compilation, in any form from a medical office or agency may be used as evidence; and

(5) The parties may provide testimony on how the costs of paternity testing shall be paid and the court will make a determination based on this testimony.

(e) *Evidence.* Evidence relating to paternity may include:

(1) DNA test results, weighted in accordance with evidence of the statistical probability of the alleged father's paternity;

(2) Testimony and/or evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(3) An expert's opinion concerning probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(4) Written proof of father's acknowledgment; and

(5) Any other evidence relevant to the issue of paternity of the child.

(Code 1981, § 10-5; Code 2012, § 10-5; Ord. No. SRO-365-2010, § 10-5, 7-7-2010; Ord. No. SRO-402-2012, § 10-5, 5-30-2012)

Sec. 10-7. DNA testing; results; rebuttal; additional tests.

(a) *DNA tests may be required.* The court may require the child, mother and alleged fathers to submit to DNA tests, unless good cause, as described section 10-6, exists not to require such testing. The following requirements apply to DNA testing under this section:

(1) *Lab accredited.* The tests shall be performed by a DNA lab accredited by the American Association of Blood Banks.

(2) *Report of DNA testing.* A report of DNA testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this article is self authenticating. Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:

a. The names and photographs of the individuals whose specimens have been taken;

b. The names of the individuals who collected the specimens;

c. The places and dates the specimens were collected;

d. The names of the individuals who received the specimens in the testing laboratory; and

e. The dates the specimens were received.

(3) *Admission into evidence.* Unless a party objects to the results of DNA tests in writing at least five days before the hearing, the tests shall be admitted as evidence of paternity without the need for foundation testimony or other proof of authenticity.

(4) *Affidavit of DNA expert.* The results of DNA tests must be accompanied by an affidavit from the expert describing the expert's qualifications and analyzing and interpreting the results as well as documentation of the chain of custody of the DNA samples as described in subsection (a)(2) of this section.

(5) *Contempt of court.* Failure to submit to DNA tests when required by the court may constitute contempt of court.

(6) *DNA testing when specimens not available.* If a DNA testing specimen is not available from an alleged father of a child, for good cause and under circumstances the court considers to be just, the court may consider specimens from the following:

a. The parents of the alleged father;

b. Brothers and sisters of the alleged father;

c. Other children of the alleged father that paternity has previously been established by DNA and their mothers; and

d. Other relatives of the alleged father necessary to complete DNA testing.

(7) *Issuance of order.* Issuance of an order under this section requires a finding that a need for DNA testing outweighs the legitimate interests of the individual sought to be tested. The potential family members are not required to provide DNA samples and any collection of their DNA samples shall be collected pursuant to the individual's consent.

(b) *DNA testing results; rebuttal.*

(1) A man is rebuttably identified as the father of a child if the DNA testing complies with this section and the results disclose that:

a. The alleged father has at least a 95 percent probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and

b. A combined paternity index of at least 100:1.

(2) A man identified under subsection (a) of this section as the father of the child may rebut the DNA testing results only by other DNA testing satisfying the requirements of this section which:

a. Excludes the alleged father as a DNA father of the child; or

b. Identifies another man as the possible father of the child.

(3) Except as otherwise provided herein, if more than one man is identified by DNA testing as the possible father of the child, the court shall order them to submit to further DNA testing to identify the DNA father.

(c) *Additional DNA testing.* The court shall order additional DNA testing upon the request of a party who contests the result of the original testing. If the previous DNA testing identified a man as the father of the child, the court may not order additional testing unless the party provides payment for the testing.

(Code 1981, § 10-6; Code 2012, § 10-6; Ord. No. SRO-365-2010, § 10-6, 7-7-2010; Ord. No. SRO-402-2012, § 10-6, 5-30-2012)

Sec. 10-8. Rules for adjudication of paternity.

The court shall apply the following rules to adjudicate the paternity of a child:

(1) The paternity of a child having a presumed or adjudicated father may be disproved only by admissible results of DNA testing excluding that man as the father of the child or identifying another man as the father of the child.

(2) Unless the results of DNA testing are admitted to rebut other results of DNA testing, a man identified as the father of a child must be adjudicated the father of the child.

(3) If the court finds that DNA testing neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of DNA testing, and other evidence, are admissible to adjudicate the issue of paternity.

(4) Unless the results of DNA testing are admitted to rebut other results of DNA testing, a man excluded as the father of a child by DNA testing must be adjudicated not to be the father of the child.

(Code 1981, § 10-7; Code 2012, § 10-7; Ord. No. SRO-365-2010, § 10-7, 7-7-2010; Ord. No. SRO-402-2012, § 10-7, 5-30-2012)

Sec. 10-9. Paternity orders; default orders; paternity established by other jurisdictions.

(a) *Paternity order.* The judgment or order of the court determining whether or not a respondent is a parent of a child shall be based on clear and convincing evidence. The court shall issue an order within two business days after the evidentiary

hearing is held. An order adjudicating parentage must identify the child by name and date of birth. If the judgment or order of the court establishes a different father than that on the child's birth certificate, the court shall send the order to the Department of Vital Statistics of the state in which the child was born so that the birth certificate can be amended.

(b) *Paternity records.* The records filed in a paternity action shall be confidential. Only parties to the case may obtain copies as described in section 11-28.

(c) *Default order of paternity.*

(1) In an action to establish paternity, the court shall enter an order of paternity if:

a. The service of complaint and summons is complete and the respondent fails to appear at the initial or evidentiary hearing or otherwise answer; or

b. An order for DNA or blood testing has been entered and the respondent fails to appear without cause for an appointment to take a blood or DNA test or fails to take a blood or DNA test.

(2) The court shall have an evidentiary hearing without respondent and establish paternity pursuant to section 10-6 prior to entering a default order of paternity.

(d) *Paternity established by other jurisdictions.* If paternity has been established in another state, tribe or federal agency by a court or administrative order, voluntary acknowledgment or birth certificate, the determination of paternity has the same force and effect in the Community as if the determination of paternity was granted by the court in the Community.
(Code 1981, § 10-8; Code 2012, § 10-8; Ord. No. SRO-365-2010, § 10-8, 7-7-2010; Ord. No. SRO-402-2012, § 10-8, 5-30-2012)

Sec. 10-10. Disestablishment of presumed paternity.

An alleged father presumed to be a child's father may bring an action for the purpose of declaring the nonexistence of the father and child relationship only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party. Any other interested party may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship. Regardless of its terms, no agreement between an alleged or presumed father and the mother or child shall bar an action under this section. If an action under this section is brought before the birth of the child, all proceedings may be stayed until after the birth, except service of process and discovery, including the taking of depositions.
(Code 1981, § 10-9; Code 2012, § 10-9; Ord. No. SRO-365-2010, § 10-9, 7-7-2010; Ord. No. SRO-402-2012, § 10-9, 5-30-2012)

Secs. 10-11—10-28. Reserved.

ARTICLE II. MARRIAGE, DIVORCE, ANNULMENT, SEPARATE MAINTENANCE

DIVISION 1. GENERALLY

Sec. 10-29. Authority of judges to perform marriages.

Judges of the Community court may solemnize marriages between persons authorized to marry.
(Code 1981, § 10-10; Code 2012, § 10-10; Ord. No. SRO-165-93, § 1, 2-3-1993; Ord. No. SRO-315A-07, 12-13-2006; Ord. No. SRO-402-2012, § 10-10, 5-30-2012)

Sec. 10-30. Marriages to be according to state law.

(a) Since section 1(m), article V, amended Constitution and bylaws of the Community, approved April 19, 1954, provided that all marriages in the future shall be in accordance with the state laws, it is recognized that the powers of the Community are limited by article III, section 5(c) of the amended Constitution and bylaws of the Salt River Tribe, but it further recognized that the limitation is for the best interests and welfare of

the Community in cases of future inheritance problems or possible future state benefits. State marriage licenses may be secured at the office of the clerk of each county court.

(b) All marriages and divorces of members of the Community shall be recorded within 30 days with the Pima Agency and the Community court.
(Code 1976, § 3.1(A); Code 1981, § 10-11; Code 2012, § 10-11; Ord. No. SRO-402-2012, § 10-11, 5-30-2012)

Editor's note—The current Constitution was approved November 23, 1970.

Sec. 10-31. Marriages validated.

All purported marriages of members of the Community wherein such members have lived together within the Salt River Indian Reservation prior to December 27, 1957, date of approval of Ordinance No. 1, Revised (Law and Order Code), for the Community, and have been recognized as man and wife in their Community are hereby validated for all purposes from the date of their inception.
(Code 1976, § 3.1(B); Code 1981, § 10-12; Code 2012, § 10-12; Ord. No. SRO-3-64, 3-24-1964; Ord. No. SRO-402-2012, § 10-12, 5-30-2012)

Sec. 10-32. Procedure for judgment of validity.

(a) Any member of the Community claiming that his or her marriage was validated by section 10-31 may file a petition in the Salt River Tribal Court for a judgment declaring that such marriage has been so validated. If the petitioner's spouse in such alleged marriage is known to the petitioner to be living, such spouse must also sign the petition, or be named as defendant and notified of the suit as provided in section 5-21. If the petitioner's spouse in such alleged marriage is not known to the petitioner to be living the petitioner must prove to the satisfaction of the court that such spouse is dead or has been absent for five successive years until the date of hearing the petition without being known to the petitioner within that time to be living, or the petition shall be dismissed.

(b) If the petitioner, having complied with subsection (a) of this section, proves to the satisfaction of the court that he or she and his or her alleged spouse lived together within the Salt River Indian Reservation prior to December 27, 1957, date of approval of Ordinance No. 1, Revised (Law and Order Code), for the Community, and were recognized as man and wife in their Community, the court shall issue a judgment that such petitioner and spouse have been validly married. If feasible, the court shall also ascertain the date of inception of such marriage and the names of the children born thereof and shall recite such information in the judgment.

(c) Any judgment of validity of marriage issued by the Salt River Tribal Court in accordance with this section may be forwarded to the superintendent of the Salt River Agency, who may then cause the marriage to be recorded in the tribal census rolls and a certificate of marriage to be issued to the petitioner.

(d) If a child whose parents are both deceased contends that such parents' marriage was validated by section 10-31, such child may file a petition in the Salt River Tribal Court for judgment that such marriage was so validated. If such petitioner proves to the satisfaction of the court that his or her parents are both deceased and that they lived together within the Salt River Indian Reservation prior to December 27, 1957, date of approval of Ordinance No. 1. Revised (Law and Order Code), for the Community, and were recognized as man and wife in their Community, the court may issue a judgment that such parents were validly married and that the petitioner is their legitimate offspring. If feasible, the court shall also ascertain the date of inception of such marriage and shall recite such date in the judgment. Such judgment may be forwarded to the superintendent for recording and issuance of a certificate of marriage.
(Code 1976, § 3.1(C); Code 1981, § 10-13; Code 2012, § 10-13; Ord. No. SRO-3-64, 3-24-1964; Ord. No. SRO-402-2012, § 10-13, 5-30-2012)

Sec. 10-33. Bigamy.

(a) Any married person who shall marry another person without having obtained a divorce shall be deemed guilty of bigamy and upon conviction thereof shall be sentenced to imprisonment for a period not to exceed six months.

(b) This section shall not apply to the remarriage of a person whose husband or wife shall have been continually absent from such person for a period of three years or more, and shall not have been known by such person, to have been living within that time nor to any person whose former marriage shall have been declared void by any court having competent jurisdiction.
(Code 1976, § 6.9; Code 1981, § 10-14; Code 2012, § 10-14; Ord. No. SRO-402-2012, § 10-14, 5-30-2012)

Sec. 10-34. Annulment of marriage.

The court may dissolve a marriage and may decree the marriage to be null and void for any of the following causes existing at the time of the marriage:

(1) Either spouse in the marriage annulled was under the age of legal consent and such marriage was contracted without the consent of his or her parents or guardian or person having charge of him or her, unless after attaining the age of consent such party for any time freely cohabited with the other as husband and wife.

(2) The husband or wife of either party is living and the marriage with such former husband or wife was then in force.

(3) The consent of either party was obtained by fraud unless such party afterwards freely cohabited with the other as husband and wife.

(Code 1976, § 3.2; Code 1981, § 10-15; Code 2012, § 10-15; Ord. No. SRO-402-2012, § 10-15, 5-30-2012)

Sec. 10-35. Divorce or separate maintenance.

(a) *Separate maintenance.*

(1) *Grounds.* The court may grant or issue a decree of separate maintenance when one spouse willfully deserts or abandons the other spouse or when facts exist which would be grounds for granting an absolute divorce. An action for separate maintenance may be brought by a spouse without the necessity of an action for absolute divorce. The action for separate maintenance or the judgment of separate maintenance shall not bar the plaintiff from maintaining an action for absolute divorce upon the same grounds.

(2) *Proceedings.* The proceedings shall be commenced and conducted as actions for divorce and the court may award such sums for alimony and child support to be paid by the husband or wife as the court shall adjudge the circumstances and situations of the parties warrant.

(3) *Amendment of judgment.* The court may at any time after entry of final judgment amend, alter or change the provisions of the judgment with respect to the sum to be paid, as the circumstances may require.

(b) *Divorce.* The court may grant or issue a divorce from the bonds of matrimony in any of the following cases:

(1) When adultery has been committed by either party;

(2) When one of the parties has been convicted of a felony and sentenced to imprisonment therefor and has not been convicted on the testimony of the other party, but such action may not be brought until one year after final judgment of the conviction; a pardon shall not be a defense to such action;

(3) When either party has willfully deserted the other for a period of three months or for the habitual intemperance of either party;

(4) Where the husband or wife is guilty of excesses, cruel treatment or outrages toward the other, whether by the use of personal violence or other means;

(5) When the husband has neglected for the period of three months to provide the wife with the common necessities of life, having the ability to provide the same, or failing to do so by reason of his or her idleness or dissipation;

(6) Prior to the marriage, either party shall have been convicted of a felony or infa-

mous crime in any state or country without the knowledge of the other party of such fact at the time of such marriage;

(7) In favor of the husband when the wife at the time of the marriage was pregnant by a man other than the husband and without the husband's knowledge at the time of such marriage.

(Code 1976, § 3.3; Code 1981, § 10-16; Code 2012, § 10-16; Ord. No. SRO-14-72, 4-25-1972; Ord. No. SRO-402-2012, § 10-16, 5-30-2012)

Sec. 10-36. Procedure for annulment, divorce or separate maintenance.

(a) *Filing of complaint.* The complaining party shall file with the court a verified complaint stating concisely his or her cause for action and thereupon the court shall issue a summons to run in the name of the Community court to the defendant apprising him or her of the pendency of action. The summons shall concisely state the grounds upon which annulment, divorce or separate maintenance is asked. The summons and complaint when issued shall be served as provided in chapter 5. The procedure for pretrial and trial of cases under this chapter shall be governed by chapter 5.

(b) *Judgment.* The court shall thereupon make and enter findings of facts and conclusions of law, and issue a signed decree signed by the chief judge, after which the divorce or separate maintenance decree shall become final subject to the provisions of this Community Code of Ordinances.

(Code 1976, § 3.4; Code 1981, § 10-17; Code 2012, § 10-17; Ord. No. SRO-402-2012, § 10-17, 5-30-2012)

Sec. 10-37. Legitimacy of children not affected by divorce.

A divorce shall not affect the legitimacy of the children.

(Code 1976, § 3.5; Code 1981, § 10-18; Code 2012, § 10-18; Ord. No. SRO-402-2012, § 10-18, 5-30-2012)

Sec. 10-38. Permanent alimony, custody of children and costs.

In the final decree of divorce, the court may, in addition to the division of the common property of the parties, direct one spouse to pay the spouse awarded custody of the children of the parties as may be necessary for the support and maintenance of the custodial spouse and minor children of the parties. The custody of the children may be awarded to the wife or husband as may be necessary or proper, and the court may decree that alimony may be paid in one sum or in installments, and in such decree or decree of annulment of the marriage, the court may make such disposition of and expedient under all circumstances for their present comfort and future well-being. The court may assess the cost to either or both parties of the suit, and shall in the decree change the name of the wife back to a former name if especially asked for in the pleadings.

(Code 1976, § 3.6; Code 1981, § 10-19; Code 2012, § 10-19; Ord. No. SRO-402-2012, § 10-19, 5-30-2012)

Sec. 10-39. Modification of judgment affecting alimony and support of minor children.

The court may, from time to time, after the entry of the final decree or on petition of either party, amend, revise and alter such portions of the decree as relate to the payment of money for the support and maintenance of one spouse or the support of their minor children, as may be just; and amend, change or alter any provision therein respecting the care, custody or maintenance of the children of the parties as the circumstances of the parents and the welfare of the children may require.

(Code 1976, § 3.7; Code 1981, § 10-20; Code 2012, § 10-20; Ord. No. SRO-402-2012, § 10-20, 5-30-2012)

Secs. 10-40—10-48. Reserved.

DIVISION 2. CHILD SUPPORT

Sec. 10-49. Purpose.

The purpose of this division within this Community Code of Ordinances is to establish child

support guidelines and procedures for the establishment, modification and enforcement of child support orders and judgments. The establishment of these guidelines and procedures is in the best interests of Community families, and especially Community children, who have a right and need to receive support from both parents, where available. All child support orders entered after February 1, 2012, shall be made pursuant to the Community's child support guidelines, whether they are original orders or modifications of preexisting orders. Any orders entered before February 1, 2012, are presumptively valid. The enactment of the Community's child support guidelines shall not be construed as conferring a right for modifications of child support orders except as provided for pursuant to section 10-56.
(Code 2012, § 10-21(a); Ord. No. SRO-390-2012, § 10-21(a), 2-1-2012; Ord. No. SRO-402-2012, § 10-21(a), 5-30-2012)

Sec. 10-50. 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:

Arrearage means the total unpaid support owed, including child support and past support.

Calculator means the child support calculator, which calculates child support pursuant to the Community's child support guidelines.

Child means a person who is less than 18 years old who has not been emancipated by order of a court of competent jurisdiction or by legal marriage.

Child support means the financial obligation that a noncustodial parent owes for their children, whether such obligation is established through a judicial or administrative process, if applicable, or by stipulation of the noncustodial parent. The financial obligation of a noncustodial parent shall be met through the payment of monies.

Court means the Community court of the Salt River Pima-Maricopa Indian Reservation.

Custodial parent means the person who holds legal custody of the children pursuant to a court order, or who exercises primary physical custody of the children on the basis of an agreement between the parents or by the absence of the other parent. A legal guardian with primary physical custody of the children and standing in the position of the parent shall have the same rights to child support as a custodial parent.

Emancipated means, for the purposes of this division within this Community Code of Ordinances, a child is deemed to be emancipated upon the occurrence of any of the following:

(1) On the date of the child's legally valid marriage.

(2) On the child's 18th birthday.

(3) On the date of the child's adoption.

(4) On the date of the child's death.

(5) Upon the termination of the child support obligation as court ordered, if child support is extended beyond the age of majority pursuant to section 10-53(i).

Employer means all persons or entities who agree to compensate another individual for services performed.

Income means earnings from any source, and may include, as an example, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest earned, trust income, annuities, capital gains, social security benefits, per capita payments, lease payments received directly by either parent and not on behalf of a child, worker's compensation benefits, unemployment benefits, unemployment insurance benefits, disability insurance benefits, and recurring cash gifts and liquidated for cash prizes.

Noncustodial parent means a parent of a child, whether or not conceived during the course of marriage, who does not hold legal custody of the child pursuant to a court order, or who does not exercise physical custody of the child on the basis of agreement between the parents or by the absence of the other parent.

Party means a parent, guardian, child, or the Community to whom certain rights accrue, including, but not limited to, with certain restrictions and limitations:

(1) The right to be notified of proceedings;

(2) To retain counsel;

(3) To appear and present evidence;

(4) To call, examine and cross examine witnesses;

(5) The unlimited or restricted right to discovery and the inspection of records; and

(6) The right to request a hearing or appeal a final order.

Payee means the person or agency with the right to receive child support by court order.

Payor means the person with an obligation to pay child support by court order.

Sensitive data means a social security number, bank account number, credit card number, other financial account number, a juvenile victim's name, and a victim's address and telephone number or other locating information.

Sensitive data form means a form which is created by the court to contain sensitive data.

SRPMIC means the Salt River Pima-Maricopa Indian Community.
(Code 2012, § 10-21(b); Ord. No. SRO-390-2012, § 10-21(b), 2-1-2012; Ord. No. SRO-402-2012, § 10-21(b), 5-30-2012)

Sec. 10-51. Child support guidelines.

(a) The Community administration and/or its designee may review and recommend revisions to the Community's child support guidelines at least once every four years to ensure that the Community's child support guidelines remain sufficient and may make revisions, as appropriate and necessary.

(b) The Community's child support guidelines shall set the scale of minimum child support contributions and shall be used to determine the amount the payor must pay for support of their child pursuant to this division within this Community Code of Ordinances. The Community's child support guidelines shall place a duty for child support upon either or both parents based on their respective financial resources and the custodial arrangements for the children. The Community's child support guidelines and schedule must consider, at a minimum:

(1) The financial resources and needs of the child.

(2) The financial resources and needs of the custodial parent.

(3) The standard of living the child would have enjoyed had the parties not lived apart.

(4) The physical, mental and emotional condition of the child, and the child's educational needs.

(5) The financial resources and needs of the noncustodial parent.

(6) The duration of parenting time and related expenses.

(Code 2012, § 10-22; Ord. No. SRO-390-2012, § 10-22, 2-1-2012; Ord. No. SRO-402-2012, § 10-22, 5-30-2012)

Sec. 10-52. Jurisdiction over nonresidents; notice; jurisdiction when modifying a child support order; modification of child support order of another jurisdiction.

(a) *Nonresidency not to bar proceedings.* The fact that the petitioner, child, or both, have never been residents of the Community shall not bar the proceedings.

(b) *Court to retain jurisdiction.* After the finding of jurisdiction over a child support matter, the court shall retain jurisdiction over the cause for the purpose of entering such order and any further orders as changing circumstances of the parties may in justice and equity require.

(c) *Basis for jurisdiction over nonresident.* In a proceeding to establish child support under this section, the court may exercise personal jurisdiction over a nonresident individual or the individual's guardian if any of the following is true:

(1) The individual is personally served within the Community;

(2) The individual submits to the jurisdiction of the Community by consent, by entering a general appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in the Community;

(4) The individual resided in the Community and provided prenatal expenses or financial support for the child;

(5) The individual engaged in sexual intercourse in the Community and the child may have been conceived by that act of intercourse; or

(6) There is any other basis consistent with the Constitution of the Community and the United States for the exercise of personal jurisdiction.

(d) *Notice to persons outside the Community.*

(1) Notice required for the exercise of jurisdiction if a person is outside the Community may be given in a manner prescribed by the law of the Community for service of process. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective. If notice is done by publication, publication must be done in the county that the respondent last resided in and in the Community.

(2) Proof of service may be made in the manner prescribed by the Community.

(e) *Notice to respondents.* Notice is not required if the respondent submits to the jurisdiction of the court. A respondent submits to the jurisdiction of the court by:

(1) Filing a responsive pleading; or

(2) Appearing at any hearing.

(f) *Jurisdiction when modifying a child support order.* The basis of personal jurisdiction prescribed in this section may not be used to acquire personal jurisdiction to modify a child support order issued by another tribe or state unless, after notice and a hearing, the court finds that either of the following is true:

(1) The following requirements are met:

a. Neither the child, the payee who must be an individual, nor the payor resides in the state and/or reservation which issued the order;

b. A petitioner is a nonresident of the Community but seeks modification in the Community; and

c. The respondent is subject to the personal jurisdiction of the Community.

(2) The child is a resident of the Community, or a party who is an individual is subject to the personal jurisdiction of the Community, and all of the parties have filed consents to modify the support order, and the parties agree that the court has continuing and exclusive jurisdiction.

(g) *Modification of child support order of another jurisdiction.*

(1) Except as otherwise provided, the court may not modify any aspect of a child support order that may not be modified under the laws of the issuing state and/or tribe, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same payor and child, the order that is controlling and recognized establishes the aspects of the support order that are nonmodifiable.

(2) In a proceeding to modify a child support order, the law of the state or tribe that is determined to have issued the initial controlling order governs the duration of the obligation of support. The payor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by the court.

(3) Upon the issuance of an order by the court modifying a child support order issued by

another state or tribe, the court shall have continuing and exclusive jurisdiction.

(Code 2012, § 10-23; Ord. No. SRO-390-2012, § 10-23, 2-1-2012; Ord. No. SRO-402-2012, § 10-23, 5-30-2012)

Sec. 10-53. General provisions; service; back child support; duties of support.

(a) *Generally.* The general public shall be excluded from the proceedings under this section. Only the parties and their counsel may attend the hearing unless the parties consent to the interested person's attendance. Any witnesses may attend the hearing but are not to remain in the courtroom until they are called to testify. After the witness has testified, they may be excluded and/or excused from the courtroom proceeding unless the parties have no objections to their presence in the courtroom.

(b) *Confidentiality.* The records filed under this division within this Community Code of Ordinances action shall be confidential. Only parties to the case may obtain copies pursuant to section 11-28.

(c) *Sensitive data.* Sensitive data must be redacted from any paper filed with the court, unless it is specifically required by court order or this Community Code of Ordinances, and is not to be placed in any court-generated records such as judgments and orders except upon a finding of good cause. If the inclusion of sensitive data in court filings is required by court order or this Community Code of Ordinances, then it is not to be included in any filing, but is instead to be set forth in a separate sensitive data form. The sensitive data form and contents thereof are to be maintained by the court as a confidential record. The filing party is under a duty to update and supplement the information where necessary.

(d) *Financial records.* The court shall make provision for the confidentiality of financial records filed by the parties, so that they are secure from view by the general public but may be reviewed by the parties to the case solely for the purpose of establishing, modifying or enforcing child support.

(e) *Similar documents.* Any party may use documents other than those provided pursuant to this section if the documents are substantially similar pursuant to this section.

(f) *Service and summons.* The court shall serve a copy of the petition and summons upon the parents or legal guardian against whom child support is being established. The summons shall inform the respondent of the following:

(1) An answer must be filed with the court and served on the petitioning party within 30 days of the date of service of the petition;

(2) If the respondent fails to enter a defense to the petition challenging the authority of the court to hear the matter by the date of the hearing, the hearing shall proceed on the basis of the petitioner's evidence;

(3) An order of child support may obligate the respondent to pay child support until the age of majority or longer pursuant to subsection (i) of this section.

(g) *Service of subsequent documents.*

(1) If service of the original petition and summons was effectuated at respondent's residence, every subsequent document shall be served by first class mail.

(2) If a respondent files a responsive pleading or appears at any hearing, every subsequent document shall be served by first class mail.

(3) The parties shall inform the court of their mailing address and update their address within ten days of any change of address. A parties' failure to update the court of a change of mailing address is not a defense for the individual's lack of a notice of any court action.

(h) *Back child support.* If the parties lived apart before the date of the filing of this action and if child support has not been ordered, the court may order child support retroactively to the date of the parties' separation, but not more than three years before the date of the filing for dissolution of marriage, annulment, legal separation, paternity, custody or child support. The court

must first consider all relevant circumstances, including the conduct or motivation of the parties in that filing and the diligence with which service of process was attempted on the payee or was frustrated by the payee. If the court determines that child support is appropriate, the court shall direct, using a retroactive application of the Community's child support guidelines, the amount that the parents must pay for the past support of the child and the manner in which payments must be paid, taking into account any amount of temporary or voluntary support that has been paid. Any period of time in which the responsible party has concealed himself or herself or avoided the jurisdiction of the court under this division within this Community Code of Ordinances shall not be included within the three-year period.

(i) *Duties of support; exemption.* Except as provided in subsection (h) of this section, every person has the duty to provide all reasonable support for that person's natural and adopted unemancipated minor children, regardless of the presence or residence of the child in the Community. In the case of mentally or physically disabled children pursuant to a court's determination based on this Community Code of Ordinances, if the court deems it appropriate, the court may order support to continue past the age of majority. If a child reaches the age of majority while the child is attending high school or a certified high school equivalency program, support shall continue to be provided while the child is actually attending high school or the equivalency program but only until the child reaches 19 years of age.

(j) *Guidelines used for determination of ability to pay.* The Community's child support guidelines shall be used in determining the ability to pay child support and the amount of payments. The obligation to pay child support is primary and other financial obligations are secondary.

(Code 2012, § 10-24; Ord. No. SRO-390-2012, § 10-24, 2-1-2012; Ord. No. SRO-402-2012, § 10-24, 5-30-2012)

Sec. 10-54. Representation by Community; modification of order by Community; liability of parents to bear expense.

(a) The Community may initiate an action or intervene in an action to establish, modify or enforce a duty of child support for children who are deemed dependent in the juvenile court, when the dependent child is placed with the noncustodial parent, legally appointed guardian, or any other out-of-home placement. The child's parents or legal guardian shall pay for the care, support and maintenance of the child, consistent with section 11-98.

(b) The parent's or legal guardian's ability to pay may be rebutted only by adjudication as described within this division within this Community Code of Ordinances by clear and convincing evidence.

(c) Any previous child support orders established, modified or enforced pursuant to section 11-98 may be re-addressed and modified consistent with this division within this Community Code of Ordinances and the Community's child support guidelines upon motion by a party.

(d) The parents or legal guardians must provide their financial information necessary to accurately calculate child support pursuant to the Community's child support guidelines.

(e) The monies collected pursuant to this section shall be payable to the Community or shall be transmitted to the support clearinghouse for distribution, if a support clearinghouse is available.

(Code 2012, § 10-25; Ord. No. SRO-390-2012, § 10-25, 2-1-2012; Ord. No. SRO-402-2012, § 10-25, 5-30-2012)

Sec. 10-55. Petition for child support.

(a) *Generally.* A child support proceeding may stand alone as a separate proceeding or it may be joined with an action to determine divorce, annulment, custody, guardianship or any other civil action in which child support is an issue.

(b) *Governing rules of procedure.* Any child support proceeding shall be governed by the Community's civil rules of procedure unless otherwise provided herein.

(c) *Who may file petition.* A petition to request the court to establish, modify or enforce child support may be filed by the following:

(1) The parent of a child or a child's legal guardian;

(2) A legal guardian of a minor parent;

(3) Any Community legal department with an interest in determining child support; or

(4) Any court appointed guardian ad litem with an interest in determining child support.

(d) *Contents of petition.* A petition for establishment of child support shall contain the following, and if unknown, the petition should state which information is unknown:

(1) For each parent, the children and all other individuals who have legal rights to custody, visitation, or support of the child, and of the petitioner, the names, dates of birth, addresses and whether such addresses are within the exterior boundaries of the Community, tribal affiliations if applicable, and the last four digits of their social security numbers. Any information that is considered sensitive data should be set forth in a separate sensitive data form;

(2) The basis for the court's jurisdiction;

(3) The child support obligation requested or agreed upon;

(4) Any proposed childcare or extraordinary medical or educational expenses;

(5) The date proposed for the child support obligation to begin;

(6) The proposed frequency of payment;

(7) A statement whether child support payments should be made by order of assignment;

(8) A proposed or current parenting plan, if any, or if custody is shared, the percentage of a year that each parent has physical custody of the child;

(9) A statement whether any of the following proceedings involving the parents or the child are pending or have taken place in any court or administrative agency, and if so, the date, name, and place of the court or agency:

a. Child custody proceeding;

b. Child support proceeding;

c. Paternity establishment or disestablishment proceeding;

d. Proceeding requesting a domestic violence protective order or no contact order; or

e. Proceeding requesting a restraining order involving the child or the parents or legal guardian;

(10) A statement whether either parent has ever received state or tribal assistance, and if so, the dates and name of the state or tribe providing assistance;

(11) Financial information such as gross income, other sources of income;

(12) A statement regarding which parent should be allowed to claim the child as a dependent for income tax purposes;

(13) Proposed worksheet based on the child support guidelines;

(14) The respondent's employer or the Community finance department or other Community departments or any other entity that has evidence of the parent's or legal guardian's income may be subpoenaed to provide the court with records of their income;

(15) If there is no reliable evidence of the respondent's income, income will be imputed according to the Community's child support guidelines and schedule;

(16) If the parent's or legal guardian's income is reduced as a matter of choice and not for reasonable cause, the court will attribute income up to the parent's earning capacity; and

(17) The parties may enter into an agreed child support order as allowed in this division within this Community Code of Ordinances.

(Code 2012, § 10-26; Ord. No. SRO-390-2012, § 10-26, 2-1-2012; Ord. No. SRO-402-2012, § 10-26, 5-30-2012)

Sec. 10-56. Hearings; noncontested orders; orders generally; default hearing; modification; enforcement.

(a) *Initial child support hearing.*

(1) The court shall set an initial child support hearing 30 days after the respondents have been served with the original petition and summons.

(2) The court shall:

a. Schedule an evidentiary hearing;

b. Resolve any discovery and disclosure disputes;

c. Issue any other orders the court deems appropriate.

(3) If the child support proceeding has been joined with an action other than a dependency action, the court may:

a. Enter temporary orders:

1. In accordance with the stipulations of the parties; or

2. If agreed to by the parties, based upon discussions, avowals, and arguments presented at the initial hearing.

b. Order evaluations, assessments, appraisals, appointments or other special procedures needed to properly manage the case and resolve the disputed issues.

(4) After the initial hearing is held, the court shall issue an order regarding the actions taken within two business days.

(5) The initial hearing and the evidentiary hearing may be combined, if all parties agree.

(b) *Evidentiary child support hearing rules.* The following rules shall apply to evidentiary child support hearings:

(1) The court shall review the contents of the petition and hear any additional evidence in order to establish the amount of the child support obligation by applying the Community's child support guidelines;

(2) The child support amount shall be based on the child support calculator.

(c) *Noncontested child support orders.* In lieu of a contested hearing under this division within this Community Code of Ordinances, the parties may enter into an agreement as to the child support obligation in accordance with this section.

(1) *Court review.* The court may approve an agreement for a deviation from the Community's child support guidelines, under the procedures established herein, should the court find by clear and convincing evidence that it is the best interest of the minor child.

(2) *Form.* A signed and notarized agreement shall be submitted to the court for approval and entry of an order. The agreed order shall have the same force as any other order issued by the court.

(3) *Court review.* The court shall hold a hearing to review the agreement and ensure that the parties understand the terms of the proposed order. If the court finds that the consent of either party was not truly voluntary, an order shall not be entered and the case shall proceed to a hearing.

(d) *Child support order generally.* The court-ordered child support amount shall be based on the child support calculator pursuant to the Community's child support guidelines. Payments under a child support order shall be made directly or by order of assignment to the custodial parent or other payee. The court shall issue a written order within five business days after the hearing.

(e) *Content.* A child support order shall include:

(1) The child support obligation of one or both parties, including:

a. The amount to be paid;

b. Who the child support will be paid to;

c. The amount to be paid to third parties for child care, health insurance, or extraordinary expenses, if any.

(2) The date the child support obligation begins. If the court order does not specify the date when current support begins, the support obligation begins to accrue on the first day of the month following the entry of the order;

(3) The frequency of child support payments such as per month or on quarterly basis;

(4) The duration and amount of any back child support, which the court ordered;

(5) A statement that each party shall notify the court of any change of employer or change of address within ten days of the change;

(6) A statement that the child support order is final for purposes of appeal; and

(7) A statement of when the child support will be presumed to terminate.

(f) *Child support by default.*

(1) When the respondent fails to appear or otherwise defend, upon the request of the petitioner, the court shall enter a default child support order. Prior to conducting an evidentiary hearing, the court shall make a finding as to the following:

a. That service of the petition and summons is complete and respondent has failed to appear at the initial or evidentiary hearing or to otherwise answer pursuant to the Community's rules of civil procedure set forth in article II of chapter 5;

b. If paternity was also at issue, a finding of paternity prior to entering a default order of child support pursuant to section 10-6.

(2) Prior to entering a default order of child support, the court shall conduct an evidentiary hearing to establish child support pursuant to subsection (b) of this section.

(g) *Modification of child support orders.* When there has been a substantial change in the income of the payor or other factors that determined the original support obligation, a party may request, by motion, modification of a child support order. Modification orders or termination orders are effective on the first day of the month following notice of the petition for modification or termination unless the court, for good cause shown, orders the change to become effective at a different date but not earlier than the date of filing the petition for modification or termination.

(h) *Motion for modification.* A motion for a modification of child support shall be accompanied by an affidavit setting forth the factual basis for the motion and the requested modification. The court shall serve the parties who may be affected by the modification with a copy of the motion and notice of the hearing.

(i) *Modification hearing.* Grounds for modification of a child support order include:

(1) A substantial increase or decrease in the gross income that was the basis of the current support order;

(2) A change in custody of a child;

(3) A change in Community's child support guidelines; or

(4) Other substantial change in circumstance that justifies a modification.

(j) *Financial information.* Both parties shall file updated financial information forms at least ten days before the modification hearing, unless the parties agree to the modified amount.

(k) *Motion to enforce child support order.* Any judgment, order or decree, whether arising from a dissolution, divorce, separation, annulment, custody determination, paternity determination or dependency proceeding or in any other proceeding regarding support that provides for child support may be enforced as a matter of right by attachment, garnishment or any other form of relief provided by law as an enforcement remedy for civil judgments. An affidavit regarding all payments in default under the support order, along with a copy of the underlying support order, shall be filed with the court along with the appropriate petition or motion. The court must serve the payor with a copy of the motion and notice of the hearing.

(l) *Enforcement hearing.* If the moving party proves by a preponderance of the evidence that the child support obligation is at least 30 days overdue in an amount equal to one month's child support obligation or that the party has a history of noncompliance, the court may order any of the remedies available, including, but not limited to:

(1) Wage withholding;

(2) Attachment of assets;

(3) Garnishment;

(4) Assignment of per capita or any other income derived from the Community; and

(5) Verification of income.

(m) *Additional hearings.* The court may order further hearings to monitor compliance with all child support orders.
(Code 2012, § 10-27; Ord. No. SRO-390-2012, § 10-27, 2-1-2012; Ord. No. SRO-402-2012, § 10-27, 5-30-2012)

Sec. 10-57. Order for support; methods of payment; statute of limitations; notice.

(a) The obligation for current child support shall be fully met before any payments under an order of assignment may be applied to the payment of arrearages. If a payor is obligated to pay support to more than one payee and the amount available is not sufficient to meet the total combined current support obligation, any monies shall be allocated to each payee as follows:

(1) The amount of current support ordered in each case shall be added to obtain the total support obligation.

(2) The ordered amount in each case shall be divided by the total support obligation to obtain a percentage of the total amount due.

(3) The amount available from the payor's income shall be multiplied by the percentage under subsection (a)(2) of this section to obtain the amount to be allocated to each payee.

(b) The right of a payee entitled to receive support as provided in the court order vests as each installment falls due. Each vested child support installment is enforceable as a final judgment by operation of law. A party entitled to receive support may also file a request for written judgment for support arrearages.

(c) If the payee or their agents make efforts to collect a child support debt more than ten years after the emancipation of the youngest child subject to the order, the payor may assert as a defense, and has the burden to prove, that the payee, Community or social services department unreasonably delayed in attempting to collect the child support debt. On a finding of unreasonable delay, the court may determine that some or all of the child support debt is no longer collectible after the date of the finding.
(Code 2012, § 10-28; Ord. No. SRO-390-2012, § 10-28, 2-1-2012; Ord. No. SRO-402-2012, § 10-28, 5-30-2012)

Sec. 10-58. Order of assignment; ex parte order of assignment; responsibilities; violation; termination.

(a) In a proceeding in which the court orders a person to pay support, the court may assign to the person or agency entitled to receive the support that portion of the person's income. The order may include per capita payments and/or income received from employment with any Community agency or any other employment outside the Community, necessary to pay the amount ordered by the court.

(b) If the court has issued a previous child support order and the payor has failed to pay their court-ordered child support, the payee may file a verified petition, pursuant to the Community's civil rules of procedure, requesting the court to issue an ex parte order of assignment. The petition for the ex parte order of assignment may include payment for current support or child support arrearages. The petition shall include the following:

(1) The name of the payee or agency entitled to receive support.

(2) The name and last known address of the payor, and the name of employer, if known.

(3) The monthly amount of any current support ordered by the court, and a certified copy of the order.

(4) The specific amount requested for any support arrearages.

(5) The name and address of the payor to whom it is requested the order of assignment be directed and the name of the person obligated to pay support.

(c) After receipt of a request for an ex parte order of assignment, the court, without a hearing or notice to the payor, shall issue an order of assignment. The order of assignment shall include the last four digits of social security number of the obligated payor. On issuance of an ex parte order of assignment, the court shall issue a notice directed to the payor including the following:

Notice

To: The Payor (the person ordered to pay support)

This is to notify you that part of your income or other monies had been judicially deducted from your (paycheck, per capita, lease payment) by the enclosed order of assignment that was issued on (date). The order of assignment has been issued for a child support order currently in place, based on the claim of (include name of payee), a requesting party, that you are obligated to pay this. If you believe the enclosed order of assignment is:

1) Improper or unlawful;
2) That your property is exempt by law; or
3) That your employer or SRPMIC Finance Department is withholding more than is permitted by law, you may request a hearing before the court.

You must file a request to terminate or adjust the order of assignment on forms provided by the court within Seven Days After Your Receipt of the Order For Assignment, request for an order of assignment and this notice. If you request a hearing, it will be held no more than ten days after you file your request with the court.

Here are some other important things you should know:

1) The order of assignment is effective immediately on service of the order to your employer or SRPMIC Finance Department.
2) The employer or SRPMIC Finance Department served shall not withhold or deduct amounts specified in the ex parte order of assignment for 14 calendar days from the date of service to allow you, the payor, an opportunity to contest the order of assignment as provided in this section.
3) A future employer or SRPMIC Finance Department may begin deductions sooner than the 14-day period after the order of assignment is received.

4) No more than one-half of your disposable earnings for any pay period may be taken to satisfy an order issued. The amount of disposable earnings exempt from the order of assignment must be paid to you when due.

5) Disposable income means the remaining portion of your wages, salary or compensation for personal services, including bonuses and commissions, or otherwise, and includes payments pursuant to a pension or retirement program or a deferred compensation plan, after deducting from such earnings the amounts required by law to be withheld.

Any employer or SRPMIC Finance Department when it receives the order of assignment will deduct $2.25 for handling fees. The employer or SRPMIC Finance Department, on whom the order of assignment, is served will continue to withhold the amount set in the order and will forward the payment to the payee until you file with the court. The petition shall be based on one of the following:

1) The court adjusts the order of assignment because there has been a change of circumstances since the time of the issuance of the order, or there is other good cause to do so.

2) The court terminates the order of assignment if all obligations have been satisfied, or will be satisfied within 90 days.

3) A notarized stipulation stating that the obligation to pay support has ended and that all arrearages either have been satisfied or have been waived, and the court terminates the order of assignment.

An employer may not refuse to hire, may not discharge or may not otherwise discipline you as a result of the order of assignment. Unless a court has expressly ordered otherwise, you must notify the court in writing of the address of your residence and of your employment and, within ten days, of a change in either one. Your failure to do so may subject you to sanctions for contempt of court. Official notices will be delivered to you at the most recent addresses you have provided to the court.

(d) Any order of assignment shall be issued only for child support and child support arrearages. The order of assignment shall state the total amount that the employer or Community finance department shall withhold. The order of assignment also shall specify the monthly amount of current support and any other payment ordered for child support and child support arrears. If the payor's disposable earnings from the primary employer or other income source does not meet the support obligation, the court shall issue an order of assignment to a secondary employer or other income source of the payor in order to meet the full support obligation. If the payor's disposable earnings from the primary employer or other income source does not meet the support obligation, the payor is still obligated to pay the ordered amount until the payor obtains a modification, if applicable.

(e) An order of assignment shall be served on any employer or Community finance department by first class mail return receipt requested, elec-

tronic transmission or personal delivery or pursuant to the Community's rules of civil procedure set forth in article II of chapter 5.

(f) Any employer or Community finance department who has received any order of assignment shall withhold the amount specified in the order of assignment, together with the handling fee in the amount of $2.25 from the income of the person obligated to pay support. Any employer or Community finance department shall transmit the withheld monies to the support clearinghouse, if a support clearinghouse is available and being utilized by the Community, or the withheld monies shall be collected and disbursed to the appropriate party by Community finance department. The handling fee shall be deducted monthly and disbursed to the Community's general fund. An employer or Community finance department may combine in a single payment withheld monies for more than one payee, provided, when doing so, the employer or Community finance department separately identifies the portion of the remittance that is attributable to each payor and shall include the last four digits of each payor's social security number. An employer or Community finance department shall notify the court in writing when the payor is no longer employed or the right to receive income or other monies has been terminated. If within 90 days of the last payment, the employer or Community finance department reemploys the payor or becomes obligated to pay the payor, the employer or Community finance department is again bound by the order of assignment and is required to perform as required by this section.

(g) After service of an ex parte order of assignment on the payor, the payor may request a hearing to dispute the ex parte order of assignment. The request filed with the court shall be made in writing, and the payor shall state under oath the specific grounds for the request. The court shall hold a hearing within ten days after the request is filed. The court shall serve a copy of the request for and notice of hearing on the person entitled to receive support/payee. If the payor files a request for hearing within seven days after receipt of the order of assignment, the court may order Community finance department not to disburse any monies received pursuant to the order of assignment until further order of the court. The payor may dispute the withholding only for one or more of the following grounds:

(1) There is an error in the identity of the payor.

(2) There is an error in the amount of support.

(3) There is a finding of invalidity of the order for support.

(4) Current support is no longer owed, if the order of assignment includes a payment for current support.

(5) Arrearages are not owed and the order of assignment mistakenly includes a payment for arrearages.

(h) If the payor's disposable earnings from the primary employer or other income source does not meet the support obligation, the payor is still obligated to pay the ordered amount until the payor obtains a modification, if applicable.

(i) If a payor is obligated to pay child support for more than one payee and the amount available for withholding is not sufficient to meet the total combined current child support obligation, any monies withheld from the payor's income shall be allocated to each payee as follows:

(1) The amount of current child support ordered in each case shall be added together to obtain the total current child support obligation.

(2) The amount of current child support ordered in each case shall be divided by the total current child support obligation to obtain the percentage of the total current child support obligation to be allocated to each case.

(3) The amount withheld from the payor shall be multiplied by the percentage for each case to obtain the amount to be allocated to each case.

(j) The person entitled to receive support, the payee, shall notify Community finance department in writing of any change of residential address within ten days of any change.

(k) Any order of assignment may be adjusted if there has been a change of circumstances since the date the order of assignment was issued or for good cause.

(l) Any Community legal agencies or a person obligated to pay or entitled to receive support may file a request to terminate any order of assignment if the obligation to pay support has ended or will end within 90 days after the filing of the request and if all arrearages either have been paid or will be paid within the period or have been waived. The request shall state the reason why termination is requested. A copy of the request shall be served pursuant to the Community's rules of civil procedure set forth in article II of chapter 5 on all other parties. A party receiving this notice may request a hearing within 20 days or within 30 days if service is made outside this state. On proof of service and if a hearing has not been requested within the time allowed, the court shall issue an order terminating the order of assignment as appropriate. Within two business days after the date the order is issued, the court shall transmit a copy of the order terminating the order of assignment to the employer or Community finance department. If a hearing is requested, the court shall set the hearing within 20 days after receiving the request and shall issue an appropriate order. A person who is ordered to pay support may request the court to terminate an order of assignment at any time if an employer is making deductions on multiple assignments for an obligation for the same minor children. Notwithstanding any law to the contrary, the court shall not charge a fee to a person who files a request to terminate an order of assignment if an employer is making deductions on multiple assignments for an obligation for the same minor children.

(m) If a request to adjust or terminate an order of assignment is filed, the court in its discretion may order that the Community finance department not disburse any monies in dispute until further order of the court.

(n) The court shall issue an order terminating the order of assignment if the parties, file a notarized stipulation with the court that all obligations of support have been satisfied and that the payor is no longer obligated to pay support. The stipulation shall state that the current obligation of support no longer exists and that all arrearages either have been satisfied or waived. Within five business days after the date the stipulation is filed, the court shall transmit a copy of the order terminating the order of assignment to the employer or Community finance department and parties.

(Code 2012, § 10-29; Ord. No. SRO-390-2012, § 10-29, 2-1-2012; Ord. No. SRO-402-2012, § 10-29, 5-30-2012)

Sec. 10-59. Termination; determination of controlling order; sovereign immunity.

(a) On petition of a person who has been ordered to pay child support pursuant to a presumption of paternity established pursuant to section 10-5, the court may order the child support to terminate if the court finds a showing of good cause or disestablishment of paternity. Except for good cause shown, the petitioner's child support obligations continue in effect until the court has ruled in favor of the petitioner. The court shall order the petitioner, each child who is the subject of the petition and the child's mother to submit to genetic testing and shall order the appropriate testing procedures pursuant to section 10-7. If the court finds that the petitioner is not the child's biological father, the court shall vacate the determination of paternity and terminate the support obligation. Unless otherwise ordered by the court, an order vacating a support obligation is prospective and does not alter the petitioner's obligation to pay child support arrearages or any other amount previously ordered by the court.

(b) If the payee of a child support order marries the payor of the child support order, that order automatically terminates on the last day of the month in which the marriage takes place and arrearages do not accrue after that date. However, the payee may collect child support arrearages that accrued before that date.

(c) If a proceeding is brought under this division within this Community Code of Ordinances and another tribunal has previously issued a child support order, the previously issued order of that tribunal controls and must be recognized.

(d) If a proceeding is brought under this division within this Community Code of Ordinances, and two or more child support orders have been issued by the court or in the state or another state or another tribe with regard to the same payor and same child, the court having personal jurisdiction over both the payor and individual payee shall apply the following rules and by order shall determine which order controls:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction, the order of that tribunal controls and must be recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction:

a. An order issued by a tribunal where the child has resided for the last six months controls;

b. If an order has not been issued where the child has resided for the last six months, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction, the court can issue a child support order.

(e) Sovereign immunity. Nothing in this division within this Community Code of Ordinances shall be construed as a waiver of sovereign immunity of the Community.
(Code 2012, § 10-30; Ord. No. SRO-390-2012, § 10-30, 2-1-2012; Ord. No. SRO-402-2012, § 10-30, 5-30-2012)

Secs. 10-60—10-76. Reserved.

ARTICLE III. ADOPTION

Sec. 10-77. Adoption of a minor.

Any minor child may be adopted by an adult person, in the cases and subject to the rules prescribed in this article.
(Code 1976, § 3.9; Code 1981, § 10-31; Code 2012, § 10-31; Ord. No. SRO-402-2012, § 10-31, 5-30-2012)

Sec. 10-78. Age of person adopting.

The person adopting the child must be at least ten years older than the child adopted.
(Code 1976, § 3.10; Code 1981, § 10-32; Code 2012, § 10-32; Ord. No. SRO-402-2012, § 10-32, 5-30-2012)

Sec. 10-79. Consent of spouse.

A married person not lawfully separated from his or her spouse cannot adopt a child without the consent of the spouse, provided that the spouse not consenting is capable of giving such consent.
(Code 1976, § 3.11; Code 1981, § 10-33; Code 2012, § 10-33; Ord. No. SRO-402-2012, § 10-33, 5-30-2012)

Sec. 10-80. Consent to adoption by natural parents and by child over 12 years.

(a) *Parents/guardian.* No adoption shall be granted unless consent to adopt has been obtained and filed with the court from the following:

(1) From both natural parents, if living, except in the following cases:

a. Consent is not necessary from a parent who has been declared incompetent;

b. Consent is not necessary from a parent whose parental rights have been judicially terminated;

c. Consent is not necessary from a parent who has previously consented that the child be placed for adoption;

d. Consent is not necessary from a father who is not married to the mother of the child both at the time of its conception and at the time of its birth, unless the father under oath has acknowledged in a document filed with the court at or prior to the time the petition for adoption is filed, or unless the parentage of the father has been previously established by judicial proceeding.

(2) From any guardian of the person of the child appointed by a court and given authority by it to consent to the child's adoption.

(3) From an agency which has been given consent to place the child for adoption by the parent or parents whose consent would be necessary under subsection (a)(1) of this section, or which has been given authority in other legal proceedings to place the child for adoption.

(b) *Child of 12 years.* Where the child is 12 years of age or older, the adoption shall not be granted without his or her consent. Such consent shall be given in open court or shall be in conformity with this section or in such other form as the court may direct.

(c) *Waiver of consent.* Notwithstanding the provisions of section 10-82, the court may waive the requirement of the consent of any person required to give consent when, after a hearing on actual notice to all persons adversely affected, the court determines that the interest of the child will be promoted thereby. In such case, the court shall make written findings of all facts upon which its order is founded.

(d) *Minority no bar to competence.* The minority of the child or parent shall not affect his or her competency to give consent in the instances set forth in this section.
(Code 1976, § 3.12; Code 1981, § 10-34; Code 2012, § 10-34; Ord. No. SRO-402-2012, § 10-34, 5-30-2012)

Sec. 10-81. Form and content of consent to adoption.

(a) *Written; witnessed.* All consents to adoption shall be in writing and signed by the person giving the consent and witnessed by two or more credible witnesses who are at least 18 years of age and who subscribed their names in the presence of the person giving the consent or shall be duly acknowledged before an officer authorized to take acknowledgments by the person giving consent.

(b) *Time limit.* A consent given before 72 hours after the birth of the child is invalid.

(c) *Dated; identified.* The consent shall be dated and shall sufficiently identify the party giving the consent and the child to whose adoption the consent is given.

(d) *Designation of placement agency, adoptive parent.* The consent shall designate either of the following:

(1) The particular person or persons authorized by the party giving the consent to place the child for adoption;

(2) The particular person or persons authorized to adopt the child by the person giving the consent.

(e) *True names to be used; exceptions.* The true names of the adopting person or persons shall be used except that fictitious names may be used if the person or persons are considered by the court to be acceptable to adopt the child, the consenting party knows that the names used are fictitious and does not wish to know the true names and the consenting party has been furnished with all information which the consenting party wished to know about the adopting person or persons.

(f) *Invalidity of certain consent.* A consent, other than to any agency, which does not designate a particular person or persons, or which purports to permit a third person to locate or nominate an adoptive parent, is invalid.
(Code 1976, § 3.15; Code 1981, § 10-35; Code 2012, § 10-35; Ord. No. SRO-402-2012, § 10-35, 5-30-2012)

Sec. 10-82. Termination of parental rights.

Any person or agency that has a legitimate interest in the welfare of a child, including but not limited to a relative, foster parents, physician or a private license child welfare agency, may file a petition for the termination of the parent-child relationship if one or more of the following grounds exist:

(1) The parent has abandoned the child or the parent has made no effort to maintain a parental relationship with the child. It shall be presumed the parent intends to abandon the child if a child has been left without any provision for his or her support and without any communication from

such parent for a period of six months or longer. If, in the opinion of the court, the evidence indicates that such parent has made only token efforts to support or communicate with the child, the courts may declare the child abandoned by such parent.

(2) The parent has neglected or willfully abused the child.

(3) The parent is unable to discharge the parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that the condition will continue for a prolonged, indeterminate period of time.

(4) The parent is deprived of his or her civil liberties due to the conviction of a felony if the felony of which such parent was convicted is of such nature as to prove the unfitness of such parent to have future custody and control of the child, or if the sentence of such parent is of such length that the child would be deprived of a normal home for a period of years.

(5) The parents have relinquished their rights to the child to an agency or have consented to the adoption.

(Code 1976, § 3.13; Code 1981, § 10-36; Code 2012, § 10-36; Ord. No. SRO-402-2012, § 10-36, 5-30-2012)

Sec. 10-83. Hearing to be by juvenile court; ruling on grounds for termination.

(a) Adoption cases shall be heard by the juvenile court. The general public shall be excluded and only such persons shall be admitted whose presence the judge finds to have a direct interest in the case or the work of the court, provided that such person so admitted shall not disclose any information secured at the hearing. The court may require the presence of any parties and witnesses it deems necessary to the disposition of the petition, except that a parent who has executed a waiver of his or her presence at said hearing or who has relinquished his or her rights to the child shall not be required to appear at the hearing.

(b) The court's findings with respect to grounds for termination shall be based upon a preponderance of the evidence under the rules applicable and adhering to the trial of civil cases. The court may consider any and all reports submitted or ordered by the court for the assistance in making a determination.

(Code 1976, § 3.14; Code 1981, § 10-37; Code 2012, § 10-37; Ord. No. SRO-402-2012, § 10-37, 5-30-2012)

Sec. 10-84. Hearing, order and rights under adoption order.

(a) Petitions filed under this article shall be heard by the court and such hearings shall be as informal as the requirements of due process and fairness permit. The person petitioning for adoption, the spouse of a petitioner and the child to be adopted shall attend unless the court orders otherwise. Only such other persons shall be admitted as the court shall find to have a direct interest in the case before the court. Any such person so admitted shall not disclose any information secured at the hearing. The court may require the presence of such other witnesses as it deems necessary.

(b) The court's finding shall be based upon a preponderance of the evidence. The court may consider any and all reports which it may order or which may be submitted to the court.

(c) If, after the hearing and consideration of all the evidence, the court is satisfied that the requirements of this article have been met and that the adoption is in the best interest of the child, the court shall make an order granting the adoption. The order may change the name of the child to that of the petitioner. The order of the court shall be in writing and shall recite the findings of fact upon which such order is based, including findings pertaining to the court's jurisdiction. Such order shall be conclusive and binding on all persons from the date of entry subject to appeal as is provided for by this Community Code of Ordinances.

(d) Upon entry of the decree of adoption, the relationship of parent(s) and child and all the legal rights, privileges, duties, obligations and other legal consequences of the natural relation-

ship of child and parent(s) shall thereafter exist between the adopted child and the adoptive parent(s), the same as though the child were born to the adoptive parent(s), including the right to inherit property not disposed of by a will, subject to Community inheritance laws.

(e) Upon entry of the decree of adoption, the parent-child relationship between the adopted child and the persons who were his or her parents just prior to the decree of adoption shall be completely severed and all the legal rights, privileges, duties, obligations and other legal consequences of the relationship shall cease to exist, including the right to inherit property not disposed of by a will; except, that in the event the adoption is by the spouse of the child's parent, the relationship between that child and that parent shall remain unchanged by the decree of adoption.

(f) Upon the entry of a decree of adoption whereby a child who is an enrolled member of the Community is adopted by parent(s) not members of the Community, the Community court shall send a copy of such decree to the Community enrollment office. Upon receipt of such adoption notice, the Community membership office will note the fact of adoption by nonmember parents in the records. The adopted child's membership shall not be affected by the decree of adoption.
(Code 1976, § 3.16; Code 1981, § 10-38; Code 2012, § 10-38; Ord. No. SRO-196-95, § 1, 5-3-1995; Ord. No. SRO-402-2012, § 10-38, 5-30-2012)

Sec. 10-85. Adoption of illegitimate child by father.

The father of an illegitimate child by publicly acknowledging it as his own, receiving it as such, with the consent of his wife if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such, and such child thereupon shall be deemed for all purposes legitimate from the time of the child's birth. The foregoing provisions of this article do not apply to such adoption.
(Code 1976, § 3.18; Code 1981, § 10-39; Code 2012, § 10-39; Ord. No. SRO-402-2012, § 10-39, 5-30-2012)

Secs. 10-86—10-96. Reserved.

ARTICLE IV. GUARDIANSHIP

DIVISION 1. GENERALLY

Secs. 10-97—10-113. Reserved.

DIVISION 2. GUARDIANSHIP FOR MINORS

Sec. 10-114. Definitions.

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

Abuse registry means any registry maintained in any jurisdiction that contains information based on substantiated reports of abused, neglected or exploited vulnerable adult or minor child.

Child means a person who is less than 18 years old who has not been emancipated by order of a court of competent jurisdiction or by legal marriage.

Conservator means the office of the public fiduciary, a person or a financial institution appointed by the Community court to manage real property and/or financial assets of a minor.

Court means the Community court of the Salt River Pima-Maricopa Indian Reservation.

Estate shall have the same meaning as the term "property."

Guardian means a person appointed to take care of a person or the person's property.

Guardian's acknowledgment is a form which the appointed guardian acknowledges the terms of the legal guardianship and the guardian agrees to assume responsibilities in accordance to the applicable terms.

Guardianship of a minor means a legal relationship created by the court when an individual, who is not the minor child's parent, is ordered by the court to assume the responsibilities of care and control of a minor child. A guardianship of a minor takes away the parents' right to make

decisions about their child's life and/or child's estate, if applicable, unless the parent has joint guardianship with another person.

Guardianship of property shall have the same meaning as conservator.

Incapacitated means an impairment by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication or other cause to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person.

Party means the parent, guardian, child, Community to whom certain rights accrue, including, but not limited to, with certain restrictions and limitations:

(1) The right to be notified of proceedings;

(2) To retain counsel;

(3) To appear and present evidence;

(4) To call, examine and cross examine witnesses;

(5) The unlimited or restricted right to discovery and the inspection of records; and

(6) The right to request a hearing or appeal a final order.

Permanent guardianship means a legal relationship created by the court when an individual, who is not the minor child's parent, is ordered by the court to assume the responsibilities of care and control of a minor child. A guardianship of a minor takes away the parents' right to make decisions about their child's life and/or child's estate, if applicable, unless the parent has joint guardianship with another person. There shall be a presumption of continued permanent guardianship in order to provide stability of the child. Permanent guardianship shall only be terminated based upon the unsuitability of the permanent guardians rather than the competency or suitability of the parents. The court may appoint a permanent guardian pursuant to chapter 11.

Property means something of value that is owned.

Public fiduciary means the appointment by the Community court of the office of the public fiduciary-conservator division to act in the capacity of conservator for a minor.

Temporary guardianship means a person who is appointed on a temporary basis for a specific period not to exceed six months, if the child has no guardian and an emergency exists.

(Code 1976, § 3.30; Code 1981, § 10-51; Code 2012, § 10-51; Ord. No. SRO-383-2011, § 10-51, 8-10-2011; Ord. No. SRO-402-2012, § 10-51, 5-30-2012; Ord. No. SRO-445-2014, § 10-114, 7-2-2014)

Sec. 10-115. Types of guardianship.

The types of guardianship shall include the following:

(1) Guardianship of property;

(2) Permanent guardianship;

(3) Guardianship of a minor; and

(4) Temporary guardianship.

(Code 1976, § 3.19; Code 1981, § 10-52; Code 2012, § 10-52; Ord. No. SRO-383-2011, § 10-52, 8-10-2011; Ord. No. SRO-402-2012, § 10-52, 5-30-2012)

Sec. 10-116. Petition for guardianship.

(a) *Generally.*

(1) Confidentiality. The records filed under this article shall be confidential and section 11-28 applies to this article.

(2) Any guardianship action under this article shall be governed by the Community's rules of civil procedure set forth in article II of chapter 5 unless otherwise provided.

(3) Any party may use documents other than those provided pursuant to this section if the documents are substantially similar pursuant to this section.

(b) *Who may file a petition.*

(1) Any person petitioning for legal guardianship must be at least 21 years of age, of good moral character and demonstrates the ability to properly care for the minor child. If the minor child is a sibling of the individual petitioning for legal guardianship, the person must be at least 18 years

of age, of good moral character and demonstrate the ability to properly care for the minor child;

(2) Office of the prosecutor or office of the general counsel with an interest in establishing guardianship for a minor child if it is in the minor child's best interests; or

(3) The court appointed guardian ad litem with an interest in establishing guardianship for a minor child if it is in the minor child's best interests.

(c) *Contents of the petition.*

(1) A petition for legal guardianship shall be verified under oath by potential guardian(s) and shall contain the following information:

a. The names, dates of birth, addresses and whether such addresses are within the exterior boundary of the Community, and tribal affiliations, if any, of the natural mother, all potential father(s), the child, all others who have legal rights of custody, visitation, or support of the child, and of the potential guardian(s). If any of the information is unknown, the petition should state the information is unknown;

b. The names of the persons with whom the child has lived, the residences at which the child has lived, for the previous year, and the length of time the child has lived with each person and at each residence;

c. Potential guardian(s)' occupation, relationship to the child and the basis for the petitioner's request;

d. Basis of the court's jurisdiction pursuant to section 10-3(a);

e. The name and address of the person or agency having legal or temporary custody of the child;

f. The type of guardianship requested;

g. A full description and statement of the value of all property owned, possessed or in which the child has an interest, if guardian of property is requested;

h. A copy of the child's birth certificate shall be attached to the petition or provided to the court at least five days before the first hearing;

i. Verification that they will submit to the criminal background check and a home study; and

j. Whether the minor child is or was a ward of the court.

(2) Every proposed appointee shall provide to the court, under oath, the following information and shall be included in the petition:

a. Whether or not the proposed appointee has been convicted of a felony in any jurisdiction and, if so:

1. The nature of the offense;

2. The name and address of the sentencing court;

3. The case number;

4. The date of conviction;

5. The terms of the sentence;

6. The name and telephone number of any current probation or parole officer; and

7. The reasons why the conviction should not disqualify the proposed appointee;

b. Whether or not the proposed appointee has acted as guardian or conservator for another person within three years of the petition and, if so, the number of individuals for whom the proposed appointee is currently serving and the number of individuals for whom the proposed appointee's appointment has been terminated within the three-year period;

c. Whether or not the proposed appointee has a working knowledge of the powers and duties imposed on a guardian or a conservator;

d. Whether or not the proposed appointee has acted within three years of the petition in a fiduciary capacity pursuant to a power of attorney and, if so, the number of persons for whom the appointee has so acted. If the proposed appointee has ever acted in such capacity for the proposed child or a protected person, the proposed appointee shall specify the date of execution of such power of attorney, the place where the power of attorney was executed, the actions taken by the proposed appointee pursuant to such power of attorney and whether or not such power of attorney is currently in effect;

e. Whether or not, to the best of the proposed appointee's knowledge, the proposed appointee is listed in any (child or elder) abuse registry as having committed abuse, neglect, or financial exploitation of any person;

f. Whether or not, to the best of the proposed appointee's knowledge, the proposed appointee is listed in any sex offender registry;

g. Whether or not, the proposed appointee has failed to file any report of guardian or conservatorship accounting following receipt of notice of delinquency;

h. Whether or not the proposed appointee has ever been removed as a guardian or conservator and, if so, for whom and under what circumstances;

i. The nature of the proposed appointee's relationship to the proposed child, and how the proposed appointee met the proposed child;

j. The proposed appointee shall identify and disclose any relationships, positions, interests, or circumstances in which the proposed appointee is involved that he or she believes could be in conflict with or adverse to the best interests of the proposed child; and

k. A signed guardian's acknowledgment.

(Code 1976, § 3.22; Code 1981, § 10-53; Code 2012, § 10-53; Ord. No. SRO-383-2011, § 10-53, 8-10-2011; Ord. No. SRO-402-2012, § 10-53, 5-30-2012; Ord. No. SRO-406-2012, § 10-53, 8-8-2012)

Sec. 10-117. Service of the petition for guardianship; notice of hearing.

(a) *Service of petition for guardianship.* The service of the petition for guardianship and notice of hearing shall be completed as follows:

(1) The court shall serve the petition of guardianship and shall issue notice of the hearing for guardianship at least 20 calendar days before the hearing is scheduled to take place. The notice shall include:

a. The date, time, and place of the hearing and a copy of the petition for guardianship; and

b. A statement to the effect that the rights of the parent or parents may be affected, that certain persons are proposed to be appointed as legal guardians in the proceedings, and that if the parent or parents fail to appear at the time and place specified in the summons, the court may appoint those persons as legal guardians and take any other action that is authorized by law.

(2) Service of the petition for guardianship and notice shall be personally served on:

a. The petitioner and potential guardian(s), if different;

b. The child who is the subject of the petition if the minor child is 14 years of age or older; and

c. The child's parents or current guardian, if their parental rights have not been terminated.

(3) Notice shall be served via first class and certified mail, return receipt requested on:

a. Any person interested in any cause under this article, such as any relative, that the parties, the Community prosecutor, the guardian ad litem or the court deem necessary for proper adjudication; and

b. The person, excluding shelter care persons, who has had the principal care and custody of the minor during the 60 days preceding the date of the petition.

(4) If any party who is required to be personally served is outside the Community's service area, service shall be by certified mail, return receipt requested, or by any other means reasonably designed to give notice pursuant to the Community's rules of civil procedure set forth in article II of chapter 5. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective. If notice is done by publication, publication must be done in the county that the respondent last resided in and in the Community.

(5) Proof of service may be made in the manner prescribed by the Community.

(b) *Notice to respondent(s).* Notice is not required if the person submits to the jurisdiction of the court.

(1) A person submits to the jurisdiction of the court by filing a responsive pleading; or

(2) A person appears at any hearing.

(c) *Service of subsequent documents.*

(1) If service of the original petition and notice of hearing was effectuated, as described in subsection (a) of this section, every subsequent document shall be served upon by first class mail.

(2) If a respondent files a responsive pleading or appears at any hearing, every subsequent document shall be served by first class mail.

(3) The parties shall inform the court of their mailing address and update their address within ten days of any change of address. A party's failure to update the court of a change of mailing address is not a defense for the individual's lack of a notice of any court action.

(Code 1976, § 3.31; Code 1981, § 10-54; Code 2012, § 10-54; Ord. No. SRO-383-2011, § 10-54, 8-10-2011; Ord. No. SRO-402-2012, § 10-54, 5-30-2012; Ord. No. SRO-406-2012, § 10-54, 8-8-2012)

Sec. 10-118. Guardianship report and background study.

In order to determine the applicant's suitability as a guardian:

(1) The prospective guardian(s) shall provide the completed criminal background report, which shall be based on fingerprints of the applicant and all adults residing in the applicant home for at least six months or more; and a home study report for appointment of guardians of minors. A home study shall not be required for the appointment of guardianship of property. The public fiduciary is not subject to these requirements but shall update their criminal background with the Community subject to human resources' policies pursuant to their employment with the Community. Social services division shall be available to assist prospective guardian(s) in obtaining criminal background report(s) and home study as requested. The applicant shall bear the cost, if any, of obtaining the criminal background information. The cost shall not exceed the actual cost of obtaining the applicant's criminal background information.

(2) Each prospective guardian shall submit a full set of fingerprints, pursuant to subsection (1) of this section, to the department of social services or any public safety department for the Community for the purpose of obtaining a state and federal criminal records check. These fingerprints shall then be submitted to the state department of public safety which may exchange the fingerprint data with the

Federal Bureau of Investigation pursuant to A.R.S. § 41-1750 and Public Law 92-544.

(3) The applicant shall not be eligible to serve as guardian of the minor child, or the child's estate, or both, if the applicant has any criminal conviction in any state or federal jurisdiction or the Community for:

a. Child abuse or neglect;

b. Homicide;

c. Kidnapping;

d. Any felony involving the use of a weapon;

e. Any registrable sexual offense as indicated in chapter 6.5.

(4) Criminal convictions other than those listed pursuant to subsection (3) of this section may also be considered by the court when determining appropriateness of the applicant.

(5) The court shall require a home study report be provided by the social services department or a licensed child welfare services agency that has satisfied the standards of the Community social services department, provided that the agency is able to produce a report as required by this section. The report shall address the suitability and character of the legal guardian, including, but not limited to, the financial, physical, the criminal background, as described in subsection (3) of this section, and general background of the legal guardian and their home. The report shall include a summary of the criminal background report and reflect contact with all appropriate agencies and individuals who have relevant knowledge and information. The report shall contain recommendations regarding the legal guardianship, and whether social services department or a licensed child welfare services agency believes that such legal guardianship will be in the best interest of the child.

(Code 1976, § 3.23; Code 1981, § 10-55; Code 2012, § 10-55; Ord. No. SRO-383-2011, § 10-55, 8-10-2011; Ord. No. SRO-402-2012, § 10-55, 5-30-2012; Ord. No. SRO-406-2012, § 10-55, 8-8-2012)

Sec. 10-119. Guardianship hearing.

(a) *Purpose/time limit.* A hearing shall be commenced within 90 calendar days of filing of a petition for legal guardianship to determine if it is in the child's best interests to be appointed a legal guardian.

(b) *Attendance of guardian required.* The court shall not grant a guardianship, if the prospective guardian(s) is/are not present at the evidentiary hearing.

(c) *Judicial inquiry.* The court shall inquire of all persons appearing as to whether the best interests of the minor child will be promoted by the legal guardianship and if parent(s) agree(s) to the guardianship.

(1) Should either parent dispute the guardianship action, the court shall not continue with the guardianship proceedings until the matter is investigated by child protective services, if applicable, and the guardian ad litem.

(2) Should there be allegations of child neglect or abuse, the court shall refer the matter to child protective services pursuant to section 11-156.

(3) Should either parent dispute the guardianship action, the court shall appoint a guardian ad litem to investigate what is the best interest of the minor child and to make recommendations to the court regarding the pending guardianship proceeding.

(4) Should either parent fail to appear in court absent good cause showing and they were properly noticed, the court shall consider their failure to appear as consent.

(5) Should prospective guardian(s) wish to pursue further action, but where the parents do not consent and the guardian ad litem does not recommend the guardianship action, prospective guardian(s) may proceed with termination of parental rights and adoption proceeding.

(d) *General public exclusion from proceedings.* The general public shall be excluded from the proceedings under this section. Only the parties

and their counsel may attend the hearing unless the parties consent to interested person's attendance. Any witnesses may attend the hearing but are not to remain in the courtroom until they are called to testify. After the witness has testified, they may be excluded and/or excused from the courtroom proceeding unless the parties have no objections to their presence in the courtroom.

(e) *Emergency temporary guardianship.*

(1) A court, prior to evidentiary guardianship hearings, may appoint an emergency temporary guardian for the person or property, or both, of the minor child. The court must specifically find that there appears to be imminent danger that the physical or mental health or safety of the minor child will be seriously impaired or that the minor child's property is in danger of being wasted, misappropriated, or lost unless immediate action is taken. The powers and duties of the emergency temporary guardian must be specifically enumerated by court order.

(2) The prospective guardian(s) shall also petition for appointment of guardianship at the time of filing for an emergency temporary guardianship if the prospective guardian(s) is requesting that the guardianship last longer than the temporary grant of six months.

(3) The authority of an emergency temporary guardian expires 90 days after the date of appointment or when a guardian is appointed, whichever occurs first. The authority of the emergency temporary guardian may be extended for an additional 90 days upon a showing that the emergency conditions still exists, not to exceed six months.

(4) The court may issue an injunction, restraining order, or other appropriate writ to protect the physical or mental health or safety of the minor child who is the ward of the emergency temporary guardianship.

(5) The emergency temporary guardian shall take an oath to faithfully perform the duties of a guardian, outlined in the guardian's acknowledgment that was signed and filed with the court.

(6) An emergency temporary guardian's authority and responsibility begins upon issuance of the court's order.

(7) An emergency temporary guardian shall file a final report no later than 30 days after the expiration of the emergency temporary guardianship.

a. If an emergency temporary guardian is a guardian for the property, the final report must consist of a verified inventory of the property as of the date the letters of emergency temporary guardianship were issued, a final accounting that gives a full and correct account of the receipts and disbursements of all the property of the minor child over which the guardian had control, and a statement of the property of the minor child on hand at the end of the emergency temporary guardianship.

b. If the emergency temporary guardian becomes the successor guardian of the property, the final report must satisfy any additional requirements pursuant to the court's order.

c. If the emergency temporary guardian is a guardian of the minor child, the final report must summarize the activities of the temporary guardian with regard to residential placement, medical condition, mental health and rehabilitative services, and the social condition of the minor child to the extent of the authority granted to the temporary guardian in the letters of guardianship. If the emergency temporary guardian becomes the successor guardian of the person, the final report must satisfy any additional requirements pursuant to the court's order.

d. A copy of the final report of the emergency temporary guardianship shall be served on the successor guardian and the minor child.

(f) *Initial guardianship hearing.*

(1) At the initial guardianship hearing, the court shall:

a. Schedule an evidentiary hearing;

b. Determine whether fingerprints have been submitted;

c. Verify a home study and any applicable criminal background will be completed prior to the evidentiary hearing;

d. Determine whether the child will be required to testify or be present at the evidentiary hearing;

e. Resolve any discovery and disclosure disputes; and

f. Issue any other orders the court deems appropriate.

(2) If the guardianship proceeding has been joined with an action other than a dependency action, the court may:

a. Enter temporary orders in accordance with the stipulations of the parties, or if agreed to by the parties, based upon discussions, avowals, and arguments presented at the initial hearing; and

b. Order evaluations, assessments, appraisals, appointments or other special procedures needed to properly manage the case and resolve the disputed issues.

(3) After the initial hearing is held, the court shall issue an order within two business days regarding the actions that were taken and the court's orders.

(g) *Evidentiary guardianship hearing rules.* The following rules shall apply to evidentiary guardianship hearings:

(1) The court shall review the contents of the petition and hear any additional evidence in order determine whether there is clear and convincing evidence that the guardianship is in the best interests of the child and that the prospective guardian(s) will meet the child's needs; and

(2) The prospective guardian(s) shall take an oath to faithfully perform the duties of a guardian, outlined in the guardian's acknowledgment that was signed and filed with the court. The court shall make a recitation of the guardian's duties and require the guardian to acknowledge the acceptance of each duty during the evidentiary hearing.

(h) *Determination by the court.* The court shall issue an order within five business days after the hearing, with its written findings, conclusions of law, and the type of guardianship as described in section 10-115 that the court is ordering.

(i) *Final order.* An order establishing legal guardianship shall be a considered a final order for the purposes of appeal.

(1) The court may impose restrictions or conditions on the appointment of a guardian or conservator, or of a category of guardian or conservator, that it finds necessary to provide for the appropriate care and supervision of the child or the child's property.

(2) In the interest of fostering independence and self-reliance of the child or for other good cause, the court, at the time of appointment or later, on appropriate petition or motion of the minor or other interested person may create a limited guardianship by limiting the powers of a guardian otherwise granted by this section.

(3) The court shall send a copy of the appointment of conservator to the office of the public fiduciary if the court has appointed this office to be conservator of a minor child's real property and/or financial assets.

(4) The parent(s) and the child's extended family shall be granted liberal visitation rights unless deemed inappropriate by the court.

(j) *Guardianship by default.*

(1) When the responding party, who may be the parent, legal custodian or legal guardian, fails to appear or otherwise defend, upon the request of the potential guardian(s), the court shall enter a default guardianship order. Prior to the evidentiary hearing, the court shall make a finding of the following:

a. The service of the petition and summons is complete and respondent has failed to appear absent good cause showing at the initial or evidentiary hearing or otherwise answer pursuant to the Community's rules of civil procedure set forth in article II of chapter 5.

b. If paternity was also at issue, the court must make a finding of paternity prior to entering a default order of guardianship pursuant to section 10-6.

(2) Prior to entering a default order of guardianship, the court shall have an evidentiary hearing to establish guardianship pursuant to subsection (g) of this section.

(Code 1976, § 3.27; Code 1981, § 10-56; Code 2012, § 10-56; Ord. No. SRO-383-2011, § 10-56, 8-10-2011; Ord. No. SRO-402-2012, § 10-56, 5-30-2012; Ord. No. SRO-406-2012, § 10-56, 8-8-2012; Ord. No. SRO-445-2014, § 10-119(i)(3), 7-2-2014)

Sec. 10-120. Jurisdiction over court-appointed guardians.

The Community court shall have exclusive jurisdiction over a guardian appointed by the court. By accepting a court appointment as guardian, a guardian submits personally to the jurisdiction of the court.

(Code 1976, § 3.24; Code 1981, § 10-57; Code 2012, § 10-57; Ord. No. SRO-383-2011, § 10-57, 8-10-2011; Ord. No. SRO-402-2012, § 10-57, 5-30-2012)

Sec. 10-121. Appointment by will.

If the primary custodial parent deceases, the surviving parent shall be awarded as the primary custodial parent unless good cause exists to deny custody to the surviving parent. In the event that no surviving parent exists, deference will be given to the deceased parent's will, if validly executed, for the determination of guardianship.

(Code 1976, § 3.20; Code 1981, § 10-58; Code 2012, § 10-58; Ord. No. SRO-383-2011, § 10-58, 8-10-2011; Ord. No. SRO-402-2012, § 10-58, 5-30-2012)

Sec. 10-122. Rules for selection of court-appointed guardian.

In appointing a guardian, the court is guided by the following considerations:

(1) By what appears to be for the best interest of the child in respect to its temporal, mental and moral welfare;

(2) In the court's discretion, the parents' or previous guardian's preference, may be considered but may not be the controlling factor in determining guardianship;

(3) When the minor child who is the subject of the petition for guardianship is 14 years of age or older, the court shall consider his or her preference in appointing a guardian;

(4) If more than one sibling is having a guardian appointed, preference shall be given to a qualified person that can serve as guardian for all siblings;

(5) The results of the criminal background check and the home study report;

(6) The recommendations of the guardian ad litem, if applicable; and

(7) When two persons are requesting guardianship of a child, the court shall consider who has been caring for the minor child for the last six months, what is in the child's best interests and the following placement preference:

a. The wishes of the deceased parent;

b. Members of the extended family;

c. A family of tribal affiliation with the Community;

d. Any other Indian family, and preference given to any tribe that the child has affiliation with; and

e. Any other suitable nonrelative placement.

(Code 1976, § 3.21; Code 1981, § 10-59; Code 2012, § 10-59; Ord. No. SRO-383-2011, § 10-59, 8-10-2011; Ord. No. SRO-402-2012, § 10-59, 5-30-2012)

Sec. 10-123. Rights and responsibilities of guardians.

(a) *Duties of a guardian.*

(1) The legal guardian shall be responsible for reporting to the court on a yearly basis or more often, as required by the court.

(2) The legal guardian shall be responsible for the following, if the court has appointed the guardian over the minor child:

a. To protect, nurture, discipline, and educate the child;

b. To provide food, clothing, shelter, education as required by law, and health care for the child, including, but not limited to, medical, dental, mental health, psychological and psychiatric care and treatment;

c. To consent to health care for the child and sign a release authorizing the sharing of health care information with appropriate authorities, in accordance with applicable law;

d. To update any records that relate to the minor child;

e. To consent to the child's participation in social and school activities; and

f. To notify the court of a change of address of the guardian and the child.

(3) The legal guardian shall be responsible for the following, if the court has appointed the guardian over the property:

a. To make an inventory of all real and/or personal property of the child's estate and all other property that comes to their knowledge or possession;

b. To manage the child's estate, take reasonable steps to take control and protect the estate and to utilize the child's estate for the care, custody and education of the child;

c. To update any records that relate to the minor child;

d. Within 90 days after appointment, prepare and file with the court an inventory of the estate owned by the child on the date of the appointment, listing it with reasonable detail and indicating the fair market value as of the date of appointment of each item listed;

e. Keep suitable records related to the use of the child's property;

f. To provide an account, under oath, of the management and disposition of the property or estate of the child and all proceeds or interest derived from the property or estate within three months after the appointment, at least once a year thereafter and at other times as the court directs; and

g. At the expiration of the guardian's appointment, the guardian is required to settle their account with the court of the Community, or with the child, if they are of full age, or the child's legal representatives and to pay over and deliver all the property of the estate, monies, and effects remaining with the guardian, or due from the guardian for settlement of an account.

(b) *Responsibilities of a guardian.*

(1) Take reasonable care of the child's personal effects and commence protective proceedings, if necessary, and if applicable, to the appointment protect any property of the child.

(2) Apply any available monies of the child to the child's current needs for support, care and education.

(3) Conserve any excess monies for the child's future needs.

(4) A guardian may:

a. Receive monies payable for the support of the child under the terms of any Community benefit, insurance system, private contract, devise, trust, conservatorship or custodianship, and monies or property of the child paid or delivered.

b. Take physical custody of the person of the child and establish the child's place of residence in or outside this state, if consistent with the terms of an order of a court of competent jurisdiction relating to the detention or commitment of the child.

c. Take physical custody of the child and establish the child's residence in or outside this state if it is consistent with the terms of an order of a court of competent jurisdiction in relation to the detention or commitment of the child.

d. If a conservator for the child's estate has not been appointed, to initiate proceedings, including administrative proceedings, or take other appropriate action to enforce the duty by any person to support the child or to pay amounts for the welfare of the child.

e. Consent to the marriage or adoption of the child.

f. If reasonable, delegate to the child certain responsibilities for decisions affecting the child's well-being.

(c) *Child support.* A guardian may petition for child support pursuant to article I of this chapter. (Code 1976, § 3.25; Code 1981, § 10-60; Code 2012, § 10-60; Ord. No. SRO-383-2011, § 10-60, 8-10-2011; Ord. No. SRO-402-2012, § 10-60, 5-30-2012)

Sec. 10-124. Removal of guardian; relinquishment proceedings; revocation of guardianship.

(a) *Involuntary removal, petition to remove a guardian.*

(1) Who may file. A petition to remove a guardian may be filed by:

a. The Community prosecution office on behalf of the Community.

b. The guardian ad litem for the child.

c. Any advocate or attorney representing the child.

d. A parent.

(2) Contents of petition. The petition to remove of a guardian shall include the following to the best information and belief of the petitioner:

a. The address of the guardian;

b. The full name, sex, date of birth, place of residence and tribal affiliation of the child;

c. The basis for the court's jurisdiction;

d. The length of time the guardian has been the custodian or legal guardian of the child;

e. The names, addresses and places of residence, tribal affiliation of the child's legal parents;

f. The ages of the child's parents, if the parents are under 18 years of age;

g. Where the child's parent is under the age of 18 years, the names, addresses and place of residence of the parent's parents or guardian;

h. The name and address of any person or agency having legal or temporary custody of the child;

i. The grounds and basic facts in support of such on which the removal is sought under pursuant subsection (a)(3) of this section;

j. A list and statement of value of all assets of the child; and

k. When any of the facts required by this subsection are unknown, the petition shall so state.

(3) Grounds for involuntary removal of a guardian. Any one of the following allegations proven by the Community at trial shall be grounds for the involuntary removal of a guardian:

a. The guardian is or has been incarcerated for more than 24 months (including separate incarceration periods), requiring the child to be separated from the guardian;

b. The guardian willfully, intentionally or negligently caused the death of a child;

c. The guardian sexually assaulted or molested a child;

d. The guardian assaulted a child resulting in serious physical injuries;

e. The guardian willfully or intentionally caused the death of any person;

f. The guardian has had a separate guardianship or parental rights as to another child involuntarily terminated;

g. The guardian is seriously mentally ill and is not likely to maintain mental sufficiency in order to meet a child's needs;

h. The guardian willfully or intentionally inflicted serious or chronic emotional abuse upon a child;

i. The guardian engaged in egregious conduct that poses a risk to a child's well-being;

j. The guardian had knowledge of emotional or physical abuse or neglect of a child and failed to protect that child from such harm;

k. The guardian cannot adequately support a child financially, or is otherwise incapable of meeting a child's needs for care and supervision;

l. The guardian has demonstrated gross immorality;

m. The guardian has abused his or her trust or powers of a guardian;

n. The guardian has continuously failed to perform his or her duties as a guardian;

o. The guardian is incapable of fulfilling his or her duties; and

p. The guardian was convicted of a felony offense during his or her appointment as guardian.

(4) When the court receives a petition to remove a guardian that is filed by a parent, child, child's attorney, guardian ad litem or any other person/entity other than the Community prosecutor, the court shall make a written referral to child protective services within three business days. The court shall also provide a copy of the petition to the Community prosecutor and notice the prosecutor for any hearing. When a petition to remove a guardian is filed, the case shall be adjudicated by the juvenile court and shall be conducted with procedures consistent with section 11-163.

a. An initial hearing for formal trial shall be set within ten days of the petition to remove a guardian.

b. The Community shall have a right to resume the case as the petitioner and shall have the burden of proof pursuant to section 11-163.

c. When the Community does not choose to exercise the right to resume the case as petitioner, the petitioner will have the burden of proof through the formal hearing stages of the case, and the case shall be assumed by the Community prosecutor after removal of guardian, when there is no other legal parent or guardian remaining. The Community prosecutor shall have a right to be present at all hearings.

(5) If the court determines that cause for removal of the guardian exists, the court may remove the guardian, and enter judgment accordingly. In the case of a guard-

ianship of the estate, order the guardian to file an accounting and to surrender the estate to the person legally entitled thereto. When a guardian is deemed removed, the guardian shall have no legal standing on the matter and shall not be privileged to receive any confidential information regarding the minor without the court's consent.

(6) If it appears that the minor or the minor's estate may suffer loss or injury due to negligent or abusive action by the guardian during the time required for notice and hearing under this article, the court, on its own motion or on petition, may do either or both of the following:

a. Suspend the powers of the guardian pending notice and hearing to such extent as the court deems necessary;

b. Compel the guardian to surrender the estate to a custodian designated by the court.

(b) *Relinquishment proceedings.*

(1) A guardian may petition for permission to relinquish guardianship.

(2) Any petition to relinquish guardianship shall identify the reasons for the relinquishment and any proposed legal and physical custody of the child. When the court receives a petition to relinquish that appears on its face to allege that the guardian is unwilling or unable to provide appropriate care and supervision for the child, the court shall make a written referral to child protective services. The court shall also provide a copy of the petition to the Community prosecutor and notice the prosecutor for any hearing.

(3) A hearing shall be commenced within 60 calendar days of filing of a petition for relinquishment.

(4) Notice of a hearing on a petition for an order subsequent to appointment shall be given to a child who is at least 14 years of age, the guardian and the child's parents if their parental rights have not been terminated and any other person as described in section 10-117 the court orders to receive the notice.

(5) After proper notice and a hearing on a petition for permission to relinquish, the court may terminate the guardianship and make any further order that may be appropriate. If the court grants the relinquishment, and no legal parent is able to safely resume care, and the court does not appoint a replacement guardian, pursuant to section 10-122, the child shall be deemed dependent and a ward of the court under the legal custody of the Community social services division. The court shall set an initial hearing within ten days, pursuant to section 11-163, and serve the Community prosecutor, child protective services, any parent with legal rights and the guardian ad litem.

(6) If, at any time in the proceeding, the court determines that the interests of the child are, or may be, inadequately represented, it may appoint a guardian ad litem or an attorney/advocate to represent the minor, giving consideration to the preference of the minor if the minor is 14 or more years of age.

(c) *Revocation of guardianship.*

(1) The child, or a parent of the child may file a petition for the revocation of an order granting guardianship if there is a significant change of circumstances, including:

a. The child's parent is able and willing to properly care for the child and the guardianship appointment did not arise from a dependency action;

b. The child's permanent guardian is unable to properly care for the child and the parent is able to resume care of the child; when a case is filed to revoke a permanent guardianship, the court shall make a written referral to child protective services within three business days. The court shall also provide a copy of the petition to

the Community prosecutor and provide notice to the prosecutor for any hearing;

c. The minor child is seeking emancipation.

(2) The court shall appoint a guardian ad litem for the child in any proceeding for the revocation of permanent guardianship when the guardianship initiated out of a dependency action.

(3) The court may revoke the order granting guardianship if the party petitioning for revocation proves a change of circumstances by clear and convincing evidence and the revocation is in the child's best interest.

(4) If it appears that the minor or the minor's estate may suffer loss or injury due to negligent or abusive action by the guardian during the time required for notice and hearing under this article, the court, on its own motion or on petition, may do either or both of the following:

a. Suspend the powers of the guardian pending notice and hearing to such extent as the court deems necessary;

b. Compel the guardian to surrender the estate to a custodian designated by the court.

(5) A petition for revocation of guardianship shall not be filed if grounds for removal of a guardian exist pursuant to subsection (a)(3) of this section.

(Code 1976, § 3.26; Code 1981, § 10-61; Code 2012, § 10-61; Ord. No. SRO-383-2011, § 10-61, 8-10-2011; Ord. No. SRO-402-2012, § 10-61, 5-30-2012)

Sec. 10-125. Termination of powers of guardians appointed by court.

A guardian's authority and responsibility terminates on the death, relinquishment or removal of the guardian or on the minor's death, adoption, marriage, emancipation or attainment of majority. Termination does not affect the guardian's liability for prior acts or the guardian's obligation to account for the child's monies and assets. Resignation of a guardian does not terminate the guardianship until it has been approved by the court.

(Code 1976, § 3.28; Code 1981, § 10-62; Code 2012, § 10-62; Ord. No. SRO-383-2011, § 10-62, 8-10-2011; Ord. No. SRO-402-2012, § 10-62, 5-30-2012)

Sec. 10-126. Delegation of powers by parent or legally appointed guardian.

(a) A parent or a legally appointed guardian of a minor, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six months, any powers he or she may have regarding care, custody or property of the minor child or child, except power to consent to marriage or adoption of the minor. A properly executed power of attorney is one that was signed by the parent or legally appointed guardian and their signature was notarized and a noninterested witnessed by at least one individual who has also signed verifying authenticity of the document.

(b) Military member power of attorney; definition.

(1) A military member who is a parent or guardian of a minor child may delegate to another person, for a period not to exceed one year, any powers the parent or guardian have regarding care, custody or property of the minor child, except the power to consent to marriage or adoption of the minor child.

(2) For the purposes of this section, the term "military member" means an active duty member of the armed services, or a member of the reserve or National Guard.

(Code 1976, § 3.29; Code 1981, § 10-63; Code 2012, § 10-63; Ord. No. SRO-383-2011, § 10-63, 8-10-2011; Ord. No. SRO-402-2012, § 10-63, 5-30-2012)

Secs. 10-127—10-150. Reserved.

DIVISION 3. GUARDIANS FOR INCOMPETENT ADULTS

Sec. 10-151. Guardians of incompetent members.

When it is represented to the court, by verified petition of any relative or friend, that any mem-

ber of the Community is from any cause mentally incompetent to manage his or her property, the Community Court must cause notice to be given to the supposed incompetent person of the time and place of hearing such petition, not less than five days before the time of such hearing; and such person, if able to attend, must be brought before the court. If after a full hearing and examination upon such petition, it appears to the court that the person in question is incapable of taking care of himself or herself and managing his or her property, the court shall appoint a guardian of his or her person and estate with the general duties specified in division 1 of this article. The court may, in its discretion, exclude all nonparticipants from such hearing.
(Code 1976, § 3.32; Code 1981, § 10-71; Code 2012, § 10-71; Ord. No. SRO-402-2012, § 10-71, 5-30-2012)

Sec. 10-152. Duties; bond.

Every guardian appointed as provided in section 10-151 has the care and custody of the person of his or her ward and the management of all his or her estate, until such time as the guardian is legally discharged, and he or she must give bond to such ward in like manner and with the like conditions as prescribed with respect to the guardian of a minor.
(Code 1976, § 3.33; Code 1981, § 10-72; Code 2012, § 10-72; Ord. No. SRO-402-2012, § 10-72, 5-30-2012)

Sec. 10-153. Restoration of capacity.

Any person who has been declared mentally incompetent, or the guardian or any relative of such a mentally incompetent person within the third degree, or any friend, may apply by petition to the Community court to have the fact of his or her restoration to capacity judicially determined. The petition shall be verified and shall state that such person is mentally competent. Upon receiving the petition, the court shall appoint a day for the hearing and cause notice of the hearing to be given to the guardian of the petitioner if there be a guardian, and to his/her husband or wife, if there be one, and to his/her father or mother, if living on the Community. The guardian or relative of the petitioner, or in the discretion of the court, any person, may contest the right of the petition to the relief demanded. Witnesses may be required to appear and testify as in other cases, and may be called and examined by the court. If it is found that the petitioner is of sound mind and capable of taking care of himself or herself and his or her property, his or her restoration to capacity shall be adjudged, and the guardianship of such person, if such person is not a minor, shall cease.
(Code 1976, § 3.34; Code 1981, § 10-73; Code 2012, § 10-73; Ord. No. SRO-402-2012, § 10-73, 5-30-2012)

Sec. 10-154. State laws applicable.

The Community court shall apply the laws of the State of Arizona insofar as such laws do not conflict with the provisions of this article in the appointment of a guardian for a mentally incompetent member of the Community and shall have exclusive jurisdiction over the guardian so appointed.
(Code 1976, § 3.35; Code 1981, § 10-74; Code 2012, § 10-74; Ord. No. SRO-402-2012, § 10-74, 5-30-2012)

Secs. 10-155—10-160. Reserved.

DIVISION 4. GUARDIAN AD LITEM

Sec. 10-161. Purpose.

To ensure that an individual's best interests are being protected by appointing a guardian ad litem, and that the appointed guardian ad litem is performing his or her role appropriately and adequately to protect the individual's best interests throughout the legal action.
(Code 2012, § 10-75; Ord. No. SRO-386-2011, § 10-75, 9-28-2011; Ord. No. SRO-402-2012, § 10-75(a), 5-30-2012)

Sec. 10-162. Legal services office to administer.

Pursuant to section 11-160, the guardian ad litem program within the legal services office will provide representation to individuals pursuant to cases filed under this chapter.
(Code 2012, § 10-75; Ord. No. SRO-386-2011, § 10-75, 9-28-2011; Ord. No. SRO-402-2012, § 10-75(b), 5-30-2012)

Sec. 10-163. Scope of rules.

Notwithstanding any other provision, these standards shall apply to all attorneys and/or advocates representing individuals as guardian ad litem in the following, but not limited to, probate, involuntary commitment, adoption, custody and/or guardianship over an incapacitated adult or minor child.
(Code 2012, § 10-75; Ord. No. SRO-386-2011, § 10-75, 9-28-2011; Ord. No. SRO-402-2012, § 10-75(c), 5-30-2012)

Sec. 10-164. Appointment of guardian ad litem.

The court may appoint a guardian ad litem to represent the best interests of the following:

(1) An incapacitated adult pursuant to a case filed under this division within this Community Code of Ordinances or article VI of this chapter unless the incapacitated adult is represented by independent counsel and the court does not require recommendations from a guardian ad litem.

(2) A minor child under this chapter unless the minor child is represented by independent counsel and the court does not require recommendations from a guardian ad litem.

(Code 2012, § 10-75; Ord. No. SRO-386-2011, § 10-75, 9-28-2011; Ord. No. SRO-402-2012, § 10-75(d), 5-30-2012)

Sec. 10-165. Training.

A guardian ad litem is required to participate, before he or she begins practicing in Community court under this chapter, in either:

(1) Training. Eight hours of mental health and/or family law. The training shall include applicable ordinances, cultural awareness and rules of court. Training in related practice areas such as guardianship, conservatorship, long-term care, financial exploitation, incapacitated persons is recommended; or

(2) At least six months of experience in related practice area in which the attorney and/or advocate has demonstrated competency in the representation of his or her client in another jurisdiction or in the Community.

A guardian ad litem will participate, at a minimum, in four hours of continuing legal education per year, which is specific to the area of mental health law and/or family law.
(Code 2012, § 10-75; Ord. No. SRO-386-2011, § 10-75, 9-28-2011; Ord. No. SRO-402-2012, § 10-75(e), 5-30-2012)

Sec. 10-166. Timing of appointments.

The guardian ad litem shall be appointed immediately after the earliest of:

(1) The filing of petition of involuntary commitment, guardianship, or conservatorship over an incapacitated adult.

(2) Once the need for a guardian ad litem has been identified in a guardianship, custody, adoption, or conservatorship action of a minor child as applicable under this Community Code of Ordinances.

(3) The court shall appoint a guardian ad litem prior to the next scheduled hearing if a guardian ad litem has not been appointed previously described pursuant to this section.

(Code 2012, § 10-75; Ord. No. SRO-386-2011, § 10-75, 9-28-2011; Ord. No. SRO-402-2012, § 10-75(f), 5-30-2012)

Sec. 10-167. Appointment procedure.

A guardian ad litem appointed under this section and any requirements and duties prescribed to the court or any other entity shall be in accordance with the provisions in section 11-160.
(Code 2012, § 10-75; Ord. No. SRO-386-2011, § 10-75, 9-28-2011; Ord. No. SRO-402-2012, § 10-75(g), 5-30-2012)

Secs. 10-168—10-178. Reserved.

ARTICLE V. PROTECTION FOR ELDERLY AND VULNERABLE ADULTS

Sec. 10-179. Generally.

(a) *Title.* This article shall be known and cited as the Community's "Elderly and Vulnerable Adult Protection Code."

(b) *Policy.* It is the tradition and custom of the Community to honor and protect the elderly and vulnerable of the Community. The elderly are the possessors of the spiritual and collective wisdom and traditions of the Community. Elderly or vulnerable adults are also in need of special concern and protection of the Community and warrant special concern and protection. The elderly and vulnerable adult protection ordinance is to be liberally construed for their protection.

(c) *Purpose.*

(1) The purpose of this article is to protect the elderly and vulnerable adults within the jurisdiction of the Community, including enrolled members who do not live within the Community, from abuse, neglect, or exploitation.

(2) The subsidiary purpose of this article should be family reunification if it is possible to protect an elderly or vulnerable adult within the family unit. The protective services worker shall seek to maintain each elderly or vulnerable adult in his or her familiar environment by strengthening his or her capacity for self-maintenance or by providing supportive services. Therefore, families who are not providing adequate care to an elderly or vulnerable adult should be offered resources, services and education to enable them to properly care for the elderly or vulnerable adult.

(d) *Civil nature of article.* Except where expressly criminal, the provisions of this article are civil and regulatory in nature and are intended to provide assistance and protection to elderly or vulnerable adults who may be at risk of abuse, neglect, and/or exploitation. This article does not amend or alter any applicable provisions of the Community's Code of Ordinances unless specifically stated.

(e) *Interpretation of this section.* Nothing in this section shall be construed to mean that an elderly or vulnerable adult is abused, neglected or in need of protective services for the sole reason that he or she relies on treatment from a recognized religious or cultural method of healing in lieu of mainstream medical treatment.

(f) *Liberal interpretation of article.* This article shall be interpreted liberally to achieve its purpose as set forth in this section.
(Code 1981, § 10-81; Code 2012, § 10-81; Ord. No. SRO-152-92, § 1, 5-27-1992; Ord. No. SRO-364-2010, § 10-81, 4-28-2010; Ord. No. SRO-402-2012, § 10-81, 5-30-2012)

Sec. 10-180. Definitions.

In this article, unless the context requires otherwise, the following terms shall have the meanings herein ascribed to them:

Abuse means the infliction or threatened infliction of physical, sexual, emotional, psychological or spiritual harm intentionally, negligently, recklessly, knowingly or by omission.

Adult protective services (APS) means the Community program tasked with carrying out this article.

Caregiver means a person who has been entrusted with or has assumed responsibility for the care of the property of an elderly person or vulnerable adult. The term "caregiver" includes, but is not limited to, relatives, court-appointed or voluntary guardians, adult household members, neighbors, and health care providers.

Community law enforcement agency means the Salt River Police Department (SRPD) or its successor.

Court means the Salt River Pima-Maricopa Indian Community (SRPMIC) court.

Elderly person means any person who has reached the age of 55 years or older.

Entity means and includes any corporation, partnership, limited partnership association, labor union or other legal entity, any group of persons associated in fact although not a legal entity, and any other form of organization that is not a natural person.

Exploitation.

(1) The term "exploitation" means:

a. Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly or vulnerable adult's funds, assets, or

property with the intent to temporarily or permanently deprive the elderly or vulnerable adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly or vulnerable adult by a person who:

1. Stands in a position of trust and confidence with the elderly person or vulnerable adult; or
2. Has a business relationship with the elderly person or vulnerable adult.

b. Obtaining or endeavoring to obtain or use or conspiring with another to obtain or use an elderly person's or vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly or vulnerable adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or vulnerable adult, by a person who knows or reasonably should know that the elderly person or vulnerable adult lacks the capacity to consent.

(2) The term "exploitation" may include, but is not limited to:

a. Breaches of fiduciary relationships, such as the misuse of power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale or transfer of properties;

b. Unauthorized taking of personal assets;

c. Misappropriation, misuse, or transfer of monies belonging to an elderly person or vulnerable adult from a personal or joint account; or

d. Intentional or negligent failure to effectively use an elderly person or vulnerable adult's income and assets for the necessities required for that persons support and maintenance.

Health and human services department (HHS) means the Community health and human services department.

Intimidation means a communication by word or act to an elderly person or vulnerable adult that the elderly person or vulnerable adult will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical or spiritual services, money or financial support, or will suffer physical violence.

Neglect of an elderly person or vulnerable adult means a caregiver's:

(1) Failure or omission to provide an elderly person or vulnerable adult with the care, supervision, and services necessary to maintain the elderly person's or vulnerable adult's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine and medical services, that a prudent person would consider essential for the well-being of the elderly person or vulnerable adult; or

(2) Failure to make reasonable effort to protect an elderly person or vulnerable adult from abuse, neglect, exploitation by another person.

Neglect of an elderly person or vulnerable adult may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in serious physical, or psychological injury, or a substantial risk of death, to an elderly person or vulnerable adult.

Next friend means a person or entity who appears in court in place of another who is not competent to do so because they are elderly or a vulnerable adult. Often the role is filled by a relative, but can be any legally competent person whose interests do not run counter to those of the person on whose behalf they are acting. The next friend is not a part to the proceedings, nor are they a formally appointed guardian. Instead they are someone whose role is to protect the rights of the elderly or vulnerable adult. Although a protective services worker cannot be appointed as guardian, a protective services worker can act as next friend.

Order of protection means an elderly or vulnerable adult order of protection issued by the Community court pursuant to this article.

Protective services means a program of identifiable and specialized services appropriately offered to address problems which have produced signs of vulnerability, abuse, exploitation or neglect.

Protective services worker means an employee who has been selected by and trained under the requirements of the HHS and the senior services department to provide protective services to elderly or vulnerable adults.

SRPD officer means a duly sworn officer of the Community police department.

Sexual abuse or exploitation.

(1) The term "sexual abuse or exploitation" means a form of physical abuse or exploitation that means any sexual conduct for the purpose of arousing or satisfying the sexual desire of the abuser including, but not limited to, kissing, inappropriate touching, indecent exposure, deviate sexual conduct, incest or molestation that the elderly or vulnerable person did not consent to or that the other person knows or should know that the elderly or vulnerable adult is unable to consent, decline or resist due to mental illness, disease, fear of retribution, or hardship.

(2) The term "sexual abuse or exploitation" does not include any act intended for a valid medical purpose or any act that may reasonably be construed to be normal care giving action or appropriate display of affection.

Substantiated means there is sufficient evidence and/or information for a reasonable belief that an elderly or vulnerable adult was or is abused, neglected or exploited.

Unreasonable confinement means any confinement beyond what is necessary for the vulnerable person's protection or restriction of movements in a manner which interferes substantially with such person's liberty or daily life including isolation or any confinement that is not the least restrictive alternative.

Unsubstantiated means that after an investigation, insufficient evidence has been found to corroborate the allegations of abuse, neglect or exploitation.

Vulnerable adult means any person between 18 and 54 years of age who because of physical or mental impairment is unable to meet the person's own needs or to seek help without assistance.
(Code 1981, § 10-82; Code 2012, § 10-82; Ord. No. SRO-152-92, § 2, 5-27-1992; Ord. No. SRO-364-2010, § 10-82, 4-28-2010; Ord. No. SRO-402-2012, § 10-82, 5-30-2012)

Sec. 10-181. Reporting abuse, neglect or exploitation of an elderly or vulnerable adult.

(a) *Responsibility.* Any person who knows or has reasonable cause to suspect that an elderly or vulnerable adult has been abused, neglected, or exploited as defined in section 10-180 should, immediately after learning of or forming the suspicion of such abuse, neglect, or exploitation, report the suspicion to the senior services department and to the Community law enforcement agency. A person reporting under this section may remain anonymous.

(b) *Persons mandated to report.*

(1) The following persons who know or have reasonable cause to suspect that an elderly or vulnerable adult has been abused, neglected or exploited, financially or otherwise, shall immediately, after learning of or forming the suspicion of such abuse, neglect, or exploitation, report the same to the senior services department and to the Community law enforcement agency:

a. Physician, hospital intern or resident, surgeon, nurse, dentist, chiropractor, podiatrist, optometrist, Community health worker or other health care provider.

b. Adult services worker, public assistance worker, social worker or worker in an adult group home, residential or day care facility.

c. Law enforcement officer, probation officer, or other officer of the court, or worker in an adult rehabilitation or detention facility though the appropriate chain-of-command for investigation. A report shall also be transmitted to the senior services department.

d. Guardian.

e. Any other person having responsibility for the care of elderly or vulnerable adults whose observation or examination discloses evidence of abuse or death which appears to have been inflicted on an elderly or vulnerable adult by other than accidental means or which is not explained by the available medical history as being accidental in nature.

f. Any adult living in the same residence with an elderly or vulnerable adult.

(2) The following persons who know or have reasonable cause to suspect that an elderly or vulnerable adult has been financially exploited shall immediately, after learning of or forming the suspicion of exploitation, report the same to the senior services department and the Community law enforcement agency:

a. Attorneys.

b. Accountants.

c. Property managers.

d. Financial institutions.

e. Any other person or agency, including employees thereof, with fiduciary duties to elderly or vulnerable adults.

(c) *Reports.* Those persons mandated to report who make an oral report to the APS worker or law enforcement agency shall forthwith follow with a written report. The following information, unless unavailable, shall be included in the written report:

(1) Name, address, and place of residence of the elderly or vulnerable adult, if known.

(2) Narrative as to the nature and extent of the elderly or vulnerable adult's abuse, neglect or exploitation, including previous abuse, if known, neglect or exploitation of the elderly or vulnerable adult or the elderly or vulnerable adult's siblings and the suspected date of the abuse, neglect or exploitation. The narrative should include a statement by the person reporting, explaining why they believe the elder or vulnerable adult is being abused, neglect or exploited.

(3) Name, age, address, and place of residence of the person alleged to be responsible for the elderly or vulnerable adult's abuse, neglect or exploitation, if known.

(4) Name, address, agency and telephone number of the person making the report.

(d) *Notification.* When reports are received by the Community police department, they shall immediately notify the senior services department and make such information as necessary to evaluate the situation and determine which services are to be made available to the victim. Conversely, in the event reports of suspected abuse, neglect and/or exploitation are made to the senior services department, that department shall immediately notify the police department and make such information available to the police for further investigation.

(e) *Civil remedies for not reporting.*

(1) Any person mandated under subsection (b) of this section to report known or suspected cases of elderly or vulnerable adult abuse, neglect or exploitation who fails to immediately report such abuse, neglect or exploitation shall be subject to a civil fine of not more than $5,000.00.

(2) Any person who supervises, or has authority over, a person described under subsection (b) of this section, and who prevents

that person from making the known or suspected elderly or vulnerable adult abuse, neglect or exploitation report or intentionally suppresses such report, shall be subject to a civil fine of not more than $5,000.00.

(f) *Anonymous reports.* Anything to the contrary notwithstanding, anonymous reports shall be investigated pursuant to this article.
(Code 1981, § 10-83; Code 2012, § 10-83; Ord. No. SRO-152-92, § 3, 5-27-1992; Ord. No. SRO-364-2010, § 10-83, 4-28-2010; Ord. No. SRO-402-2012, § 10-83, 5-30-2012)

Sec. 10-182. Procedure for investigation of allegations of abuse, exploitation or neglect of an elderly or vulnerable adult.

(a) It is the policy of the Community that examinations and interviews of an elderly or vulnerable adult suspected of having been subject to abuse, neglect or exploitation shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma and maintain the privacy of the elderly or vulnerable adult. It shall be the responsibility of the Community departments involved in the investigation and prosecution of the alleged offenses to coordinate their interviews and intrusive examinations with respect to the elderly or vulnerable adult in a manner that respects and maintains the dignity of the individual.

(b) APS shall receive reports and/or referrals of suspected abused, exploited or neglected elderly or vulnerable adults, and any other information regarding an elderly or vulnerable adult who may be in need of protective services.

(c) Upon receipt of such report or referral:

(1) Adult protective services (APS) shall, within two business days, initiate an investigation of alleged abuse, neglect or exploitation to determine if the elderly or vulnerable adult may be in need of protective services and what services, if any, are needed.

(2) If the allegations indicate imminent and serious danger, investigate as soon as possible but, in any case, within the same day as the report or referral was received.

(d) Adult protective services (APS) shall conclude an investigation within three days that shall include some or all of the following actions, as appropriate:

(1) In-person interviews with:

a. The elderly or vulnerable adult;

b. The elderly or vulnerable adult's family and caretakers;

c. The person suspected of having committed the acts reported;

d. Employees of agencies or institutions with knowledge of the elderly or vulnerable adult circumstances; and

e. Any other person the APS worker believes has pertinent information.

(2) An assessment of the elderly or vulnerable adult living conditions in coordination with the Community housing division standards for safe and healthy housing.

(3) The adult protective services (APS) worker may also use any other observations, documented observations, assessments, or documents that may aid in completing an accurate report.

(4) Ascertain the existence and/or contents of medical records. Police records and other reports of abuse, neglect or exploitation.

(5) Collection of any other information that is relevant to the issues.

(6) APS shall conduct its investigation in coordination and cooperation with any on-going criminal investigations so as to lessen the impact of the investigatory process on the elderly or vulnerable adult.

(e) A protective services worker must promptly report to the Community police department any information that may involve, or appears to involve, criminal activity, including but not limited to care of dependent persons, assault, theft, and false imprisonment.

(f) The written report.

(1) The written report shall be prepared and filed with the senior services department.

a. A substantiated report will remain on file for a period of 25 years.

b. If it is determined there is insufficient evidence to pursue any legal action in court or to take any lesser measures at that time the records will be retained for ten years.

(2) An investigation report shall include findings of fact including those described in section 10-183(b), the results of the protective service worker's interviews, observations, assessments, and recommended actions.

(g) Procedure after written report.

(1) If there is a need for case management or ongoing services needed after an investigation of elderly or vulnerable adult, neglect or self-neglect, or exploitation is completed, the APS worker shall refer the matter to the senior services department to have a social worker promptly assigned.

(2) Upon request from the senior services department, the office of the general counsel will file petitions as appropriate pursuant to this article or for the appointment or change of a temporary or continuing guardian and/or conservator.

(h) If at any time it is found that a report of abuse appears to have been made in bad faith, the investigation report shall be turned over to the Community police department for investigation of possible criminal and/or civil violations pursuant to section 10-186, or any other possible violations.
(Code 1981, § 10-84; Code 2012, § 10-84; Ord. No. SRO-152-92, § 4, 5-27-1992; Ord. No. SRO-364-2010, § 10-84, 4-28-2010; Ord. No. SRO-402-2012, § 10-84, 5-30-2012)

Sec. 10-183. Immunity of participants; nonprivileged communication.

(a) Any person making a report, furnishing a report, information or records required or authorized by this article, investigating or otherwise participating in the program authorized by this article is immune from any civil or criminal liability by reason of such action, unless such person:

(1) Acted with malice or unless such person has exploited or neglected the vulnerable elderly or vulnerable adult subject of such otherwise immune activity; or

(2) Is suspected of or has been charged with abusing or neglecting the elderly or vulnerable adult in question.

(b) Immunity from liability. All persons or agencies reporting, in good faith, known or suspected instances of abuse, neglect or exploitation, or anyone participating in a judicial proceeding resulting from such report shall be immune from civil liability and criminal prosecution. Any provision of law or code of ethics that protects or requires confidentiality shall not apply with respect to information regarding abuse, neglect or exploitation of an elderly or vulnerable adult, and such provisions of law or code of ethics shall not be a defense to a charge of failing to report elderly or vulnerable adult abuse, neglect or exploitation.

(c) The name of a person who reports abuse, neglect or exploitation as required or allowed by this article is confidential and shall not be released to any person unless the reporter consents to the release or release is ordered by the court.

(d) The court may release the reporter's name only after notice to the reporter is given, a closed evidentiary hearing is held, and the need to protect the elderly or vulnerable adult is found to be greater than the reporter's right to confidentiality. The reporter's name shall be released only to the extent as determined necessary to protect the elderly or vulnerable adult.

(e) Except as provided in subsection (b) of this section the physician-patient privilege, husband-wife privilege or any other generally recognized privilege, except the attorney-client privilege, shall not be valid in any investigation or civil or criminal litigation in which elderly or vulnerable adult's, abuse, neglect or exploitation is an issue.
(Code 1981, § 10-85; Code 2012, § 10-85; Ord. No. SRO-152-92, § 5, 5-27-1992; Ord. No. SRO-364-2010, § 10-85, 4-28-2010; Ord. No. SRO-402-2012, § 10-85, 5-30-2012)

Sec. 10-184. Medical and financial records.

(a) Upon request of the senior services department through the office of the general counsel (OGC), the Community court may issue subpoenas for the release of medical and financial records upon motion for expedited consideration by the office of the general counsel in order to facilitate investigations of reported elderly or vulnerable adult abuse.

(1) After a hearing, the court shall issue the subpoena if it finds reasonable grounds to believe that elderly abuse or exploitation is occurring or has occurred and that the records may be relevant to investigating the allegations.

(2) Upon service of such subpoena, a person having custody or control of medical or financial records of an elderly or vulnerable adult for whom a report is legally required or authorized shall promptly make such reports or a copy of such reports available as required by the subpoena.

(b) If psychiatric records are requested pursuant to subsection (a) of this section, the custodian of the records shall notify the attending psychiatrist, psychologist or certified counselor.

(1) the psychiatrist, psychologist or certified counselor may excise from the records, before they are made available:

a. Personal information about individuals other than the patient.

b. Information regarding specific diagnosis or treatment of a condition, if the attending psychiatrist, psychologist, or certified counselor certifies in writing that release of the information would be detrimental to the patient's well-being or treatment.

(2) If any portion of a psychiatric record is excised pursuant to subsection (b)(1) of this section, the Community court, upon application of the appropriate Community agency through the office of the general counsel (OGC) and after an in camera inspection, may order that the entire record or any portion of such record containing information relevant to the reported abuse, neglect or exploitation be made available to the Community agency investigating the abuse, neglect or exploitation.

(c) Records disclosed pursuant to this subsection are strictly confidential.

(1) Such records may be used only in an investigation resulting from a report required or authorized under this article, or in a judicial or administrative proceeding related to such investigation.

(2) Any such records obtained pursuant to such a subpoena shall be kept separately in a secure locked storage cabinet or similar container.

(3) If such records are used in court, the court shall keep such records under seal in a sealed envelope with a notice that access is allowed only by order of the court upon good cause.

(Code 1981, § 10-86; Code 2012, § 10-86; Ord. No. SRO-152-92, § 6, 5-27-1992; Ord. No. SRO-364-2010, § 10-86, 4-28-2010; Ord. No. SRO-402-2012, § 10-86, 5-30-2012)

Sec. 10-185. Causing or permitting imperilment of life, health or property; criminal penalties; civil remedies.

(a) A person who:

(1) Has been employed to provide care to;

(2) Has assumed a legal duty to provide care to;

(3) Voluntarily provides care to;

(4) Lives with;

(5) Has been appointed by a court to provide care to; or

(6) Has access directly or indirectly to the finances of;

and who knowingly or negligently causes or permits the life, health or property of the elderly or vulnerable adult to be endangered or exploited, is guilty of a violation of this section.

(b) Such violation is criminally punishable by imprisonment for a period not to exceed one year or a fine not to exceed $5,000.00, or both. In addition, such violation is also civilly regulated and may be remedied by imposition of a civil fine of not more than $5,000.00.

(c) An elderly or vulnerable adult whose life, health or finances are being or have been endangered, injured or imperiled by neglect or abuse or who has been financially exploited may file a civil action in the Community court against any person or entity described in subsection (a) of this section for having caused or permitted such conduct.

(1) If the respondent is found to be responsible for a violation of this section, the remedies may include, but are not limited to, an injunction, damages, restitution and/or punitive damages, or any other legal or equitable remedy the court may impose for the violation.

(2) Prior to the final hearing in such a matter, the court may issue an order of protection, temporary restraining order or a preliminary injunction upon a showing of probable cause.

(3) If the elderly or vulnerable adult is physically, mentally, emotionally or otherwise unable to file an action, then a guardian or next friend may file the action on behalf of such person pursuant to subsection (c) of this section.

(Code 2012, § 10-87; Ord. No. SRO-364-2010, § 10-87, 4-28-2010; Ord. No. SRO-402-2012, § 10-87, 5-30-2012)

Sec. 10-186. Other violations; remedies.

(a) It shall be a violation to:

(1) Interfere intentionally with a lawful investigation of suspected elderly abuse, neglect or exploitation.

(2) Retaliate by any means against any person who has made a good faith report of suspected elderly abuse or who cooperates with an investigation of suspected abuse, neglect or exploitation of an elderly or vulnerable adult.

(b) Any person who is found to have violated the provisions of this section shall be enjoined from such activity and may, after a court hearing, be subject to a civil fine of up to $5,000.00 per occurrence.

(1) Notice of such determination shall be provided to appropriate licensing agencies, if any, and to such person's employer.

(2) If such person is employed by the Community and in addition to the remedy described in this section, disciplinary action may be taken consistent with the Community's employment policies.

(c) Violations of this section shall also be referred to the Community prosecutor for consideration of additional applicable charges including, but not limited to, interfering with a criminal investigation and/or a police officer.

(Code 2012, § 10-88; Ord. No. SRO-364-2010, § 10-88, 4-28-2010; Ord. No. SRO-402-2012, § 10-88, 5-30-2012)

Sec. 10-187. Court proceedings.

(a) The Community court has jurisdiction to hear a cause of action for protection of an elderly or vulnerable adult when a verified petition has been filed alleging that such elderly or vulnerable adult has been or is being abused, neglected or exploited as defined in this article.

(b) The Community court, after a petition and hearing, has jurisdiction to enforce this article, including but not limited to:

(1) Issue orders to prevent, restrain and remedy the conduct proscribed in this article; and

(2) Issue orders to enjoin the refusal of any person mandated under this article.

(c) The senior services department, via the office of the general counsel, may file a civil action pursuant to this section on behalf of, or to protect, an elderly or vulnerable adult.

(d) Criminal charges related to this article shall be filed by the office of the Community prosecutor.

(e) Civil matters under this article shall be filed by the office of the general counsel on behalf of the Community senior services department.
(Code 2012, § 10-89; Ord. No. SRO-364-2010, § 10-89, 4-28-2010; Ord. No. SRO-402-2012, § 10-89, 5-30-2012)

Sec. 10-188. Hearings.

(a) A hearing on a petition authorized under this article shall be conducted with the purpose of protecting the elderly or vulnerable adult, using the least restrictive alternatives.

(b) No hearing shall be held unless notice has been given to the elderly or vulnerable adult and other interested parties, including the elderly or vulnerable adult family and caretaker.

(c) The elderly or vulnerable adult and all other interested parties shall have the right and opportunity to be heard fully and to present evidence.

(d) Within two business days of the filing of a petition, the court shall make a determination on the record whether or not an advocate or attorney and/or a guardian ad litem will be appointed.

(e) The court shall conduct a hearing on the petition to determine whether the facts support a finding that the elderly is in need of protection.

(1) All material and relevant evidence which is reliable and trustworthy may be admitted and relied upon by the court to the extent of its probative value, including hearsay contained in a written investigative report, provided that the preparer of the report is present and available to provide testimony or foundation is shown that the report fits within the traditional hearsay exception that it is a regularly kept business or governmental record.

(2) The parties, including the elderly or vulnerable adult, shall be afforded an opportunity to examine and controvert written reports, and cross examine individuals whose testimony is presented.

(3) The court may rely on conference telephone or other electronic devices that permit all those appearing or participating to hear and speak to each other.

(f) The court shall make a decision at the conclusion of the hearing, and shall immediately issue any orders, if the allegations of the petition:

(1) Are not sustained by a preponderance of the evidence, the court shall dismiss the matter;

(2) Are sustained, the court shall find that the elderly is in need of protection, and shall enter further orders as necessary, for evaluation, assessment or other orders to protect the elderly or vulnerable adult.

(g) The court shall issue a written decision within ten days. The written decision shall contain specific findings of fact and conclusions of law.

(1) Records of an investigation of elderly abuse or of a court hearing regarding an elderly or vulnerable adult abuse are confidential. Such records shall be open only to the elderly or vulnerable adult and the elderly or vulnerable adult family and caretaker, unless the family or caretaker is the suspected abuser. If the executive director of the Community department of health and human services, senior services department, law enforcement officers, court officials, coroner or medical examiner, or any other person has reason to believe that an elderly or vulnerable adult died as the result of abuse, neglect or exploitation, the court shall determine who has reasonable cause to have access to such records.

(2) A proceeding held pursuant to this article will be closed and confidential. Persons who may attend are the elderly or vulnerable adult, the elderly or vulnerable adult family and caretaker, representatives of the department, necessary court officials, advocates/attorneys, and guardian ad litem for the parties. Other persons may appear only to testify. No one attending or testifying at such a proceeding shall reveal

information about the proceeding unless ordered to do so pursuant to a court order.

(3) Any person who violates the confidentiality provisions of this section shall be subject to a civil penalty of up to $5,000.00 per occurrence. The court shall assess the penalty after a petition, notice, opportunity for a hearing, and a determination that a violation has occurred. In addition, if the violation is committed by an employee of the Community, the person may be subject to appropriate disciplinary action as allowed in the Community employment policies and procedures.

(h) After a determination of liability such court orders may include, but are not limited to, ordering the payment of:

(1) Actual and consequential damages, as well as punitive damages, costs of suit and reasonable attorney fees, to those persons injured by the conduct described in this section;

(2) All costs and expenses of the prosecution and investigation of the conduct described in this section, civil and criminal, incurred by the Community as appropriate, to be paid to the general fund of the Community.

(Code 2012, § 10-89.1; Ord. No. SRO-364-2010, § 10-89.1, 4-28-2010; Ord. No. SRO-402-2012, § 10-89.1, 5-30-2012)

Sec. 10-189. Orders prior to a final determination.

Prior to a final determination, the court may issue orders for the protection of the alleged abused, neglected or exploited elderly or vulnerable adult including, but not limited to, orders of protection, temporary restraining orders, temporary injunctions, or orders, including, but not limited to, acceptance of satisfactory performance bonds, creation of receiverships and appointment of qualified receivers, appointment of an attorney or advocate and/or guardian ad litem, and the enforcement of constructive trusts, as the court deems proper.

(Code 2012, § 10-89.2; Ord. No. SRO-364-2010, § 10-89.2, 4-28-2010; Ord. No. SRO-402-2012, § 10-89.2, 5-30-2012)

Sec. 10-190. Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation.

(a) *Petition.*

(1) A petition for an order of protection may be requested and granted regardless of whether or not there is a pending lawsuit, complaint, petition, or other action by the Community, by another jurisdiction, or between the parties.

(2) Such a petition may be filed by:

a. The elderly or vulnerable adult believed to be abused, neglected or exploited;

b. A senior services department employee;

c. The person's attorney/advocate;

d. The guardian or guardian ad litem; or

e. A next friend of the person elderly or vulnerable adult.

(3) A victim, or anyone acting on behalf of a victim, is not required to post a bond to obtain relief in any proceeding under this article.

(b) *Order of protection.* An order for protection of any kind issued under this article:

(1) Does not prejudice the rights of a party which are to be adjudicated at subsequent hearings in the proceedings;

(2) May be revoked, modified or extended;

(3) May be presented in a proceeding for the modification of an existing order, judgment or decree.

(c) *Contents of orders of protection.* Orders of protection shall include the following:

(1) The name of the victim.

(2) The victim's address shall be separately disclosed to the court for purposes of service but, in order to protect the victim, the address shall not be placed in the court file or given out to anyone except to the

APS investigator and law enforcement, prosecutorial as necessary for criminal prosecution, or office of the general counsel personnel for civil action for the protection of the elderly or vulnerable adult.

a. The release of such information shall be documented in writing and placed the court's file;

b. The court shall maintain a separate, locked, confidential register of names and addresses of alleged abused, neglected or exploited elderly or vulnerable adults.

(3) Name, current address, and last known address of the alleged perpetrator(s) and all possible locations where he, she or they may be contacted for service, if known;

(4) Specific statement made under oath, including descriptions and such details as are known of the abuse, neglect and/or exploitation alleged;

(5) Relationship between the parties and whether there is a pending action between the parties;

(6) Desired relief and other relief as the court deems appropriate.

(d) *Procedure for issuance of order of protection.*

(1) The order shall include the immediate granting of an ex parte order of protection without bond if, based on the specific facts stated under oath, the court has reasonable cause to believe that the petitioner or the person on whose behalf the petition has been filed is the victim of an act of abuse, neglect and/or exploitation committed by the respondent.

(2) Within 72 hours of the issuance of an ex parte order, a hearing shall be held to determine whether the order should be vacated, extended for an additional period of time, made permanent, or modified in any respect.

(3) If reasonable efforts to serve the perpetrator have been made and service of the ex parte order and notice of hearing cannot be completed within 48 hours, service shall be made by posting copies of the order and notice prominently at the court, the PHS clinic, the administration building, the Salt River and Lehi Community Centers, and Community bulletin board located on the southeast corner of Longmore and Osborn.

(4) If the court does not find sufficient reasonable cause to grant an ex parte order, the court shall serve notice to appear upon both parties and hold a hearing on the petition for an order of protection within 72 hours after the filing of the petition. If notice of hearing cannot be personally served within 48 hours, the parties shall be served by posted notice, as described in subsection (d)(3) of this section, and the court shall reset a hearing date no later than 15 days after the filing of the petition.

(5) An order of protection granted pursuant to this section shall be forwarded by the clerk of the court to the police department within 24 hours of issuance. In the case of an emergency order for protection, it shall be filed immediately upon issuance. The police department shall make available to each officer, information as to the existence and status of every order for protection issued under this section.

(e) *Contents of order.*

(1) If the court determines that there is evidence of abuse, neglect or exploitation of an elderly or vulnerable adult, a protection order which provides appropriate protection for the elderly or vulnerable adult shall be issued which may contain, but is not limited to the following:

a. Removal of the elderly or vulnerable adult from the place where abuse, neglect, or exploitation has taken or is taking place, including the elderly or vulnerable adult's home; and/or

b. Removing the person who abused, neglected, or exploited an elderly or

vulnerable adult from the elderly or vulnerable adult's home immediately.

c. Placing the elderly or vulnerable adult under protective supervision, wherein the elderly or vulnerable adult is permitted to remain in the home providing the Community protective services or a designated agent provides supervision and assistance to correct the neglect or exploitation of the elderly or vulnerable adult.

d. Restraining the person who has abused, neglected or exploited the elderly or vulnerable adult from continuing such acts.

e. Requiring any party having a fiduciary duty to the elderly or vulnerable adult to account for the elderly or vulnerable adult's funds and or property.

f. Requiring compensatory damages to be paid by an abuser or neglectful person to the elderly or vulnerable adult for any injuries or any damages resulting from abuser's or neglectful person's wrongful acts.

g. Appointing a representative, guardian ad litem, or recommending a representative payee for the elderly or elderly or vulnerable adult.

h. Ordering Community protective services to prepare a plan to deliver protective services which provides the least restrictive alternative to satisfy the elderly or vulnerable adult's needs.

---

(2) The order shall include the following statement in bold letters:

Warning

This is an Official Court Order. If you disobey this court order, the court may find you in contempt of court. You may also be arrested and prosecuted for the willful disobedience of an order lawfully issued by the court and any other crime you may have committed in disobeying this order.

(f) *Duration and amendments.* An elderly or vulnerable adult order of protection shall be enforced until further order of the court, but not to exceed 180 days, and may be subject to amendment for extension at the discretion of the court or at the request of one of the parties.

(g) *Emergency orders.*

(1) A petition for an emergency protection order shall contain the following, to the best of the knowledge of the petitioner's knowledge:

a. The name, address, location, and interest of the petitioner if the petitioner is not the elderly or vulnerable adult himself or herself.

b. The name and condition of the elderly or vulnerable adult.

c. The victim's address or location shall be separately disclosed to the court for purposes of service but, in order to protect the victim, the address shall not be placed in the court file or given out to anyone except to an APS investigator and law enforcement, prosecutorial as necessary for criminal prosecution, or office of the gen-

eral counsel personnel for a civil action for the protection of the elderly or vulnerable adult.

1. The release of such address information shall be documented in writing and placed in the court's file;
2. The court shall maintain a separate, locked, confidential register of names and addresses of alleged abused, neglected or exploited elderly or vulnerable adults.

d. The nature of the emergency.

e. The nature of the elderly or vulnerable adult's personal or financial injury.

f. The proposed protective services, and where applicable, protective placement.

g. The attempts, if any, to secure the elderly or vulnerable adult's consent to services.

h. Any other facts the petitioner believes will assist the court.

(2) During the hours that the court is closed, the court shall provide for the availability of a judge or other authorized personnel who shall authorize the issuance of emergency and temporary orders for protection by telephone or by any other appropriate and effective method.

(3) The court may issue an ex parte emergency protection order authorizing emergency services or protective placement upon clear and convincing evidence that an elderly or vulnerable adult:

a. Is at risk of immediate physical harm;

b. No one is authorized by law or court order to give consent;

c. The elderly or vulnerable adult or authorized caretaker is incapacitated and cannot consent to services; and

d. An emergency exists.

(4) The emergency protection order shall:

a. Set out the specific services to be provided to remove the emergency;

b. Allow protective placement only if the evidence indicates that it is absolutely necessary;

c. Designate the person or agency required to implement the order; and

d. Be issued for 72 hours excluding weekends and holidays.

If there is evidence of a continuing emergency such order may be renewed for 72 additional hours.

(h) *Warrant for forcible entry.* The court may issue a warrant for forcible entry by the Community police department if attempts to gain voluntary access for service have failed.

(i) *Preliminary hearing on petition to provide protective services.* The court shall hold a preliminary hearing on a petition to provide protective services within 72 hours, excluding weekends and holidays, after an emergency protection order is issued unless good cause exists to grant a delay. The court shall state on the record any cause for such delay.

(1) All named and interested parties including but not limited to APS, attorneys/advocates, guardians, custodians, guardians ad litem, and family members are permitted to attend the preliminary hearing for a protection order.

(2) The hearing may be conducted ex parte if the alleged perpetrators have not been served after diligent attempts at service or if the court finds that the Community's interest to protect the elderly or vulnerable adult so requires.

(3) The sufficiency of the petition will be determined on a totality of circumstances test and goes into effect upon immediate granting of the order by the court.

(j) *Action in emergency situation.* If there is good cause to believe that an emergency exists where an elderly or vulnerable adult is at risk of immediate and irreparable physical harm based

on personal observation and if the protective service worker and a law enforcement officer believe the elderly or vulnerable adult will be irreparably harmed during the time it takes to secure an emergency protection order, the protective service worker and the law enforcement officer shall immediately take action to protect the elderly or vulnerable adult. This includes, where necessary, transporting the elderly or vulnerable adult for medical treatment or to an appropriate facility. Immediately after the elderly or vulnerable adult is protected, a petition for an emergency protection order shall be filed and the procedures set out in this section followed.

(k) *Immunization from criminal or civil suit.* Anyone who acts in reasonable good faith pursuant to this section shall be immune from criminal or civil suit even if the suspected abuse, neglect or exploitation results in an unsubstantiated report.

(l) *Violation; penalties; remedies.*

(1) In addition to any other penalties available under law or equity, a person who knowingly violates, or a person who aides and abets another person to knowingly violate an order of protection is guilty of an offense and shall be sentenced to a maximum of 180 days' imprisonment, or fined an amount not to exceed $5,000.00, or both.

(2) A person who enters the Community with the intent to engage in conduct that violates a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued shall be punished and/or fined as provided in subsection (l)(1) of this section.

(3) A person who causes an elderly or vulnerable adult to enter or leave the Community by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, intentionally commits an act that injures such person's family or household member in violation of a valid protection order issued by the Community shall be punished as provided in subsection (l)(1) of this section.

(Code 2012, § 10-89.3; Ord. No. SRO-364-2010, § 10-89.3, 4-28-2010; Ord. No. SRO-402-2012, § 10-89.3, 5-30-2012)

Sec. 10-191. General rules applicable to court proceedings under this article.

(a) A defendant convicted in any criminal proceeding hereunder is precluded from subsequently denying in any civil proceeding the essential allegations of the criminal offense of which he or she was convicted. For the purpose of this subsection, a conviction may result from a verdict, a plea of guilty, or a plea of no contest.

(b) The initiation of civil proceedings related to this section shall be commenced within four years after actual discovery of the cause of action.

(c) The standard of proof in civil actions brought pursuant to this section is the preponderance of the evidence.

(d) The office of the general counsel on behalf of the Community may, upon timely application, intervene in any civil action or proceeding brought under this section at its discretion. Upon intervention, the office of the general counsel may assert any available claim and is entitled to the same relief as if the office of the general counsel had initiated a separate action.

(e) In addition to the Community's right to intervene as a party in any action under this section, the office of the general counsel may appear as a friend of the court in any proceeding in which a claim under this section has been asserted.

(f) Any civil action authorized by this section is remedial and not punitive and does not limit and is not limited by any other civil remedy or criminal action or any other provision of law. Civil remedies provided under this article are supplemental and not mutually exclusive.

(g) The senior services department, including any successor, shall maintain a registry containing such public records as are available identifying the names of persons and entities against

whom civil or criminal complaints have been filed with the court pursuant to this article, the dates of the conduct set forth in the complaint, the general nature of the complaint and the disposition of the complaint, if known. This information is available to the public on written request. A person or agency that distributes information in the registry in good faith is immune from civil liability or criminal penalty based on the release of the information. Any person or entity desiring to do so may present a written statement in his or her own behalf to the custodian of the record for distribution in response to all inquiries concerning such person or entity.

(h) The cause of action or the right to bring a cause of action pursuant to subsection (b) or (c) of this section shall not be limited or affected by death of the incapacitated person.

(Code 2012, § 10-89.4; Ord. No. SRO-364-2010, § 10-89.4, 4-28-2010; Ord. No. SRO-402-2012, § 10-89.4, 5-30-2012)

Secs. 10-192—10-220. Reserved.

ARTICLE VI. COMMITMENT AND TREATMENT OF MENTALLY ILL PERSONS

Sec. 10-221. Policy.

It is the policy of the Community to protect the health and welfare of its members and, to that end, to protect them from injurious actions of persons who suffer from mental disorders and who pose a danger to themselves or others. It is further the policy of the Community to adhere to the strictest standards of due process under the law to ensure the rights of persons suffering from mental disorders where such persons are forcibly restrained, detained, or involuntarily committed to a mental health institution.

(Code 1981, § 10-91; Code 2012, § 10-91; Ord. No. SRO-166-93, § 1, 2-3-1993; Ord. No. SRO-402-2012, § 10-91, 5-30-2012)

Sec. 10-222. Definitions.

For the purposes of this article and unless context indicates otherwise, the following terms shall have the meanings herein ascribed to them:

Danger to others means behavior which constitutes a danger of inflicting substantial bodily harm upon another person based upon a history of inflicting or attempting to inflict substantial bodily harm upon another person within 12 months preceding the petition as follows:

(1) If the person has existed under conditions of being restrained by physical or pharmacological means, or of being confined, or of being supervised, which have deterred or tended to deter him or her from carrying out acts of inflicting or attempting to inflict bodily harm upon another person, the time limit of within 12 months preceding the hearing may be extended to a time longer than 12 months as consideration of the evidence indicates; or

(2) If the bodily harm inflicted upon or attempted to be inflicted upon another person was grievous or horrendous, the time limit of within 12 months preceding the hearing may be extended to a time longer than 12 months as consideration of the evidence indicates.

Danger to self means behavior which constitutes a danger of inflicting substantial bodily harm upon oneself, including attempted suicide. Danger to self is not present if the hazards to self are restricted to those which may arise from conditions defined under grave disability.

Detention means the taking into custody of a person.

Evaluation means a professional analysis of a person's medical and psychological conditions conducted by a licensed physician or certified psychologist. Such evaluation may be assisted by a mental health or social worker familiar with mental health and human services.

Gravely disabled means a condition in which a person is unable to provide for his or her basic personal needs for foods, clothing and shelter as a result of a mental illness of a type which has developed:

(1) Over a long period of time and has been of long duration;

(2) As a manifestation of degenerative brain disease during old age; or

(3) A manifestation of some other degenerative physical illness of long duration.

Mental disorder.

(1) The term "mental disorder" means a substantial disorder of the person's emotional processes, thought cognition or memory which has led to or may lead to danger to self or others.

(2) The term "mental disorder" does not mean:

a. Conditions which are primarily those of drug abuse, alcoholism or mental retardation, unless in addition to one or more of these conditions the person has a mental disorder.

b. The declining mental abilities that directly accompany impending death.

c. Character and personality disorders characterized by lifelong and deeply ingrained anti-social behavior patterns, including sexual behaviors which are abnormal and prohibited by law.

(Code 1981, § 10-92; Code 2012, § 10-92; Ord. No. SRO-166-93, § 8, 2-3-1993; Ord. No. SRO-402-2012, § 10-92, 5-30-2012)

Sec. 10-223. Emergency apprehension.

(a) A police officer may apprehend, without a warrant or order, a person who he or she has reasonable cause to believe poses an immediate danger to self or to others due to a mental disorder and who is apparently in need of immediate care and treatment.

(b) All persons so apprehended shall be transported to an appropriate detention facility. The Community police department shall notify immediately the Community mental health services director of the apprehension who shall direct an evaluation of the person by a licensed physician or certified psychologist within 72 hours of apprehension.

(Code 1981, § 10-93; Code 2012, § 10-93; Ord. No. SRO-166-93, § 2, 2-3-1993; Ord. No. SRO-402-2012, § 10-93, 5-30-2012)

Sec. 10-224. Petition for evaluation; filing time.

(a) Any licensed physician, certified psychologist, or Community social worker, or the Community prosecutor, either upon request by an interested party or upon their own volition, may petition for a court-ordered mental health evaluation by a licensed physician or certified psychologist of a person who is alleged to be, as a result of a mental disorder, a danger to self or to others or gravely disabled and who is incapable of or unwilling to undergo a voluntary evaluation.

(b) The petition for evaluation shall contain the following information:

(1) The name and address of the person making the petition and his or her interest in the case.

(2) The name of the person to be evaluated and, if known or readily discoverable, the address, age, martial status and occupation of the person, and the name and address of the person's nearest relative.

(3) The facts which called the person to be evaluated to the attention of the petitioner.

(4) The facts upon which the allegations are based, including statements by the petitioner of the specific nature of the danger or grave disability.

(5) Other information that the court by rule or order may require.

(c) Where the recommendation made pursuant to the emergency or court-ordered evaluation of the person with a mental disorder is for commitment, such evaluation shall be filed immediately with the clerk of the court and within 72 hours of such filing the Community prosecutor shall file a petition for involuntary commitment of the mentally ill person.

(Code 1981, § 10-94; Code 2012, § 10-94; Ord. No. SRO-166-93, § 3, 2-3-1993; Ord. No. SRO-402-2012, § 10-94, 5-30-2012)

Sec. 10-225. Detention for evaluation; hearing.

(a) The court may order the apprehension, transportation and custodial detention of a person for the purpose of a mental health valuation if

from the petition for evaluation the court determines there is reasonable cause to believe that the person is likely to present a danger to self or others as a result of a mental disorder.

(b) A person detained under this section shall be informed of the reasons for his or her detention and that he or she must submit to a mental health evaluation.

(c) The court may order the custodial detention of a person until the date set for hearing on the petition for involuntary commitment of such person where a recommendation made pursuant to evaluation is for commitment.
(Code 1981, § 10-95; Code 2012, § 10-95; Ord. No. SRO-166-93, § 4, 2-3-1993; Ord. No. SRO-402-2012, § 10-95, 5-30-2012)

Sec. 10-226. Hearing procedures.

(a) *Time of hearing.* A hearing on the petition for involuntary commitment shall be held within 72 hours of the filing of such petition.

(b) *Right to attend and testify.* All persons to whom notice has been given may attend the hearing and testify. The judge may exclude from the hearing any person not necessary for the conduct of the proceedings.

(c) *Witnesses.* The proposed patient and his or her counsel and the petitioner may present and cross examine witnesses. Opinions of examiners shall not be admitted into evidence unless the examiner is present to testify and is subject to cross examination. The judge may sequester any witness or witnesses.

(d) *Conduct of hearing.* The hearing shall be governed by the rules of court and the rules of evidence as set forth in this Community Code of Ordinances, or alternatively in the federal rules of evidence. The judge shall admit all relevant evidence at the hearing. The court shall take and preserve an accurate tape recording of the hearing, which shall be subject to the provisions on confidentiality as set forth in section 10-228.

(e) *Standard of proof.* If the judge finds by clear and convincing evidence that the person, as a result of a mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and is in need of treatment, and is either unwilling or unable to accept voluntary treatment, the judge shall order such person to undergo inpatient treatment. The judge shall consider reasonable alternatives to commitment including, but not limited to, dismissal of the petition, voluntary outpatient care and informal admission to a treatment facility.

(f) *Order.* The judge shall direct the entry of judgment, and may fine the facts specifically. The order shall be filed with the clerk of the court. Where the Community's court orders involuntary commitment for treatment, the order shall be filed with the clerk of the superior court of the State of Arizona. The maximum periods of inpatient treatment which the court may order are as follows:

(1) 90 days for a person found to be a danger to self;

(2) 180 days for a person found to be a danger to others;

(3) 365 days for a person found to be gravely disabled.

(Code 1981, § 10-96; Code 2012, § 10-96; Ord. No. SRO-166-93, § 5, 2-3-1993; Ord. No. SRO-402-2012, § 10-96, 5-30-2012)

Sec. 10-227. Patient's rights at hearings.

(a) At all hearings conducted pursuant to this article, a person shall have the right to an analysis of his or her psychological condition by an independent evaluator who is either a licensed physician or certified psychologist selected by the patient or his or her legal counsel.

(b) Information, admissions, or confessions given by a person to a physician or mental health practitioner during the course of treatment or evaluation as ordered by the court cannot be used against the person at a trial where he or she is a criminal defendant charged with violating a tribal law.

(c) At all hearings conducted pursuant to this article, a person shall have the right to counsel. Where such person is indigent or cannot afford counsel, the court shall appoint an attorney to represent him or her.

(d) For purposes of transportation of persons to and from hearings, detention, and commitment under this article, the Community court shall be the temporary guardian of the person while in transit.
(Code 1981, § 10-97; Code 2012, § 10-97; Ord. No. SRO-166-93, § 6, 2-3-1993; Ord. No. SRO-402-2012, § 10-97, 5-30-2012)

Sec. 10-228. Confidential records.

All information and records obtained in the course of evaluation, examination or treatment shall be kept confidential and not as public records, except as the requirements of a hearing pursuant to this article may necessitate a different procedure. Information and records may only be disclosed to:

(1) Physicians, health practitioners and providers of health, mental health or social and welfare services involved in caring for, treating or rehabilitating the person.

(2) Individuals to whom the person has given consent to have information disclosed.

(3) The judge to whom the case is assigned and the Community prosecutor.

(4) Individuals legally representing the person.

(5) Individuals authorized by a court order.
(Code 1981, § 10-98; Code 2012, § 10-98; Ord. No. SRO-166-93, § 7, 2-3-1993; Ord. No. SRO-402-2012, § 10-98, 5-30-2012)

Secs. 10-229—10-249. Reserved.

ARTICLE VII. DOMESTIC VIOLENCE

Sec. 10-250. Policy.

(a) Domestic violence presents a clear and present danger to the mental and physical well-being of the members, residents, and others of the Community. This article will promote the healing of families and the prosecution of those who commit acts of domestic violence, while helping to protect victims of domestic violence through special procedures.

(b) It is the policy of the Community Council that violent behavior shall not be tolerated or excused, whether or not the abuser is intoxicated. The elders, adults and children of our Community are to be cherished and treated with respect.
(Code 1981, § 10-111; Code 2012, § 10-111; Ord. No. SRO-221-97, § A, 12-18-1996; Ord. No. SRO-402-2012, § 10-111, 5-30-2012; Ord. No. SRO-430-2014, § 10-250, 1-1-2014)

Sec. 10-251. Jurisdiction.

The Community Court shall exercise original jurisdiction over all persons within the territorial jurisdiction of the Community who are otherwise subject to the jurisdiction of the Community Court. Nothing in this article shall be construed or read to diminish the jurisdiction of the Community.
(Code 1981, § 10-112; Code 2012, § 10-112; Ord. No. SRO-221-97, § B, 12-18-1996; Ord. No. SRO-402-2012, § 10-112, 5-30-2012; Ord. No. SRO-430-2014, § 10-251, 1-1-2014)

Sec. 10-252. Definitions.

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

Counseling means services provided by Social Services, Behavioral Health and other authorized agencies that provide services for, but not limited to, alcohol and drug rehabilitation, marriage counseling, anger control, mental health and domestic violence.

Court means the Salt River Pima-Maricopa Indian Community Court.

Dangerous instrument means anything that under the circumstances in which it is used, attempted to be used, or threatened to be used is readily capable of causing death or serious physical injury.

Deadly weapon means anything designed to cause lethal use, including a firearm.

Domestic violence shelter means a confidential location that provides emergency housing for victims of sexual assault, domestic violence or both.

Dominant aggressor means a person who initially has caused or has threatened to cause the most significant physical or emotional harm to another in his or her family or household, as compared to the other party involved, regardless of whether or not the other party was the first aggressor, depending on the past history with violent behavior, the relative ability to inflict harm and severity of injuries inflicted on each party.

Family member means a parent, child or person similarly situated to a parent or child.

Firearm means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.

Intensive Batterer Intervention Program means any intensive counseling program that consists of an initial assessment, orientation, and at least 26 weeks of counseling sessions. The program shall address root causes of domestic violence and attempt to prevent participants from committing acts of domestic violence in the future.

Law enforcement officer means any police officer of the Salt River Pima-Maricopa Police Department or other law enforcement officer having legal jurisdiction within the Community.

Order of protection means a court order granted for the protection of victims of domestic violence.

Perpetrator means a person who is alleged to have committed or has been convicted of committing an act of abuse or domestic violence on his or her family member or household member or intimate partner.

Physical injury means physical pain or the impairment of physical condition.

Serious physical injury means physical injury which involves substantial risk of death, extreme physical pain, protracted or obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Spouse or intimate partner means adult or minor person related as any of the following:

(1) A spouse or former spouse of the abuser;

(2) A person who shares a child in common with the abuser;

(3) A person who cohabits or has cohabitated as a spouse with the abuser;

(4) A person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

Strangling means intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of a person by applying pressure to the throat or neck, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim.

Suffocating means intentionally, knowingly, or recklessly impeding the normal breathing of a person by covering the mouth of the person, the nose of the person, or both, regardless of whether that conduct results in any visible injury or whether there is any intent to kill or protractedly injure the victim.

Victim means a person who has been subjected to domestic violence.

Victim advocate means a person, with specialized training, whose duties include, but are not necessarily limited to, assisting victims of crimes in understanding and working with the judicial system, providing support and assistance in obtaining related services that may be needed to ensure victims receive full benefits of the legal system for coping with issues of crime in their lives.

(Code 1981, § 10-113; Code 2012, § 10-113; Ord. No. SRO-221-97, § C, 12-18-1996; Ord. No. SRO-402-2012, § 10-113, 5-30-2012; Ord. No. SRO-430-2014, § 10-252, 1-1-2014)

Sec. 10-253. Offenses.

(a) *Domestic violence.* A person commits domestic violence by:

(1) Intentionally, knowingly, or recklessly causing any physical injury to a family member, spouse or intimate partner;

(2) Intentionally placing a family member, spouse or intimate partner in reasonable apprehension of imminent physical injury; or

(3) Knowingly touching a family member, spouse or intimate partner with the intent to injure, insult or provoke such person.

(b) *Aggravated domestic violence.* A person commits aggravated domestic violence if the person commits domestic violence defined in subsection (a) of this section under any of the following circumstances:

(1) If the person causes serious physical injury to a victim;

(2) If the person uses a deadly weapon or dangerous instrument against the victim;

(3) If the victim is bound or otherwise physically restrained;

(4) If the victim's capacity to resist is substantially impaired;

(5) If the victim was pregnant at the time of the offense;

(6) If a child was present at the time of the offense;

(7) If the person commits the offense by strangling, suffocating, or attempting to strangle or suffocate the victim; or

(8) If the person has two or more prior convictions for domestic violence or aggravated domestic violence within ten years.

(c) *Violation of an order of protection.* A person is in violation of an order of protection if the person knowingly:

(1) Violates any provision of an order of protection; or

(2) Causes any protected person under an order of protection to enter or leave the Community because of any act.

(d) *Failure to report or false reporting of domestic violence.*

(1) A person commits failure to report domestic violence if that person is a mandatory reporter pursuant to section 10-257(a) and knowingly, intentionally or with malice fails to make a report of domestic violence.

(2) A person commits false reporting of domestic violence if that person knowingly, intentionally or with malice makes a false report of domestic violence.

(e) *Disclosure of domestic violence shelter.* A person commits disclosure of a domestic violence shelter if said person knowingly, without the authorization of that domestic violence shelter, publishes, disseminates or otherwise discloses the location of any domestic violence shelter, or any place designated as a domestic violence shelter as defined in section 10-252.

(f) *Mandatory detainment.* Any person arrested for a violation of section 10-253(a), 10-253(b) or 10-253(c) shall be detained in the custody of the Salt River Department of Corrections for a period not less than 24 hours regardless of when the initial appearance is held.
(Ord. No. SRO-430-2014, § 10-253, 1-1-2014)

Sec. 10-254. Sentencing and penalties.

(a) Domestic violence first offense is a Class B offense and shall be punished by no less than a minimum sentence of 60 days imprisonment and a fine no less than $500.00. The court may suspend any term of imprisonment and fines for the successful completion of a term of probation no less than one year. Pursuant to section 8-6(c) the court may impose a term of probation up to five years. The court shall order that the offender participate in counseling services pursuant to section 10-255(b). The court may also order that the offender participate in any other counseling services necessary to assist the offender in addressing any issues that may have contributed to the offense pursuant to section 8-6(b).

(b) Domestic violence second offense within ten years is a Class B offense and shall be punished by no less than a minimum sentence of 120 days imprisonment and a fine of not less than $1,000.00 which shall not be deferred, suspended or eligible for parole. The court may suspend additional imprisonment for the successful completion of a term of probation no less than one year. Pursuant to section 8-6(c) the court may impose a term of probation up to five years. The court shall order that the offender participate in counseling services pursuant to section 10-255(b). The court may also order that the offender participate in any other counseling services necessary to assist the offender in addressing any issues that may have contributed to the offense pursuant to section 8-6(b).

(c) Aggravated domestic violence is a Class A offense and shall be punished by no less than a minimum sentence of one year imprisonment and a fine of not less than $2,000.00 which shall not be deferred, suspended or eligible for parole. The court may suspend additional imprisonment for the successful completion of a term of probation no less than one year. Pursuant to section 8-6(c) the court may impose a term of probation up to five years. The court shall order that the offender participate in counseling services pursuant to section 10-255(b). The court may also order that the offender participate in any other counseling services necessary to assist the offender in addressing any issues that may have contributed to the offense pursuant to section 8-6(b).

(d) Violation of order of protection is a Class C offense and shall be punished by no less than a minimum sentence of 30 days imprisonment which shall not be deferred, suspended, or eligible for parole.

(e) Failure to report or false reporting of domestic violence is a Class D offense.

(f) Disclosure of domestic violence shelter is a Class D offense.

(g) In order to determine the sentence of a person convicted of domestic violence or aggravated domestic violence, the court shall take judicial notice of prior certified convictions arising out of the Community Court as presented by the prosecutor or the probation department. The court shall also consider prior convictions from other jurisdictions.

(h) The court may not consider requests for parole or early release unless the offender is actively participating in an available batterer intervention program, as evidenced by written reports of the treatment provider and/or the program services coordinator of the Salt River Department of Corrections, and presented to the court by the offender.
(Code 1981, § 10-114; Code 2012, § 10-114; Ord. No. SRO-221-97, § D, 12-18-1996; Ord. No. SRO-402-2012, § 10-114, 5-30-2012; Ord. No. SRO-430-2014, § 10-254, 1-1-2014)

Sec. 10-255. Treatment and counseling.

(a) *Substance abuse treatment.* If the court finds that alcohol, drugs or other substance abuse was a contributing factor to the domestic violence offense of which a person is convicted, a mandatory chemical dependency evaluation shall be conducted. The court may require that the offender comply with any recommendations that arise from that evaluation.

(b) *Domestic violence counseling.* A person convicted of domestic violence and or aggravated domestic violence shall be ordered to participate in an intensive batterer intervention program.

(c) *Religious consideration.* Persons who practice a traditional Indian religion or any other religion may obtain additional counseling or ceremonies at their own expense, as appropriate to their sentence.

(d) *Cost for counseling or other treatment.* The court may order the person convicted of domestic violence to pay any cost for counseling or other treatment ordered pursuant to this section.
(Code 1981, § 10-115; Code 2012, § 10-115; Ord. No. SRO-221-97, § E, 12-18-1996; Ord. No. SRO-402-2012, § 10-115, 5-30-2012; Ord. No. SRO-430-2014, § 10-255, 1-1-2014)

Sec. 10-256. Orders of protection.

(a) Any person may seek relief by filing a petition, as a civil action, with the court alleging that the person has been a victim of domestic

violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor(s) for which the person is the parent, guardian or legal custodian. Additionally with the consent of a victim, the victim advocate or Community prosecutor may apply for an order of protection on behalf of the victim. A victim advocate or Community prosecutor may accompany the petitioner when filing for an order of protection as well as attend any hearings pertaining to the order of protection. The petitioner may request an order of protection for the purpose of restraining a person from committing an act of domestic violence, without specifying irreparable harm as a causal factor.

(b) Petition for order of protection.

(1) A petition for an order of protection shall contain a brief description of the incident(s) of domestic violence supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.

(2) A petition may be filed regardless of the existence or nonexistence of any other civil or criminal proceeding related to the allegations in the petition.

(3) A petition for relief may be requested and granted regardless of whether or not there is a pending lawsuit, complaint, petition, or other action by the Community, by another jurisdiction, or between the parties.

(4) No filing fee shall be required for the filing of a petition under this section.

(5) The petitioner, or the victim on whose behalf a petition has been filed, is not required to file an annulment, separation, or divorce as a prerequisite to obtaining an order of protection; but the petition shall state whether any other action is pending between the petitioner and the respondent.

(6) Standard, simplified petition forms with instructions for completion shall be available upon request from the court clerk.

(7) An emergency order of protection shall be available to petitioner or victim up to 72 hours from date of incident

(c) Mandatory contents of orders of protection. Orders of protection shall include the following:

(1) Name of the victim. The victim's address shall be disclosed to the court for purposes of service but the address shall not be provided to anyone except to law enforcement or prosecutorial personnel as necessary for criminal prosecution. The court shall maintain a separate confidential register of names and addresses of petitioners;

(2) Name, current address, and last known address of the defendant and all possible locations where he or she may be contacted for service, if known;

(3) Specific statement made under oath, including descriptions and details of the domestic violence alleged;

(4) The relationship between the parties pursuant to sections 10-252 (family member), 10-252 (perpetrator), and 10-252 (spouse) and whether there is a pending action between the parties for annulment, legal separation or dissolution of marriage;

(5) The desired relief and other relief, as the court deems appropriate;

(6) Restraining the respondent from committing any acts of domestic violence;

(7) Restraining the respondent from harassing, stalking, threatening, annoying, telephoning, otherwise contacting the petitioner, directly or indirectly, or engaging in any other conduct that would place any named family or household members in reasonable fear of bodily injury;

(8) A finding that respondent represents a credible threat to the physical safety of petitioner or any named family or household members and explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury;

(9) Restraining respondent from receiving, possessing or transporting a firearm or ammunition within the Community;

(10) Restraining one or both parties from transferring, removing, encumbering, mortgaging, concealing, disposing, altering or damaging of joint or marital property except as authorized by the court, and requiring that an accounting shall be made to the court for all authorized transfers, encumbrances, disposition, and expenditures;

(11) Information of all prior orders given by the court relating to the current domestic matter that may be affected by the order of protection; and

(12) The following statement: "Warning: This is an official court order. If you disobey this court Order, the Court may find you in contempt of court. You may also be arrested and prosecuted for the willful disobedience of an order lawfully issued by the Court and any other crime you may have committed in disobeying this order. Nothing the petitioner does invalidates this order. Only a judge of the Court can quash or modify this order;"

(13) Any other condition or information as the court deems necessary or proper.

(Code 1981, § 10-119; Code 2012, § 10-119; Ord. No. SRO-221-97, § I, 12-18-1996; Ord. No. SRO-402-2012, § 10-119, 5-30-2012; Ord. No. SRO-430-2014, § 10-256, 1-1-2014)

Sec. 10-257. Reporting domestic violence.

(a) *Mandatory reporting requirements.* Any physician, resident on a hospital staff, physician assistant, pharmacist, dentist, nurse or emergency medical technician shall report or cause a report to be made to the local police department of each person who is treated or who requests treatment when the reporting person has a reasonable belief that the person receiving or requesting treatment is a victim of domestic violence.

(b) *Report to law enforcement.* Such report shall be made as soon as practicable after the treatment is rendered and shall contain the name and address of the injured person, if known, the nature and extent of the injury and the circumstances under which treatment is rendered.

(c) *Immunity for reporting.* Any individual who makes a report pursuant to this section is immune from liability for the report, provided that the person or other individual acted in good faith and without gross or wanton negligence.

(Ord. No. SRO-430-2014, § 10-257, 1-1-2014)

Secs. 10-258—10-299. Reserved.

ARTICLE VIII. OFFICE OF PUBLIC FIDUCIARY

Sec. 10-300. Purpose.

(a) *Establishment of office.* The purpose of this article is to establish the office of the public fiduciary ("office") to manage the financial and/or welfare of certain Community members determined by order of the Community court to be minor wards or incapacitated adults in need of a guardian or conservator.

(b) *Conservatorship division.* The office's conservatorship division will be a division of the Community's finance department and will serve as conservator upon appointment by the Community court to protect the real property and financial assets of certain Community members, and to act in these individuals' best interest when there is no other person or entity willing or able to act in that capacity.

(c) *Guardianship division.* The office's guardianship division will be a division of the Community's health and human services department and will serve as guardian upon appointment by the Community court to protect the health, welfare, and educational needs of certain adult Community members, and to act in these individuals' best interest when there is no other person or entity willing or able to act in that capacity.

(Ord. No. SRO-444-2014, § 10-300, 7-2-2014, eff. 5-1-2014)

Sec. 10-301. Scope.

(a) *The office.* This article establishes the office and governs its activities, including other necessary Community departments and staff that provide assistance and guidance to the office, when necessary.

(b) *Effective date.* This article shall be effective as of May 1, 2014. Nothing in this article shall nullify or affect any previous judicial or administrative actions pertaining to the appointment of a conservator or guardian.
(Ord. No. SRO-444-2014, § 10-301, 7-2-2014, eff. 5-1-2014)

Sec. 10-302. Definitions.

Agent means a person or entity authorized to act on behalf of another, typically pursuant to a power of attorney or other written legal instrument.

Community court means the Court of the Salt River Pima-Maricopa Indian Community.

Conservator means an appointment of the office's conservatorship division by the Community court, assigned by the Finance director, to manage financial assets, money and/or property for a ward.

Guardian means an appointment of the office's guardianship division by the Community court, assigned by the health and human services director, to manage the person's health, welfare and educational needs.

Incapacitated means any adult person who by order of the Community court is determined to be impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication or other cause to the extent that the adult person lacks sufficient understanding or capacity to make or communicate responsible decisions for themselves.

Office means the office of the public fiduciary.

Routine health care means any medical, dental or behavioral health care. including the prescribing of medication recommended by a licensed medical provider to improve or maintain the health, welfare, or personal comfort of an adult ward.

Trustee means a person who holds property in a trust.

Ward means a protected person for whom a guardian or conservator has been appointed.
(Ord. No. SRO-444-2014, § 10-302, 7-2-2014, eff. 5-1-2014)

Sec. 10-303. The office of the public fiduciary.

(a) *Delegation of appointment.* The finance director and the health and human services director may appoint employees to conduct the affairs of the office as necessary within their respective areas of responsibility. Any appointment or change in appointment made by the finance director or by the health and human services director shall be in writing in the form of a letter of appointment, with notice to the Community court.

(b) *Conservatorship responsibilities.* The finance director shall oversee and be responsible for the conservatorship division of the office, and will organize the office in a manner that allows the staff to effectively and efficiently conduct the affairs of the office while acting in the best interest of the ward.

(c) *Guardianship responsibilities.* The health and human services director shall oversee and be responsible for the guardianship division of the office, and will organize the office in a manner that allows the staff to effectively and efficiently conduct the affairs of the office while acting in the best interest of the adult ward.

(d) *Immunity.* Persons who serve in an advisory capacity to the fiduciary program and employees of the office, and employees of the Community court or other Community employees who participate in the fiduciary program are immune from civil liability for actions taken in good faith while acting within the scope of their authority.
(Ord. No. SRO-444-2014, § 10-303, 7-2-2014, eff. 5-1-2014)

Sec. 10-304. Duties and standards.

(a) *Order of the court.* The office shall only act as a conservator or guardian upon written appointment by the Community court.

(1) *Adult wards.* In regards to an adult, the Community court must, in writing based on clear and convincing evidence, determine that an adult meets the definition of incapacitated and therefore unable to take care of themselves and/or their property before appointing the office as conservator or guardian.

(2) *Minor wards.* In regard to minors, the office shall only serve in the role of a conservator, and not as guardian for a minor. The office shall serve in the role of conservator when the Community court in writing makes a determination based upon clear and convincing evidence that the minor's best interest will be served by appointing a conservator and that the minor's parents or guardians are not able to manage the minor's financial resources in a reasonable and prudent manner.

(b) *Standard of care.* The office shall administer as a prudent person would, and in satisfying this standard, the fiduciary shall exercise reasonable care, skill and caution to make decisions that are in the best interest of the ward.

(c) *Responsibilities of department directors.* The finance director and health and human services director for their respective divisions shall ensure the following:

(1) That there is a written code of conduct to guide all staff who are employed within the office;

(2) That written information to the ward and all persons entitled to notice regarding the status of office being appointed conservator and/or guardian is provided;

(3) That all employees of the office receive annual training regarding their responsibilities and duties as conservator or guardian;

(4) That all persons employed by the office acting in the capacity of a public fiduciary or guardian are bonded or appropriately covered under the Community's insurance policy;

(5) That no employee of the office has ever been convicted of a crime that involves violence, a felony; or found civilly liable for any action that involved fraud, misrepresentation, material omission, misappropriation, theft or conversion; and

(6) That each employee is suitable to serve in the role of a conservator or guardian.

(Ord. No. SRO-444-2014, § 10-304, 7-2-2014, eff. 5-1-2014)

Sec. 10-305. Office as conservator.

(a) *Minor and adult wards.* The office may serve as a conservator for both minors and adults.

(b) *Trustee for property.* The appointment of the office as a conservator for a person vests in the conservator, title as trustee to all property or to the property specified in the order of appointment, presently held or thereafter acquired, including title to any property previously held for the ward by custodians or agents.

(c) *Limited conservatorship.* An order specifying that only part of the property of the ward vests in the conservator creates a limited conservatorship, and a Community court order declaring a limited conservatorship must expressly declare the specific responsibility of the conservator under a limited conservatorship.

(d) *Retention of rights.* The appointment of a conservator is not a transfer or alienation within the meaning of general provisions of any federal, Community or other statute or rule, regulation, insurance policy, pension plan, contract, will or trust instrument, imposing restrictions upon or penalties for transfer or alienation by the ward of the person's rights or interest.

(e) *Property as nontransferable.* Unless the Community court order states otherwise, the interest of the ward in property vested in a conservator is not transferable or assignable by the ward.

(f) *Not subject to garnishment.* Property vested in a conservator by this section and the interest of the ward in that property is generally not subject to levy, garnishment or similar process.

(g) *Court-appointed powers.* A conservator has all the powers conferred herein and any additional powers conferred by law or the Community court.

(h) *Authority in routine matters.* On appointment by the Community court as conservator, the conservatorship division of the office will act reasonably in efforts to accomplish the purpose of the appointment, without additional Community court authorization or confirmation for these routine matters:

(1) Collect, hold, manage and retain assets of an estate including land, until, in the conservator's judgment, disposition of the assets should be made;

(2) Receive additions to the estate;

(3) Invest and reinvest estate assets;

(4) Deposit estate funds in a federally insured financial institution;

(5) Make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements and raze existing or erect new party walls or buildings;

(6) Insure the assets of the estate against damage or loss, and the conservator against liability with respect to third persons;

(7) Pay or contest any claim, settle a claim by or against the estate or the ward by compromise, arbitration, or otherwise;

(8) Pay taxes, assessments, fees and other expenses incurred in the collection, care, administration and protection of the estate;

(9) Pay any sum necessary to the ward or dependent of the ward;

(10) Employ persons, including attorneys, auditors, investment advisors or agents, even though they are associated with the conservator, to advise or assist the conservator in the performance of administrative duties, act upon their recommendation without independent investigation and, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(11) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of fiduciary duties;

(12) Execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the conservator;

(13) Keep detail records of the wards assets and expenses; and

(14) Initiate and complete the probate process on behalf of a deceased ward for whom they were appointed conservator if such a proceeding has not been initiated by an heir within one year of the ward's death.

(i) *Accounting to the Community court.*

(1) *Initial accounting.* Within 90 days of being appointed conservator, the office shall prepare and file with the Community court a complete inventory of the assets of the ward. This initial accounting shall be examined and approved by the Community court.

(2) *Final accounting.* Upon resignation or removal of a conservator or the death of the ward, the office must provide a final accounting report to the Community court that includes a complete inventory of the assets of the ward, and all information that would be in the annual accounting to the Community court. This final accounting shall be examined and approved by the Community court.

(3) *Annual accounting to the Community court.* From the date of appointment, the office is required to provide an annual financial accounting to the Community court of the following: 1) a statement of assets at the beginning and ending of the reporting year, 2) income received during the year, 3) disbursements for the support of the

ward, and 4) any other expenses incurred. This annual accounting shall be examined and approved by the Community court.

(Ord. No. SRO-444-2014, § 10-305, 7-2-2014, eff. 5-1-2014)

Sec. 10-306. Office as guardian.

(a) *Authority in routine matters.* On appointment by the Community court as guardian, the guardianship division within the office will act reasonably in efforts to accomplish the purpose of the appointment, without additional Community court authorization or confirmation for these routine matters:

(1) Make provision for the care, comfort and maintenance of the ward, including the providing of food, clothing, shelter, education, and routine health care when needed including both medical and behavioral health care at an in-patient facility;

a. Consent to medical treatment to enable a ward to receive routine reproductive health examinations and nonpermanent prescription contraceptive medication as well as dialysis treatment including invasive procedures;

b. Consent to medical or behavioral health care treatment that may be necessary in emergency situations, that is not routine, to preserve the life or well-being of the ward (in these situations, the guardian will notify the Community court as soon as possible but not later than the following business day of the action taken pursuant to this section);

(2) Take reasonable care of the ward's clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of the ward is in need of protection; and

(3) Provide notice to the court within five business days of any in-patient medical or behavioral health treatment.

(b) *Least restrictive setting.* A guardian shall find the most appropriate and least restrictive setting for the ward consistent with the ward's needs, capabilities and financial ability.

(c) *Ward's desires.* When appropriate, the office will make decisions concerning the ward based on the ward's values and wishes.

(d) *Reserved powers of the Community court.* The office is not authorized to do the following on behalf of the ward except upon order of the court:

(1) Make any end of life decision;

(2) With the exception of dialysis treatment, consent or give approval for any nonemergency invasive or surgical procedure;

(3) Consent to invasive or permanent contraception or termination of a pregnancy;

(4) Consent to a marriage; or

(5) Consent to the adoption of a child.

(e) *Court-appointed powers.* A guardian has all the powers conferred herein and any additional powers conferred by the Community court.

(f) *Extraordinary event.* The guardian will notify the Community court as soon as possible regarding any extraordinary situation or event that impacts the ward's health or welfare (for example, if the ward is incarcerated or charged with a crime).

(g) *Report to the Community court.*

(1) *Initial report.* Within 90 days of being appointed guardian, the office shall prepare and file a report informing the Community court of the physical and mental condition of the ward, the condition of the ward's physical residence, and any unmet needs that the ward may have. This initial report shall be examined and approved by the Community court.

(2) *Final report.* Upon resignation or removal of a guardian or the death of the ward, the office must provide a final report to the Community court that includes the physical and mental condition of the ward prior to death, and the conditions of the

ward's physical residence. This final report shall be examined and approved by the Community court.

(3) *Annual report.* From the date of appointment, the office is required to provide an annual report informing the Community court about the following:

a. Ward's physical and mental condition;

b. The condition of the ward's physical residence; and

c. Whether there is a continuing need for the ward to have a guardian.

(Ord. No. SRO-444-2014, § 10-306, 7-2-2014, eff. 5-1-2014)

Sec. 10-307. Annual audit.

On an annual basis, an independent auditor will review the office for compliance in regards to court orders, Community and other applicable laws, policies and standards. In the conservator setting, the annual audit will ensure financial accountability and responsible management of the ward's assets by the conservator. In the guardian setting, the audit will ensure that the guardian has acted reasonable and appropriate in managing the ward's health and welfare. The audit shall be provided to the chief judge of the Community court, the Community manager and council.

(Ord. No. SRO-444-2014, § 10-307, 7-2-2014, eff. 5-1-2014)

Chapter 11

MINORS

Article I. In General

Sec. 11-1. Purpose.
Sec. 11-2. Definitions.
Secs. 11-3—11-22. Reserved.

Article II. Juvenile Court

Sec. 11-23. Established.
Sec. 11-24. Procedures and authorizations.
Sec. 11-25. Jurisdiction.
Sec. 11-26. Application of the Indian Child Welfare Act.
Sec. 11-27. Personnel.
Sec. 11-28. Juvenile records.
Sec. 11-29. Juvenile court appeals.
Sec. 11-30. Fees.
Sec. 11-31. Alternative method for resolution of cases.
Secs. 11-32—11-50. Reserved.

Article III. Community Prosecutor

Sec. 11-51. Duties.
Secs. 11-52—11-75. Reserved.

Article IV. Child Protective Services

Sec. 11-76. Duties and responsibilities of the Community social services department.
Sec. 11-77. Child protective services.
Secs. 11-78—11-97. Reserved.

Article V. Rights and Responsibilities

Sec. 11-98. Support of children.
Sec. 11-99. Emancipation.
Sec. 11-100. Basic rights.
Secs. 11-101—11-128. Reserved.

Article VI. Juvenile Justice

Sec. 11-129. Procedure for arrest and detention of juveniles.
Sec. 11-130. Informal adjustment of complaint or citation.
Sec. 11-131. Commencement of formal proceedings.
Sec. 11-132. Notice of initial appearance.
Sec. 11-133. Initial appearance.
Sec. 11-134. Adjudication hearing.
Sec. 11-135. Disposition proceedings.
Sec. 11-136. Modification or revocation of court order.
Sec. 11-137. Petition for incorrigibility.
Sec. 11-138. Incorrigibility proceedings and procedures.
Secs. 11-139—11-155. Reserved.

Article VII. Child Protection

Sec. 11-156. Reporting child abuse and neglect.
Sec. 11-157. Investigation of reports; removal of child.
Sec. 11-158. Placement of children.
Sec. 11-159. Commencement of proceedings.
Sec. 11-160. Guardian ad litem.
Sec. 11-161. Protective custody hearing.
Sec. 11-162. Informal adjustment of petition.
Sec. 11-163. Adjudication hearing generally.
Sec. 11-164. Adjudication hearing notice.
Sec. 11-165. Disposition proceedings.
Sec. 11-166. Placement preferences.
Sec. 11-167. Review hearing.
Sec. 11-168. Permanency policy.
Sec. 11-169. Requirement for permanency disposition.
Sec. 11-170. Exceptional care requirements.
Sec. 11-171. Time for permanency disposition hearing.
Sec. 11-172. Review of transferring court's order for permanency disposition.
Sec. 11-173. Pre-permanency hearing report.
Sec. 11-174. Permanency hearing.
Sec. 11-175. Possible outcomes.
Sec. 11-176. Legal guardianship or permanent legal guardianship as permanency disposition.
Sec. 11-177. Adoption as permanency disposition.
Sec. 11-178. Termination of parental rights as a permanency disposition.
Sec. 11-179. Voluntary termination of parental rights.
Sec. 11-180. Petition to terminate parental rights of a dependent child.
Sec. 11-181. Grounds for involuntary termination of parental rights.
Sec. 11-182. Timing of hearing and service for initial hearing for termination and termination of parental rights trial.
Sec. 11-183. Initial hearing for termination of parental rights.
Sec. 11-184. Termination of parental rights trial.
Sec. 11-185. Effect of termination.
Sec. 11-186. Disposition after termination.
Sec. 11-187. Termination of parental rights petition denied, permanency review hearing required.
Sec. 11-188. Subsequent permanency review hearings.
Sec. 11-189. Subsequent petition to terminate parental rights after denial of prior petition to terminate.
Secs. 11-190—11-216. Reserved.

Article VIII. Curfew

Sec. 11-217. Curfew described; exception.
Sec. 11-218. Responsibility of parent, guardian or custodian.
Sec. 11-219. Legal requirements.
Sec. 11-220. Curfew violations to be separate offenses.
Sec. 11-221. Penalties.
Sec. 11-222. Law enforcement authority for transport.
Secs. 11-223—11-252. Reserved.

Article IX. Rights of Child Victims or Witnesses of Crime

Sec. 11-253. Intent.
Sec. 11-254. Definitions.
Sec. 11-255. Rights enumerated.
Sec. 11-256. Civil liability.
Secs. 11-257—11-275. Reserved.

Article X. Investigation of Persons Working With Children

Sec. 11-276. Policy.
Sec. 11-277. Employment application; background requirements.
Sec. 11-278. Responsibilities of personnel department.
Sec. 11-279. Background information.
Sec. 11-280. Confidentiality.
Secs. 11-281—11-308. Reserved.

Article XI. Truancy

Sec. 11-309. Definitions.
Sec. 11-310. School instruction.
Sec. 11-311. School attendance.
Sec. 11-312. Attendance officer.
Sec. 11-313. Citation.
Sec. 11-314. Waiver of school attendance.
Sec. 11-315. Informal agreement.
Sec. 11-316. Community court hearings.
Sec. 11-317. Fines.
Sec. 11-318. Additional civil sanctions.

ARTICLE I. IN GENERAL

Sec. 11-1. Purpose.

This chapter shall be liberally interpreted and construed to fulfill the following expressed purposes:

(1) To ensure the welfare, care and protection, and rehabilitation of children within the Community;

(2) To preserve unity of the family by separating the child from the child's parents only when necessary;

(3) To take such actions as may be necessary to prevent the abuse, neglect or abandonment of children;

(4) To ensure a continuum of services for children and their families from prevention to residential treatment, with emphasis on prevention, early intervention and Community-based alternatives;

(5) To secure the rights of, and ensure fairness to, the children, parents, guardians, custodians or other parties who come before the juvenile court under the provisions of this chapter;

(6) To ensure that off-reservation courts return Community children to the Community;

(7) To recognize and acknowledge customs and traditions of the Community with regard to child-rearing.

(Code 1981, § 11-1(a); Code 2012, § 11-1(a); Ord. No. SRO-210-96, § 1(a), 11-15-1995; Ord. No. SRO-341-09, 11-12-2008; Ord. No. SRO-385-2011, § 11-1(a), 9-28-2011; Ord. No. SRO-402-2012, § 11-1(a), 5-30-2012; Ord. No. SRO-409-2013, 12-1-2012)

Sec. 11-2. Definitions.

Unless otherwise indicated, the following terms shall have the meanings herein ascribed to them, for the purposes of this chapter:

Abandon means when a parent, guardian or custodian leaves a child and fails to provide reasonable support and to maintain regular contact with the child. Failure to maintain a normal parental relationship with the child without just cause for a period of six months shall constitute prima facie evidence of abandonment.

Abuse means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or aggressive behavior and which emotional damage is caused by the acts or omissions of an individual having care, custody and control of a child. The term "abuse" shall include inflicting or allowing sexual abuse, or sexual conduct or contact with a child, as provided in chapter 6 article IV, division 2, sexual contact with children.

Adjudication means a finding by the court on the facts alleged in the petition, complaint or citation.

Adult means a person 18 years of age or older or otherwise emancipated by order of a court of competent jurisdiction.

Agent of notice means a person or agency designated by the Community to receive notice from a state in child protection cases.

Child means a person who is less than 18 years of age and has not been emancipated by order of a court of competent jurisdiction. The terms "juvenile" and "child" shall have the same meaning under this chapter.

Child placement agency means an agency receiving children for placement or adoption, which agency is licensed or approved when such license or approval is required by law.

Court means the juvenile division of the Community court.

Cultural connectedness means the efforts directed at fostering and maintaining relationships between a dependent child of the Community court with the Community and with the child's family members, including extended family members, provided that such efforts are in the best interest of the child.

Custodian.

(1) The term "custodian" means a person who has physical custody of a child by arrangement with the child's parent, guardian, or by order of the juvenile court.

(2) The term "custodian" does not include any person who has the child in violation of any court order or who has obtained physical custody through illegal means.

Dependent child means:

(1) A child who is adjudicated to be in need of proper and effective parental care and control and has no parent, guardian or custodian, or one who has no parent, guardian or custodian willing to exercise or capable of exercising such care and control.

(2) A child who is adjudicated to be destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care, or whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, guardian, custodian, or any other person having custody or care of the child.

(3) Under the age of eight years who is found to have committed an act that would result in adjudication as a juvenile offender or incorrigible child if committed by an older child.

Detention means the temporary pre- or post-judgment care of a child who requires secure custody in a physically restricting facility.

Extended family means those family members recognized by the customs and traditions of the Community as being of sufficient relation to care for a child within the jurisdiction of the court.

Guardian means a person assigned by a court of law, other than a parent, having the duty and authority to provide care and control of a child and to make decisions in matters having a permanent effect on the life and development of the child. It includes, among other things, the authority to consent to marriage, enlistment in the armed forces, and major medical, surgical or psychiatric treatment.

Guardian ad litem means an officer of the court, either an attorney or an advocate, appointed to protect and advocate for the best interests of the individual they are appointed to represent. A guardian ad litem functions independently, in the same manner as an attorney and/or advocate for a party to the action, and considers, but shall not be determinative, the wishes of the individual they are appointed to represent or the positions of others as to the best interests of the individual they are appointed to represent.

He or she / his or her means he or she, his or her and the singular includes plural.

Incorrigible child means a child adjudicated as one who refuses to obey the reasonable and proper orders or directions of his or her parent, guardian or custodian, and who is beyond the control of such person; or any child who:

(1) Is habitually truant from school as provided in section 11-309;

(2) Is a runaway from home or parent, guardian or custodian;

(3) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others;

(4) Habitually commits any act constituting an offense which can only be committed by a minor and which is not designated as a juvenile offense; or

(5) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.

Juvenile means a person who is less than 18 years of age and has not been emancipated by order of a court of competent jurisdiction. The terms "juvenile" and "child" shall have the meaning under this chapter.

Juvenile offender means a juvenile who is adjudicated to have committed an act, which, if committed by an adult, would be a criminal offense.

Juvenile offense means an act by a juvenile, which, if committed by an adult, would be a criminal offense.

Legal custody means a relationship embodying the following rights and duties of an adult with respect to a minor the right to:

(1) Physical custody of a child; the right and duty to protect, train and discipline the child;

(2) Provide the child with food, clothing, shelter, education and ordinary medical care;

(3) Determine where and with whom the child shall live; and

(4) In an emergency, authorize surgery or other extraordinary care.

Legal custody is subject to residual parental rights and responsibilities of the guardian of the child.

Neglect means the refusal or failure of a parent, guardian or custodian to provide adequate food, clothing, shelter, medical care, education or supervision necessary for the health and well-being of the child. The term "neglect" includes abandoned children.

Out-of-home placement means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody.

Parent.

(1) The term "parent" means and includes a natural or adoptive parent.

(2) The term "parent" does not include persons whose parental rights have been terminated, nor does it include the unwed father whose paternity has not been acknowledged or established.

Probation means a legal status created by court order following an adjudication involving violations of law by the juvenile under supervision by a probation officer designated by the court, subject to return to the court for further proceedings due to violation of any of the conditions prescribed.

Protective supervision means a legal status created by court order in proceedings involving incorrigible and dependent children, whereby the child is permitted to remain in his or her home, and supervision and assistance to correct the incorrigibility or dependency is provided by a court officer or other agency designated by the court.

Residual parental rights and duties means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including, but not limited to, the responsibility for support, the right to consent to adoption, the right to determine the child's religious affiliation, and the right to reasonable visitation unless restricted by the court. If no guardian has been appointed, "residual parental rights and duties" also include the right to consent to marriage, enlistment in the armed forces, and major medical, surgical or psychiatric treatment.

Restitution.

(1) The term "restitution" means financial or other reimbursement to the victim that is limited to easily ascertainable damages for injury to or loss of property; actual expenses incurred for medical, psychiatric and psychological treatment for injury to persons; and lost wages resulting from injury, which are a direct and proximate result of the delinquent act.

(2) The term "restitution" does not include reimbursement for damages for mental anguish, pain and suffering, or other intangible loss.

Shelter care means the temporary care of a child in any facility or environment, except a jail or other facility used for the detention of children alleged to be juvenile offenders, pending court disposition or transfer to another jurisdiction.

Termination of parent/child relationship means the permanent elimination by court order of all parental rights and duties, including residual parental rights and duties.

(Code 1981, § 11-1(b); Code 2012, § 11-1(b); Ord. No. SRO-210-96, § 1(b), 11-15-1995; Ord. No. SRO-341-09, 11-12-2008; Ord. No. SRO-385-2011, § 11-1(b), 9-28-2011; Ord. No. SRO-402-2012, § 11-1(b), 5-30-2012; Ord. No. SRO-409-2013, 12-1-2012)

Secs. 11-3—11-22. Reserved.

ARTICLE II. JUVENILE COURT

Sec. 11-23. Established.

There is established for the Community, as a division of the Community court, a court to be known as the "Salt River Juvenile Court." The jurisdiction of the juvenile court shall be civil in nature and shall include the right to issue all orders necessary to ensure the safety and rehabilitation of children within the boundaries of the Community, as well as other children not within the boundaries of the Community, who have been declared wards of the juvenile court. The juvenile court is authorized to enforce subpoenas and orders of restriction, to impose fines, contempt, confinement and to order any other reasonable conditions to be complied with by the child, parent, custodian, or any other person made a party to the proceedings.
(Code 1981, § 11-2; Code 2012, § 11-2; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-2, 5-30-2012)

Sec. 11-24. Procedures and authorizations.

(a) *Rules of procedure.* The procedures in the juvenile court shall be governed by the rules of procedure for the Community court which are not in conflict with this chapter.

(b) *Exclusion of public.* The general public shall be excluded from all juvenile court proceedings under this chapter. Only the parties, their counsel, witnesses, the child's family and other persons determined to be appropriate by the court shall be admitted.

(c) *Cooperation.* The juvenile court is authorized to cooperate fully with any federal, state, tribal, public or private agency in order to participate in any foster care, shelter care, treatment or training programs and to receive grants-in-aid to carry out the purposes of this chapter.

(d) *Social services.* The juvenile court, in the exercise of its duties, shall utilize such social services as may be furnished by the Community or any federal or state agency to the end that it may be economically administered without unnecessary duplication or expense.

(e) *Burdens of proof.* The juvenile court shall apply three separate standards or burdens of proofs, as provided by subsequent provisions of this chapter. These burdens of proof relate to the quantum or degree of evidence required to meet the burden applied, and are listed and defined as follows:

(1) *Preponderance of evidence.* Evidence which is more convincing to the trier of fact as worthy of belief than that which is offered in opposition to it.

(2) *Clear and convincing.* A preponderance of the evidence which is also definite, clear, and convincing so as to enable the trier of fact to come to a conviction, without hesitancy, of the truth of the facts at issue.

(3) *Beyond a reasonable doubt.* Evidence that precludes any doubt arising from a candid and impartial investigation of that evidence which might, under ordinary circumstances, cause a reasonable person to hesitate and pause in deciding the truth of that evidence.

(Code 1981, § 11-3; Code 2012, § 11-3; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-3, 5-30-2012)

Sec. 11-25. Jurisdiction.

(a) *Generally.* The juvenile court shall have authority to determine all issues and controversies concerning jurisdiction, and shall exercise original jurisdiction over all persons within the territorial jurisdiction of the Community court as follows:

(1) Concerning any child who is alleged to have violated any Community, federal, state or local law or municipal ordinance, which violation if committed by an adult would be a crime.

(2) A child who is alleged to be dependent or incorrigible as these terms are defined in section 11-2.

(3) To determine the custody of any child or appoint a guardian of any child who comes within the purview of the court's jurisdiction under other provisions of this section.

(4) To determine the legal parent-child relationship, including termination of the parent-child relationship and residual parental rights and duties, as to a child who comes within the purview of the court's jurisdiction under other provisions of this section.

(5) For judicial consent to the emancipation, marriage, employment or enlistment of a child in the armed forces, and to emergency medical or surgical treatment of a child who comes within the purview of the court's jurisdiction under other provisions of this section.

(6) For the treatment or commitment of a mentally handicapped child who comes within the purview of the court's jurisdiction under other provisions of this section.

(7) For children who are enrolled as members of the Community or who are eligible for enrollment and who are subject to proceedings in any other court under the Indian Child Welfare Act.

(8) Over truancy matters pursuant to article XI of this chapter.

(b) *Jurisdiction over extended family.* Where the juvenile court asserts jurisdiction over a child under subsection (a) of this section, the court may also exercise, in addition to jurisdiction over the child's parent, guardian or custodian, jurisdiction over the child's extended family whenever the court deems it appropriate.

(c) *Required attendance of parent, guardian or custodian.* The parent, guardian, or custodian of a child against whom a petition or citation has been filed alleging the commission of a juvenile offense or incorrigible act shall be served with summons pursuant to section 11-132 and shall appear with the child at the juvenile court at the time set by the court. The court may waive the requirement that the parent, guardian or custodian appear. Failure of a parent to appear shall not bar further proceedings by the court. The juvenile court may cite for contempt a parent, guardian or custodian who fails to appear with the child in juvenile court.

(d) *Continuing jurisdiction.* Where the juvenile court deems it appropriate, the court may retain jurisdiction over children and their extended families, and such other persons who are subject to the orders of the court pursuant to section 11-31, who leave the exterior boundaries of the Community.

(e) *Termination.* Jurisdiction obtained by the juvenile court under subsections (a) and (b) of this section is retained by the court until terminated by court order. The juvenile court shall not have jurisdiction under this chapter over an emancipated child or when the child reaches 18 years of age, unless the court has ordered jurisdiction thereafter to continue until some other time not to exceed the child's 19th birthday.

(f) *Transfer to Community court.* The juvenile court may transfer jurisdiction over a child to the Community court for prosecution as an adult if the child is 16 years of age or older, and is alleged to have committed an act which, if committed by an adult, would be a crime.

(1) *Petition.* The Community prosecutor or the child may file a petition requesting the juvenile court to transfer the child's case to the Community court.

(2) *Hearing.* The juvenile court shall conduct a hearing to determine whether jurisdiction over the child should be transferred to the Community court. The transfer hearing shall be held not more than ten days after the petition to transfer is filed. Written notice of the transfer hearing shall be given to the child and the child's parents, guardian, or custodian at least 48 hours prior to the hearing.

(3) *Deciding factors for transfer.* The following factors shall be considered when determining whether to transfer jurisdiction of the child to the Community court: The nature and seriousness of the offense with which the child is charged; the nature and condition of the child, as evidenced by the child's age, mental and physical condition; past record of offenses, and past court efforts at rehabilitation and the likelihood of rehabilitation.

(4) *Standard of proof.* The court may transfer jurisdiction of the child to Community court if the court finds clear and convincing evidence that there are no reasonable prospects for rehabilitating the child through resources available to the court, and the offense allegedly committed by the child evidences a pattern of conduct which constitutes a substantial danger to the public.

(5) *Written court order.* When a petition to transfer a juvenile to the Community court is filed, the juvenile court shall issue a written order granting the petition or denying the petition to transfer which order shall contain the reasons for its order. The order granting the petition or denying the petition constitutes a final order for purposes of appeal.

(Code 1981, § 11-4; Code 2012, § 11-4; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-402-2012, § 11-4, 5-30-2012; Ord. No. SRO-414-2013, § 11-4(f), 3-1-2013)

Sec. 11-26. Application of the Indian Child Welfare Act.

The juvenile court may apply the policies of the Indian Child Welfare Act, 25 USC 1901 et seq., where they do not conflict with the provisions of this chapter. The procedures for state courts in the Indian Child Welfare Act shall not be binding upon the juvenile court unless specifically provided for in this chapter.

(1) *Transfer from state court.*

a. *Agent of notice.* The Community agent for service of notice of state court child custody proceedings, as defined by the Indian Child Welfare Act, shall be the office of the staff attorney and Community director of social services.

b. *Receipt of notice; investigation and report on eligible children.* The Community social service division shall conduct an investigation and file a written report on eligible children with the staff trial attorney within ten days of receipt of notice from the state court, or may recommend that the tribal attorney request a time extension of 20 days.

c. *Recommendations for transfer or intervention.* The Community social service department shall make the determination and instruct the tribal attorney on whether or not the Community should petition for transfer from, or intervene in, state court child custody proceedings.

d. *Petition for transfer.* Upon receipt of the pre-transfer report and recommendations from the Community social service division, the Community petition for transfer or intervention shall be filed in state court by the staff tribal attorney.

e. *Acceptance of transfer.* The court shall not accept transfer from state court unless a parent or Indian custodian's petition, or the Community's petition, to state court for transfer is granted.

f. *Temporary guardianship.* Upon acceptance of transfer from state court, the court shall appoint a guardian for the child or otherwise order that the child be placed in Community-based shelter care authorized by section 11-158 until final disposition of the matter.

g. *Hearing(s).* Upon receipt of transfer jurisdiction from state court, the Community prosecutor shall file a dependency petition in the juvenile court, and appropriate hearing(s) shall be held in accordance with this chapter no sooner than 20 days following receipt of transfer.

(2) *Transfer to state court or other tribal court.* The juvenile court may transfer a proceeding before the court to an appropriate state court or other tribal court where the state or other Indian tribe has a significant interest in the child and the transfer would be in the best interests of the child.

(3) *Transfer from other tribal court.* The juvenile court may consider accepting a request for transfer of a proceeding from an appropriate tribal court where the Community has a significant interest in the child and the transfer would be in the best interests of the child.

(4) *Court orders; Community interests.*

a. *State court orders.* State child custody orders involving children over whom the juvenile court could take jurisdiction may be recognized by the juvenile court only after a full independent review of such state proceedings has determined that:

1. The state court had jurisdiction over the child;
2. The provisions of the Indian Child Welfare Act, 25 USC 1901 through 1963, were properly followed;
3. Due process was afforded to all interested persons participating in the state proceedings; and
4. The state court proceeding does not violate the public policies, customs, or common law of the Community.

b. *Court orders of other tribal courts.* Court orders of other tribal courts involving children over whom the juvenile court could take jurisdiction may be recognized by the juvenile court after the court has determined:

1. The other tribal court exercised proper subject matter and personal jurisdiction over the parties; and
2. Due process was afforded to all interested parties participating in the other tribal court proceeding.

c. *Community interests.* Because of the vital interest of the Community in its children and those children who may become members of the Community, the statutes, regulations, public policies, customs and common law of the Community shall control in any proceeding involving such children.

(Code 1981, § 11-5; Code 2012, § 11-5; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-293-2003, 2-5-2003; Ord. No. SRO-356-2010, 9-12-2009; Ord. No. SRO-402-2012, § 11-5, 5-30-2012)

Sec. 11-27. Personnel.

(a) *Judge.* The chief judge of the Community court may assign one or more judges to sit on juvenile court cases.

(b) *Referee.*

(1) The chief judge may appoint, in any matter civil and not criminal in nature, an associate Community court judge, probation officer, or other qualified person as referee to serve during the pleasure of the court, except that no employee of the Bureau of Indian Affairs, United Sates Department of Interior, shall be eligible to serve as referee. No probation officer who has had any previous connection with the child involved in any particular case, by investigation, protective supervision, probation or otherwise, shall act as referee in any hearing involving such child.

(2) A judge may refer any case to a referee, or he or she may direct that all cases of a certain nature or within a certain geographical area shall, in the first instance, be heard by a referee, and in the same manner as cases are initiated and hearings are held by the court. At the conclusion of the hearing, the referee shall transmit to the judge all papers relating to the case, together with his or her written findings and recommendations.

(c) *Juvenile probation officers' powers and duties.*

(1) Juvenile probation officers shall have the authority to temporarily detain juveniles, but shall, whenever possible, refrain from exercising such power except in urgent

situations in which a regular law enforcement officer is not immediately available.

(2) The juvenile probation officer(s) shall:

a. Make preliminary inquiries, social studies and such other investigations as the juvenile court may direct, keep written records of such investigations or studies, and make reports to the juvenile court as directed.

b. Explain to the child and his or her parent, guardian or custodian the meaning and conditions of probation or protective supervision.

c. Keep informed of the conduct and condition of each child on probation and report thereon to the court; use all suitable methods to improve the conduct or condition of children on probation or under protective supervision.

d. Perform such other duties in connection with the care and custody of children as the court may require.

(Code 1981, § 11-6; Code 2012, § 11-6; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-6, 5-30-2012)

Sec. 11-28. Juvenile records.

(a) *Preservation; inspection.* A record of all juvenile court hearings shall be made and preserved. All juvenile court records shall be confidential and shall not be inspected by anyone but the following, provided that the persons requesting inspection have no interests adverse to the child:

(1) The child;

(2) The child's parent, guardian or custodian;

(3) The child's legal counsel or guardian ad litem;

(4) The juvenile court personnel directly involved in the handling of the case;

(5) Any other person by order of the court, having a legitimate interest in the particular case or the work of the court.

(b) *Confidentiality of law enforcement/social services records.* Law enforcement records and social services files concerning a child shall be kept separate from the records and files of adults. Such juvenile records shall be confidential and shall not be disclosed except by order of the court. A court order may require conditions of disclosure including, without limitation, sanitization of records and in camera inspection.

(Code 1981, § 11-12; Code 2012, § 11-12; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-12, 5-30-2012)

Sec. 11-29. Juvenile court appeals.

Unless otherwise provided by this chapter, the right to appeal, grounds for appeal and procedures for appeal, as set forth in chapter 5, shall apply to this chapter. Where the order, decree or judgment appealed from directs a change of legal custody of a child, the appeal shall be heard and decided at the earliest practicable time. The name of the child shall not appear on the record of appeal.

(Code 1981, § 11-13; Code 2012, § 11-13; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-13, 5-30-2012; Ord. No. SRO-414-2013, § 11-13, 3-1-2013)

Sec. 11-30. Fees.

There shall be no fee for filing a petition under the provisions of this chapter, nor shall any fees be charged by any Community officer for the service of process or for the attendance in court in any such proceedings. Witness fees shall be payable in accordance with the provisions for witnesses in the Community courts.

(Code 1981, § 11-14; Code 2012, § 11-14; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-14, 5-30-2012)

Sec. 11-31. Alternative method for resolution of cases.

(a) *Purpose.* The purpose of this section is to utilize the unique resource of the extended families of the Community to assist the juvenile court in resolving problems relating to the youth of the Community. The use of this alternative resource is based upon the belief that juvenile offender,

incorrigibility and dependency problems associated with juveniles are best resolved within the context and with the support of each juvenile's family structure, and by application of the customs and traditions of the Pima and Maricopa peoples.

(b) *Preliminary procedure.* All definitions and all procedures prescribed by this chapter prior and up to adjudication of issues, including, but not limited to, pleading, notice, fees, and service of process as set forth in this section and sections 11-131, 11-132, 11-159 and 11-164, shall apply to this section.

(c) *Motion.* Prior to a hearing on the merits of juvenile cases, the court, upon its own motion or upon motion by a parent or guardian of the child or by the Community, may order that the case be heard pursuant to the procedure set forth in this section.

(d) *Applicability.* The court shall, upon motion by a party as provided in subsection (c) of this section, or prior to its own motion, make inquiry in order to determine both the applicability and suitability of hearing the case pursuant to this section. The court shall inquire into and seek to ascertain:

(1) The number of extended family members who are or should be interested in participating in resolving the issue regarding the child;

(2) The degree of involvement which the extended family members exhibit toward the welfare of the child;

(3) The gravity of the delinquency, incorrigibility or dependency issue associated with the child; and

(4) The views and wishes of the child subject of the delinquency, incorrigibility or dependency issues before the court.

(e) *Hearing.* The hearing shall be conducted informally and in such a way as to give maximum discretion to the court and full effect to the customs and traditions of the Community and of the extended family; provided, however, that the following minimum requirements are met:

(1) All participating members of the extended family are given an opportunity to be heard in open court;

(2) Any family member or party, including the Community, may present evidence and call witnesses to testify;

(3) The child who is the subject of the proceedings, if able, be given an opportunity to be heard in open court; and

(4) The general public shall be excluded, and only such persons as the court determines have a direct and legitimate interest in the case shall be admitted.

The court shall have the authority to order the attendance of extended family members. The court may appoint a member of the Community who is qualified by experience and temperament to act as a tribal elder and conduct the hearing provided for in this section and make written recommendations of disposition of the case to the court.

(f) *Entry of judgment; appeal.*

(1) Upon reaching a decision pursuant to the procedures set forth in this section, the court shall enter judgment as provided by sections 11-135 and 11-165.

(2) In its order or judgment, the court shall indicate that its decision was reached by use of the procedure provided by this section.

(3) The court shall make all reasonable attempts to fashion its remedy or relief in its judgment or order so as to incorporate the extended family, and not simply isolate the juvenile. The court may require members of the extended family to perform specific acts or services for the juvenile.

(4) Any extended family member or party adversely affected by a final disposition shall be informed of his or her right to appeal.

(5) All appeals under this section shall be made pursuant to section 11-29.

(Code 1981, § 11-15; Code 2012, § 11-15; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-15, 5-30-2012)

Secs. 11-32—11-50. Reserved.

ARTICLE III. COMMUNITY PROSECUTOR

Sec. 11-51. Duties.

The Community prosecutor shall, in addition to the duties set forth in section 4.5-25, carry out the following duties and responsibilities:

(1) Attend and represent the Community in all juvenile proceedings involving allegations of child dependency, incorrigibility and juvenile offenses;

(2) Direct such investigation the prosecutor deems necessary of acts of alleged child dependency, incorrigibility and delinquent behavior;

(3) Process, file and present petitions, subpoenas, affidavits, motions and papers of any kind to the juvenile court on behalf of the Community and in the best interests of the child;

(4) Promote cooperation, communication, and consistency among all relevant agencies, including, but not limited to, Community social services, law enforcement and child protective services.

(Code 1981, § 11-7; Code 2012, § 11-7; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-7, 5-30-2012)

Secs. 11-52—11-75. Reserved.

ARTICLE IV. CHILD PROTECTIVE SERVICES

Sec. 11-76. Duties and responsibilities of the Community social services department.

(a) Child protective services workers shall be employed by the Community social services department.

(b) The department may cooperate with such state, federal and Community agencies as are necessary to achieve the purposes of this chapter. The department may negotiate working agreements with other jurisdictions subject to review by the Community prosecutor and final approval of the Community Council.

(Code 1981, § 11-8(a), (b); Code 2012, § 11-8(a), (b); Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-8(a), (b), 5-30-2012)

Sec. 11-77. Child protective services.

Child protective services shall:

(1) Receive reports of dependent children and be prepared to provide temporary shelter care for such children on a 24-hour basis;

(2) Upon receipt of any report or information under subsection (1) of this section:

a. Make prompt investigation, which shall include a determination of the nature, extent, and cause of any condition which is contrary to the child's best interests and the name, age, and condition of other children in the home; and

b. Where criminal conduct is suspected, notify the appropriate law enforcement agency;

(3) Take a child into temporary custody if there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his or her surroundings and that his or her removal is necessary. Law enforcement officials shall cooperate with social services personnel to remove a child from the custody of his or her parents, guardian or custodian when necessary;

(4) Evaluate and assess the home environment of the child or children in the same home and the risk to such children if they continue to be subjected to the existing home environment, and all other facts or matters found to be pertinent;

(5) Prepare and submit a written report of the investigation and evaluation to the Community prosecutor.

(Code 1981, § 11-8(c); Code 2012, § 11-8(c); Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-8(c), 5-30-2012)

Secs. 11-78—11-97. Reserved.

ARTICLE V. RIGHTS AND RESPONSIBILITIES

Sec. 11-98. Support of children.

(a) *Responsibility of parents or legal guardians.* For any child deemed dependent pursuant to this chapter in juvenile court, the parents and/or legal guardians of such child shall be responsible for the financial care, support and maintenance of such child consistent with chapter 10, article II, division 2.

(b) *Notice of hearing.* Child support hearings may be addressed by the court in conjunction with any other dependency hearing, so long as the parties had notice that the child support hearing would be heard. When such hearing is not held in conjunction with another dependency hearing, notice for child support hearings shall be achieved consistent with chapter 10, article II, division 2.

(Code 1981, § 11-9; Code 2012, § 11-9; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-391-2012, 1-25-2012; Ord. No. SRO-402-2012, § 11-9, 5-30-2012)

Sec. 11-99. Emancipation.

The parents or legal guardian of a child 16 years of age or older may petition the juvenile court on behalf of the child for emancipation or, in such situations where there is no parent or legal guardian available or willing to petition for emancipation, the child may petition for emancipation. The court shall not grant such status unless the parties prove to the court by clear and convincing evidence that the child is capable of functioning as an independent and responsible member of the Community. Where the petitioner is the child, the child must further show that the petition was not filed primarily in response to restrictions and limitations imposed by his or her parent, guardian or custodian.

(Code 1981, § 11-10; Code 2012, § 11-10; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-10, 5-30-2012)

Sec. 11-100. Basic rights.

All parties have a right to be represented at their own expense as provided in section 4-4 in all proceedings under this chapter, to introduce evidence, to be heard on his or her own behalf, to examine witnesses, and to be informed of possible consequences if the allegations of the petition are found to be true. All parties shall be entitled to advance copies of court documents, including petitions and reports, unless deemed inappropriate by the court.

(Code 1981, § 11-11; Code 2012, § 11-11; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-11, 5-30-2012)

Secs. 11-101—11-128. Reserved.

ARTICLE VI. JUVENILE JUSTICE

Sec. 11-129. Procedure for arrest and detention of juveniles.

(a) *By warrant or court order.* A juvenile shall be arrested by a police officer or a probation officer pursuant to:

(1) An order of the juvenile court;

(2) A warrant.

(b) *Without warrant or court order.* A juvenile may be arrested or taken into custodial detention by a police officer or a probation officer without a warrant or order of the court when:

(1) The juvenile has committed an offense in the presence of the officer;

(2) There are reasonable grounds to believe that the juvenile has committed an offense under this Community Code of Ordinances or applicable federal law, or has violated the terms of any probation grant from the tribal court;

(3) There are reasonable grounds to believe the juvenile has run away from his or her parents, guardian or custodian.

(c) *Warning of rights prior to questioning.* When an officer takes a juvenile into custodial detention the officer shall warn the juvenile prior to any questioning that the juvenile has a right to remain silent, that anything the juvenile says can be used against the juvenile in court, that the juvenile has the right, at his or her own expense, to have the assistance of legal counsel, and to have his or her parent, guardian or custodian, and/or counsel present during questioning. A juvenile may request a voluntariness hearing in any criminal matter to determine if any statements made by the juvenile were voluntary and admissible.

(d) *Release from custody.* A juvenile shall not be detained any longer than is reasonably necessary under the circumstances to obtain his or her name, age, residence and other information, and to contact and obtain the appearance of his or her parent, guardian or custodian. Where the parent, guardian, or custodian of a juvenile taken into custody without a warrant or court order can be located and is able to take the juvenile under his or her care, the juvenile shall be released to his or her care pending any proceeding in the juvenile court, unless detention is necessary or required, as provided in subsection (g) of this section.

(e) *Review by juvenile intake officer.* When a police officer or probation officer arrests a juvenile, the officer shall immediately notify the juvenile intake officer. The juvenile intake officer shall, after a preliminary evaluation of the circumstances, prepare a written recommendation for the court as to the continued detention of the juvenile. Copies of that recommendation shall be provided to the parties.

(f) *Notification of family.* If a juvenile is arrested and not released, the officer taking the juvenile into custody shall immediately attempt to notify the juvenile's parent, guardian or custodian. All reasonable efforts shall be made to advise the parent, guardian or custodian of the reason for taking the juvenile into custody and the place of continued custody. If the parent, guardian or custodian cannot be contacted, the duty of notification shall transfer to the juvenile intake officer. Should contact with the parent, guardian or custodian not be achieved through reasonable efforts, the department of corrections shall notify child protective services within 24 hours.

(g) *Criteria for placing juvenile in detention.* Unless ordered by the court pursuant to the provisions of this chapter, an arrested juvenile shall not be placed in detention prior to court disposition unless detention is required:

(1) To protect the person or property of others;

(2) If it appears to the arresting officer that the welfare of the juvenile or of the public requires that the child be placed in detention; or

(3) If there is reasonable cause to believe that the child will not otherwise be present at any hearing.

(h) *Place of detention.* A juvenile alleged to have committed a juvenile offense or an incorrigible act may be detained pending court hearing in the following places:

(1) The Community department of corrections;

(2) A facility operated by a juvenile welfare agency approved by the court;

(3) Any other suitable place designated by the court.

(i) *Citation or written report and complaint.* The officer or other person who takes a juvenile into custody shall immediately prepare and submit to the juvenile intake officer and to the prosecutor, a copy of any citation, or written report, which may include a petition to revoke probation, stating the facts that bring the juvenile within the jurisdiction of the juvenile court and giving the reasons why the juvenile was not released if the juvenile continues to be held in detention.

(j) *Recommendation for informal adjustment.* Upon receipt of the written report for any new offense, the juvenile intake officer shall review the circumstances to determine whether an informal

adjustment of any complaint or requested complaint is appropriate, consistent with section 11-130. If so, the juvenile intake officer will timely provide such recommendation to the prosecutor. The recommendation shall include the recommended conditions of any informal adjustment. A lack of recommendation from the juvenile intake officer shall have no prejudicial effect on prosecution of any complaint filed.

(k) *Time limitation; detention hearing.* No juvenile shall be held in detention for more than 24 hours, unless a complaint, petition to revoke probation or citation alleging juvenile offender conduct has been filed. In the event that such a complaint, petition to revoke probation or citation has been filed, the juvenile shall be held no longer than 24 hours after the filing of such complaint, petition to revoke probation or citation, unless so ordered by the court after a hearing. If a complaint, petition to revoke probation or citation is not filed within the allotted time, the juvenile shall be released to the parent, guardian, or custodian. Provided the parent, guardian or custodian has notification, the juvenile court shall hold a hearing within one working day following the filing of a complaint, petition to revoke probation or citation to determine whether continued detention is required.

(l) *Review of detention status.* Any detained juvenile may move for review of detention status whenever the motion alleges the existence of material facts not previously presented to the court, and when those facts were not known at the time of the original detention hearing. A hearing on a motion for review of detention status shall be held within five days of the filing of the motion.

(m) *Procedure for release from custody.* When a juvenile is ordered released from the department of corrections, the parents, guardians or custodians shall immediately take custody of the juvenile. Where a juvenile is ordered released from the department of corrections, but no parent, guardian or custodian takes custody of the juvenile, the department of corrections shall make a report to child protective services within 24 hours. It shall be unlawful for a parent, guardian, or custodian to fail to take custody of a juvenile when the court has ordered the juvenile released. (Code 1981, § 11-16; Code 2012, § 11-16; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-16, 5-30-2012)

Sec. 11-130. Informal adjustment of complaint or citation.

(a) *Authority.* The Community prosecutor, juvenile intake officer, and other relevant parties may hold an informal conference with the juvenile and the juvenile's parent(s), guardian or custodian to discuss alternatives to prosecution of any juvenile offense. The parties may agree to informal adjustment of a complaint or citation, at any time prior to adjudication under the following conditions:

(1) The facts are admitted and bring the case within the jurisdiction of the juvenile court;

(2) A disposition by informal adjustment of the matter would be in the best interests of the juvenile and the Community; and

(3) The juvenile and a parent, guardian or custodian voluntarily consent to disposition of the matter by informal adjustment.

(b) *Voluntary participation.* This section does not authorize the juvenile intake officer or the Community prosecutor to compel any person to appear at any such conference, to produce any papers, or to visit any place.

(c) *Post-filing adjustment.* When the parties agree to an informal adjustment of any complaint or citation, the parties shall file a stipulation that agrees to toll the case. The court shall vacate any settings and release any juvenile who may be detained for the case.

(d) *Written agreement.* The Community prosecutor shall set forth in writing the conclusions reached at the informal conference and the disposition agreed to by the parties for remedying the situation. Copies of the agreement will be provided to the parties, and shall not be provided to the court.

(e) *Monitoring.* The juvenile intake officer shall review the juvenile's progress at least once every 30 days. If the juvenile fails to comply with the conditions agreed upon by the parties, or if, at any time before the end of the agreed-upon adjustment period, the juvenile intake officer determines that satisfactory progress is not being achieved, the juvenile intake officer shall request that a complaint or citation be filed pursuant to section 11-131. The commission of any new juvenile offense, including truancy, shall be grounds for automatic termination of any informal adjustment agreement. If the complaint or citation is refiled after an unsatisfactory completion of an informal adjustment that was entered after the complaint or citation was filed with the court, the court shall set the adjudication within 30 days of the refiling. There shall be no right of the juvenile to challenge the termination of any informal adjustment agreement.

(f) *Tolling.* If a complaint or citation is being adjusted, the time limit for filing a complaint or citation shall be tolled during the period required to comply with the terms of adjustment. If the juvenile does not comply, a complaint or citation shall be filed not later than 30 days after the matter is referred to the Community prosecutor by the juvenile intake officer to file the petition.

(g) *Case closure.* Upon satisfactory completion of the disposition agreed to by the parties, the Community prosecutor shall not file a complaint or citation and the case shall be closed. If the matter was informally adjusted after a complaint or citation was filed, the court shall dismiss the matter with prejudice upon motion by the prosecutor that the juvenile satisfactorily completed the terms of any adjustment agreement.

(h) *Interagency cooperation and coordination.* It shall be the responsibility of all involved agencies to coordinate and cooperate to ensure that informal adjustment is used only in cases where such agreements are viewed as effective tools for the resolution and rehabilitation of juveniles.
(Code 1981, § 11-17; Code 2012, § 11-17; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-17, 5-30-2012)

Sec. 11-131. Commencement of formal proceedings.

(a) *Complaint, petition to revoke probation or citation required.* Formal proceedings in juvenile cases shall be commenced by a complaint, petition to revoke probation or citation filed by the Community prosecutor on behalf of the Community, and may be based upon probable cause from any peace officer or reasonable grounds from a probation officer, that the juvenile appears to come within the jurisdiction of the court.

(b) *Issuance of citation.* In the case of traffic violations, a complaint shall not be required, and the issuance of a citation shall be sufficient to invoke the jurisdiction of the court.

(c) *Time limitations.* If the juvenile is in custody, the complaint, petition to revoke probation or citation shall be filed with the court within 24 hours from the time the juvenile was placed in detention. If a complaint, petition to revoke probation or citation is not filed within the allotted time, the juvenile shall be released to the parent, guardian, custodian, extended family member, or other responsible adult. If the juvenile has been previously released to a parent, guardian, custodian, extended family member, or other responsible adult, the complaint, petition to revoke probation or citation shall be filed within 90 days of the juvenile's release, except that if the complaint is returned by the Community prosecutor to the law enforcement department for further investigation, the time limit is extended for an additional 60 days. In matters in which the juvenile was not arrested, any complaint or citation shall be filed within 120 days from the time when probable cause existed for the offense.

(d) *Contents of complaint, petition to revoke probation or citation.* The complaint, petition to revoke probation or citation shall clearly specify the following information:

(1) The name, age, place of residence, and address of the juvenile;

(2) A citation of the jurisdictional statute;

(3) A citation to the provision(s) of the Community law which the child is alleged to have violated;

(4) A plain and concise statement of the facts upon which the allegations are based, including the approximate time and location at which the alleged facts occurred;

(5) The names, place of residence, and addresses of the juvenile's parent, guardian or custodian, or nearest relative if the parent, guardian, or custodian is unknown; and

(6) If the juvenile is in custody, the location of his or her detention, the facts necessitating the detention, and the date and time of the detention.

If any of the facts herein required to be stated are not known, the complaint, petition to revoke probation or citation shall so state.

(e) *Court-ordered custody and detention.* If it appears to the court that the welfare of the juvenile or the public requires that the juvenile be taken into temporary custody, the court may, at any time after a complaint, petition to revoke probation or citation is filed, make an order providing for custody and detention.

(f) *Subsequent immunity of the juvenile.* When a complaint or citation has been filed under this section, a juvenile shall not thereafter be subject to criminal prosecution as an adult based on the facts giving rise to the complaint or citation, except as otherwise provided in this chapter.
(Code 1981, § 11-18; Code 2012, § 11-18; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-18, 5-30-2012)

Sec. 11-132. Notice of initial appearance.

(a) *Issuance of summons.* When a juvenile is not in custody, and a complaint, citation or petition to revoke probation has been filed, the court shall issue a summons to the juvenile, and to a parent, guardian or custodian, and to such other persons as the court deems necessary and proper to the proceedings, unless good cause exists for the issuance of a warrant for the juvenile, in which case a warrant shall issue. The summons shall require them to appear personally before the court at the time set for initial appearance. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the clerk of the court at or prior to the hearing.

(b) *In custody notice.* When a juvenile is in custody, notice for the initial appearance will be provided at the detention hearing.

(c) *Attachments to summons.* A copy of the complaint, citation or petition to revoke probation and notice of basic rights, as provided under section 11-100, shall be attached to the summons.

(d) *Service of summons.* Service of summons shall be made under the direction of the court by a Community process server or other suitable person appointed by the court, or upon request of the court, by a Community law enforcement officer or any other police officer.

(e) *Personal service.* If the parties to be served with summons can be found within the exterior boundaries of the Community, service shall be made by delivering a copy of the summons and complaint, citation or petition to revoke probation to them personally, or by leaving copies thereof at their dwelling house or usual place of abode with some person of suitable age and discretion residing at such place, no less than two days before the hearing.

(f) *Mail service.* If the parties cannot be personally served, and if their address is known, the summons, complaint, citation or petition to revoke probation and notice of rights may be served within or outside the Community's exterior boundaries by certified mail, return receipt requested, at least five calendar days before the hearing.

(g) *Publication.* Where it appears that the parent, guardian or custodian is a nonresident of the Community, or that their name, place of residence or whereabouts is unknown, or in cases of unsuccessful personal service or service by certified mail, the court shall direct the clerk to publish a legal notice in the next available issue of the Community's newspaper. Such notice shall be directed to the parent, guardian or custodian if their names are known, or if unknown, "a person to whom it may concern," may be used. The name of the court, the title and purpose of the proceed-

ing, the date the complaint, citation or petition to revoke probation was filed, and the hearing date shall be set forth in general terms.

(h) *Contempt warning.* The summons issued by the court shall display the following words:

> "Notice, Violation of this Order is Subject to Proceedings for Contempt of Court Pursuant to Salt River Community Code Section 6-42. The Court May Find the Parent, Guardian or Custodian in Contempt For Failure to Appear at a Court Hearing or For Failure to Follow Court Orders."

(i) *Warrant for arrest.* If the summons cannot be served after due diligence, or if it appears to the court that the person served will not obey the summons, that serving the summons will be ineffectual, or that the welfare of the juvenile requires that he or she be brought immediately within the court's protection, a warrant may be issued for the arrest of the parent, guardian, custodian, or the juvenile, and such warrant may be served anywhere within the jurisdiction of the court.

(Code 1981, § 11-19; Code 2012, § 11-19; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-19, 5-30-2012)

Sec. 11-133. Initial appearance.

(a) *Time and purpose.* The court shall set an initial appearance date for the juvenile and a parent, guardian or custodian within 30 days following the filing of the complaint or citation. When a juvenile is in custody, the initial appearance shall be set within two business days of the detention hearing; however, the initial appearance may be held in conjunction with the detention hearing if the parties consent. At the initial appearance of the juvenile, the court shall inform the juvenile and the parent, guardian or custodian of the contents of the complaint, citation or petition to revoke probation and allow the juvenile the opportunity to admit or deny the allegations of the complaint, citation or petition to revoke probation.

(b) *Advising of rights.* The court shall advise the party(s) of their basic rights as provided for in section 11-100.

(Code 1981, § 11-20; Code 2012, § 11-20; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-20, 5-30-2012)

Sec. 11-134. Adjudication hearing.

(a) *Formal trial on issues for new offenses.* The formal trial on the issues shall be set for no later than 60 days following the initial appearance of the juvenile on the complaint or citation unless a rehearing has been ordered.

(b) *Hearing for probation violations.* The hearing on the issues alleged in a petition to revoke probation shall be set no later than 20 days following the initial appearance on the petition to revoke probation.

(c) *Notice of hearing.* Notice of the adjudication hearing shall be given to the juvenile, the parent, guardian or custodian, and/or legal counsel no less than 48 hours before the hearing.

(d) *Witnesses and evidence necessary.* Unless the juvenile admits to committing the acts or offense(s) charged, witnesses must be called and evidence presented to substantiate the allegations of the complaint, citation or petition to revoke probation.

(e) *Admissibility.* Statements made during the informal conference shall not be admitted into evidence at the adjudication hearing or at the time of sentencing. This shall not be construed to prevent the admissibility of any evidence which would otherwise be admissible under the court's rules of evidence.

(f) *Burden of proof.* The burden of proof lies with the Community prosecutor. The prosecutor must prove beyond a reasonable doubt the allegations of juvenile offenses in complaints or citations, and the allegations of incorrigible acts or petitions to revoke probation shall be proven by a preponderance of the evidence.

(g) *Consolidation of hearing.* When more than one juvenile is alleged to be involved in the same violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.

(h) *Amendment of complaint, citation or petition to revoke probation.* The complaint, citation or petition to revoke probation may be amended to conform to evidence presented which supports material facts not alleged. A continuance shall be granted to ensure justice and fairness to all

parties if the amended complaint, citation or petition to revoke probation results in a substantial departure from the original complaint, citation or petition to revoke probation.

(i) *Petition for new hearing.* A parent, guardian, custodian or advocate of any juvenile whose status has been adjudicated under this chapter, or any adult affected by a proceeding hereunder, may, at any time, petition the court for a new hearing on the grounds that new evidence, which was not known and could not, with due diligence, have been made available at the original hearing and which might affect the judgment, has been discovered. If it appears to the court that there is such new evidence that might affect its judgment, it shall order a new hearing and enter such decree and make disposition of the case as is warranted by all the facts and circumstances and the best interests of the juvenile.

(Code 1981, § 11-21; Code 2012, § 11-21; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-21, 5-30-2012)

Sec. 11-135. Disposition proceedings.

After the adjudication hearing, the court shall enter findings of fact and conclusions of law that the allegations are true and proceed to disposition, or not true and dismiss the complaint, citation or petition to revoke probation.

(1) *Investigation and predisposition report.* When a juvenile is found to be a juvenile offender or an incorrigible juvenile, the court may require that the juvenile probation officer conduct an investigation and prepare a written report describing reasonable and appropriate disposition alternatives. The investigation may include the juvenile's home environment, history and associations, the present conditions of the juvenile and family, and make recommendations for assistance to the juvenile calculated to resolve the problems established at the adjudication hearing and those problems reasonably related.

(2) *Hearing.* The court may order a hearing to determine the proper disposition of the case. At such hearing, the court shall consider the juvenile probation officer's predisposition report and recommendations and afford the parties an opportunity to object. The court shall also consider alternative reports and recommendations of the juvenile, if any. Any relevant and material information shall be admissible at the hearing.

(3) *Notice of hearing.* Notice of the disposition hearing shall be given to the juvenile and his or her parent, guardian or custodian no less than 48 hours before the hearing.

(4) *Options.* The court shall give due regard to the customs and traditions of the Community and the family on the discipline of juveniles, and may, after considering the nature of the offense and the age, physical and mental condition, and earning capacity of the juvenile, order any of the following dispositions:

a. Order the juvenile to attend a traffic school, or a counseling or education program approved by the presiding judge of the juvenile court.

b. Place the juvenile on probation in his or her own home upon conditions determined by the court.

c. Place the juvenile in the legal custody of a relative or other suitable person, with or without probation.

d. Order the juvenile to pay the monetary penalty that is applicable to the offense; plus lawful costs.

e. Order that the juvenile or the juvenile's parent, guardian or custodian make restitution for damage or loss caused by the wrongful acts of the juvenile.

f. Order that the juvenile be committed to a juvenile detention facility or other facility as provided for in section 11-129(h).

g. In lieu of or in addition to a monetary penalty, order the juvenile to perform a program of work, which does not conflict with the juvenile's regular schooling and employment, or to provide Community service.

h. Suspend the driving privileges of the juvenile and take physical possession of the juvenile's driving license and return it to the issuing agency, or restrict such driving privileges.

i. Order that the juvenile be examined or treated by a physician, surgeon, psychiatrist or psychologist, or receive other special care, and for such purpose may place the juvenile in a hospital or other suitable facility. However, the juvenile shall not be held in such hospital or facility longer than 48 hours, excluding weekends and holidays, unless necessary for treatment of physical injuries, without a court hearing.

j. Order, after due notice and a hearing set for that specific purpose, a medical examination of a parent or person with custody whose ability to care for the juvenile is at issue, if the court finds from the evidence presented at the hearing that the person's physical, mental or emotional condition may be a contributing factor in the juvenile's delinquent behavior.

k. Order hospitalization of the juvenile in an authorized hospital if the court finds, upon due notice to the parent or guardian and a special hearing conducted in accordance with the applicable laws and regulations, that the juvenile is:

1. Mentally ill, and because of illness is a threat to self or others if allowed to remain at liberty;
2. In need of custody, care or treatment in such hospital; or
3. Gravely disabled.

l. Order reasonable conditions to be complied with by the juvenile, parent, custodian or any other person who has been made a party to the proceedings, which are in the best interests of the juvenile or required for the protection of the public; except that no juvenile under 12 years of age may be committed to jail upon adjudication under this chapter. The court may combine several alternatives of disposition where they are compatible.

(5) *Mandatory review of order.* Disposition orders shall be reviewed at the court's discretion at least once every six months. Monthly written progress reports shall be filed with the juvenile court by the person or agency charged with supervising the care and custody of the juvenile, or alternatively by a person or agency so directed by the court.

(Code 1981, § 11-22; Code 2012, § 11-22; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-22, 5-30-2012)

Sec. 11-136. Modification or revocation of court order.

(a) The court may modify or set aside any order or decree made by it, but no modification of an order placing a juvenile on probation shall be made upon an alleged violation of the terms of probation until there has been a hearing after due notice to all persons concerned. Notice of an order terminating probation shall be given to the juvenile and a parent, guardian, or custodian and to the prosecution.

(b) Notice and a hearing shall also be required in any case in which the effect of modifying or setting aside an order may be to deprive a parent of the legal custody of a juvenile or to place the juvenile in an institution or agency. The hearing shall be held within ten days of the request for a court order to transfer the juvenile to an institution or from one institution to another; however, if the juvenile is transferred in good faith and in the juvenile's best interest without a hearing, the party transferring the juvenile shall incur no liability for such transfer. Transfer from one foster home to another may be effected without notice and hearing.

(Code 1981, § 11-23; Code 2012, § 11-23; Ord. No. SRO-342-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-23, 5-30-2012)

Sec. 11-137. Petition for incorrigibility.

(a) *Generally.* This article shall apply to a minor who is alleged to be incorrigible as defined in section 11-2.

(b) *Diversion services requirement.* Prior to the filing of any petition for incorrigibility, the parent(s) or legal guardian(s) and minor shall participate in diversion services offered through the Salt River Community Probation Department. The diversion services requirement shall not apply to petitions and/or complaints filed by the Community prosecutor. If the family has already participated in diversion services, the probation department will be responsible for determining whether diversion services would be appropriate.

(c) *Time limitations.* If diversion services through the probation department are unsuccessful, then the parent(s) or legal guardian(s) may file a petition for incorrigibility. However, the petition must be filed within three months from the date that the probation department notifies the parent(s) or legal guardian(s) that there is no substantial likelihood that further diversion services will benefit the family.

(d) *Who may file a petition for incorrigibility.*

(1) The parent(s);

(2) The legal guardian(s); or

(3) The Community prosecutor.

(e) *Contents of incorrigibility petition.* The petition shall include the following information:

(1) The name, age, place of residence and address of the minor;

(2) The petitioner's relationship to the minor;

(3) The basis of the court's jurisdiction pursuant to section 11-25;

(4) A plain and concise statement of the facts upon which the allegations are based, including the approximate date, time and location at which the alleged facts occurred;

(5) A summary of all services and efforts applied to remedy the behaviors of the minor, whether by court order or otherwise;

(6) The names, place of residence, and addresses of all of the minor's parents and legal guardians; and

(7) When a parent or legal guardian is the petitioner, a notice from the probation department shall be attached to the petition stating that diversion services has been terminated because a determination has been made that there is no substantial likelihood that the minor and his or her family will benefit from further diversion services, and that the case has not been successfully diverted.

(8) If any of the above required facts are unknown, the petition shall clearly state what information is unknown.

(Ord. No. SRO-455-2015, § 11-137, 1-7-2015)

Sec. 11-138. Incorrigibility proceedings and procedures.

(a) [*Commencement.*] Court proceedings in an incorrigible case shall be commenced by the filing of a petition for incorrigibility of a minor.

(b) [*Legal counsel.*] The court shall appoint legal counsel for the minor in all cases.

(c) *Court-ordered custody and detention.* If good cause appears to the court that the welfare of the minor or the public requires that the minor be taken into temporary custody pending the determination of incorrigibility, the court may, at any time after a petition is filed, make an order providing for custody and detention.

(1) *By court order.* A minor shall be taken into custodial detention by a police officer pursuant to an order of the juvenile court.

(2) *Without court order.* A minor may be taken into custodial detention by a police officer without an order of the court when there are reasonable grounds to believe the minor has run away from his parent(s) or legal guardian(s).

(3) *Release from custodial detention.* A minor shall not be detained any longer than is reasonably necessary under the circumstances to obtain his name, age, residence and other information, and to contact and

obtain the appearance of his parent or legal guardian. Where the parent or legal guardian of a minor taken into custody without a court order can be located and is able to take the minor under his or her care, the minor shall be released to his or her care pending any proceeding in the juvenile court, unless custodial detention is reasonably necessary as provided in subsection (c)(6) below.

(4) *Review by juvenile intake officer.* When a police officer or probation officer takes a minor into custodial detention, the officer shall immediately notify the juvenile intake officer. The juvenile intake officer shall, after a preliminary evaluation of the circumstances, prepare a written recommendation to the court as to the continued custodial detention of the minor. Copies of that recommendation shall be provided to the court and the parties.

(5) *Notification of family.* If a minor is taken into custodial detention and not released, the officer taking the minor into custody shall immediately attempt to notify the minor's parent or legal guardian. All reasonable efforts shall be made to advise the parent or legal guardian of the reason for taking the minor into custody and the place of continued custody. If the parent or legal guardian cannot be contacted, the duty of notification shall transfer to the juvenile intake officer. Should contact with the parent or legal guardian not be achieved through reasonable efforts, the department of corrections shall notify child protective services within 24 hours.

(6) *Criteria for placing minor in detention.* Unless ordered by the court pursuant to the provisions of this chapter, a minor shall not be placed in detention prior to court disposition unless detention is required:

a. To protect the person or property of others;

b. If it appears to the officer that the welfare of the minor or of the public requires that the minor be placed in detention; or

c. If there is reasonable cause to believe that the minor will not otherwise be present at any hearing.

(7) *Place of detention.* A minor, alleged to be an incorrigible minor or alleged to have committed an incorrigible act, may be detained pending a court hearing in the following places:

a. The Salt River Department of Corrections;

b. Any other suitable place designated by the court.

(8) *Written report.* The officer who takes a minor into custodial detention shall immediately prepare and submit to the juvenile intake officer and to the prosecutor a written report stating the facts that bring the minor within the jurisdiction of the juvenile court and giving the reasons why the minor was taken into custodial detention and was not released, if the minor continues to be held in detention.

(d) *Detention hearing.* A minor in custodial detention shall be brought before a judge for a detention hearing no later than 24 hours after being taken into custody. At the detention hearing, the court shall determine whether continued custodial detention is warranted as provided in subsection (f) herein. Based on the court's findings, the court shall:

(1) Continue the minor in custodial detention;

(2) Release the minor to his or her parent or legal guardian and set reasonable terms and conditions of release; or

(3) Detain the minor in any other suitable place designated by the court.

(e) *Initial appearance.* Procedures for providing notice of the initial appearance shall be in accordance with section 11-132. The court shall set an initial appearance date for the minor and the parent(s) or legal guardian(s) within 15 days following the filing of the petition. When a minor is in custody, the initial appearance shall be set within two business days of the detention hearing; however, the initial appearance may be held

in conjunction with the detention hearing if the parties consent. At the initial appearance, the court shall inform the minor and the parent(s) or legal guardian(s) of the contents of the petition and allow the minor the opportunity to admit or deny the allegations of the petition.

(1) *Advisement of rights.* At the initial hearing the court shall advise the minor that he or she has a right to be represented by legal counsel which may be court appointed or at his or her own expense in all incorrigibility proceedings, to introduce evidence, to be heard on his or her own behalf, to examine witnesses, to have compulsory process for obtaining witnesses in his or her favor, to be informed of possible consequences if the allegations of the petition are found to be true and the right to appeal. The parties and their legal counsel shall be entitled to advance copies of court documents, including petitions and reports, unless deemed inappropriate by the court.

(f) *Adjudicatory hearing.* The adjudicatory hearing on the issues shall be set no later than 30 calendar days following the initial appearance of the minor on the petition.

(1) *Notice of hearing.* Notice of the adjudication hearing shall be given to the minor, the person(s) who filed the petition, Community prosecutor, the parent(s) or legal guardian(s), and their legal counsel no less than ten days before the hearing, but all efforts shall be made to provide notice at the initial hearing.

(2) [*Presentation of witnesses and evidence.*] Consistent with section 11-51, the Community prosecutor may, after reasonable notice to the parties, present witnesses and evidence in support of a petition filed by a parent(s) or legal guardian(s).

(3) *Witnesses and evidence necessary.* Unless the minor admits to committing the acts or offense(s) alleged, witnesses must be called and evidence presented to substantiate the allegations of the petition.

(4) *Burden of proof.* The burden of proof lies with the petitioner. The allegations of incorrigible acts shall be proven by clear and convincing evidence.

(5) *Amendment of petition.* The petition may be amended to conform to evidence presented at the adjudicatory hearing which supports material facts not alleged. A continuance shall be granted to ensure due process to all parties if the amended petition results in a substantial departure from the original petition. The continuance shall not exceed 15 days.

(6) *Petition for new hearing.* Any party to the proceeding may, within 60 days, petition the court for a new hearing on the grounds that new evidence, which was not known and could not with due diligence have been made available at the original hearing and which might affect the judgment, has been discovered. If it appears to the court that there is new evidence that might affect its judgment, it shall order a new hearing and enter such order and make dispositions of the case as is warranted by all the facts and circumstances and the best interest of the minor.

(7) [*Withdrawal of petition.*] The petitioning party shall have the authority to withdraw the petition any time prior to the adjudicatory hearing. Withdrawal of the petition shall be liberally granted and the dismissal shall be without prejudice.

(g) *Issuing court order.* Within five days after the adjudicatory hearing, the court shall enter findings of fact and conclusions of law. If the allegations are substantiated, the court shall proceed to disposition. If no allegations are substantiated, the court shall dismiss the petition.

(1) *Investigation and predisposition report.* When a minor is found to be an incorrigible minor, the court shall require that the probation officer conduct an investigation and prepare a written report describing reasonable and appropriate disposition alternatives. The probation officer shall file the report with the court and the parties no later than ten days prior to the dispo-

sition hearing. The investigation and predisposition report shall include the minor's:

a. Home environment;

b. History such as educational, delinquency, incorrigibility and behavioral background;

c. Family, social and educational associations, present conditions of the minor and family;

d. Previous services offered through diversion services; and

e. Recommendations for assistance to the minor calculated to resolve the problems established at the adjudication hearing and those problems reasonably related.

(h) *Disposition hearing.* The court shall set a hearing to determine the proper disposition of the case within 40 days of the adjudicatory hearing. At such hearing the court shall consider the probation officer's predisposition report and recommendations of all the parties. Any relevant and material information shall be admissible at the hearing.

(1) *Notice of hearing.* Notice of the disposition hearing shall be given to the minor, the parent(s) or legal guardian(s), and their legal counsel no less than ten days before the hearing, but all efforts shall be made to provide notice at the conclusion of the adjudication hearing.

(2) *Disposition options.* In all other cases, the court shall give due regard to the customs and traditions of the Community, the family, and the underlying risk factors established at the adjudicatory hearing, and may, after considering the nature of the proven allegations and the age, physical and mental condition of the minor, order any of the following dispositions:

a. Order any reasonable conditions to be complied with by the minor, parent(s), legal guardian(s), or any other person who has been made a party to the proceedings, which are in the best interests of the minor and the family.

b. An assessment of substance abuse or mental health concerns and require compliance with recommendations of such assessment.

c. Placement in outpatient or inpatient treatment center, if needed to address behavioral, mental or substance abuse issues.

d. Place the minor under the supervision of the Probation Department to ensure compliance with the dispositional orders.

e. Order counseling services not limited to substance abuse, mental health, conflict resolution, anger management, and family counseling.

f. Order participation in any class or classes that would address the minor's incorrigible behavior.

g. Community work service, Community events or other programs.

h. An educational assessment.

i. Jail tour done through the probation department or department of corrections.

j. Any other appropriate disposition.

(3) No term of supervision shall exceed one year after disposition.

(i) *Contempt hearing.* If any party fails to comply with the terms and conditions of the dispositional order, the probation department may file a motion for an order to show cause why the minor should not be held in contempt of court for failing to comply with the disposition order.

(1) The order to show cause hearing shall be set no later than 15 calendar days from the date the motion is filed with the court.

(2) Notice of hearing. Notice of the order to show cause hearing shall be served on all parties to the action no less than five calendar days before the hearing.

(3) At the hearing, the court shall consider whether the minor failed to comply with the disposition order and any justifiable reasons for the failure to comply. Any relevant and material information shall be admissible at the hearing.

(4) If the court finds, by a preponderance of the evidence, that the minor failed to comply with the disposition order, the court may find the minor in contempt of court and may impose any combination of the following sanctions:

a. Not to exceed 30 days on house arrest;

b. Community work service;

c. Not to exceed ten days in a juvenile detention facility for a first instance of contempt and not to exceed 30 days in a juvenile detention facility for each subsequent instance of contempt;

d. Any other reasonable sanction that would bring the minor in compliance with the disposition order.

(5) The court may extend the date of the original disposition order by 90 days from the date the minor was held in contempt of court. There shall be no limit to the number of times the probation department may file a motion for order to show cause or the number of times a minor may be held in contempt of court for noncompliance with the disposition order.

(j) *Referral to child protective services.* When any probation officer, court staff, or other mandatory reporter as defined in section 11-156(b) has reason to believe that the minor alleged or found to be incorrigible is a dependent child as defined in section 11-2, they shall make a written report to child protective services stating the grounds for such belief. A copy of the incorrigibility petition, disposition order and other court orders and reports may be included with the referral. The filing of a diversion or incorrigibility petition under this article will not prevent the filing of a dependency or delinquency petition.

(k) *Review hearing.* Upon written request by any party, or on the court's own motion, the matter shall be set for a review hearing. The hearing shall be set within 15 calendar days from the date the written request or motion is filed with the court.

(1) Prior to the review hearing, if the child is under the supervision of the probation department, the probation department shall file a written report with the court with copies provided to the parties. The report shall include: what services have been provided or offered to the minor and the parent(s) or legal guardian(s) to help correct the underlying problems, the minor's participation in services, the effectiveness of such services, whether the minor is compliant or not with the disposition order, the status of minor's school attendance and grades, whether additional services should be offered to the minor or parent(s) or legal guardian(s) to help the underlying problems and any other relevant information regarding the minor's rehabilitation. The report shall also include a recommendation whether the case should remain open or closed.

(l) *Closing the case.* When a minor has successfully completed the dispositional orders, the court shall, upon motion by any party to the case, release the minor from the terms and conditions of the disposition orders and close the case. Before closing the case, if the child is under the supervision of the probation department, the probation department shall file a written report in accordance with section 11-138(k).
(Ord. No. SRO-455-2015, § 11-138, 1-7-2015)

Secs. 11-139—11-155. Reserved.

ARTICLE VII. CHILD PROTECTION

Sec. 11-156. Reporting child abuse and neglect.

(a) *Responsibility.* Any person who knows or has reasonable cause to suspect that a child has been physically or sexually abused, neglected, or emotionally maltreated should immediately, after learning of or forming the suspicion of such abuse, neglect, or maltreatment, report the same to the Community police department or to the Community social services department. A person reporting under this section may remain anonymous.

(b) *Persons mandated to report.* The following persons who know or have reasonable cause to suspect that a child has been physically or sexually abused, neglected or emotionally maltreated shall immediately, after learning of or forming the suspicion of such abuse, neglect, or maltreatment, report the same to the Community child protective services agency or law enforcement department:

(1) Physician, hospital intern or resident, surgeon, nurse, dentist, chiropractor, podiatrist, optometrist, Community health worker or other health care provider.

(2) Teacher, teacher's aide, counselor, bus driver, truancy officer, principal, or other official or employee of any Community, federal, public or private school.

(3) Child day care worker, public assistance worker, worker in a group home or residential or day care facility, or social worker.

(4) Law enforcement officer, probation officer, or other officer of the court, or worker in a juvenile rehabilitation or detention facility.

(5) Any other person having responsibility for the care of children whose observation or examination discloses evidence of abuse or death which appears to have been inflicted on a child by other than accidental means or which is not explained by the available medical history as being accidental in nature.

(c) *Reports.* Those persons mandated to report who make an oral report to the Community child protective services worker or law enforcement agency shall forthwith follow with a written report. The following information, unless unavailable, shall be included in the written report:

(1) Name, address, and place of residence of the child and his or her parent, guardian, or custodian.

(2) Age, sex, and grade of the child, and the school in which the child is currently enrolled.

(3) Narrative as to the nature and extent of the child's abuse or neglect, including previous abuse or neglect of the child or the child's siblings and the suspected date of the abuse or neglect.

(4) Name, age, address, and place of residence of the person alleged to be responsible for the child's abuse or neglect.

(5) Name, address, agency and telephone number of the person making the report.

(d) *Notification.* When reports are received by the Community police department, they shall immediately notify the Community social services department and make such information available to them. In the event such reports are made to the social services department, they shall immediately notify the police department and make such information available to them.

(e) *Penalty for not reporting.*

(1) Any person mandated under subsection (b) of this section to report known or suspected cases of child abuse and neglect who fails to immediately report such abuse or neglect shall be subject to a civil penalty of not more than $5,000.00.

(2) Any person who supervises, or has authority over, a person described under subsection (b) of this section, and who prevents that person from making the known or suspected child abuse or neglect report or intentionally suppresses such report, shall be subject to a civil penalty of not more than $5,000.00.

(f) *Immunity from liability.* All persons or agencies reporting, in good faith, known or suspected instances of abuse or neglect, or anyone participating in a judicial proceeding resulting from such report shall be immune from civil liability and criminal prosecution, unless such person is suspected of or has been charged with abusing or neglecting the child in question. Any provision of law or code of ethics that protects or requires confidentiality shall not apply with respect to information regarding abuse or neglect of a child, and such provisions of law or code of ethics shall not be a defense to a charge of failing to report child abuse and neglect.

(g) *Waiver of parental consent.* Photographs, x-rays, medical examinations, psychological examinations, and interviews of a child alleged to have been subject to abuse or neglect shall be allowed without parental consent if the Community child protective services worker or law enforcement officials have reason to believe the child has been subject to abuse or neglect.

(h) *Protection of child.* It is the policy of the Community that examinations and interviews of a child suspected of having been subject to abuse or neglect shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child. It shall be the responsibility of the Community departments involved in the investigation and prosecution of the alleged offenses to coordinate their interviews and intrusive examinations with respect to the child.
(Code 1981, § 11-27; Code 2012, § 11-27; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-27, 5-30-2012)

Sec. 11-157. Investigation of reports; removal of child.

(a) *Investigation.* A child protective services worker and/or law enforcement officer shall investigate all child dependency reports in a timely manner. All reports of sexual abuse, abandonment, or severe physical abuse or neglect shall be investigated by a child protective services worker and/or law enforcement officer no later than 48 hours following receipt of the report.

(b) *Written report of findings.* Upon completion of the investigation of any report, as set forth under subsection (a) of this section, that reveals substantial abuse or neglect, the child protective services worker and/or law enforcement officer shall prepare a written report and submit such report to the Community prosecution office.

(c) *Authority to remove child.* A child protective services worker and/or law enforcement officer investigating a report of child abuse or neglect who finds that the grounds for removal, as set forth under subsection (d) of this section have been met shall have the authority to remove the child from the home in which the child is residing and place the child in a temporary receiving home or other appropriate shelter without a court order pending the outcome of a custody hearing.

(d) *Grounds for emergency removal.* A child may be removed from the home of the child's parent, guardian or custodian without the consent of the parent, guardian or custodian absent a specific order of the juvenile court when:

(1) Failure to remove the child may result in a substantial risk of death, severe or permanent injury, or serious emotional harm; or

(2) The parent, guardian or custodian is absent and it appears from the circumstances that the child is unable to provide for his or her own basic necessities of life, and that no satisfactory arrangements have been made by the parent, guardian or custodian to provide for such necessities.

(e) *Notice to juvenile court of removal.* If a child is removed from his or her home, the person who removed the child shall provide the court notice of such removal no later than the end of the next court working day following the child's removal.

(f) *Notice to parent, guardian or custodian of removal.* If the parent, guardian or custodian is not present when the child is removed, reasonable effort shall be made to immediately notify the parent, guardian or custodian that the child was removed. Reasonable effort shall include written notice at their place of residence, and personal or telephone verbal contact at their place of resi-

dence, employment, or other location where the parent, guardian or custodian is known to frequent with regularity. If the parent, guardian or custodian cannot be found, verbal notice shall be given to an extended family member.
(Code 1981, § 11-28; Code 2012, § 11-28; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-28, 5-30-2012)

Sec. 11-158. Placement of children.

A dependent child or a child alleged to be neglected or abused shall not be placed in a jail or other facility intended or used for the incarceration of adults charged with criminal offenses or for the detention of children alleged to be juvenile offenders, but may be placed in the following Community-based shelters:

(1) *Extended family.* With members of the child's extended family, in the event that the child is dependent or found to be neglected or abused, who are willing to guarantee to the court that the child will not be returned to the alleged abusive or neglectful parent, guardian or custodian without the prior approval of the court;

(2) *Licensed foster home.* A licensed foster home or a home otherwise approved by the court to provide foster care, group care, or protective care;

(3) *Licensed facility.* A facility operated by a licensed child welfare services agency; or

(4) *Other suitable place.* Any other suitable place which meets the standards for shelter care facilities established by the Community department of social services.

(Code 1981, § 11-29; Code 2012, § 11-29; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-29, 5-30-2012)

Sec. 11-159. Commencement of proceedings.

(a) *Petition required.* Formal child dependency proceedings shall be commenced by a petition filed by the Community prosecutor, social worker, or other interested person on behalf of the Community and in the best interests of the child, and may be based upon oral or written complaint from any source. In the event such proceedings are initiated by a representative of the Community's social services department, it shall be the responsibility of the Community prosecutor, upon receipt of notice by social services, to thereafter assume adjudication of the petition.

(b) *Time limitations.* In cases where a child is removed from the child's home by a Community law enforcement officer or child protective services pursuant to section 11-157(d), a petition shall be filed with the juvenile court before the end of the third working day following the removal of the child. If a petition is not filed within the allotted time, the child shall be released to the parent, guardian, custodian, extended family member, or other responsible adult.

(c) *Contents of petition.* The petition shall clearly specify the following information:

(1) The name, age, sex, place of residence and/or address, and tribal affiliation of the child;

(2) A citation of the jurisdictional ordinance;

(3) A plain and concise statement of the facts upon which the specific allegations of dependency are based, including the time and location at which the alleged facts occurred; and the identity of social agencies known to be giving care and services to the child and the child's family;

(4) The names and addresses of the child's parent, guardian or custodian, or nearest relative if the parent, guardian or custodian is unknown;

(5) If the child is placed outside the home, where the child is placed, the facts necessitating the placement, and the date and time of the placement; and

(6) A conclusion that the child is in need of the court's protection.

(Code 1981, § 11-30; Code 2012, § 11-30; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-30, 5-30-2012)

Sec. 11-160. Guardian ad litem.

(a) *Purpose.* To ensure that an individual's best interests are protected by appointing a guardian ad litem, and that the appointed guardian ad

litem is performing his or her role appropriately and adequately to protect the individual's best interests throughout the legal action.

(b) *Established; transition.* The guardian ad litem program is hereby created and will be established within the legal services office to provide representation to individuals pursuant to cases filed under this chapter and chapter 10 and to ensure that all participants under legal services office in these proceedings are adequately trained to carry out his or her responsibilities. The legal services office will adopt rules and policies necessary and appropriate for the administration of the program. Notwithstanding any other provision in this chapter and chapter 10, an attorney or advocate employed in the legal services office and designated by the director of that office, who has satisfactorily completed a criminal background check less than three years prior to the date of appointment as guardian ad litem, shall qualify for appointment as guardian ad litem until March 31, 2012. After March 31, 2012, all persons must comply with this chapter and chapter 10 to qualify to serve as guardian ad litem.

(c) *Scope of rules.* Notwithstanding any other provision, these standards will apply to all attorneys and/or advocates representing individuals as guardian ad litem in subsection (d) of this section, but not limited to, dependency, guardianship, termination of parental rights and/or adoption proceedings.

(d) *Qualifications.*

(1) A guardian ad litem must be an attorney or advocate who is admitted to practice in Community court.

(2) No person who is an interested party in a proceeding, appears as counsel in a proceeding on behalf of any party, or is a close relative or representative of an interested party may be appointed as a guardian ad litem in that proceeding.

(3) An attorney and/or advocate appointed as a guardian ad litem must satisfy the qualifications outlined in article X of this chapter, investigation of persons working with children.

(4) An attorney and/or advocate shall not be eligible for serving as a guardian ad litem, if the attorney and/or advocate has a criminal conviction in any state, federal or tribal jurisdiction for:

a. Child abuse or neglect;

b. Homicide;

c. Kidnapping;

d. Any felony involving the use of a weapon;

e. Any registrable sexual offense as indicated in chapter 6.5.

(5) Criminal convictions other than those listed in subsection (d)(4) of this section may also be considered for eligibility.

(6) A criminal background check will be updated every three years.

a. A criminal history. The term "criminal history" means a defendant's prior arrests, convictions and juvenile adjudications in any jurisdiction. The history shall include, where known, for each conviction, whether the individual has been:

1. Placed on probation and the length and terms thereof; and

2. Incarcerated and the length of incarceration.

b. The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the number of any case in which the court has removed the person for cause.

(7) Should the background check indicate the individual has been found guilty of or entered a plea of nolo contendere or guilty to any offense under federal, state or tribal law as indicated in subsection (d)(6) of this section, any active guardian ad litem will be removed from any cases appointed to and denied any further appointments. Criminal convictions other

than those listed in subsection (d)(4) of this section may also be considered for a guardian ad litem's removal.

(8) Training. A guardian ad litem is required to participate, before he or she begins practicing in Community court under this chapter, in either:

a. Eight hours of training in juvenile law. The training shall include applicable ordinances, and rules of court. Training in related practice areas such as child development, child abuse and neglect, substance abuse, domestic violence, trial advocacy, family reunification and/or preservation and reasonable efforts is recommended; or

b. At least six months of experience in related practice area in which the attorney and/or advocate has demonstrated competence in the representation of his or her client in another jurisdiction or in the Community.

A guardian ad litem will participate, at a minimum, in four hours of continuing legal education per year, which is specific to the area of juvenile law.

(e) *Appointment of guardian ad litem.*

(1) A guardian ad litem shall be appointed to represent a minor child's best interests in any dependency proceedings. The guardian ad litem shall have reasonable access to the individual that the guardian ad litem is appointed to; and to all otherwise privileged or confidential information about the individual, without the necessity of any further order or release, including, but not limited to, social services, drug and alcohol treatment, medical, evaluation, law enforcement, school, probate and court records, records of trust and accounts of which the individual is a beneficiary, and other records relevant to the case; except that health and mental health records that would otherwise be privileged or confidential under state, federal or tribal law shall be released to the guardian ad litem only in accordance with those laws.

(2) Appointment orders shall be directed to the legal services office. Any guardian ad litem designated by legal services office shall comply with training and background requirements as described herein. Should the legal services office have a conflict of interest, an independent contracted guardian ad litem will be utilized. Any independent contracted guardian ad litem utilized shall comply with training and background requirements as described herein.

(3) A guardian ad litem may represent more than one child in a family group unless and until a potential or actual conflict arises between the children.

(4) A guardian ad litem may use appropriately trained staff to assist in the performance of the duties listed herein. Any staff used to assist in the performance of these duties must adhere to these standards and staff is bound by the same ethical rules and duties of confidentiality as the guardian ad litem.

(5) Timing of appointments. The guardian ad litem shall be appointed immediately after the earliest of:

a. The filing of a petition alleging child abuse and neglect.

b. The guardian ad litem shall be appointed prior to the next scheduled hearing if a guardian ad litem has not been appointed previously pursuant to sections described in this subsection (e).

(6) Notice of court proceedings. The guardian ad litem shall be notified of any court proceeding concurrently when all other parties have been notified or at least five days prior to the scheduled hearing date. When proper notice was not provided to the guardian ad litem, the scheduled hear-

ing may be continued at the request of the guardian ad litem to allow the guardian ad litem to prepare for the hearing.

(7) Appointment orders. The court shall issue a written appointment order consistent with this section.

(f) *General authority and duties.* The following are the duties of the guardian ad litem:

(1) Obtain, without cost, all relevant information from the custodian unless it is otherwise privileged;

(2) Participate in depositions, negotiations, discovery, pretrial conferences and hearings;

(3) Inform other parties and their representatives that he or she is representing the individual's best interests and expects reasonable notification prior to changes of placement, changes in visitation schedules, case conferences and other changes of circumstances directly affecting the individual and the individual's family;

(4) Identify appropriate family and professional resources for the individual;

(5) Conduct an investigation to determine the facts relevant to the situation of the individual, which may include the individual's parent, legal guardian, or other household or family members;

(6) Advocate for the best interests of the individual by participating in appropriate aspects of the case and advocating for appropriate Community services when necessary and available;

(7) Maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the individual;

(8) Advocate the best interests of the individual throughout the judicial proceeding;

(9) Present written reports, as required, on the best interests of the individual that include conclusions and recommendations, and the facts upon which they are based;

(10) Review all written orders to ensure that they conform to the court's verbal orders and ordinance required findings and notices;

(11) Monitor the implementation of the court's orders and communicate noncompliance to the responsible agency and, if necessary, the court; and

(12) If appropriate and the appeal has merit, take all steps necessary to perfect the appeal and seek appropriate temporary orders or extraordinary writs necessary to protect the interests of the individual during the pendency of the appeal.

(g) *Actions to be taken by the guardian ad litem.*

(1) *Meet with individual.* Irrespective of the individual's age, the guardian ad litem shall meet in person with the individual they are appointed to, prior to each substantive court hearing and when apprised of emergencies or significant events impacting the individual.

(2) *Investigate.* The guardian ad litem's investigations and discovery may include, when applicable, but are not limited to:

a. Reviewing the individuals, siblings, parents, and social services, psychiatric, psychological, drug and alcohol, medical, law enforcement, school, and other records relevant to the case. Should the guardian ad litem need to review any other records related to the case not mentioned in this subsection (g)(2), the guardian ad litem may seek the necessary authorization from the court;

b. Reviewing the court files of the individual and siblings (where applicable and permitted under subsections (g)(2)a and (g)(6) of this section), case-related records of the social service agency and other service providers;

c. Contacting attorneys and/or advocates for other parties, if represented, for background information, if applicable;

d. Contacting and meeting with the parents/legal guardians/caretakers of the individual, with permission of their attorney and/or advocate, if applicable;

e. Requesting necessary authorizations for the release of information from the appropriate party, if the authorization is not outlined in the court's order or if it is not included in the court's appointment order;

f. Interviewing parties involved with the individual, including, school personnel, individual's welfare case workers, foster parents and other caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, law enforcement officers and other potential witnesses;

g. Reviewing the relevant evidence personally, rather than relying on other parties' or counsel's descriptions and characterizations;

h. Reviewing relevant photographs, video or audio tapes and other evidence;

i. Attending treatment, placement, administrative hearings, other proceedings involving legal issues, and school case conferences or staff conferences concerning the individual at the guardian ad litem's discretion; and

j. Staying apprised of any additional court proceedings affecting the individual, the parties and other household members.

(3) *File pleadings.* The guardian ad litem may file petitions, motions, responses or objections as necessary to represent the individual's best interests. Relief requested may include, but is not limited to:

a. A mental or physical examination of a party or the individual;

b. A parenting, custody or visitation evaluation;

c. An increase, decrease or termination of contact or visitation;

d. An order restraining or enjoining a change of placement;

e. Contempt for noncompliance with a court order;

f. Termination of the parent-child relationship;

g. Guardianship;

h. Conservatorship;

i. Adoption;

j. Child support;

k. A protective order concerning the individual's privileged communications or tangible or intangible property;

l. Services for individual or family;

m. Dismissal of petitions or motions;

n. Return to home or the continued out-of-home placement; and

o. Determination of paternity.

(4) *Request services.* The guardian ad litem may petition the court for appropriate services to access entitlements, to protect the individual's interests and to implement a service plan as necessary to represent the individual. These services may include, but not be limited to:

a. Family preservation-related prevention or reunification services;

b. Sibling and family visitation;

c. Child support;

d. Domestic violence prevention, intervention and treatment;

e. Medical, dental and mental health care;

f. Drug and alcohol treatment and counseling;

g. Parenting education;

h. Semi-independent and independent living services;

i. Long-term foster care;

j. Termination of parental rights action;

k. Adoption services;

l. Education;

m. Recreational or social services;

n. Housing; and

o. Transitional services.

(5) *Individual with special needs.* The guardian ad litem may petition the court to ensure that an individual with special needs receives appropriate services to address the physical, mental, or developmental disabilities as necessary to represent the individual. These services may include, but are not be limited to:

a. Special education and related services;

b. Supplemental security income (SSI) to help support needed services;

c. Therapeutic foster or group home care; and

d. Residential/inpatient and outpatient psychiatric treatment.

(6) *Negotiate settlements.* The guardian ad litem shall participate in settlement negotiations to seek expeditious resolution of the case. The guardian ad litem may use appropriate mediation resources.

(7) *Court appearances.* The guardian ad litem shall attend all hearings and participate in all telephone or other conferences with the court unless a particular hearing involves only issues completely unrelated to the individual.

(8) *Motions and objections.* The guardian ad litem may make appropriate motions, including motions in limine and evidentiary objections as necessary to represent the individual's best interests at trial or during other hearings. If necessary, the guardian ad litem may file briefs in support of evidentiary issues. Further, during all hearings, the guardian ad litem shall preserve legal issues for appeal, as appropriate.

(9) *Presentation of evidence.* The guardian ad litem shall be allowed to present and cross examine witnesses, offer exhibits and provide independent evidence as necessary. The guardian ad litem shall be allowed to provide the court with recommendations based upon an investigation and knowledge of the case.

(10) *Determination of individual's testimony.* The guardian ad litem shall be allowed to make recommendations to the appropriateness or ability of an individual to be considered a witness and to provide sworn testimony. The decision should include consideration of the individual's need or desire to testify, any repercussions of testifying, the necessity of the individual's direct testimony, the availability of other evidence or hearsay exceptions which may substitute for direct testimony by the individual, and the individual's developmental ability to provide direct testimony and to withstand possible cross-examination. In criminal cases where a party seeks to introduce testimonial hearsay statements of the individual, the guardian ad litem must also consider that such statements are inadmissible, under the confrontation clause, unless the individual is available at trial, or if unavailable, the individual was subjected to prior cross examination. The guardian ad litem may rely upon advice or guidance from professionals familiar with the individual.

(11) *Obligations after termination of dependency case.* The guardian ad litem shall seek to ensure continued representation of the individual at all further hearings, including administrative or judicial actions that result in changes to the individual's placement or services, so long as the court maintains its jurisdiction.

(Code 1981, § 11-31; Code 2012, § 11-31; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-385-2011, § 11-31, 9-28-2011; Ord. No. SRO-387-2011, 10-2-2011; Ord. No. SRO-402-2012, § 11-31, 5-30-2012)

Sec. 11-161. Protective custody hearing.

(a) *Time and purpose.* A hearing shall be held regarding the removal of a child from his or her home before the end of the second working day following the filing of the dependency petition. The purpose of the protective custody hearing is to allow a judge to review the decision to remove the child from the home and to determine whether it is reasonable to believe that continued absence from the home is necessary to protect the well-being of the child.

(b) *Notice.* The court shall make all reasonable effort to advise the parent, guardian or custodian of the time and place of the custody hearing. The court shall request that the parent, guardian or custodian be present for the hearing. Reasonable effort shall include written notice at their place of residence, and personal or telephone verbal contact at their place of residence, employment or other location where the person is known to frequent with regularity. If the court is unable to contact the parent, guardian or custodian, verbal notice shall be given to the child's extended family.

(c) *Advisement of rights.* During the hearing, the court shall advise the parties of the reason for the hearing and of their basic rights, as provided in section 11-100.

(d) *Nature.* The hearing shall be informal in nature. Concerned parties may present evidence relating to the situation, including the religious preferences of the child and the family. Hearsay evidence will not be excluded at this hearing if the court determines that it is reasonably reliable and it would aid the court in reaching a just decision in the best interests of the child.

(e) *Possible outcomes.* Possible outcomes of the custody hearing are as follows:

(1) The petition may be dismissed and the child returned to the home.

(2) The child may be returned to the home of the parent or custodian under protective supervision of the court pending the outcome of further hearings under this article.

(3) The child may be continued in protective custody pending the outcome of further hearings under this article.

(f) *Primary consideration.* In placing a child under the guardianship or legal custody of an individual or a private agency or institution, the juvenile court shall give primary consideration to the welfare of the child.

(Code 1981, § 11-32; Code 2012, § 11-32; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-32, 5-30-2012)

Sec. 11-162. Informal adjustment of petition.

(a) *Authority.* The Community prosecutor, child protective services worker and other parties in interest may hold an informal conference with the child's parent, guardian or custodian to discuss alternatives to formal disposition of the petition. The interested parties may agree to informal adjustment of the petition under the following conditions:

(1) The facts as set forth in the petition are admitted and bring the case within the jurisdiction of the juvenile court;

(2) An informal disposition of the matter would be in the best interests of the child; and

(3) The parents, guardian or custodian of the child voluntarily consent to informal disposition of the matter.

This section does not authorize the child protective services worker or the Community prosecutor to compel any person to appear at any such conference, to produce any papers or visit any place.

(b) *Time limitation.* Any informal adjustment period shall not exceed three months without review by the juvenile court. In the event that the parties agree to informal adjustment of the petition, the Community prosecutor shall provide written notice to the court at least ten working days prior to the date set forth formal trial.

(c) *Written agreement.* The Community prosecutor shall set forth in writing the conclusions reached at the informal conference and the disposition agreed to by the parties for remedying the situation.

(d) *Monitoring.* A representative of the Community social services department shall review the family and child's progress at least once every 30 days. If, at any time before the end of the agreed-upon adjustment period, the social services department representative determines that positive results are not being achieved, the social services department representative may recommend that the Community prosecutor request that a formal trial on the merits be held pursuant to section 11-163.

(e) *Tolling.* If a petition is being adjusted, the time limit for setting formal trial shall be tolled during the period required to comply with the terms of adjustment.

(f) *Case closure.* Upon satisfactory completion of the disposition agreed to by the parties, the Community prosecutor shall request that the petition be dismissed.

(g) *Interagency cooperation and coordination.* It shall be the responsibility of all the involved agencies to cooperate and coordinate work effort to ensure that informal adjustment is used only in cases where such agreements are viewed as effective tools for the resolution, rehabilitation and reunification of families.
(Code 1981, § 11-33; Code 2012, § 11-33; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-33, 5-30-2012)

Sec. 11-163. Adjudication hearing generally.

(a) *Formal trial on issues.* The formal trial on the issues shall be set for no later than 60 days following the filing of the petition unless the petition has been dismissed pursuant to section 11-161(e)(1) or is being adjusted pursuant to section 11-162 or a rehearing has been ordered.

(b) *Witnesses and evidence necessary.* Unless the parent admits that he or she has neglected or abused the child, or that the child is otherwise a dependent child, witnesses must be called and evidence presented to substantiate the allegations of dependency.

(c) *Admissibility.* The records of the protective custody hearing and any statements made during the informal conference shall not be admitted into evidence at the adjudication hearing. This shall not be construed to prevent the admissibility of any evidence that was presented which would normally be admissible under the Community court's rules of evidence.

(d) *Burden of proof.* The burden of proof lies with the petitioner. Findings of fact by the judge as to allegations raised in the petition shall be based on the standard requiring clear and convincing proof.

(e) *Advisement of rights.* The court shall advise the parties of the reason for the hearing and of their basic rights, as provided for in section 11-100.

(f) *Amendment of petition.* The petition may be amended to conform to evidence presented which supports material facts not alleged. A continuance shall be granted to ensure justice and fairness to all parties if the amended petition results in a substantial departure from the original petition.
(Code 1981, § 11-34; Code 2012, § 11-34; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-34, 5-30-2012)

Sec. 11-164. Adjudication hearing notice.

(a) *Issuance of summons.* After a petition has been filed, the court shall issue summons to the parent, guardian or custodian and such other persons as the court deems necessary and proper to the proceedings. The summons shall require them to appear personally before the court at the time set for the formal trial. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the clerk of the court at or prior to the hearing.

(b) *Attachments to summons.* A copy of the petition and notice of basic rights, as provided under section 11-100, shall be attached to the summons.

(c) *Service of summons.* Service of summons shall be made under the direction of the court by a Community process server or other suitable person appointed by the court, or upon request of the court, by a Community law enforcement officer or any other peace officer.

(d) *Personal service.* If the parties to be served with a summons can be found within the exterior boundaries of the Community, service shall be made by delivering a copy of the summons, petition and notice of rights to them personally or by leaving copies thereof at their dwelling house or usual place of abode with a person of suitable age and discretion residing at such place no less than ten days before the stated time of the hearing.

(e) *Mail service.* If the parties cannot be personally served, and if their address is known, the summons, petition and notice of rights may be served, within or without the Community's exterior boundaries, by certified mail with a return receipt requested, at least 15 calendar days before the formal trial.

(f) *Notice to extended family.* If the court cannot accomplish personal or mail service, the court shall attempt to notify the parent, guardian or custodian by contacting an extended family member.

(g) *Publication.* Where it appears that the parent, guardian or custodian is a nonresident of the Community, or that their name, place of residence or whereabouts is unknown, or in cases of unsuccessful personal service or service by certified mail, the court shall direct the clerk to publish a legal notice in the next available issue of the Community's newspaper simultaneously with a legal notice appearing once in another newspaper of general circulation. Such notice shall be directed to the parent, guardian or custodian if their names are known, or if unknown, "a person to whom it may concern," may be used. The name of the court, the title and purpose of the proceeding, the date the petition was filed, and the hearing date shall be set forth in general terms.

(h) *Contempt warning.* The summons issued by the court shall display the following words:

> "Notice, Violation of this Order is Subject to Proceedings For Contempt of Court Pursuant to Salt River Community Code Section 6-42. The Court May Find the Parent, Guardian or Custodian in Contempt For Failure to Appear at a Court Hearing or For Failure to Follow Court Orders."

(Code 1981, § 11-35; Code 2012, § 11-35; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-35, 5-30-2012)

Sec. 11-165. Disposition proceedings.

(a) *Court findings.* After the adjudication hearing, the court will either find the allegations of the petition meet the applicable burden of proof and proceed with disposition of the matter, or the allegations do not meet this burden and dismiss the petition, unless the hearing is continued to a date certain to allow for presentation of further evidence.

(b) *Investigation and predisposition report.* When a child is found to be dependent, the court may order that a predisposition report consisting of a written evaluation of matters relevant to the disposition of the case be made by the Community social service department. The predisposition report shall include the following information and be made available to the court, and those parties deemed appropriate by the court, at least three working days prior to the disposition hearing:

(1) A summary of the problems; the child's home environment.

(2) What steps, if any, the parent, guardian, custodian or social services personnel have taken to correct the problems; the present conditions of the child and family.

(3) How the child is doing in his or her current placement, and, if there have been any moves, the reasons why.

(4) Report on contacts with the parent, guardian, or custodian and the child.

(5) An assessment of when the child is expected to return home.

(6) A case plan and recommendations for the next six months, including a treatment plan for the parent, future placement of the child, and what services, if needed, should be provided for the child.

(7) Any other information that the juvenile court may request.

(c) *Hearing.* The court may order a hearing to determine the proper disposition of the case. In the event that a disposition hearing is ordered, it shall be held within 60 days of the adjudication hearing date. At the hearing, the court shall consider the predisposition report and recommendations made by the Community social service

department, and afford the parties an opportunity to comment. The court shall also consider alternative reports and recommendations of the parties, if any. Any relevant and material information shall be admissible at the hearing.

(d) *Notice of hearing.* Written notice of the hearing shall be given to the parties at least 48 hours prior to the disposition hearing.

(e) *Options.* The court shall give due regard to the customs and traditions of the Community and the family with regard to child-rearing, and may order any of the following dispositions:

(1) Require the child to submit to periodic counseling.

(2) Place the child under protective supervision in his or her own home upon conditions determined by the court.

(3) Place the child in the legal custody of a relative or other suitable person, with or without protective supervision.

(4) Order that the child be examined or treated by a physician, surgeon, psychiatrist or psychologist, or that he or she receive other special care, and for such purposes may place the child in a hospital or other suitable facility.

(5) Appoint a guardian for the child when it appears necessary to do so in the interest of the child, and may appoint a public or private institution or agency in which legal custody of the child is vested as such guardian.

(6) Order any such additional or further remedies that the court, in its discretion, deems necessary for the benefit of the child.

In placing a child under the guardianship or legal custody of an individual or a private agency or institution, the court shall give primary consideration to the welfare of the child.

(f) *Establishment of conditions by court.* The court may make an order setting forth reasonable conditions to be complied with by the parents, the child, his or her custodian or any other person who has been made a party to the proceedings, including, but not limited to, restriction on visitations by the parents or one parent, restrictions on the child's associates and other activities, and requirements to be observed by the parents or custodian.

(g) *Hospitalization of child.* If the court finds, upon due notice to the parent or guardian, and a special hearing is conducted in accordance with the applicable laws and regulations, that a child within the jurisdiction of the court is mentally ill, and because of his or her illness is:

(1) A threat to himself, herself or others, if allowed to remain at liberty;

(2) In need of custody, care or treatment in the mental hospital; or

(3) Gravely disabled;

the court may order the hospitalization of the child in an authorized facility pursuant to chapter 10, article VI of this Code of Ordinances.

(h) *Commitment to facility for mentally handicapped.* The court may make an order committing a child within its jurisdiction to an appropriate facility if the child has been found mentally handicapped in accordance with the provisions of applicable law and regulations.

(i) *Additional orders.* The court may order that a petition to terminate the parent-child relationship be filed, or that a guardianship petition be filed.

(Code 1981, § 11-36; Code 2012, § 11-36; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-36, 5-30-2012)

Sec. 11-166. Placement preferences.

(a) *Least restrictive setting.* If a child cannot be returned home, the child shall be placed in the least restrictive setting which most approximates a family and in which the child's special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. The placement restrictions set forth in section 11-158 shall be followed.

(b) *Order of preference.* A child shall be placed in a home with the following characteristics, in the following preference order:

(1) Members of the extended family.

(2) An Indian family of the child's tribe.

(3) An Indian family.

(4) An other family which can provide a suitable home for the child.

(Code 1981, § 11-37; Code 2012, § 11-37; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-37, 5-30-2012)

Sec. 11-167. Review hearing.

(a) *Requirement.* Except as otherwise provided by this chapter, the status of all children subject to the dependent provisions of this chapter shall be reviewed by the court at least every six months at a hearing, except that the first review hearing shall be held within three months after the judgment or disposition is entered, whichever is later.

(b) *Return to home.* A child shall be returned to the home of the parent, guardian or custodian from a finding made at the review hearing, unless the court finds that a reason for placement outside the home still exists.

(c) *Written order.* If continued court supervision is determined to be necessary, the court shall set forth the following in a written order:

(1) What services have been provided or offered to the parent, guardian, or custodian to help correct the underlying problems.

(2) The extent to which the parent, guardian, or custodian has visited or contacted the child, any reason why such visitation and/or contact has been infrequent or not otherwise occurred.

(3) Whether the parent or custodian is cooperative with the court.

(4) Whether additional services should be offered to the parent, guardian or custodian.

(5) Whether the parent, guardian, or custodian should be required to participate in any additional programs to help correct the underlying problems.

(6) When the child's return can be expected.

(Code 1981, § 11-38; Code 2012, § 11-38; Ord. No. SRO-210-96, § 1, 11-15-1995; Ord. No. SRO-402-2012, § 11-38, 5-30-2012)

Sec. 11-168. Permanency policy.

(a) The policy of the Community is to protect the best interests of its children and to promote the stability of its families by setting forth standards that reflect its cultural values while providing children a stable foundation in a permanent home. Every child deserves a permanent and stable home, and to be protected from emotional and mental harm caused by separation from his or her family and uncertain temporary placement.

(b) Consistent with these policies, all departments and agencies of the Community, and the Community court, shall protect dependent children from unnecessary prolonged separation from their parent(s) and extended family and from uncertain temporary placement.

(Ord. No. SRO-408-2013, § 11-39, 12-1-2012)

Sec. 11-169. Requirement for permanency disposition.

(a) For all children within the dependency jurisdiction of the Community juvenile court, the court shall comply with the permanency policy pursuant to section 11-168 of the Community for the express intent of achieving permanency.

(b) A permanency disposition for all dependent children shall be made within 18 months of the disposition of the dependency. For purposes of this section, no time shall be tolled, other than exceptional circumstances when the court is unable to accommodate the matter due to unforeseen administrative reasons.

(Ord. No. SRO-408-2013, § 11-40, 12-1-2012)

Sec. 11-170. Exceptional care requirements.

A permanency disposition as required by section 11-169 or section 11-172 shall not be required

within 18 months of the disposition when the court determines exceptional care requirements exist.

(1) Exceptional care requirements means the:

a. Psychological, medical or psychiatric needs of a dependent child that require services and assistance;

b. The legal and custodial needs of a child who is incarcerated for an extended period of time for delinquent or criminal behavior;

c. The bonding needs of a child who is a part of a sibling group in dependent care, or

d. A child over the age of 11 years of age.

(2) Upon motion by a party, the court shall conduct a hearing to determine if exceptional care requirements exist. At the conclusion of such hearing, the court may determine upon clear and convincing evidence that exceptional care requirements exist. The court shall issue an order with findings of fact as to the exceptional care requirements.

(3) The existence of exceptional care requirements for any child shall not prevent a permanency disposition, including termination of parental rights. If a viable permanency plan exists, the court shall make a permanency disposition as required by section 11-169. The court shall defer to the best interest of the child in making such determinations.

(Ord. No. SRO-408-2013, § 11-41, 12-1-2012)

Sec. 11-171. Time for permanency disposition hearing.

(a) *Time for hearing for cases originating in the Community juvenile court.*

(1) When the court ordered permanency, and not a reunification plan or services at disposition pursuant to section 11-165, the permanency hearing shall be held within 30 calendar days after the disposition hearing.

(2) For children under three years of age at the time of disposition, the permanency hearing shall be within six months after disposition.

(3) For children over three years of age at the time of disposition, the permanency hearing shall be within 12 months after disposition

(b) *Time for hearing when the court accepted transfer.*

(1) In child dependency cases over which the Community court has accepted transfer of jurisdiction from another court, and the transferring court did not order a permanency disposition, the hearing shall be within six months after disposition in the Community;

(2) In child dependency cases where the court has accepted transfer of jurisdiction from another court, and the transferring court ordered a permanency disposition, the court shall conduct a permanency disposition review hearing within 30 calendar days of the receipt of such order to determine whether to comply with or modify such orders.

(c) *Permanency hearing upon request.* Any party may request a permanency review hearing at any time prior to the court mandated hearing.

(Ord. No. SRO-408-2013, § 11-42, 12-1-2012)

Sec. 11-172. Review of transferring court's order for permanency disposition.

(a) In child dependency cases where the transferring court has ordered permanency disposition of the child, the court shall, in the best interests of the child, maintain such permanency disposition absent a showing of good cause.

(b) In child dependency cases where the transferring court has ordered permanency disposition for the child the court shall, within 30 calendar days of receipt of written documentation of such

order, conduct an independent review of the permanency disposition order of the transferring court to determine:

(1) Whether the transferring court exercised proper jurisdiction over the child and properly determined permanency in the best interests of the child; and

(2) Whether, if applicable, the provisions of the Indian Child Welfare Act, 25 USC 1901—1963, were properly followed by the transferring court; and

(3) Whether due process was properly afforded all parties in the permanency proceeding in the transferring court; and

(4) Whether the permanency disposition proceeding in the transferring court is consistent with the public policies, customs and traditions of the Community.

(c) Upon determination that the provisions of subsection (b) of this section are met and based upon the totality of the circumstances, the court shall, upon written findings of fact and conclusions of law and not longer than 60 calendar days from the permanency disposition review hearing:

(1) Order that the permanency disposition order of the transferring court be upheld; and

(2) Order that the transferring court's permanency plan be achieved within 90 calendar days of the permanency disposition review hearing held pursuant to subsection (b) of this section.

(d) Upon determination that the provisions of subsection (b) of this section are not met and based upon the totality of circumstances, the court shall, upon written findings of fact and conclusions of law and not longer than 60 calendar days from the permanency disposition hearing:

(1) Order that the permanency disposition order of the transferring court not be upheld and order an alternative permanency disposition plan for the child; and

(2) Order that the alternative permanency disposition plan be achieved within 90 calendar days of the permanency disposition review hearing held pursuant to subsection (b) of this section.

(Ord. No. SRO-408-2013, § 11-43, 12-1-2012)

Sec. 11-173. Pre-permanency hearing report.

(a) Prior to the permanency disposition hearing, the Community social services department shall prepare and submit to the court a permanency report. The report shall be submitted to the court no later than ten calendar days before the hearing with copies provided to all parties. The purpose of the report is to aid the court in making a permanency disposition and shall include the following, where applicable:

(1) The circumstances of the dependency;

(2) The present condition of the child and parent(s), including physically, emotionally, and psychologically;

(3) Proposed placement and other relevant care plans for the child, including the plans and ability for the child to maintain cultural-connectedness and familial ties, where feasible and in the child's best interest;

(4) The child's desires if over the age of 14, or where otherwise deemed appropriate;

(5) The age of the child;

(6) The remedying actions of the respondent parent(s) or guardian(s) from the time of removal;

(7) A history of any out-of-home placements;

(8) Any bonds the child has formed with substitute care;

(9) Efforts by the Community social services department to identify any available relative placement options when the child is not placed with family;

(10) A description of all reasonable efforts by the Community social services department to assist the parent(s) and children with reunification of the family;

(11) Any other such facts, conclusions or observations as may be pertinent to the parent and child relationship; and

(12) A recommendation as to the permanency disposition for the child.

(b) The court shall also accept and consider any such pre-permanency hearing reports from any assigned guardian ad litem and/or any report prepared by an expert who has reviewed the case and offers a best interest recommendation.

(c) The pre-permanency report may be waived by the court and the parties when the permanency hearing is held in conjunction with disposition.
(Ord. No. SRO-408-2013, § 11-44, 12-1-2012)

Sec. 11-174. Permanency hearing.

(a) At the permanency disposition hearing, the court shall review the following factors:

(1) The circumstances of the dependency;

(2) The present condition of the child and parent(s), including physically, emotionally, and psychologically;

(3) Proposed placement and other relevant care plans for the child, including the plans and ability for the child to maintain cultural-connectedness and familial ties, where feasible and in the child's best interest;

(4) The child's desires if over the age of 14, or where otherwise deemed appropriate;

(5) The age of the child;

(6) The remedying actions of the respondent parent(s) or guardian(s) from the time of removal;

(7) A history of any out-of-home placements;

(8) Any bonds the child has formed with substitute care;

(9) Efforts by the Community social services department to identify any available relative placement options when the child is not placed with family;

(10) The existence of any reasonable efforts by the Community social services department to assist the parent(s) and children with reunification of the family, when reasonable efforts were required;

(11) The recommendations of the Community prosecutor and Community social services department;

(12) The recommendations of the appointed guardian ad litem;

(13) The recommendations of the parent(s) or legal guardian(s);

(14) The recommendations of all persons who have a privileged relationship with the child who has made a recommendation, including any expert who has made a best interest recommendation; and

(15) Any other such facts, conclusions or observations as may be pertinent to the parent and child relationship.

(b) Upon considerations of all of the factors of subsection (a) of this section, the court shall make specific findings as to the following:

(1) The remedying actions of the respondent parent(s) or guardian(s), and the effectiveness of such actions;

(2) Any emotional bonds the child has formed with substitute care;

(3) Efforts by the Community social services department to identify any relative placement options when the child is not placed with family;

(4) The existence of any reasonable efforts by the Community social services department to assist the parent(s) and child(ren) with reunification of the family, when reasonable efforts were required; and

(5) The best interest of the child.

(c) The best interest of the child shall be the primary determining factor in making the permanency disposition. As to the determination of best interest, the court shall consider the following (if such information exists):

(1) Any recommendations from the child's treating mental health professional regarding the plans to meet the child's needs for consistency and bonding, including any emotional bonds the child has formed with substitute care;

(2) Proposed plans regarding the ability of the child to maintain cultural-connectedness and cultural identity;

(3) Any evidence in the record of the parent's demonstrated ability or lack of ability to substantially remediate the underlying issues that led to the dependency action;

(4) Any other relevant evidence presented.

(d) Upon motion by the parties, the court may reconsider a permanancy determination plan that was previously ordered. In doing so, the court shall conduct a permanancy hearing pursuant to this section.
(Ord. No. SRO-408-2013, § 11-45, 12-1-2012)

Sec. 11-175. Possible outcomes.

(a) At the conclusion of a permanency hearing, the court shall order a permanency disposition and issue a written order within 15 calendar days. The following are the possible permanency dispositions available to the court:

(1) Approval of a proposed plan that results in restoration to the full care and custody of a parent within six months, when the child will be in safe care with the respondent parent, or a grant of legal custody to a noncustodial parent when that parent was not alleged to have contributed to the dependency of the child and the court finds that no grounds for a depenedency would exist if child were placed in the custody of the noncustodial parent;

(2) Approval of a proposed plan to grant guardianship or permanent legal guardianship;

(3) Approval of a proposed plan to achieve adoption, when there are no remaining legally established parents; or

(4) Approval of a plan for the filing of termination of parental rights to be filed by a party, pursuant to section 11-180(a), if grounds for termination exist, for purposes of adoption eligibility and a proposed plan for post-termination disposition consistent with this chapter.

(b) When none of the dispositions described in subsection (a) of this section are available or not in the best interest of the child, due to exceptional care requirements, the court shall order the Community social services department to submit an appropriate plan for the child's needs. If the child is to remain a ward of the court and no permanency disposition is ordered, the court shall determine what requirements will be imposed upon any respondent parent, with the best interest of the child as the primary consideration.

(c) In all orders pursuant to subsection (a)(2), (3) or (4) of this section, the court shall order the final permanency disposition to be achieved within six months of the permanency hearing, absent exceptional circumstances.

(d) In the rare event that exceptional circumstances exists and the court determines that the child will remain in out-of-home placement longer than six months from the date of the permanency order, the court shall conduct a review hearing not longer than every six months. After reviewing the order, the court may reaffirm the order or direct other disposition of the child.

(e) In any case where the court finds exceptional circumstances prevents achieving final permanency disposition for a child within six months, the court shall make specific findings on the record as to such exceptional circumstances and the child's best interest.
(Ord. No. SRO-408-2013, § 11-46, 12-1-2012)

Sec. 11-176. Legal guardianship or permanent legal guardianship as permanency disposition.

(a) At the conclusion of a permanency hearing, the court may establish a permanent guardianship between a child and the guardian if the prospective guardianship is in the child's best interests and all of the following apply:

(1) The child has been adjudicated a dependent child;

(2) The child has been in the physical custody of the prospective permanent legal guardian for at least three months immediately

preceding the filing of the permanent legal guardianship petition as a dependent child;

(3) If the child is in the legal custody of the Community social services department, and the Community social services department has made reasonable efforts to reunite the parent and child and further efforts would be unproductive. The court may waive this requirement if it finds that reunification efforts are not required by law, or if reunification services were not ordered at disposition, or if reunification of the parent and child is not in the child's best interests because the parent is unwilling or unable to properly care for the child; or the parent's consent;

(4) The likelihood that the child would be adopted is remote or termination of parental rights would not be in the child's best interests; and

(5) The prospective guardian has satisfied all requirements of section 10-116 and section 10-118.

(b) At the conclusion of a permanency hearing, the court may establish a guardianship between a child and the guardian if the prospective guardianship is in the child's best interests and all of the following apply:

(1) The child has been in the physical custody of the prospective legal guardian for at least three months immediately preceding the filing of the legal guardianship petition as a dependent child; and

(2) If the child is in the legal custody of the Community social services department, and the Community social services department has made reasonable efforts to reunite the parent and child and further efforts would be unproductive. The court may waive this requirement if it finds that reunification efforts are not required by law, or if reunification services were not ordered at disposition, or if reunification of the parent and child is not in the child's best interests because the parent is unwilling or unable to properly care for the child; or the parent's consent; and

(3) The likelihood that the child would be adopted is remote or termination of parental rights would not be in the child's best interests; and

(4) The prospective guardian has satisfied all requirements of section 10-116 and section 10-118.

(c) The court may consider any adult over the age of 21, including a relative or foster parent, as a permanent legal guardian or a legal guardian. The court may consider as a legal guardian an adult over the age of 18, if the potential legal guardian is a sibling of the minor. An agency or institution may not be a permanent legal guardian or legal guardian. The court shall consider the wishes of the child if the child is at least 14 years of age and wishes to address the court. The court may consider the wishes of any child under the age of 14 if the court finds appropriate. A minor wishing to address the court may submit written documentation or appear in open court to provide the court with their wishes. A party may motion the court to conduct an in camera interview if the party believes it would be in the child's best interest. Should the court grant the motion, the court shall conduct the in camera interview with the minor and appointed guardian ad litem. The interview shall be recorded and be made available to the parties upon request. When the potential permanent legal guardian is a sibling of the child, the court may consider the potential guardian if they are over the age of 18 years old.

(d) Unless specifically described in this section, the procedural rules for guardianship as described by the Community law shall apply, with the exception of section 10-119(c) in all matters regarding permanent legal guardianship or legal guardian of dependent children.

(e) Petitions for permanent legal guardianship or legal guardianship of a dependent child shall not be addressed by the court until a permanency hearing has been conducted and the court has concluded that permanency is in the best interest

of the child, unless all parties consent to the hearing occurring before the permanency hearing.

(f) In proceedings for permanent legal guardianship or legal guardianship, the court shall give primary consideration to the best interest of the child, including the physical, mental and emotional needs of the child. The court shall also consider the willingness and ability of the potential guardian(s) to foster cultural-connectedness for the dependent child.

(g) Upon receipt of the filing of a petition for permanent legal guardianship or legal guardianship for a dependent child the court shall conduct an initial hearing regarding the petition within 30 calendar days. If a petition is contested at the initial hearing by a parent or the Community, the court shall set a date for a hearing within 90 calendar days after the permanency hearing. The court shall issue a final order regarding the guardianship within 15 calendar days of the permanency hearing. If a petition is noncontested by all parties, the court may set an appropriate hearing as described in section 10-119, to ensure the appropriate procedures are scheduled to ensure that the prospective permanent legal guardian(s) meet the requirements and qualifications of a guardian as described in section 10-118.

(h) The hearing for permanent legal guardianship or legal guardianship shall be conducted consistent with section 10-119(g), (h) and (i). The petitioner shall have the burden of presenting evidence at the hearing to prove the appropriateness of the petition. Before granting any permanent legal guardianship or legal guardianship, the court shall require the prospective permanent legal guardian(s) or legal guardian(s) to acknowledge all duties and responsibilities as described in section 10-123.

(i) A grant of permanent legal guardianship or legal guardianship provides for the permanent custody of the child to someone other than the parent(s) and shall have the following effect:

(1) A grant of permanent legal guardianship shall not terminate the parental rights of the natural parent to the child, including the right of the natural parent to consent to adoption of the child.

(2) The natural parent shall remain responsible for the financial support of the child, if so ordered by the court, until an order vacating child support has been entered.

(3) The parent will no longer be obligated to complete the court-ordered service plan for reunification, but may be permitted to attend review hearings within the court's discretion.

(4) The court shall enter any visitation orders with the parent(s) or siblings as the court deems appropriate, or may delegate such authority to the permanent legal guardian.

(5) There shall be a presumption of continued permanent legal guardianship in order to provide stability of the child.

(6) A grant of permanent legal guardianship shall include the ability of the permanent legal guardian to change the legal name of the child. A grant of legal guardianship does not include the ability of the legal guardian to change the legal name of the child.

(7) A court order for permanent legal guardianship or legal guardianship does not affect the child's inheritance rights from and through the child's birth or adoptive parent(s).

(j) The permanent legal guardian's or legal guardian's rights and responsibilities not specifically outlined in this section shall be consistent with section 10-123.

(k) All adjustments, terminations, relinquishment, or other amendments to any grant of legal guardianship of a dependent child of the Community shall be heard by the Community court that granted the legal guardianship.

(l) Permanent legal guardianship shall only be terminated based upon the unsuitability of the permanent legal guardian(s) rather than the competency or suitability of the parent(s).

(m) The court shall conduct a review of all guardianship grants for dependent children at an annual review for a minimum period of two years. At the reviews of the guardianship hearing, the parties to the matter shall be present.
(Ord. No. SRO-408-2013, § 11-47, 12-1-2012)

Sec. 11-177. Adoption as permanency disposition.

If, at the conclusion of a permanency hearing, the court finds that in the best interest of the child, the child should be adopted, the following shall apply:

(1) Unless specifically described in this section, the procedural rules for adoption pursuant to chapter 10 shall apply in all matters regarding adoption of dependent children.

(2) When a dependent child has no surviving parent, the court shall order the child eligible for adoption.

(3) When the parental rights of all legally-established and surviving parents of a child have been terminated, the court shall order the child eligible for adoption.

(4) The court shall require that an adoption hearing and final disposition of the child be achieved within six months of the permanency disposition hearing, unless there are exceptional circumstances where the court is unable to accommodate the matter due to unforeseen administrative reasons.

(Ord. No. SRO-408-2013, § 11-48, 12-1-2012)

Sec. 11-178. Termination of parental rights as a permanency disposition.

If, at the conclusion of a permanency hearing, the court finds that in the best interest of the child, the parental rights of any parent should be terminated to achieve permanency for the child, the following shall apply:

(1) An eligible party, pursuant to section 11-180(a)(1) through (4), may identify to the court the intent to file a petition to terminate parental rights of the parent(s) within ten calendar days.

(2) The requirement of a petition will not be required when the parent submits to voluntary termination of parental rights.

(3) The court shall not order termination of parental rights if the parties advise there are no statutory grounds on which to form a petition.

(Ord. No. SRO-408-2013, § 11-49, 12-1-2012)

Sec. 11-179. Voluntary termination of parental rights.

(a) Parental rights may be voluntarily terminated by a parent.

(b) Voluntary termination shall not be accepted or acknowledged by the court prior to ten calendar days after birth of the child.

(c) A parent may voluntarily terminate parental rights in court, under oath, after being apprised of the parent's legal rights including:

(1) To have the assistance of legal counsel; and

(2) That termination of parental rights is final; and

(3) The effect of the termination of parental rights; and

(4) If a petition to terminate parental rights has been filed, that the petitioner has the burden of proof by clear and convincing evidence that grounds exist and that the termination is in the child's best interest.

(d) The court may also accept a sworn and notarized affidavit of intent to voluntarily terminate parental rights, when the parent is unavailable to attend court. Any affidavit shall acknowledge that the parent understood their legal rights including:

(1) To have the assistance of legal counsel; and

(2) That termination of parental rights is final; and

(3) The effect of the termination of parental rights; and

(4) If a petition to terminate parental rights has been filed, that the petitioner has the

burden of proof by clear and convincing evidence that grounds exist and that the termination is in the child's best interest.

(e) The voluntary termination of parental rights shall have no legal effect on the parental rights of any other legal parent.

(f) When a parent seeks to voluntarily terminate parental rights, all other legal parent(s) shall be noticed and given an opportunity to be heard. If the child is a dependent child, the Community shall also be noticed and given an opportunity to be heard.

(g) Voluntary termination shall not be permitted solely to eliminate any financial obligation of the parent. If the parent is financially supporting the child, or is legally-obligated to support the child, the court shall consider the effect of the voluntary termination on the child's best interest.
(Ord. No. SRO-408-2013, § 11-50, 12-1-2012)

Sec. 11-180. Petition to terminate parental rights of a dependent child.

(a) *Who may file.* A petition to terminate the parent-child relationship may be filed by:

(1) The Community prosecutor on behalf of the Community;

(2) The appointed guardian ad litem representing the child's best interest;

(3) Any advocate or attorney representing the child in the dependency matter; or

(4) A parent, for the voluntary termination of his/her own parental rights, or the involuntary termination of parental rights of another legally established parent.

(b) *Contents of termination petition.* The petition for termination of the parent-child relationship shall include the following to the best information and belief of the petitioner:

(1) The address of the petitioner;

(2) The full name, sex, date of birth, current place of residence and tribal affiliation of the child;

(3) The basis for the court's jurisdiction;

(4) The length of time the child has been dependent;

(5) The names, addresses and places of residence, tribal affiliation of the child's parent(s;

(6) The age(s) of the child's parent(s), if the parent(s) are under 18 years of age;

(7) If the child's parent is under the age of 18, the names, addresses and current place of residence of the parent's parent(s) or guardian;

(8) The name and address of the person or agency having legal or temporary custody of the child;

(9) The grounds and basic facts upon which the termination is sought under section 11-181;

(10) A list and statement of value of all assets of the child; and

(11) When any of the facts required by this subsection are unknown, the petition shall so state.

(c) *Parties filing petition to terminate.* Any party as described in subsection (a) of this section may file the petition to terminate parental rights when basic facts exist to support any of the grounds for termination pursuant to section 11-181 and may be filed prior to a permanency hearing.
(Ord. No. SRO-408-2013, § 11-51, 12-1-2012)

Sec. 11-181. Grounds for involuntary termination of parental rights.

Any one of the following allegations proven by the petitioning party at trial shall be grounds for the involuntary termination of a parent's rights:

(1) The parent is or has been incarcerated for more than 24 months (including separate incarceration periods), requiring the child to be separated from the parent;

(2) The parent willfully, intentionally or negligently caused the death of a child;

(3) The parent sexually assaulted or molested a child;

(4) The parent assaulted a child resulting in serious physical injuries;

(5) The parent willfully or intentionally caused the death of a legal parent of the child;

(6) If the parent is alleged to be the father, the father failed to establish paternity after being given notice of the allegation as a part of the dependency action;

(7) The parent has had their parental rights terminated as to another child, when the grounds for such termination were abuse or neglect and the parent has not remediated the causes of such abuse or neglect, such as substance abuse or a treatable mental illness;

(8) The respondent is the alleged father and the child was conceived as a result of a rape or incest;

(9) The respondent is the mother and the child was conceived as a result of consensual incest;

(10) The parent failed to maintain contact with the child for a period of more than six months, or if the child was in dependent care, the parent failed to maintain contact with the social services department for six months;

(11) The parent is unable to discharge parental responsibilities because of mental illness and there are reasonable grounds to believe that the condition will continue for a prolonged indeterminate period;

(12) If the child is under three years of age at the time of the filing of the petition to terminate parental rights, the fact that the child has been in dependent care for six months and is not likely to be returned to safe parental care within six months from the filing of the petition or the parents have failed to make reasonable efforts at reunification;

(13) The child has been in dependent care for 24 months;

(14) The parent willfully or intentionally inflicted serious or chronic emotional abuse upon the child;

(15) The parent engaged in egregious conduct that poses a risk to the child's well-being; or

(16) The parent had knowledge of emotional or physical abuse or neglect of the child and failed to protect that child from such harm.

(Ord. No. SRO-408-2013, § 11-52, 12-1-2012)

Sec. 11-182. Timing of hearing and service for initial hearing for termination and termination of parental rights trial.

Upon the court's receipt of the filing of a petition for termination of parental rights, the court shall set a time for an initial hearing on the petition for termination of parental rights within 20 calendar days.

(1) The petition for termination of parental rights shall be filed by the petitioner with the court and copies provided to the parent(s), as well as any other necessary party, including the parties to the dependency matter.

(2) The court shall issue a summons to the parent(s), any legal guardians and any such other persons as the court deems necessary and proper to the proceedings. The summons shall require them to appear personally before the court at the time set for the initial hearing for termination. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the clerk of the court at or prior to the hearing, or who is given personal notice of the hearing date and time during any other court proceeding.

(3) Service of summons shall be made under the direction of the court by a Community process server or other suitable person appointed by the court, or upon request of the court, by a Community law enforcement officer or any other peace officer.

(4) If the parties cannot be personally served, and if their address is known, the summons, petition, and notice of rights may

be served, within or outside of the Community's exterior boundaries, by certified mail with a return receipt requested, at least 15 calendar days before the initial hearing for termination. The court shall ensure that certified mail is employed as soon as service by personal service is not achievable.

(5) Where it appears that the parent, guardian or custodian is a nonresident of the Community, or that their name, place of residence, or whereabouts is unknown, or in cases of unsuccessful personal service or service by certified mail, the court shall direct the clerk to publish a legal notice in the next available issue of the Community's newspaper simultaneously with a legal notice appearing once in another newspaper of general circulation. Such notice shall be directed to the parent, guardian or custodian if their names are known, or if unknown, "a person to whom it may concern," may be used. The name of the court, the title and purpose of the proceeding, the date the petition was filed, and the hearing date shall be set forth in general terms. The court shall direct notice by publication to the Clerk of the court to be completed as soon as the court is aware that the service by mail or personal service is not achievable. When publication is the method of service employed, the initial hearing shall not occur less than 60 calendar days after the filing of the petition for termination of parental rights.

(6) The summons issued by the court shall display the following words:

"Notice, Violation of This Order is Subject to Proceedings for Contempt of Court Pursuant To Salt River Community Code Section 6-42. If Good Cause is Not Shown, the Court May Find the Parent, Guardian or Custodian in Contempt for Failure to Appear at a Court Hearing or for Failure to Follow Court Orders. Further, the Parties Should be Advised that the Hearing for Termination of Parental Rights May Proceed Without the Parent or Necessary Respondent Present. Failure to Appear May Result in the Hearing Being Held Without The Parent and the Parental Rights of the Parent May be Terminated."

(Ord. No. SRO-408-2013, § 11-53, 12-1-2012)

Sec. 11-183. Initial hearing for termination of parental rights.

(a) The court shall advise the parent(s) of the ability to voluntarily terminate their parental rights at the initial hearing.

(b) If the termination is contested at the initial hearing, the court shall set a date for trial on termination of parental rights within 90 calendar days of the initial hearing. The court shall identify from the parties the witnesses expected to be called at the trial, the need for any in camera proceedings, including the testimony of any child, and direct the parties to exchange any pertinent information relevant to the trial. The court shall schedule an appropriate amount of time for the termination trial after consultation with the parties. Notice of the time for the termination trial shall be provided to all parties present at the initial hearing.

(c) If the parent(s) voluntarily terminate their parental rights at the initial hearing, the court shall set a disposition hearing within 30 calendar days, which may be consolidated with any adoption, guardianship, or permanent legal guardianship hearings that are scheduled, so long as the hearing is within 90 calendar days of the voluntary termination.

(Ord. No. SRO-408-2013, § 11-54, 12-1-2012)

Sec. 11-184. Termination of parental rights trial.

(a) When the parent(s) fails to appear for the termination of parental rights trial, the court shall make a finding as to whether service was completed. If service was completed, and the parent fails to appear, the court may find that the parent(s)' have waived the right to be present. When the court finds that the parent has waived the right to be present, the hearing shall be conducted in the absence of the parent(s), absent good cause. If service has been completed, and the court has no information as to the parent's failure

to appear, the presumption shall be that the parent has voluntarily absented themselves from the trial and has waived the right to be present.

(b) The petitioning party shall have the burden of proof and shall prove by clear and convincing evidence that at least one of the allegations in the petition provides a legal basis for termination of parental rights and that the best interests of the child will be served by termination of the parent-child relationship.

(c) On occasion, when there is no viable option for reunification with a parent, a petition for termination of parental rights may be filed to mitigate any harm that the parent(s) may be imposing on a dependent child or upon the care of the child as a result of residual parental rights. In such cases, a permanency plan may not be a precondition to the termination. All other requirements for termination of parental rights remain the same.

(d) Rules of court for termination trial.

(1) The court, within its discretion, may permit witnesses to appear telephonically.

(2) The court may take judicial notice of procedural facts that were previously determined by the court.

(3) When a parent is unable to attend the trial due to incarceration or some other involuntary means, the court shall make reasonable efforts to accommodate the parents participation in the trial, such as by allowing for telephonic appearance and the submission of depositions for the purpose of avoiding delay and the best interest of the child.

(4) The court may permit the parties to stipulate to facts and evidence.

(5) The court shall make specific findings as to the grounds for termination and the best interest of the child, requiring the petitioning party to prove each by clear and convincing evidence.

(6) The court may consider any conduct relevant to the allegations, regardless of where such conduct occurred, so long as the evidence is reliable.

(7) Any other relevant evidence.

(e) The best interest of the child shall be the primary determining factor in making a decision as to the termination of parental rights. As to the determination of best interest of a child, the court shall consider the following (if such information exists):

(1) Any recommendations from the child's treating mental health professional regarding the plans to meet the child's needs for consistency and bonding, including any emotional bonds the child has with substitute care;

(2) Proposed plans regarding the ability of the child to maintain cultural-connectedness and cultural identity;

(3) Any evidence in the record of the parent's demonstrated ability or lack of ability to substantially remediate the underlying issues that led to the dependency action;

(4) Any other relevant evidence presented.

(f) Within 15 calendar days of the hearing, the court shall make findings of fact and conclusions of law as to the termination of the parental rights, specifically as to the alleged grounds for termination and as to the best interest of the child, and shall issue a written order of its findings. The court shall limit its finding to evidence presented in the records.

(g) A petition for termination of parental rights may not be dismissed with prejudice absent a hearing on the merits.
(Ord. No. SRO-408-2013, § 11-55, 12-1-2012)

Sec. 11-185. Effect of termination.

Upon termination of the parent-child relationship, all rights, powers, privileges, immunities, duties and obligations, including any right to custody, control, and visitation existing between the child and parent shall be severed and terminated unless otherwise directed by the court. The parent shall have no standing to appear at any future legal proceedings concerning the child. The rights of one parent may be terminated without affecting the rights of the other parent. A termination of parental rights order shall not prevent a

child from receiving child support or inheritance from the natural parent or adoptive parent until a final adoption is ordered.
(Ord. No. SRO-408-2013, § 11-56, 12-1-2012)

Sec. 11-186. Disposition after termination.

(a) Upon the entering of termination of parental rights order, the court shall conduct a disposition hearing within 30 calendar days, but may conduct the disposition immediately upon the consent of the remaining parties. The disposition hearing may be consolidated with any adoption or permanent legal guardianship hearings that are scheduled, so long as the hearing is within 90 calendar days of the termination order.

(b) If upon entering a termination of parental rights order, there remains no parent having parental custody, the court shall give primary consideration to the best interest of the child and with due regard to the customs and traditions of the Community and the family with regard to child-rearing, and may order any of the following dispositions:

(1) Place the child for adoption under applicable law and regulations, including section 11-166;

(2) Grant a guardianship or permanent legal guardianship for the child; or

(3) Maintain the child in court-ordered placement and direct the social services department to identify a permanent plan immediately.

(c) This section does not apply when the court finds that exceptional care requirements exist.
(Ord. No. SRO-408-2013, § 11-57, 12-1-2012)

Sec. 11-187. Termination of parental rights petition denied, permanency review hearing required.

Upon entering an order denying a termination of parental rights petition, the court shall immediately schedule a permanency review hearing. The permanency review hearing shall take place within 30 calendar days. The hearing may take place immediately only upon consent of all parties.
(Ord. No. SRO-408-2013, § 11-58, 12-1-2012)

Sec. 11-188. Subsequent permanency review hearings.

In the cases where a termination of rights petition was denied by the court, permanency review hearings shall be conducted every 90 calendar days until permanency is achieved for the child, or the child is no longer dependent, consistent with sections 11-169 and 11-175.
(Ord. No. SRO-408-2013, § 11-59, 12-1-2012)

Sec. 11-189. Subsequent petition to terminate parental rights after denial of prior petition to terminate.

(a) A subsequent petition to terminate parental rights shall not be precluded when there has been a previous termination of parental rights denial by the court, however any subsequent petition to terminate parental rights received by the court shall only be considered when the circumstances of the child or the parent have materially and substantially changed since the previous petition for termination was denied, or when new grounds for termination of parental rights exist.

(b) The court may consider evidence presented in a previous hearing in a termination hearing so long as it is not the sole evidence under consideration.
(Ord. No. SRO-408-2013, § 11-60, 12-1-2012)

Secs. 11-190—11-216. Reserved.

ARTICLE VIII. CURFEW

Sec. 11-217. Curfew described; exception.

It is unlawful for any juvenile under 18 years of age to be away from the dwelling house or usual place of abode of such juvenile between the hours of 10:00 p.m. and 6:00 a.m. of the following day, unless the juvenile is:

(1) Accompanied by a parent, guardian or custodian;

(2) Accompanied by a person authorized by a parent, guardian or custodian and the juvenile is on a reasonable, legitimate and

specific business or activity directed or permitted by a parent, guardian or custodian;

(3) On an emergency errand; or

(4) An emancipated minor.

(Code 1981, § 11-71; Code 2012, § 11-71; Ord. No. SRO-344-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-71, 5-30-2012)

Sec. 11-218. Responsibility of parent, guardian or custodian.

The parent, guardian or custodian of a juvenile under 18 years of age shall ensure that the juvenile is not away from the dwelling house or usual place of abode of the juvenile in violation of this section. It is unlawful for any parent, guardian or custodian of a juvenile under 18 years of age to permit such juvenile to be away from the dwelling house or usual place of abode of the juvenile in violation of this section.

(Code 1981, § 11-72; Code 2012, § 11-72; Ord. No. SRO-344-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-72, 5-30-2012)

Sec. 11-219. Legal requirements.

(a) *Offense by omission.* The offenses described in sections 11-217 and 11-218 shall be considered offenses by omission. The prosecution shall have the burden of proving that the juvenile was not at the dwelling house or usual place of abode. Both the juvenile and the parent shall have an affirmative duty to ensure the juvenile is at the dwelling house or usual place of abode during the hours required. The prosecution shall not be required to prove where the juvenile actually was during the hours required.

(b) *Lack of knowledge not a defense.* It shall not constitute a defense that the parent, guardian or custodian of a juvenile who comes within the provisions of this section did not have actual knowledge of the presence of such juvenile being away from the dwelling house or usual place of abode of the juvenile, if the parent, guardian or custodian, in the exercise of reasonable care and diligence, should have known of the failure of the juvenile to be in the dwelling house or usual place of abode.

(c) *Procedure.* Proceedings for any juvenile alleged to have violated the provisions of this article shall be conducted in accordance with sections 11-129 through 11-136. Proceedings for any parent, guardian or custodian alleged to have violated the provisions of this article shall be conducted pursuant to chapter 5 of this Code of Ordinances.

(Code 1981, § 11-73; Code 2012, § 11-73; Ord. No. SRO-344-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-73, 5-30-2012)

Sec. 11-220. Curfew violations to be separate offenses.

Each violation of the provisions of sections 11-217 and/or 11-218 shall constitute a separate offense.

(Code 1981, § 11-74; Code 2012, § 11-74; Ord. No. SRO-344-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-74, 5-30-2012)

Sec. 11-221. Penalties.

Any juvenile or any parent, guardian or custodian of a juvenile who violates any provision of this article shall be sentenced to imprisonment not to exceed six months, or to a fine not to exceed $5,000.00, or to both such fine and imprisonment, or shall be subject to a civil penalty not to exceed a $5,000.00 fine.

(Code 1981, § 11-75; Code 2012, § 11-75; Ord. No. SRO-344-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-75, 5-30-2012)

Sec. 11-222. Law enforcement authority for transport.

When a law enforcement agency outside the Community has custody of a juvenile for an alleged curfew violation, a duly authorized law enforcement officer of the Community may transport the juvenile to the Community.

(Code 1981, § 11-76; Code 2012, § 11-76; Ord. No. SRO-344-09, 11-12-2008; Ord. No. SRO-402-2012, § 11-76, 5-30-2012)

Secs. 11-223—11-252. Reserved.

ARTICLE IX. RIGHTS OF CHILD VICTIMS OR WITNESSES OF CRIME

Sec. 11-253. Intent.

The Community recognizes that it is important that child victims and child witnesses of crime cooperate with law enforcement and prosecutorial agencies and that their assistance contributes to Community enforcement efforts and the general effectiveness of the criminal justice system of the Community. Therefore, it is the intent of the Community Council by means of this article to ensure that all child victims and witnesses of crime are treated with sensitivity, courtesy and special care in order that their rights may be protected by law enforcement agencies, social agencies, protection afforded the adult victim, witness or criminal defendant.
(Code 1981, § 11-81; Code 2012, § 11-81; Ord. No. SRO-136-91, § 1, 11-28-1990; Ord. No. SRO-402-2012, § 11-81, 5-30-2012)

Sec. 11-254. Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this article.

Advocate means any person, including a family member not accused of a crime, who provides support to a child victim or child witness during any legal proceeding.

Child means any person under the age of 18 years.

Crime means an act punishable under the laws of the Community or equivalent federal or state law.

Family member means child, parent, legal guardian or extended family member.

Victim means any person against whom a crime has been committed.

Witness means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action, or a person who is subject to call or likely to be called as a witness for the prosecution by reason of having relevant information, whether or not an action or proceeding has been commenced.
(Code 1981, § 11-82; Code 2012, § 11-82; Ord. No. SRO-136-91, § 2, 11-28-1990; Ord. No. SRO-402-2012, § 11-82, 5-30-2012)

Sec. 11-255. Rights enumerated.

There shall be every reasonable effort made by law enforcement agencies, prosecutors and judges to ensure that child victims and witnesses are afforded the rights enumerated in this section. The enumeration of these rights shall be construed to create substantive rights and duties; and the application of an enumerated right in an individual case is not subject to the discretion of the law enforcement agency, prosecutor or judge. Child victims and witnesses have the following rights:

(1) To have explained in language easily understood by the child all legal proceedings and/or police investigations in which the child may be involved.

(2) To be provided, whenever possible, a secure waiting area during court proceedings and to have an advocate or support person remain with the child prior to and during any court proceedings.

(3) To prevent the disclosure of the names, addresses or photographs of the living child victim or witness by any law enforcement agency, prosecutor's office or state agency without the written permission of the child victim, child witness, parents or legal guardians to anyone except another law enforcement agency, prosecutor, defense counsel or tribal or private agency that provides services to the child victim or witness.

(4) To allow an advocate to make recommendations to the prosecuting attorney about the ability of the child to cooperate with prosecution and the potential effect of the proceedings on the child.

(5) To allow an advocate to provide information to the court concerning the child's ability to understand the nature of the proceedings.

(6) To be provided information or appropriate referrals to social service agencies to assist the child and/or the child's family with the emotional impact of the crime, the subsequent investigation and judicial proceedings in which the child is involved.

(7) To allow an advocate to be present in court while the child testifies in order to provide emotional support to the child.

(8) To provide information to the court as to the need for the presence of other supportive persons at the court proceeding while the child testifies in order to promote the child's feelings of security and safety.

(9) To allow law enforcement agencies the opportunity to enlist the assistance of other professional personnel such as child protection services, victim advocates or prosecutorial staff trained in the interviewing of child victims.

(10) To be provided with coordinated tribal services so as to decrease any duplication of services and to minimize the number of interviews with the child victim or witness.

(11) To be provided with the use of closed circuit television or other such similar recording device for the purposes of interviewing or court testimony when appropriate, and to have an advocate remain with the child prior to and during any recording sessions. The use of closed circuit television or other such similar recording device is appropriate when the trial court, after hearing evidence, determines this procedure is necessary to protect the particular child witness' welfare; and specifically finds the child would be traumatized, not by the courtroom generally, but by the defendant's presence and finds that the emotional distress suffered by the child in the defendant's presence is more than de minimus.

(Code 1981, § 11-83; Code 2012, § 11-83; Ord. No. SRO-136-91, § 3, 11-28-1990; Ord. No. SRO-402-2012, § 11-83, 5-30-2012)

Sec. 11-256. Civil liability.

The failure to provide notice to a child victim or witness under this article of the rights enumerated in section 11-255 shall not result in civil liability so long as the failure to notify was in good faith and without gross negligence. The failure to make a reasonable effort to ensure that child victims and witnesses are afforded the rights enumerated in section 11-255 shall not result in civil liability so long as the failure to make a reasonable effort was in good faith and without gross negligence.

(Code 1981, § 11-84; Code 2012, § 11-84; Ord. No. SRO-136-91, § 4, 11-28-1990; Ord. No. SRO-402-2012, § 11-84, 5-30-2012)

Secs. 11-257—11-275. Reserved.

ARTICLE X. INVESTIGATION OF PERSONS WORKING WITH CHILDREN

Sec. 11-276. Policy.

It is the policy of the Community that all employees who provide direct services to children shall have fingerprints on file with the department of personnel.

(Code 1981, § 11-91; Code 2012, § 11-91; Ord. No. SRO-148-92, § 1, 4-8-1992; Ord. No. SRO-402-2012, § 11-91, 5-30-2012)

Sec. 11-277. Employment application; background requirements.

All employment applications for persons seeking work for any position which involves direct services to children shall address the following issues:

(1) Whether the individual has ever been arrested for or charged with a crime involving a child, and if so, the disposition of that arrest or charge;

(2) Whether the individual is a parent or guardian of a child adjudicated to be a dependent child as defined in article I of this chapter; and

(3) Whether the individual has ever been denied a license to operate a facility for

the care of children in the State of Arizona or any other state or jurisdiction or had a license or certificate to operate such a facility revoked, and if so, the reason for such denial or revocation.

(Code 1981, § 11-92; Code 2012, § 11-92; Ord. No. SRO-148-92, § 2, 4-8-1992; Ord. No. SRO-402-2012, § 11-92, 5-30-2012)

Sec. 11-278. Responsibilities of personnel department.

(a) The personnel department assisted by the department to which an application for employment is addressed shall make documented good faith efforts to contact previous employers of each applicant to obtain information and/or recommendations which may be relevant to such person's fitness to be employed in a position involving contact with children.

(b) The personnel department shall annually review its files to determine that the fingerprinting and other requirements of this article have been adhered to and shall report to the Community manager the results of the annual review.

(Code 1981, § 11-93; Code 2012, § 11-93; Ord. No. SRO-148-92, § 3, 4-8-1992; Ord. No. SRO-402-2012, § 11-93, 5-30-2012)

Sec. 11-279. Background information.

(a) Each application for employment for positions which provide direct services to children shall have their fingerprints taken by a law enforcement officer of the department of public safety or such other agency as designated by the department of public safety. The fingerprints shall be turned over to the personnel department for inclusion in the applicant's file.

(b) The department of public safety shall provide background information using the applicant's fingerprints as determined by a criminal history check to the personnel department. The criminal history check shall be:

(1) Based on such fingerprints and other identifying information.

(2) Conducted through the identification division of the Federal Bureau of Investigation, as well as through all state criminal history repositories and tribal jurisdictions that the applicant lists as residencies on the employment application.

(Code 1981, § 11-94; Code 2012, § 11-94; Ord. No. SRO-148-92, § 4, 4-8-1992; Ord. No. SRO-402-2012, § 11-94, 5-30-2012)

Sec. 11-280. Confidentiality.

The employment application, background inquiries and fingerprint criminal history check shall be confidential.

(Code 1981, § 11-95; Code 2012, § 11-95; Ord. No. SRO-148-92, § 5, 4-8-1992; Ord. No. SRO-402-2012, § 11-95, 5-30-2012)

Secs. 11-281—11-308. Reserved.

ARTICLE XI. TRUANCY

Sec. 11-309. Definitions.

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

Absence means nonattendance in school for a school day as defined within this section or for the accumulation of the following tardies:

(1) Five school days in a semester for elementary school students; or

(2) Five class periods in a semester for secondary school students (grades seven through 12).

Community means the Salt River Pima-Maricopa Indian Community, its government, and any of its political subdivisions, departments, agencies or enterprises.

Excessive absences means when the number of absent days exceeds ten percent of the instructional days scheduled for the semester.

Fail to attend school during the hours school is in session means that the student has one or more absences.

Habitually truant means a child who is truant for at least ten school days in a semester, whether consecutive or not.

Reasonable effort to notify means:

(1) If a telephone number is available, attempting to contact the child's parent, guardian or custodian by telephone at least two times a day on three different days;

(2) If the residence of the child's parent, guardian or custodian is known and within the Community, attempting to contact the child's parent, guardian or custodian at the residence three times; and

(3) If the workplace is known and is within the Community, attempting to contact the child's parent, guardian or custodian once at the workplace.

Respondent means the party upon whom a truancy citation is issued.

School means any public school, state-approved charter school, Bureau of Indian Affairs boarding or grant school, private, secular or parochial school, whether a boarding or day school, which has been duly licensed by the United States or any state, or any school or instructional program operated by or under the jurisdiction of the Community.

School day means for kindergarten through grade six, any day that children are required to be in attendance at school for instructional purposes. For grades seven through 12, school day means one entire class period.

Tardy means an unexcused or unverified failure to arrive at school or for a class period on time (that is, by the time the school day or class period begins).

Truant or *truancy* means an unexcused or unverifiable absence for at least one class period during the day that has been referred or is referable to an attendance officer for citation pursuant to the administrative truancy procedures adopted by a Community school and approved by the Community's board of education or that has been referred by a school outside the Community pursuant to procedures set forth by the Community's board of education.

Truant child means a child who is at least five years of age but less than 18 years of age who is truant.

(Code 1981, § 11-100; Code 2012, § 11-100; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-100, 8-4-2011; Ord. No. SRO-402-2012, § 11-100, 5-30-2012)

Sec. 11-310. School instruction.

Every child between five and 18 years of age shall be instructed in at least the subjects of reading, grammar, mathematics, language and culture, social studies, and science.

(Code 1981, § 11-101; Code 2012, § 11-101; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-101, 8-4-2011; Ord. No. SRO-402-2012, § 11-101, 5-30-2012)

Sec. 11-311. School attendance.

(a) It is unlawful for any child between five and 18 years of age who resides within the Community to fail to attend school during the hours school is in session, unless:

(1) The child's absence is due to a verified or verifiable temporary illness, disease or injury that has been documented by a medical professional where the medical condition requires absence from school for more than three consecutive absences, or a medical condition that a parent or legal guardian observes and reports to the school when the child must be absent for less than three consecutive days;

(2) The child is accompanied by a parent, guardian or custodian or person authorized by a parent, guardian or custodian and the child's absence is due to a compelling verified or verifiable reason such as death or serious illness of an immediate family member, legal proceedings, etc.; or

(3) The child has completed the required instructional program for graduation or its equivalent and documentation can be provided to evidence such completion.

(b) The parent, guardian or custodian of a child between five and 18 years of age shall enroll the child in and ensure that the child attends school for the full-time school is in session. A parent, guardian or custodian of the child who fails to enroll a child or fails to ensure that the child attends school for the full-time school is in session shall be subject to the civil penalties set forth in sections 11-317 and 11-318.

(c) It is unlawful for any child between five and 18 years of age who resides within the Community to have excessive absences, regardless of the reasons or justification for such.

(d) In addition to the finding of a violation of this section, a child who is found to be habitually truant or who has excessive absences, as defined in section 11-309, may be determined to be an incorrigible child. The court may impose reasonable conditions upon the child, under the supervision of the probation department, to remedy any incorrigible behaviors.

(e) This section shall not apply when a court of competent jurisdiction has previously determined that the physical or mental condition of the child makes regular school attendance inexpedient or impracticable and the related circumstances have not changed since that determination. In the event of such a finding by a court, the parent, guardian or custodian shall arrange for instruction through an approved alternative education program as is practicable. The parent, guardian or custodian shall notify the Community's department of education and/or the school officials of the district in which the child is enrolled or eligible to enroll of such determination.

(Code 1981, § 11-102; Code 2012, § 11-102; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-102, 8-4-2011; Ord. No. SRO-402-2012, § 11-102, 5-30-2012)

Sec. 11-312. Attendance officer.

(a) The Community may employ attendance officers to enforce the law relating to school attendance of children between the ages of five and 18 years to implement this article.

(b) The attendance officers shall be authorized to:

(1) Issue a civil citation for alleged violations of this article;

(2) Refer all violations of this article to the Community prosecutor for prosecution;

(c) The attendance officer shall:

(1) Make a reasonable effort to notify the child's parent, guardian or custodian that the citation was issued and that the parent, guardian or custodian is required to appear in court with the child;

(2) Provide proof of such notice, if available, to the court or shall provide a description of the attempts to provide notice.

(Code 1981, § 11-103; Code 2012, § 11-103; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-103, 8-4-2011; Ord. No. SRO-402-2012, § 11-103, 5-30-2012)

Sec. 11-313. Citation.

(a) A short form citation may be used and shall include the name of the child and the parent, guardian or custodian, the dates alleged to be truant, and shall indicate the time for the court appearance.

(b) The citation shall require the person cited to appear before the juvenile court and shall advise the person to whom the citation is issued that failure to appear at the time and place specified in the citation may result in the issuance of a warrant for the person's arrest.

(c) A citation shall be issued to any adult and/or child over the age of 12 who is alleged to be in violation of this article.

(d) A citation may be issued to any child 12 years of age or older who is alleged to be in violation of this article, regardless of whether the parent, guardian or custodian is also cited.

(e) A citation issued to a child under 18 years of age shall require the child's parent, guardian or custodian to appear with the child at the time and place specified in the citation; provided, however,

the child may be civilly sanctioned under this section even if there is no proof the parent, guardian or custodian was served but the parent, guardian or custodian does appear at the hearing.

(f) A truant child shall be referred to an attendance officer for citation when:

(1) The child refuses to participate in the school's administrative truancy procedures; or

(2) The truancy continues despite the school's administrative truancy procedures.

(Code 1981, § 11-104; Code 2012, § 11-104; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-104, 8-4-2011; Ord. No. SRO-402-2012, § 11-104, 5-30-2012)

Sec. 11-314. Waiver of school attendance.

The requirement of school attendance in section 11-311(a) may be waived under the following four conditions:

(1) The child meets one of the following:

a. The child has no one to support him or her or no place to live rent free and it is not possible to arrange a normal school schedule around necessary employment or child care;

b. The child does not have sufficient credits to graduate by June of the calendar year in which he or she will turn 19 years of age even if he or she attends school full-time, including summer school; or

c. The child will be 18 years of age by December 31 of the next calendar year and has fewer than six high school credits;

(2) The Community's education division or Salt River High School certifies that the child fits within one or more of the criteria listed in subsection (1) of this section;

(3) There is an alternative training/educational plan for the child which will ensure that a GED is earned within one year, or within two years if part of an on-going vocational training program; and

(4) The Community's education board approves the waiver.

(Code 1981, § 11-105; Code 2012, § 11-105; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-105, 8-4-2011; Ord. No. SRO-402-2012, § 11-105, 5-30-2012)

Sec. 11-315. Informal agreement.

(a) On a first violation of this article only, the prosecutor shall have the discretion to adjust the citation, at any time prior to the adjudication, by entering into an informal adjustment agreement with the respondent. The informal adjustment agreement shall be consistent with section 11-130, except that:

(1) Only the prosecutor shall be authorized to enter into such an agreement; and

(2) The agreement may be entered into after the citation has been filed.

If the terms of the agreement are not met, the prosecutor shall pursue the truancy matter as set forth in section 11-316 et seq., including but not limited to the mandatory fine.

(b) Any tardiness or truancy subsequent to the date of the informal agreement shall constitute an automatic termination of the agreement.

(Code 1981, § 11-106; Code 2012, § 11-106; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-106, 8-4-2011; Ord. No. SRO-402-2012, § 11-106, 5-30-2012)

Sec. 11-316. Community court hearings.

(a) Procedures for a hearing pursuant to this article shall be governed by section 11-24, and the standard of proof shall be preponderance of the evidence.

(b) A person or persons listed in the school's records for the current school year as the parent, guardian or custodian shall be presumed to be a

parent, guardian or custodian for purposes of this section; provided, however, this presumption may be rebutted by a preponderance of the evidence.

(c) Lack of knowledge of the child's truancy shall not be a defense to finding of a violation of this article.

(d) The time set for adjudication shall be at least five and no more than ten business days from the date of citation unless service may be effectuated only by publication then the time for adjudication shall be no more than 90 calendar days from the date of the citation.

(e) The Community court shall hold hearings each week for all alleged violators of this article who have been issued citations in the previous ten days.

(f) Administrative actions taken by a school due to a student's misconduct shall not be a defense to nonattendance or a finding of a violation of this article.

(g) A truancy citation shall not be dismissed solely because the respondent was not served and did not appear.

(h) Hearings may not be continued unless the court finds that:

(1) A serious emergency circumstance exists that prevents the respondents from attending the hearing;

(2) The attendance officer who issued the citation is not at work the day of the hearing or is otherwise unable to attend the hearing as recognized by applicable personnel policies;

(3) The respondents do not appear at the hearing and there is no proof of service in the record; or

(4) Other serious circumstance that requires a continuance in the interest of justice.

(i) Upon the court's receipt of a truancy citation accompanied by a sworn statement from the attendance officer that the attendance officer is unable to provide notice to the parent, guardian, or custodian after making a reasonable effort to give notice of a court hearing as required by subsection (d) of this section, the court shall:

(1) Issue a summons for the parent, guardian or custodian to appear for an initial hearing within ten days.

(2) Order service of process of the summons pursuant to Rule 5-13(d), (e) or (f) of the Rules of Civil Procedure (set forth in article IV of chapter 5) for the Community court. If service may be effectuated only by publication, a hearing shall be held within 90 calendar days from the date of the citation.

(j) If the respondents received proper notice, the court may:

(1) Conduct the hearing, including the taking of evidence to substantiate the allegations, without the presence of one or more respondents; or

(2) Continue the hearing and determine whether an order to show cause proceeding, issuance of a bench warrant, or other action is appropriate for the respondents who failed to appear.

Where a bench warrant is issued, the bench warrant shall direct that the person be brought to the court at the first opportunity and if the person signs a promise to appear, the person shall be released immediately; the court may also allow the respondent to appear in court voluntarily and the bench warrant will be quashed.
(Code 1981, § 11-107; Code 2012, § 11-107; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-107, 8-4-2011; Ord. No. SRO-402-2012, § 11-107, 5-30-2012)

Sec. 11-317. Fines.

(a) Fines shall be assessed as follows against parents, guardians, custodians and children 12 years of age or older who are found by the court to have violated this article:

(1) A civil fine of $1,000.00 for the first finding of a violation within an academic

year; provided, however, the court may order that the amount of the fine, minus court costs, are rebated to the respondents only if all of the provisions of the court order have been fulfilled, including any civil sanctions consistent with section 11-318 that may have been imposed, and there has been no further truancy citation for the subsequent five months of school or until graduation, whichever comes first.

(2) A civil fine of $2,500.00 for the second finding of a violation within an academic year.

(3) A civil fine of $5,000.00 for the third finding of a violation within an academic year.

(4) $500.00 for each truancy after the finding of a third violation within an academic year.

(b) If a Community member, who has been fined under this article, receives per capita payments and has not paid a fine by other means prior to the next quarterly per capita payout, all such fines shall be deducted from the subsequent per capita payment) of the parents, guardians, custodians and/or children over the age of 12 beginning with the next scheduled payment and continuing until the entire amount due is paid consistent with the Community's administrative Policy 3-4 or a similar policy approved by the Community Council.

(c) For persons who do not receive Community per capita payments, fines shall be paid as directed by the court and may be collected as any other civil fine or judgment.

(d) The fines set forth in this section are mandatory, which means that the fines must be imposed and cannot be suspended or deferred.

(e) Fines shall be assessed on a per child and per violation basis.

(f) For any truancy violation in a citation for each individual child, the court has discretion to determine whether one of or both the cited child or the cited parent, guardian or custodian shall be responsible for the mandatory fines, so long as the mandatory fine is imposed on at least one or the other.

(g) The computation of first, second, etc., violations of this article shall begin anew each school year.

(Code 1981, § 11-108; Code 2012, § 11-108; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-108, 8-4-2011; Ord. No. SRO-402-2012, § 11-108, 5-30-2012)

Sec. 11-318. Additional civil sanctions.

In addition to a civil fine, upon a finding of a violation of this article, the court may order one or more of the following:

(1) Community service to be performed by a parent, guardian or custodian and/or the student;

(2) Saturday school or a similar school-based truancy intervention program, as may be available, to be attended by both a parent, guardian or custodian and the student;

(3) Participation in any other intervention or rehabilitative program;

(4) A report to the court on school progress and attendance as described by the court;

(5) A requirement for the student to be at his or her home, workplace or school during certain hours as set by the court for the remainder of the school year or other duration imposed by the court and/or until any imposed fines are paid in full.

(Code 1981, § 11-109; Code 2012, § 11-109; Ord. No. SRO-307-06, 11-30-2005; Ord. No. SRO-308-06, 1-4-2006; Ord. No. SRO-309-06, 2-8-2006; Ord. No. SRO-314-06, 8-16-2006; Ord. No. SRO-382-2011, § 11-109, 8-4-2011; Ord. No. SRO-402-2012, § 11-109, 5-30-2012)

Chapter 12

ANIMALS AND FOWL

Article I. In General

Sec. 12-1. Definitions.
Sec. 12-2. Civil nature of chapter.
Sec. 12-3. Cruelty to animals.
Sec. 12-4. Animal forfeiture/seizure.
Sec. 12-5. Euthanasia of animals.
Sec. 12-6. Abandonment of animals.
Sec. 12-7. Animal poisoning.
Sec. 12-8. Law enforcement animals.
Sec. 12-9. Restricting roaming animals.
Sec. 12-10. Forfeiture/prohibited ownership.
Sec. 12-11. Sexual assault of an animal.
Secs. 12-12—12-40. Reserved.

Article II. Rabies Control

Sec. 12-41. Definitions.
Sec. 12-42. Vaccination and reports.
Sec. 12-43. Anti-rabies vaccine; term of vaccination.
Sec. 12-44. Dogs to wear collar with tag.
Sec. 12-45. Counterfeit or removal of tag.
Sec. 12-46. Collection, usage and purpose of fees.
Sec. 12-47. Dumping of animals.
Sec. 12-48. Rabies quarantine areas.
Sec. 12-49. Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies.
Sec. 12-50. Destruction of certain dogs.
Sec. 12-51. Poisoning generally prohibited; poisoning program.
Sec. 12-52. Responsibility of enforcement agency or its designated representatives.
Sec. 12-53. Responsibility of the health service.
Sec. 12-54. Control of behavior of vicious dogs.
Sec. 12-55. Penalties for violations.
Sec. 12-56. Fee schedule adjustment.
Secs. 12-57—12-85. Reserved.

Article III. Wild Free-Roaming Horses and Burros

Sec. 12-86. Policy.
Sec. 12-87. Definitions.
Sec. 12-88. Powers and duty of Community.
Sec. 12-89. Cooperative agreements.
Sec. 12-90. Civil penalty.
Sec. 12-91. Crime.
Secs. 12-92—12-110. Reserved.

Article IV. Sonoran Desert Nesting Bald Eagle Protection Act

Sec. 12-111. Short title.
Sec. 12-112. Definitions.
Sec. 12-113. Findings and declarations.
Sec. 12-114. Management programs.
Sec. 12-115. Protected nesting habitats.

Sec. 12-116. Department; power to regulate.
Sec. 12-117. Enforcement.

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

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

Abandon means intentionally leaving an animal without adequate food, water, shelter or medical attention required for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such animal.

Animal means any such organism other than a human being, esp. a mammal or, often, any four-footed creature. Animal is from the kingdom (Animalia) of eukaryotes generally characterized by a multi-cellular body, the ability to move quickly and obtain food, specialized sense organs and sexual reproduction.

Animal husbandry means the branch of agriculture concerned with the care and breeding of domestic animals such as cattle, hogs, sheep and horses.

Area of control means a vehicle, corral, house, stables, pen, yard, kennel or trailer (transportation).

At large means on or off the premises of the owner and not under the control of the owner, or other persons acting for the owner. Any animal in a suitable enclosure shall not be considered to be running at large.

Cruel mistreatment means to inflict unnecessary serious physical injury or distress upon an animal, to torture an animal, or to kill an animal in a manner that causes protracted suffering to the animal.

Cruel neglect means the intentional failure to provide an animal with necessary food, water, healthcare, sanitation, stimulation (interaction) or shelter.

Domestic means any of the various animals domesticated as to live and breed in a tame condition.

Endangered species means those species listed as endangered or threatened in the Endangered Species Act (16 USC 1531 et seq.), as amended. This definition includes those species designated as endangered, threatened or sacred by the Community.

Enforcement agent means any individual authorized by the Community to enforce the provisions of this chapter.

Euthanasia means the humane destruction of an animal accomplished by a method that produces rapid unconsciousness and subsequent death without evidence of pain or distress, or a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death.

Exotic animal means any animal not identified in the definition of the term "animal" provided in this section that is native to a foreign country or of foreign origin or character, that is not native to the United States, or was introduced from abroad. This term "exotic animal" specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

Handler means a law enforcement officer, or any other person who has successfully completed a course of training prescribed by the person's agency, or the service animal owner, and who uses a certified service animal under the direction of the person's agency, or the service animal owner.

Health authority means the U.S. Public/Community health and human services department, and/or the duly authorized state or county board of health.

Impound means the act of taking or receiving into custody by an enforcement agent any animal for the purpose of confinement in accordance with this chapter.

Law enforcement agency means the Community police department and any agency lawfully designated to enforce this chapter.

Law enforcement animal means a service animal such as a dog, horse, or other domesticated animal that is specially trained for use by a law enforcement agency handler or rider.

Livestock means a domesticated animal that has been reared in an agricultural setting to produce such things as food, fiber, pelts, or for its labor.

Owner means any person owning keeping, possessing, harboring or maintaining any animal.

Pound or *shelter* means a facility that accepts and/or seizes animals for the purpose of caring for them, placing them through adoption, or carrying out law enforcement, whether or not the facility is operated for profit.

Research facility means any school (except an elementary or secondary school), institution, organization, or person that uses live animals in research, tests or experiments, and that:

(1) Purchases or transports live animals in commerce; or

(2) Receives funds under a grant award, loan or contract from a department, agency or instrumentality of the United States for the purpose of carrying out research, tests or experiments.

Species means live or dead warm- or cold-blooded animal including but not limited to: reptiles, dogs, cats, birds, horses, guinea pigs, hamsters, rabbits, mammals, amphibians, etc. Included in this definition are domestic, endangered species and wild animals.

Veterinarian means any veterinarian licensed to practice in the United States or any veterinary employed in Arizona by a governmental agency in the United States in good standing.

Wild animal means any animal which is now or historically has been found in the wild, or in the wild state, within the boundaries of the Community/United States, its territories, or possessions. The term "wild animal" includes, but is not limited to, animals such as: deer, skunk, squirrels, coyote, horse, javelin, etc.

Wild horse means living in its original, natural condition; not domesticated.
(Code 1981, § 12-1; Code 2012, § 12-1; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-1, 5-30-2012)

Sec. 12-2. Civil nature of chapter.

Except where expressly criminal, the provisions of this chapter are civil and regulatory in nature. This chapter does not amend or alter any other applicable provisions of this Community Code of Ordinances unless specifically stated.
(Code 1981, § 12-2; Code 2012, § 12-2; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-2, 5-30-2012)

Sec. 12-3. Cruelty to animals.

(a) A person shall be in violation of this chapter if the person commits any or all of the following acts:

(1) Intentionally, knowingly, or recklessly subjects any animal under the person's custody, care, or control to cruel mistreatment, neglect or abandonment.

(2) Intentionally, knowingly, or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.

(3) Intentionally, knowingly, or recklessly fails to provide the necessities such as food, water, shelter, nutrition to adequately provide for the health and welfare of the animal.

(4) Intentionally, knowingly or recklessly inflicts, or subjects the animal to unnecessary pain, or serious physical injury to any animal under the person's ownership, care or control.

(5) Intentionally, knowingly, or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.

(6) Intentionally, knowingly, or recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.

(b) A person who disturbs, distresses, hunts, traps, poisons, captures, brands, or takes possession of any wild or exotic animal dwelling within the preserve and/or wild state areas of the Community shall be considered in violation of this chapter with the exception of capturing an injured animal (good Samaritan).

(c) A person, organization, or institution who conducts research and experiments utilizing live animals or any operation of a research facility utilizing such methods is prohibited by the Community.

(d) Any person who violates this section shall be subject to a fine not to exceed $5,000.00. Extreme and/or severe cases of cruel mistreatment and/or neglect shall be found guilty of a criminal offense and subject to a sentence of imprisonment for a period not to exceed one year, or to a fine not to exceed $5,000.00, or both.
(Code 1981, § 12-3; Code 2012, § 12-3; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-3, 5-30-2012)

Sec. 12-4. Animal forfeiture/seizure.

(a) If any animal is to be discovered without an adequate supply of food, water, and shelter it shall be lawful for any officer or enforcement agent, peace officer, licensed veterinarian to, from time to time as may be needed, enter into any and upon any area or building where such animal is confined and supply it with adequate food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.

(b) Such officer/enforcement agent, peace officer, or veterinarian shall not be liable for such entry.

(c) Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

(d) Upon seizure such animal shall be transported to a temporary foster home, pound, rescue, shelter, etc., for the further care and welfare of such animal upon completion/determination of ownership, court proceedings, or abandonment. At such time that ownership is forfeited/severed, said animal shall be placed up for adoption or assigned a safe environment that can prove to provide food, shelter, and medical attention permanently.
(Code 1981, § 12-4; Code 2012, § 12-4; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-4, 5-30-2012)

Sec. 12-5. Euthanasia of animals.

(a) Any owner, enforcement agent or law enforcement officer described in this chapter may lawfully euthanize or cause to be euthanized, as defined in section 12-1, any animal in his or her charge when, in the judgment of said owner, enforcement agent or law enforcement officer, and/or in the opinion of a licensed veterinarian or by accepted animal husbandry practices, the animal is experiencing extreme pain or suffering or is severely injured beyond recovery, severely disabled beyond recovery, or severely diseased beyond recovery or contains a severe communicable disease harmful to humans or other animals. In the event a licensed veterinarian is unavailable, the animal may be euthanized if, written consent is obtained from the owner and/or another witness in the presence of an enforcement agent and/or law enforcement officer. If owner cannot be located or determined within a reasonable time frame based on the severity of the injury, illness, or disease of the animal, owner consent shall be waived and the determination and decision for euthanasia shall be rendered by documentation of a witness, enforcement agent, and law enforcement officer. Documentation shall describe the nature of the illness, injury, or disease, signature of the witness, enforcement agent, and law enforcement officer. Such documentation shall be kept on file with the appropriate enforcement agent of the Community. This section excludes: the euthanasia of one's own animals on his or her property, if done humanely.

(b) Any person who violates this section shall be subject to a fine not to exceed $5,000.00.
(Code 1981, § 12-5; Code 2012, § 12-5; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-5, 5-30-2012)

Sec. 12-6. Abandonment of animals.

(a) It is prohibited to abandon, release, or dump live or dead animals anywhere within the geographic region limits of the Community. Per-

sons performing such acts shall be in violation of this chapter with the exception of designated areas as determined by the environmental protection and natural resources/CDD for the natural decomposition of deceased animals.

(b) Any person who violates this section shall be subject to a fine not to exceed $5,000.00.
(Code 1981, § 12-6; Code 2012, § 12-6; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-6, 5-30-2012)

Sec. 12-7. Animal poisoning.

(a) The intentional poisoning of animals by individuals on the Community is a violation of this chapter. Poisoning of animals to control disease or other health hazards shall be done only when the life and/or health of the residents of the Community is endangered and only under the supervision of an enforcement agent or officer of the Community.

(b) Any person who violates this section shall be subject to a fine not to exceed $2,500.00.
(Code 1981, § 12-7; Code 2012, § 12-7; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-7, 5-30-2012)

Sec. 12-8. Law enforcement animals.

(a) It shall be unlawful for a person to intentionally, knowingly or recklessly interfere, harm, intend to harm, destroy, injure or obstruct a police service animal. Law enforcement animals are exempt from leash laws, the wearing/displaying of tags or licenses, and from being defined as vicious animals.

(b) It is an offense if the person intentionally, knowingly or recklessly:

(1) Taunts, torments or strikes a police service animal;

(2) Throws an object or substance at a police service animal;

(3) Interferes with or obstructs a police service animal or interferes with or obstructs the handler or rider of a police service animal in a manner that inhibits or restricts the handler's or rider's control of the animal or deprives the handler or rider control of the animal;

(4) Releases a police service animal from its area of control;

(5) Enters the area of control of a police service animal without the effective consent of the handler or rider, including placing food or any other object or substance into that area;

(6) Injures or kills a police service animal;

(7) Engages in conduct likely to injure or kill a police service animal, including administering or setting out poison, a trap, or any other injurious object or substance.

(c) Exemption from quarantine.

(1) A police service animal is exempt from the quarantine requirement of this and subsequent articles if the animal bites a person while the animal is under routine veterinary care or while the animal is being used for law enforcement, corrections, jail security, court security, or investigative purposes.

(2) If after biting the person the animal shows any abnormal or suspicious behavior, the law enforcement agency and the animal's handler or rider shall make the animal available within a reasonable time for testing by the local health authority.

(d) Any person who violates this section shall be found guilty of a criminal offense and subject to a sentence of imprisonment for a period not to exceed one year or to a fine not to exceed $5,000.00, or both.
(Code 1981, § 12-8; Code 2012, § 12-8; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-8, 5-30-2012)

Sec. 12-9. Restricting roaming animals.

(a) It is prohibited for any person owning or having charge of domestic animals who permits them to run at large in any locality or within the boundaries of the Community.

(b) Any person who violates this section shall be subject to a fine not to exceed $150.00 per violation, with costs.
(Code 1981, § 12-9; Code 2012, § 12-9; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-9, 5-30-2012)

Sec. 12-10. Forfeiture/prohibited ownership.

In the event an individual is found liable of a severe or extreme case of cruelty, abandonment, mistreatment, or misconduct involving animals, an individual's privileges of ownership or care taker responsibilities of an animal within the jurisdiction of the Community shall be revoked or suspended, the individual shall be subject to permanent forfeiture of such animal and further prosecution pursuant to section 12-3.
(Code 1981, § 12-10; Code 2012, § 12-10; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-10, 5-30-2012)

Sec. 12-11. Sexual assault of an animal.

(a) A person commits the crime of sexual assault of an animal if the person:

(1) Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus, or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or

(2) Causes an animal or animal carcass to touch or contact, the mouth, anus, or sex organs of a person for the purpose of arousing or gratifying the sexual desire of a person.

(b) Any person who violates this section shall be found guilty of a criminal offense and subject to a sentence of imprisonment for a period not to exceed one year or to a fine not to exceed $5,000.00, or both.
(Code 1981, § 12-11; Code 2012, § 12-11; Ord. No. SRO-360-2010, 3-3-2010; Ord. No. SRO-402-2012, § 12-11, 5-30-2012)

Secs. 12-12—12-40. Reserved.

ARTICLE II. RABIES CONTROL

Sec. 12-41. Definitions.

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

Animal means any animal of a species that is susceptible to rabies.

At large means on or off the premises of the owner and not under the control of the owner, or other persons acting for the owner. Any animal in a suitable enclosure shall not be considered to be running at large.

Cat means a little, soft-furred animal of the feline family.

Collar means a band, chain, harness or suitable device of permanent nature worn around the neck of a dog to which a license may be affixed.

Dog means a member of the genus and species Canis familiaris.

Enforcement agent means any police officer of the Community police department or any person designated, such as a dogcatcher, by the Community to enforce the rabies control law on the Salt River Pima-Maricopa Indian Reservation.

Health service means U.S. Public Health Service, and/or any duly authorized county board of health.

Impound means the act of taking or receiving into custody by the enforcement agent any dog or other animal for the purpose of confinement in a pound in accordance with provision of this rabies control article.

Law enforcement agency means the Community police department, and any agency lawfully designated to enforce this article.

Owner means any person owning, keeping, possessing, harboring or maintaining a dog or other animals who normally may transmit rabies.

Pound means any establishment authorized by the enforcement agent for the confinement, maintenance, safekeeping and control of dogs and

other animals that come into custody of the enforcement agent in the performance of his or her official duties.

State board of health means the state board of health of the State of Arizona.

Stray dog means any dog four months of age or older running at large that is not wearing a valid license and vaccination tag.

Vaccination means administration of an approved anti-rabies vaccine to animals by a veterinarian.

Vaccination tag means an official, numbered, dated metal tag attached to the dog by a collar or harness.

Veterinarian means any veterinarian licensed to practice in the State of Arizona or any veterinarian employed in the State of Arizona by a governmental agency.

Vicious dog means any dog that has the propensity to bite human beings without provocation.
(Code 1981, § 12-21; Code 2012, § 12-21; Ord. No. SRO-50-78, § I, 1-25-1978; Ord. No. SRO-402-2012, § 12-21, 5-30-2012)

Sec. 12-42. Vaccination and reports.

Every owner of an animal subject to this article shall, in reference to such animal:

(1) Vaccinate or cause to be vaccinated for rabies every dog over the age of four months and every cat over the age of six months.

(2) Report any evidence of rabies in such dog or cat to the law enforcement agency.

(3) Report any bite by any such animal to the law enforcement agency.

(Code 1981, § 12-22; Code 2012, § 12-22; Ord. No. SRO-50-78, § IIA, 1-25-1978; Ord. No. SRO-402-2012, § 12-22, 5-30-2012)

Sec. 12-43. Anti-rabies vaccine; term of vaccination.

The type or types of anti-rabies vaccines that may be used for vaccination of dogs or cats, the period of time between vaccination and revaccination shall be in conformity with that designated by the state veterinarian of the State of Arizona.
(Code 1981, § 12-23; Code 2012, § 12-23; Ord. No. SRO-50-78, § IIH, 1-25-1978; Ord. No. SRO-402-2012, § 12-23, 5-30-2012)

Sec. 12-44. Dogs to wear collar with tag.

Any dog over four months of age running at large shall wear a collar or harness to which is attached a valid vaccination tag.
(Code 1981, § 12-24; Code 2012, § 12-24; Ord. No. SRO-50-78, § IIC2, 1-25-1978; Ord. No. SRO-402-2012, § 12-24, 5-30-2012)

Sec. 12-45. Counterfeit or removal of tag.

Any person who counterfeits or attempts to counterfeit an official vaccination tag, or removes such vaccination tag from any dog for the purpose of willful or malicious mischief or places a vaccination tag upon a dog, unless the vaccination tag was issued for that particular dog, is in violation of this article.
(Code 1981, § 12-25; Code 2012, § 12-25; Ord. No. SRO-50-78, § IIC1, 1-25-1978; Ord. No. SRO-402-2012, § 12-25, 5-30-2012)

Sec. 12-46. Collection, usage and purpose of fees.

(a) The Community treasurer or his or her designated representative shall be responsible for collecting all fees.

(b) The Community treasurer or his or her designated representative shall place the monies collected by him or her, under the provision of this article in a special fund to be known as the rabies control fund; to be used for the maintenance of the rabies control provisions, vaccine, pound, dog food and any other expenses necessary for the operation of the program.

(c) Any unencumbered balance remaining in the rabies control fund at the end of the fiscal year shall be carried into the following fiscal year.
(Code 1981, § 12-26; Code 2012, § 12-26; Ord. No. SRO-50-78, § IIE, 1-25-1978; Ord. No. SRO-402-2012, § 12-26, 5-30-2012)

Sec. 12-47. Dumping of animals.

It shall be unlawful to release or dump live animals anywhere within the geographic limits of the Salt River Pima-Maricopa Indian Reservation. Persons performing such acts shall be in violation of this article.
(Code 1981, § 12-27; Code 2012, § 12-27; Ord. No. SRO-50-78, § IIC4, 1-25-1978; Ord. No. SRO-402-2012, § 12-27, 5-30-2012)

Sec. 12-48. Rabies quarantine areas.

(a) Any area in which a state of emergency has been declared to exist by the county board of health, the Arizona department of health services or the Community Council because of the danger of rabies infection shall be a rabies quarantine area.

(b) When a rabies quarantine area has been declared, the president of the Community Council, in cooperation with the superintendent of the Salt River Agency and after consultation with the U.S. Public Health Service shall institute a program for the control of rabies within that area.

(c) No dog shall be permitted at large in a rabies quarantine area. Each dog shall be confined within an enclosure on his or her owner's property, or securely tied so that the dog is confined entirely to the owner's property, or on a leash not to exceed five feet in length and directly under the control of an able-bodied person when not on the owner's property.
(Code 1981, § 12-28; Code 2012, § 12-28; Ord. No. SRO-50-78, § IID, 1-25-1978; Ord. No. SRO-402-2012, § 12-28, 5-30-2012)

Sec. 12-49. Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies.

(a) *Impoundment; fees.* Any dog that bites any person shall be quarantined and impounded voluntarily or involuntarily at an authorized animal control facility at the request of the Community or the owner of the dog. Any animal that is suspected of having rabies shall be quarantined and impounded at an authorized animal control facility at the request of the owner or the Community.

(1) There shall be a fee assessed as prescribed by the fee schedule at the animal control facility against the owner if the enforcement agent must pick up the dog; and/or

(2) If the dog is impounded and quarantined in the animal control facility as a result of a dog bite incident or if an animal is suspected of having rabies is impounded and quarantined, there may also be fees assessed for any and all boarding and associated costs for such impoundment and quarantine services.

(b) *Confinement at home.* Notwithstanding the provisions of subsection (a) of this section, any properly licensed and vaccinated dog that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of, and in a manner prescribed by the enforcement agent.

(c) *Notification of public health service.* Notification of the name and address of any person bitten by an animal must be given to the public health service at the Phoenix Indian Medical Center. Physicians attending dog-bite victims will be responsible for advising the director, Community, concerning such incidents. The director, Community, will be responsible for following up on the patient's case. Attending physicians include field clinic physicians during clinic hours, and Community physicians at all hours.

(d) *Interference unlawful.* It is unlawful for any person to interfere with the enforcement agent in the performance of his or her duties.

(e) *Unauthorized removal from impoundment unlawful.* No person may remove or attempt to remove any animal which has been impounded or which is in the possession of the enforcement agent.

(f) *Destruction of animal prohibited.* No person shall destroy any animal which has bitten a person.
(Code 1981, § 12-29; Code 2012, § 12-29; Ord. No. SRO-50-78, § IIB, 1-25-1978; Ord. No. SRO-336-08, 6-25-2008; Ord. No. SRO-402-2012, § 12-29, 5-30-2012)

Sec. 12-50. Destruction of certain dogs.

Any licensed or unlicensed dog which apparently is suffering from serious injuries and is in great pain and probably would not recover, or which has evidence of any infectious disease which is a danger to other dogs or to man, may be destroyed by the enforcement agent or the county health department in as humane a manner as possible after reasonable efforts to notify the owner have been made.
(Code 1981, § 12-30; Code 2012, § 12-30; Ord. No. SRO-50-78, § IIC5, 1-25-1978; Ord. No. SRO-402-2012, § 12-30, 5-30-2012)

Sec. 12-51. Poisoning generally prohibited; poisoning program.

The poisoning of animals by individuals on the Salt River Pima-Maricopa Indian Reservation is a violation of the article. Poisoning of animals to control disease or other health hazards shall be done only when life, health or economy of the residents of the Salt River Pima-Maricopa Indian Reservation is endangered and only under the jurisdiction of a law enforcement agency. In the event a program of poisoning animals is undertaken, the law enforcement agency involved shall observe the safety precautions on the label of the product used as well as all other safety requirements of the U.S. Environmental Protection Agency and Indian Health Service Environmental Health Consultant.
(Code 1981, § 12-31; Code 2012, § 12-31; Ord. No. SRO-50-78, § IIC3, 1-25-1978; Ord. No. SRO-402-2012, § 12-31, 5-30-2012)

Sec. 12-52. Responsibility of enforcement agency or its designated representatives.

The Community police department or its designated representative or enforcement agent (including an authorized animal control authority) shall:

(1) Collect and impound dogs, cats and/or other animals in conformity with this article.

(2) Notify the Community environmental health program of any animal that has bitten a human.

(Code 1981, § 12-32; Code 2012, § 12-32; Ord. No. SRO-50-78, § IIF, 1-25-1978; Ord. No. SRO-336-08, 6-25-2008; Ord. No. SRO-402-2012, § 12-32, 5-30-2012)

Sec. 12-53. Responsibility of the health service.

The health service shall:

(1) Conduct rabies vaccination clinics in designated locations in each Community for the purpose of vaccinating dogs and cats at the same intervals as designated by the state veterinarian.

(2) Be responsible for the declaration of any quarantine whose area is solely within the boundaries of the Community. When a quarantine has been declared, the health service shall meet with the enforcement agent and institute an emergency program for the control of rabies.

(3) Supervise the proper preparation and give technical advice as to the handling of a specimen of a suspected rabid animal being submitted to the state health department laboratory.

(Code 1981, § 12-33; Code 2012, § 12-33; Ord. No. SRO-50-78, § IIG, 1-25-1978; Ord. No. SRO-402-2012, § 12-33, 5-30-2012)

Sec. 12-54. Control of behavior of vicious dogs.

(a) *Determination of vicious dog.* Upon formal complaint to the Community department of public safety by a person bitten by a dog, or where appropriate such person's parent or legal guardian, a hearing shall be held in the Community court to determine the circumstances of such biting. The court shall make a determination as to whether the dog in question is vicious.

(b) *Definition.* The term "vicious dog" means a dog that:

(1) Has attacked or bitten a person.

(2) Has killed or mauled another dog or cat.

(3) Cannot be controlled.

(4) By its breeding, has a propensity to be violent and a danger to persons.

(c) *Vicious dogs not permitted at large.* A vicious dog shall not be permitted at large. Vicious dogs shall be confined within an enclosure on the owner's property, or secured so that the dog is confined entirely to the owner's property, or on a leash not to exceed six feet in length and directly under the owner's control when not on the owner's property.

(d) *Authority to destroy vicious dogs.*

(1) The Community department of public safety shall destroy a vicious dog upon an order of the Community court. The Community court may issue such an order only after notice to the dog's owner, if any, and a hearing.

(2) The Community department of public safety, through any of its officers, may destroy a vicious dog, during or just subsequent to an attack upon a person by it if the officer believes with good cause that any attempt to capture and restrain the dog will likely place the officer or any other person at risk of harm.

(3) The Community department of public safety shall adopt regulations, not inconsistent with this section, setting standards for officers in dealing with vicious dogs.

(e) *Liability of owners of vicious dogs.* Injury to any person or damage to any property by a vicious dog while at large shall be the full responsibility of the dog owner and the person or persons having responsibility for controlling the dog when such injury or damage was inflicted.

(f) *Liability of Community.* Neither the Community, its officers or employees, shall have any liability resulting from the destruction of a dog pursuant to the terms of this section and any regulation adopted pursuant to it.
(Code 1981, § 12-34; Code 2012, § 12-34; Ord. No. SRO-137-91, §§ 1—6, 12-12-1990; Ord. No. SRO-402-2012, § 12-34, 5-30-2012)

Sec. 12-55. Penalties for violations.

Any person who violates any of the provisions of this article shall be guilty of an offense and shall be sentenced to imprisonment for a period not to exceed 30 days or to a fine not to exceed $30.00 or to both such imprisonment and fine, with costs.
(Code 1981, § 12-35; Code 2012, § 12-35; Ord. No. SRO-50-78, § II-I, 1-25-1978; Ord. No. SRO-402-2012, § 12-35, 5-30-2012)

Sec. 12-56. Fee schedule adjustment.

(a) Identified animal owners shall pay the impoundment fee including any associated fee. If an owner is not identifiable, the Community shall pay the impoundment fee including any associated fee.

(b) The fees listed in this article are subject to change from time to time. Prior to their implementation, such changes in fees shall be approved by the Community manager who shall ensure that the fees are compatible with those charged for similar services in the surrounding jurisdictions.
(Code 1981, § 12-36; Code 2012, § 12-36; Ord. No. SRO-336-08, 6-25-2008; Ord. No. SRO-402-2012, § 12-36, 5-30-2012)

Secs. 12-57—12-85. Reserved.

ARTICLE III. WILD FREE-ROAMING HORSES AND BURROS

Sec. 12-86. Policy.

The Salt River Pima-Maricopa Indian Community (Community) finds and declares that wild free-roaming horses and burros are living symbols of the historic heritage of the Community and that they contribute to the diversity of life forms within the Community and enrich the lives of the people. It is the policy of Community that these animals shall be protected from capture, harassment, starvation, or death; and to accomplish this

they are to be considered in the area where presently found, as an integral part of the natural system of the Community lands.
(Code 1981, § 12-41; Code 2012, § 12-41; Ord. No. SRO-187-95, § 1, 11-2-1994; Ord. No. SRO-402-2012, § 12-41, 5-30-2012)

Sec. 12-87. Definitions.

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

Community lands means nonallotted land within Salt River Pima-Maricopa Indian Community.

Wild free-roaming horses and burros means all unbranded and unclaimed horses and burros on Community lands.
(Code 1981, § 12-42; Code 2012, § 12-42; Ord. No. SRO-187-95, § 2, 11-2-1994; Ord. No. SRO-402-2012, § 12-42, 5-30-2012)

Sec. 12-88. Powers and duty of Community.

(a) *Jurisdiction, protection and management; delegation.* All wild free-roaming horses and burros are under the jurisdiction of Community for the purpose of protection and management. The Community development department is authorized and directed to protect and manage the wild free-roaming horses and burros.

(b) *Inventory.* Community shall maintain a current inventory of wild free-roaming horses and burros on Community lands in order to determine whether the animals have access to sufficient water and food and whether there are injured animals which need to be destroyed in a humane manner. If the director of the Community development department determines that an overpopulation exists and that action is necessary to remove excess animals so as to achieve appropriate management levels, the excess animals may be adopted out for a nominal fee to qualified individuals who can assure humane treatment and care.

(c) *Adoption.* Where excess animals have been transferred to a qualified member of the Community for adoption and the director of the Community development department determines that such an individual has provided humane conditions, treatment and care for such animal for a period of one year, the Community is authorized to grant title of the animal at the end of the one-year period.
(Code 1981, § 12-43; Code 2012, § 12-43; Ord. No. SRO-187-95, § 3, 11-2-1994; Ord. No. SRO-402-2012, § 12-43, 5-30-2012)

Sec. 12-89. Cooperative agreements.

The Community is authorized to enter into cooperative agreements with other landowners and with state and local agencies as it deems necessary for the furtherance of the purposes of this article.
(Code 1981, § 12-44; Code 2012, § 12-44; Ord. No. SRO-187-95, § 4, 11-2-1994; Ord. No. SRO-402-2012, § 12-44, 5-30-2012)

Sec. 12-90. Civil penalty.

Any person who takes into his or her custody an animal protected by this article or acts in violation of the terms of this article shall be guilty of a civil offense and upon conviction shall be subject to a fine not to exceed $1,500.00.
(Code 1981, § 12-45; Code 2012, § 12-45; Ord. No. SRO-187-95, § 5, 11-2-1994; Ord. No. SRO-402-2012, § 12-45, 5-30-2012)

Sec. 12-91. Crime.

Any person who takes into his or her custody an animal protected by this article or acts in violation of the terms of this article shall be guilty of a crime and upon conviction shall be subject to a fine of no more than $1,500.00 or to imprisonment of no more than 45 days or to such fine and imprisonment, with costs.
(Code 1981, § 12-46; Code 2012, § 12-46; Ord. No. SRO-187-95, § 6, 11-2-1994; Ord. No. SRO-402-2012, § 12-46, 5-30-2012)

Secs. 12-92—12-110. Reserved.

ARTICLE IV. SONORAN DESERT NESTING BALD EAGLE PROTECTION ACT

Sec. 12-111. Short title.

This article may be cited as the "Salt River Pima-Maricopa Indian Community Sonoran Desert Nesting Bald Eagle Protection Act."
(Code 1981, § 12-50; Code 2012, § 12-50; Ord. No. 359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-50, 5-30-2012)

Sec. 12-112. Definitions.

The following words, terms and phrases, when used in this article, 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.

Council means the governing body of the Community.

Department means the Community development department.

Director means the director of the department or designee.

Endangered species means any aquatic species or species of wildlife whose prospects of survival or recruitment within the Community are in jeopardy due to any of the following factors:

(1) The present or threatened destruction, modification or curtailment of its habitat;

(2) Overutilization for scientific, commercial or sporting purposes;

(3) The effect of disease or predation;

(4) Other natural or manmade factors affecting its prospects of survival or recruitment within the Community; or

(5) Any combination of the foregoing factors.

Law enforcement agency means the Community police department or any department responsible for enforcement of this article.

Management means the collection and application of biological information for the purposes of establishing and maintaining a congruous relationship between individuals within species and populations of wildlife and the carrying capacity of their habitat. The term includes the entire range of activities that constitutes a full scientific resource program of, including but not limited to, research, census, law enforcement, propagation, maintenance of land or aquatic habitat interests appropriate for recovery of the species, improvement and maintenance, education and related activities or protection and regulated taking.

Person means any individual, corporation, partnership, company, association, or other legal entity.

Protected nesting habitat means an area of Community-owned land that supports nesting and stands of trees for nesting for the Sonoran Desert Nesting Bald Eagle.

Reservation means all lands within the exterior boundary of the Community.

Take or *taking* means to harass, harm, injure, hunt, capture, remove or kill any wildlife or attempt to do so.

Threatened species means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range in the Sonoran Desert.
(Code 1981, § 12-51; Code 2012, § 12-51; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-51, 5-30-2012)

Sec. 12-113. Findings and declarations.

The Community Council finds and declares that:

(1) The Sonoran Desert Nesting Bald Eagle and its habitat are deeply intertwined with the O'Odham and Piipaash traditional beliefs regarding cultural origins, cultural history, and the nature of the world; accordingly, the Sonoran Desert Nesting Bald Eagle and its habitat are considered sacred and vital to the continuation of the way of life of both the O'Odham and Piipaash people;

(2) The Sonoran Desert Nesting Bald Eagle is indigenous to the Community and is

found to be a threatened or endangered species and should be managed and protected to maintain and, to the extent possible, enhance their numbers within the carrying capacity of the habitat;

(3) It is essential to the O'Odham and Piipaash people that they retain opportunities to maintain close contact with the Sonoran Desert Nesting Bald Eagle and its habitat and to benefit from the scientific, educational, aesthetic, and cultural values they represent. It is therefore the public policy of the Community that habitat areas be preserved by the Community;

(4) The management and recovery of threatened or endangered species are the responsibility of and a benefit to all of society; it is in the best interest of and has a direct effect on the Community's efforts to protect the health, welfare, safety, economy, environment and natural resources of the Community and the reservation for future generations;

(5) Pursuant to its inherent sovereignty and power to exclude, the Community has power to regulate the conduct of persons who enter or remain on the reservation, which includes the power to place conditions on a person's conduct or presence on the reservation; and

(6) Except as otherwise provided in this article, it is unlawful for any person to take the Sonoran Desert Nesting Bald Eagle; provided that any Sonoran Desert Nesting Bald Eagle, in whole or parts thereof, transported into the Community from a point outside the exterior boundary of the reservation and which is destined tor a point beyond the Community, may be transported across the Community without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of a state or otherwise in accordance with federal law.

(Code 1981, § 12-52; Code 2012, § 12-52; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-52, 5-30-2012)

Sec. 12-114. Management programs.

(a) Subject to Community Council approval, the department may establish such programs for the management of the Desert Nesting Sonoran Bald Eagle.

(b) In carrying out programs authorized by this article, subject to Community Council approval, the director may enter into agreements with federal agencies, political subdivisions of the state or with private persons for administration and management of any program established under this section or utilized for management of the Desert Nesting Sonoran Bald Eagle.

(c) The department may conduct studies to determine the status and requirements for survival of the Desert Nesting Sonoran Bald Eagle.

(d) The director may authorize by permit the taking, possession, transportation, exportation or shipment of the Desert Nesting Sonoran Bald Eagle as provided in this article, so long as such use is for scientific, zoological or educational purposes, for propagation in captivity of such wildlife or to protect private property.

(e) The Desert Nesting Sonoran Bald Eagle may be removed, captured or destroyed where necessary to alleviate or prevent damage to property or to protect human health. Such removal, capture or destruction may be carried out only by prior authorization by permit from the director, unless otherwise provided by Community law or applicable federal law; provided that the Desert Nesting Sonoran Bald Eagle may be removed, captured or destroyed without permit by any person in emergency situations involving an immediate threat to human life or private property. Regulations governing the removal, capture or destruction of the Desert Nesting Bald Eagle shall be adopted by the department within one year after the effective date of the ordinance from which this article is derived.

(Code 1981, § 12-53; Code 2012, § 12-53; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-53, 5-30-2012)

Sec. 12-115. Protected nesting habitats.

On the recommendation of the director, the Community Council may establish protected nest-

ing habitats on Community trust lands for the Desert Nesting Sonoran Bald Eagle. Protected nesting habitats dedicated under this article are to be held in trust, for the uses and purposes set forth herein for the benefit of the people of the Community of present and future generations. They shall be managed and protected in the manner approved by, and subject to, the rules and regulations established by the department. Protected nesting habitats may not be used for any purpose inconsistent with the provisions of this article or disposed of, without a finding by the Community Council that the other use or disposition is in the best interest of the Community.
(Code 1981, § 12-54; Code 2012, § 12-54; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-54, 5-30-2012)

Sec. 12-116. Department; power to regulate.

The department is authorized and directed to establish and enforce such regulations as it may deem necessary to carry out all the provisions and purposes of this article.
(Code 1981, § 12-55; Code 2012, § 12-55; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-55, 5-30-2012)

Sec. 12-117. Enforcement.

(a) Any person who violates the provisions of section 12-113(6) shall be guilty of a civil offense and shall be subject to a civil fine not exceeding $5,000.00 per violation, and may be removed or excluded from the reservation by order of the Community Council.

(b) Any person who fails to procure any permit required by section 12-114(d) or who fails to abide by the terms of such permit shall be guilty of a civil offense and upon conviction shall be subject to a civil fine not exceeding $5,000.00 per violation.

(c) The Community court shall have jurisdiction over causes of action alleging violations of this Salt River Pima-Maricopa Indian Community Desert Nesting Bald Eagle Act except where otherwise vested in the Community Council.

(d) The director and Community law enforcement agency shall enforce this article.
(Code 1981, § 12-56; Code 2012, § 12-56; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-6, 5-30-2012)

Chapter 13

HEALTH AND SANITATION

Article I. In General

Sec. 13-1. Disposal of dead animals.
Sec. 13-2. Pollution of domestic water.
Sec. 13-3. Illegal dumping.
Sec. 13-4. Violations.
Sec. 13-5. Tri-city landfill, disposal of dangerous substances.
Sec. 13-6. Collection and haulage of solid waste from commercial enterprises.
Sec. 13-7. Illegal dumping.
Sec. 13-8. Impoundment; possible forfeiture of vehicles used in illegal dumping.
Secs. 13-9—13-34. Reserved.

Article II. Alcoholism

Sec. 13-35. Definitions.
Sec. 13-36. Program established.
Sec. 13-37. Treatment of alcoholics.
Sec. 13-38. Treatment and services for intoxicated persons and persons incapacitated by alcohol.
Sec. 13-39. Emergency admission.
Sec. 13-40. Evaluation and treatment of persons charged with crime.
Sec. 13-41. Payment for treatment; financial ability of patient or guardian.
Sec. 13-42. Immunity from criminal or civil liability.
Secs. 13-43—13-72. Reserved.

Article III. Tuberculosis

Sec. 13-73. Definitions.
Sec. 13-74. Declaration of policy.
Sec. 13-75. Procedure for commitment of tuberculous person.
Sec. 13-76. Procedure for reporting existence of nonresident tuberculous person.
Sec. 13-77. Immunity from criminal and civil liability.
Secs. 13-78—13-97. Reserved.

Article IV. Pesticides

Sec. 13-98. Definitions.
Sec. 13-99. Policy adopted.
Sec. 13-100. Enforcement of article and regulations.
Sec. 13-101. Certificates, permits and licenses.
Sec. 13-102. Records and reports.
Sec. 13-103. Production, processing, distribution, sale, etc., prohibited.
Sec. 13-104. Federally prohibited activities prohibited.
Sec. 13-105. Only registered pesticide use allowed.
Sec. 13-106. Use of registered pesticides to conform to federal and state requirements.
Sec. 13-107. Judicial proceedings; Community court.
Secs. 13-108—13-127. Reserved.

Article V. Food Service Establishments and Retail Food Stores

Sec. 13-128. Policy.
Sec. 13-129. Definitions.
Sec. 13-130. License required.
Sec. 13-131. Relationship of license to others.
Sec. 13-132. Application for license.
Sec. 13-133. Duration of license.
Sec. 13-134. Display of licenses.
Sec. 13-135. Food Code.
Sec. 13-136. Intergovernmental agreements and consulting contracts.
Sec. 13-137. Regulations.
Sec. 13-138. License suspension or revocation.
Sec. 13-139. Appeals; waiver of requirements.
Sec. 13-140. Violations.

ARTICLE I. IN GENERAL

Sec. 13-1. Disposal of dead animals.

Owners of dead animals shall dispose of the carcasses by burial or burning.
(Code 1976, § 8.1; Code 1981, § 13-1; Code 2012, § 13-1; Ord. No. SRO-402-2012, § 13-1, 5-30-2012)

Sec. 13-2. Pollution of domestic water.

It shall be unlawful for any person to pollute any source of domestic waters, including but not limited to streams, springs and wells, by disposing of garbage, dead animals, refuse or by locating a privy within 50 feet of such domestic water.
(Code 1976, § 8.2; Code 1981, § 13-2; Code 2012, § 13-2; Ord. No. SRO-402-2012, § 13-2, 5-30-2012)

Sec. 13-3. Illegal dumping.

Any person who shall dump any trash, garbage or refuse within the exterior boundaries of the Community, except for the designated landfill area, shall be deemed guilty of an offense and upon conviction shall be subject to a fine of not less than $50.00 or more than $500.00 or to imprisonment not to exceed six months, or both, with costs.
(Code 1976, § 8.4; Code 1981, § 13-3; Code 2012, § 13-3; Ord. No. SRO-402-2012, § 13-3, 5-30-2012)

Sec. 13-4. Violations.

Any person who violates the provisions of this chapter for which no penalty is otherwise specified or interferes with the performance of official duty thereunder is guilty of an offense and, upon conviction thereof, shall be subject to a fine of $30.00 or 30 days imprisonment, or both, with costs.
(Code 1976, § 8.3; Code 1981, § 13-4; Code 2012, § 13-4; Ord. No. SRO-402-2012, § 13-4, 5-30-2012)

Sec. 13-5. Tri-city landfill, disposal of dangerous substances.

(a) It shall be unlawful for any person to dispose of substances that pose a danger to human health or the environment in the tri-city landfill.

(b) For purposes of this section and for subsection (a) of this section, the term "dangerous substances" includes without limitation those substances defined as "hazardous" under federal environmental law, and "hot" loads that pose an imminent danger to combustion.

(c) It shall be unlawful for any person to dispose of sewage sludge or septic tank pumpings in the tri-city landfill.

(d) The tri-city landfill shall at all times post signs in conspicuous places along the fenced perimeter of the landfill advising the public of its prohibitions as set forth in this section regarding trespass, disposal of hazardous and hot materials, and disposal of sewage sludge and septic tank pumpings.
(Code 1981, § 13-5; Code 2012, § 13-5; Ord. No. SRO-154-92, § 2, 6-3-1992; Ord. No. SRO-402-2012, § 13-5, 5-30-2012)

Sec. 13-6. Collection and haulage of solid waste from commercial enterprises.

(a) *Policy.* It is the policy of the Community that the collection and haulage of solid waste from commercial enterprises within the Community be regulated so as to protect the members of the Community and others residing or visiting within its boundaries from any health or safety risk.

(b) *Unlawful acts.* It shall be unlawful for any person who is not a self-hauler to collect or haul solid waste from commercial enterprises located in the Community unless such person has a contract to perform those services with the Community.

(c) *Collection and haulage of solid waste.* The public works department shall be responsible for the collection and haulage of solid waste from commercial enterprises within the Community. The public works department shall contract with commercial enterprises located in the Community for the collection and haulage of their solid waste. The work under such contracts may be subcontracted by the public works department to a contractor(s) chosen by the public works department to collect and haul the solid waste. The

prices charged by the public works department shall be competitive with prices charged for similar services in the cities of Scottsdale, Mesa and Tempe, and shall be uniform within the Community considering the haul distances and the contracts shall be such as are generally used in the industry.

(d) *Self-hauler.* Any commercial enterprise operating within the Community may collect and haul its own commercial waste.

(e) *Civil penalty.* The violation of subsection (c) of this section shall be a civil offense and each such violation may be punished by a fine of up to $5,000.00 and costs.

(f) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Solid waste.

(1) The term "solid waste" means any garbage, trash, rubbish, refuse and other solid, liquid, semisolid or contained gaseous material.

(2) The term "solid waste" does not include domestic sewage or hazardous wastes.

(Code 1981, § 13-6; Code 2012, § 13-6; Ord. No. SRO-188-95, §§ 1—3, 5—7, 11-2-1994; Ord. No. SRO-402-2012, § 13-6, 5-30-2012)

Sec. 13-7. Illegal dumping.

(a) It shall be unlawful for any person to dump any material, hazardous or not, within the Community outside of the Community landfill area at any time or to dispose of any material within the Community landfill other than during its regular business hours and pursuant to its current rules and regulations which permit proper disposal of materials.

(b) In addition to, or instead of any other penalties herein, any person who engages in the act of illegal dumping is subject to a civil fine not to exceed $5,000.00. Restitution shall be required when appropriate.

(c) All vehicles seized and held as evidence shall be subject to towing and storage costs based on daily fee rates until such matter is resolved.

(Code 1981, § 13-7; Code 2012, § 13-7; Ord. No. SRO-273-2000, 9-27-2000; Ord. No. SRO-402-2012, § 13-7, 5-30-2012)

Sec. 13-8. Impoundment; possible forfeiture of vehicles used in illegal dumping.

(a) *Impoundment of vehicle; notification of owner.*

(1) Any vehicle used in the illegal dumping of materials on the Community shall be impounded by law enforcement officers of the Community police department and delivered to the police chief for designation of proper storage.

(2) Upon delivery of impounded vehicles to a place of storage, the Community civil advocate shall be immediately notified.

(3) Within five business days of the date of impoundment, a notice of impoundment and possible forfeiture by certified mail, return receipt requested, shall be sent by the civil advocate to the registered owner of the vehicle informing such owner of the time and place of a hearing to determine whether the vehicle was operated in violation of section 13-7(a) and if any damages resulted from such operation, and also, of the possible forfeiture of the vehicle. Notice shall be served by the following methods:

a. Upon an owner or claimant, whose right, title or interest is of record in the division of motor vehicles of the state in which the vehicle is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of said state.

b. Upon an owner or claimant, whose name and address are known, by mailing a copy of the notice by registered mail to his or her last known address.

c. Upon an owner or claimant, whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in Maricopa County, Arizona.

(4) The civil advocate shall file a copy of the notice of impoundment and possible forfeiture with the Community court and records of the notice shall be kept within the offices of the police chief and staff attorney.

(b) *Owner's answer to notice.*

(1) Within 30 days after the mailing or publication of the notice of impoundment and possible forfeiture, the owner of the impounded vehicle may file in the Community court, a verified answer to the allegations contained in the notice of impoundment and possible forfeiture.

(2) If a verified answer is filed, the court shall, without the requirement of further pleadings such as a request for a hearing, set a hearing not less than five business days and not more than ten business days after the answer is filed.

(3) If a verified answer to the notice of impoundment and possible forfeiture is not filed within 30 days, the court shall, without the requirement of further pleadings such as a request for hearing, set a time and place to hear evidence upon the claim of illegal use of the vehicle, order appropriate relief, and upon motion, shall order the vehicle forfeited to the Community, or the following:

a. If no claimant exists and the Community wishes to retain the vehicle for its own official use it may do so; or

b. If such vehicle is not to be retained it shall be disposed of in the manner pursuant to subsection (d)(1) of this section.

(c) *Hearing.*

(1) At the hearing, the court may, at its discretion, set a bond that appropriately considers the potential damages, any mitigating elements of the case and individual circumstances.

(2) At the hearing, an owner or claimant who has a verified answer on file may show by clear and convincing evidence that the vehicle was not used in the illegal dumping of materials on the Community.

(3) At the hearing, an owner who has a verified answer on file may show by clear and convincing evidence that he or she had no knowledge of and should not have known that the vehicle would be used in the illegal dumping of materials on the Community.

(4) A claimant of any right, title or interest in the vehicle may prove:

a. A lien, mortgage or conditional sales contract to be authentic;

b. The right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser; and

c. There was absolutely no knowledge that the vehicle was being or was to be used for the purpose charged.

(5) However, the following persons or entities are required to prove only the conditions in subsections (c)(4)a and c of this section:

a. A person or entity who has a lien, dependent upon possession, for which he or she is legally entitled compensation for making repairs or performing labor upon and furnishing supplies and materials for, and for storage, repairs or safekeeping of any vehicle;

b. A person or entity doing business under any law of any state or the United States relating to banks, trust companies, building and loan associ-

ates, and loan companies, and credit unions or licensed pawnbrokers or money lenders; or

c. A person regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles.

(6) A claimant may show that the legal right, title or interest is vested solely in the claimant, and that any disposition or sale of forfeited property could result in irreparable harm, injury or loss to that party or would have unfair and/or unwarranted consequences to that party.

(7) Upon the hearing, if the court determines that the vehicle was not used in illegal dumping, or that the vehicle was used in illegal dumping but the damages have been fully mitigated and/or compensated, the court shall order the vehicle released to the owner.

(8) If the court determines that the vehicle was used in the act of illegal dumping which resulted in uncompensated damages, the court may enter its judgment determining such illegal dumping, the amount of damages caused, and if appropriate, forfeiture of said vehicle.

(9) A copy of the judgment shall be forwarded to the owner of the vehicle within three business days of issuance of that judgment.

(10) If the court determines that there was illegal dumping, but forfeiture was not ordered, the court will not release the bond but shall order the Community police department to hold the vehicle, until the owner pays to the court, for the benefit of the Community, the amount of damages the court has determined was caused by the illegal use of the vehicle.

(d) *Sale of vehicle for recovery of damages.*

(1) Any decision by the court under this section rendering a judgment of illegal dumping and damages shall provide that unless payment of damages is made within 30 days after the entry of judgment, the vehicle shall be sold at public auction after reasonable notice by certified mail to the owner of the vehicle of said sale.

(2) Upon payment of damages in full and within ten days of receipt, the vehicle shall be returned to the owner.

(3) Upon sale of the vehicle, the court clerk shall pay the proceeds of the sale necessary for the satisfaction of the judgment.

(4) Any excess over such judgment shall be paid:

a. First, to satisfy the expenses incurred by the court and the Community;

b. Second, to pay off any towing, storage and other impoundment costs; and

c. Third, to the owner of the vehicle.

(e) *Forfeiture of vehicles used in illegal dumping.*

(1) If after a proper hearing pursuant to subsection (c) of this section, judgment is entered determining violation of section 13-7(a) and making a finding of one or more conditions in subsection (e)(3) of this section, the vehicle found to be used in the illegal dumping may be forfeited to the Community.

(2) If forfeiture is ordered, the interest of the legal owner of record who knew or should have known the vehicle would be used in the illegal dumping of materials on the Community shall be forfeited to the Community.

(3) In order for a vehicle to be forfeited the court must find one or more of the following circumstances by clear and convincing evidence:

a. The vehicle was used in discarding of materials or dangerous substances that pose a hazardous condition to human health and/or the environment.

b. For the purposes of this section, the term "dangerous substances" includes

without limitation those substances defined as "hazardous" under Community or federal environmental law and "hot" loads that pose an imminent danger to combustion; or as follows:

1. The vehicle was used to discard materials equaling 30 cubic yards or more;
2. The vehicle was used to discard materials that pose serious danger to children; or
3. An offender has a prior record of involvement in illegal dumping.

(f) *Authority to compromise.*

(1) The Community shall make due provisions and take the necessary action to protect the rights of innocent or nonliable persons, as is consistent with this chapter.

(2) At any time, the Community is authorized to grant requests for mitigation or remission of forfeiture and restore forfeited property to innocent or guiltless parties.

(3) If the Community grants such a request, it shall inform the court, through its civil advocate, of the settlement and the court shall issue an order consistent with the action taken by the Community.

(g) *Authority to implement reward system.* The Community may set up a system to award compensation to persons providing information resulting in forfeiture of property used in the act of illegal dumping.

(Code 1981, § 13-8; Code 2012, § 13-8; Ord. No. SRO-273-2000, 9-27-2000; Ord. No. SRO-402-2012, § 13-8, 5-30-2012)

Secs. 13-9—13-34. Reserved.

ARTICLE II. ALCOHOLISM

Sec. 13-35. Definitions.

For the purposes of this article, unless the context requires otherwise, the following terms shall have the meanings ascribed to them herein:

Alcoholic means a person who habitually lacks self-control with respect to the use of alcoholic beverages to the extent that his or her health is substantially impaired or endangered, or his or her social or economic functions are substantially disrupted.

Evaluation means multidisciplinary professional analysis of a person's medical, psychological, social, financial and legal conditions. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of the tribal treatment facility providing evaluation services or may be part-time employees or may be employed on a contractual basis or may be volunteers.

Incapacitated by alcohol means that a person, as a result of the use of alcohol, is unconscious or has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for evaluation and treatment.

Intoxicated person means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

Treatment means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, physiological and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons.

Tribal alcoholism treatment center means the initial treatment center for a person who is intoxicated or who is incapacitated by alcohol to receive initial evaluation and processing for assignment for further evaluation or into a treatment program.

(Code 1976, § 8.21; Code 1981, § 13-21; Code 2012, § 13-21; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-21, 5-30-2012)

Sec. 13-36. Program established.

(a) *Created; purpose.* The Community alcoholism program shall develop, encourage and foster plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with federal, state, tribal and private agencies, organizations and individuals and provide technical assistance and consultation services for these purposes.

(b) *Standards.* The Community alcoholism program shall be guided by the following standards:

(1) An intoxicated person or persons incapacitated by alcohol, who voluntarily seeks treatment or who is transported to the tribal alcoholic treatment center, shall receive an initial evaluation.

(2) A patient shall be initially assigned or transferred to outpatient treatment or intermediate treatment unless be is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he or she has withdrawn from treatment against medical advice on a prior occasion or because he or she has relapsed after earlier treatment.

(4) An individual treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provisions shall be made for a continuum or coordinated treatment services, so that a person who leaves the facility or other form of treatment will have available other appropriate treatment.

(c) *Duties.* The Community alcoholism program shall:

(1) Enlist the assistance of all federal, state, tribal and private agencies, organizations and individuals engaged in the prevention of alcoholism and treatment of alcoholics and intoxicated persons at a tribal treatment facility.

(2) Cooperate with the Community court and the tribal police in establishing and conducting programs to provide treatment for alcoholics in penal institutions and alcoholics on parole from penal institutions at tribal treatment facilities.

(3) Cooperate with the schools, police, courts and other agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons and in preparing curriculum materials thereon for use at all levels of school education.

(4) Specify uniform methods of keeping statistical information by tribal treatment facilities and collect and make available relevant statistical information including the number of persons treated, the frequency of admission, and readmission and frequency and duration of treatment.

(5) Cooperate with the Community court in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

(Code 1976, § 8.22; Code 1981, § 13-22; Code 2012, § 13-22; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-22, 5-30-2012)

Sec. 13-37. Treatment of alcoholics.

(a) An alcoholic may apply for evaluation and treatment directly to any tribal treatment facility. If the applicant is a minor or incompetent person, either he or she or a parent, legal guardian or other legal representative shall make the application for evaluation and treatment.

(b) Subject to rules adopted by the Community alcoholism program, the administrator in charge of a tribal treatment facility may determine who shall be admitted for evaluation and treatment. No person shall be refused admission to a tribal treatment facility because of inability to pay.

(c) If a patient receiving inpatient care leaves a tribal treatment facility, he or she shall be encouraged to consent to appropriate outpatient treatment or intermediate treatment.

(Code 1976, § 8.23; Code 1981, § 13-23; Code 2012, § 13-23; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-23, 5-30-2012)

Sec. 13-38. Treatment and services for intoxicated persons and persons incapacitated by alcohol.

(a) *Voluntary treatment.* An intoxicated person may come voluntarily to a tribal alcoholism treatment center for emergency alcoholism treatment.

(b) *Immediate treatment.* A person who voluntarily comes or is brought to a tribal alcoholism treatment center and is in need of immediate medical treatment shall be examined by a licensed physician as soon as possible and may be admitted as a patient or referred to another tribal treatment facility or program.

(c) *Transportation to home or shelter.* A person who is not admitted to a tribal alcoholism treatment center and who is not referred to another treatment facility or program and who has no funds may be taken to his or her home by personnel at the tribal alcoholism treatment center. If he or she has no home, the tribal alcoholism treatment center personnel shall assist him or her in obtaining shelter.

(d) *Notification of next of kin.* If the patient is admitted to a tribal alcoholism treatment center for initial evaluation and processing, the patient's family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated by alcohol requests that there be no notification of his or her family or relatives, his or her request shall be complied with.

(e) *Further evaluation or treatment.* If the administrator in charge of the tribal alcoholism treatment center determines that it is for the patient's benefit, the patient shall be encouraged to agree to assignment for further evaluation or to agree to assignment to a treatment program.
(Code 1976, § 8.24; Code 1981, § 13-24; Code 2012, § 13-24; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-24, 5-30-2012)

Sec. 13-39. Emergency admission.

(a) A person who is intoxicated in public:

(1) Who has threatened, attempted to inflict physical harm, or inflict physical harm upon himself, herself or another, or who is likely to inflict physical harm on himself, herself or another unless admitted; or

(2) Who is incapacitated by alcohol;

may be brought by a peace officer or by another person to a tribal alcoholism treatment center for emergency evaluation and treatment.

(b) A peace officer who has reasonable cause to believe that a person is intoxicated in a public place, and such person is or may be a detriment to himself, herself or others, may transport such person to a tribal alcoholism treatment center. No unnecessary or unreasonable force shall be used in transporting such person and the person shall not be subjected to any greater restraint than is necessary.

(c) An intoxicated person received or accepted by a tribal alcoholism treatment center shall not be subject to unnecessary or unreasonable force. The tribal alcoholism treatment center shall use such methods and exercise such restraint of the intoxicated person as is reasonably necessary for the safety of such person and others and consistent with the provisions of subsection (d) of this section.

(d) The administrator in charge of a tribal alcoholism treatment center shall discharge any person admitted pursuant to this section not more than 24 hours after the person requests to be discharged or after the administrator on advice of the medical staff determines that the grounds for admission no longer exist.
(Code 1976, § 8.25; Code 1981, § 13-25; Code 2012, § 13-25; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-25, 5-30-2012)

Sec. 13-40. Evaluation and treatment of persons charged with crime.

(a) The Community court may order an evaluation and treatment at a tribal treatment facility of a person who is brought before the court and charged with a crime if:

(1) It appears that such person is an alcoholic; and

(2) Such person, after being advised of his or her privilege to undergo evaluation and treatment, chooses the evaluation and treatment procedures.

The court shall in no event order the person to undergo treatment and evaluation for in excess of 30 days.

(b) The court shall fully apprise the person charged with the crime of the options available and the consequences which may occur.

(c) The person charged with the crime has the right to legal counsel at proceedings held pursuant to this section.

(d) If the court issues an order for evaluation and treatment as provided in this section, proceedings on the criminal charge or charges then pending in the court from which the order for evaluation and treatment issued shall be suspended until such time as the evaluation and treatment of the defendant and the subsequent detention of the defendant, if any, are completed. Upon completion of the evaluation and treatment and the detention, if any, the defendant shall be returned to the court where the order for evaluation and treatment was made and proceedings on the criminal charge or charges shall be resumed or dismissed. Delay in bringing the defendant to trial caused by treatment and evaluation under this section shall not be the basis for a claim by the defendant that he or she was denied a speedy trial.

(e) The cost of evaluation and treatment of an indigent patient treated pursuant to court order shall be a charge to the Community.
(Code 1976, § 8.26; Code 1981, § 13-26; Code 2012, § 13-26; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-26, 5-30-2012)

Sec. 13-41. Payment for treatment; financial ability of patient or guardian.

(a) A patient being treated by the tribal treatment facility, or the estate of the patient, or a person obligated to provide the cost of the evaluation and treatment and having sufficient financial ability, is liable to the tribal treatment facility for the costs of evaluation and treatment of the patient in accordance with the rates established by the Community alcoholism program.

(b) The Community alcoholism program shall adopt rules governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay as well as any support being furnished by him or her to any person whom he or she may be required by law to support.

(c) Each tribal treatment facility shall furnish the Community alcoholism program with such information as it requires to enable it to establish and maintain a cost reporting system of the costs of the evaluation and treatment. Each tribal treatment facility shall ensure that records are maintained containing such information and in such form as the Community alcoholism program shall require for the purposes of this section. The Community alcoholism program shall prepare and adopt patient fee schedules to be used by the tribal treatment facility for services rendered to each patient afflicted with alcoholism. In preparing such patient fee schedules, the Community alcoholism program shall take into account the existing charges for available services. The Community alcoholism program is not prohibited from including the amount of expenditures for capital outlay in its determination of the fee schedules.
(Code 1976, § 8.27; Code 1981, § 13-27; Code 2012, § 13-27; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-27, 5-30-2012)

Sec. 13-42. Immunity from criminal or civil liability.

A peace officer, administrator in charge of a tribal treatment facility or any person who in good faith acts in compliance with this article shall not be criminally or civilly liable.
(Code 1976, § 8.28; Code 1981, § 13-28; Code 2012, § 13-28; Ord. No. SRO-23-74, 2-27-1974; Ord. No. SRO-402-2012, § 13-28, 5-30-2012)

Secs. 13-43—13-72. Reserved.

ARTICLE III. TUBERCULOSIS

Sec. 13-73. Definitions.

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

Nonresident tuberculous person means any non-Indian person having communicable or contagious tuberculosis who is not a resident of the Community.

Tuberculous person means any person having communicable or contagious tuberculosis and who is an Indian resident of the Community.
(Code 1981, § 13-41; Code 2012, § 13-41; Ord. No. SRO-52-78, § 1, 2-15-1978; Ord. No. SRO-402-2012, § 13-41, 5-30-2012)

Sec. 13-74. Declaration of policy.

It is the policy of the Community to make available to Indian residents within the Community who are tuberculous persons such medical treatment as is provided by the division of Indian health of the Arizona public health service. It is the policy of the Community to declare that all cases of tuberculosis in a communicable or contagious stage are dangerous to the health and welfare of the Community and should be isolated in an appropriate hospital or other institution meeting the requirements of the division of Indian health of the Arizona public health service. It is the policy of the Community to make appropriate reports of nonresident tuberculous persons to state or county authorities having jurisdiction over tuberculosis control.
(Code 1981, § 13-42; Code 2012, § 13-42; Ord. No. SRO-52-78, § 2, 2-15-1978; Ord. No. SRO-402-2012, § 13-42, 5-30-2012)

Sec. 13-75. Procedure for commitment of tuberculous person.

(a) *Petition for treatment.* Any public health officer employed by the Community or the Arizona public health service may petition the Community court for a determination that a person is a tuberculous person and should be committed to a hospital or other place of medical treatment.

(b) *Certification.* Upon a hearing of the petition, the Community court may determine that a person is a tuberculous person and that in accordance with the applicable instructions of the division of Indian health, Arizona public health service, the health of the tuberculous person and of other persons within the Community requires the isolation or quarantine of the tuberculous person in a hospital or other place of treatment. Upon such a determination, the judge of the Community court shall furnish a certified copy of the determination of the court together with a request to the area medical officer in charge, division of Indian health, Arizona public health service, that such area medical officer in charge certifies that the facilities and services of the state public health service are available to provide necessary medical treatment for the tuberculous person and that in accordance with applicable instructions of the division of Indian health that the health of the afflicted tuberculous person or that of other persons requires the isolation or quarantine of the tuberculous person in a hospital or other place of treatment.

(c) *Length of treatment.* Upon acceptance by the state public health service of the custody of the tuberculous person, said person shall be committed to said custody until the medical officer in charge of a medical facility to which such tuberculous person has been admitted is satisfied that the disease is inactive and not in a communicable stage, at which time the medical officer in charge of such medical facility may discharge the tuberculous person under such conditions as he or she deems appropriate in consideration of the health of that person or others.
(Code 1981, § 13-43; Code 2012, § 13-43; Ord. No. SRO-52-78, § 3, 2-15-1978; Ord. No. SRO-402-2012, § 13-43, 5-30-2012)

Sec. 13-76. Procedure for reporting existence of nonresident tuberculous person.

Any public health officer employed by the Community or the state public health service may notify appropriate state or county health or tuberculosis control authorities of the existence of a person suspected of being a nonresident tuberculous person.
(Code 1981, § 13-44; Code 2012, § 13-44; Ord. No. SRO-52-78, § 4, 2-15-1978; Ord. No. SRO-402-2012, § 13-44, 5-30-2012)

Sec. 13-77. Immunity from criminal and civil liability.

Anyone participating in the making of reports or the filing of petitions required under the provisions of the section or anyone participating in a judicial proceeding resulting from such reports or petitions shall be immune from any civil or criminal liability by reason of such action unless such person acted with malice. The physician-patient privilege or any privilege provided for by the professions of the practice of social work or nursing covered by law or a code of ethics regarding practitioner-client confidences, both as they relate to the competency of the witness and to the exclusion of confidential communications, shall not pertain in any civil or criminal litigation or any judicial proceeding resulting from a report or petition submitted pursuant to this section.
(Code 1981, § 13-45; Code 2012, § 13-45; Ord. No. SRO-52-78, § 5, 2-15-1978; Ord. No. SRO-402-2012, § 13-45, 5-30-2012)

Secs. 13-78—13-97. Reserved.

ARTICLE IV. PESTICIDES

Sec. 13-98. Definitions.

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

Arizona Statutes means articles 5, 6 and 6.1 of chapter 2, title 3 of Arizona Revised Statutes (A.R.S. §§ 3-341 through 3-383), as amended and as they may be amended from time to time hereafter. Reference in this article to Arizona statutes shall be limited to the stated articles but it shall be deemed to be reference to them as they shall have been amended as of the time of application of the reference.

Community means the Salt River Pima-Maricopa Indian Community as established, existing and geographically defined under the laws of the United States, encompassing all territory within its exterior boundaries as now or hereafter prescribed or ascertained, including tribal and allotted lands, roads, waters and rights-of-way. For purposes of any restriction, regulation, requirement, control or prohibition of or upon the production, processing transportation, handling, storage, application or other use or disposal of pesticides pursuant to this article and the pesticide control programs, references herein and in the rules and regulations of the director, to the term "within the Community" include the air space both over the surface of the Community and in such proximity to it that any pesticide released in such air space, whether or not intentionally, is deposited or reasonably could be expected to drift or otherwise to be deposited upon land, plants, buildings, animals or water upon the surface of the earth within the exterior boundaries of the reservation.

Director means the director of the department of planning and land management of the Community.

FEPCA means the Federal Environmental Pesticide Control Act of 1972, Public Law 92-516, section 2, A.R.S. §§ 86-975 et seq., 7 USC 136 et seq., as amended and as it may be amended from time to time hereafter. Reference in this article to FEPCA shall be deemed to be reference to FEPCA as it shall have been amended as of the time of application of the reference.

Person means any individual, partnership, association, corporation or any organized group of persons whether incorporated or not, including a person acting in a fiduciary or representative capacity, and further including any governmental agency.

Pesticide.

(1) The term "pesticide" means any substance or mixture of substances intended to be used for:

a. Preventing, destroying, repelling or mitigating any pest;

b. Defoliating or desiccating any plants; or

c. Accelerating or retarding the rate of growth or rate of maturation, or otherwise altering the behavior of plants or the produce thereof.

(2) The term "pesticide" does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Any substance or mixture of substances defined or designated as or determined to be a pesticide or a plant regulator pursuant to FEPCA or state statutes shall be a pesticide pursuant to this article.

Pests means, for all purposes of this article, all things included within the definition of that term in FEPCA and Arizona statutes.

Restricted pesticide means any pesticide designated as such by the director upon a determination that it is or may be so toxic, hazardous or otherwise detrimental to humans, or to their environment, animals or crops, that particular provisions should be made applicable to its transportation, handling or application in order to adequately protect the public health, safety and welfare. Any pesticide defined or classified for restricted use, or for both restricted use and general use, pursuant to FEPCA or Arizona statutes shall be a restricted pesticide pursuant to this article.

(Code 1981, § 13-51; Code 2012, § 13-51; Ord. No. SRO-60-79, § 2, 8-29-1979; Ord. No. SRO-402-2012, § 13-51, 5-30-2012)

Sec. 13-99. Policy adopted.

The Community Council declares it to be the policy of the Community that:

(1) The economic welfare of the Community and its members is enhanced by the use and development of agricultural lands within the Community;

(2) The use of pesticides upon such agricultural lands is controlled so as to protect the health, welfare and safety of members of the Community; and

(3) The Community has the responsibility and capability of controlling and regulating the use of pesticides upon agricultural lands within the Community.

(Code 1981, § 13-52; Code 2012, § 13-52; Ord. No. SRO-60-79, § 1, 8-29-1979; Ord. No. SRO-402-2012, § 13-52, 5-30-2012)

Sec. 13-100. Enforcement of article and regulations.

(a) *Director designated to enforce article.* The director of the department of planning and land management of the Community shall through that department enforce this article and the regulations adopted pursuant to it.

(b) *Functions.* The director shall adopt and implement a pesticide control program, and rules and regulations pursuant thereto, and shall enforce this article, that program and those rules and regulations to protect the health, safety and welfare of all residents of the Community against adverse effects of the transportation, handling and application of pesticides within the Community. In recognition by the Community Council that technical and scientific aspects of pesticides and their transportation, handling and application are subject continuously to new discoveries, modifications and requirements which cannot be adequately provided for specifically by an ordinance, the director is authorized and directed to utilize all reasonably available resources and services to regularly monitor such developments, and by rules and regulations to adopt and impose such restrictions, requirements, controls and prohibitions upon transportation, handling and application of pesticides within the Community as, considering all reasonably available and material data and information, appear technically and scientifically reasonable for the protection of the public health, safety and welfare.

(c) *Authority.* The authority of the director shall include but it shall not be limited necessarily to the following procedures and undertakings, as may be necessary reasonable or appropriate for the protection of public health, safety and welfare, and to prevent harm to desirable plants and animals and the environment:

(1) To designate restricted pesticides.

(2) To restrict, regulate or prohibit the transportation, handling and application of restricted pesticides within the Community.

(3) To require, restrict, regulate or prohibit the use of designated facilities, equipment, materials and methods for trans-

portation, handling and application of restricted pesticides within the Community.

(4) To enter in a lawful manner any public or private premises within the Community to observe or inspect any stores of any pesticides and any apparatus, aircraft vehicle, equipment, supplies, materials, storage and handling areas and facilities, disposal sites and devices which are used or intended for use for production, processing, transportation, handling, storage, application and other use and disposal of restricted pesticides.

(5) To define and designate geographical areas, and times and circumstances, where or when, within the Community, the transportation, handling or application of restricted pesticides shall be restricted, regulated or prohibited.

(6) To require, and to issue or approve, certifications, permits and licenses for transportation or application of restricted pesticides within the Community.

(7) To issue, promulgate and enforce rules, regulations, orders and directives to implement this article and the pesticide control program. Such rules, regulations, orders and directives may include adoption or incorporation of laws, rules, regulations, orders, directives or other requirements prescribed pursuant to authority of the United States of America or of the State of Arizona with respect to pesticides.

(8) To impose or assess civil fines and penalties for violation of this article, and rules, regulations, orders, directives, certificates, licenses and permits issued pursuant hereto, not to exceed $150.00 for each violation.

(9) To obtain advice and assistance of federal, state, county and municipal government agencies, and private agencies, and persons with technical expertise, in the adoption and implementation of a pesticide control program; to coordinate activities and cooperate with such other governmental agencies having similar or related responsibilities within their respective jurisdictions; and to utilize the Community court to enforce the pesticide control program, the provisions of this article, the rules and regulations adopted pursuant to this article, and orders and directives issued pursuant thereto. The director may recommend that the Community enter into agreements with such other governmental agencies providing for uniformity, coordination and cooperation in regulations and control of restricted pesticides.

(10) To designate authorized representatives of the director and to delegate to them authority to act on behalf of the director in the conduct of inspections, observations, inquiries, and enforcement of this article, the pesticide control program, rules and regulations adopted by the director, and orders and directives issued by him or her; and such representatives may include employees, agents and representatives of federal, state, county and municipal government agencies.

(d) *Publication of rules, regulations, etc.* Prior to the time that any rule, regulation, order or directive is effective, it shall have been published one time in a newspaper of general circulation within or adjoining the Community and ten days shall have elapsed from the date of publication during which period of time comments concerning the proposed rule, regulation, order or directive may be made to the director, and the director, on the basis of such comments, may modify the rule, regulation, order or directive.
(Code 1981, § 13-53; Code 2012, § 13-53; Ord. No. SRO-60-79, § 3, 8-29-1979; Ord. No. SRO-402-2012, § 13-53, 5-30-2012)

Sec. 13-101. Certificates, permits and licenses.

(a) *Certain activities requiring permit under FEPCA require permit.* No person who is or would be required to have any certificate, permit or license issued pursuant to FEPCA or issued pursuant to any administrative rules, regulations, orders or directives issued pursuant thereto, to authorize that person to transport, handle or

apply any pesticide or pesticides within the State of Arizona, shall conduct such activity within the Community without such certificate, license or permit.

(b) *Applicators of restricted pesticides require license.* In addition to the requirement of subsection (a) of this section, no person who would be a commercial applicator or private applicator of pesticides within the definitions and meanings of FEPCA and Arizona statutes shall apply or otherwise use, or supervise the application or other usage of any restricted pesticide within the Community without a license then currently in effect issued by the director. No such license shall be issued by the director to any person who does not have each certificate, license and permit required by FEPCA to authorize that person to conduct or supervise such application or other usage within the State of Arizona. Revocation, suspension or expiration or other termination of any such federal authorization (while such authorization continues to be required for conduct of the specified activity pursuant to federal law, rule, regulation, order or directive, as applicable) shall constitute automatic cancellation of the license issued by the director.

(1) Application for such license shall be in such form as is prescribed by the director, to include such information and to be accompanied by such supporting data and verification of qualifications as may be required by the director.

(2) Issuance of such a license shall be dependent upon the applicant demonstrating to or otherwise satisfying the director, or his or her designated representative, that the applicant:

a. Is competent with respect to the application, use and handling of restricted pesticides;

b. Is familiar with the nature and characteristics of them, and the dangers inherent in them and which may result from their application, use and handling;

c. Is knowledgeable about, and able and willing to take appropriate precautions to protect the public health, safety, and welfare;

d. Has suitable equipment, in safe and proper operating condition, for such application or other usage, with trained, reliable and responsible operators, as appropriate;

e. Has not demonstrated lack of reasonable care and responsibility in prior processing, transportation, handling, storage, application or other usage, or disposal of pesticides within the Community or elsewhere.

The demonstration or other satisfaction of the requirements set forth in this subsection (2) may be by oral or written examination, satisfactory completion of training courses, actual field operation or demonstration, questionnaires, reports from other agencies or persons, reliance upon federal and state certifications and licenses, or any combination of all or any of the requirements set forth in this subsection (2); or such other appropriate means which may be adopted by the director.

(3) Any such license issued by the director may be made subject to any reasonable qualifications, conditions, restrictions and limitations deemed to be appropriate by the director.

(4) Before issuing such a license, the director shall require proof of financial responsibility consisting either of a deposit of money, liability insurance, surety bond or certified check protecting persons, and those claiming under them, who may suffer death, injury, illness or property damage as a result of the operations of the applicant. The director shall not accept any bond of liability insurance except from companies authorized to do business in the State of Arizona. The amount of the deposit, insurance or bond, unless a greater amount is specified by the director, shall be $100,000.00 for property damage, personal death, injury or illness, public lia-

bility and drift insurance, each separately, and it shall be maintained in not less than that sum at all times during the licensing period. Insurance shall be written in a form acceptable to the director and it shall be evidenced by certificates delivered to the director. Each policy by appropriate endorsement or other provisions shall provide for written notice to the director at least ten days before any cancellation or material change thereof. The license of an applicator who permits the security to fall below the required sum shall be suspended by the director and it shall remain suspended until the security meets the minimum financial requirements. The director may increase the amount of required deposit, insurance, surety bond or other security at any time upon 15 days' notice to the holder of a license.

(5) A license may be issued by the director pursuant to subsection (b) of this section for any period not to exceed one calendar year, or the remaining portion of the year for which issued. It may be renewed annually upon application to the director and satisfaction of all qualifications and prerequisites therefor.

(6) There shall be a fee charged for the issuance and each annual renewal of such a license, and an additional fee charge for the reactivation of any such license which is suspended for any reason. The director shall establish from time to time, an applicable fee schedule by regulations pursuant to section 13-100(c)(7). All such fees shall be submitted through the director and payable to the Community.

(c) *Licenses for other activities may be required.* The director may require such other certificates, licenses and permits as he or she deems appropriate from time to time as a condition to the transportation, handling or application of restricted pesticides within the Community. Such authorizations may be based upon such criteria, qualification and conditions as may be prescribed by the director in fulfillment of his or her responsibility set forth in sections 13-99 and 13-100. He or she may charge annual fees for issuance and renewals of such authorizations in accordance with a schedule of fees to be established from time to time, by the director, by regulation pursuant to hereof, which fees shall be submitted through the director and payable to the Community.

(d) *Alteration, modification of requirements.* The director from time to time may alter, modify, enlarge or increase the requirements, conditions, restrictions and limitations imposed upon any person holding any certificate, license or permit issued by the director, as such change reasonably appears necessary or desirable to the director to protect the public health, safety or welfare.

(e) *Suspension or cancellation.* In addition to all other remedies hereunder and at law, the director may suspend or cancel any certificate, license or permit issued upon a determination by the director that the holder thereof has violated or failed to comply with any applicable term, condition or provision of the certificate, license or permit, this article, any rule, regulation, order or directive pursuant hereto, or FEPCA or Arizona statutes, or rule, regulation, order, directive, certificate, license or permit issued pursuant thereto; or upon a determination by the director that the holder is operating within the Community or elsewhere in a faulty, careless or negligent manner, or has made false, inaccurate or incomplete reports or representations concerning pesticide operations or upon application for a certificate, license or permit hereunder, or is operating with improper or unsafe equipment or without adequate competent and responsible personnel. Such suspension or cancellation shall be upon written notice, and opportunity for hearing before the director not less than five days after notice; unless the director determines that an emergency situation exists, in which event there shall be immediate suspension upon notice, to be followed by such a hearing within five days.

(Code 1981, § 13-54; Code 2012, § 13-54; Ord. No. SRO-60-79, § 5, 8-29-1979; Ord. No. SRO-402-2012, § 13-54, 5-30-2012)

Sec. 13-102. Records and reports.

Each person who applies or otherwise uses restricted pesticides pursuant to certificate, li-

cense or permit issued pursuant hereto shall keep a record of each property treated and, upon request by the director, shall furnish copies of said records to the director. Such records shall be kept for a period of two years and they shall contain the name and address of the owner and exact location of the property treated; the crop treated; the pest or pests involved; the name, type and strength of pesticide used; the name and address of the person or firm where the pesticide was purchased, the persons applying the pesticide; the date, month, year and time of day of application; the direction and estimated velocity of the wind at the time of application and a description of the principal equipment used therefor; the person or persons who disposed of the pesticide containers, the type of container, and the manner and location in which the containers were disposed of.
(Code 1981, § 13-55; Code 2012, § 13-55; Ord. No. SRO-60-79, § 6, 8-29-1979; Ord. No. SRO-402-2012, § 13-55, 5-30-2012)

Sec. 13-103. Production, processing, distribution, sale, etc., prohibited.

No person may produce, process, manufacture, distribute, sell or offer to sell or dispose of any pesticide or pesticides within the Community.
(Code 1981, § 13-56; Code 2012, § 13-56; Ord. No. SRO-60-79, § 4, 8-29-1979; Ord. No. SRO-402-2012, § 13-56, 5-30-2012)

Sec. 13-104. Federally prohibited activities prohibited.

No person shall transport, handle or apply any pesticide within the Community if such activity or the manner of its conduct under the circumstances would be prohibited by FEPCA or rules, regulations, orders or directives issued pursuant thereto, if it occurred outside the Community and within the State of Arizona.
(Code 1981, § 13-57; Code 2012, § 13-57; Ord. No. SRO-60-79, § 9, 8-29-1979; Ord. No. SRO-402-2012, § 13-57, 5-30-2012)

Sec. 13-105. Only registered pesticide use allowed.

No person shall transport, apply, or otherwise use any pesticide within the Community unless that pesticide is properly and currently registered pursuant to both the FEPCA and Arizona statutes; however, if an unregistered pesticide is subject to an experimental use permit issued pursuant to the FEPCA and Arizona statutes, the director may authorize its experimental use by the permittee within the Community in strict compliance with the terms of the permit and such additional restrictions or requirements as may be imposed by the director. Any other exemptions from registration of pesticides pursuant to the FEPCA or Arizona statutes shall be inapplicable within the Community.
(Code 1981, § 13-58; Code 2012, § 13-58; Ord. No. SRO-60-79, § 7, 8-29-1979; Ord. No. SRO-402-2012, § 13-58, 5-30-2012)

Sec. 13-106. Use of registered pesticides to conform to federal and state requirements.

Any person who transports, handles or applies within the Community any pesticide registered as required by section 13-105 shall do so only in strict conformity with the terms and provision of the FEPCA and Arizona statutes, and all rules, regulations, orders and directives issued pursuant thereto, which are applicable to such registration, including those applicable to its particular classification of registration pursuant to the FEPCA
(Code 1981, § 13-59; Code 2012, § 13-59; Ord. No. SRO-60-79, § 8, 8-29-1979; Ord. No. SRO-402-2012, § 13-59, 5-30-2012)

Sec. 13-107. Judicial proceedings; Community court.

If at any time it appears to the director that any person has violated or failed to comply with the provisions of this article or any of the rules, regulations, orders and directives of the director, or certificate, license or permit issued by the director, or that such person is then so violating or failing to comply therewith, the director or his or her representative so authorized by him or her may institute proceedings in the Community court for any appropriate remedies, whether criminal or civil in nature, including injunctive relief, seizure and forfeiture, and the posting of bonds or sureties to ensure compliance. The foregoing shall not be deemed to limit or restrict the director or

any other persons taking appropriate action including issuance of cease-and-desist orders, and giving notification to representatives of federal, state, county or municipal government agencies, if it appears any person has violated or failed to comply as aforesaid; provided, however, the director and those acting on his or her behalf shall not undertake in his or her name or that of the Community, any action in any court other than the Community court.
(Code 1981, § 13-60; Code 2012, § 13-60; Ord. No. SRO-60-79, § 10, 8-29-1979; Ord. No. SRO-402-2012, § 13-60, 5-30-2012)

Secs. 13-108—13-127. Reserved.

ARTICLE V. FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES

Sec. 13-128. Policy.

It is the policy of the Community that food service and retail food store sales organizations operating within the Community conduct their food-handling businesses in such a way as to protect the public against hazards to their health and welfare.
(Code 1981, § 13-71; Code 2012, § 13-71; Ord. No. SRO-118-89, § 1, 3-1-1989; Ord. No. SRO-402-2012, § 13-71, 5-30-2012)

Sec. 13-129. Definitions.

In this article, unless the context otherwise requires, the following terms shall have the meanings herein ascribed to them:

Business means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sale, or activities engaged in which are operated from the residence of the operator, which residence is located within the exterior boundaries of the Community.

Engaging, when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

Food service means activities or acts engaged in by any person involving the sale of food at retail, in eating establishments or food stores.

Person means individual, corporation, company, association, firm, co-partnership or any group of individuals acting as a unit.
(Code 1981, § 13-72; Code 2012, § 13-72; Ord. No. SRO-118-89, § 2, 3-1-1989; Ord. No. SRO-402-2012, § 13-72, 5-30-2012)

Sec. 13-130. License required.

No person shall commence, practice, transact or carry on any business involving food service as defined in this article without first having procured a license as provided for in this article.
(Code 1981, § 13-73; Code 2012, § 13-73; Ord. No. SRO-118-89, § 3, 3-1-1989; Ord. No. SRO-402-2012, § 13-73, 5-30-2012)

Sec. 13-131. Relationship of license to others.

The license provided for in this article does not supplant any other requirement for the issuances of other licenses under this Community Code of Ordinances.
(Code 1981, § 13-74; Code 2012, § 13-74; Ord. No. SRO-118-89, § 4, 3-1-1989; Ord. No. SRO-402-2012, § 13-74, 5-30-2012)

Sec. 13-132. Application for license.

Application for a license under this article shall be made by the operator of the business engaged in food service on forms furnished by the Community manager to the Community development department. Every application shall be accompanied by an application fee in the amount of $50.00. Upon the granting of the license, the application fee shall be applied to the total required license fee. Annual license fees shall be $150.00.
(Code 1981, § 13-75; Code 2012, § 13-75; Ord. No. SRO-118-89, § 5, 3-1-1989; Ord. No. SRO-402-2012, § 13-75, 5-30-2012)

Sec. 13-133. Duration of license.

Each license shall be valid for a calendar year. Subsequent licenses will be issued upon the pay-

ment of a license application fee and the submission of a reapplication. There shall be no proration of license fees issued after the beginning of a calendar year.
(Code 1981, § 13-76; Code 2012, § 13-76; Ord. No. SRO-118-89, § 6, 3-1-1989; Ord. No. SRO-402-2012, § 13-76, 5-30-2012)

Sec. 13-134. Display of licenses.

All licenses issued under the provisions of this article must be displayed in a conspicuous place in the establishment at which the business dealing in food service is conducted or carried on.
(Code 1981, § 13-77; Code 2012, § 13-77; Ord. No. SRO-118-89, § 7, 3-1-1989; Ord. No. SRO-402-2012, § 13-77, 5-30-2012)

Sec. 13-135. Food Code.

The United States Department of Health and Human Services (HHS) and Food and Drug Administration's (FDA) 2009 Food Code (food code) and accompanying annex, including such chapters, appendices, annexes and comprehensive HHS/FDA food code amendments that may be amended and published from time to time shall be the governing law of the Community, provided for the following amendments to the food code:

Law means applicable Community, federal or other statutes, regulations and ordinances.

Permit means a license as required by section 13-130.

Regulatory authority means the Community.
(Code 1981, § 13-78; Code 2012, § 13-78; Ord. No. SRO-118-89, § 8, 3-1-1989; Ord. No. SRO-369-2010, § 13-78, 9-15-2010; Ord. No. SRO-402-2012, § 13-78, 5-30-2012)

Sec. 13-136. Intergovernmental agreements and consulting contracts.

The Community development department with the consent of the Community may enter into intergovernmental agreements with departments of the State of Arizona or departments of Maricopa County, Arizona, or with private contractors to provide inspection and other services required under this article.
(Code 1981, § 13-79; Code 2012, § 13-79; Ord. No. SRO-118-89, § 9, 3-1-1989; Ord. No. SRO-402-2012, § 13-79, 5-30-2012)

Sec. 13-137. Regulations.

All licenses under this article shall comply with all regulations which are promulgated under the authority of and in compliance with provisions of this article and with this Community Code of Ordinances.
(Code 1981, § 13-80; Code 2012, § 13-80; Ord. No. SRO-118-89, § 10, 3-1-1989; Ord. No. SRO-402-2012, § 13-80, 5-30-2012)

Sec. 13-138. License suspension or revocation.

Upon receiving notice that a licensee in connection with his or her operations under this article has violated any of the provisions under this article or any of the laws of the Community or the United States and upon a showing of such violation, after five days' notice thereof to all parties concerned and a hearing before the Community manager or his or her designee, the Community manager or his or her designee may suspend or revoke the license previously granted under this article to such licensee.
(Code 1981, § 13-81; Code 2012, § 13-81; Ord. No. SRO-118-89, § 11, 3-1-1989; Ord. No. SRO-402-2012, § 13-81, 5-30-2012)

Sec. 13-139. Appeals; waiver of requirements.

(a) Appeals from the denial, revocation or suspension of a license provided for in this article may be taken to the Community Council in accordance with procedures established by the council for the hearing of administrative appeals.

(b) The president or vice president of the Community may waive application and license fees if the applicant is a member of the Community and is unable to pay such fees within the year the application is made without undue hardship.
(Code 1981, § 13-82; Code 2012, § 13-82; Ord. No. SRO-118-89, § 12, 3-1-1989; Ord. No. SRO-402-2012, § 13-82, 5-30-2012)

Sec. 13-140. Violations.

Any person to whom a license has not been issued or if earlier issued has been revoked or suspended shall cease operation upon receipt of notice from the Community manager or his or her designee. If such person fails to cease operations, then the Community court, upon application of the Community manager for and on behalf of the Community Council and after having found a failure to secure a proper license or a suspension or a revocation of a license and failure to cease or desist operations, and upon three days' notice by the United States mail addressed to the place at which the business operations are carried out, and after a hearing to be held no longer than five days after application is made and three days after notice is mailed, shall issue a mandatory injunction requiring such person to vacate the premises and cease and desist operations. The order of the court, as issued, shall be carried out by the chief of police of the department of public safety or police officers of the department of public safety assigned by the chief of police.

(Code 1981, § 13-83; Code 2012, § 13-83; Ord. No. SRO-118-89, § 13, 3-1-1989; Ord. No. SRO-402-2012, § 13-83, 5-30-2012)

Chapter 14

ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES

Article I. In General

Sec. 14-1. Sovereign immunity.
Secs. 14-2—14-20. Reserved.

Article II. Alcoholic Beverage Control

Division 1. Generally

Sec. 14-21. Title; authority; purpose; etc.
Sec. 14-22. Scope.
Sec. 14-23. Definitions.
Sec. 14-24. Office of alcohol beverage control; director.
Sec. 14-25. Lawful commerce, possession or consumption.
Secs. 14-26—14-53. Reserved.

Division 2. Licenses

Sec. 14-54. Designated area.
Sec. 14-55. Premises that may be licensed.
Sec. 14-56. Applicant and licensee qualifications.
Sec. 14-57. Application.
Sec. 14-58. Notice.
Sec. 14-59. Applicant's burden.
Sec. 14-60. Evidence.
Sec. 14-61. Inappropriate purpose.
Sec. 14-62. Public hearing.
Sec. 14-63. Appeals.
Sec. 14-64. Terms; fees.
Sec. 14-65. Beverage restrictions.
Sec. 14-66. Reasons for revocation, suspension; grounds not to renew.
Sec. 14-67. Suspension; revocation; refusal to renew; sanctions.
Sec. 14-68. Response; appeal.
Sec. 14-69. Injunction.
Sec. 14-70. Amendment.
Sec. 14-71. Coordination with the Community police department.
Secs. 14-72—14-100. Reserved.

Article III. Unlawful Acts

Sec. 14-101. Chapter violations.
Sec. 14-102. Unlawful acts.
Secs. 14-103—14-132. Reserved.

Article IV. Possession In A Public Place

Sec. 14-133. Definitions.
Sec. 14-134. Illegality of possession, confiscation.
Sec. 14-135. Application for return of confiscated material.
Sec. 14-136. Civil action for wrongful confiscations; time and monetary limitations.
Secs. 14-137—14-155. Reserved.

Article V. Possession and Use of Narcotics, Hallucinogens or Dangerous Drugs; Seizure of Vehicles

Sec. 14-156. Possession or use of narcotics, hallucinogens, and other dangerous drugs.
Sec. 14-157. Seizure of vehicles used in drug violations.

ARTICLE I. IN GENERAL

Sec. 14-1. Sovereign immunity.

Nothing in this chapter is intended to be or shall be construed as a waiver of the sovereign immunity of the Community.
(Code 1981, § 14-1; Code 2012, § 14-1; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-1, 5-30-2012)

Secs. 14-2—14-20. Reserved.

ARTICLE II. ALCOHOLIC BEVERAGE CONTROL

DIVISION 1. GENERALLY

Sec. 14-21. Title; authority; purpose; etc.

(a) *Title.* This article shall be known as the Salt River Pima-Maricopa IndianCommunity Alcoholic Beverage Control Ordinance.

(b) *Authority.* This article is enacted pursuant to the Act of August 15, 1953, (Public Law 83-277, 67 stat. 588, 18 USC 1161) and article VII of the Community Constitution.

(c) *Purpose.* The purpose of this article and article III of this chapter is to regulate and control the possession, consumption, and sale of liquor or alcoholic beverages within the boundary of the Community. The enactment of an ordinance governing liquor or alcoholic beverage possession and sale on the reservation will increase the ability of the Community government to control alcoholic beverage sale, distribution, and possession while at the same time providing an important source of revenue for the continued operation and strengthening of the Community government and its delivery of Community government services.

(d) *Application of 18 USC 1161.* All acts and transactions under this article shall be in conformity with this article and in conformity with the laws of the State of Arizona, to the extent required by 18 USC 1161.

(e) *Effective date.* This article shall be effective as a matter of Community law upon approval by the Community Council and effective as a matter of federal law when the Assistant Secretary of Indian Affairs certifies and publishes this article in the federal register.
(Code 1981, § 14-2; Code 2012, § 14-2; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-2, 5-30-2012)

Sec. 14-22. Scope.

This chapter constitutes the entire statutory law of the Community in regard to the sale, possession and/or distribution of alcoholic beverages within the Community.
(Code 1981, § 14-3; Code 2012, § 14-3; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-3, 5-30-2012)

Sec. 14-23. Definitions.

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

Aggrieved party means a person, an applicant, a Community member or the Community.

Alcoholic beverage means beer, wine or other spirituous liquor (including but not limited to brandy, whiskey, rum, tequila, mescal, gin, porter, ale any malt liquor beverage, absinthe, a compound mixture of these or a compound mixture of these with any other substance which produces intoxication, fruits preserved in ardent spirits and beverages containing more than one-half of one percent of alcohol by volume).

Applicant means any partnership, corporation, limited liability company or Community enterprise as well as any natural person that is or are requesting approval of a Community liquor license.

Broken package means any container of spirituous liquor on which the United States tax seal has been broken or removed, or from which the cap, cork or seal placed thereupon by the manufacturer has been removed, except that "broken package" does not include when a person removes a bottle of wine that has been partially consumed in conjunction with a purchased meal from a

licensed premises if a cork is inserted flush with the top of the bottle or the bottle is otherwise securely closed.

Community means the Salt River Pima-Maricopa Indian Community, a federally recognized Indian tribe.

Controlling person means a person directly or indirectly possessing control of an applicant or licensee. Control is presumed to exist if a person has the direct or indirect ownership of or power to vote ten percent or more of the outstanding voting securities of the applicant, licensee or controlling person or to control in any manner the election of one or more of the directors of the applicant, licensee or controlling person. In the case of a partnership, control is presumed to mean the general partner or a limited partner who holds ten percent or more of the voting rights of the partnership. For the purposes of determining the percentage of voting securities owned, controlled or held by a person, there shall be aggregated with the voting securities attributed to the person the voting securities of any other person directly or indirectly controlling, controlled by or under common control with the other person, or by an officer, partner, employee or agent of the person or by a spouse, parent or child of the person. Control is also presumed to exist if a creditor of the applicant, licensee or controlling person holds a beneficial interest in ten percent or more of the liabilities of the licensee or controlling person.

Director means director of the Community regulatory agency who is also the director.

Gross revenue means the revenue derived from all the sales of food and alcoholic beverages on the licensed premises, regardless of whether the sales of alcoholic beverages are made under a restaurant license issued pursuant to this article.

Hearing officer means a person designated by the Community manager to hear an appeal of a decision made by the director.

License means a license issued pursuant to the provisions of this article by the Community.

Licensed premises or *premises* means a place from which a licensee is authorized to sell alcoholic beverages under the provisions of this article.

Licensee means any partnership, corporation, limited liability company or Community enterprise, as well as any natural person who has been authorized to sell alcoholic beverages for consumption at a particular premises by the Community.

Minibar means a closed container, either refrigerated in whole or in part or nonrefrigerated, where access to the interior is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

Office means the alcohol beverage control office or persons within the Community regulatory agency that regulate alcoholic beverage and/or liquor sales and distribution transactions within the Community as created in section 14-24.

Off-sale retailer means any person operating a bona fide regularly established retail liquor store selling alcoholic beverages and any established retail store selling commodities other than alcoholic beverages that is engaged in the sale of alcoholic beverages only in the original unbroken package, to be taken away from the premises of the retailer and to be consumed off the premises.

On-sale retailer means any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises or in individual portions for consumption on the premises.

Person means any partnership, corporation, limited liability company, or Community enterprise, as well as any natural person.

Possess means to have any item or substance within the control of a person or to have any alcoholic beverage within a person's body, regardless of where the consumption may have taken place.

Private residence means a place where an individual or a family maintains a habitation.

Public patio enclosure means a contiguous patio or a patio that is not contiguous to the remainder of the licensed premises if the noncontiguous

patio is separated from the remainder of the premises or licensed premises by a public or private walkway or driveway not to exceed 30 feet, subject to the rules that the office may adopt to establish criteria for a noncontiguous premises.

Public place means any place that is not a private residence, including within operational motor vehicles or nonresidential structures, and not licensed, pursuant to this article, for the possession of alcoholic beverages.

Restaurant (excluding the provisions in this article that govern casino or golf course licenses) means an establishment that derives at least 40 percent of its gross revenue from the sale of food, including sales of food for consumption off the licensed premises if the amount of these sales included in the calculation of gross revenue from the sale of food does not exceed 15 percent of all gross revenue of the restaurant.
(Code 1981, § 14-4; Code 2012, § 14-4; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-4, 5-30-2012; Ord. No. SRO-451-2015, § 14-23, 10-1-2014)

Sec. 14-24. Office of alcohol beverage control; director.

(a) *Office.* The office of alcohol beverage control (office) is hereby established within the Community's regulatory agency. The director of the Community regulatory agency is hereby designated as the alcohol beverage control officer (director) who will be responsible to the Community manager and whose duties may be delegated from time to time to other employees of the office. All of the positions of the office will be filled and conducted in accordance with the Community's established policies and procedures.

(b) *Authority of the office.* The office shall have the following authority:

(1) Grant and deny applications in accordance with this article;

(2) Adopt rules and regulations to implement this article;

(3) Hold hearings and make determinations on whether to grant or deny licenses;

(4) Employ necessary personnel;

(5) Maintain a public record open to the public containing the names and addresses of each licensee and any person who is a controlling person;

(6) Liaison between the office and the Community police department to ensure enforcement of this article and article III of this chapter and any relevant regulations issued pursuant to this chapter;

(7) Investigate and enforce compliance of this article and article III of this chapter and any relevant regulations that also pertain to the selling of alcoholic beverages within the Community; and

(8) Inspect, during the hours in which a premises is occupied, the premises of a licensee.

(9) To conduct a state and federal criminal history check pursuant to Arizona Revised Statute 41-1750 and Public Law 92-544 on all applicants for a license under this chapter; and that all applicants must submit a full set of fingerprints to the office who shall submit the fingerprints to the Arizona Department of Public Safety, who may then exchange the fingerprint data with the Federal Bureau of Investigation.

(c) *Inspection of premises, enforcement and investigations.* The office shall receive complaints of alleged violations of this article and article III of this chapter and is also responsible for the investigation of allegations of violations of, or noncompliance with, the selling of alcoholic beverages pursuant to this article and article III of this chapter or any relevant regulations issued pursuant to this chapter.

(1) The office shall establish a separate investigation unit which has as its responsibility the investigation of compliance within this article.

(2) A complete record of all applications, actions taken thereon, and any licenses issued shall be maintained by the office and shall be open for public inspection at the office.

(3) Office staff that are authorized to investigate pursuant to this article shall have the authority to investigate and issue a notice of a violation of noncompliance with this chapter.

(4) The office or the Community police department may cite a licensee to appear before the office or the hearing officer for a hearing upon allegations of violations of this article and article III of this chapter or any relevant law or regulation issued pursuant to this chapter.

(5) The office or the director may take evidence, administer oaths or affirmations, issue subpoenas requiring attendance and testimony of witnesses, cause depositions to be taken and require by subpoena duces tecum for the production of books, papers and other documents which are necessary for the enforcement of this article and article III of this chapter.

(6) The office, including the director, may, in enforcing the provisions of this article, inspect the premises.

(Code 1981, § 14-5; Code 2012, § 14-5; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-5, 5-30-2012; Ord. No. SRO-410-2013, § 14-5, 12-5-2012; Ord. No. SRO-439-2014, § 14-5(b)(9), 3-5-2014)

Sec. 14-25. Lawful commerce, possession or consumption.

(a) Alcoholic beverages may be possessed and consumed only at private residences, and licensed premises pursuant to this chapter, and may be transported in unbroken containers to such places. For purposes of this provision, "unbroken container" includes when a person removes a bottle of wine that has been partially consumed in conjunction with a purchased meal from a licensed premises if a cork is inserted flush with the top of the bottle or the bottle is otherwise securely closed.

(b) Wine may be purchased, stored, distributed and consumed in connection with the bona fide practice of a religious belief or as an integral part of a religious exercise of an organized church and in a manner not dangerous to public health or safety.

(c) The purchase, storage and use of alcoholic beverages solely for the purpose of cooking or preparing food and in a manner not dangerous to public health and safety are authorized.

(d) Alcoholic beverages may also be served and consumed at a premises licensed pursuant to a business ancillary license if the following conditions have been met; a business serves alcoholic beverages as part of a cooking demonstration or cooking class; or is an accredited school offering degree programs in the culinary arts.

(e) Alcoholic beverages may be sold at licensed premises only under the conditions under which the license is issued.

(Code 1981, § 14-6; Code 2012, § 14-6; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-6, 5-30-2012; Ord. No. SRO-451-2015, § 14-25, 10-1-2014)

Secs. 14-26—14-53. Reserved.

DIVISION 2. LICENSES

Sec. 14-54. Designated area.

The director may issue a license for premises located within the designated area identified in the December 9, 2009, approved Community liquor licensing area corridor (attached to the ordinance from which this article is derived, and incorporated herein by reference).

(1) The December 9, 2009, approved Community liquor licensing area corridor shall be kept with the official records of the Community in the office of the council secretary.

(2) Upon majority vote by the Community Council and publication in the Community's newspaper, the Community Council may amend the December 9, 2009,

approved Community liquor licensing area corridor and any future amendments thereof.

(Code 1981, § 14-7(a); Code 2012, § 14-7(b); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-366-2010, § 14-7(b), 7-14-2010; Ord. No. SRO-402-2012, § 14-7(b), 5-30-2012)

Sec. 14-55. Premises that may be licensed.

Licenses may only be issued for premises listed and defined as follows:

(1) *Hotel-motel license.*

a. The director may issue a hotel-motel license to any hotel or motel that operates either a restaurant or a bar in the hotel or motel, provided that the applicant is otherwise qualified to hold a license.

b. The holder of a hotel-motel license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises. For the purpose of this section, the term "licensed premises" includes all minibars located within guestrooms, accommodations, public bar rooms, outdoor patio enclosures, outdoor pool areas, public restaurant rooms, facilities, areas, and private banquet or meeting rooms located within the hotel-motel premises or connected to the hotel-motel premises.

(2) *Casino license.*

a. The director may issue a casino license to any casino authorized to operate as a casino by the Community.

b. The holder of a casino license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises. For the purpose of this section, the term "licensed premises" includes all public bar rooms, gaming areas, private banquet or meeting rooms, restaurants, other food service facilities, outdoor patio enclosures, and land contiguous to the casino facility.

(3) *Golf course clubhouse license.*

a. The director may issue a golf course clubhouse license to any golf course clubhouse.

b. The holder of a golf course clubhouse license is authorized to sell and serve alcoholic beverages solely for consumption on the licensed premises and only to patrons of the golf course facility. For the purpose of this section, the term "licensed premises" includes all restaurants and other food service facilities, private banquet or meeting rooms, bar rooms, outdoor patio enclosures, lounge facilities within the golf course clubhouse, and golf course enclosure. For purposes of this section, the term "golf course clubhouse" means a clubhouse located on a golf course. For purposes of this section, the term "golf course enclosure" means substantially undeveloped land, including amenities such as landscaping, irrigation systems, paths and golf greens and tees, that may be used for golfing or golfing practice by the public or by members and guests of a private club.

(4) *Restaurant license.*

a. The director may issue a restaurant license to any restaurant that is regularly open for the serving of food to guests for compensation and that has suitable kitchen facilities connected with the restaurant for keeping, cooking and preparing foods required for ordinary meals.

b. The restaurant shall be regularly open for the serving of food to guests for compensation and is an establishment which derives at least 40 percent of its gross revenue from the sale of food (which includes nonalcoholic beverages), including sales of food for consumption off the licensed premises if the amount of these sales included in the calculation of gross revenue from the sale of food does not exceed 15 percent of all gross revenue for the restaurant. For purposes of meeting the gross revenue requirements, a restaurant license applicant may request that the license premises include less than the entire establishment in which the applicant operates its business; provided that alcoholic beverages are restricted to the licensed premises.

c. The holder of a restaurant license may sell and serve alcoholic beverages solely for consumption on the licensed premises. For the purpose of this subsection, the term "licensed premises" may include rooms, areas or locations in which the restaurant normally sells or serves alcoholic beverages or spirituous liquors pursuant to regular operating procedures and practices and that are contiguous to the restaurant or a public patio enclosure. For the purposes of this subsection, a restaurant licensee must submit proof of tenancy or permission from the landlord for all property to be included in the licensed premises.

d. The holder of a restaurant license shall be required upon request of the office to submit an audit of the records for the premises to demon-

strate compliance with subsection (4)b of this section. An establishment that averages at least 40 percent of its gross revenue from the sale of food during a 12-month audit period shall be deemed to comply with the gross revenue requirements of subsection (4)b of this section. The 12-month audit period shall fall within the 16 months immediately preceding the beginning of the audit. The office shall not require an establishment to submit to such an audit more than once a year after the initial 12 months of operation. When conducting an audit, the office shall use generally accepted auditing standards.

1. If the audit reveals that the licensee did not meet the definition of a restaurant as prescribed in subsection (4)b of this section and the percentage of food sales was less than 37 percent, then the office shall deem the license to have been revoked or the office may recommend that the licensee be granted an additional 12-month period to attempt to increase their food percentage to at least 37 percent.

2. If the audit reveals that the licensee did not meet the definition of a restaurant as prescribed in subsection (4)b of this section and the percentage of food sales was more than 37 percent and less than 40 percent, then the office shall allow the licensee to continue to operate under the restaurant license for a period of one year, during which the licensee shall attempt to increase the food percentage to at least 40 percent. If the licensee does not increase the percentage of food sales to at least 40 percent, then the license issued pursuant to this article shall be revoked or the office may recommend that the licensee be granted an additional 12-month period to attempt to increase their food percentage to at least 40 percent.

(5) *Government license.*

a. The director may issue a government license to any Community governmental entity or commercial enterprise upon application by the governing board of that Community governmental or commercial enterprise entity for the sales of alcoholic beverages for consumption.

b. The holder of a government license may sell and serve alcoholic beverages solely for consumption on the licensed premises. The holder of the government license may sell and serve alcoholic beverages for consumption on the premises for which the license is issued, including a stadium.

c. Any agreement entered into by a Community governmental entity to a concessionaire to sell or serve alcoholic beverages pursuant to this subsection shall contain the following provisions:

1. A provision that fully indemnifies and holds harmless the Community and any of its agencies, boards, commissions, officers, and employees against any liability for loss or damage incurred either on or off Community property and resulting from the negligent serving of alcoholic beverages by the concessionaire or the concessionaire's agents or employees.

2. A provision that either posts a surety bond in favor of the Community in an amount determined by the Community to be sufficient to indemnify the Com-

munity against the potential liability or that names the Community as an additional insured in a liability policy that provides sufficient coverage to indemnify the Community as determined by the Community.

(6) *Business ancillary license and/or special event license.*

a. The director may issue a business ancillary license to a business that serves alcoholic beverages as part of a cooking demonstration or cooking class; or a school offering degree programs in the culinary arts.

1. A business ancillary license shall be issued pursuant to the process prescribed in sections 14-56 through 14-68; provided that certain provisions, as determined by the director (in a written form), may not be applicable as a business ancillary licensee is generally considered a social host and not engaged in the selling of alcoholic beverages.

2. A business ancillary license shall only be available to a business that is not in the primary business of selling food or alcohol.

3. The holder of a business ancillary license is authorized to serve alcoholic beverages solely for consumption on the licensed premises and only to guests of the business or in the case of a school, to students enrolled at the school.

4. The holder of a business ancillary license shall not be authorized to sell alcoholic beverages separately or by the drink.

b. The director may issue a special event license for a business for the purpose of holding a bona fide business-related networking function for its customers, clients, employees or business partners; or for the purpose of a bona fide charitable, civic, or religious organization to hold a special fundraising event; provided that any license issued as a special event license meets the following conditions:

1. A special event license is only issued for one day for a duration that shall not exceed eight hours;

2. A special event license may only be issued no more than once a year and shall only be issued to an applicant that has obtained a special event license pursuant to the requirements of the State of Arizona; and

3. A special event license shall only be available to a business that is not in the primary business of selling food or alcohol.

c. A person applying for a special event license must make application to the office at least 45 days prior to the special event. The director in his or her administrative discretion, without a public hearing, shall consider the following factors in determining whether to approve or disapprove the special event license:

1. Whether the event will be open to the public;

2. The criminal history of the applicant;

3. The nature of the event;

4. The security measures taken by the applicant;

5. The type of alcoholic beverages to be sold at the event;

6. How the alcoholic beverages will be served at the event;

7. Whether the applicant, within the past three years, has held an event that created a Community disturbance or whether

the event site has generated Community disturbance complaints;

8. The potential for noise, traffic, lack of parking, and other related concerns;
9. The length of the event;
10. The sanitary facilities available to the participants;
11. The anticipated number of participants at the event;
12. The availability of the Community's police and fire departments to provide coverage at the event (if deemed reasonably necessary by the Community);
13. Proof of adequate insurance (as deemed reasonably necessary by the director) by the applicant for this event; and
14. The nature of the sound amplification of the event.

d. In addition to the special event license issued pursuant to this article, the applicant must obtain a special use permit from the Community, and pay for any associated costs, including any overtime costs, for police, fire, or other Community departments whose presence is determined necessary, by the Community, for the special event.

(Code 1981, § 14-7(b); Code 2012, § 14-7(b); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-366-2010, § 14-7(b), 7-14-2010; Ord. No. SRO-402-2012, § 14-7(b), 5-30-2012)

Sec. 14-56. Applicant and licensee qualifications.

(a) Every alcoholic beverage licensee shall be a citizen of the United States.

(b) The office shall require an applicant and may require any controlling person to furnish background information and to submit a full set of fingerprints to the office.

(c) Each applicant or licensee shall designate a person who shall be responsible for managing the premises. The manager shall be a natural person and shall meet all the requirements for licensure pursuant to this article.

(d) No license shall be issued to any person who, within one year before application, has had a license revoked in any jurisdiction.

(e) No license shall be issued to or renewed for any person who, within five years before the application, has been convicted of a felony in any jurisdiction; provided that for a conviction of a corporation, LLC or partnership to serve as a reason for denial, conduct which constitutes the offense and was the basis for a felony conviction must have been engaged in, authorized, solicited, commanded or recklessly tolerated by the directors of the corporation, LLC or partnership or by a high managerial agent acting within the scope of employment. For purposes of this subsection, the term "high managerial agent" means an officer, partner or member of a corporation, LLC or partnership in a position of comparable authority with respect to the formulation of company policy.

(f) No corporation shall be issued a license or a renewal of that license unless on file with the office is a list of all of the corporation's officers and directors and any stockholders who owns ten percent or more of the corporation. The office shall not issue or renew a license for any person who at the request of the director fails to provide the office with complete financial disclosure statements indicating all financial holdings of any controlling person. Provided that, publicly traded companies are exempt from the requirements set forth in this subsection.

(g) An alcoholic beverage license shall be issued only after a satisfactory showing of the capability, qualifications and reliability of the applicant; and that the public convenience requires and that the best interest of the Community will be substantially served by the issuance of the license.

(h) The license shall be to sell or deal in alcoholic beverages only at the place and in the manner provided in the license. A separate license shall be issued for each specific premises.

(i) All applications for an original license, the renewal of a license or the transfer of a license pursuant to this article shall be filed with and determined by the director, unless an appeal is filed and then the hearing officer will approve or disapprove of such license.

(j) A person who assigns, surrenders, transfers or sells control of a business which has an alcoholic beverage license shall notify the office within 15 business days after the assignment, surrender, transfer or sale. An alcoholic beverage license shall not be leased or subleased. A concessional agreement is not considered a lease or a sublease in violation of this article.

(k) If a person other than those persons originally licensed acquires control of a license or licensee, the person shall file notice of the acquisition with the office within 15 business days after such acquisition of control. All officers, directors or other controlling persons shall meet the qualifications for licensure as prescribed in this article. On the request of the licensee, the director shall conduct a preinvestigation prior to the assignment, sale or transfer of control of a license or licensee; the reasonable costs of such investigation shall be borne by the applicant. The preinvestigation shall determine whether the qualifications for licensure as prescribed by this article are met.

(Code 1981, § 14-8(a); Code 2012, § 14-8(a); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(a), 5-30-2012)

Sec. 14-57. Application.

A person desiring a license to sell or deal alcoholic beverages shall make application to the office on a form prescribed by the office.

(Code 1981, § 14-8(b); Code 2012, § 14-8(b); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(b), 5-30-2012)

Sec. 14-58. Notice.

Within 30 days of receipt of the license application, the office shall hold a hearing on such application. Upon receipt of such application, the office shall post a copy of the completed application in a conspicuous place on the front of the premises where the business is proposed to be conducted and in this posting, the notice shall contain the following provisions:

> "A hearing on a liquor license application shall be held at the following date, time and location _____ [insert date, time and address]. Any person owning or leasing property within a one-mile radius may contact the office in writing to register as a protestor. To request information regarding procedures before the office and notice of any office hearings regarding this application, contact the office at _____ [insert office contact information]."

(Code 1981, § 14-8(c); Code 2012, § 14-8(c); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(c), 5-30-2012)

Sec. 14-59. Applicant's burden.

Licenses will be issued by the director after a hearing and upon a determination by the director that the following criteria have been met by a satisfactory showing by the applicant that:

(1) The public convenience requires the issuance of the license; and

(2) The best interests of the Community will be substantially served by the issuance of the license.

(Code 1981, § 14-8(d); Code 2012, § 14-8(d); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(d), 5-30-2012)

Sec. 14-60. Evidence.

Evidence that may be considered when determining whether the public convenience requires and the best interest of the Community is substantially served by the issuance of a license are the following:

(1) Petitions and testimony from persons in favor of or opposed to the issuance of a license who reside in the Community, or own or lease property located within the Community that is in close proximity to the proposed premises.

(2) The number and series of licenses in close proximity.

(3) Evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies.

(4) The residential and commercial population of the Community and its likelihood of increasing, decreasing or remaining static.

(5) The Community's residential and commercial population density in close proximity.

(6) Evidence concerning the nature of the proposed business, its potential market, and its likely customers.

(7) Effect on vehicular traffic in close proximity.

(8) The compatibility of the proposed business with other activity in close proximity.

(9) The effect or impact of the proposed premises on businesses or the residential neighborhood whose activities might be affected by granting the license.

(10) The history for the past five years of liquor violations and reported criminal activity at the proposed premises provided that the applicant has received a detailed report(s) of such activity at least 20 days before the hearing.

(11) Comparison of the hours of operation of the proposed premises to the existing businesses in close proximity.

(12) Proximity to licensed child care facilities and K through 12 schools.

(Code 1981, § 14-8(e); Code 2012, § 14-8(e); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(e), 5-30-2012)

Sec. 14-61. Inappropriate purpose.

In order to prevent the proliferation of licenses, the office may deny a license to an applicant after determining that the applicant's business is inappropriate for the sale of spirituous liquor. An inappropriate applicant or business is one that cannot clearly demonstrate that the sale of spirituous liquor is directly connected to its primary purpose and that the sale of liquor is not merely incidental to its primary purpose.

(Code 1981, § 14-8(f); Code 2012, § 14-8(f); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(f), 5-30-2012)

Sec. 14-62. Public hearing.

The director shall determine after a hearing has been held whether and under what conditions a license shall be issued.

(1) The hearing shall be announced by notice in the Community newspaper.

(2) Notice shall be given no less than ten business days prior to such hearing.

(3) The hearing shall be conducted by the director in an informal manner with rules adopted pursuant to this article calculated to ensure full disclosure of all relevant information.

(4) Professional attorneys may be permitted to represent parties at any administrative hearing before the office, the director or the hearing officer pursuant to this article.

(5) The director shall hear all relevant issues and, within 30 days after the hearing is concluded, shall issue a written decision.

(6) The decision will contain the findings of fact relied on by the director for the decision as well as the decision.

(7) The applicant shall be provided notice of the hearing via standard and certified mail.

(8) The director shall enter an order recommending approval or disapproval of the license within 60 days after the filing of the application.

(Code 1981, § 14-8(g); Code 2012, § 14-8(g); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(g), 5-30-2012)

Sec. 14-63. Appeals.

A decision of the director may be appealed by any aggrieved party to the Community manager. The Community manager shall appoint a hearing

officer to hear the appeal. The hearing officer shall be a member in good standing of the Arizona state bar and shall have previous experience serving in a judicial capacity.

(1) *Appeal process.* Appeals of any decision of the director shall follow this process:

a. A notice of appeal shall be filed with the Community manager within 15 business days after notice of the decision by the director.

b. The notice of appeal shall state all the grounds for appeal relied on by the appellant.

c. The appellee may file a short written response to the grounds for appeal within 15 business days after the notice of appeal is filed.

d. The notice of appeal and response shall be mailed to the opposing party within two business days after it was filed.

e. If the appellant is the applicant for the license, the appellee shall in all cases be the director. If the appellant is a person who filed a notice of appearance or the Community, the appellee shall in all cases be the applicant.

f. In the event there is more than one notice of appeal filed, the appeals shall be consolidated and only one response shall be filed to the consolidated appeals.

(2) *Status of initial determination.* The decision of the director shall be suspended until a final determination of the appeal is issued by the hearing officer.

(3) *Grounds for appeal.*

a. An aggrieved party may appeal any final decision of the director regarding applications or licenses based on a contention that the decision was any of the following:

1. Founded on or contained errors of law;

2. Unsupported by any competent evidence as disclosed by the record;

3. Materially affected by unlawful procedures;

4. Based on a violation of any Community constitutional provision; or

5. Arbitrary or capricious.

b. The hearing officer shall conduct a hearing and may accept any relevant and material evidence and testimony.

c. An official record of the hearing shall be prepared. Persons, at their own costs, may request that the hearing record be transcribed and may be provided a copy of the transcribed record.

d. The hearing officer shall determine whether the decision is supported by the findings of fact and the law.

e. The hearing officer may affirm, reverse or modify any decision issued by the director.

f. The hearing officer's decision shall be final and not subject to rehearing, review or appeal.

(Code 1981, § 14-8(h); Code 2012, § 14-8(h); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-8(h), 5-30-2012)

Sec. 14-64. Terms; fees.

Licenses shall be issued for a period of one year and are renewable on application to the office which will renew upon payment of the appropriate fee.

(1) A licensee who fails to renew the license on or before the due date shall pay a penalty of $500.00.

(2) If the due date falls on a Saturday, Sunday or a legal holiday, the renewal shall be considered timely if it is received by the office on the next business day.

(3) A licensee who fails to renew the license on or before the due date may not sell, purchase, or otherwise deal in alcoholic beverages until the license is renewed.

(4) A license that is not renewed within 60 days after its due date is deemed terminated. The director may renew the terminated license if good cause is shown by the licensee as to why the license was not renewed on its due date or the 60 days following the due date.

(5) Issuance fees for an original license and the renewal thereof shall be the following (excluding applicable surcharges):

	Licenses	*Original*	*Renewal*
a.	Hotel-motel	$2,000.00	$500.00
b.	Golf course	2,000.00	500.00
c.	Casino	2,500.00	750.00
d.	Restaurant	2,000.00	500.00
e.	Government	200.00	100.00
f.	Business ancillary	200.00	100.00
g.	Special event	200.00	

(6) The office may assess a surcharge on the annual renewals of licenses to be used to help defray the costs of an auditor and support staff to review compliance of the requirements of the licensees.

(7) The office may assess a surcharge to assist in the costs of enforcement programs that respond to complaints filed under this article.

(8) For purposes of this article only, licensee shall keep records of licensee's business activity and all persons employed at the licensed premises in a manner and location and for such duration as prescribed by the director for a period of at least two years. Business activity shall include invoices, records, bills or other papers and/or documents relating to the purchase, sale and delivery of alcoholic beverages, and in the case of a restaurant or hotel-motel licensee, such documentation shall also be kept for the purchase, sale and delivery of food.

(9) Licenses issued under this article are nontransferable without the prior written approval of the director after the application process has been completed.

a. The transfer fee of a license from one person to another person is $300.00 (excluding an application fee).

b. The transfer fee of license from one location to another location shall be $100.00 (excluding an application fee).

c. The office may issue an interim permit to the transferee of a transferable license pursuant to regulations established by the office.

(Code 1981, § 14-9(a); Code 2012, § 14-9(a); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-9(a), 5-30-2012; Ord. No. SRO-410-2013, § 14-9(a), 12-5-2012)

Sec. 14-65. Beverage restrictions.

(a) Licenses may only be issued for premises operated under the following classifications as defined herein; and such licenses may be restricted to the sale of:

(1) All alcoholic beverages;

(2) Only beer;

(3) Only wine; or

(4) Only beer and wine.

(b) Licenses may be restricted based on the type of license sought by the applicant.
(Code 1981, § 14-9(b); Code 2012, § 14-9(b); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-9(b), 5-30-2012; Ord. No. SRO-410-2013, § 14-9(b), 12-5-2012)

Sec. 14-66. Reasons for revocation, suspension; grounds not to renew.

After notice and a hearing, the director may revoke, suspend or refuse to renew any license issued pursuant to this article for the following reasons:

(1) There occurs on the licensed premises repeated acts of violence or disorderly conduct.

(2) The licensee fails to satisfactorily maintain the capability, qualifications and reliability requirements of an applicant for a license prescribed pursuant to this article.

(3) The licensee or controlling person knowingly files with the office an application or other document which contains material information which is false or misleading or while under oath knowingly gives testimony in an investigation or other proceeding under this article which is false or misleading.

(4) The licensee or the controlling person is habitually intoxicated while on the premises.

(5) The licensed business is delinquent for more than 90 days in the payment of taxes, penalties or interest to the Community.

(6) The licensee or the controlling person obtains, assigns, transfers or sells an alcoholic beverage license in a manner that is not compliant with this article and article III of this chapter.

(7) The licensee fails to keep for two years and make available to the office upon reasonable request all invoices, records, bills or other papers and/or documents relating the purchase, sale and delivery of alcoholic beverages, and in the case of a restaurant or hotel-motel license, all invoices, records, bills or other papers and/or documents relating to the purchase, sale and delivery of food.

(8) The licensee or controlling person violates or fails to comply with this article and article III of this chapter, any rule or regulation adopted pursuant to this chapter or any alcoholic beverage law of the Community.

(9) The licensee or an employee of a licensee fails to take reasonable steps to protect the safety of a customer of the licensee entering, leaving or remaining on the licensed premises when the licensee knew or reasonably should have known of the danger to such person, or the licensee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise prevent or break up an act of violence or an altercation occurring on the licensed premises or immediately adjacent to the premises when the licensee knew or reasonably should have known of such acts of violence or altercations.

(10) The licensee or controlling person lacks good moral character.

(11) The licensee or controlling person knowingly associates with a person who has engaged in racketeering or has been convicted of a felony, and the association is of such a nature as to create a reasonable risk that the licensee will fail to conform to the requirements of this article or of any Community law.

(12) The licensee or controlling person is convicted of a felony provided that for a conviction of a corporation, LLC or partnership to serve as a reason for any action by the office, conduct which constitutes the offense and was the basis for the felony conviction must have been engaged

in, authorized, solicited, commanded or recklessly tolerated by the directors of the corporation, LLC or partnership or by a high managerial agent acting within the scope of employment. For purposes of this subsection, the term "high managerial agent" means an officer, partner or member of a corporation, LLC or partnership or any other agent of the corporation, LLC or partnership in a position of comparable authority with respect to the formulation of company policy.

(Code 1981, § 14-9(c); Code 2012, § 14-9(c); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-9(c), 5-30-2012; Ord. No. SRO-410-2013, § 14-9(c), 12-5-2012)

Sec. 14-67. Suspension; revocation; refusal to renew; sanctions.

(a) The director may suspend, revoke or refuse to issue, transfer or renew a license based solely on the unrelated conduct or fitness of any officer, director, managing agent or other controlling person if that officer, director, managing agent or controlling person retains any interest in or control of the license after 60 days following a written notice to the licensee.

(b) The director may refuse to transfer any license or issue a new license at the same location if the director has filed a complaint against a licensee or the location which has not been resolved that alleges a violation of any of the grounds identified in this article and article III of this chapter until such time as the complaint has been finally adjudicated.

(c) The director may cause a complaint and notice of hearing to be directed to the licensee setting forth the violations alleged against the licensee.

(Code 1981, § 14-9(d); Code 2012, § 14-9(d); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-9(d), 5-30-2012; Ord. No. SRO-410-2013, § 14-9(d), 12-5-2012)

Sec. 14-68. Response; appeal.

(a) Upon receipt of a complaint, the licensee shall have ten business days to respond to the allegations by filing a written response to the director.

(b) Failure by the licensee to respond to the compliant within ten business days shall be considered an admission by the licensee of the allegations. The director may then vacate a hearing and impose appropriate sanctions on the licensee.

(c) In lieu of or in addition to any suspension, revocation or refusal to renew a license, the director may impose a civil penalty of not less than $200.00 and no more than $3,000.00 for each violation and/or require the licensee and its employees to attend certain training.

(d) The licensee may appeal the decision by the director to fine, revoke or not renew their license to the Community manager who will appoint a hearing officer pursuant to the requirements of this article. The hearing officer may affirm, modify or reverse the decision of the director to impose the civil penalty.

(Code 1981, § 14-9(e)—(h); Code 2012, § 14-9(e)—(h); Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-9(e)—(h), 5-30-2012; Ord. No. SRO-410-2013, § 14-9(e)—(h), 12-5-2012)

Sec. 14-69. Injunction.

If the office or the director has reasonable grounds to believe that a person owns, operates, leases, manages or is controlling a business establishment or business premises that is not properly licensed pursuant to this article, then the office or the director may apply to the Community court for a temporary restraining order or other injunctive relief prohibiting the specific acts complained of by the office or the director.

(Code 1981, § 14-10; Code 2012, § 14-10; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-10, 5-30-2012)

Sec. 14-70. Amendment.

This chapter may be amended by a majority vote of the Community Council or by the Community initiative or referendum process.

(Code 1981, § 14-11; Code 2012, § 14-11; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-11, 5-30-2012)

Sec. 14-71. Coordination with the Community police department.

In order to effectively enforce the regulatory and law enforcement provisions of this chapter, any report of violence or disorderly conduct occurring at an licensed premises that is received by either the office or the Community police department shall be immediately reported by the receiving department to the other department. In addition to the reporting of the incident, the department receiving the report of violence or disorderly conduct shall also share any relevant information with the other department unless the sharing of such information is prohibited by Community law or policy.
(Ord. No. SRO-410-2013, § 14-12, 12-5-2012)

Secs. 14-72—14-100. Reserved.

ARTICLE III. UNLAWFUL ACTS

Sec. 14-101. Chapter violations.

(a) *Civil sanctions and penalties.* A person who violates any provision of this chapter may have their license revoked, suspended or may be assessed other civil sanctions.

(b) *Criminal penalties.* Persons who come within the criminal jurisdiction of the Community, and are guilty of violations of this chapter, are subject to criminal penalties and upon conviction shall be sentenced to imprisonment for a period not to exceed six months or to a fine not to exceed $5,000.00 or both such imprisonment and fine, with costs.
(Code 1981, § 14-17; Code 2012, § 14-17; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-402-2012, § 14-17, 5-30-2012)

Sec. 14-102. Unlawful acts.

(a) It shall be unlawful for any person to buy, sell or distribute alcoholic beverages in any manner not allowed by this chapter.

(b) It shall be unlawful to employ a person under the age of 19 years in any capacity connected with the handling of alcoholic beverages.

(c) It shall be unlawful for a licensee or other person to give, sell or cause to be sold or otherwise distribute alcoholic beverages to a person under the age of 21 years.

(1) If a licensee, an employee of a licensee or any other person questions or has reason to question that a person ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure the serving or delivery of spirituous liquor is under the legal drinking age, the licensee, employee of the licensee or other person shall do the following:

   a. Demand identification from the person.

   b. Examine the identification to determine that the identification reasonably appears to be a valid, unaltered identification that has not been defaced.

   c. Examine the photograph in the identification and determine that the person reasonably appears to be the same person in the identification.

   d. Determine that the date of birth in the identification indicates the person is not under the legal drinking age.

(2) If a licensee or an employee of a licensee who follows the procedures prescribed above in subsections (c)(1)a through d of this section, records and retains a record of the person's identification on this particular visit, the licensee or employee of the licensee shall not be in violation of subsections (c) through (e) of this section.

(3) Proof that a licensee or employee followed the entire procedure proscribed above in subsections (c)(1)a through d of this section, but did not record and retain a record of the identification is an affirmative defense to a violation of this subsections (c) through (e) of this section.

(4) A licensee or employee of a licensee who has not recorded and retained a record of the identification prescribed by subsections (c)(1)a through d of this section, is

presumed not to have followed any of the elements of subsections (c)(1)a through d of this section.

(d) It shall be unlawful for a person under the age of 21 years to buy, possess, or consume alcoholic beverages.

(e) It shall be unlawful for a licensee or an employee of the licensee to knowingly permit any person on or about the licensed premises to give or furnish alcoholic beverages to any person under the age of 21 or knowingly permit any person under the age of 21 to have in the person's possession alcoholic beverages on the licensed premises.

(f) It shall be unlawful for a licensee or an employee of the licensee to consume alcoholic beverages on or about the licensed premises during such periods as when such person is working at the licensed premises, except that:

(1) An employee of an on-sale retailer, during the employee's working hours in connection with the employment, while the employee is not engaged in waiting on or serving customers, may taste samples of beer or wine not to exceed four ounces per day or distilled spirits not to exceed two ounces per day provided by an employee of a wholesaler or distributor who is present at the time of sampling.

(2) An employee of an on-sale retailer, under the supervision of a manager as part of the employee's training and education, while not engaged in waiting on or serving customers may taste samples of distilled spirits not to exceed two ounces per educational session or beer/wine not to exceed four ounces per educational session, and provided that a licensee shall not have more than two educational sessions in any 30-day period.

(3) An unpaid volunteer of a special event may purchase and consume alcoholic beverages while not engaged in waiting on or serving alcoholic beverages to customers at the special event. This subsection does not apply to unpaid volunteers whose responsibilities include verification of a person's legal drinking age, security or the operation of any vehicle or heavy machinery.

(4) A licensee or employee of a licensee of a business ancillary licensee may consume alcoholic beverages as part of a meal prepared in connection with a cooking demonstration.

(g) It shall be unlawful for a licensee or an employee of the licensee to sell alcoholic beverages to a disorderly or obviously intoxicated person, or for a licensee or employee of a licensee to allow or permit a disorderly or obviously intoxicated person to remain on the premises except that a licensee or an employee of the licensee may allow an obviously intoxicated person to remain on the premises for period of time of not to exceed 30 minutes after the state of obvious intoxication is known or should have been known to the licensee in order that a nonintoxicated person may transport the obviously intoxicated person from the premises. For purposes of this article, the term "obviously intoxicated" means inebriated to the extent that a person's physical faculties are substantially impaired and the impairment is shown by significant uncoordinated physical action or physical dysfunction that would have been obvious to a reasonable person.

(h) It shall be unlawful for a licensee or an employee of the licensee to sell alcoholic beverages that are in a broken package (all wine and alcoholic beverages shall have their seal broken by the licensee or their employee before serving such alcoholic beverage to the customer).

(i) It shall be unlawful for a licensee or an employee of the licensee to sell alcoholic beverages as an off-sale retailer.

(j) It shall be unlawful for a licensee or an employee of the licensee to sell alcoholic beverages within the Community without being also licensed by the State of Arizona to sell alcoholic beverages.

(k) It shall be unlawful for a licensee or an employee of the licensee to sell, dispose of, deliver or give alcoholic beverages to a person between the hours of 2:00 a.m. and 6:00 a.m.

(l) It shall be unlawful for a licensee or an employee of the licensee to allow a person to consume or possess alcoholic beverages on the premises between the hours of 2:30 a.m. and 6:00 a.m.

(m) It shall be unlawful for a person to consume alcoholic beverages in a public place, thoroughfare or gathering. Any licensee or employee of the licensee permitting violations of this section shall be subject to license revocation. This subsection does not apply to the sale of alcoholic beverages on the premises of and by an on-sale retailer.

(n) It shall be unlawful for an on-sale retailer or an employee of the licensee to allow a person under the age of 21 years to remain in an area on the licensed premises during those hours in which the primary use is the sale, dispensing or consumption of alcoholic beverages after the licensee, or the licensee's employees know or should have known that the person is under the age of 21 years. This subsection does not apply if the person under the legal drinking age is accompanied by a spouse, parent or legal guardian who is of legal drinking age, is an on-duty employee of the licensee, or to the area of the premises used primarily for the serving of food when food is being served.

(o) It shall be unlawful for an on-sale retailer or employee of the licensee to conduct drinking contests, to sell or deliver to a person an unlimited number of alcoholic beverages during any set period of time for a fixed price, to deliver more than 40 ounces of beer, one liter of wine or four ounces of distilled spirits in any alcoholic beverage drink to one person at one time for that person's consumption or to advertise any practice prohibited by this subsection.

(p) It shall be unlawful for a licensee or an employee of the licensee to knowingly permit the unlawful possession, use, sale or offer for sale of narcotics, dangerous drugs or marijuana on the premises.

(q) It shall be unlawful for a licensee or an employee of the licensee to knowingly permit prostitution or the solicitation of prostitution on the premises.

(r) It shall be unlawful for a licensee or an employee of the licensee to knowingly permit unlawful gambling on the premises.

(s) It shall be unlawful for a licensee or an employee of the licensee to knowingly permit trafficking or attempted trafficking in stolen property on the premises.

(t) It shall be unlawful for a licensee or an employee of the licensee to fail or refuse to make the licensed premises or records available for inspection and examination or so to comply with a lawful subpoena issued under this chapter.

(u) It shall be unlawful for any person other than a law enforcement officer, the licensee or an employee of the licensee acting with the permission of the licensee to be in the possession of a firearm while on the licensed premises of an on-sale retailer.

(v) It shall be unlawful for a licensee or an employee of the licensee to knowingly permit a person in possession of a firearm, other than a law enforcement officer, the licensee or the employee of the licensee (acting with the permission of the licensee) to remain on the licensed premises or to serve, sell or furnish spirituous liquor to a person in possession of a firearm while on the licensed premises of an on-sale retailer.

(w) It shall be unlawful for a person under the age of 21 to drive or be in physical control of a motor vehicle while there is any alcoholic beverage in the person's body.

(x) It shall be unlawful for a licensee or employee of the licensee to purposely induce a voter, by means of alcohol, to vote or abstain from voting for or against a particular candidate or issue on election day.

(y) It shall be unlawful for a licensee to fail to report an occurrence of an act of violence, within three business days, to either the office or the Community police department.

(z) It shall be unlawful for any person to consume or be in the possession of any open container of alcoholic beverages while operating or while within the passenger compartment of a motor vehicle that is located on any roadways or public parking lots within the Community. This

subsection does not apply to a passenger on any bus, limousine or a passenger in the living quarters of a mobile home.

(1) *Motor vehicle* means any vehicle that is driven or drawn by mechanical power and that is designated for primary use on public roadways.

(2) *Open container* means any bottle, can, jar or other receptacle that contains alcoholic beverages and that has been opened, has had its seal broken or that the contents of which have been partially removed, except that it does not mean when a person removes a bottle of wine that has been partially consumed in conjunction with a purchased meal from a licensed premises if a cork is inserted flush with the top of the bottle or the bottle is otherwise securely closed.

(3) *Passenger compartment* means the area of a motor vehicle designed for seating of the driver and other passengers of the vehicle. Passenger compartments include any unlocked glove compartment and any unlocked portable devices within the immediate reach of the driver or any passengers.

(aa) It shall be unlawful for any person over the age of 18 who lawfully exercises dominion and control within any private residence or the surrounding premises to knowingly permit any person under the age of 21 to possess or consume alcoholic beverages within the private residence or within the immediate surrounding premises.

(bb) It shall be unlawful for a licensee to sell alcoholic beverages in any manner not provided for by this chapter or any regulations issued pursuant to this chapter.
(Code 1981, § 14-18; Code 2012, § 14-18; Ord. No. SRO-355-2010, 9-12-2009; Ord. No. SRO-366-2010, § 14-18, 7-14-2010; Ord. No. SRO-402-2012, § 14-18, 5-30-2012; Ord. No. SRO-410-2013, § 14-18, 12-5-2012; Ord. No. SRO-451-2015, § 14-102, 10-1-2014)

Secs. 14-103—14-132. Reserved.

ARTICLE IV. POSSESSION IN A PUBLIC PLACE

Sec. 14-133. Definitions.

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

Alcoholic beverages means beer, wine or other spirituous liquor.

Contraband means:

(1) Marijuana, alcoholic beverages, and other drugs, possession of which is in violation of the ordinances of the Community;

(2) Implements used for the smoking or administration of marijuana or other drugs, possession of which is in violation of the ordinances of the Community; and

(3) All deadly weapons and dangerous instruments, including firearms.

Public place means any place not a private residence and any place not licensed for the possession of alcoholic beverages.
(Code 1976, § 11-21; Code 1981, § 14-21; Code 2012, § 14-21; Ord. No. SRO-31-74, 5-29-1974; SRO-184-95, 10-12-1994; Ord. No. SRO-255-99, 9-1-1999; Ord. No. SRO-402-2012, § 14-21, 5-30-2012)

Sec. 14-134. Illegality of possession, confiscation.

(a) It shall be illegal for any person to possess alcoholic beverages in any public place within the exterior boundaries of the Community unless that person is acting pursuant to this article in the confiscation of such alcoholic beverages.

(b) It shall be illegal for any person to possess contraband within the exterior boundaries of the Community unless that person is acting pursuant to this article in the confiscation of such contraband.

(c) The Community police department shall be charged with the responsibility of confiscating any contraband or alcoholic beverages within the perimeter of the Community.
(Code 1976, § 11.22; Code 1981, § 14-22; Code 2012, § 14-22; Ord. No. SRO-31-74, 5-29-1974; Ord. No. SRO-402-2012, § 14-22, 5-30-2012)

Sec. 14-135. Application for return of confiscated material.

(a) At the time any contraband or alcoholic beverages are confiscated from any person within the exterior boundaries of the Community, the law officer confiscating such contraband or alcoholic beverages shall give written notice to the person from whom the contraband or alcoholic beverages have been confiscated. That person may within ten days of the time of confiscation apply to the Community court for an order requiring the Community police department to release the items and things confiscated.

(b) Upon application from any person from whom contraband or alcoholic beverages have been confiscated, the Community court shall set a date for a hearing and shall give notice of such hearing to the Community police department as well as the person making application therefor. Such hearing shall be set no later than ten calendar days from receipt of the application. If it has been determined after a hearing by the judge of the Community court that the items and things confiscated did not constitute contraband or alcoholic beverages within the meaning of this article, or if the items and things confiscated were alcoholic beverages but were confiscated in a place other than a public place, the court shall within five days from the date of the hearing order the Community police department to return such items or things no later than one day after entry of the court's order.

(c) If no application for hearing is made within ten days of the date of confiscation, or if upon hearing it is the judgment of the court that the items or things confiscated are contraband or alcoholic beverages, then the Community police department shall dispose of the contraband or alcoholic beverages by any legal means.
(Code 1976, § 11.24(a)—(c); Code 1981, § 14-23; Code 2012, § 14-23; Ord. No. SRO-31-74, 5-29-1974; Ord. No. SRO-184-95, 10-12-1994; Ord. No. SRO-402-2012, § 14-23, 5-30-2012)

Sec. 14-136. Civil action for wrongful confiscations; time and monetary limitations.

Any person from whom contraband or alcoholic beverages have been confiscated, who after application for return of the same, receives a court order allowing for return of the items or things confiscated, may bring a civil action against the officers confiscating such items or things only in the event that the confiscation was done maliciously and with prior intent to injure the person from whom the items or things were confiscated. No such action may be brought more than one year after the date of the alleged act. No judgment awarded by the Community court in such a civil action shall exceed the sum of $20.00.
(Code 1976, § 11.24; Code 1981, § 14-24; Code 2012, § 14-24; Ord. No. SRO-31-74, 5-29-1974; Ord. No. SRO-402-2012, § 14-24, 5-30-2012)

Secs. 14-137—14-155. Reserved.

ARTICLE V. POSSESSION AND USE OF NARCOTICS, HALLUCINOGENS OR DANGEROUS DRUGS; SEIZURE OF VEHICLES

Sec. 14-156. Possession or use of narcotics, hallucinogens, and other dangerous drugs.

(a) *Prohibited generally.* It shall be unlawful for any person to possess, have under his or her control, dispense, use, transport, carry, sell, give away, prepare for sale, furnish, administer, or offer to sell, furnish, administer or give away any narcotic, hallucinatory or other dangerous drug except as pursuant to this section.

(b) *Inhalation prohibited.* It shall be unlawful for any person to inhale or sniff any substance for the purpose of becoming intoxicated.

(c) *Prescription drugs exempt.* This section shall not apply to persons who possess, have under their control, use, transport or carry narcotics, hallucinogens and other dangerous drugs pursuant to a valid prescription issued to that person by a licensed physician, osteopath, dentist or veterinarian.

(d) *Certain professionals exempt.* This section shall not apply to manufacturers, wholesalers, apothecaries, physicians, osteopaths, dentists or veterinarians who have under their control, dispense, use, transport, sell, prepare for sale, furnish, administer, or offer to do the same any drug regulated by this section, so long as such acts are done without violation of any law of the United States.

(e) *Narcotics.* Narcotics regulated by this section include but are not limited to opium and opiates, including but not limited to heroin, methadone, morphine and codeine; coca leaves and their derivatives, including but not limited to cocaine; and those narcotics listed in schedules I, II, III, IV and V of 21 USCA 812.

(f) *Hallucinogens.* Hallucinogens regulated by this section include but are not limited to mescal buttons, peyote buttons, marijuana, dimethyltryptamine (DMT) lysergic acid diethylamide (LSD), 4-methyl-2, 5-dimethoxyamphetamine (STP), and those hallucinogens listed in Schedules I, II, III, IV and V of 21 USCA 812.

(g) *Dangerous drugs.* Dangerous drugs regulated by this section include the drugs prohibited in 21 USCA 812, not included within subsections (e) and (f) of this section.

(h) *Certain religious ceremonies exempt.* This section does not apply to peyote used in bona fide Native American Church religious ceremonies, provided that such acts are done without violation of any law of the United States.

(i) *Penalties.* Any person who violates any subsection of this section within the boundaries of the Salt River Pima-Maricopa Reservation shall be subject to forfeiture of the vehicle or ordered to pay a civil fine of not more than $5,000.00, or both.

(Code 1981, § 14-31; Code 2012, § 14-31; Ord. No. SRO-330-08, 4-23-2008; Ord. No. SRO-402-2012, § 14-31, 5-30-2012)

Sec. 14-157. Seizure of vehicles used in drug violations.

(a) *Forfeiture of interest.* The interest of the legal owner or owners of record of any vehicle used to transport unlawfully a narcotic drug, hallucinogen, or dangerous drug as defined by sections 14-156(e), (f) and (g), or in which a narcotic drug, hallucinogen, or dangerous drug is unlawfully kept, deposited or concealed, or in which a narcotic drug, hallucinogen, or dangerous drug is unlawfully possessed by an occupant, shall be forfeited to the Community.

(b) *Police officer to seize vehicle.* Any Community peace officer making or attempting to make an arrest, or to issue a citation, shall seize any vehicle used to transport unlawfully a narcotic drug, hallucinogen, or dangerous drug as defined by sections 14-156(e), (f) and (g), or in which such drugs are unlawfully kept, deposited or concealed, or unlawfully possessed by an occupant and shall immediately deliver the vehicle to the Community police chief, to be held as evidence until forfeiture is declared or a release ordered.

(c) *Notice of seizure.* A police officer who seizes a vehicle under the provisions of this section shall notify the office of the general counsel of the vehicle seizure and the office of the general counsel shall file a notice within five business days of seizure and intention to institute forfeiture proceedings with the clerk of the Community court and the clerk shall forthwith serve notice thereof on all owners of the vehicle by one of the following methods:

(1) Upon an owner or claimant whose right, title or interest is of record in the division of motor vehicles of the state in which the automobile is licensed, by mailing a copy of the notice by registered mail to the address on the records of the division of motor vehicles of said state.

(2) Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his or her last known address.

(3) Upon an owner or claimant, whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation in Maricopa County, Arizona.

(d) *Owner's or claimant's answer to notice.* Within 20 days after the mailing or publication of a notice of seizure, as provided by subsection (c) of this section, the owner of the seized vehicle may file a verified answer to the allegations of the use of the vehicle contained in the notice of seizure and of the intended forfeiture proceedings. No extension of time shall be granted for the purpose of filing the answer.

(e) *Authority to compromise.*

(1) The Community shall make due provisions and take necessary action to protect the rights of innocent or nonliable persons, as is consistent with this article.

(2) At any time, the Community is authorized to grant requests for mitigation or remission of forfeiture and restore forfeited property to innocent or guiltless parties.

(3) If the Community grants such a request, it shall inform the court of the settlement and the court shall issue an order consistent with the action taken by the Community.

(f) *Procedure for hearing.*

(1) If a verified answer to the notice given as prescribed by this section is not filed within 20 days after the mailing or publication thereof, the court shall hold an evidentiary hearing no later than 30 days after the answer is due to hear evidence upon the claim of unlawful use of the vehicle, and upon motion, shall order the vehicle forfeited to the Community. This hearing may be continued once for not more than 30 days.

(2) If a verified answer is filed, the forfeiture hearing shall be set for a day not less than 15 days or more than 30 days after the answer is filed and the proceedings shall have priority over other civil cases. Upon the request of the owner or claimant, the court shall continue the time for trial for the period of time requested by the owner or claimant, but not to exceed 30 days unless justice requires a longer continuance. The Community may request a continuance of a trial date which may be granted by the court only if justice requires and such continuance shall not exceed 15 days. Notice of the hearing shall be given by regular mail to the address provided in the answer.

(3) At the hearing, any owner or claimant who has a verified answer on file may show by competent evidence that the vehicle was not used to transport a narcotic drug, hallucinogen, or dangerous drug illegally, or that a narcotic drug, hallucinogen, or dangerous drug was not unlawfully possessed by an occupant of the vehicle, nor the vehicle used as a depository or place of concealment for such drugs.

(4) If an owner or claimant does not show by competent evidence that he or she had no knowledge of, and should not have known that the vehicle would be used in the manner claimed, the court shall upon motion order the vehicle forfeited to the Community.

(5) A claimant of any right, title or interest in the vehicle may prove his or her lien, mortgage or conditional sales contract to be bona fide, and that his or her right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser, and without knowledge that the vehicle was being, or was to be used for the purpose claimed; but no person who has the lien dependent upon possession for the compensation to which he or she is legally entitled for making repairs or performing labor upon and furnishing supplies and materials for, and for the storage, repairs, safekeeping of any vehicle, and no person doing business under any law of any state or the United States relating to banks, trust companies, building and loan associations, and loan companies, credit unions or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or purchasing conditional sales contracts on vehicles shall be required to prove that his or her right, title or interest was created

after a reasonable investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant.

(g) *Judgment.*

(1) The court shall issue the written judgment no later than ten business days after the hearing.

(2) After a hearing held pursuant to subsection (f)(1) of this section and upon a showing of competent evidence, the court shall order the vehicle forfeited to the Community.

(3) If proper proof is not presented at a hearing held pursuant to subsection (f)(3) of this section, the court shall order the vehicle forfeited to the Community.

(4) If proper proof is presented by the owner or claimant pursuant to subsection (f)(4) or (f)(5) of this section, the court shall order the vehicle released to the bona fide owner, lien holder, mortgagee or vendor.

(Code 1981, § 14-32; Code 2012, § 14-32; Ord. No. SRO-330-08, 4-23-2008; Ord. No. SRO-402-2012, § 14-32, 5-30-2012)

Chapter 15

LICENSING AND PERMITTING

Article I. In General

Sec. 15-1. Violation of chapter.
Sec. 15-2. Authority to tax and regulate.
Secs. 15-3—15-22. Reserved.

Article II. Business Licenses Generally

Sec. 15-23. Definitions.
Sec. 15-24. License required generally.
Sec. 15-25. Relationship to privilege tax.
Sec. 15-26. Application form; payment of fee required.
Sec. 15-27. Processing and approval of application.
Sec. 15-28. Fee schedule.
Sec. 15-29. When fee collected; disposition of funds.
Sec. 15-30. Term of license; transferability.
Sec. 15-31. Display of license.
Sec. 15-32. Age of licensee.
Sec. 15-33. Applicant previously convicted of felony.
Sec. 15-34. Licensees to conform to Community treasurer regulations.
Sec. 15-35. Standards of business operation.
Sec. 15-36. License suspension or revocation.
Sec. 15-37. Appeals; waiver of requirements.
Sec. 15-38. Violations.
Sec. 15-39. Conditions on issuance of business license.
Secs. 15-40—15-50. Reserved.

Article III. Specific Licenses

Division 1. Hunting and Fishing Licenses

Sec. 15-51. Right of members.
Sec. 15-52. Nonmembers required to obtain permits.
Secs. 15-53—15-72. Reserved.

Division 2. Trailer Space Rental Business

Sec. 15-73. Licenses required to engage in business or renting trailer spaces.
Sec. 15-74. Applicability to corporations.
Sec. 15-75. Application for licenses; authority of president; appeal to Community Council.
Sec. 15-76. Term of licenses.
Sec. 15-77. License fee; duty of treasurer.
Sec. 15-78. Form of licenses.
Sec. 15-79. Revocation of licenses.
Sec. 15-80. Conduct of licensed business to be within the law.
Sec. 15-81. Relationship of licenses to leases.
Secs. 15-82—15-104. Reserved.

Division 3. Sale of Cigarettes At Retail

Sec. 15-105. Policy.
Sec. 15-106. Definitions.
Sec. 15-107. License required.

Sec. 15-108. Exempt seller.
Sec. 15-109. Existing retailers.
Sec. 15-110. Future retailers.
Sec. 15-111. Density control.
Sec. 15-112. Application form.
Sec. 15-113. Financial statement.
Sec. 15-114. Approval of applications.
Sec. 15-115. Term of license; transferability.
Sec. 15-116. Retailer previously convicted of felony.
Sec. 15-117. Compliance with Community law.
Sec. 15-118. Suspension or revocation of license.
Sec. 15-119. Appeal.
Sec. 15-120. Violations.
Sec. 15-121. Retailers exempt from State of Arizona cigarette taxes.
Sec. 15-122. Civil penalties.
Sec. 15-123. Advertising.
Sec. 15-124. Electronic cigarettes; sales to minors prohibited.
Secs. 15-125—15-148. Reserved.

Division 4. Amusement Licenses

Sec. 15-149. License required.
Sec. 15-150. Application form and fee.
Sec. 15-151. Processing of application.
Sec. 15-152. Age of licensee.
Sec. 15-153. Applicant previously convicted of felony.
Sec. 15-154. Fee schedule.
Sec. 15-155. Time of payment; disposition; refunds.
Sec. 15-156. Proration of fees.
Sec. 15-157. Term and transferability of license.
Sec. 15-158. Display of license; replacement.
Sec. 15-159. Relation to privilege license and use tax.
Sec. 15-160. Suspension or revocation of license.
Sec. 15-161. Appeals concerning denial, revocation and suspension of licenses.
Sec. 15-162. Licensees to conform to Community treasurer regulations.
Sec. 15-163. Operational regulations.
Sec. 15-164. Violations.
Secs. 15-165—15-181. Reserved.

Division 5. Public Dance Permits

Sec. 15-182. Policy.
Sec. 15-183. Definitions.
Sec. 15-184. Permit required.
Sec. 15-185. Issuance of permits.
Sec. 15-186. Alcoholic beverages.
Sec. 15-187. Illegal substances prohibited.
Sec. 15-188. Attendance of children restricted.
Sec. 15-189. Parking and safety ordinances.
Sec. 15-190. Limitation of time.
Sec. 15-191. Injuries at public dances on private property.
Sec. 15-192. Enforcement.
Sec. 15-193. Regulations adopted pursuant to this division within this Community Code of Ordinances.
Sec. 15-194. Violations.
Secs. 15-195—15-211. Reserved.

Division 6. Public Dance Hall

Sec. 15-212. Operation or maintenance.

Secs. 15-213—15-232. Reserved.

Division 7. Fireworks and Pyrotechnics

Sec. 15-233. Purpose.
Sec. 15-234. Generally.
Sec. 15-235. Fireworks application and permits.
Sec. 15-236. Supervision of display.
Sec. 15-237. Penalty.
Sec. 15-238. Moratorium.
Sec. 15-239. Further actions.
Sec. 15-240. Other provisions.

ARTICLE I. IN GENERAL

Sec. 15-1. Violation of chapter.

Failure to comply with any licensing or taxing ordinance for which a penalty is not otherwise provided shall constitute an offense for which the punishment shall be a fine of not more than $200.00. The court may also cause the violator's license to do business to be revoked.
(Code 1976, § 9.1; Code 1981, § 15-1; Code 2012, § 15-1; Ord. No. SRO-402-2012, § 15-1, 5-30-2012)

Sec. 15-2. Authority to tax and regulate.

The Community has the inherent sovereign authority to regulate the conduct of persons and activities within its territory and jurisdiction and also to control economic activity within its boundaries. The provisions of this Community Code of Ordinances shall be liberally construed in accordance with the fullest interpretation of the Community's taxing and regulatory authority permitted by applicable laws, including the provisions of the Constitution of the Community.
(Code 2012, § 15-2; Ord. No. SRO-402-2012, § 15-2, 5-30-2012)

Secs. 15-3—15-22. Reserved.

ARTICLE II. BUSINESS LICENSES GENERALLY

Sec. 15-23. Definitions.

In this article, unless the context otherwise requires; the following terms shall have the meanings herein ascribed to them:

Business means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage either direct or indirect, but not casual activities or sale, or activities engaged in which are operated from the residence of the operator which residence is located within the exterior boundaries of the Community.

Community member-owned business means a business owned by one or more enrolled member(s) of the Salt River Pima-Maricopa Indian Community.

Engaging, when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

Person means any individual, corporation, company, association, firm, co-partnership or any group of individuals acting as a unit.
(Code 1981, § 15-21; Code 2012, § 15-21; Ord. No. SRO-49-78, § I, 10-26-1977; Ord. No. SRO-402-2012, § 15-21, 5-30-2012; Ord. No. SRO-452-2015, § 15-23, 10-22-2014)

Sec. 15-24. License required generally.

No person shall commence, practice, transact or carry on any business as defined in this article without first having procured a license as provided for in this article.
(Code 1981, § 15-22; Code 2012, § 15-22; Ord. No. SRO-49-78, § II-1, 10-26-1977; Ord. No. SRO-402-2012, § 15-22, 5-30-2012)

Sec. 15-25. Relationship to privilege tax.

No provision of this article shall be construed to avoid payment of any privilege license and use tax in accordance with other ordinances of the Community.
(Code 1981, § 15-23; Code 2012, § 15-23; Ord. No. SRO-49-78, § II-3, 10-26-1977; Ord. No. SRO-402-2012, § 15-23, 5-30-2012)

Sec. 15-26. Application form; payment of fee required.

Application for a license under this article shall be made by the operator on forms furnished by the Community manager. Every application shall be accompanied by an application fee as provided in section 15-28 and shall be fully completed. Upon the granting of a license such application fee shall be applied to the total required license fee.
(Code 1981, § 15-24; Code 2012, § 15-24; Ord. No. SRO-49-78, § II-2, 10-26-1977; Ord. No. SRO-402-2012, § 15-24, 5-30-2012)

Sec. 15-27. Processing and approval of application.

Every application filed pursuant to this article must be processed and approved by such Commu-

nity departments as shall be designated by administrative order, and such orders shall be uniform in their application for every class of license.
(Code 1981, § 15-25; Code 2012, § 15-25; Ord. No. SRO-49-78, § II-4, 10-26-1977; Ord. No. SRO-402-2012, § 15-25, 5-30-2012)

Sec. 15-28. Fee schedule.

The application and license fees under this section shall be effective within ten days of the enactment of the ordinance from which this article is derived, shall be payable in advance, and, except as otherwise provided in this article, shall be payable in accordance with the provisions of section 15-29. Application fees under this article shall be $40.00. License fees under this article shall be $60.00. Community member-owned business license fees under this article shall be $10.00.
(Code 1981, § 15-26; Code 2012, § 15-26; Ord. No. SRO-49-78, § II-5, 10-26-1977; Ord. No. SRO-142-92, § 1, 10-9-1991; Ord. No. SRO-402-2012, § 15-26, 5-30-2012; Ord. No. SRO-452-2015, § 15-28, 10-22-2014)

Sec. 15-29. When fee collected; disposition of funds.

All fees for applications or licenses collected under the provisions of this article shall be paid in advance and shall be retained by the Community treasurer. In the event no license is issued, the application fee shall not be returned to the applicant but shall be instead applied to cover the costs of processing such application. In the event a license has been granted and later revoked or suspended under the provisions of this article, or in the event the establishment is later discontinued after being licensed under the provisions of this article, no refund or any portion of any of the fee paid for the application or the license shall be made.
(Code 1981, § 15-27; Code 2012, § 15-27; Ord. No. SRO-49-78, § II-6, 10-26-1977; Ord. No. SRO-402-2012, § 15-27, 5-30-2012)

Sec. 15-30. Term of license; transferability.

(a) Unless otherwise provided in this article, licenses under this article shall be issued for a continuous period.

(b) Licenses issued to persons engaged in the business of contracting or construction who do not have or maintain a permanent place of business within the Community shall be issued for a period no longer than the duration of the contract or job in which they are engaged within the Community, and in no event for more than one year.

(c) Unless as otherwise provided in this article, licenses under this article shall be issued for a continuous period and shall be payable each 12 months, for 12 months in advance, beginning January 1 to the next following December 31. Licenses issued under this article shall not be transferable.

(d) No license issued before the effective date of the ordinance from which this section is derived to persons described in subsection (b) of this section shall be valid for more than one year after the effective date of the ordinance from which this section is derived.
(Code 1981, § 15-29; Code 2012, § 15-29; Ord. No. SRO-49-78, § II-11, 10-26-1977; Ord. No. SRO-93-85, § 4, 1-23-1985; Ord. No. SRO-142-92, § 3, 10-9-1991; Ord. No. SRO-402-2012, § 15-29, 5-30-2012)

Sec. 15-31. Display of license.

All licenses issued under the provisions of this article must be displayed in a conspicuous place in the establishment at which the business is conducted or carried on.
(Code 1981, § 15-30; Code 2012, § 15-30; Ord. No. SRO-49-78, § II-12, 10-26-1977; Ord. No. SRO-402-2012, § 15-30, 5-30-2012; Ord. No. SRO-452-2015, § 15-31, 10-22-2014)

Sec. 15-32. Age of licensee.

All licensees under this article shall be at least 18 years of age.
(Code 1981, § 15-31; Code 2012, § 15-31; Ord. No. SRO-49-78, § II-8, 10-26-1977; Ord. No. SRO-402-2012, § 15-31, 5-30-2012)

Sec. 15-33. Applicant previously convicted of felony.

No license shall be issued to any person under this article who has been convicted of a felony within five years preceding the date of application

for license, unless such person has been pardoned by appropriate authority or has had his or her civil rights restored under appropriate statute.
(Code 1981, § 15-32; Code 2012, § 15-32; Ord. No. SRO-49-78, § II-9, 10-26-1977; Ord. No. SRO-402-2012, § 15-32, 5-30-2012)

Sec. 15-34. Licensees to conform to Community treasurer regulations.

All licensees under this article shall comply with all regulations of the Community treasurer which are promulgated under the authority of and in compliance with the provisions of this article.
(Code 1981, § 15-33; Code 2012, § 15-33; Ord. No. SRO-49-78, § II-10, 10-26-1977; Ord. No. SRO-402-2012, § 15-33, 5-30-2012)

Sec. 15-35. Standards of business operation.

(a) *Lighting; ventilation; plumbing.* Business establishments licensed under this article shall be well lighted and well ventilated and shall have adequate and sanitary toilet facilities for both sexes.

(b) *Security.* Business establishments shall provide such security as may be required by the chief of police to ensure the protection of the public.

(c) *Land use, zoning, etc.* Licensees of business establishments shall abide by all land use, zoning, building and other ordinances of the Community.
(Code 1981, § 15-34; Code 2012, § 15-34; Ord. No. SRO-49-78, § III, 10-26-1977; Ord. No. SRO-402-2012, § 15-34, 5-30-2012)

Sec. 15-36. License suspension or revocation.

Upon receiving notice that a licensee in connection with his or her operations under this article has violated any of the provisions under this article or any of the laws of the Community or the United States and upon a showing of such violation, after five days' notice thereof to all parties concerned and a hearing before the Community manger, the Community manager may suspend or revoke the license previously granted under this article to such licensee.
(Code 1981, § 15-35; Code 2012, § 15-35; Ord. No. SRO-49-78, § II-13, 10-26-1977; Ord. No. SRO-402-2012, § 15-35, 5-30-2012)

Sec. 15-37. Appeals; waiver of requirements.

(a) Appeals from the denial, revocation or suspension of a license provided for in this article may be taken to the Community Council in accordance with the procedures established by the council for the hearing of administrative appeals.

(b) The Community Council may waive the requirements of this article as set out in section 15-33 upon a showing that the applicant is of good moral character and rehabilitated.

(c) The president or vice president of the Community may waive application and license fees if the applicant is unable to pay such fees within the year the application is made without undue hardship.
(Code 1981, § 15-36; Code 2012, § 15-36; Ord. No. SRO-49-78, § IV, 10-26-1977; Ord. No. SRO-95-85, 1-23-1985; Ord. No. SRO-402-2012, § 15-36, 5-30-2012)

Sec. 15-38. Violations.

(a) Any person who commences, practices, transacts or carries on any business as defined in this article without having a valid business license may be prohibited from transacting business within the Community up to one-year and/or assessed a fine of up to $5,000.00 per occurrence.

(b) Any person to whom a license has not been issued or if earlier issued has been revoked or suspended, shall cease operations upon receipt of notice from the Community manager. If such person fails to cease operations, then the Community court, upon application of the Community manager for and on behalf of the Community Council and after having found a failure to secure a proper license or a suspension or revocation of a license and failure to cease and desist operations and upon three days' notice by United States mail addressed to the place at which the business operations are carried out and after a hearing to

be held no later than five days after application is made and three days after notice is mailed, shall issue a mandatory injunction requiring such person to vacate the premises and cease and desist operations. The order of the court, as issued, shall be carried out by the chief of police of the Community police department or officers of the Community police department assigned by him or her.
(Code 1981, § 15-37; Code 2012, § 15-37; Ord. No. SRO-49-78, § V, 10-26-1977; Ord. No. SRO-402-2012, § 15-37, 5-30-2012)

Sec. 15-39. Conditions on issuance of business license.

(a) No license shall be issued to any person pursuant to section 15-24 unless the applicant therefor has submitted a plan of employment, promotion and training approved by the personnel office of the Community pursuant to uniform regulations adopted by the personnel office and approved by the Community Council. Initial regulations shall be submitted to the Community Council for approval within six months after the effective date of the ordinance from which this section is derived.

(b) Any violation of the plan of employment, promotion and training shall be cause for proceedings for suspension or revocation pursuant to section 15-36.
(Code 1981, § 15-38; Code 2012, § 15-38; Ord. No. SRO-93-85, § 3, 1-23-1985; Ord. No. SRO-402-2012, § 15-38, 5-30-2012)

Secs. 15-40—15-50. Reserved.

ARTICLE III. SPECIFIC LICENSES

DIVISION 1. HUNTING AND FISHING LICENSES

Sec. 15-51. Right of members.

Any enrolled member of the Community shall have the right to hunt or fish upon the lands of the Community subject only to regulations hereinafter enacted.
(Code 1976, § 9.11; Code 1981, § 15-11; Code 2012, § 15-51; Ord. No. SRO-21-74, 9-26-1973; Ord. No. SRO-402-2012, § 15-51, 5-30-2012)

Sec. 15-52. Nonmembers required to obtain permits.

All persons who are not enrolled members of the Community shall be required to obtain hunting and fishing permits from the office of the president of the Community before any such person may hunt or fish upon the lands of the Community. Such hunting and fishing permits shall be subject to regulations imposed by the president of the Community.
(Code 1976, § 9.12; Code 1981, § 15-12; Code 2012, § 15-52; Ord. No. SRO-21-74, 9-26-1973; Ord. No. SRO-402-2012, § 15-52, 5-30-2012)

Secs. 15-53—15-72. Reserved.

DIVISION 2. TRAILER SPACE RENTAL BUSINESS

Sec. 15-73. Licenses required to engage in business or renting trailer spaces.

No person shall engage in the business of renting trailer spaces within the exterior boundaries of the Salt River Indian Reservation without a license from the Community. This requirement shall apply both to rental of bare spaces on which the tenant places his or her own trailer and to rental of spaces with trailers installed. The president of the Community Council shall cause all unlicensed trailer space rental business to be suppressed, in his or her discretion, by police action and/or by appropriate legal proceedings.
(Code 1976, § 9.21; Code 1981, § 15-91; Code 2012, § 15-91; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-91, 5-30-2012)

Sec. 15-74. Applicability to corporations.

This division within this Community Code of Ordinances applies to corporations as well as to natural persons, and the term "person," as used in this section, includes the term "corporation" unless the context requires otherwise.
(Code 1976, § 9.29; Code 1981, § 15-92; Code 2012, § 15-92; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-92, 5-30-2012)

Sec. 15-75. Application for licenses; authority of president; appeal to Community Council.

(a) It shall be the duty of the president of the Community Council to accept applications for licenses under this division within this Community Code of Ordinances; and when he or she is satisfied that the applicant's proposed business will not constitute an unreasonable hazard to the health, morals or welfare of the members of the Community, to issue such licenses.

(b) Whenever the president refuses a license to an applicant or fails to act upon an application for 30 days, the applicant may appeal in writing to the Community Council, which shall have authority, after a hearing if the applicant requests one, to grant or refuse the license or to authorize issuance of the license upon the applicant's fulfilling additional requirements. The decision of the council shall be final.
(Code 1976, § 9.22; Code 1981, § 15-93; Code 2012, § 15-93; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-93, 5-30-2012)

Sec. 15-76. Term of licenses.

All licenses issued under this division within this Community Code of Ordinances shall remain in force until surrendered, terminated or revoked.
(Code 1976, § 9.25; Code 1981, § 15-94; Code 2012, § 15-94; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-94, 5-30-2012)

Sec. 15-77. License fee; duty of treasurer.

(a) All licensees under this division within this Community Code of Ordinances shall pay to the treasurer of the Community, before the last day of each calendar month, the sum of $1.50 for each trailer space occupied by any person for 15 days or more during the preceding calendar month. Nonpayment of fees when due shall be cause for revocation of licenses.

(b) It shall be the duty of the treasurer to collect license fees under this division within this Community Code of Ordinances and to account to the council for such fees.
(Code 1976, § 9.24; Code 1981, § 15-95; Code 2012, § 15-95; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-95, 5-30-2012)

Sec. 15-78. Form of licenses.

Licenses issued under this division within this Community Code of Ordinances shall be in substantially the following form:

License to Rent Trailer Spaces

It appearing that _____ has complied with all requirements of Ordinance No. SRO-2-64 of the Community, permission is hereby granted to conduct the business of renting trailer spaces within the exterior boundaries of the Salt River Indian Reservation. This license is issued subject to all applicable requirements of law now or hereafter in force.

Fee: $1.50 per month per occupied trailer space.

In witness whereof I have caused this license to be signed by the Salt River Pima-Maricopa Indian Community, Arizona, Arizona, by myself as president of the Community Council, with the seal of the Community affixed, this _____ day of _____, ____.

Salt River Pima-Maricopa Indian Community, Arizona

(SEAL)

By _____
President

(Code 1976, § 9.28; Code 1981, § 15-96; Code 2012, § 15-96; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-96, 5-30-2012)

Sec. 15-79. Revocation of licenses.

(a) *Appeal; hearing.* The president of the Community Council may order any license revoked upon 30 days' notice in writing to the licensee, whenever the president has reason to believe that the licensee has committed conduct which constitutes a federal or state crime, or which would constitute an offense against the Community if the licensee were subject to the jurisdiction of the courts of the Community, or for violation of any of the terms or provisions of this division within this Community Code of Ordinances. Such revocation shall become effective 30 days after delivery of the written notice thereof to the licensee, or if the president cannot find the licensee, then 30 days after the posting of the notice in a conspicuous place at the tribal office, unless during such 30-day period the licensee delivers to the tribal office during business hours a written notice of appeal to the Community Council. If the licensee requests a hearing in his or her notice of appeal, the council shall grant him or her a hearing, either before itself or before a referee designated by the council. Upon appeal, the council shall either affirm or overrule the decision of the president, and the decision of the council shall be final.

(b) *Removal of licensee.* Whenever the revocation of a license has become final, either by failure to appeal the president's notice or by decision of the council on appeal, the licensee may be removed from the reservation, physically if necessary; and the president is authorized to take such action through any court of competent jurisdiction or otherwise as may appear to him or her necessary or advisable to prevent the former licensee from doing unlicensed business through agents or otherwise within the exterior boundaries of the reservation, and/or to enforce his or her exclusion from the reservation.

(c) *Revocation not to relieve liability.* Revocation of a license shall not discharge the former licensee from liability to pay all license fees accrued up to the date of such revocation.

(Code 1976, § 9.26; Code 1981, § 15-97; Code 2012, § 15-97; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-97, 5-30-2012)

Sec. 15-80. Conduct of licensed business to be within the law.

It shall be a condition of all licenses issued under this division within this Community Code of Ordinances that the licensee conduct all business on the Salt River Indian Reservation in an ethical, moral and sanitary manner, commit no nuisance nor suffer any to be committed within the Salt River Indian Reservation, and comply with all applicable federal, state and tribal laws now or hereafter in force.

(Code 1976, § 9.27; Code 1981, § 15-98; Code 2012, § 15-98; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-98, 5-30-2012)

Sec. 15-81. Relationship of licenses to leases.

Licenses issued under this division within this Community Code of Ordinances confer no right of their own force to use tribal or allotted land of the Salt River Indian Reservation. No license shall be issued until the applicant proves to the satisfaction of the president that he or she holds a valid existing right to use land of the Salt River Indian Reservation by lease or otherwise for the purpose of conducting the business of renting trailer spaces; and all licenses issued under this division within this Community Code of Ordinances shall automatically terminate when the licensee loses such right by forfeiture of his or her lease or otherwise.

(Code 1976, § 9.23; Code 1981, § 15-99; Code 2012, § 15-99; Ord. No. SRO-2-64, 8-13-1963; Ord. No. SRO-402-2012, § 15-99, 5-30-2012)

Secs. 15-82—15-104. Reserved.

DIVISION 3. SALE OF CIGARETTES AT RETAIL

Sec. 15-105. Policy.

It shall be policy of the Salt River Pima-Maricopa Indian Community to protect the health, welfare, and morals of the Community and promote businesses owned by the Community and its members by regulating the sale of cigarettes at retail in accordance with this article.
(Code 1981, § 15-111; Code 2012, § 15-111; Ord. No. SRO-63-80, § I, 5-5-1980; Ord. No. SRO-402-2012, § 15-111, 5-30-2012; Ord. No. SRO-431-2014, § 15-111, 2-19-2014)

Sec. 15-106. 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:

Cigarette means either of the following:

(1) Any roll of tobacco or any substitute for tobacco wrapped in paper or in any substance not containing tobacco; or

(2) Any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to by offered to or purchased by a consumer as a cigarette described in subsection (1) of this section.

Community means the Salt River Pima-Maricopa Indian Community.

Community regulatory agency means the Community regulatory agency, a department of the Community government who is authorized to conduct a criminal history background check on any applicant for a license under this article.

Community-owned retailer means a retailer owned and operated by the Community or a Community division or enterprise.

Court means the Salt River Pima-Maricopa Indian Community Court.

Electronic cigarette means a noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery or circuit, regardless of shape of size, that can be used to heat a liquid nicotine solution contained in a cartridge.

Exempt seller means a person or entity selling cigarettes at retail who maintains that it can operate exempt from State of Arizona cigarette taxes.

Existing retailers means the persons or entities selling cigarettes at retail on the Community as of February 1, 2013, which includes retailers owned by the Community, Community members and nonmembers, and who are Talking Stick Resort, Casino Arizona, Talking Stick Golf, Stayshons-Pima/Chaparral, Piipash Shell-Pima/Indian School, Owl Ear-Via Linda, Owl Ear-Pavilions, On Auk Mor-Hayden/McKellips, On Auk Mor-Longmore/McDowell, JR's-87/McDowell, Pavilions 76 gasoline station, and WalMart-101/Chaparral.

License means a cigarette retailer license issued under this article.

Member-owned retailer means a retailer that is exclusively owned by one or more enrolled members of the Community, from which all profit of the retailer's business is paid exclusively to enrolled Community members who are the exclusive owners, and one or more of the owners actively manage the day-to-day retailer's business.

Non-exempt seller means a person or entity that sells cigarettes at retail within the Community subject to payment of State of Arizona cigarette taxes.

Person means a natural person.

Retailer means a person or entity that has been issued a license under this article.

State of Arizona cigarette taxes means all tobacco taxes payable to the State of Arizona on cigarettes intended to be sold on the Community when the seller is not the Community or an enrolled member of the Community.

Treasurer means the person appointed by the Community Council to serve as treasurer of the Community, or the treasurer's authorized designee.
(Ord. No. SRO-431-2014, § 15-112, 2-19-2014; Ord. No. SRO-434-2014, § 15-112, 1-15-2014; Ord. No. SRO-438-2014, § 15-112, 2-26-2014)

Sec. 15-107. License required.

No person or entity shall sell cigarettes at retail without first having procured a license under this article. A license shall be applicable to a specific person or entity and a single location.
(Code 1981, § 15-112; Code 2012, § 15-112; Ord. No. SRO-63-80, § II-1, 5-5-1980; Ord. No. SRO-402-2012, § 15-112, 5-30-2012; Ord. No. SRO-431-2014, § 15-113, 2-19-2014)

Sec. 15-108. Exempt seller.

An exempt seller shall have the burden to demonstrate to the reasonable satisfaction of the treasurer that it operates and qualifies as an exempt seller as defined in section 15-106. The treasurer may request that the exempt seller provide any documentation or information that the treasurer determines may be reasonably relevant to the determination whether the exempt seller qualifies as an exempt seller as defined in section 15-106. The treasurer may take action to have the transaction privilege tax license and business license of an exempt seller suspended or revoked if the seller fails or refuses to provide all information and documents requested by the treasurer within the time established by the treasurer.
(Ord. No. SRO-431-2014, § 15-114, 2-19-2014)

Sec. 15-109. Existing retailers.

An existing retailer shall file a completed application with the treasurer within 90 days of this article taking effect or such retailer shall not be entitled to a license as an existing retailer under this section. A license shall be issued to each existing retailer upon approval by the treasurer of a completed application filed in accordance with this article.
(Ord. No. SRO-431-2014, § 15-115, 2-19-2014)

Sec. 15-110. Future retailers.

Except for existing retailers who may be issued a license as provided in section 15-109, no additional license shall be issued to a retailer unless the retailer is:

(1) A Community-owned retailer;

(2) A member-owned retailer; or

(3) A non-exempt seller.

(Ord. No. SRO-431-2014, § 15-116, 2-19-2014)

Sec. 15-111. Density control.

No license shall be issued for a location which would be within one mile of any other licensed retail location. This one mile distance restriction shall not apply to existing retailers or non-exempt sellers.
(Ord. No. SRO-431-2014, § 15-117, 2-19-2014)

Sec. 15-112. Application form.

An application for a license shall be completed on a form furnished by the treasurer. Every application shall be fully completed.
(Ord. No. SRO-431-2014, § 15-118, 2-19-2014)

Sec. 15-113. Financial statement.

At the time of the original application and on June 30 of each year thereafter, each retailer who is not a Community-owned retailer shall file with the treasurer a completed financial statement of the retailer and its principals, if any, prepared on a form approved by the treasurer.
(Ord. No. SRO-431-2014, § 15-119, 2-19-2014)

Sec. 15-114. Approval of applications.

An application for a license shall be filed with the treasurer. The treasurer shall make decisions on license applications on a "first come, first serve" basis. The treasurer shall issue or deny a license within 90 days of the date when the completed application is filed.
(Ord. No. SRO-431-2014, § 15-120, 2-19-2014)

Sec. 15-115. Term of license; transferability.

Licenses under this article shall be issued for a continuous period, subject to suspension or revocation. Licenses under this article shall not be

transferable to another person or entity and shall not be transferable to another location. Notwithstanding the foregoing, a Community member's interest in a license or in a retailer may be transferred to a trust established by that member for the primary benefit of that member's immediate family who are also Community members.
(Ord. No. SRO-431-2014, § 15-121, 2-19-2014)

Sec. 15-116. Retailer previously convicted of felony.

(a) No retailer or person who owns any interest in a retailer shall have been convicted of a felony within the five years preceding the date of application for a license. In addition, while such license is in effect, no retailer or person who owns any interest in a retailer shall be convicted of a felony.

(b) The license application form and the annual financial statement form prepared by the treasurer shall make inquiry into any felony conviction occurring within five years preceding the filing of the application or the while the license is in effect.

(c) On behalf of the treasury department, the Community regulatory agency shall conduct a state and federal criminal history background check pursuant to Arizona Revised Statute 41-1750 and Public Law 92-544 on all applicants and retailers under this section of the Code of Ordinances. Applicants and retailers shall submit a full set of fingerprints to the Community regulatory agency who shall submit them to the Arizona Department of Public Safety, who may exchange the fingerprint data with the Federal Bureau of Investigations.

(d) The treasurer will submit a temporary license to the applicant while the results of the felony criminal background investigation are pending.

(e) Any fees incurred by the Community regulatory agency to carry out the provisions of this section shall be absorbed by the treasurer's budget.
(Ord. No. SRO-431-2014, § 15-122, 2-19-2014; Ord. No. SRO-434-2014, § 15-122, 1-15-2014; Ord. No. SRO-438-2014, § 15-122, 2-26-2014)

Sec. 15-117. Compliance with Community law.

As a condition to receiving a license and conducting business on the Community, each retailer shall consent to the jurisdiction of the Community and shall agree to comply with all laws and regulations of the Community as a condition to maintaining a license and conducting business on the Community. Each retailer shall timely file all tax and other returns and documents as required by the Community's tax, business license, and other ordinances.
(Ord. No. SRO-431-2014, § 15-123, 2-19-2014)

Sec. 15-118. Suspension or revocation of license.

Upon receiving information that a retailer has violated any provision of this article or any law of the Community, the treasurer shall, after written notice is provided to the retailer, promptly conduct an informal evidentiary hearing after which the treasurer shall sign a written determination whether the retailer has violated the laws of the Community. If the treasurer determines that the retailer has violated any law of the Community, the treasurer may suspend for a definite period of time or permanently revoke the retailer's license.
(Ord. No. SRO-431-2014, § 15-124, 2-19-2014)

Sec. 15-119. Appeal.

An appeal from the treasurer's denial, suspension or revocation of a license shall be filed with the treasurer and with the Secretary of the Community Council. No court of law shall have any jurisdiction to hear such an appeal. An appeal shall be filed within 30 days of the treasurer's decision to deny, suspend or revoke a license. Once the appeal is filed, the Community Council shall appoint a panel of three individuals who shall promptly decide and issue a written decision on the appeal. The panel shall establish its own procedures to promote a correct and prompt decision. The decision of the panel shall be final.
(Ord. No. SRO-431-2014, § 15-125, 2-19-2014)

Sec. 15-120. Violations.

A person or entity who has not been issued a license and a retailer whose license has been

suspended or revoked shall not sell cigarettes at retail. If such person or entity fails to cease such sales, the Community Court shall, upon application of the treasurer, for and on behalf of the Community, and upon three days' notice by United States mail addressed to the retailer's place of business, and after a hearing to be held no later than five days after application is made, issue a mandatory injunction requiring such person to cease and desist such sales. The order of the court, as issued, shall be enforced by the Community police department.
(Ord. No. SRO-431-2014, § 15-126, 2-19-2014)

Sec. 15-121. Retailers exempt from State of Arizona cigarette taxes.

No retailer that operates on the Community as a member-owned retailer or otherwise exempt from State of Arizona cigarette taxes shall be entitled to hold or maintain a license under this division within this Community Code of Ordinances unless the treasurer determines that the retailer meets all requirements imposed by this article and the State of Arizona for such cigarette tax exemption. From time-to-time, the treasurer may request information or documents from a retailer in order to make that determination or to verify that all Community, federal and state taxes have been paid in accordance with law. The treasurer may take action to deny, suspend or revoke a license if the retailer or any of its principals fails or refuses to provide all information and documents requested by the treasurer within the time established by the treasurer. The treasurer may request that the retailer provide any documents that the treasurer determines may be reasonably relevant to the determination or verification under this section including, but not limited to, federal or state income or other tax returns, leases, subleases, promissory notes, loan agreements, employment, consulting or other agreements, and the retailer's organizational documents. The treasurer shall not seek to make that determination with respect to a retailer operating exempt from State of Arizona cigarette taxes more frequently than once every 12 months.
(Ord. No. SRO-431-2014, § 15-127, 2-19-2014)

Sec. 15-122. Civil penalties.

A person or entity that sells cigarettes at retail on the Community exempt from State of Arizona cigarette taxes but for whom the treasurer determines is not eligible under Arizona law for such exemption shall be subject to a civil fine imposed by the Community Court in an action filed by the treasurer on behalf of the Community, in an amount not to exceed $100,000.00. A person or entity that sells cigarettes at retail on the Community exempt from State of Arizona cigarette taxes but whose license is suspended or revoked by the treasurer for failing or refusing to provide all information and documents requested by the treasurer within the time established by the treasurer shall be subject to a civil fine imposed by the Community Court in an action filed by the treasurer on behalf of the Community, in an amount not to exceed $100,000.00.
(Ord. No. SRO-431-2014, § 15-128, 2-19-2014)

Sec. 15-123. Advertising.

No retailer shall market, advertise or promote the sale of cigarettes with signs, advertising or any other form of communication using "tax free," or "no state taxes," or any comparable or similar wording. The treasurer shall have the exclusive authority to determine if a retailer has violated this section.
(Ord. No. SRO-431-2014, § 15-129, 2-19-2014)

Sec. 15-124. Electronic cigarettes; sales to minors prohibited.

No person or entity shall knowingly sell, give or furnish an electronic cigarette to a person under the age of 18 years of age. A person or entity who knowingly sells, gives or furnishes an electronic cigarette to a person under the age of 18 years of age is subject to a fine imposed by the treasurer in an amount not to exceed $5,000.00.
(Ord. No. SRO-431-2014, § 15-130, 2-19-2014)

Secs. 15-125—15-148. Reserved.

DIVISION 4. AMUSEMENT LICENSES

Sec. 15-149. License required.

No person shall commence, practice, transact or carry on any amusement as a commercial business enterprise as designated in section 15-

154 without first having procured a license as provided for in this division within this Community Code of Ordinances.
(Code 1981, § 15-141; Code 2012, § 15-141; Ord. No. SRO-65-80, § 1(1), 5-31-1980; Ord. No. SRO-402-2012, § 15-141, 5-30-2012)

Sec. 15-150. Application form and fee.

Application for a license under this division within this Community Code of Ordinances shall be made by the operator on forms furnished by the Community manager. Every application shall be accompanied by an application fee as provided in section 15-154 and shall be fully completed. Upon the granting of a license, such application fee shall be applied to the total required license fee.
(Code 1981, § 15-142; Code 2012, § 15-142; Ord. No. SRO-65-80, § 1(2), 5-31-1980; Ord. No. SRO-402-2012, § 15-142, 5-30-2012)

Sec. 15-151. Processing of application.

Every application filed pursuant to this division within this Community Code of Ordinances must be processed and approved by such Community departments as shall be designated by administrative order, and such orders shall be uniform in their application for every class of license.
(Code 1981, § 15-143; Code 2012, § 15-143; Ord. No. SRO-65-80, § 1(4), 5-31-1980; Ord. No. SRO-402-2012, § 15-143, 5-30-2012)

Sec. 15-152. Age of licensee.

All licensees under this division within this Community Code of Ordinances shall be at least 21 years of age.

(Code 1981, § 15-144; Code 2012, § 15-144; Ord. No. SRO-65-80, § 1(8), 5-31-1980; Ord. No. SRO-402-2012, § 15-144, 5-30-2012)

Sec. 15-153. Applicant previously convicted of felony.

No operator applying under this division within this Community Code of Ordinances for license shall have been convicted of a felony within five years preceding the date of application for a license.

(Code 1981, § 15-145; Code 2012, § 15-145; Ord. No. SRO-65-80, § 1(9), 5-31-1980; Ord. No. SRO-402-2012, § 15-145, 5-30-2012)

Sec. 15-154. Fee schedule.

The application and license fees under this section shall be effective within ten days of the enactment of the ordinance from which this division within this Community Code of Ordinances is derived, shall be payable in advance, and, except as otherwise provided in this division within this Community Code of Ordinances, shall be payable in accordance with the provisions of section 15-155.

Designated Amusement	*Application Fee*	*License Fee*
Automobile and motorcycle racetrack	$50.00	$25.00 per day or night, per year, or period of use; payable annually
Theater	$50.00	$100.00 per year, per screen; payable annually
Carnival	$50.00	$25.00 per day

(Code 1981, § 15-146; Code 2012, § 15-146; Ord. No. SRO-65-80, § 1(5), 5-31-1980; Ord. No. SRO-402-2012, § 15-146, 5-30-2012)

Sec. 15-155. Time of payment; disposition; refunds.

All fees for applications or licenses collected under the provisions of this division within this Community Code of Ordinances shall be paid in advance and shall be retained by the Community treasurer. In the event no license is issued, the application fee shall not be returned to the applicant but shall be instead applied to cover the costs of processing such application. In the event a license has been granted and later revoked or suspended under the provisions of this division within this Community Code of Ordinances or in the event the establishment is later discontinued after being licensed under the provisions of this division within this Community Code of Ordinances, no refund of any portion of any of the fees paid for the application or the license shall be made.

(Code 1981, § 15-147; Code 2012, § 15-147; Ord. No. SRO-65-80, § 1(6), 5-31-1980; Ord. No. SRO-402-2012, § 15-147, 5-30-2012)

Sec. 15-156. Proration of fees.

All licenses issued pursuant to this division within this Community Code of Ordinances during a license year may have the license fee prorated to the nearest month between October 1 and the next following March 31 or between April 1 and the next following September 30, whichever is applicable.

(Code 1981, § 15-148; Code 2012, § 15-148; Ord. No. SRO-65-80, § 1(7), 5-31-1980; Ord. No. SRO-402-2012, § 15-148, 5-30-2012)

Sec. 15-157. Term and transferability of license.

(a) Unless as otherwise provided in this division within this Community Code of Ordinances, licenses under this division within this Community Code of Ordinances shall be issued for a continuous period and shall be payable each six months for six months in advance beginning October 1 to the next following March 31 and beginning April 1 to the next following September 30.

(b) Licenses issued under this division within this Community Code of Ordinances shall not be transferable.
(Code 1981, § 15-149; Code 2012, § 15-149; Ord. No. SRO-65-80, § 1(11), 5-31-1980; Ord. No. SRO-402-2012, § 15-149, 5-30-2012)

Sec. 15-158. Display of license; replacement.

All licenses issued under the provisions of this division within this Community Code of Ordinances must be displayed in a conspicuous place in the establishment at which the amusement is conducted or carried on. If the license is destroyed, lost or defaced, the licensee shall be entitled to replacement license for a fee of $10.00.
(Code 1981, § 15-150; Code 2012, § 15-150; Ord. No. SRO-65-80, § 1(12), 5-31-1980; Ord. No. SRO-402-2012, § 15-150, 5-30-2012)

Sec. 15-159. Relation to privilege license and use tax.

No provision of this division within this Community Code of Ordinances shall be construed to avoid payment of the privilege license and use tax in accordance with other ordinances of the Community.
(Code 1981, § 15-151; Code 2012, § 15-151; Ord. No. SRO-65-80, § 1(3), 5-31-1980; Ord. No. SRO-402-2012, § 15-151, 5-30-2012)

Sec. 15-160. Suspension or revocation of license.

Upon receiving notice that a licensee in connection with his or her operations under this division within this Community Code of Ordinances has violated any of the provisions under this division within this Community Code of Ordinances or any of the laws of the Community or the United States and upon a showing of such violation, after proper notice to all parties concerned and a hearing before the Community manager, the Community manager may suspend or revoke the license previously granted under this division within this Community Code of Ordinances to such licensee.
(Code 1981, § 15-152; Code 2012, § 15-152; Ord. No. SRO-65-80, § 1(13), 5-31-1980; Ord. No. SRO-402-2012, § 15-152, 5-30-2012)

Sec. 15-161. Appeals concerning denial, revocation and suspension of licenses.

Appeals from the denial, revocation or suspension of a license provided for in this division within this Community Code of Ordinances may be taken to the Community Council in accordance with the procedures established by the council for the hearing of administrative appeals.
(Code 1981, § 15-153; Code 2012, § 15-153; Ord. No. SRO-65-80, § 3, 5-31-1980; Ord. No. SRO-402-2012, § 15-153, 5-30-2012)

Sec. 15-162. Licensees to conform to Community treasurer regulations.

All licensees under this division within this Community Code of Ordinances shall comply with all regulations of the Community treasurer which are promulgated under the authority of and in compliance with the provisions of this division within this Community Code of Ordinances.
(Code 1981, § 15-154; Code 2012, § 15-154; Ord. No. SRO-65-80, § 1(10), 5-31-1980; Ord. No. SRO-402-2012, § 15-154, 5-30-2012)

Sec. 15-163. Operational regulations.

(a) *Sanitary facilities.* Amusement establishments licensed under this division within this Community Code of Ordinances shall be well lighted and well ventilated and shall have adequate and sanitary toilet facilities for both sexes.

(b) *Security.* Amusement establishments shall provide such security as may be required by the chief of police to ensure the protection of the public.

(c) *Obedience to other ordinances.* Licensees of amusement establishments shall abide by all land use, zoning, building and other ordinances of the Community.
(Code 1981, § 15-155; Code 2012, § 15-155; Ord. No. SRO-65-80, § 2, 5-31-1980; Ord. No. SRO-402-2012, § 15-155, 5-30-2012)

Sec. 15-164. Violations.

Any person to whom a license has not been issued, or if earlier issued has been revoked or suspended, shall cease operations upon receipt of notice from the Community manager. If such person fails to cease operations, then the Community court shall upon application of the Community manager for and on behalf of the Community Council and after having found a failure to secure a proper license or a suspension or revocation of a license and failure to cease and desist operations and upon three days' notice by United States mail addressed to the place at which the operations are carried out and after a hearing to be held no later than five days after application is made and three days after notice is mailed, shall issue a mandatory injunction requiring such person to vacate the premises and cease and desist operations. The order of the court, as issued, shall be carried out by the chief of police of the Community police department or officers of the Community police department assigned by him or her.
(Code 1981, § 15-156; Code 2012, § 15-156; Ord. No. SRO-65-80, § 4, 5-31-1980; Ord. No. SRO-402-2012, § 15-156, 5-30-2012)

Secs. 15-165—15-181. Reserved.

DIVISION 5. PUBLIC DANCE PERMITS

Sec. 15-182. Policy.

It is the policy of the Community that public gatherings within the Community be conducted in such a way as to protect the lives and property of members of the Community and others who may be in attendance.
(Code 1981, § 15-161; Code 2012, § 15-161; Ord. No. SRO-75-82, § 1, 12-9-1981; Ord. No. SRO-402-2012, § 15-161, 5-30-2012)

Sec. 15-183. 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:

Private place or *private property* means any facility not owned by the Community.

Public dance means any gathering in which more than 25 people are in attendance and at which live or recorded secular music is played.

Public dance place or *public property* means any facility owned by the Community.
(Code 1981, § 15-162; Code 2012, § 15-162; Ord. No. SRO-75-82, § 2, 12-9-1981; Ord. No. SRO-173-94, § 1, 4-11-1994; Ord. No. SRO-402-2012, § 15-162, 5-30-2012)

Sec. 15-184. Permit required.

No public dance shall be held unless the president or vice president has first issued a permit pursuant to this division within this Community Code of Ordinances.
(Code 1981, § 15-163; Code 2012, § 15-163; Ord. No. SRO-75-82, § 3, 12-9-1981; Ord. No. SRO-402-2012, § 15-163, 5-30-2012)

Sec. 15-185. Issuance of permits.

(a) *For public dances on private property.* Any owner or lessee of private property who wishes to conduct a public dance on such property may apply to the president or vice president for a permit to hold such a public dance at a place and time certain. The permit shall be issued conditioned on the requirement that there shall be adequate security to protect lives and property. No permit will be issued unless application therefor is made at least seven days prior to the date of the dance. The president or vice president shall determine what level of security will be adequate. All arrangements for security shall be made before the time the permit shall become effective. Each applicant for a public dance permit shall pay a permit fee in the amount of $50.00. No permit shall be issued to any person or for any facility where a public dance on private property in

violation of this division within this Community Code of Ordinances has been held within 24 months of the application for a permit.

(b) *For public dances on public property.* Any person who wishes to conduct a public dance on public property may apply to the president or vice president for a permit to hold such public dance at a place and time certain. The permit shall be issued conditioned on the requirement that there shall be adequate security to protect lives and property. No permit will be issued unless application therefor is made at least seven days prior to the date of the dance. The president or vice president shall determine what level of security will be adequate. All arrangements for security shall be made before the time the permit shall become effective. Each applicant for a public dance permit shall pay a permit fee in the amount of $50.00. The issuance of a permit shall also be conditioned on the deposit by the person applying for the permit or money sufficient to ensure that the premises of the public dance will be restored to the condition that existed before the dance. No permit shall be issued for a public dance to be held on public property without there first having been obtained written permission from the person or committee responsible for the use of such public property on which the dance is to be held.
(Code 1981, § 15-164; Code 2012, § 15-164; Ord. No. SRO-75-82, § 5, 12-9-1981; Ord. No. SRO-402-2012, § 15-164, 5-30-2012)

Sec. 15-186. Alcoholic beverages.

No alcoholic beverages shall be permitted at or on the premises of a public dance except within any private residence at the time the public dance is being held.
(Code 1981, § 15-165; Code 2012, § 15-165; Ord. No. SRO-75-82, § 8, 12-9-1981; Ord. No. SRO-402-2012, § 15-165, 5-30-2012)

Sec. 15-187. Illegal substances prohibited.

No person shall attend a public dance while under the influence of alcoholic beverages or illegal drugs.
(Code 1981, § 15-166; Code 2012, § 15-166; Ord. No. SRO-75-82, § 10, 12-9-1981; Ord. No. SRO-402-2012, § 15-166, 5-30-2012)

Sec. 15-188. Attendance of children restricted.

No children under the age of 12 years shall be present at any public dance after 10:30 p.m. except for children who are residents of the residence at which the dance is being held.
(Code 1981, § 15-167; Code 2012, § 15-167; Ord. No. SRO-75-82, § 12, 12-9-1981; Ord. No. SRO-402-2012, § 15-167, 5-30-2012)

Sec. 15-189. Parking and safety ordinances.

Any applicant for a permit shall make adequate arrangements for parking which does not violate Community parking and safety ordinances.
(Code 1981, § 15-168; Code 2012, § 15-168; Ord. No. SRO-75-82, § 11, 12-9-1981; Ord. No. SRO-402-2012, § 15-168, 5-30-2012)

Sec. 15-190. Limitation of time.

No public dance shall be held after the hour of 1:00 a.m. All music at any public dance shall end 30 minutes before that hour.
(Code 1981, § 15-169; Code 2012, § 15-169; Ord. No. SRO-75-82, § 7, 12-9-1981; Ord. No. SRO-402-2012, § 15-169, 5-30-2012)

Sec. 15-191. Injuries at public dances on private property.

There shall be a civil cause of action for any injury that results from any incident involving the use of alcoholic beverages that occurs at any public dance on private property. The action shall lie against the person who has possession of the premises in which the injury occurred. Nothing in this division within this Community Code of Ordinances shall limit any other claim which may exist.
(Code 1981, § 15-170; Code 2012, § 15-170; Ord. No. SRO-75-82, § 9, 12-9-1981; Ord. No. SRO-402-2012, § 15-170, 5-30-2012)

Sec. 15-192. Enforcement.

The department of public safety that has the authority to enforce this division within this Community Code of Ordinances.
(Code 1981, § 15-171; Code 2012, § 15-171; Ord. No. SRO-75-82, § 13, 12-9-1981; Ord. No. SRO-402-2012, § 15-171, 5-30-2012)

Sec. 15-193. Regulations adopted pursuant to this division within this Community Code of Ordinances.

The Community shall, from time to time, adopt such regulations as are necessary and proper to effectuate this division within this Community Code of Ordinances.
(Code 1981, § 15-172; Code 2012, § 15-172; Ord. No. SRO-75-82, § 6, 12-9-1981; Ord. No. SRO-402-2012, § 15-172, 5-30-2012)

Sec. 15-194. Violations.

Failure by any person conducting a public dance to obtain the permit as required by this division within this Community Code of Ordinances, or having obtained the permit, failure to abide by the terms and conditions of the permit is an offense against the Community and may be punished by imprisonment for not more than six months or by a fine of $500.00, or both.
(Code 1981, § 15-173; Code 2012, § 15-173; Ord. No. SRO-75-82, § 4, 12-9-1981; Ord. No. SRO-402-2012, § 15-173, 5-30-2012)

Secs. 15-195—15-211. Reserved.

DIVISION 6. PUBLIC DANCE HALL

Sec. 15-212. Operation or maintenance.

Any person or group of persons who operates or maintains a public dance hall within the Community without first having paid a fee not to exceed $100.00 per year for a license, which license will require the operator to comply with this Community Code of Ordinances with reference to the opening and closing and having an officer in attendance, shall be deemed guilty of an offense and, upon conviction thereof, shall be sentenced to imprisonment for a period not to exceed 30 days or to a fine not to exceed $90.00, or to both such imprisonment and fine, with costs. A violation of a regulation in the license shall be cause for revocation of the permit.
(Code 1976, § 6.50; Code 1981, § 15-2; Code 2012, § 15-186; Ord. No. SRO-402-2012, § 15-186, 5-30-2012)

Secs. 15-213—15-232. Reserved.

DIVISION 7. FIREWORKS AND PYROTECHNICS

Sec. 15-233. Purpose.

It is the purpose of this division within this Community Code of Ordinances to govern and regulate fireworks and pyrotechnics on the Community in order to protect the safety, health, and welfare of the residents of the Community and to further protect the financial impact of fire loss to the Community and its members due to the improper use of fireworks or pyrotechnic materials.
(Code 1981, § 15-251; Code 2012, § 15-251; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-251, 5-30-2012)

Sec. 15-234. Generally.

Except as otherwise provided in this division within this Community Code of Ordinances, it is unlawful for any person to produce, sell, store, offer for sale, expose for sale, use, possess, fire, display, or discharge (collectively, "use") any fireworks and pyrotechnics (collectively, "fireworks") within the Community.
(Code 1981, § 15-252; Code 2012, § 15-252; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-252, 5-30-2012)

Sec. 15-235. Fireworks application and permits.

(a) It is unlawful for any person to display or discharge fireworks within the Community without having first obtained a fireworks permit.

(b) A fireworks permit shall not be issued unless the applicant holds a valid license issued by the Arizona state fire marshal's office or equivalent.

(c) In order to obtain a permit for displaying or discharging fireworks, the applicant must first apply for a fireworks permit on a form provided by the Community's fire department and pay any related fee(s) associated with the event. For Community events, fee(s) may be waived with approval from the president, vice president or Com-

munity manager. The fireworks application shall be made at least 14 days in advance of the proposed use.

(d) The fire chief or his or her designee shall investigate whether the character and location of the display or discharge as proposed would be hazardous or dangerous to any person or property. The fire chief or his or her designee shall approve, approve with stipulations, or deny the application for pyrotechnic display, and shall notify the applicant of same.

(e) Nothing in this division within this Community Code of Ordinances precludes the application or issuance of other Community permits.
(Code 1981, § 15-253; Code 2012, § 15-253; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-253, 5-30-2012)

Sec. 15-236. Supervision of display.

Every display of fireworks shall be handled or supervised by a competent and experienced pyrotechnic operator approved by the fire chief or his or her designee.
(Code 1981, § 15-254; Code 2012, § 15-254; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-254, 5-30-2012)

Sec. 15-237. Penalty.

Any person who violates this division within this Community Code of Ordinances shall be sentenced to a fine of not more than $1,000.00.
(Code 1981, § 15-255; Code 2012, § 15-255; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-255, 5-30-2012)

Sec. 15-238. Moratorium.

The Community Council may, from time-to-time, as the need arises, in consultation with the Community's fire department and Community manager, issue temporary moratoria prohibiting the use of fireworks.
(Code 1981, § 15-256; Code 2012, § 15-256; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-256, 5-30-2012)

Sec. 15-239. Further actions.

The Community manager, in cooperation with the Community's fire department, may produce and execute further policies and procedures to implement this division within this Community Code of Ordinances that are not inconsistent with this division within this Community Code of Ordinances.
(Code 1981, § 15-257; Code 2012, § 15-257; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-257, 5-30-2012)

Sec. 15-240. Other provisions.

Other provisions of uniform fire codes, as adopted from time-to-time by Community Council, are hereby affirmed, except as expressly conflicting with this Community Code of Ordinances.
(Code 1981, § 15-258; Code 2012, § 15-258; Ord. No. SRO-296-2003, 6-4-2003; Ord. No. SRO-402-2012, § 15-258, 5-30-2012)

Chapter 15.1

TAXATION

Article I. In General

Sec. 15.1-1. Authority to tax and regulate.
Sec. 15.1-2. Definitions.
Sec. 15.1-3. Forms for making returns.
Sec. 15.1-4. Separate returns of proceeds of sales made in more than one class.
Sec. 15.1-5. Partnerships.
Sec. 15.1-6. Exemptions in accordance with constitutional prohibitions.
Sec. 15.1-7. Administration of this chapter; rule making; confidentiality.
Sec. 15.1-8. Reporting of tax.
Sec. 15.1-9. When tax due; when delinquent; verification of return; extensions.
Sec. 15.1-10. Interest and civil penalties.
Sec. 15.1-11. Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition.
Sec. 15.1-12. Deficiencies; when inaccurate return is filed; when no return is filed.
Sec. 15.1-13. Closing agreements.
Sec. 15.1-14. Limitation periods.
Sec. 15.1-15. Tax collector may examine books and other records; failure to provide records.
Sec. 15.1-16. Erroneous payment of tax; credits and refunds; limitations.
Sec. 15.1-17. Administrative review; petition for hearing or for redetermination; finality of order.
Sec. 15.1-18. Jeopardy assessments.
Sec. 15.1-19. Judicial review.
Sec. 15.1-20. Collection of assessed taxes.
Sec. 15.1-21. Collection of delinquent possessory interest taxes.
Sec. 15.1-22. Manner of making remittance of tax; collector's receipt.
Secs. 15.1-23—15.1-49. Reserved.

Article II. Transaction Privilege Tax

Sec. 15.1-50. Imposition of tax; tax schedule.
Sec. 15.1-51. Exclusion of tax in determining gross incomes or receipts.
Sec. 15.1-52. Presumption that all gross receipts are taxable.
Sec. 15.1-53. Exemptions.
Secs. 15.1-54—15.1-79. Reserved.

Article III. Possessory Interest Tax

Sec. 15.1-80. Imposition of taxes.
Sec. 15.1-81. Classification of possessory interests for taxation; assessment ratios; valuation.
Sec. 15.1-82. Exemptions to taxation.
Sec. 15.1-83. Setting possessory interest tax rate.
Sec. 15.1-84. Annual tax levy; when tax due; when delinquent.
Secs. 15.1-85—15.1-111. Reserved.

Article IV. Utilities Tax

Sec. 15.1-112. Location and valuation of utilities.
Sec. 15.1-113. Imposition of tax; when payable.

Secs. 15.1-114—15.1-139. Reserved.

Article V. Luxury Tax

Sec. 15.1-140. Tax on consumer.
Sec. 15.1-141. Tobacco tax.
Sec. 15.1-142. Community members exempt.
Sec. 15.1-143. Alcohol tax.
Secs. 15.1-144—15.1-169. Reserved.

Article VI. Privilege License

Sec. 15.1-170. Required; fee.
Sec. 15.1-171. Duration.
Sec. 15.1-172. Cancellation.
Sec. 15.1-173. Reissuance.
Sec. 15.1-174. Transferability; display.
Sec. 15.1-175. Separate license for each location.

ARTICLE I. IN GENERAL

Sec. 15.1-1. Authority to tax and regulate.

The Community has the inherent sovereign authority to regulate the conduct of persons and activities within its territory and jurisdiction, and also to control economic activity within its boundaries. The provisions of this Community Code of Ordinances shall be liberally construed in accordance with the fullest interpretation of the Community's taxing and regulatory authority permitted by applicable laws, including the provisions of the Constitution of the Community.
(Code 2012, § 15.1a; Ord. No. SRO-402-2012, § 15.1a, 5-30-2012)

Sec. 15.1-2. Definitions.

As used in this chapter, unless the context indicates otherwise, the following terms shall have the meanings herein ascribed to them:

Assessed valuation means the value derived by applying the applicable percentage specified in section 15.1-81 to the full cash value of the possessory interest.

Business means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales.

Business day means any day of the week when the tax collector's office is open to the public.

Collector (also sometimes tax collector) means the Community treasurer or his or her designee.

Community means the Salt River Pima-Maricopa Indian Community, its government and any of its political subdivisions, departments, agencies or enterprises.

Current usage means the use to which the possessory interest is put at the time of valuation by the assessor or the department.

Engaging means, when used with reference to engaging or continuing in business, the exercise of corporate or franchise powers.

Enrolled Community member means an enrolled member of the Salt River Pima-Maricopa Indian Community.

Federal government means the United States government, its departments and agencies; but not including national banks or federally chartered or insured banks, savings and loan institutions, or credit unions.

Full cash value or valuation for possessory interest tax purposes is synonymous with market value which means that estimate of value is derived annually by the use of standard appraisal methods and techniques or as provided by law. Full cash value or valuation in the context of utility taxes means that estimate of value as derived annually by the use of standard appraisal methods and techniques or as otherwise reasonably determined by the collector to fairly estimate value or as otherwise set forth in this chapter.

Gross income means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and without any deduction on account of losses. In the context of a hotel occupancy tax, gross income means the gross receipts of a taxpayer derived solely from the use or possession or for the right to the use or possess a room or space in a hotel operated by the taxpayers, in which the room costs $2.00 or more each day.

Gross proceeds of sales means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expense of any kind or losses; but cash discounts allowed and taken on sale shall not be included as gross income; the term "gross income" or "gross proceeds of sale" shall not be construed to include goods, wares or merchandise, or value thereof, returned by customers when the sale price is refunded either in cash or by credit, nor the sale of any article accepted as part payment on any new article sold, if and when the full sale price of the new article is included in the gross income or gross proceeds of sales, as the case may be.

Gross receipts means the total amount of the sale, lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, any amount for which credit is allowed by the seller to the purchaser, without any deduction therefrom on account of the cost of the property sold, materials used, labor or service performed, interest paid, losses or any other expense, but not including cash discounts allowed and taken, nor the sale price of property returned by customers, when the full sale price thereof is refunded either in cash or by credit.

Hearing officer means a person appointed by the Community manager for administrative review purposes as provided in section 15.1-17(d).

Hotel means any public or private hotel, inn, hostelry, tourist home, house, motel, roominghouse, apartment house, trailer, or other lodging place within the Community offering lodging, wherein the owner thereof, for compensation, furnishes lodging to any transient; provided, however that hotel does not mean licensed foster homes, rest homes, sheltered care homes, nursing homes, group homes or primary health care facilities.

Hotel occupancy tax means the tax levied by the Community on hotel stays within the Community.

Nonmember means persons who are not members of the Community and corporations or partnerships which are more than 50 percent owned by persons who are not members of the Community.

Occupancy (of real property) means any occupancy or use, or any right to occupy or use, real property including any improvements, rights, or interests in the property.

Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, broker, the federal government, state, any Indian tribe or any of the aforementioned political subdivisions, departments or agencies. For the purposes of this chapter, a person will be considered a distinct and separate person from any general or limited partnership or joint venture or other association with which the person is affiliated. A subsidiary corporation will be considered a separate person from its parent corporation for purposes of taxation of transactions with its parent corporation.

Possessory interest means possession or claim to or right in the possession of any leasehold in real property together with any improvements thereon whether considered personality or realty held by any nonmember of the Community.

Property interest means real and personal property located within the Community and rights to the use of real and personal property within the Community.

Retail sale or sale at retail means a sale for any purpose other than the resale in the form of tangible personal property, but the expressions "transfer of possession," "lease" and "rental" as used in the definition of "sale" mean only such transactions as are found upon investigation to be in lieu of sales as defined without the word "lease" or "rental."

Retailer means a person engaged in the business of making sales at retail and, when in the opinion of the council it is necessary for the efficient administration of this chapter, including dealers, distributors, supervisors, employers and salesmen, representatives, peddlers or canvassers and the agents of such dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, whether in making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers.

Sale means a transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration or any agreement therefor, including any transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price; it also includes the fabrication of tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work and the furnishing, preparing or serving for a consideration of any tangible per-

sonal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property; it also includes the furnishing of telecommunications services, gas, electric power, water and other utility service commodity.

Standard appraisal methods and techniques means valuation processes through which a value indication is derived which includes, but is not limited to, the use of cost approach, sales comparison approach and income approach, depending on the type of property, quality and quantity of data available for analysis.

Standard rental or leasing schedule means the tax rate applicable to the gross proceeds of the consideration for the use or occupancy of real property and the improvements on such real property in Scottsdale, Arizona, including taxes imposed by the State of Arizona, the county, the City of Scottsdale and any other taxing authority.

Tangible personal property means personal property which may be seen, weighed, measured, felt, touched or is in any other manner perceptible to the senses.

Tax collector. See *Collector.*

Tax year or taxable year means the year beginning October 1.

Taxpayer means any person liable for any tax under this chapter.

Transient means any person who for any period of not more than 30 consecutive days obtains lodging or the use of any lodging space in any hotel.

Utility companies means companies or other business entities that supply, manufacture, deliver or otherwise make available by pipeline or other mechanism gas, water, telephone, telecommunications and/or electricity to other persons or entities.
(Code 1981, § 15.1-1; Code 2012, § 15.1-1; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-1, 5-30-2012)

Sec. 15.1-3. Forms for making returns.

The returns required under this chapter shall be made upon forms to be prescribed by the collector.
(Code 1981, § 15.1-2; Code 2012, § 15.1-2; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-2, 5-30-2012)

Sec. 15.1-4. Separate returns of proceeds of sales made in more than one class.

A person engaged in any business that makes sales on which more than one tax rate applies, or in two or more businesses with respect to which different tax rates apply, shall make separate returns of the gross proceeds of sales or the gross income earned under each applicable tax rate.
(Code 1981, § 15.1-3; Code 2012, § 15.1-3; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-3, 5-30-2012)

Sec. 15.1-5. Partnerships.

All taxes assessed under the provisions of this chapter upon the business activities of a partnership shall be a liability chargeable against each and all of the individual partners; but when paid by the partnership, such liability against each and all of the individual partners shall cease. Licenses issued as hereinafter provided to persons engaged in business as partners shall be in the name of the partnership.
(Code 1981, § 15.1-4; Code 2012, § 15.1-4; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-4, 5-30-2012)

Sec. 15.1-6. Exemptions in accordance with constitutional prohibitions.

The taxes herein levied shall not be construed to apply to transactions in interstate commerce which, under the Constitution of the United States, the Community is prohibited from taxing.
(Code 1981, § 15.1-5; Code 2012, § 15.1-5; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-5, 5-30-2012)

Sec. 15.1-7. Administration of this chapter; rule making; confidentiality.

(a) The administration of this chapter is vested in the tax collector, except as otherwise specifically provided, and all payments shall be made to the tax collector.

(b) The tax collector shall, subject to the approval of the Community Council, prescribe the regulations necessary for the administration of this chapter.

(c) It shall be unlawful for the tax collector or any other Community employee to reveal to any person, other than another Community employee acting in an official capacity on behalf of the Community government or legal counsel acting in a professional capacity on behalf of the Community government, any information contained in the return of any taxpayer or any other information about any taxpayer acquired as a result of the collector's or other employee's employment with the Community, except:

(1) The tax collector may disclose information, including but not limited to the measure and amounts of any unpaid tax, interest, and penalties owed by a specific taxpayer, to persons acting in their legal capacity as successors, receivers, trustees, personal representatives, executors, guardians, administrators, and assignees with respect to a direct interest in the business operations or financial affairs of the specific taxpayer.

(2) The Community Council may authorize an examination of any return or audit of a specific taxpayer made pursuant to this chapter in matters being investigated by authorized agents of the federal government, a federal tax court, federal court of appeals, or the United States Supreme Court. In no event shall any state, municipality, Community, county, or their political subdivisions or entities, be given jurisdiction to examine any return or audit of a specific taxpayer made pursuant to this chapter without the prior written approval of the taxpayer or the Community Council.

(Code 1981, § 15.1-6; Code 2012, § 15.1-6; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-6, 5-30-2012)

Sec. 15.1-8. Reporting of tax.

(a) *Returns.* The returns required under this chapter shall be made upon forms provided or approved by the tax collector, and shall be considered filed only when the accuracy of the return has been attested to, by signature upon the form, by the taxpayer or an authorized agent of the taxpayer, and when such form has been received by the tax collector.

(b) *Method of reporting transaction privilege taxes.* Each taxpayer shall elect to report on either a cash receipts basis or an accrual basis and shall indicate the choice on the privilege license application. A taxpayer shall not change his or her reporting method without receiving prior written approval by the tax collector.

(1) Taxpayers shall report all gross income subject to the tax using the same basis of reporting.

(2) Gross income from construction of improvements pursuant to a construction contract shall be reported either on cash receipts basis or on a progressive billing (accrual) basis. Where the construction is not pursuant to a construction contract, the value of the constructed improvement shall be reported as gross income upon completion of construction.

(c) *Returns by the tax collector.* If a taxpayer fails timely to file a return for any period, the tax collector, after prior written notice and demand to the taxpayer, may prepare such a return using reasonable estimates of gross income, property valuation, or sales volume based on any information available to him or her. The tax collector shall mail, by certified United States mail, or hand-deliver a copy of the return to the taxpayer and the date of filing of such return shall be the date that the copy was mailed or delivered.

(Code 1981, § 15.1-7; Code 2012, § 15.1-7; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-7, 5-30-2012)

Sec. 15.1-9. When tax due; when delinquent; verification of return; extensions.

(a) *Generally.* Except as provided elsewhere in this section, the taxes shall be due and payable monthly on or before the 20th day of the month next succeeding the month in which the tax accrues.

(1) *Quarterly returns.* The tax collector may authorize a taxpayer whose reporting his-

tory indicates an estimated annual Community privilege tax liability on taxable gross income in excess of $5,000.00, but less than $50,000.00, to file returns on a calendar-quarterly basis. The taxes for each calendar quarter shall be due and payable on or before the 20th day of the month next succeeding the end of each calendar quarter.

(2) *Annual returns.* The tax collector may authorize a taxpayer whose reporting history indicates an estimated annual Community privilege tax liability on gross income of not more than $5,000.00 to file returns for such taxes on a calendar-annual basis. The taxes for each calendar year shall be due and payable on or before January 20 of the following year.

(b) *Special requirements of taxpayers filing quarterly or annual returns.* No taxpayer may report on a quarterly or annual basis until he or she has established, to the tax collector's satisfaction, six months' reporting history. It is the taxpayer's responsibility to notify the tax collector and increase his or her reporting frequency (to quarterly or monthly as applicable) when his or her gross income exceeds the maximum limits for his or her current reporting frequency. Failure to do so may be deemed negligence or evasion, and penalties may apply. Failure to file returns timely, without good cause shown to the satisfaction of the tax collector, is sufficient cause for the tax collector to deny future filings by the taxpayer on a quarterly or annual basis.

(c) *Delinquency date.* Except as provided in subsection (d) of this section, all returns and remittances received within the tax collector's office on or before the last business day of the month when due shall be regarded as timely filed. The start of business of the first business day following the month when due shall be the delinquency date. It shall be the taxpayer's responsibility to cause his or her return and remittance to be timely received. Mailing the return or remittance on or before the due date or delinquency date does not relieve the taxpayer of the responsibility of causing his or her return or remittance to be received by the last business day of the month when due.

(d) *Jeopardy reporting.* If the tax collector determines that the collection of any tax due to the Community is in jeopardy, the tax collector may direct the taxpayer to file his or her return and remit the tax on a weekly, daily, or transaction-by-transaction basis. Such return and remittance shall be due upon the date fixed by the tax collector, and the delinquency date shall be the following day.

(e) *Extensions.* The tax collector may extend the time for filing a return, for good cause shown, and only when requested in writing and received by the tax collector prior to the tax due date. However, the time for filing such return shall not be extended beyond the last business day of the month next succeeding the due date of such return. In such cases, only the penalties for late filing and late payment may be waived by the tax collector for filing and payment within the extension period. Notwithstanding the granting of an extension, the interest payable for late payment of taxes shall be paid for the period commencing upon the original delinquency date and ending on the date the tax is paid. The interest may not be waived by the tax collector.

(f) *Final return.* The final return of a taxpayer who ceases to engage in activities taxable under this chapter shall be due ten days after cessation of such activities.

(Code 1981, § 15.1-8; Code 2012, § 15.1-8; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-8, 5-30-2012)

Sec. 15.1-10. Interest and civil penalties.

(a) Any taxpayer who fails to pay any of the taxes imposed by this chapter when due shall be subject to and shall pay interest upon such tax at the rate of one percent per month, or fraction of a month, until paid. Said interest may not be waived by the tax collector other than on the basis that section 15.1-11 applies. From and after September 1, 2013, the rate of interest on overpayments shall be one-quarter of one percent per month, or fraction of a month.

(b) In addition to interest assessed under subsection (a) of this section, any taxpayer who fails to pay before the delinquency date any tax due

under this chapter shall, in addition to any other penalties prescribed by this chapter, pay civil penalties as follows:

(1) A taxpayer who fails to timely file a return for a tax imposed by this chapter shall pay a penalty of five percent of the tax for each month or fraction of a month elapsing between the delinquency date of the return and the date on which it is filed, unless the taxpayer shows to the satisfaction of the tax collector that the failure to timely file is due to reasonable cause and not due to willful neglect. This penalty shall not exceed 25 percent of the tax due.

(2) A taxpayer who fails to pay an applicable tax within the time prescribed shall pay a penalty of ten percent of the unpaid tax, unless the taxpayer shows to the satisfaction of the tax collector that the failure to timely pay is due to reasonable cause and not due to willful neglect.

(3) A taxpayer who fails to file a return within 30 days of having received a written notice and demand from the tax collector shall pay a penalty of 25 percent of the tax, unless the taxpayer shows to the satisfaction of the tax collector that the failure is due to reasonable cause and not due to willful neglect or the tax collector agrees to a longer time period.

(4) If the cause of a tax deficiency is determined by the tax collector to be negligence, but without intent to defraud, the taxpayer shall pay a penalty of ten percent of the amount of the deficiency.

(5) If the cause of a tax deficiency is determined by the tax collector to be due to civil fraud or evasion of the tax, the taxpayer shall pay a penalty of 50 percent of the amount of deficiency.

(c) Interest imposed under subsection (a) of this section and penalties imposed by subsections (b)(1) and (2) of this section are due and payable upon notice by the tax collector and may be challenged by the taxpayer only after application for a refund and denial of such application. Penalties under subsections (b)(3), (4) and (5) of this section must be asserted by the tax collector in a notice of determination of a deficiency and may be challenged by the taxpayer before payment.

(d) For the purpose of this section, the term "reasonable cause" means that the taxpayer had a reasonable basis for believing that the tax did not apply to the business activity in the Community.

(e) For the purpose of this section, the term "negligence" shall be characterized chiefly by inadvertence, thoughtlessness, inattention or the like, rather than an "honest mistake." Examples of negligence include:

(1) The taxpayer's failure to maintain records as required by the regulations;.

(2) Repeated failures to timely file returns; or

(3) Gross ignorance of the law.

(Code 1981, § 15.1-9; Code 2012, § 15.1-9; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-9, 5-30-2012; Ord. No. SRO-426-2013, § A, 9-1-2013)

Sec. 15.1-11. Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition.

Notwithstanding section 15.1-10(a), a deficiency shall not bear interest if either:

(1) The deficiency is directly attributable to erroneous written advice furnished to the taxpayer by the tax collector in response to a specific request from the taxpayer and not from the taxpayer's failure to provide adequate or accurate information; or

(2) All of the following are true:

a. A tax return form or instruction related to the form prepared by the tax collector contains a statement that, if followed by a taxpayer, would cause the taxpayer to misapply this chapter.

b. The taxpayer reasonably relies on the statement.

c. The taxpayer's underpayment directly results from this reliance.

(Code 1981, § 15.1-10; Code 2012, § 15.1-10; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-10, 5-30-2012)

Sec. 15.1-12. Deficiencies; when inaccurate return is filed; when no return is filed.

(a) If the taxpayer has failed to file a return, or if the tax collector is not satisfied with the return and payment of the amount of tax required, and additional taxes are determined by the tax collector to be due, including interest and penalties due pursuant to section 15.1-10, the tax collector shall send, by certified United States mail, or shall hand-deliver a written determination of a deficiency to the taxpayer, and such deficiency shall include any applicable penalties and interest. The deficiency shall be due and payable 30 days after its effective date unless the taxpayer files a petition for review of the deficiency determination within that period.

(1) *When a return is filed.* If the tax collector is not satisfied with a return and payment of the amount of tax required by this chapter, he or she may examine the return or examine the records of the taxpayer, and re-determine the amount of tax, penalties, and interest required to be paid, for any periods available to the tax collector under section 15.1-14, based upon the information contained in the return or records or based upon any information within his or her possession or which comes into his or her possession.

(2) *When no return is filed.* The tax collector may not make a determination of a deficiency with respect to a tax return the tax collector prepares pursuant to section 15.1-8(c).

(b) The tax collector shall give notice to the taxpayer of any determination of a deficiency by certified United States mail or hand-delivery of a notice to the taxpayer at the taxpayer's last address of record. The effective date of a notice given by certified United States mail shall be the date of mailing as shown on the postmark and the effective date of a notice that is hand-delivered shall be the date of delivery. The notice shall advise the taxpayer of his or her right to contest the deficiency by filing a petition for review pursuant to section 15.1-17.

(Code 1981, § 15.1-11; Code 2012, § 15.1-11; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-11, 5-30-2012)

Sec. 15.1-13. Closing agreements.

(a) If the tax collector determines that noncompliance with tax obligations results from a reasonable misunderstanding or misapplication of provisions of this chapter, the tax collector may enter into a closing agreement with a taxpayer that may abate some or all of the tax that the taxpayer failed to remit together with interest and penalties. All closing agreements shall be subject to the approval of the Community treasurer.

(b) The closing agreement shall require the taxpayer to properly account for and pay such taxes in the future. If a taxpayer fails to adhere to such a requirement, the closing agreement is voidable by the tax collector and he or she may issue a notice of deficiency for the abated tax, interest and penalties. The tax collector may issue a proposed notice of deficiency at any time within six months after the date that he or she declares the closing agreement void or within the period prescribed by section 15.1-14.

(c) After a closing agreement has been signed pursuant to this section, it is final and conclusive, and neither it nor any determination, assessment, collection, payment abatement, refund or credit made pursuant to the agreement shall be reopened, annulled, modified, set aside or disregarded in any way, except on a showing of fraud, malfeasance or misrepresentation of a material fact.

(Code 1981, § 15.1-12; Code 2012, § 15.1-12; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-12, 5-30-2012)

Sec. 15.1-14. Limitation periods.

(a) *Generally.* The following limitation periods apply to all taxes referred to in this chapter:

(1) Except as provided elsewhere in this section, the tax collector may issue a notice of

deficiency with respect to any tax return at any time within four years after the date on which the tax return was due, or within four years after the date on which the tax return is filed, whichever period expires later.

(2) Notwithstanding subsection (a)(1) of this section, if a taxpayer does not report an amount properly reportable that is in excess of 25 percent of the taxable amount stated on the return, the tax collector may assess additional tax due at any time within six years after the date on which the return was filed.

(3) If a taxpayer fails to file a return, files a fraudulent return, or commits other fraud with the intent to evade (or that has the effect of evading) taxes, the tax collector may assess the amount due, plus interest and penalties, at any time within ten years after the date on which the return was either due or the date on which the return was filed, whichever is later.

(4) Any delay in commencement or completion of any examination by the tax collector, which is requested or agreed to in writing by the taxpayer, shall be excluded from the computation of any limitation periods prescribed by this section and such limitation periods shall be extended for a length of time equivalent to the period of the agreed upon delay. However, the tax collector shall be not be required to exclude any such period of delay from the tax collector's calculation of taxes and interest due.

(5) A deficiency notice shall be sent by certified mail or hand-delivered to the taxpayer at the taxpayer's address of record or to the taxpayer's agent at the agent's address of record.

(b) *Extension of limitation period.* Any applicable limitation period may be extended by written agreement of the tax collector and taxpayer. (Code 1981, § 15.1-13; Code 2012, § 15.1-13; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-13, 5-30-2012)

Sec. 15.1-15. Tax collector may examine books and other records; failure to provide records.

(a) The tax collector may require the taxpayer to provide and may examine any books, records, or other documents of any person who, in the opinion of the tax collector, might be liable for any tax under this chapter, for any periods not barred by limitations under section 15.1-14.

(b) In order to perform any examination authorized by this chapter, the tax collector may issue an administrative request for the attendance of witnesses or for the production of documents.

(c) If within 30 calendar days of receiving a written request for information in the possession of the taxpayer, the taxpayer fails or refuses to furnish the requested information, the tax collector may, in addition to penalties prescribed under section 15.1-10, impose an additional penalty of 25 percent of the amount of any tax deficiency attributable to the information that the taxpayer failed to provide, unless the taxpayer shows that the failure was due to reasonable cause and not due to willful neglect.

(d) The tax collector may use any generally accepted auditing procedures, including sampling techniques, to determine the correct tax liability of any taxpayer. The tax collector shall ensure that the procedures used are in accordance with generally accepted auditing standards.

(e) The fact that the taxpayer has not maintained or provided one or more books or records requested by the tax collector shall not preclude the tax collector from making a determination of deficiency. In such cases, the tax collector shall be authorized to use reasonable estimates, projections, or samplings, to determine the correct tax. (Code 1981, § 15.1-14; Code 2012, § 15.1-14; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-14, 5-30-2012)

Sec. 15.1-16. Erroneous payment of tax; credits and refunds; limitations.

(a) A taxpayer may apply to the tax collector for a refund of any taxes that were paid but not due. The application for refund must be filed before the expiration of the limitation period set

forth in section 15.1-14(a)(1). Taxpayers seeking a refund shall provide all information requested and reasonably required by the tax collector to make a determination as to the taxpayer's entitlement to a refund.

(b) The tax collector shall promptly consider an application for refund and shall issue to the taxpayer a notice of acceptance or denial of the application for refund.

(c) The tax collector shall refund any overpayment of taxes within ten days after determining that the refund is properly owed without regard to whether the taxpayer has made application for the refund. If the taxpayer is delinquent in its obligation to pay taxes to the Community, or is delinquent in any other financial obligation to the Community, the tax collector shall apply some or all of the refund as may be necessary to satisfy as much of the obligation as possible.

(d) No credit shall be allowed or refund paid where it appears that the taxpayer has collected from its customers, by separately stated itemization, the amount of the tax, except that a credit or refund may be allowed in such case if the taxpayer can present documentation satisfactory to the tax collector identifying each customer from whom the excess taxes were collected and establishing that any taxes refunded pursuant to this section will be remitted to those customers within 60 days of receipt of the refund.

(e) Interest shall be allowed at the rate set forth in section 15.1-10(a) on any refund applied for and authorized pursuant to the provisions of this chapter. Interest shall be calculated from the date of the taxpayer's application for refund filed with the Community.
(Code 1981, § 15.1-15; Code 2012, § 15.1-15; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-15, 5-30-2012)

Sec. 15.1-17. Administrative review; petition for hearing or for redetermination; finality of order.

(a) *Applicability.* This section describes the procedures under which a taxpayer may dispute any determination by the tax collector related to taxes owed or asserted to be owed by the taxpayer.

(b) *Informal conference.* A taxpayer shall have the right to discuss any dispute subject to this section by informal conference with the tax collector or with an auditor before seeking administrative review pursuant to subsection (c) of this section, provided that the time for filing a petition for administrative review shall not be extended by such informal conference, except by written agreement between the tax collector and the taxpayer.

(c) *Administrative review.*

(1) *Filing a petition.* A taxpayer may seek administrative review of a dispute that is subject to this section by filing with the tax collector a petition for review within 30 days of mailing or delivery to the taxpayer of the notice that is the subject of the petition.

(2) *Extension to file a petition.* The taxpayer may request only one extension from the tax collector of the time for filing a petition for review. Such request must be in writing, state the reasons for the requested delay and time of delay requested, and must be filed with the tax collector within the period set forth in subsection (c)(1) of this section for originally filing a petition. The tax collector may grant an extension that shall not exceed 15 days.

(3) *Requirements for petition.* The petition shall be in writing, shall describe the action of the tax collector which the taxpayer disputes, and shall state the bases of the taxpayer's contention that such action is erroneous.

(4) *Response to petition.* The tax collector shall mail or hand-deliver to the taxpayer and to the hearing officer (or to the Community manager if the hearing officer has not been appointed) a written response to the petition within 20 days of the filing of the petition.

(d) *The hearing officer.* Upon receipt of a petition, the tax collector shall promptly deliver a copy of the petition to the Community manager who shall appoint a hearing officer to conduct proceedings for the resolution of the dispute. The

hearing officer shall be a person with general knowledge of taxes, a member in good standing of the state bar and have previous experience serving in a judicial capacity.

(e) *The hearing.* The hearing officer shall review the petition and the response, and shall, upon consultation with the taxpayer and tax collector, schedule a hearing within 30 days of his or her appointment and advise the parties of the general rules of hearing procedure. The hearing officer shall not be required to prescribe strict rules regarding hearsay and authentication of evidentiary records. The parties may be represented by attorneys or advocates of their choice in all proceedings conducted under this section. The hearing officer shall maintain a record of the proceeding that shall include all papers filed with the hearing officer and all papers offered into evidence.

(f) *The hearing officer's decision.* The hearing officer shall, within 30 days of the hearing, render a written decision, which shall include a summary statement of the reasons for the decision. The hearing officer shall mail copies of the decision to the parties. The decision may, in the hearing officer's discretion, include an award of fees and costs to the prevailing party upon a finding that such award is both reasonable in amount and warranted under the circumstances. If neither party seeks a reconsideration, the decision becomes final 30 days after the date of the decision. Either party may seek reconsideration of the decision by written motion filed and served within 15 days of the date of the decision. If a motion for reconsideration is determined by the hearing officer to be not timely filed, the hearing officer shall notify both parties in writing of the determination of untimeliness, and the decision will be final 15 days after the date of the notice. If a motion for reconsideration is timely filed and it is denied, the hearing officer shall notify both parties in writing of the denial and the decision will be final 15 days after the date of the notice. If a motion for reconsideration is granted, the hearing officer shall issue an amended decision which will be final 15 days after the date of the new or supplemental decision. A motion for reconsideration may not be based upon evidence not in the hearing officer's record, except upon a showing that such evidence was unavailable due to fraud.

(g) *Effect of the final decision.* Any determination of deficiency that is upheld by the hearing officer in a final decision shall be assessed, and any application for refund that is upheld by the hearing officer in a final decision shall be paid, 30 days after the decision is final unless the deficiency determination or the refund determination is challenged within that time by the filing of a complaint in the Community court.

(h) *Injunctions.* No injunction shall be awarded by any court or judge to restrain the collection of the taxes imposed by this chapter or to restrain the enforcement of this chapter.
(Code 1981, § 15.1-16; Code 2012, § 15.1-16; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-16, 5-30-2012)

Sec. 15.1-18. Jeopardy assessments.

(a) If the tax collector believes that the collection of any deficiency of any amounts imposed by this chapter will be jeopardized by delay, he or she shall deliver to the taxpayer a notice of such finding and demand immediate payment of deficiency declared to be in jeopardy.

(b) Jeopardy assessments are immediately due and payable and the tax collector may immediately begin proceedings for collection. The taxpayer, however, may stay collection by filing, within ten days after receipt of notice of jeopardy assessment, or within such additional time as the tax collector may allow, by bond or collateral in favor of the Community, in the amount declared by the tax collector in his or her notice to be in jeopardy.

(c) The bond required by this section shall be issued in favor of the Community by a surety company authorized to transact business in this state and approved by the treasurer of the Community as to solvency and responsibility. Collateral shall consist of marketable securities or cash, which will be deposited with the treasurer of the Community.

(d) If bond or collateral is not filed within the period prescribed by subsection (b) of this section, the tax collector may immediately assess and

collect the deficiency. The taxpayer nevertheless shall be entitled to initiate the review proceedings provided in sections 15.1-17 and 15.1-19.
(Code 1981, § 15.1-17; Code 2012, § 15.1-17; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-17, 5-30-2012)

Sec. 15.1-19. Judicial review.

(a) A taxpayer may seek judicial review of all or any part of a hearing officer's decision by initiating an action against the Community in the Community court within 30 days of the date that the decision becomes final. A taxpayer is not required to pay any tax, penalty, or interest upheld by the hearing officer before seeking such judicial review.

(b) The tax collector may seek judicial review of all or any part of a hearing officer's decision by initiating an action against the taxpayer in the Community court within 30 days of the date the decision becomes final.

(c) The court may reverse the decision of the hearing officer in whole or in part but only upon a finding that the decision is clearly erroneous. The court shall not consider any contentions or evidentiary materials other than those found in the record of the hearing officer's proceeding.
(Code 1981, § 15.1-18; Code 2012, § 15.1-18; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-18, 5-30-2012)

Sec. 15.1-20. Collection of assessed taxes.

(a) The tax collector, and other Community officials designated by the Community manager, may collect assessments in the same manner as judgments of the Community court.

(b) Every tax imposed by this chapter, and all interest and penalties thereon, shall become, from the time the same is due and payable, a personal debt to the Community from the person liable, but shall be payable to and recoverable by the collector.

(c) An action in the name of the Community may be brought at any time by the Community attorney, at the request of the collector, to recover the amount of any taxes, interest and penalties due under this chapter.

(d) There shall be no levy made which will impinge upon the federal trust.
(Code 1981, § 15.1-19; Code 2012, § 15.1-19; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-19, 5-30-2012)

Sec. 15.1-21. Collection of delinquent possessory interest taxes.

If any tax imposed pursuant to article III of this chapter is not protested or paid within 60 days after becoming delinquent, or upon entry of any final judgment of the courts of the Community against a taxpayer, the collector shall issue a warrant directed to the chief of police of the Community department of public safety commanding him or her to levy upon and sell, within 60 days, to a person approved by the Community Council, the possessory interest against which the tax was assessed. The proceeds of such sale shall promptly be turned over to the collector, who shall use such proceeds to pay the amount of the delinquent tax, with the added penalties, interest, any applicable court costs, and the cost of executing the warrant. With respect to any real property possessory interest that is the subject of such a warrant, all or such number of any lessors of the real property who wish to purchase such real property at the sale shall have preference at the sale. The chief of police shall, within five days after the receipt of the warrant, file with the clerk of the Community court a copy thereof, and the clerk shall thereupon enter in the judgment docket, in the column of judgment debtors, the name of the delinquent taxpayer mentioned in the warrant, and in appropriate columns the amounts of the tax or portion thereof and penalties and interest for which the warrant is issued and the date when such copy is filed. Thereafter, the amount of such warrant so docketed shall become a lien upon the title to the possessory interest upon which levy has been made in the same manner as a judgment against the taxpayer duly docketed in the office of the clerk. After filing the copy of the warrant with the clerk, the chief of police shall execute the warrant in the same manner prescribed by law for executing judgments of the Community court, and shall be entitled to the same fees for his or her services in executing the warrant, to be collected in the same

manner. If a warrant is returned not satisfied in full, the collector shall have the same remedies to enforce the claim for taxes against the delinquent taxpayer as if the Community had recovered judgment against the delinquent taxpayer for the amount of the tax.
(Code 1981, § 15.1-20; Code 2012, § 15.1-20; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-20, 5-30-2012)

Sec. 15.1-22. Manner of making remittance of tax; collector's receipt.

All remittances of taxes imposed by this chapter shall be made by bank draft, check, cashier's check, money order, electronic funds transfer, or cash to the collector, who shall issue his or her receipts therefor to the taxpayer; provided, that no remittance for the tax assessed and levied under the provisions of the chapter shall be deemed received unless and until it has been paid in cash to the collector.
(Code 1981, § 15.1-21; Code 2012, § 15.1-21; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-21, 5-30-2012)

Secs. 15.1-23—15.1-49. Reserved.

ARTICLE II. TRANSACTION PRIVILEGE TAX

Sec. 15.1-50. Imposition of tax; tax schedule.

There are hereby levied upon persons on account of their business activities within the Community transaction privilege taxes to the extent hereinafter provided. Such taxes shall be collected by the tax collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the Community. Such taxes shall be measured by the gross sales or gross income of persons, whether derived from residents of the Community or not; and all of said gross sales or gross income shall be used to measure the tax in accordance with the following schedule:

(1) *1.65 percent schedule.* An amount equal to 1.65 percent of the gross proceeds of sale or gross income from the business upon every person engaging or continuing within the Community in the following businesses:

a. Selling any tangible personal property whatsoever (including items also subject to a luxury tax) at retail, except gasoline, tobacco products and the sales described in subsections (2), (3) and (4) of this section. When any person is engaged in the business of selling such tangible personal property at both wholesale and retail, the retail rate shall be applied only to the gross proceeds of the sales made other than at wholesale when his or her books are kept so as to show separately the gross proceeds of sale of each class; and when books are not so kept, the retail rate shall be applied to the gross proceeds of every sale made.

b. Operating or conducting theatres, movies, shows of any type or nature, exhibitions, concerts, carnivals, circuses, golf courses, golf driving ranges, fairs, races, contests, horse stables, boxing and wrestling matches and any business charging admission fees for exhibition, amusement or instruction other than projects of bona fide religious or educational institutions. The tax prescribed under the terms of this subsection shall not apply to events sponsored by the Community.

c. Selling manure at wholesale.

d. Contracting, to be computed as follows: On the gross income, less a deduction in the amount of 35 percent of said gross income, in lieu of any labor, shop or subcontractor deductions. Subcontractors or others who perform services in respect of the improvement, building, highway, road, excavation or other structure, project, development or improvement (hereinafter "job") are exempt from the privilege tax on their gross income derived from the job if they

can demonstrate to the Community's satisfaction that the job was within the control of a prime contractor or prime contractors and that such prime contractor paid or should have paid the privilege tax upon the gross income attributable to the job and from which the subcontractors or others were paid.

e. Leasing or renting for commercial purposes to the tenant in actual possession, including the placement of outdoor advertising billboards, of real property located within the Community by a nonmember of the Community; provided that, except as provided in division 2 of article III of chapter 15, this tax shall not apply to the leasing or renting of residential units intended primarily for persons who reside in such units as their place of abode.

(2) *Transaction privilege tax schedules.*

a. *7.95 percent schedule.* An amount equal to 7.95 percent of the gross proceeds or gross income from the business of those sales described in subsection (1)a through d of this section to persons who are not members of the Community from the business of any division of the Community or the business of any enrolled Community member.

b. *One percent temporary tax increase; repeal from and after May 31, 2013.* Effective November 1, 2010, and continuing through May 30, 2013, a temporary tax is levied as a separate rate increment in addition to the transaction privilege tax rate set forth in subsection (2)a of this section. The temporary tax is subject to the same collection, payment, enforcement, and other rules, deductions and exclusions, if any, as apply to transaction privilege taxes in subsection (2)a of this section. The repeal of the temporary taxes under this section does not affect the continuing validity of outstanding and unpaid tax obligations that accrue under this section, including penalties and interest that accrue thereafter by law on any unpaid obligations. The temporary tax under this subsection is repealed from and after May 31, 2013.

c. *Cross references; construction.* During the period for which the temporary tax of subsection (2)b of this section is in force, all references to the transaction privilege tax rate established by this subsection (2) shall include both the seven and 7.95 percent and the one percent tax rates of subsections (2)a and b of this section (8.95 percent in aggregate). Following expiration of the temporary tax, any such references shall include the rate appearing in subsection (2)a of this section only.

(3) *Three percent schedule.* An amount equal to three percent of the gross proceeds of sale or gross income from the business upon every person engaging or continuing within the Community in the following businesses: Selling or otherwise commercially providing the service of receiving and distributing television signals by cable, dish antenna or other means within mobile home parks, travel trailer parks, shopping centers, office parks or industrial parks.

(4) *One percent schedule.* An amount equal to one percent of the gross proceeds of sale or gross income from the business upon every person engaging or continuing within the Community in the following businesses: Mining, quarrying, smelting or producing for sale, profit or commercial use any oil, natural gas, limestone, sand, gravel, copper, gold, silver or other mineral product, compound or combination of mineral products.

(5) *2.15 percent schedule.* An amount equal to 2.15 percent of the gross income derived from the business of leasing or renting real property to the tenant in actual pos-

session by any business or division of the Community or any business of any enrolled Community member, including outdoor advertising billboards, located within the Community; provided, that this tax does not apply to the leasing or renting of residential dwelling units except as provided in division 2 of article III of chapter 15, intended primarily for persons who reside in such units as their place of abode.

(6) *Tangible personal property.* Gross proceeds from the sales of tangible personal property that, if sold in the City of Scottsdale, would be subject to tax at the rate of 1.65 percent, are taxable only under subsection (1) of this section.

(7) *Utility tax.* An amount equal to one percent of the gross income derived from the sale of telecommunications service, gas, water, electric power or other utility services or commodities to any person who is a nonmember of the Community engaged in any nonagricultural business within the Community and which services or commodities are used within the Community.

(8) *Hotel occupancy tax.*

a. *Purpose.* In addition to all other taxes imposed by this article, there is levied and shall be collected by the tax collector for the purpose of defraying the necessary expenses of the Community a hotel occupancy tax.

b. *Generally.* The hotel occupancy tax shall be imposed on any person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room or space in a hotel costing $2.00 or more each day.

c. *Tax rate.* The hotel occupancy tax rate is five percent of the cost of the room.

d. *Collection of tax.* Any taxpayer owning, operating, managing, or controlling a hotel shall collect for the Community the hotel occupancy tax that is imposed by this article and calculated on the amount paid for a room in the hotel.

e. *Food and personal services exempt.* The price of a room in a hotel does not include the cost of food served by the hotel and/or the cost of personal services performed by the hotel for the person, except those services related to cleaning and readying the room for use or possession.

f. *Other exemptions.* The provisions of this subsection shall not apply to rentals made to:

1. The Community.
2. Enrolled members of the Community.
3. The federal government.
4. Persons who have the right to use or possess a room in a hotel for at least 30 consecutive days.

(Code 1981, § 15.1-30; Code 2012, § 15.1-30; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-371-2011, 11-1-2010; Ord. No. SRO-402-2012, § 15.1-30, 5-30-2012; Ord. No. SRO-425-2013, § A, 9-1-2013)

Sec. 15.1-51. Exclusion of tax in determining gross incomes or receipts.

For the purpose of any transaction privilege tax imposed by this article, the total amount of gross income, gross receipts or gross proceeds of sale shall be deemed to be the amount received, exclusive of the tax imposed by this article, providing the person upon whom the tax is imposed shall establish to the satisfaction of the collector that the tax has been added to the sales price and not absorbed by him or her.

(Code 1981, § 15.1-31; Code 2012, § 15.1-31; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-31, 5-30-2012)

Sec. 15.1-52. Presumption that all gross receipts are taxable.

For the purpose of the proper administration of this article and to prevent evasion of the transac-

tion privilege taxes hereby imposed, it shall be presumed that all gross receipts are subject to the tax until the contrary is established.
(Code 1981, § 15.1-32; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-32, 5-30-2012)

Sec. 15.1-53. Exemptions.

The provisions of this article imposing a transaction privilege tax shall not apply to business transactions as described in the following subsections. Taxpayers engaging in such transactions shall document all exempt sales using forms provided by the tax collector.

(1) Sales of tangible personal property to a person licensed as a contractor under chapter 10 of title 32, Arizona Revised Statutes (A.R.S. §§ 32-1101—32-1171), and who holds a valid Arizona privilege tax license for engaging or continuing in the business of contracting where the tangible personal property so sold is incorporated or fabricated by the contractor into any structure, project, development or improvement in fulfillment of a contract therefor.

(2) The gross proceeds of sale or gross income derived from the sale of livestock, poultry, seed, feed, fertilizer, insecticides, fungicides, seed-treating chemicals and other agricultural chemicals and supplies, to persons engaging or continuing in the business of farming, ranching or feeding livestock or poultry, but not including equipment for use or consumption in these businesses.

(3) Sales of prepared food by a vendor or in a restaurant, providing such business has a gross income of less than $50,000.00 per annum.

(4) Sales made to the Community.

(5) Sales made to the United States government.

(6) Sales of motor vehicles to nonresidents of the State of Arizona for use outside the State of Arizona if the vendor ships or delivers the motor vehicle to a destination outside of the State of Arizona. The office of the treasurer is authorized to promulgate regulations necessary to implement this exemption, including regulations on the acceptable forms of certificates to establish out-of-state delivery of motor vehicle to a nonresident and residency in another state or foreign country, and the documentation the motor vehicle seller must retain. The burden shall be on the motor vehicle seller to establish to the satisfaction of the office of the treasurer the validity of the claimed exemption.

(7) Sales of drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

(Code 1981, § 15.1-33; Code 2012, § 15.1-33; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-404-2012, 6-13-2012; Ord. No. SRO-402-2012, § 15.1-33, 5-30-2012; Ord. No. SRO-443-2014, 6-4-2014)

Secs. 15.1-54—15.1-79. Reserved.

ARTICLE III. POSSESSORY INTEREST TAX

Sec. 15.1-80. Imposition of taxes.

There are hereby levied upon persons on account of their possessory interest in real property within the external boundaries of the Community, such possessory interest taxes as provided in this article, which taxes shall be collected by the collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the government of the Community.
(Code 1981, § 15.1-40; Code 2012, § 15.1-4; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-40, 5-30-2012)

Sec. 15.1-81. Classification of possessory interests for taxation; assessment ratios; valuation.

(a) There are established the following classes of possessory interests for taxation:

(1) *Class one.* All possessory interests devoted to any commercial or industrial use.

(2) *Class two.* All possessory interests used for agricultural purposes.

(b) For the purpose of classification of property under this section, partially completed or vacant improvements shall be classified according to their intended uses.

(c) For possessory interest tax purposes, the full cash value of each class one possessory interest shall be determined at its market value by the collector. The collector shall then apply an assessment ratio that shall not exceed the ratio used by the State of Arizona for the taxation of like property to determine the taxable value of the possessory interest. The collector shall then apply the appropriate possessory interest tax rate(s) to the taxable value of the possessory interest to determine the tax owed.

(d) The collector shall prepare tax rolls of all possessory interests within the Community setting forth for each such interest such information as may be required to administer this article, including the information described in subsection (c) of this section.
(Code 1981, § 15.1-41; Code 2012, § 15.1-41; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-41, 5-30-2012)

Sec. 15.1-82. Exemptions to taxation.

All possessory interests shall be subject to taxation except such possessory interests as are held by the following entities or used for the following purposes:

(1) Community government.

(2) United States government.

(3) Churches and other buildings used for religious worship, and the land and improvements appurtenant to and used with such buildings, provided rent is not paid for such land or improvements, and as long as the property is not used or held for profit.

(4) Public libraries, colleges, schoolhouses and other buildings used for education and the lands appurtenant to and used with such buildings, as long as they are used or the purpose of education and not used or held for profit.

(5) Leases for businesses operated by enrolled Community members.

(6) Partially completed improvements not yet in use for intended purpose.

(Code 1981, § 15.1-42; Code 2012, § 15.1-42; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-42, 5-30-2012)

Sec. 15.1-83. Setting possessory interest tax rate.

(a) The Community Council shall meet at the council chambers of the Community on the second Wednesday of October 1982, and thereafter on or before the last Wednesday of September of each year and fix the rate of taxation on class one possessory interests.

(b) On or before the fourth Wednesday of October 1982, and thereafter on or before the fourth Wednesday of June of each year, the Community Council shall transmit to the collector a statement of changes, if any, which it has made in the rate of possessory interest taxes. In no event shall the aggregate tax rate exceed the aggregate rate of tax to be levied on real property located within the political boundaries of the City of Scottsdale.

(c) The tax on class two possessory interests shall be $0.05 per acre per year.
(Code 1981, § 15.1-43; Code 2012, § 15.1-43; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-43, 5-30-2012)

Sec. 15.1-84. Annual tax levy; when tax due; when delinquent.

(a) On or before October 1 of each year or the day thereafter if it be a business holiday, the collector shall levy upon the possessory interests within the Community the rates of taxation as prescribed by the Community Council pursuant to this article.

(b) One-half of the taxes levied under this article shall be due and payable on or before the first Monday in November and the remaining one-half on or before the first Monday in May. The tax will be delinquent after such days.
(Code 1981, § 15.1-44; Code 2012, § 15.1-44; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-44, 5-30-2012)

Secs. 15.1-85—15.1-111. Reserved.

ARTICLE IV. UTILITIES TAX

Sec. 15.1-112. Location and valuation of utilities.

On or before September 1 of each calendar year, the Community development department shall determine the location, ownership, and full cash value of the property interests of all utility companies operating within the Salt River Pima-Maricopa Indian Reservation. The full cash value of such utility property interests shall be equivalent to their proportionate value as determined by the Arizona department of revenue as of January 1 of the tax year. The director of the Community development department may elect to use the values for such properties as determined by the state department of revenue or to make a department valuation using commonly accepted methods of appraisal.
(Code 1981, § 15.1-50; Code 2012, § 15.1-50; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-50, 5-30-2012)

Sec. 15.1-113. Imposition of tax; when payable.

(a) There are hereby levied upon utility companies, on account of their ownership of property interests within the external boundaries of the Community, utility taxes on all property interests, except such as are owned by the Community, which taxes will be collected by the collector for the purposes of raising revenue to defray the necessary expenses and obligations of the government of the Community.

(b) Tax assessments on property interests owned by utility companies shall be made by the Community Council annually on or before the last Wednesday of September of each year, and shall be based on the full cash value of all such property interests. The assessment rate utilized by the Community Council shall not exceed that utilized by the State of Arizona for the taxation of like property during any tax year.

(c) On or before November 1 of each year, the Community shall levy all taxes to be levied and collected for all Community purposes upon the property interests of utility companies upon the valuations described and provided for hereunder.
(Code 1981, § 15.1-51; Code 2012, § 15.1-51; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-51, 5-30-2012)

Secs. 15.1-114—15.1-139. Reserved.

ARTICLE V. LUXURY TAX

Sec. 15.1-140. Tax on consumer.

The taxes levied by this article are intended and shall act as direct taxes on the consumer, but shall be pre-collected and remitted to the Community by the retailer for the purposes of convenience and facility only.
(Code 1981, § 15.1-60; Code 2012, § 15.1-60; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-60, 5-30-2012)

Sec. 15.1-141. Tobacco tax.

In addition to all other taxes of this Community Code of Ordinances, the following taxes on all cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco are levied and shall be collected by the collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the Community:

(1) On each cigarette, $0.05.

(2) On smoking tobacco, snuff, fine cut chewing tobacco, cut and granulated tobacco, shorts and refuse of fine cut chewing tobacco, and refuse, scraps, clippings, cuttings and sweepings of tobacco, excluding tobacco powder or tobacco products used exclusively for agricultural or horticultural purposes and unfit for human consumption, $0.113 per ounce or major fraction thereof.

(3) On all cavendish, plug or twist tobacco, $0.28 per ounce or fractional part thereof.

(4) On each 20 small cigars or fractional part thereof weighing not more than three pounds per 1,000, $0.228.

(5) On cigars of all descriptions except those included in subsection (4) of this section, made of tobacco or any substitute thereof, if manufactured to retail at not more than $0.05 each, $0.11 on each three cigars, but if manufactured to retail at more than $0.05 each, $0.11 on each cigar.

(Code 1981, § 15.1-61; Code 2012, § 15.1-61; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-61, 5-30-2012)

Sec. 15.1-142. Community members exempt.

The tax levied by section 15.1-141 does not apply to cigarettes, cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco sold at retail within the Community to any enrolled member of the Community.

(Code 1981, § 15.1-62; Code 2012, § 15.1-62; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-62, 5-30-2012)

Sec. 15.1-143. Alcohol tax.

In addition to all other taxes of this Community Code of Ordinances, the following taxes on all alcoholic beverages are levied on the retailer and shall be collected by the collector for the purpose of raising revenue to be used in defraying the necessary expenses and obligations of the Community:

(1) On each sealed container of spirituous liquor at the rate of $3.00 per gallon and at a proportionate rate for any lesser or greater quantity than one gallon.

(2) On each container of vinous liquor, except cider, of which the alcoholic content is not greater than 24 percent by volume at the rate of $0.84 per gallon and at a proportionate rate for any lesser or greater quantity than one gallon.

(3) On each container of vinous liquor of which the alcoholic content is greater than 24 percent by volume, $0.25 for quantities less than eight ounces and an additional $0.25 for each additional eight ounces (or fraction thereof),

(4) On each gallon of malt liquor or cider, $0.16, and at a proportionate rate for any lesser or greater quantity than one gallon.

(Code 1981, § 15.1-70; Code 2012, § 15.1-70; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-70, 5-30-2012)

Secs. 15.1-144—15.1-169. Reserved.

ARTICLE VI. PRIVILEGE LICENSE

Sec. 15.1-170. Required; fee.

Every person having a gross proceeds of sales or gross income upon which a privilege tax is imposed pursuant to article II of this chapter, desiring to engage or continue in business, shall make application to the Community collector for a privilege license, accompanied by a fee of $20.00, and no person shall engage or continue in business until he or she shall have such license. In the event that no license is granted, the application fee shall not be returned to the applicant but shall be instead applied to the costs of processing such application. As part of the approval process, a person is required to have a valid business license as described in article II of chapter 15.

(Code 1981, § 15.1-79; Code 2012, § 15.1-79; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-79, 5-30-2012)

Sec. 15.1-171. Duration.

The privilege license required by section 15.1-170 shall be good for one year and be renewed annually.

(Code 1981, § 15.1-80; Code 2012, § 15.1-80; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-80, 5-30-2012)

Sec. 15.1-172. Cancellation.

Upon the failure of any person to pay a tax or penalty, or to make records available or to file a return as required by article II of this chapter, or have a valid Community business license, the collector shall give such person notice of intent to

cancel the privilege license. If within five days the person so notified shall request it, he or she shall be granted a hearing before the collector. Upon a finding by the collector that a tax or penalty is unpaid and has been so at least 30 days, or if no request for hearing has been made within five days after notification, as herein provided, the license issued under this article shall be cancelled and such person shall not be relicensed until all such taxes and penalties due hereunder shall have been paid.
(Code 1981, § 15.1-81; Code 2012, § 15.1-81; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-81, 5-30-2012)

Sec. 15.1-173. Reissuance.

Any person losing his privilege license, as prescribed in section 15.1-172 shall be charged a fee of $10.00 for each reissue of a license.
(Code 1981, § 15.1-82; Code 2012, § 15.1-82; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-82, 5-30-2012)

Sec. 15.1-174. Transferability; display.

The license prescribed in section 15.1-170 shall be nontransferable, and shall be displayed in the applicant's place of business.
(Code 1981, § 15.1-83; Code 2012, § 15.1-83; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-83, 5-30-2012)

Sec. 15.1-175. Separate license for each location.

A person engaged in or conducting a business in two or more locations shall procure a license for each of such locations.
(Code 1981, § 15.1-84; Code 2012, § 15.1-84; Ord. No. SRO-361-2010, 3-31-2010; Ord. No. SRO-402-2012, § 15.1-84, 5-30-2012)

Chapter 15.5

GAMING*

Sec. 15.5-1. Purpose.
Sec. 15.5-2. Definitions.
Sec. 15.5-3. Adoption of compact and subsequent amendments.
Sec. 15.5-4. Authorization.
Sec. 15.5-5. Ownership.
Sec. 15.5-6. Use of revenue.
Sec. 15.5-7. Audit.
Sec. 15.5-8. Protection of environment and public health and safety.
Sec. 15.5-9. Licenses for employee.
Sec. 15.5-10. Licenses for services.
Sec. 15.5-11. Licenses for facilities.
Sec. 15.5-12. Licenses for operators.
Sec. 15.5-13. Licenses for regulators.
Sec. 15.5-14. Community regulatory agency.
Sec. 15.5-15. Compliance with Act.
Sec. 15.5-16. Prohibited acts.
Sec. 15.5-16.1. Financial services in gaming facilities.
Sec. 15.5-16.2. Tort claims process.
Sec. 15.5-17. Penalties.
Sec. 15.5-18. Repeal and severability.
Sec. 15.5-19. Detention and questioning of persons suspected of violations.
Sec. 15.5-20. Trust protection for minor and incompetent beneficiaries receiving IGRA benefits; applicable law; jurisdiction.
Sec. 15.5-21. Reserved.
Sec. 15.5-22. Disclaimer.
Sec. 15.5-23. Granting of security interests.
Sec. 15.5-24. Raffles.
Sec. 15.5-25. Effective date.

***Editor's note—**Ord. No. SRO-449-2014, adopted Aug. 27, 2014, substantially amended ch. 15.5, specifically amending §§ 15.5-2, 15.5-3, 15.5-7, 15.5-9—15.5-14, 15.5-16, 15.5-16.2, 15.5-23, and adding § 15.5-24, establishing that said amendments take effect on the first day of the month following approval by the National Indian Gaming Commission.

Sec. 15.5-1. Purpose.

It is the purpose of this chapter to govern and regulate the operation and conduct of all gaming activities on lands within the jurisdiction of the Salt River Pima-Maricopa Indian Community in order to protect the public interest in the integrity of such gaming activities, to prevent improper or unlawful conduct in the course of such gaming activities, and to promote the development of a balanced tribal economy by dedicating all of the net revenues from such gaming activities to the public purposes of the Tribe, including the support of Community government programs which promote economic development and the health, education and welfare of the Community and its members.
(Code 1981, § 15.5-1; Code 2012, § 15.5-1; Ord. No. SRO-212-96, § 1, 11-8-1995; Ord. No. SRO-219-96, § 1, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-1, 5-30-2012)

Sec. 15.5-2. Definitions.

For purposes of this chapter:

Act means the Indian Gaming Regulatory Act, Pub L 100-497, 25 USC 2701 et seq.

Administrative hearing means a hearing conducted to consider the initial denial, or subsequent conditioning, suspension or revocation of a gaming employee or gaming services license or to consider allowing a barred person to return to a gaming facility and setting conditions for such return.

Applicant means any person who has applied for a license under the provisions of this chapter.

Application means a request for the issuance of a license under the provisions of this chapter.

Beneficiary means an enrolled member for whom a trust is created under the Act.

Board means the body appointed by the Community Council to conduct administrative hearings pursuant to this chapter and also known as the gaming regulatory board.

Chapter means the Salt River Pima-Maricopa Indian Community gaming ordinance and any regulations and standards of operation and management promulgated by the Community regulatory agency hereunder.

Class II gaming means class II gaming as defined in accordance with the Act, 25 USC 2703(7)(A), and the regulations promulgated thereunder by the commission.

Class III gaming means class III gaming as defined in accordance with the Act, 25 USC 2703(8).

Code means the Salt River Pima-Maricopa Indian Community Code of Ordinances.

Commission means the National Indian Gaming Commission.

Community means the Salt River Pima-Maricopa Indian Community.

Community Council means the Salt River Pima-Maricopa Indian Community Council, the duly constituted governing body of the Salt River Pima-Maricopa Indian Community, empowered by the Salt River Pima-Maricopa Indian Community Constitution to adopt this chapter.

Community court or *court* means the Salt River Pima-Maricopa Indian Community court.

Community law enforcement agency means the police force of the Community established and maintained by the Community to carry out law enforcement on the reservation.

Community president means the president of the Salt River Pima-Maricopa Indian Community.

Community regulatory agency means the Salt River Pima-Maricopa Indian Community gaming regulatory agency established pursuant to this chapter.

Community trustee means the Community while acting as a trustee of a trust.

Compact means such compact governing the conduct of class III gaming on the Community's reservation as may be entered into pursuant to the Indian Gaming Regulatory Act between the State of Arizona and the Salt River Pima-Maricopa Indian Community, and approved by the Secretary of the Interior, or such procedures promulgated by the Secretary of the Interior pursuant to

the Indian Gaming Regulatory Act governing the conduct of class III gaming on the Community's reservation.

Creditor means, with respect to a beneficiary, a person who has a claim.

Debt means liability on a claim.

Director means the executive director of the Salt River Pima-Maricopa Indian Community regulatory agency established pursuant to this chapter.

Enrolled member means an enrolled member of the Community.

Enterprise means the Salt River Pima-Maricopa Indian Community gaming enterprise established by the Salt River Pima-Maricopa Indian Community Council to conduct all gaming operations of the Community on the reservation.

Game means any game played with cards, dice, equipment or any mechanical, electromechanical or electronic device or machine for coin, currency, property or other consideration or thing of value.

Gaming or *gambling* means to deal, operate, carry on, conduct, maintain or expose for play any game.

Gaming device means a microprocessor-controlled electronic device which allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a coin, currency, tokens or by the use of credit, and which awards game credits, cash, tokens, replays or a receipt that can be redeemed by the player for any of the foregoing. Game play may be displayed by video facsimile or mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and pay out, if any.

Gaming employee means any key employee, any primary management official or any other person employed by the enterprise who performs gaming related activities, including those persons whose employment duties require or authorize access to restricted gaming related areas of the gaming facility.

Gaming employee license means a license issued by the Community regulatory agency pursuant to section 15.5-9, permitting a person to be employed as a gaming employee.

Gaming equipment means any machine, equipment or device which is specially designed or manufactured for use in the operation of any class II or class III gaming activity, including any gaming device.

Gaming facility or *gaming facilities* means the buildings or structures in which class III gaming, as authorized by the compact is conducted.

Gaming facility license means a license issued by the Community regulatory agency pursuant to section 15.5-11, allowing permitting gaming operations at a gaming facility.

Gaming operation means any class II or class III gaming conducted by the enterprise pursuant to this chapter.

Gaming operator license means a license issued by the Community regulatory agency pursuant to section 15.5-12, permitting the enterprise to conduct gaming operations at a gaming facility.

Gaming-related activities means any type of activity that falls within the definition of gaming and includes administrative and financial activities for the revenue generated from gaming activities.

Gaming services means:

(1) The providing of any goods or services (except for legal services) for a gaming facility or the gaming enterprise in connection with the operation of class III gaming in an amount in excess of $10,000.00 in any single month, including, but not limited to, equipment, transportation, food, linens, janitorial supplies, maintenance, or security services;

(2) The providing, manufacturing, distributing, or servicing of any amount of gaming equipment to the Community or the enterprise in connection with the operation of class II or class III gaming in a gaming facility;

(3) The extension of or guarantee of any financing for the enterprise or the gaming facilities by any person or entity other than the Community or an institutional investor;

(4) The provision of any services by a management contractor.

Gaming services license means a license issued by the Community regulatory agency pursuant to section 15.5-10, permitting a person or entity to provide gaming services.

Gaming support employee means any employee or persons employed by the enterprise who perform employment duties that are not gaming related and do not meet the definition of "gaming employee" and includes employees having access to nonpublic areas but not restricted to gaming-related areas of the gaming facility.

Institutional investor means an agency of the United States; a lending institution licensed and regulated by the state or the United States; a mutual fund that meets the requirements of a "qualified institutional buyer," as defined in rule 144A of the Federal Securities Act; an insurance company as defined in section 2(a)(17) of the Investment Company Act of 1940, as amended; and investment company registered under section 8 of the Investment Company Act of 1940, as amended; an investment adviser registered under section 203 of the Investment Advisers Act of 1940, as amended; a finance company with net assets in excess of $250,000,000.00, which regularly provides companies with asset-based equipment leasing or financing; or a gaming company duly licensed in such jurisdictions as the Community regulatory agency deems acceptable.

Key employee means:

(1) A person who performs one or more of the following functions:

a. Bingo caller;

b. Counting room supervisor;

c. Chief of security;

d. Custodian of gaming supplies or cash;

e. Floor manager or management;

f. Pit boss;

g. Dealer;

h. Croupier;

i. Approver of credit; or

j. Custodian of gaming devices, including persons with access to cash and accounting records within such devices;

(2) If not otherwise included, any other person whose total cash compensation is in excess of $50,000.00 per year; or

(3) If not otherwise included, the four most highly compensated persons in the enterprise.

Management contract means a contract within the meaning of 25 USC 2710(d)(9) and 2711.

Management contractor means a natural person or entity that has entered into a management contract with the Community or the enterprise which has been approved pursuant to 25 USC 2710(d)(9) and 2711.

Manufacturer means a natural person or entity that manufactures gaming devices and/or component parts thereof, as defined herein, for use or play in the gaming facilities.

National Indian Gaming Commission means the National Indian Gaming Commission established pursuant to 25 USC 2704.

Net revenues means gross revenues of class II and class III gaming activities less amounts paid out as, or paid for, prizes and total operating expenses, including debt service but excluding management fees paid to a management contractor within the meaning of 25 USC 2711(c).

Person means and includes a corporation, company, partnership, firm, association or society, as well as a natural person. When person is used to designate the violator or offender of any law, it includes a corporation, partnership or any association of persons.

Primary management official means:

(1) The person having management responsibility for or under a management contract;

(2) Any person who has authority to hire and fire employees, or to set up working policy for the enterprise; or

(3) The chief financial officer or other person who has financial management responsibility for the enterprise.

Principal means, with respect to any person, all or any subset of the following persons:

(1) Each of its officers and directors;

(2) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer or general management;

(3) Each of its owners or partners, if an unincorporated business;

(4) Each of its shareholders who owns more than ten percent of the shares of the corporation, if a corporation;

(5) Each person other than a banking institution who has provided financing for the entity constituting more than ten percent of the total financing of the entity; and

(6) Each of the beneficiaries, or trustees of a trust.

Property includes contributions made by the Community to a trust and all real property, personal property, and interests in real or personal property held in a trust from time to time.

Reservation means all lands within the limits of the Salt River Pima-Maricopa Indian Reservation, and all other lands title to which is held in trust by the United States for the benefit of the Community or any individual member or members of the Community or held by the Community or an individual member of the Community subject to restriction by the United States against alienation and over which the Community exercises governmental power.

Settlor means the Community transferring property to a trust.

Spouse and *former spouse* means only persons to whom the beneficiary was married at, or before, the time the transfer is made.

State means the State of Arizona, its authorized officials, agents and representatives.

State gaming agency means such agency of the State of Arizona which the governor may from time to time designate by written notice to the Community as the single state agency which shall act on behalf of the state under the compact.

Transfer means a disposition by or from a trustee of a trust, with or without consideration.

Trust means a trust created by the Community for an enrolled member under the act.

Trust instrument means an instrument appointing a trustee for property held in a trust created pursuant to the act.

(Code 1981, § 15.5-2; Code 2012, § 15.5-2; Ord. No. SRO-212-96, § 2, 11-8-1995; Ord. No. SRO-219-96, § 2, 6-26-1996; Ord. No. SRO-239-98, §§ A—C, 5-6-1998; Ord. No. SRO-284-2002, § 1, 12-21-2001; Ord. No. SRO-358-2010, § I, 2-10-2010; Ord. No. SRO-402-2012, § 15.5-2, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Sec. 15.5-3. Adoption of compact and subsequent amendments.

(a) At such time as the compact and any subsequent amendments becomes legally effective pursuant to the act, the compact shall be deemed to be incorporated herein and enacted as an integral part of this chapter as if set forth in full herein, and in the event of any conflict between a provision of this chapter and a provision of the compact, the provision set forth in the compact shall be deemed to be controlling, except in the event that the provision set forth in this chapter is stricter or more stringent.

(b) The adoption of the compact and incorporation herein shall under no circumstances be deemed to affect the operation by the Community of any class II gaming, whether conducted within or without the gaming facilities, or to confer upon the state any jurisdiction over such class II gaming conducted by the Community on the reservation.

(Code 1981, § 15.5-3; Code 2012, § 15.5-3; Ord. No. SRO-212-96, § 3, 11-8-1995; Ord. No. SRO-219-96, § 3, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-3, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Editor's note—Ord. No. SRO-449-2014, adopted Aug. 27, 2014, amended the catchline of § 15.5-8 to read as herein set out. Said section was formerly catchlined "Adoption of compact."

Sec. 15.5-4. Authorization.

The enterprise on behalf of the tribe may conduct class II gaming, and the enterprise on behalf of the tribe may conduct all types of class III gaming authorized by the compact once the compact becomes legally effective pursuant to the act. No person under the age of 21 shall be allowed to be permitted to place any wager, directly or indirectly, on any class II or class III gaming.
(Code 1981, § 15.5-4; Code 2012, § 15.5-4; Ord. No. SRO-212-96, § 4, 11-8-1995; Ord. No. SRO-219-96, § 4, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-4, 5-30-2012)

Sec. 15.5-5. Ownership.

The Community shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this chapter; provided, however, that nothing herein shall be construed to prevent the Community from granting security interests or other financial accommodations to secured parties, lenders or others, or to prevent the Community from entering into true leases or financing lease arrangements, or to interfere with the exercise by any secured party of its rights under any financing agreement with the Community to enforce its security interests in the premises on which such gaming activities may be conducted, or to enforce its rights against gross revenues of the Community from its gaming activities for the purpose of repayment of the debt obligations of the Community to such secured party in accordance with the provisions of such agreements.
(Code 1981, § 15.5-5; Code 2012, § 15.5-5; Ord. No. SRO-212-96, § 5, 11-8-1995; Ord. No. SRO-219-96, § 5, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-5, 5-30-2012)

Sec. 15.5-6. Use of revenue.

(a) In compliance with section 2710(b)(2)(B) of the Act, net revenues from class II and class III gaming shall be used only for the following purposes:

(1) To fund tribal government operations and programs;

(2) Provide for the general welfare of the Community and its members.

(3) Promote tribal economic development;

(4) Donate to charitable organizations; or

(5) Help fund operations of local government agencies.

(b) If the Community elects to make per capita payments to Community members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under section 2710(b)(3) of the Act.
(Code 1981, § 15.5-6; Code 2012, § 15.5-6; Ord. No. SRO-212-96, § 6, 11-8-1995; Ord. No. SRO-219-96, § 6, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-6, 5-30-2012)

Sec. 15.5-7. Audit.

(a) The enterprise shall cause to be conducted annually an independent audit of all gaming operations and shall submit the resulting audit reports to the Community regulatory agency and the National Indian Gaming Commission.

(b) All gaming-related contracts that result in the purchase of supplies, services, or concessions in excess of $25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of such audit.
(Code 1981, § 15.5-7; Code 2012, § 15.5-7; Ord. No. SRO-212-96, § 7, 11-8-1995; Ord. No. SRO-219-96, § 7, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-7, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Sec. 15.5-8. Protection of environment and public health and safety.

All gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety, and for that purpose shall comply with the standards generally imposed by the Uniform Laws Annotated Codes covering the Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, and Uniform Fire Code, the public health standards for food and beverage handling requirements of the United States Public

Health Service, and all other applicable health, safety and environmental standards of the Community.

(Code 1981, § 15.5-8; Code 2012, § 15.5-8; Ord. No. SRO-212-96, § 8, 11-8-1995; Ord. No. SRO-219-96, § 8, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-8, 5-30-2012)

Sec. 15.5-9. Licenses for employee.

All class II and class III gaming employees shall be required to obtain a gaming employee license from the Community regulatory agency, and no person may commence or continue employment as a gaming employee unless he is the holder of a valid current gaming employee license or temporary gaming employee license issued by the Community regulatory agency, and is certified by the state gaming agency if so required by the compact. No person may commence employment as a gaming employee unless such person is at least 18 years of age, and no person shall be employed in the service of alcoholic beverages at any gaming facility, if such service of alcoholic beverages is allowed by the Community, unless such person is at least 21 years of age. The Community regulatory agency shall ensure that the policies and procedures set out in 25 CFR parts 556 and 558 which is made a part hereof are implemented with respect to gaming employee licensure for all class II and class III gaming employees. The Community regulatory agency shall be empowered to create a dual or multi-tiered licensure system which requires a greater degree of information be provided and a more comprehensive background investigation be employed with respect to prospective key employees and primary management officials.

(1) *Application forms.* The Community regulatory agency shall ensure that all application forms for a gaming employee license shall contain the notice described in 25 CFR parts 556 and 558 as follows:

a. *Privacy notice.* The Community regulatory agency shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant: In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 USC 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the tribe or the NIGC to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position. The disclosure of your social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

b. *Notice regarding false statements.* The Community regulatory agency shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant: A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (18 USC 1001).

(2) *Background investigations.* The Community regulatory agency shall ensure that a background investigation is conducted on all prospective gaming employees upon receipt of a completed application for employment as a gaming employee. Such background investigation shall commence immediately upon receipt of the completed application and shall be conducted as quickly as possible. The Community law enforcement agency, or such other third-party investigative entity with which the Community regulatory agency may contract, shall assist the Community regulatory agency in conducting background investigations as deemed necessary and appropriate by the Community regulatory agency. The Community regulatory agency shall conduct an investigation sufficient to make a determination under subsection (3) of this section. In conducting such background investigation, the Community regulatory agency and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation unless disclosure is required by law. The Community shall enter into an agreement with the National Indian Gaming Commission as a third-party investigative entity for purposes of taking and checking fingerprints of all applicants and conducting any additional criminal history checks as may be deemed necessary by the commission pursuant to 25 CFR 522.2(h).

(3) *Eligibility determination.* The Community regulatory agency shall, as soon as possible after completion of the background investigation, determine whether an applicant is eligible for a gaming employee license. The Community regulatory agency shall determine that an applicant is not eligible for a gaming employee license if such applicant:

a. Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations, pose a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of the gaming activities permitted pursuant to this chapter;

b. Has failed to provide any information reasonably required to investigate the application for a gaming employee license or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application; or

c. Has been convicted of any felony or gaming offense if applicable under the eligibility standards adopted by the regulatory agency.

(4) *Procedures for forwarding applications and reports for key employees and primary management officials to National Indian Gaming Commission.* Upon completion of a background investigation, and an eligibility determination for a gaming employee license pursuant to subsection (3) of this section, and in any event no later than the time when a key employee or primary management official begins work, the Community regulatory agency shall forward to the National Indian Gaming Commission a copy of the completed application for employment, and an investigative report on the background investigation required pursuant to subsection (2) of this section. Such investigative report shall include the steps taken in conducting a background investigation; results obtained; conclusions reached; and the basis for those conclusions. The Community regulatory agency shall submit a notice of results of the applicant's background investigation to the National Indian Gaming Commission no later than 60 days after the applicant begins work. The notice of results shall contain:

a. Applicant's name, date of birth, and social security number;

b. Date on which applicant began or will begin work as key employee or primary management official;

c. A summary of the information presented in the investigative report, which shall at a minimum include a listing of:

1. Licenses that have previously been denied;

2. Gaming licenses that have been revoked, even if subsequently reinstated;

3. Every known criminal charge brought against the applicant within the last ten years of the date of application; and

4. Every felony of which the applicant has been convicted or any ongoing prosecution.

d. A copy of the eligibility determination made under 25 CFR 556.5.

Such eligibility determination and investigative report shall be forwarded to the National Indian Gaming Commission for inclusion in the Indian gaming individual's records system, regardless of whether a prospective licensee is granted or denied a license. The Community regulatory agency shall retain applications for employment of key employees and primary management officials and reports of background investigations of such individuals for inspection by the chairman of the commission or his designee for no less than three years from the date of termination of employment.

(5) *Granting a license.* Upon completion of the eligibility determination required pursuant to subsection (3) of this section, the Community regulatory agency shall either grant or deny a gaming employee license. Within 30 days after the issuance of the license, the Community regulatory agency shall notify the National Indian Gaming Commission of its issuance. A Community gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days. Any individual denied a gaming employee license shall be entitled to an administrative hearing upon request. A right to a hearing under this section shall vest only upon receipt of a license granted under an ordinance approved by the Chairperson of the National Indian Gaming Commission. In the event the Community regulatory agency determines that a key employee or primary management official is eligible to be granted a gaming employee license, such individual shall be granted a temporary gaming license pending completion of the following procedure. If, upon completion of a 30-day period after receipt by the chairman of the National Indian Gaming Commission of the investigative report required pursuant to subsection (4) of this section, the commission notifies the Community regulatory agency that it has no objection to the issuance of a gaming employee license, or fails to provide the Community regulatory agency with a request for further information or a statement itemizing objections to the issuance of a gaming employee license to a key employee or primary management official, the Community regulatory agency shall grant a gaming employee license to such individual. If, however, the chairman requests further information during the 30-day period, the 30-day period shall be suspended until the chairman receives the information requested, if, within the 30-day period, the commission provides the Community regulatory agency with a statement itemizing objections to the issuance of a gaming employee license to a key employee or to a primary management official, the Community regulatory agency shall reconsider the license application, taking into account the objections itemized by the commission. The Community regulatory agency shall make the final decision whether to issue a gaming employee license to such applicant. Each temporary gaming employee license shall expire and become void and of no effect upon the determination by the Commu-

nity regulatory agency of the applicant's suitability for a gaming employee license. Each holder of a gaming employee license shall be required to wear in plain view while at work an identification card issued by the Community regulatory agency which includes the holder's photograph, first and last name, and an identification number unique to the individual license which shall include a tribal seal or signature, and an expiration date.

(6) *Suspension and revocation.* The issuance of a gaming employee license by the Community regulatory agency shall not create or imply a right of employment or continued employment. The enterprise shall not employ, and if already employed, shall terminate any person who has had his gaming license denied or revoked by the Community regulatory agency. If, after the issuance of a gaming employee license, the Community regulatory agency receives from the National Indian Gaming Commission reliable information indicating that a key employee or a primary management official is not eligible for employment pursuant to the standard for eligibility determination contained in subsection (3) of this section, the Community regulatory agency shall suspend such license, shall notify in writing the licensee of the suspension and proposed revocation of the licensee's gaming employee license, and shall hold an administrative hearing upon request of the licensee. After an administrative hearing, the Community regulatory agency shall decide to revoke or to reinstate a gaming license. The Community regulatory agency shall notify the National Indian Gaming Commission of its decision within 45 days of receiving notification from the National Indian Gaming Commission pursuant to 25 CFR 558.4(a). Additionally, the Community regulatory agency shall have the right to conduct additional background or other investigations of any gaming employee at any time, and may suspend or revoke any gaming employee license issued hereunder if new information concerning facts arising either prior to or since the issuance of the original license, or any renewal thereof, comes to the attention of the regulatory agency, which information could justify denial of such original license, or any renewal thereof; provided, however, that no such license shall be suspended without notice and an administrative hearing unless the Community regulatory agency determines that continued licensing constitutes an immediate threat to the public health, safety or welfare, or the integrity of gaming on the reservation, and no license shall be permanently revoked until the Community regulatory agency has provided the licensee with an opportunity upon request for an administrative hearing.

(7) *Duration and renewal.* Any gaming employee license shall be effective for one year from the date of issuance unless the compact allows otherwise; provided, that a licensee who has applied for renewal may continue to be employed or engaged under the expired license until action is taken on the renewal application by the Community regulatory agency. Applicants for renewal of a gaming employee license shall provide updated material as requested, on the appropriate renewal forms, but shall not be required to resubmit historical data already available to the Community regulatory agency. Additional background investigations shall not be required for applicants for license renewal unless new information concerning the applicant's continuing eligibility for a license is discovered by either the Community regulatory agency or the state gaming agency.

(Code 1981, § 15.5-9; Code 2012, § 15.5-9; Ord. No. SRO-212-96, § 9, 11-8-1995; Ord. No. SRO-219-96, § 9, 6-26-1996; Ord. No. SRO-239-98, §§ E—G, 5-6-1998; Ord. No. SRO-402-2012, § 15.5-9, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014; Ord. No. SRO-457-2015, § 15.5-9, 1-28-2015)

Sec. 15.5-10. Licenses for services.

No person or entity may provide gaming services to the Community or the enterprise, within or without the gaming facilities, unless it is the

holder of a valid current gaming services license issued by the Community regulatory agency. Each manufacturer, supplier, and service provider of gaming devices used by the enterprise shall be required to hold a valid current gaming services license before providing or supplying gaming devices or services to any gaming operation. The Community regulatory agency may waive the requirement that vendors be licensed if licensing the vendor is not necessary in order to protect the public interest. If the state gaming agency is also authorized to certify a vendor they must agree to any waiver of a requirement pursuant to this section. Vendors that provide less than $10,000.00 worth of goods and services each month are exempt from certification requirements. Any management contractor, including the management contractor's principals, shall be required to hold a valid current gaming services license and to have received approval of its management contract by the National Indian Gaming Commission, before providing management services to any gaming operation.

(1) *Application forms.* The Community regulatory agency shall ensure that all application forms for a gaming service license shall contain a notice of privacy in accordance with the Privacy Act of 1974. The Community regulatory agency shall require each prospective provider of gaming services to provide the Community regulatory agency with such information, documentation and assurances as may be required by the Community regulatory agency, which shall, at a minimum, identify all of such applicant's principals, and which shall concern the applicant's and each principal's personal and family history, personal and business references, criminal conviction record, business activities, financial affairs, prior gaming industry experience and general educational background; and/or all of the foregoing as may be applicable to such applicant or such principal. Each such application shall be accompanied by the fingerprint card(s) of each principal of the applicant. For purposes of this section, the person or persons included as a principal and the application requirements for principals may be determined at the discretion of the director. The director has authority to approve individual exceptions for any component of the application form and the application requirements if the director determines that it is not required in order to protect the public interest.

(2) *Background investigations.* The Community regulatory agency shall ensure that a background investigation is conducted on all prospective gaming services providers upon receipt of a completed application. Such background investigation shall commence immediately upon receipt of the completed application and shall be conducted as quickly as possible. The Community law enforcement agency, or such other third-party investigative entity with which the Community regulatory agency may contract, shall assist the Community regulatory agency in conducting background investigations as deemed necessary and appropriate by the Community regulatory agency. The Community regulatory agency shall conduct an investigation sufficient to make a determination under subsection (3) of this section. In conducting such background investigation, the Community regulatory agency or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation unless disclosure is required by law.

(3) *Eligibility determination.* The Community regulatory agency shall, as soon as possible after completion of the background investigation, determine whether an applicant is eligible for a gaming services license. The Community regulatory agency shall determine that an applicant is not eligible for a gaming services license if such applicant, or any principal identified with such applicant:

a. Has been determined to be a person or entity whose prior activities, criminal record, if any, or reputation, habits and associations, pose a threat to the public interest or to the effective regulation of gaming, or creates

or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of the gaming activities permitted pursuant to this chapter;

b. Has failed to provide any information reasonably required to investigate the application for a gaming services license or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application; or

c. Has been convicted of a felony or a gaming offense if applicable under the eligibility standards adopted by the regulatory agency.

(4) *Granting a license.* Upon completion of the eligibility determination required pursuant to subsection (3) of this section, the Community regulatory agency shall either grant or deny a gaming services license. Any gaming services licensee applicant denied a gaming services license shall be entitled to an administrative hearing upon request.

(5) *Suspension and revocation.* The issuance of a gaming services license by the Community regulatory agency shall not create or imply a right to supply gaming services on a continuing basis. The Community regulatory agency shall have the right to conduct additional background or other investigations of any gaming services licensee or principal of such licensee at any time, and may suspend or revoke any gaming services license issued hereunder if new information concerning facts arising either prior to or since the issuance of the original license, or any renewal thereof, comes to the attention of the Community regulatory agency, which information could justify denial of such original license, or any renewal thereof; provided, however, that no such license shall be suspended without notice and hearing unless the Community regulatory agency determines that continued licensing constitutes an immediate threat to the public health, safety or welfare, or the integrity of gaming on the reservation; and no license shall be permanently revoked until the Community regulatory agency has provided the licensee with an opportunity upon request for an administrative hearing; and provided further, that the licensee shall be entitled to any payment due for services provided or goods delivered prior to the effective date of suspension or revocation of the license.

(6) *Duration and renewal.* Any gaming services license shall be effective for two years from the date of issuance; provided, that a licensee who has applied for renewal may continue to supply gaming services under the expired license until action is taken on the renewal application by the Community regulatory agency. Applicants for renewal of a gaming services license shall provide updated material as requested, on the appropriate renewal forms, but shall not be required to resubmit historical data already available to the Community regulatory agency. Additional background investigations shall not be required of applicants for license renewal unless new information concerning the applicant's continuing eligibility for a license is discovered by the Community regulatory agency.

(Code 1981, § 15.5-10; Code 2012, § 15.5-10; Ord. No. SRO-212-96, § 10, 11-8-1995; Ord. No. SRO-219-96, § 10, 6-26-1996; Ord. No. SRO-239-98, §§ H—J, 5-6-1998; Ord. No. SRO-358-2010, § I, 2-10-2010; Ord. No. SRO-402-2012, § 15.5-10, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Editor's note—Ord. No. SRO-449-2014, adopted Aug. 27, 2014, amended the catchline of 15.5-10 to read as herein set out. Said section was formerly catchlined "Services."

Sec. 15.5-11. Licenses for facilities.

Upon issuance of a certificate of occupancy by the tribe's Community development department, the Community regulatory agency shall issue a separate gaming facility license to each gaming facility, which license shall be required for each place, facility, or location on Indian lands within the Community, prior to commencement of any

gaming operations at such gaming facility, certifying that such gaming facility has been constructed in accordance with the standards set forth in section 15.5-8. The Community regulatory agency shall enforce the health and safety standards applicable to the gaming facilities in accordance with section 15.5-8. Such gaming facility license shall be renewed on an annual basis by the Community regulatory agency, provided that the gaming facility is maintained and operated in accordance with the standards set forth in section 15.5-8. The Community regulatory agency shall not renew a gaming facility license, and shall suspend or revoke a gaming facility license, in the event that the Community development department suspends or revokes the certificate of occupancy for the gaming facility, or the Community development department determines the gaming facility is not maintained and operated at all times in accordance with the standards set forth in section 15.5-8.

(Code 1981, § 15.5-11; Code 2012, § 15.5-11; Ord. No. SRO-212-96, § 11, 11-8-1995; Ord. No. SRO-219-96, § 11, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-11, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Editor's note—Ord. No. SRO-449-2014, adopted Aug. 27, 2014, amended the catchline of 15.5-11 to read as herein set out. Said section was formerly catchlined "Facility."

Sec. 15.5-12. Licenses for operators.

The Community regulatory agency shall issue a gaming operator license prior to commencement of any gaming operations at a gaming facility, certifying that each principal, primary management official and key employee of the enterprise holds a valid current gaming employee license issued in accordance with section 15.5-9. Such gaming operator license shall be renewed on an annual basis by the Community regulatory agency, provided that each principal, primary management official and key employee of the enterprise continues to hold a valid current gaming employee license; and such license may be suspended or revoked by the Community regulatory agency in the event that such requirements are not met.

(Code 2012, § 15.5-12; Ord. No. SRO-212-96, § 12, 11-8-1995; Ord. No. SRO-219-96, § 12, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-12, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Editor's note—Ord. No. SRO-449-2014, adopted Aug. 27, 2014, amended the catchline of 15.5-12 to read as herein set out. Said section was formerly catchlined "Operator."

Sec. 15.5-13. Licenses for regulators.

No person may commence or continue employment as a board member, director, staff or inspector in the Community regulatory agency unless he or she is the holder of a valid current gaming regulator license issued by the Community development department and the Community regulatory agency, after the notification described in this section (hereafter called "regulatory licenser"). The Community development department shall ensure that the policies and procedures set out in appendix A attached to Ordinance No. SRO-219-96 and made a part hereof are implemented with respect to gaming regulator licensure for prospective gaming regulator licensees.

(1) *Application forms.* The regulator licenser shall ensure that all application forms for a gaming regulator license shall contain the notice described in section A of appendix A, and require at a minimum that each prospective licensee provide the regulator licenser with the information set out in section B of appendix A.

(2) *Background investigations.* The regulator licenser shall ensure that a background investigation is conducted on all prospective gaming regulatory licensees upon receipt of a completed application for employment as a gaming regulator. Such background investigation shall commence immediately upon receipt of the completed application and shall be conducted as quickly as possible. The Community law enforcement agency, or such other third-party investigative entity with which the regulator licenser may contract, shall assist the regulator licenser in conducting background investigations as deemed nec-

essary and appropriate by the regulator licenser. The regulator licenser shall ensure that an investigation is conducted sufficient to make a determination under subsection (3) of this section. In conducting such background investigation, the regulator licenser or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation unless disclosure is required by law. All actions of the director not subject to the policies and procedures of the Community, except those policies and procedures adopted pursuant to the regulatory provisions of this chapter, may be reviewed by the board at the request of any person or at the board's own initiative upon the board's written finding that the review will deal with a matter which significantly affects the operation of the Community regulatory agency or any entity subject to its regulation.

(3) *Eligibility determination.* The regulator licenser shall, as soon as is practicable after completion of the background investigation, determine whether an applicant is eligible for a gaming regulator license. The regulator licenser shall determine that an applicant is not eligible for a gaming regulator license if such applicant:

a. Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations, pose a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of the gaming activities permitted pursuant to this chapter;

b. Has failed to provide any information reasonably required to investigate the application for a gaming employee license or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application; or

c. Has been convicted of any felony or gaming offense if applicable under the eligibility standards adopted by the regulatory agency.

(4) *Granting a license.* Upon completion of the eligibility determination required pursuant to subsection (3) of this section, the regulator licenser shall either grant or deny a gaming regulator license. Any person denied a gaming regulator license shall have the opportunity to appeal such denial to the gaming regulatory board pursuant to procedures similar in form to the procedures used in an administrative hearing.

(5) *Suspension and revocation.* The issuance of a gaming regulator license by the Community regulatory agency shall not create or imply a right of employment or continued employment. The Community regulatory agency shall have the right to conduct additional background or other investigations of any licensee at any time, and may suspend or revoke any gaming regulator license issued hereunder if new information which would justify denying or revoking the license comes to the attention of the Community regulatory agency; provided, however, that no such license shall be suspended without notice and hearing unless the Community regulatory agency determines that continued licensing constitutes an immediate threat to the public health, safety or welfare, or the integrity of gaming on the reservation, and no license shall be revoked until the Community regulatory agency has provided the licensee with the opportunity upon request to appeal such denial to the gaming regulatory board pursuant to procedures similar in form to the procedures used in an administrative hearing.

(6) *Duration and renewal.* Any gaming regulator license shall be effective for one year from the date of issuance; provided, that a

licensee who has applied for renewal may continue to be employed or engaged under the expired license until action is taken on the renewal application by the regulator licenser. Applicants for renewal of a gaming regulator license shall provide updated material as requested, on the appropriate renewal forms, but shall not be required to resubmit historical data already available to the regulator licenser. Additional background investigations shall not be required of applicants for license renewal unless new information concerning the applicant's continuing eligibility for a license is discovered by or made available to the regulator licenser.

(Code 1981, § 15.5-13; Code 2012, § 15.5-13; Ord. No. SRO-212-96, § 13, 11-8-1995; Ord. No. SRO-219-96, § 13, 6-26-1996; Ord. No. SRO-239-98, § K, 5-6-1998; Ord. No. SRO-402-2012, § 15.5-13, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Editor's note—Ord. No. SRO-449-2014, adopted Aug. 27, 2014, amended the catchline of 15.5-13 to read as herein set out. Said section was formerly catchlined "Regulatory."

Sec. 15.5-14. Community regulatory agency.

(a) *Establishment of the Community regulatory agency.* The Salt River Pima-Maricopa Indian Community Regulatory Agency is hereby established. The Community regulatory agency shall be a regulatory agency of the Salt River Pima-Maricopa Indian Community.

(b) *Director.* The Community Council shall appoint an individual to serve as a full-time director of the Community regulatory agency to administer its responsibilities on a day-to-day basis. The director shall be required to have a minimum of five years of experience as a gaming regulator. The compensation of the director shall be established by the Community Council. The director shall be responsible for coordination of the functions of the Community regulatory agency with the Community Council, the enterprise, the Community law enforcement agency, the state gaming agency, state and federal law enforcement agencies, and the National Indian Gaming Commission. The board may request the director to conduct investigations with respect to the grant or denial, suspension or revocation of any license, the imposition of any penalty, or the investigation of any complaint. The director shall hire, pursuant to the authorized budget for the Community regulatory agency, and supervise and oversee inspectors and such other staff, consultants and counsel as the Community regulatory agency may from time to time employ. The director shall have the power, in the name of the Community regulatory agency, to conduct any hearing, investigation or inquiry, compel the production of any information or documents, and otherwise exercise the investigatory powers of the Community regulatory agency, which the Community regulatory agency may exercise under this chapter and any other applicable law. The director shall further have the power, in the name of the Community regulatory agency, to issue, deny, condition, suspend or revoke any gaming employee license, gaming services license, gaming facility license, or gaming operator license, and to take any other action on behalf of and in the name of the Community regulatory agency, unless such power is reserved to the board by this section or regulations adopted hereto. The director shall be the agent of the Community for the service by the National Indian Gaming Commission of process, or any official determination, order or notice pursuant to the Act or to 25 CFR 522.2(g).

(c) *Restriction on activities.* Neither the board members, the director nor the staff of the Community regulatory agency shall participate as a player in any gaming activity conducted by the Community, or have any personal financial interest in any gaming activity conducted by the Community, or engage in any business or have any personal financial activity in any business which is licensed or regulated by the Community regulatory agency pursuant to this section, or be employed by the enterprise.

(d) *Powers and duties of the Community regulatory agency.* The Community regulatory agency shall have the following powers and duties:

(1) The Community regulatory agency shall have primary responsibility for oversight of Community gaming operations to ensure the integrity of such operations and shall, for that purpose employ as staff of the Community regulatory agency inspectors who shall be present in all gaming

facilities during all hours of operation and who shall be under the sole supervision of and report to the Community regulatory agency and not to any management employees of the Community gaming operations. The board members, director and staff of the Community regulatory agency, shall be licensed by the regulator licenser in accordance with section 15.5-13.

(2) Community regulatory agency staff shall have unrestricted and immediate access to any and all areas of the gaming facilities at all times for the purpose of ensuring compliance with this section and other applicable laws, and personnel employed by the enterprise shall for such purposes provide such inspectors access to locked and secure areas of the gaming facilities in accordance with this section and other applicable laws. An inspector or inspectors shall be present in the gaming facilities during all hours of gaming operation. Such inspectors shall report to the Community regulatory agency regarding any failure by the enterprise, any employee or agent of the enterprise, or any person or entity to comply with any of the provisions of this section and other applicable laws. Inspectors assigned by the Community regulatory agency shall also receive consumer complaints within the gaming facilities and shall assist in seeking voluntary resolution of such complaints.

(3) The Community regulatory agency shall have the responsibility and authority to investigate any alleged or reported violations of this chapter, and all other applicable laws. The Community regulatory agency shall on its own initiative investigate any aspect of the operations of the enterprise in order to protect the public interest in the integrity of such gaming activities and to prevent improper or unlawful conduct in the course of such gaming activities, and shall investigate any report of a failure of the enterprise or any other person or entity to comply with the provisions of this chapter and all other applicable laws. The Community regulatory agency may receive any complaint from any person, including the gaming public or any gaming employee, who is or who claims to be adversely affected by any act or omission of a gaming operation or any employee thereof and which is asserted to violate this chapter, the Act or other applicable law. The Community regulatory agency may, in its sole discretion, conduct a hearing and receive evidence, pursuant to such procedures as it may adopt, if it deems an evidentiary proceeding useful in the resolution of any such complaint or alleged violation or breach. The Community regulatory agency may compel any person employed by or doing business with the enterprise to appear before it and to provide such information, documents or other materials as may be in their possession to assist in any such investigation. The Community regulatory agency shall make a written record of any unusual occurrences, violations or suspected violations, without regard to materiality. In the event of a determination by the Community regulatory agency of a violation of this chapter or other applicable laws, the Community regulatory agency shall require the enterprise or the holder of a license to take any corrective action deemed necessary by the Community regulatory agency upon such terms and conditions as the Community regulatory agency may determine necessary and proper pursuant to this chapter. Appropriate disciplinary action may include, but not be limited to, suspension or revocation of a license, and confiscation or shutting down any gaming device or other equipment or gaming supplies which fail to conform with required standards. The director shall report regularly to the Community Council on material violations of the provisions of this chapter and actions taken by the Community regulatory agency in response to such violations.

(4) The Community regulatory agency shall prepare a plan for the protection of public safety and the physical security of patrons in each of the gaming facilities,

following consultation and agreement with the enterprise, the Community law enforcement agency and the appropriate state and federal law enforcement agencies, setting forth the respective responsibilities of the Community regulatory agency, the security department of the enterprise, the Community law enforcement agency and the appropriate state and federal law enforcement agencies.

(5) The Community regulatory agency shall establish and revise standards of operation and management for class II and class III gaming activities, which standards of operation and management shall be approved by the Community council. The initial standard of operation and management for security and surveillance requirements is hereby adopted and set forth in appendix B attached to the ordinance from which this section derives. The Community regulatory agency shall require that the enterprise establish, pursuant to the security and surveillance requirements set forth in appendix B, a closed-circuit television surveillance system capable of recording and preserving on videotape all areas of the gaming facilities required by the Community regulatory agency to be under surveillance. The Community regulatory agency shall review and approve floor plans and surveillance systems for each gaming facility.

(6) The Community regulatory agency shall issue or deny and, when necessary and appropriate, condition, suspend or revoke, gaming employee licenses, gaming services licenses, gaming facility licenses, and gaming operator licenses, in accordance with sections 15.5-9 through 15.5-12, respectively.

(7) The Community regulatory agency shall establish a process for persons barred from the gaming facilities because their behavior or criminal history or association with career offenders or career offender organizations poses a threat to the integrity of the gaming activities of the Community.

(8) The Community regulatory agency may impose penalties for violations of this chapter, the standards of operation and management, and other applicable laws, in accordance with section 15.5-15.

(9) The Community regulatory agency may recommend to the Community Council that the Community bring any civil action or criminal complaint in the courts of the Community, the state or the United States to enforce the provisions of this section or to enjoin or otherwise prevent any violation of this section, the Act or other applicable laws, occurring on the reservation.

(10) The director of the Community regulatory agency shall propose an annual operating budget which shall be subject to the approval of the Community Council, and shall in accordance with said budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this chapter. All employees of the Community regulatory agency, including the director, shall be tribal employees subject to the personnel policies of the Community.

(11) The Community regulatory agency may set fees to be assessed against gaming employees and gaming services providers to cover the costs incurred by the Community regulatory agency in conducting background investigations required for licensure of gaming employees and gaming services providers.

(12) The Community regulatory agency may adopt regulations to authorize the use of credit by gaming customers.

(e) *Emergency powers of the director.* The director or any other member of the Community regulatory agency acting in the absence of the director may, whenever he or she deems it necessary to protect the public interest in the integrity of tribal gaming operations, issue in the name of the Community regulatory agency any order which the Community regulatory agency has the power to issue, to the enterprise or to any employee or contractor of the enterprise or to any other person or entity within the jurisdiction of the Commu-

nity, to take any action or cease and desist from any action as may be required to protect the public interest.

(f) *Procedures of the gaming regulatory board.* The board shall consist of three members, a chairman and two other members, at least two of whom shall be members of the Community, and all of whom shall be selected by the Community Council. Each board member shall serve for a term of three years commencing on the date of their appointment; provided that, the initial members so appointed shall serve for terms deemed to commence on appointment by the Community Council and one of the initial members appointed shall be designated to serve for an initial term of one year and one of the initial members appointed shall be designated to serve for an initial term of two years. Board members shall serve on a part-time basis, and the Community Council shall establish the compensation of the board members. Board members shall serve at the pleasure of and may be removed with or without cause by a vote of a majority of the members of the Community Council then in office. Vacancies in the board may be filled by appointment by the Community president pending action by the Community Council. All decisions of the board are final and are not subject to further judicial or political review or appeal.

(1) Regular meetings of the board may be held upon such notice, or without notice, and at such time and place as shall from time to time be fixed by the board. Unless otherwise specified by the board, no notice of such regular meetings shall be necessary.

(2) Special meetings of the board may be called by the chairman or the director. The person or persons calling the special meeting shall fix the time and place thereof.

(3) At any meeting of the board, a majority of the members then in office shall constitute a quorum for the transaction of business agendas and minutes which record the formal acts of the board are required for both regular and special meetings. The vote of a majority of the members present at a meeting at which a quorum is present shall be the act of the board. The chairman shall preside at all meetings of the board unless the chairman is absent, in which case the senior member of the board shall serve as chairman.

(4) Members of the board may participate in a meeting of the board by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting in such matter by any member who does not object at the beginning of such meeting to the holding thereof in such manner shall constitute presence in person at such meeting.

(5) The board shall adopt such additional procedures and rules as it deems necessary or convenient to govern its activities and which are consistent with this chapter.

(6) The board shall conduct all administrative and appeal hearings mandated by this chapter. All appeal hearings shall afford the person affected with at least 15 days' written notice of the proposed action and the opportunity to appear and be heard before the board, to be represented by counsel at such hearing, and to offer sworn oral, written and documentary evidence relevant to the breach or action charged. All decisions of the board at appeal hearings shall be in writing and shall be made available to the person affected. Notwithstanding the foregoing, if the board deems it necessary to protect the public interest in the integrity of the gaming activities, the board may take such action with immediate effect as it deems required, and shall thereupon provide notice and an opportunity to be heard to the affected person as soon as is reasonably practicable following such action. Any person who is directly and adversely impacted by a Community regulatory agency action or is denied an initial gaming employee license or gaming services license or who is barred from the gaming facilities by action of the agency may

request an appeal hearing before the board, provided such person submits such request in writing submitted within 30 days following receipt of notice of the action of the Community regulatory agency.

(7) All decisions of the board are final and not subject to further judicial or political review or appeal except as provided in section 5(q)(4) of the compact.

(Code 1981, § 15.5-14; Code 2012, § 15.5-14; Ord. No. SRO-212-96, § 14, 11-8-1995; SRO-219-96, § 14, 6-26-1996; Ord. No. SRO-243-99, 1-20-1999; Ord. No. SRO-402-2012, § 15.5-14, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Sec. 15.5-15. Compliance with Act.

This chapter shall be construed in a manner which conforms to the Act in all respects, and, if inconsistent with the Act in any manner, the provisions of the Act shall govern.

(Code 1981, § 15.5-15; Code 2012, § 15.5-15; Ord. No. SRO-212-96, § 17, 11-8-1995; SRO-219-96, § 17, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-15, 5-30-2012)

Sec. 15.5-16. Prohibited acts.

It shall be a violation of this chapter for any person to:

(1) Conduct or participate in any Class II or Class III gaming on the reservation other than in a licensed gaming facility.

(2) Receive, distribute, apply or divert any property, funds, proceeds or other assets of a gaming operation to the benefit of any individual or other person, except as authorized by this chapter, the Act, or other application law.

(3) Tamper with any equipment used in the conduct of gaming with the intent to cause any person to win or lose any wager other than in accordance with the publicly announced rules of the gaming operation.

(4) Do any other act in connection with the conduct of gaming with the intent to affect the outcome of any game or any wager other than in accordance with the publicly announced rules of the gaming operation.

(5) Alter or misrepresent the outcome or other event on which wagers have been made after the outcome is determined but before it is revealed to the players.

(6) Place, increase or decrease a wager or determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet, or aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a wager or determining the course of play contingent upon that event or outcome.

(7) Claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from any authorized game, with intent to defraud, without having made a wager thereon, or to claim, collect or take an amount greater than the amount won.

(8) Manipulate, with intent to cheat, any component of any authorized game or the game itself in a manner contrary to the designed and normal operational purpose for the component or the game itself.

(9) Use tokens or chips for wagers other than those approved by the Community regulatory agency, or use counterfeit or fraudulent coins, currency or other money or funds of any kind.

(10) Possess or entice another person to possess any device to assist in projecting the outcome of any game, including, but not limited to, devices designed to count cards, analyze probabilities, or suggest strategies for playing or betting, or use or entice another person to use any device or means to cheat or defraud.

(11) Possess a weapon or discharge a firearm in any gaming facility, except in accordance with the Community regulatory agency.

(12) Act or conspire with another to give, or offer to give, any money, thing of value, gift or other consideration to any elected official or employee of the Community,

including employees and officials of the enterprise and the Community regulatory agency, for the purpose of influencing any action or decision relating to gaming or Community governmental activities related thereto.

(13) Knowingly allow an intoxicated person to continue gambling.

(Code 1981, § 15.5-16; Code 2012, § 15.5-16; Ord. No. SRO-212-96, § 18, 11-8-1995; SRO-219-96, § 18, 6-26-1996; Ord. No. SRO-239-98, § L, 5-6-1998; Ord. No. SRO-402-2012, § 15.5-16, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Sec. 15.5-16.1. Financial services in gaming facilities.

Financial services at the gaming facilities are subject to the following restrictions:

(1) The gaming facility operator shall not locate an automatic tell machine (ATM) adjacent to, or in close proximity to any gaming device;

(2) The gaming facility operator shall not locate in the gaming facility an ATM that accepts electronic benefit transfer cards issued pursuant to a state or federal program that is intended to provide for needy families or individuals;

(3) The gaming facility operator shall not accept checks or other noncash items issued pursuant to a state or federal program that is intended to provide for needy families or individuals; and

(4) The gaming facility operator shall not extend credit to any patron of a gaming facility for gaming activities.

(Code 1981, § 15.5-16.1; Code 2012, § 15.5-16.1; Ord. No. SRO-358-2010, § II, 2-10-2010; Ord. No. SRO-402-2012, § 15.5-16.1, 5-30-2012)

Sec. 15.5-16.2. Tort claims process.

(a) The SRPMIC and its insurance carriers will not raise the defense of sovereign immunity up to the amount that the SRPMIC is covered by contracts for insurance or up to amounts set by the risk management and control program. For this exception to sovereign immunity to apply, the cause of action must be in the SRPMIC Community court. This exception to sovereign immunity authorized by this section, and applicable only to this chapter, shall not apply in any other court other than the SRPMIC Community court. The SRPMIC expressly reserves the right to raise the defense of sovereign immunity for claims 1) in excess of the amounts of insurance; 2) in all courts other than the SRPMIC Community Court; and 3) for all claims not covered under the insurance plan.

(b) All claims are subject to section 4-6, "Limitation for bringing civil actions and criminal prosecutions into Community court" of the SRPMIC Code of Ordinances.

(c) The claimant must exhaust all administrative remedies before a claim may be filed with the Community court.

(d) Claims must comply with the process and procedure of SR-2024-2000 or future resolution if SR-2024-2000 is repealed or amended. Upon request, the patron or invitee, or their designated representative, shall be provided with a copy of SR-2024-2000, or future resolution if SR-2024-2000 is repealed or amended, and the name, address, and telephone numbers of the appropriate contact person for the gaming facility operator and the clerk of the SRPMIC Community Court.

(Code 1981, § 15.5-16.2; Code 2012, § 15.5-16.2; Ord. No. SRO-358-2010, § II, 2-10-2010; Ord. No. SRO-402-2012, § 15.5-16.2, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Sec. 15.5-17. Penalties.

Any person who violates any provision of this chapter shall be subject to civil penalties, including exclusion from employment by the enterprise, exclusion from attendance at any gaming facility, exclusion from the reservation if a nonmember of the Community, or, with respect to any person subject to the jurisdiction of the Community to impose such fines, a fine of not more than $5,000.00 for each such violation. The Community regulatory agency shall have the jurisdiction to impose any such penalties on any person within the jurisdiction of the Community.

(Code 1981, § 15.5-17; Code 2012, § 15.5-17; Ord. No. SRO-212-96, § 15, 11-8-1995; SRO-219-96, § 15, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-17, 5-30-2012)

Sec. 15.5-18. Repeal and severability.

To the extent that they are inconsistent with this chapter, all prior gaming ordinances of the Community are hereby repealed. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall remain valid and shall not be thereby affected.
(Code 1981, § 15.5-18; Code 2012, § 15.5-18; Ord. No. SRO-212-96, § 16, 11-8-1995; SRO-219-96, § 16, 6-26-1996; Ord. No. SRO-402-2012, § 15.5-18, 5-30-2012)

Sec. 15.5-19. Detention and questioning of persons suspected of violations.

(a) The authorized agents of the Community regulatory agency or security personnel of the gaming facility (hereafter "authorities") may question any person in the gaming facility who may be involved in illegal acts or who is suspected of violating any of the provisions of the compact or section 15.5-16. None of the authorities is criminally or civilly liable:

(1) On account of any such questioning; or

(2) For reporting to the Community regulatory agency, the state gaming agency, Community, federal or state regulatory authorities, or law enforcement authorities the identity of the persons suspected of the violation.

(b) Community law enforcement agency authorities who have probable cause for believing that there has been involvement in illegal acts or a violation of the compact or section 15.5-16 in the gaming facility by any person may take that person into custody and detain him in the gaming facility in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the authorities criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody and detention are unreasonable under all the circumstances.

(c) There must be displayed in a conspicuous place in the gaming facility a notice in boldface type clearly legible and in substantially this form:

"Agents of the Community law enforcement agency who have probable cause for believing that any person may be involved in illegal acts or has violated any provision of applicable law prohibiting cheating or other gaming offense may detain that person in the gaming facility."

(Code 1981, § 15.5-19; Code 2012, § 15.5-19; Ord. No. SRO-250-99, 3-17-1999; Ord. No. SRO-253-99, 3-17-1999; Ord. No. SRO-402-2012, § 15.5-19, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Sec. 15.5-20. Trust protection for minor and incompetent beneficiaries receiving IGRA benefits; applicable law; jurisdiction.

(a) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, the income and principal of a trust created for a minor beneficiary or incompetent beneficiary who is entitled to receive a distribution under the Act shall not be transferred by such beneficiary and shall not be subject to enforcement of a money judgment until paid from such trust to the beneficiary in accordance with the terms of the trust.

(b) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, if a trust created for a minor beneficiary or an incompetent beneficiary to receive and hold such beneficiary's distribution under the act provides that the trustee may pay income or principal, or both, for the health, education, and welfare of such beneficiary, as the trustee deems advisable in the discretion of the trustee, the income and principal necessary to accomplish such objectives shall not be transferred and shall not be subject to the enforcement of a money judgment until it is paid from the trust to such beneficiary in accordance with the terms of such trust.

(c) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, any money or other property held in a trust for a minor beneficiary or an incompetent beneficiary which represents a distribution under the Act to or for the benefit of such beneficiary, shall be exempt from execution, attachment, or sale on any process issued from any court.

(d) Except as provided in subsection (e) of this section, but notwithstanding any other provision of this Community Code of Ordinances, no action of any kind, including without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, shall be brought at law or in equity for an attachment or other provisional remedy against property held in a trust for the benefit of a minor beneficiary or incompetent beneficiary for avoidance of such trust unless such action shall be brought in the Community court. The Community court shall have exclusive jurisdiction over any action brought with respect to a trust created for a minor beneficiary or incompetent beneficiary.

(e) Notwithstanding any other provision contained in this section, paragraphs (a), (b), (c), and (d) of this section shall not apply in any respect:

(1) To the Community to whom the beneficiary is indebted by order of the Community court relating to payment of any indebtedness owed by the beneficiary to the Community.

(2) To any person to whom the beneficiary is indebted by order of the Community court for the payment of support or spousal maintenance in favor of such beneficiary's spouse, former spouse or children.

(3) To any person for restitution for which a beneficiary is obligated by order of the Community court for damages caused by criminal acts or juvenile offenses of which the beneficiary has been convicted or adjudicated.

(4) To any person or entity whose claim against the Community is not disputed by the Community or which has been established by adjudication against the Community in a federal, state or tribal court of competent jurisdiction during any period that the Community is unable to pay its debts as they come due, or is subject to a pending insolvency or bankruptcy proceeding.

(f) A provision contained in a trust instrument created for the benefit of a minor beneficiary or incompetent beneficiary which states that the laws of the Community shall exclusively govern the validity, construction, and administration of the trust created under such trust instrument, and that such trust is subject to the exclusive jurisdiction of the Community court, shall be valid, effective, and conclusive for the trust if (i) the Community is serving as a trustee or a co-trustee of such trust, (ii) the trust assets of such trust were deposited by the Community in such trust pursuant to the Act, and (iii) part or all of the administration occurs in the Community, including, but not limited to, physically maintaining trust records within the Community.

(g) Notwithstanding any other provision in this section or in any trust created under the act, a person who intentionally kills, or who participates, either as a principal or an accessory before the fact, in the intentional killing of a minor or incompetent beneficiary ("beneficiary") shall be deemed to have predeceased the beneficiary and shall not be entitled to receive income or principal held in a trust created for the deceased beneficiary under the act.

(1) The Community trustee shall have the exclusive authority to determine by a preponderance of evidence whether the killing was intentional for purposes of this subsection.

(2) For purposes of this subsection, the terms "intentionally kills" and "intentional killing" shall mean to knowingly or recklessly cause the death of a minor or incompetent beneficiary, and may include acting with knowledge that the person's conduct will cause serious physical injury or death, or acting with a reckless indifference to human life.

(3) This subsection shall be construed with the intent of the Community that no person shall be allowed to benefit or profit by his or her own wrongful act, and shall be effective as of November 15, 2001.

(Code 1981, § 15.5-20; Code 2012, § 15.5-20; Ord. No. SRO-284-2002, § 2, 11-21-2001; Ord. No. SRO-295-03, 4-2-2003; Ord. No. SRO-402-2012, § 15.5-20, 5-30-2012; Ord. No. SRO-440-2014, 3-26-2014, eff. 11-15-2001)

Sec. 15.5-21. Reserved.

Sec. 15.5-22. Disclaimer.

If by any means a per capita IGRA payment under the Act is payable to a member, that member may disclaim that interest in whole or in part by delivering or filing a written disclaimer with the Community under this section.

(1) The disclaimer must be filed not later than the record date for the payment being disclaimed or for the first payment being disclaimed if more than one payment is being disclaimed. The term "record date" is defined in the Revenue Allocation Plan For Net Gaming Proceeds adopted by the Salt River Pima-Maricopa Indian Community.

(2) The disclaimer shall describe the property or interest disclaimed, declare the disclaimer and its extent, and be signed by the disclaimant.

(3) The right to disclaim property or interest in property under this section shall be barred by an acceptance of the property or interest in the property by the disclaimant prior to execution and filing of the disclaimer.

(4) Property disclaimed pursuant to this section shall pass to and vest in the remaining enrolled members eligible to receive (or have a trust for their benefit receive) their pro rata share of that IGRA payment.

(5) The disclaimer shall be binding on the disclaimant and on all persons claiming through or under the disclaimant.

(Code 1981, § 15.5-22; Code 2012, § 15.5-22; Ord. No. SRO-288-2002, 5-1-2002; Ord. No. SRO-298-03, 9-3-2003; Ord. No. SRO-402-2012, § 15.5-22, 5-30-2012)

Sec. 15.5-23. Granting of security interests.

(a) *Purpose and authority.*

(1) *Purpose.* It is the purpose and policy of this chapter to establish the method of the creation, the effect of perfection and nonperfection, priority among competing creditors, and enforcement of security interests granted by the Community in connection with personal properties of the Community doing business as Community gaming enterprises.

(2) *Authority.* This section is enacted by the Community Council under the authority of Article VII, section 1 of the Constitution of the Salt River Pima-Maricopa Indian Community.

(b) *Definitions.* As used in this section: The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Division means Salt River Community gaming enterprises, the wholly-owned instrumentality of the Community that owns and operates Casino Arizona and any other gaming and gaming-related operations of the Community. In the event that Salt River Community gaming enterprises ceases to have the exclusive legal right to operate the gaming operations of the Community, the term "division" shall encompass any and all entities that have the right to conduct such gaming and gaming-related operations.

Division personal property means any and all now owned or hereafter acquired personal property of the division.

Uniform Commercial Code means chapters 1, 8 and 9 of the Arizona Uniform Commercial Code as in effect from time-to-time.

(c) *Application of Uniform Commercial Code.*

(1) The Uniform Commercial Code shall apply to any security interest granted by the Community in any division personal property, and such security interest shall be created and perfected, priorities among competing creditors determined, and the security interest enforced, in accordance with the Uniform Commercial Code.

(2) In the event that, as a matter of Arizona law, the Uniform Commercial Code does not apply to a security interest described in subsection (c)(1) of this section as a

result of the provisions of section 47-9109(D)(14) of the Uniform Commercial Code, the Community, as a matter of Community law, hereby adopts all provisions of the Uniform Commercial Code, other than sections 47-9109(C)(2), 47-9109(D)(14) and 47-9307, and such provisions shall apply to any security interest described in subsection (c)(1) of this section, including the creation, perfection, priority and enforcement of any security interest described in subsection (c)(1) of this section.

(3) For purposes of this section and the Uniform Commercial Code, the location of both the Community and the division shall be in the State of Arizona.

(d) *Application of section.*

(1) This section shall be applicable only to security interests granted by the Community in division personal property.

(2) While any security interest granted under the authority of this section remains outstanding, this section may not be repealed or be amended in a manner adverse to the interests of any secured party.

(e) *Amendment of Ordinance SRO-106-87.* SRO-106-87, § 47-9102(A) is hereby amended to delete clause (3) thereof and eliminate all references therein to Salt River Community gaming enterprises.
(Code 1981, § 15.5-23; Code 2012, § 15.5-23; Ord. No. SRO-304-2005, 4-6-2005; Ord. No. SRO-402-2012, § 15.5-23, 5-30-2012; Ord. No. SRO-449-2014, 8-27-2014)

Sec. 15.5-24. Raffles.

(a) Notwithstanding any other provision of law, a nonprofit organization that is a corporation, fund, or foundation affiliated with a major league baseball team and organized and operated exclusively for charitable purposes and that is an organization that has qualified for an exemption from taxation of income under section 501(c)(3) of the United States Internal Revenue Code may conduct a raffle that is subject to the following restrictions:

(1) The nonprofit organization shall maintain this status and no member, director, officer, employee or agent of the nonprofit organization may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.

(2) The nonprofit organization has been in existence continuously for a five-year period immediately before conducting the raffle.

(3) No person except a bona fide local member of the sponsoring organization may participate directly or indirectly in the management, sales or operation of the raffle.

(b) A raffle conducted in compliance with this section shall be lawful and exempt from all other provisions in chapter 15.5. A person who conducts a raffle in compliance with this section shall be exempt from all other provisions in chapter 15.5.

(c) At least 20 days prior to conducting the raffle, the nonprofit organization shall file an application with the Community regulatory agency, on a form approved by the agency, stating the full name and address of the organization, the date(s) of the raffle and location where the raffle is to be conducted, facts establishing that the organization meets all requirements of this section, a complete copy of the official raffle rules, and other information requested by the agency. Upon determining that the organization meets all requirements of this section, the agency shall issue a raffle permit to the organization for the location and date or dates specified in the application. A raffle only may be conducted at the location, on the dates, by the organization, and according to the raffle game rules as specified on the permit.
(Ord. No. SRO-459-2015, § 15.5-24, 2-4-2015)

Sec. 15.5-25. Effective date.

The amendments to this chapter [set forth in Ordinance Nos. SRO-449-2014 and SRO-457-

2015] shall become effective on the first day of the month following approval by the National Indian Gaming Commission.

(Ord. No. SRO-449-2014, 8-27-2014)

Editor's note—Ord. No. SRO-459-2015, adopted Feb. 4, 2015, added a new § 15.5-24 pertaining to raffles; therefore, former § 15.5-24, pertaining to effective date, was redesignated 15.5-25 at the editor's discretion.

Chapter 16

TRAFFIC AND MOTOR VEHICLES

Article I. In General

Sec. 16-1. Definitions.
Sec. 16-2. Violation of chapter; penalties.
Sec. 16-3. Construction of chapter relative to operation of vehicles.
Sec. 16-4. Application of chapter to public employees; exceptions.
Sec. 16-5. Application of chapter to persons riding animals or driving animal-drawn vehicles.
Sec. 16-6. Chapter not to interfere with rights of owners of real property.
Sec. 16-7. Failure to comply with police officer.
Sec. 16-8. Authorized emergency vehicles.
Sec. 16-9. Driver's duty when approaching horse or livestock.
Sec. 16-10. Injuring, unlawfully starting, using or preventing use of vehicles.
Sec. 16-11. Placing or allowing dangerous articles on highway.
Sec. 16-12. Crossing fire hose.
Sec. 16-13. Effective date; savings clause.
Secs. 16-14—16-30. Reserved.

Article II. Registration, Licensing and Inspection

Sec. 16-31. Registration of motor vehicle required; exceptions.
Sec. 16-32. Registration violations.
Sec. 16-33. Driver license required; penalty.
Sec. 16-34. License to operate motorcycle or motor-driven cycle; exception.
Sec. 16-35. Restricted licenses.
Sec. 16-36. Possession and display of driver license.
Sec. 16-37. Unlawful use of license.
Sec. 16-38. Permitting unauthorized person to drive.
Sec. 16-39. Permitting unauthorized minor to drive; liability therefore.
Sec. 16-40. Driving on suspended license.
Sec. 16-41. Reserved.
Sec. 16-42. Inspection by Community officers.
Sec. 16-43. Owner or driver to comply with inspection provisions.
Sec. 16-44. Annual inspection of school buses.
Secs. 16-45—16-50. Reserved.

Article III. Equipment

Division 1. Generally

Sec. 16-51. Vehicle to be in good working order.
Sec. 16-52. Vehicle to comply with article; exceptions.
Sec. 16-53. Special requirements for motorcycles and motor-driven cycles.
Sec. 16-54. Brakes.
Sec. 16-55. Horns and audible warning devices.
Sec. 16-56. Mufflers and air pollution control devices.
Sec. 16-57. Mirrors.
Sec. 16-58. Windshields.
Sec. 16-59. Tires.
Sec. 16-60. Rear fender splash guards.
Sec. 16-61. Prohibition against image display device.
Sec. 16-62. Certain vehicles to carry flares or other warning devices.
Sec. 16-63. Display of warning devices when vehicle disabled.
Sec. 16-64. Vehicles transporting explosives.

Sec. 16-65. Reserved.
Sec. 16-66. Projecting loads.
Secs. 16-67—16-70. Reserved.

Division 2. Lights, Lamps, Reflectors and Illuminating Devices

Sec. 16-71. When lamps required to be lighted.
Sec. 16-72. Visibility distance and mounted height of lamps.
Sec. 16-73. Head lamps.
Sec. 16-74. Tail lamps.
Sec. 16-75. Reflectors on new motor vehicles.
Sec. 16-76. Reserved.
Sec. 16-77. Additional equipment required on certain vehicles.
Sec. 16-78. Application of article.
Sec. 16-79. Color of clearance lamps and reflectors.
Sec. 16-80. Mounting of reflectors and clearance and marker lamps.
Sec. 16-81. Visibility of reflectors and clearance and marker lamps.
Sec. 16-82. Lights obstructed.
Sec. 16-83. Parked vehicles.
Sec. 16-84. Lamps on animal-drawn and other equipment or vehicles.
Sec. 16-85. Spot and auxiliary lamps.
Sec. 16-86. Signal lamps and devices.
Sec. 16-87. Fender, running-board and backup lamps.
Sec. 16-88. Multiple lighting specifications.
Sec. 16-89. Multiple beam lighting equipment usage.
Sec. 16-90. Single-beam lights.
Sec. 16-91. Alternate road-lighting equipment.
Sec. 16-92. Number of driving lamps required, permitted.
Sec. 16-93. Special restrictions on lamps.
Sec. 16-94. Head lamps on motor-driven cycles and ATV.

Division 3. Seat Belt Requirements

Sec. 16-95. Restraint use for children who are at least nine years of age.
Sec. 16-96. Restraint use for children under nine years of age.
Sec. 16-97. Operator and passenger seat belt use.
Secs. 16-98—16-100. Reserved.

Article IV. Size, Weight and Load

Sec. 16-101. Effect and scope.
Sec. 16-102. Council's power to restrict weight of vehicles.
Sec. 16-103. Liability for damage resulting from overweight load.
Sec. 16-104. Width of vehicle and load.
Sec. 16-105. Projecting loads on passenger vehicles.
Sec. 16-106. Height and length of vehicles and loads.
Sec. 16-107. Length of load projection.
Sec. 16-108. Loads and covers to be secured.
Sec. 16-109. Towed vehicles.
Sec. 16-110. Single-axle load limit.
Sec. 16-111. Gross weight of vehicles and loads.
Sec. 16-112. Community officers authorized to stop vehicles, weigh and require removal of excess weight.
Sec. 16-113. Permit for excess size and weight.
Secs. 16-114—16-120. Reserved.

Article V. Traffic-Control Devices

Sec. 16-121. Council authorized to place signs on all Community highways.

Sec. 16-122. Obedience to devices required; exceptions.
Sec. 16-123. Signal legend.
Sec. 16-124. Flashing signals.
Sec. 16-125. Stop signs and yield signs.
Sec. 16-126. Reserved.
Sec. 16-127. Pedestrian control signals.
Sec. 16-128. Construction or road work site warning devices.
Sec. 16-129. Injuring, defacing, traffic-control or warning signs.
Secs. 16-130—16-140. Reserved.

Article VI. Operation of Vehicles

Division 1. Generally

Sec. 16-141. Operation of vehicles by nonmembers on land other than Community roadways.
Sec. 16-142. Driving on right side of roadway; exceptions.
Sec. 16-143. Driving on roadways laned for traffic and rotary traffic islands.
Sec. 16-144. Driving on divided highways.
Sec. 16-145. Drivers on controlled access roadways to use only authorized entrances and exits.
Sec. 16-146. Driving on mountain highways.
Sec. 16-147. Moving parked vehicle.
Sec. 16-148. Motorcycle, motor-driven cycle, and ATV riders and passengers to ride only on designated seats.
Sec. 16-149. Operation of vehicles upon approach of authorized emergency vehicle.
Sec. 16-150. Operation of vehicle upon approach of school bus.
Sec. 16-151. Following too closely.
Sec. 16-152. Coasting prohibited.
Sec. 16-153. Turning movements; signals required.
Sec. 16-154. Signals by hand and arm or device.
Sec. 16-155. Method of giving hand and arm signals.
Sec. 16-156. Required position and method of turning at intersections.
Sec. 16-157. Turning on curve or crest of grade prohibited.
Sec. 16-158. Backing.
Sec. 16-159. Obstruction of driver's view or interference with driver's control of vehicle prohibited.
Secs. 16-160—16-170. Reserved.

Division 2. Right-of-Way and Passing

Sec. 16-171. Right-of-way of vehicles entering intersection at same time; entering freeway.
Sec. 16-172. Right-of-way of vehicle turning left at intersection.
Sec. 16-173. Right-of-way of vehicle entering intersection.
Sec. 16-174. Vehicle entering highway from private road or driveway.
Sec. 16-175. Passing vehicles proceeding in opposite directions.
Sec. 16-176. Overtaking vehicles on the left, generally.
Sec. 16-177. Prerequisites for overtaking on the left.
Sec. 16-178. When driving on the left prohibited.
Sec. 16-179. Overtaking on the right.
Sec. 16-180. No passing zones.
Secs. 16-181—16-190. Reserved.

Division 3. Stopping, Standing and Parking

Sec. 16-191. Vehicles to be parked or stopped off pavement if possible.
Sec. 16-192. Parking, stopping, standing prohibited in specified places.

Sec. 16-193. Parking within eighteen inches of curb.
Sec. 16-194. Angle parking.
Sec. 16-195. Community authorized to place signs prohibiting or restricting parking, stopping and standing.
Sec. 16-196. Parking privilege for physically disabled.
Sec. 16-197. Removal of illegally stopped vehicles.
Sec. 16-198. Stop required before emerging from alley or driveway.
Secs. 16-199—16-210. Reserved.

Division 4. Speed Restrictions

Sec. 16-211. Reserved.
Sec. 16-212. Maximum speed limit.
Sec. 16-213. Minimum speed limit.
Sec. 16-214. Speed limits for motor-driven cycles and ATV's.
Sec. 16-215. Speeds to be reasonable and prudent.
Sec. 16-216. Speed restriction on bridges and elevated structures.
Sec. 16-217. Speed limits for solid-rubber-tired vehicles.
Sec. 16-218. Establishment and amendment of speed limits.
Sec. 16-219. Speed limits on freeways authorized to be variable.
Sec. 16-220. Racing and drag races.
Sec. 16-221. Driving at speed which causes trailer to sway.
Sec. 16-222. Charge of violation to specify alleged speed of violator; speed limit not to relieve plaintiff of proving negligence.
Secs. 16-223—16-230. Reserved.

Division 5. Driving While Under the Influence; Reckless Driving

Sec. 16-231. Driving or actual physical control while under the influence.
Sec. 16-232. Implied consent; tests; refusal to submit.
Sec. 16-233. Driving while under the influence; procedure for giving test.
Sec. 16-234. Reckless driving.
Sec. 16-235. Liability for emergency responses in flood areas.
Sec. 16-236. Suspension of driving privileges, reporting requirements and ignition interlock devices.

Division 6. Truck Routes

Sec. 16-237. Certain commercial vehicles prohibited on non-truck routes; exceptions.
Sec. 16-238. Adopted; erection of signs.
Sec. 16-239. Variances.

Article VII. Accidents

Sec. 16-240. Duty to give information and render aid.
Sec. 16-241. Accidents involving death or injury to a person.
Sec. 16-242. Accidents involving vehicle damage only.
Sec. 16-243. Duty upon striking unattended vehicle.
Sec. 16-244. Duty upon striking fixtures upon a highway.
Sec. 16-245. Immediate reports of certain accidents.
Sec. 16-246. Reserved.
Sec. 16-247. Written reports of accidents.
Sec. 16-248. Reserved.
Sec. 16-249. Accident report forms.
Sec. 16-250. Additional penalty for failure to report.
Sec. 16-251. Auto repair shops to report.
Secs. 16-252—16-260. Reserved.

Article VIII. Procedure in Traffic Cases

Division 1. General Provisions for All Traffic Cases

Sec. 16-261. Authority to detain.
Sec. 16-262. Forms of citations.
Sec. 16-263. Disposition of citations.
Sec. 16-264. Record of traffic cases.
Sec. 16-265. Burden of proof and consolidation of cases.

Division 2. Rules of Procedure for Criminal Traffic Offenses

Sec. 16-266. Applicability of rules of criminal procedure for criminal traffic cases.
Sec. 16-267. Procedure for issuance of citation when officer completes personal service.
Sec. 16-268. Procedure for issuance of citation not served in person.

Division 3. Rules of Procedure for Civil Traffic Offenses

Sec. 16-269. Sufficiency and amendment of the complaint.
Sec. 16-270. Representation of parties.
Sec. 16-271. Initial appearance and entry of plea.
Sec. 16-272. Hearing.
Sec. 16-273. Outcomes of hearing, payment of fines.
Sec. 16-274. Admissions, not evidence in other matters.
Sec. 16-275. Payment of fines.

Division 4. Juvenile Traffic Offenses Provisions

Sec. 16-276. Juvenile provisions.
Secs. 16-277—16-279. Reserved.

Division 5. Appeals

Sec. 16-280. Right to appeal.

Article IX. Pedestrians' Rights and Duties

Sec. 16-281. Right-of-way in crosswalks.
Sec. 16-282. Crossing at other than at crosswalks.
Sec. 16-283. Reserved.
Sec. 16-284. Pedestrians on roadways.
Sec. 16-285. School crossings.
Sec. 16-286. Use of white cane.
Secs. 16-287—16-290. Reserved.

Article X. Abandoned and Seized Vehicles

Sec. 16-291. Reserved.
Sec. 16-292. Abandonment prohibited; removal; presumption.
Sec. 16-293. Required report of abandoned and seized motor vehicles; violation.
Sec. 16-294. Notice of sale.
Sec. 16-295. Sale of vehicles.
Sec. 16-296. Required report of towed vehicles; violations.
Secs. 16-297—16-300. Reserved.

Article XI. Bicycles and Play Vehicles

Sec. 16-301. Application of provisions.
Sec. 16-302. Traffic laws apply to persons riding bicycles.
Sec. 16-303. Riding on roadways and bicycle paths.
Sec. 16-304. Manner of riding.
Sec. 16-305. Carrying articles.
Sec. 16-306. Lamps and other equipment on bicycles.
Sec. 16-307. Clinging to vehicles.

ARTICLE I. IN GENERAL

Sec. 16-1. Definitions.

As used in this chapter, the following terms shall have the meanings herein ascribed to them, unless the context requires otherwise.

Access road means a multiple use corridor that meets all of the following criteria:

(1) Is maintained for travel by two-wheel vehicles;

(2) Allows entry to staging areas, recreational facilities, trail heads and parking; and

(3) Is determined to be an access road by the Community Council.

Actual physical control means under the totality of circumstances, a person is in a current or imminent position to control the motor vehicle. In determining whether the person was in actual physical control of the vehicle, the totality of circumstances should be considered to determine whether the person's current or imminent control of the vehicle presented a real danger to the person or others at the time alleged or the person was using the vehicle as a stationary shelter. In considering the totality of circumstances, the following non-exhaustive factors may be considered:

(1) Whether the vehicle was running;

(2) Whether the ignition was in the on position;

(3) Where the ignition key was located;

(4) Where and in what position the driver was found in the vehicle;

(5) Whether the person was awake or asleep;

(6) Whether the vehicle's headlights were on;

(7) Where the vehicle was stopped;

(8) Whether the driver had voluntarily pulled off the road;

(9) Time of day;

(10) Weather conditions;

(11) Whether the heater or air conditioner was on;

(12) Whether the windows were up or down; and

(13) Any explanation of the circumstances shown by the evidence.

Adult means a person who is 18 years old or older at the time of the offense.

All-terrain vehicle or ATV means a motor vehicle that satisfies all of the following:

(1) Is designed primarily for recreational non highway all-terrain travel;

(2) Is 50 or fewer inches in width;

(3) Has an unladen weight of 800 pounds or less;

(4) Travels on three or more low pressure tires;

(5) Has a seat to be straddled by the operator and handlebars for steering control; and

(6) Is operated on a public highway.

Authorized emergency vehicle means any of the following:

(1) A Community fire department vehicle.

(2) A Community police vehicle.

(3) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by State of Arizona or a local authority.

(4) An ambulance or emergency vehicle that is authorized by the United States or federally recognized Indian Tribe.

Business days means Monday through Friday, except Community holidays.

Clerk of the court means the administrative professional designated by the court administrator of the Community court to perform the functions attributed to the clerk of the court pursuant to this chapter.

Child restraint means any portable or built-in device, except seat belts, designed for use in a motor vehicle to restrain, seat, or position a child,

and that meets or exceeds the requirements of the applicable Federal Motor Vehicle Safety Standards (FMVSS).

Commercial driver license means a license that is issued to an individual and that authorizes the individual to operate a class of commercial motor vehicles.

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle either:

(1) Has a gross combined weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds.

(2) Has a gross vehicle weight rating of 26,001 or more pounds.

(3) Is a school bus.

(4) Is a bus.

(5) Is used in the transportation of materials found to be hazardous for the purposes of the hazardous materials transportation act (49 USC §§ 5101 through 5127) and is required to be placarded under 49 CFR § 172.504.

Community means the Salt River Pima-Maricopa Indian Community.

Controlled-access highway means a highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from, except at such points only and in the manner determined by the Community.

Conviction means any of the following:

(1) An unvacated adjudication of guilt or a determination that the a person violated or failed to comply with a law in a court of original jurisdiction or by an authorized administrative tribunal;

(2) A plea of guilty or no contest accepted by the court; or

(3) The payment of a fine or court costs.

Council means the governing body of the Salt River Pima-Maricopa Indian Community.

Court means the Salt River Community Court.

Crosswalk means:

(1) That part of a roadway at an intersection included within the prolongations or connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in absence of curbs, from the edges of the traversable roadway.

(2) Any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Daytime means from sunrise to sunset other than nighttime.

Default judgment means a judgment of "responsible" entered against a defendant who has failed to plead or otherwise defend against the civil traffic citation charges.

Driver means the person who drives or is in actual physical control of a motor vehicle.

Drag race means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other or the operation of one or more vehicles over a common selected course, from the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

Driver license means a license that is issued by a state or a foreign government to an individual authorizing the individual to drive a motor vehicle.

Expenses of an emergency response means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident for the purposes of section 16-235.

Explosives means any chemical mixture or device that is commonly used or intended for the purpose of producing an explosion and that is defined in 49 CFR part 173.

Flammable liquid means any liquid that has a flash point of less than 100 degrees Fahrenheit and that is defined in 49 CFR § 173.120.

Freeway means a divided arterial highway on the interstate or primary system with full control of access and with grade separations at intersections.

Gross weight means the weight of the vehicle without a load plus the weight of the load on any vehicle except for tow trucks. For tow trucks, the gross weight means the sum of the empty weight in pounds of the tow truck plus the weight in pounds of operational supplies and equipment.

Highway or *street* means the entire width between the boundary lines of every way publicly maintained by the United States, State of Arizona, county, city, town, or Community if a part of the way is open to the use of the public for purposes of vehicular travel.

Image display device means equipment capable of displaying to the driver of a motor vehicle rapidly changing images that are either of the following:

(1) A broadcast television image or similar entertainment content transmitted by other wireless means to the image display device.

(2) A dynamic visual image, other than text, from a digital video disc or other storage device.

Injury means physical pain or impairment of physical condition.

Intersection means the area embraced within the prolongation or connection of the lateral curb lines, or if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict. If a highway includes two roadways 30 or more feet apart, each crossing of each roadway of the divided highway by an intersecting highway is a separate intersection. If the intersecting highway also includes two roadways 30 or more feet apart, each crossing of two roadways of the highways is a separate intersection.

Judge means a judge of the Community court or other judicial officer authorized by the Community Constitution, an ordinance of the Community, pro tempore judge appointed by the chief judge under section 4-37, or appointed by council.

Juvenile or minor means a person who is less than 18 years old and has not been emancipated by an order of a court of competent jurisdiction at the time of the offense.

Laned roadway means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

Lap belt means a safety belt that is anchored at two points for use across a vehicle occupant's thighs/hips.

Lap and shoulder belt means a safety belt that is anchored at least three points and restrains the vehicle occupant at the hips and across the chest and shoulder. Lap and shoulder belt may also refer to as a combination lap and shoulder belt.

Law enforcement officer means a police officer.

Lost, stolen, abandoned or otherwise unclaimed vehicles means any trailer, vehicle, or semitrailer of a type subject to registration under the laws of the State of Arizona or any other state or foreign government, which has been abandoned on a Community highway, Community property or elsewhere within the boundaries of the Community.

Metal tire means a tire the surface of which in contact with the highway, is wholly or partly of metal or other hard, nonresilient material.

Motor vehicle means a self-propelled vehicle, but does not include a motorized wheelchair or motorized skateboard. For the purposes of article VI, division 5 of this chapter, such a vehicle refers to a vehicle that is in an operational condition.

Motorcycle means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground, but excluding a tractor and a moped.

Motor driven cycle means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower.

Motorized skateboard means a self-propelled device that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

Motorized wheelchair means a self-propelled wheelchair that is used by a person for mobility.

Nighttime means at any other hour than daytime.

Official traffic-control devices means all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Operator means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Park when prohibited means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading.

Passenger means another person who is riding in a motor vehicle that is being operated by and in the control of another person.

Pedestrian means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle.

Pole trailer means a vehicle that is all of the following:

(1) Without motive power;

(2) Designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle; and

(3) Used ordinarily for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable of generally sustaining themselves as beams between the supporting connections.

Police officer means an officer authorized to direct or regulate traffic or make arrests for violations of traffic regulations.

Private road or driveway means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Public agency means this Community and any federal, tribal, state, city, county, municipal corporation, district or other public authority that is located in whole or in part in this state and that provides police, fire fighting, medical or other emergency services for the purposes of section 16-235.

Racing means the use of one or more vehicles in an attempt to outgain, outdistance or prevent another vehicle from passing.

Reasonable costs means the costs of providing police, firefighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident, but does not include charges assessed by an ambulance service for the purposes of section 16-235.

Reckless disregard means acting with gross negligence or without concern as to the danger to others.

Roadway means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, the term "roadway" as used in this chapter shall refer to any such roadway separately, but not to all such roadways collectively. The term "roadway" includes all or part of a platted or designated public street, highway, alley, lane, parkway, avenue, road, sidewalk or other public way, whether or not it has been used as such.

Seat belt means a restraint consisting of either a combination of a lap belt and shoulder belt, or only a lap belt, attached to the frame of a motor vehicle at a seating position.

Serious physical injury means physical injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigure-

ment, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Sidewalk means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

Stop means complete cessation from movement, when required.

Stopping or standing means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic-control sign or signal, when prohibited.

Through highway means a highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing and stop signs are erected as provided in this chapter.

Traffic means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

Traffic-control signal means a device whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Truck means every motor vehicle designed, used or maintained primarily for the transportation of property.

VIN means vehicle identification number.

Vapor releasing substance means any toxic substance used in a manner prohibited under section 6-121(b).

(Ord. No. SRO-417-2013, § 16-1, 2-1-2013; Ord. No. SRO-428-2014, § 16-1, 1-1-2014)

Sec. 16-2. Violation of chapter; penalties.

(a) *Classification of offenses.* A person who violates a provision of this chapter shall be held responsible for a civil offense unless the penalty defined in the offense specifically allows for jail or imprisonment as punishment or penalty.

(b) *Penalties when none provided in offense.*

(1) *Civil violations generally.* Except as modified by the disposition schedule at appendix A or under sections 16-271(e) and 16-273(c), a person found responsible for a violation of any of the provisions of this chapter where no penalty is provided and the offense is not specifically designated as a criminal offense, shall be punishable by a fine of not more than $500.00.

(2) *Criminal offenses generally.* A person found guilty of a criminal offense pursuant to this chapter for which another penalty is not provided shall be subject to not more than six months imprisonment or a fine of not more than $5,000.00 or both.

(Ord. No. SRO-417-2013, § 16-2, 2-1-2013; Ord. No. SRO-428-2014, § 16-2, 1-1-2014)

Sec. 16-3. Construction of chapter relative to operation of vehicles.

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section.

(2) The provisions of article VI, division 5, DUI and reckless driving and article VII, accidents shall apply upon highways and elsewhere throughout the Community.

(Ord. No. SRO-417-2013, § 16-3, 2-1-2013; Ord. No. SRO-428-2014, § 16-3, 1-1-2014)

Sec. 16-4. Application of chapter to public employees; exceptions.

(a) *Government vehicles.* The provisions of this chapter are applicable to the drivers of all vehicles upon the highways including vehicles owned or operated by the United States, the State of Arizona, the Community, federally recognized Indian tribes, or any other political subdivision of Arizona except as provided in this section and subject to such specific exceptions as are set forth in this chapter with reference to authorized emergency vehicles.

(b) *Work vehicles.* Unless specifically made applicable, the provisions of this chapter shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a highway, but shall apply to such persons and vehicles when traveling to or from such work.
(Ord. No. SRO-417-2013, § 16-4, 2-1-2013; Ord. No. SRO-428-2014, § 16-4, 1-1-2014)

Sec. 16-5. Application of chapter to persons riding animals or driving animal-drawn vehicles.

Every person riding an animal or driving any animal-drawn vehicle upon a highway, shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.
(Ord. No. SRO-417-2013, § 16-5, 2-1-2013; Ord. No. SRO-428-2014, § 16-5, 1-1-2014)

Cross reference—Animals and fowl, Ch. 12.

Sec. 16-6. Chapter not to interfere with rights of owners of real property.

Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as a matter of right from prohibiting that use, or from requiring other or different or additional conditions than those specified in this chapter, or otherwise regulating such use as may seem best to such owner. However, provisions of article VI, division 5, DUI and reckless driving and article VII, accidents shall apply on private property.
(Ord. No. SRO-417-2013, § 16-6, 2-1-2013; Ord. No. SRO-428-2014, § 16-6, 1-1-2014)

Cross references—Roadways, §§ 17-41—17-47; use of vehicles by nonmembers on land other than Community roadways, § 16-141.

Sec. 16-7. Failure to comply with police officer.

No person shall interfere with a law enforcement officer who is directing, controlling, or regulating traffic or willfully refuse to comply with any lawful order or direction of any law enforcement officer invested by law with authority to direct, control or regulate traffic. A violation of this offense is a criminal offense.
(Ord. No. SRO-417-2013, § 16-7, 2-1-2013; Ord. No. SRO-428-2014, § 16-7, 1-1-2014)

Sec. 16-8. Authorized emergency vehicles.

(a) *Permitted to vary from requirements.* The driver of any authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of law or when responding to, but not upon returning from a fire alarm, may exercise the privileges set forth in this section.

(b) *Exceptions enumerated.* The driver of an authorized emergency vehicle may:

(1) Park or stand, irrespective of the provisions of this chapter;

(2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(3) Exceed the prima facie speed limits so long as the driver does not endanger life or property; and

(4) Disregard regulations governing direction of movement or turning in specified direction.

(c) *Exemptions to apply only under certain conditions.* The exemptions granted by this section to an authorized emergency vehicle shall apply only when the driver of the vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(d) *Driver responsible.* The provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor

shall these provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others.
(Ord. No. SRO-417-2013, § 16-8, 2-1-2013; Ord. No. SRO-428-2014, § 16-8, 1-1-2014)

Sec. 16-9. Driver's duty when approaching horse or livestock.

Every person operating a motor vehicle upon any public highway and approaching any horse-drawn vehicle or any horse upon which any person is riding or livestock being driven upon the highway shall exercise reasonable precaution to prevent frightening and to safeguard such animals, and to ensure the safety of any person riding or driving the same. If such animals appear frightened, the person in control of such vehicle shall reduce its speed and, if requested by signal or otherwise, shall not proceed further toward such animals unless necessary to avoid accident or injury, until such animals appear to be under control.
(Ord. No. SRO-417-2013, § 16-9, 2-1-2013; Ord. No. SRO-428-2014, § 16-9, 1-1-2014)

Cross reference—Animals and fowl, Ch. 12.

Sec. 16-10. Injuring, unlawfully starting, using or preventing use of vehicles.

(a) A person shall not:

(1) Willfully break, injure, tamper with or remove any part of a vehicle for any purpose against the will or without consent of the owner of the vehicle;

(2) In any other manner willfully or maliciously interfere with or prevent the running or operation of the vehicle;

(3) Without consent of the owner or person in charge of a vehicle climb into or upon a vehicle with intent to commit any crime, malicious mischief or injury theretofore; or

(4) While a vehicle is stopped and unattended attempt, to manipulate any levers, starting crank or other starting devices, brakes or other mechanism thereof, or set the vehicle in motion.

A person violating this section is guilty of a criminal offense.

(b) The provisions of subsection (a) of this section shall not apply when any of the conduct described therein is committed in an emergency in furtherance of public safety or convenience or by or under the direction of any law enforcement officer in the performance of the officer's duty.
(Ord. No. SRO-417-2013, § 16-10, 2-1-2013; Ord. No. SRO-428-2014, § 16-10, 1-1-2014)

Sec. 16-11. Placing or allowing dangerous articles on highway.

(a) *Dangerous items.* No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance, including but not limited to lit cigarettes, flammable liquids, and lit matches, likely to injure any person, animal, property, or vehicle upon the highway.

(b) *Destructive or injurious material.* Any person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) *Glass.* Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

(d) *Emergencies.* The provisions of section hereof shall not apply when any of the conduct described therein is committed in an emergency in furtherance of public safety or convenience or by or under the direction of any law enforcement officer in the performance of the officer's duty.
(Ord. No. SRO-417-2013, § 16-11, 2-1-2013; Ord. No. SRO-428-2014, § 16-11, 1-1-2014)

Sec. 16-12. Crossing fire hose.

No vehicle shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, or private driveway to be used at any fire or alarm of fire. This section does

not apply if a fire department official in command at the fire directs traffic to drive over the hose. A violation of this section is a criminal offense.
(Ord. No. SRO-417-2013, § 16-12, 2-1-2013; Ord. No. SRO-428-2014, § 16-12, 1-1-2014)

Sec. 16-13. Effective date; savings clause.

(a) *Effective date.* This amended chapter shall govern the duties, responsibilities, liabilities and penalties created by this chapter for violations committed on or after January 1, 2014.

(b) *Savings clause.* This amended chapter does not govern the duties, responsibilities, liabilities and penalties created by this chapter for violations committed before January 1, 2014. A violation occurring prior to January 1, 2014 shall be governed by the provisions of law existing at the time of the violation, regardless of the actual dates associated with charging, prosecution, or sentencing, in the same manner as if this chapter had not been amended.
(Ord. No. SRO-417-2013, § 16-12, 2-1-2013; Ord. No. SRO-428-2014, § 16-12, 1-1-2014)

Secs. 16-14—16-30. Reserved.

ARTICLE II. REGISTRATION, LICENSING AND INSPECTION

Sec. 16-31. Registration of motor vehicle required; exceptions.

(a) *Registration required.* Every owner of a motor vehicle, trailer or semitrailer, before it is operated upon any highway in this Community, shall obtain current registration therefore from the appropriate agency of the United States, a state, or a foreign government. A driver or owner of the motor vehicle, trailer, or semitrailer, shall furnish proof of registration for the current year upon a request of a police officer.

(b) *Exceptions.* This section shall not apply to farm tractors, trailers used solely in the operation of a farm for transporting the unprocessed fiber or forage products thereof, or any implement of husbandry designed primarily for or used in agricultural operations and only incidentally operated or moved upon a highway, road-rollers or road machinery temporarily operating or moved upon the highway, nor to any owner permitted to operate a vehicle under special provisions relating to lien holders, manufacturers, dealers and nonresidents. Nor shall it apply to any vehicle being towed by tow truck which meets the requirements of section 16-109.

(c) *Proof provided later.* If the owner or operator did not have proof of registration for the current year on the person at the time of the offense, but the motor vehicle was properly registered at the time of the offense, the court may dismiss the charge upon proof shown.
(Ord. No. SRO-417-2013, § 16-31, 2-1-2013; Ord. No. SRO-428-2014, § 16-31, 1-1-2014)

Sec. 16-32. Registration violations.

A person is guilty of a criminal offense who:

(1) Being the owner thereof, operates or knowingly permits to be operated upon a highway, a motor vehicle, trailer or semitrailer required by law to be registered which does not display thereon the license plate assigned thereto for the current registration year.

(2) Displays or has in the owner's possession a registration card or license plate knowing it to be fictitious or to have been stolen, canceled, revoked, suspended or altered.

(3) Lends to or knowingly permits the use of owner's registration card or license plate by a person not entitled thereto.

(4) Operates a motor vehicle, trailer or semitrailer required by law to be registered which does not display any license plate.

(Ord. No. SRO-417-2013, § 16-32, 2-1-2013; Ord. No. SRO-428-2014, § 16-32, 1-1-2014)

Sec. 16-33. Driver license required; penalty.

(a) *Violation.* No person, except those expressly exempted in this chapter, shall drive any motor vehicle upon a highway in this Community unless the person has a valid driver license or a commercial driver license issued by the appropriate agency of the United States, a state, or a foreign government. No person shall drive a com-

mercial motor vehicle unless the person holds a valid commercial driver license. A violation of this section is a criminal offense.

(b) *Driving privileges.* A person holding a valid driver license or commercial driver license may exercise the privilege thereby granted upon all streets and highways in this Community.

(c) *Penalty.* Any person who violates subsection (a) of this section as follows shall be convicted of a criminal offense, and may be sentenced up to:

(1) *First offense.* Not more than $300.00, or imprisonment for not more than 30 days or both.

(2) *Second or subsequent offense.* A second or subsequent conviction committed within a period of 24 months of the first violation or offense shall be punishable by a fine of not less than $50.00 nor more than $300.00 or by imprisonment for not less than five days nor more than six months, subject to the limitations of section 16-36.

(Ord. No. SRO-417-2013, § 16-33, 2-1-2013; Ord. No. SRO-428-2014, § 16-33, 1-1-2014)

Sec. 16-34. License to operate motorcycle or motor-driven cycle; exception.

Except as otherwise provided in this chapter, no person shall operate a motorcycle or motor-driven cycle upon a highway in this Community unless the person has a valid license and an endorsement to operate a motorcycle issued by the appropriate agency of the United States, a state, or a foreign government.

(Ord. No. SRO-417-2013, § 16-34, 2-1-2013; Ord. No. SRO-428-2014, § 16-34, 1-1-2014)

Sec. 16-35. Restricted licenses.

It is a criminal offense for a person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to the person.

(Ord. No. SRO-417-2013, § 16-35, 2-1-2013; Ord. No. SRO-428-2014, § 16-35, 1-1-2014)

Sec. 16-36. Possession and display of driver license.

Every driver shall have the person's driver license or commercial driver license on the person's immediate possession at all times when operating a motor vehicle and shall display same, upon demand of a law enforcement officer. The court may dismiss the charge upon proof shown of a driver license or commercial driver license theretofore issued to the person and valid at the time of issuance of the citation.

(Ord. No. SRO-417-2013, § 16-36, 2-1-2013; Ord. No. SRO-428-2014, § 16-36, 1-1-2014)

Sec. 16-37. Unlawful use of license.

It is a criminal offense for any person:

(1) To display or cause or permit to be displayed or have on the person's possession a canceled, revoked, suspended, fictitious, or fraudulently altered driver license or commercial driver license.

(2) To lend the person's driver license or commercial driver license to any other person or knowingly permit the use thereof by another.

(3) To display or represent as one's own a driver license or commercial driver license not issued to that person.

(4) To permit any unlawful use of a driver license or commercial driver license issued to the person.

(5) To intentionally alter, forge, or counterfeit a driver license or commercial driver license.

(Ord. No. SRO-417-2013, § 16-37, 2-1-2013; Ord. No. SRO-428-2014, § 16-37, 1-1-2014)

Sec. 16-38. Permitting unauthorized person to drive.

No person shall authorize or knowingly permit a motor vehicle owned by the person or under that person's control to be driven upon any highway by

any other person who is not authorized under this chapter or in violation of any of the provisions of this chapter.
(Ord. No. SRO-417-2013, § 16-38, 2-1-2013; Ord. No. SRO-428-2014, § 16-38, 1-1-2014)

Sec. 16-39. Permitting unauthorized minor to drive; liability therefore.

(a) *Unauthorized minor driver.* A person who causes or knowingly permits a minor to drive a motor vehicle upon a highway when such minor is not authorized to drive a motor vehicle under this chapter, or in violation of any of the provisions of this chapter, is guilty of a criminal offense.

(b) *Liability.* Every owner of a motor vehicle causing or knowingly permitting an unlicensed minor to drive such vehicle upon a highway, and any person giving or furnishing a motor vehicle to such unlicensed minor, shall be jointly and severally liable with such minor for any damages caused by the negligence or willful misconduct of such minor in driving such vehicle.
(Ord. No. SRO-417-2013, § 16-39, 2-1-2013; Ord. No. SRO-428-2014, § 16-39, 1-1-2014)

Cross references—Offenses concerning minors, §§ 6-81—6-84; minors generally, Ch. 11.

Sec. 16-40. Driving on suspended license.

Any person who drives a motor vehicle on a public highway in this Community at a time when the person's privilege to do so is suspended, revoked, or refused shall pay a civil fine of not less than $100.00 nor more than $300.00.
(Ord. No. SRO-417-2013, § 16-40, 2-1-2013; Ord. No. SRO-428-2014, § 16-40, 1-1-2014)

Sec. 16-41. Reserved.

Sec. 16-42. Inspection by Community officers.

(a) *Stops authorized.* A law enforcement officer may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of the vehicle to stop and submit the vehicle to an inspection and such tests with reference thereto as may be appropriate.

(b) *Notice.* In the event the vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give written notice to the driver. The original of the notice shall be retained by the police department. The notice shall require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment specifying the particulars with reference thereto and that a certificate of correction or adjustment of illegal or faulty equipment must be obtained within five business days.

(c) *Form of notice.* Council shall prescribe the form of the notice which shall be utilized by those authorized to conduct such inspections.
(Ord. No. SRO-417-2013, § 16-42, 2-1-2013; Ord. No. SRO-428-2014, § 16-42, 1-1-2014)

Sec. 16-43. Owner or driver to comply with inspection provisions.

(a) *Inspection.* No person driving a vehicle shall refuse to submit the vehicle to an inspection and test when required to do so by a law enforcement officer if required under section 16-42.

(b) *Certification of adjustment.* Every owner or driver, upon receiving a notice as provided in the previous section, shall comply therewith and shall within five business days secure the certification of adjustment provided on the notice. When the certification is completed, the notice shall be forwarded to the issuing department. In lieu of compliance with this subsection, the vehicle shall not be operated, except as provided in subsection (c) of this section.

(c) *Prohibitions.* No person shall operate any vehicle after receiving a notice with reference thereto as provided in subsection (b) of this section, except as may be necessary to return the vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to an auto repair shop, until the vehicle and its equipment have been placed in proper repair and adjustment and otherwise made to conform to the requirements of this chapter.

(d) *Repairs.* If repair or adjustment of a vehicle or its equipment is found necessary on inspection, the owner of the vehicle:

(1) May obtain the repair or adjustment at any place the owner chooses.

(2) Shall not operate the vehicle on a highway until the certification of adjustment is obtained.

(Ord. No. SRO-417-2013, § 16-43, 2-1-2013; Ord. No. SRO-428-2014, § 16-43, 1-1-2014)

Sec. 16-44. Annual inspection of school buses.

Each school bus shall be inspected annually and an official certificate of inspection and approval shall be obtained annually for each such vehicle in accordance with the laws prescribed by the State of Arizona. Such inspections shall be made and such certificates obtained with respect to the requirements for school buses as prescribed by Arizona law, and by regulations adopted by the Arizona Department of Public Safety and the Arizona State Board of Education. A school bus shall also be inspected prior to its initial use in the Community and inspected within the prescribed periods that are registered. If a school bus is privately owned, the owner thereof shall have such bus inspected within the prescribed periods.

(Ord. No. SRO-417-2013, § 16-44, 2-1-2013; Ord. No. SRO-428-2014, § 16-44, 1-1-2014)

Secs. 16-45—16-50. Reserved.

ARTICLE III. EQUIPMENT

DIVISION 1. GENERALLY

Sec. 16-51. Vehicle to be in good working order.

No person shall drive or move on any highway any motor vehicle, trailer, semitrailer or pole trailer, or any combination thereof unless the equipment upon any and every such vehicle is in good working order and adjustment as required in this chapter and the vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway.

(Ord. No. SRO-417-2013, § 16-51, 2-1-2013; Ord. No. SRO-428-2014, § 16-51, 1-1-2014)

Sec. 16-52. Vehicle to comply with article; exceptions.

(a) *Safe operation.* All vehicles driven in the Community shall be operated in a safe condition and maintained as provided in this article. It is a violation of this section for any person to drive or move or for the owner to knowingly permit a vehicle to be driven in such unsafe condition as to endanger any person. Any person who violates this section is subject to civil penalties as provided in this chapter.

(b) *Aftermarket parts.* Nothing contained in this article shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this article.

(c) *Exceptions.* The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as made applicable by this article. Every farm tractor equipped with an electric lighting system shall at all times mentioned in section 16-71 display a red tail lamp and either multiple-beam or single-beam head lamps meeting the requirements of sections 16-74, 16-88 and 16-90.

(Ord. No. SRO-417-2013, § 16-52, 2-1-2013; Ord. No. SRO-428-2014, § 16-52, 1-1-2014)

Sec. 16-53. Special requirements for motorcycles and motor-driven cycles.

(a) *Helmets.* Any minor operator and any minor passenger of a motorcycle, motor-driven cycle, or all-terrain vehicles shall wear a protective helmet on the person's head in an appropriate manner safely secured. Any operator and passenger of a motorcycle or motor-driven vehicle shall also wear protective glasses, goggles or a transparent face shield unless the motorcycle is equipped with a protective windshield.

(b) *Equipment required.* A motorcycle and motor-driven cycle shall be equipped with a rearview mirror, seat and footrests for the operator. Any motorcycle or motor-driven cycle operated with a passenger shall be equipped with seats, footrests and handrails for such passenger.

(c) *Handlebar height.* Handlebars rising more than 15 inches above the level of the driver's seat or saddle on a motorcycle or motor-driven cycle are prohibited.
(Ord. No. SRO-417-2013, § 16-53, 2-1-2013; Ord. No. SRO-428-2014, § 16-53, 1-1-2014)

Sec. 16-54. Brakes.

(a) *Requirements enumerated.* The following brake equipment is required:

(1) Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Every motorcycle and every motor-driven cycle, when operated upon a highway, shall be equipped with at least one brake which may be operated by hand or foot.

(3) Every trailer or semitrailer of a gross weight of 3,000 pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and the brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.

(4) Every new motor vehicle, trailer or semitrailer sold in the Community and operated upon the Community highway shall be equipped with service brakes upon all wheels of every vehicle, except any motorcycle or motor-driven cycle, and except that any semitrailer of less than 1,500 pounds gross weight need not be equipped with brakes and except that three-axle trucks need only be equipped with brakes on all wheels of the two rear axles.

(5) In any combination of motor-drawn vehicles, means shall be provided for applying the rearmost trailer brakes of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate, or means shall be provided for applying braking effort first on rearmost trailer equipped with brakes. Both of the above means capable of being used alternatively may be employed.

(6) Every motor vehicle and combination of vehicles manufactured or sold in the Community, except motorcycles and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power, provided that failure of the service brake actuation system or other power-assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake, brake shoes and lining assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one pair shall not leave the vehicle without operative brakes.

(7) The brake pads and shoes operating within or upon the brakes on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

(b) *Deceleration requirements.* Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading, of being stopped on a dry, smooth, level road free from loose material, upon application of the service or footbrake, within the distance specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	Feet to stop from 20 miles per hour	*Deceleration in feet per second feet to stop*
Vehicles or combination of vehicles having brakes on all wheels	30	14
Vehicles or combination of vehicles not having brakes on all wheels	40	10.7

(c) *Adjustment of brakes.* All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

(d) *Unmuffled engine retarding brakes prohibited.* It shall be unlawful for the operator of any truck to intentionally use an unmuffled, defective, or improperly muffled engine retarding brake on any public highway or street within the Community which causes abnormal or excessive noise from the engine, except in an emergency.

(1) Signs stating "UNMUFFLED ENGINE BRAKING PROHIBITED" may be installed at locations deemed appropriate by the Community or a Community agency designated by council to advise motorists of the prohibitions contained in this chapter. The provisions of this chapter are in full force and effect even if no signs are installed.

(2) Any person, firm or corporation who violates any provision of this chapter shall, upon conviction, be guilty of a civil offense and punished by a fine of not more than $300.00.

(Ord. No. SRO-417-2013, § 16-54, 2-1-2013; Ord. No. SRO-428-2014, § 16-54, 1-1-2014)

Sec. 16-55. Horns and audible warning devices.

(a) *Required.* Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to ensure safe operation give audible warning with the motor vehicle's horn, but shall not otherwise use the horn when upon a highway.

(b) *Prohibited devices.* No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.

(c) *Theft alarm.* It is permissible, but not required that any vehicle be equipped with a theft alarm signal device. Any theft alarm signal device cannot be used by the driver as an ordinary warning signal.

(d) *Emergency vehicle requirements.* Any authorized emergency vehicle may be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet. The siren shall not be used except when the emergency vehicle is oper-

ated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, and the driver of the emergency vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of its approach.
(Ord. No. SRO-417-2013, § 16-55, 2-1-2013; Ord. No. SRO-428-2014, § 16-55, 1-1-2014)

Sec. 16-56. Mufflers and air pollution control devices.

(a) *Mufflers.* Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a highway.

(b) *Fumes.* The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(c) *Emission control devices.* Beginning with motor vehicles and motor vehicle engines of the 1968 model year, motor vehicles and motor vehicle engines shall be equipped with emissions control devices that meet the standards established by the Arizona Department of Environmental Quality.

(d) *Penalties.* A person is guilty of violating this section who knowingly operates on a street or highway a motor vehicle without an emissions control device as required herein or with a device which has been dismantled or disconnected or is otherwise inoperative. Any person who violates this section is subject to civil penalties as provided in this chapter.

(e) *Exception.* The provisions of this section shall not apply to motor vehicles that are used exclusively for competition and not operated on the public streets and highways.
(Ord. No. SRO-417-2013, § 16-56, 2-1-2013; Ord. No. SRO-428-2014, § 16-56, 1-1-2014)

Sec. 16-57. Mirrors.

Every motor vehicle which is so constructed or loaded as to obstruct the driver's view to the rear thereof from the driver's position shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear of the vehicle.
(Ord. No. SRO-417-2013, § 16-57, 2-1-2013; Ord. No. SRO-428-2014, § 16-57, 1-1-2014)

Sec. 16-58. Windshields.

(a) *Required.* Every passenger vehicle, other than a motorcycle, all-terrain vehicles, and golf carts manufactured or, modified before June 17, 1998, and every motor truck or truck tractor, except fire trucks, fire engines or other fire apparatus, whether publicly or privately owned, shall be equipped with an adequate windshield. This section shall not apply to implements of husbandry, of antique, classic or horseless carriage, automobiles when not originally equipped with a windshield.

(b) *Not to be obstructed.* No person shall drive any motor vehicle with any sign, poster, or other substance or material upon the front windshield, side wings or side or rear windows of the vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(c) *Wipers required.* The windshield on every motor vehicle, except motorcycle, all-terrain vehicles, golf carts, or motor-driven cycle, shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(d) *Wipers to be in good order.* Every windshield wiper upon a motor vehicle shall be maintained in good working order.
(Ord. No. SRO-417-2013, § 16-58, 2-1-2013; Ord. No. SRO-428-2014, § 16-58, 1-1-2014)

Sec. 16-59. Tires.

(a) *Surface.* Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) *Periphery.* No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of

the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highways, and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid.
(Ord. No. SRO-417-2013, § 16-59, 2-1-2013; Ord. No. SRO-428-2014, § 16-59, 1-1-2014)

Sec. 16-60. Rear fender splash guards.

(a) *Splash guards required.* It is unlawful for any person to operate a truck, trailer, semitrailer or bus upon the highways unless such vehicle is equipped with rear fender splash guards, which shall comply with the specifications provided in this section. The splash guards shall be so attached as to prevent the splashing of mud or water upon the windshield of other motor vehicles and shall extend to a length which shall end not more than eight inches from the ground.

(b) *Size.* The splash guards shall be wide enough to cover the full tread or treads of the tires being protected and shall be installed close enough to the tread surface of the tire or wheel as to control the side throw of the bulk of the thrown road surface material.

(c) *Material and attachment.* The splash guards may be constructed of a flexible rubberized material, and shall be attached in such a manner that, regardless of movement either in such splash guards or the vehicle, such splash guards will retain their general parallel relationship to the tread surface of the tire or wheel under all ordinary operating conditions.

(d) *Pickups.* Nothing in this section shall be deemed to apply to vehicles commonly known as pickup trucks with a manufacturer's gross vehicle rating of 10,000 pounds or less unless the pickup truck has been modified from the original bumper height to raise the center of the gravity of the pickup truck.

(e) *Exceptions.* This section shall not apply to truck tractors or converter dollies when used in combination with other vehicles.
(Ord. No. SRO-417-2013, § 16-60, 2-1-2013; Ord. No. SRO-428-2014, § 16-60, 1-1-2014)

Sec. 16-61. Prohibition against image display device.

No person shall drive any motor vehicle equipped with any image display device, which is located in the motor vehicle at any point forward of the back of the driver's seat or which is visible, directly or indirectly, to the driver while operating the motor vehicle.

(1) A person shall not view a broadcast television image or a visual image from an image display device while that person is driving a motor vehicle and the motor vehicle is in motion on a public roadway.

(2) A person shall not operate a motor vehicle with an image display device that is visible to a driver seated in a normal driving position when the vehicle is in motion.

(3) This section does not apply to any of the following:

a. Emergency vehicles.

b. Image display devices that do any of the following:

1. Display images that provide a driver with navigation and related traffic, road and weather information.

2. Provide vehicle information, controls or information related to driving a vehicle.

3. Enhance or supplement a driver's view of the area to the front, rear or side of the vehicle.

4. Permit a driver to monitor the vehicle occupants seated behind the driver.

5. Display information intended to enhance traffic safety.

c. Image display devices that are built into the motor vehicle and that do not display images to a driver while the vehicle is in motion.

d. Image display devices that are portable and are not used to display dynamic visual images other than

for purposes of navigation or global positioning to a driver while the vehicle is in motion.

e. Image display devices present in vehicles of a public service corporation or any political subdivision of this state and used for service or maintenance of its facilities.

f. Any use of an image display device while the vehicle is parked.

(Ord. No. SRO-417-2013, § 16-1, 2-1-2013; Ord. No. SRO-428-2014, § 16-1, 1-1-2014)

Sec. 16-62. Certain vehicles to carry flares or other warning devices.

(a) *Requirements enumerated.* No person shall operate any motor truck, passenger bus or truck tractor upon any highway within the Community at any time from sunset to sunrise unless there shall be carried in the vehicle the following equipment except as provided in subsection (b) of this section:

(1) At least three flares or three electric red lanterns or three triangle reflectors each of which shall be capable of being seen and distinguished at a distance of 500 feet under normal atmospheric conditions at nighttime. Each flare shall be capable of burning for one hour. Every such flare shall be substantially constructed so as to withstand reasonable shocks without leaking. Every such flare shall be carried in the vehicle in a metal rack or box. Every such red electric lantern shall be capable of operating continuously for not less than 12 hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

(2) At least three red burning fuses unless red electric lanterns are carried. Each fuse shall be made in accordance with specifications of the Bureau of Explosives, 55500 DOT Road, Pueblo, CO 81001, and so marked and shall be capable of burning at least 15 minutes.

(3) At least two red cloth flags, not less than 12 inches square, with standards to support same.

(b) *Vehicles carrying flammables.* No person shall operate at the time and under the conditions stated in subsection (a) of this section any motor vehicle used in transportation of flammable liquids in bulk, or transporting compressed flammable gases, unless there shall be carried in the vehicle three red electric lanterns meeting the requirements stated in subsection (a) of this section, and there shall not be carried in such vehicle any flares, fuses or signal produced by a flame.

(c) *Portable reflector units.* As an alternative it shall be deemed a compliance with this section in the event a person operating any motor vehicle described in this section shall carry in the vehicle three portable reflector units on standards. No portable reflector unit shall be approved unless it is so designed and constructed as to include two reflectors, one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within 500 feet to 50 feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps.

(Ord. No. SRO-417-2013, § 16-62, 2-1-2013; Ord. No. SRO-428-2014, § 16-62, 1-1-2014)

Sec. 16-63. Display of warning devices when vehicle disabled.

(a) *When required.* When any motor truck, passenger bus, truck tractor, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof within the Community at any time when lighted lamps are required on vehicles, the driver of the vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection (b) of this section:

(1) A lighted fuse shall be immediately placed on the roadway at the traffic side of the motor vehicle unless electric lanterns are displayed.

(2) Within the burning period of the fuse and as promptly as possible three lighted flares or pot torches or three electric lanterns shall be placed on the roadway as follows:

a. One at a distance of approximately 100 feet to the rear of the vehicle, in the center of the lane of traffic occupied by the disabled vehicle.

b. One at the traffic side of the vehicle approximately ten feet rearward or forward thereof.

(b) *Vehicles carrying flammable liquids or gases.* When any vehicle used in the transportation of flammable liquids in bulk, or transporting compressed flammable gases is disabled upon a highway at any time or place mentioned in subsection (a) of this section, the driver of the vehicle shall display upon the roadway the following lighted warning devices:

(1) One red electric lantern shall be immediately placed on the roadway at the traffic side of the vehicle.

(2) Two other red electric lanterns shall be placed to front and rear of the vehicle in the same manner prescribed for flares in subsection (a) of this section.

(c) *Flame signals prohibited for vehicle carrying flammables.* When a vehicle of a type specified in subsection (b) of this section is disabled, the use of flares, fuses or any signal produced by flames as warning signals is prohibited.

(d) *Portable reflector units.* In the alternative, it shall be deemed a compliance with this section in the event three portable reflector units on standards of a type approved by the Community are displayed at the times and under the conditions specified in this section either during the daytime or at nighttime, and the portable reflector units shall be placed on the roadway in the locations as described with reference to the placing of electric lanterns and lighted flares.

(e) *Equipment to comply with requirements.* The flares, fuses, and lanterns to be displayed as required in this section shall conform to the requirements of the preceding section.
(Ord. No. SRO-417-2013, § 16-63, 2-1-2013; Ord. No. SRO-428-2014, § 16-63, 1-1-2014)

Sec. 16-64. Vehicles transporting explosives.

Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the following provisions:

(1) The vehicle shall be placarded in accordance with the placarding requirements specified in 49 CFR part 172.

(2) The vehicle shall be equipped with a fire extinguisher as required in 49 CFR part 393.

Cross reference—Weapons and explosives, § 6-130 et seq.
(Ord. No. SRO-417-2013, § 16-64, 2-1-2013; Ord. No. SRO-428-2014, § 16-64, 1-1-2014)

Sec. 16-65. Reserved.

Sec. 16-66. Projecting loads.

When the load upon any vehicle extends to the rear four feet or more beyond the body of the vehicle there shall be displayed at the extreme rear end of the load, at the time specified in section 16-71, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of the load a red flag or cloth not less than 12 inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.
(Ord. No. SRO-417-2013, § 16-66, 2-1-2013; Ord. No. SRO-428-2014, § 16-66, 1-1-2014)

Secs. 16-67—16-70. Reserved.

DIVISION 2. LIGHTS, LAMPS, REFLECTORS AND ILLUMINATING DEVICES

Sec. 16-71. When lamps required to be lighted.

Every vehicle upon a highway within this Community at any time from sunset to sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead shall display lighted lamps and illuminating devices as required by this article for different classes of vehicles, subject to exceptions with respect to parked vehicles as stated in this article.
(Ord. No. SRO-417-2013, § 16-71, 2-1-2013; Ord. No. SRO-428-2014, § 16-71, 1-1-2014)

Sec. 16-72. Visibility distance and mounted height of lamps.

(a) *Visibility.* When a requirement is set forth in this article as to the distance from which certain lamps and devices shall render objects visible or within which the lamps or devices shall be visible, such provisions shall apply during the times stated in section 16-71 in respect to a vehicle without load when upon a straight, level unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) *Calculating lamp height.* When a requirement is set forth in this article as to the mounted height of lamps or devices it shall mean from the center of the lamps or device to the level ground upon which the vehicle rests without a load.
(Ord. No. SRO-417-2013, § 16-72, 2-1-2013; Ord. No. SRO-428-2014, § 16-72, 1-1-2014)

Sec. 16-73. Head lamps.

(a) *Vehicles.* Every motor vehicle other than a motorcycle, ATV, or motor-driven cycle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article.

(b) *Motorcycles.* Every motorcycle, ATV, and every motor-driven cycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this article.

(c) *Head lamp height.* Every head lamp upon every motor vehicle, including every motorcycle, ATV, and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than 54 inches nor less than 24 inches to be measured from the center of the lamps or device to the level ground upon which the vehicle rests without a load.
(Ord. No. SRO-417-2013, § 16-73, 2-1-2013; Ord. No. SRO-428-2014, § 16-73, 1-1-2014)

Sec. 16-74. Tail lamps.

(a) *Drawn vehicles.* Every motor vehicle, trailer, semitrailer and pole trailer and any other vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as required by this article, shall emit a red light plainly visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

(b) *Tail lamp height.* Every tail lamp upon every vehicle shall be located at a height of not more than 72 inches nor less than 15 inches to be measured from the center of the lamp to the level ground upon which the vehicle rests without a load.

(c) *License plate light.* Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear license plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear license plate, shall be so wired as to be lighted whenever the headlamps or auxiliary driving lamps are lighted.
(Ord. No. SRO-417-2013, § 16-74, 2-1-2013; Ord. No. SRO-428-2014, § 16-74, 1-1-2014)

Sec. 16-75. Reflectors on new motor vehicles.

(a) *Number.* Every new motor vehicle sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, two red reflectors, except that every motorcycle and every motor-driven cycle shall carry at least one reflector, meeting the requirements of this section, and except that vehicles of the type mentioned in section 16-77 shall be equipped with reflector as required in those sections applicable thereto.

(b) *Height.* Every such reflector shall be mounted on the vehicle at a height not less than 20 inches nor more than 60 inches measured as set forth in section 16-72(b) and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 300 feet to 50 feet from the vehicle when directly in front of lawful

upper beams of head lamps, except that visibility from a greater distance is required of reflectors on certain types of vehicles.
(Ord. No. SRO-417-2013, § 16-75, 2-1-2013; Ord. No. SRO-428-2014, § 16-75, 1-1-2014)

Sec. 16-76. Reserved.

Sec. 16-77. Additional equipment required on certain vehicles.

In addition to other equipment required in this article, the following vehicles shall be equipped as provided by this section under the conditions stated in section 16-78.

(1) On every bus or truck, whatever its size, there shall be two reflectors on the rear, one at each side, and two stop lamps.

(2) On every bus or truck 80 inches or more in over-all width, in addition to the requirements in subsection (a) of this section:

a. On the front, two clearance lamps, one at each side.

b. On the rear, two clearance lamps, one at each side.

c. On each side two side marker lamps, one at or near the front and one at or near the rear.

d. On each side, two reflectors, one at or near the front and one at or near the rear. If the vehicle exceeds 30 feet in length, the vehicle shall have a third side marker lamp at the midpoint between the front and rear marker lamp.

(3) On every truck tractor:

a. On the front, two clearance lamps, one at each side.

b. On the rear, two stop lamps.

(4) On every trailer or semitrailer having a gross weight in excess of 3,000 pounds:

a. On the front, two clearance lamps, one at each side.

b. On each side, two side marker lamps, one at or near the front and one at or near the rear. If the vehicle exceeds 30 feet in length, the vehicle shall have a third side marker lamp at the midpoint between the front and rear marker lamp.

c. On each side, two reflectors, one at or near the front and one at or near the rear. If the vehicle exceeds 30 feet in length, the vehicle shall have a third reflector at the midpoint between the front and rear reflectors.

d. On the rear, two clearance lamps, one at each side, and two reflectors, one at each side, and two stop lamps.

(5) On every pole trailer in excess of 3,000 pounds of gross weight:

a. On each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side and rear.

b. On the rear of the pole trailer or load, two reflectors, one at each side.

(6) On every trailer, semitrailer or pole trailer weighing 3,000 pounds, gross, or less:

a. On the rear, two reflectors, one on each side.

b. If a trailer or semitrailer is so loaded or is of such dimensions as to obscure the stoplight on the towing vehicle, then the vehicle shall also be equipped with two stop lights.

(Ord. No. SRO-417-2013, § 16-77, 2-1-2013; Ord. No. SRO-428-2014, § 16-77, 1-1-2014)

Sec. 16-78. Application of article.

Those sections of this article, including sections 16-77 and 16-79 through 16-82, relating to clearance and marker lamps, reflectors and stop lamps, shall apply as stated in those sections to vehicles of the type therein enumerated, namely passenger buses, trucks, truck tractors and certain trailers, semitrailers and pole trailers, respectively, when operated upon any highway; and such vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in section 16-71, except that clearance and side marker lamps need not be lighted on a vehicle when operated where there is

sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet.
(Ord. No. SRO-417-2013, § 16-78, 2-1-2013; Ord. No. SRO-428-2014, § 16-78, 1-1-2014)

Sec. 16-79. Color of clearance lamps and reflectors.

(a) *Front.* Front clearance lamps and those marker lamps and reflectors mounted on the rear or on the side near the front of a vehicle shall display or reflect an amber color.

(b) *Rear.* Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(c) *Lamps.* All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, and the light illuminating the license plate or the light emitted by a backup lamp shall be white.
(Ord. No. SRO-417-2013, § 16-79, 2-1-2013; Ord. No. SRO-428-2014, § 16-79, 1-1-2014)

Sec. 16-80. Mounting of reflectors and clearance and marker lamps.

(a) *Height.* Reflectors when required by section 16-77 shall be mounted at a height not less than 24 inches and not higher than 60 inches above the ground on which the vehicle stands; except that if the highest part of the permanent structure of the vehicle is less than 24 inches, the reflector at that point shall be mounted as high as that part of the permanent structure will permit.

(b) *Pole trailers.* The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

(c) *Tail lamp.* Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but the reflector shall meet all the other reflector requirements of this article.

(d) *Clearance lamps.* Clearance lamps shall be mounted on the permanent structure of the vehicle in such manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required by this section with reference to both.
(Ord. No. SRO-417-2013, § 16-80, 2-1-2013; Ord. No. SRO-428-2014, § 16-80, 1-1-2014)

Sec. 16-81. Visibility of reflectors and clearance and marker lamps.

(a) *Reflectors.* Every reflector upon any vehicle referred to in section 16-77 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 500 feet to 50 feet from the vehicle when directly in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides and those mounted on the rear shall reflect a red color to the rear.

(b) *Front and rear clearance lamps.* Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the front and rear, respectively, of the vehicle.

(c) *Side marker lamps.* Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of 500 feet from the side of the vehicle on which mounted.
(Ord. No. SRO-417-2013, § 16-81, 2-1-2013; Ord. No. SRO-428-2014, § 16-81, 1-1-2014)

Sec. 16-82. Lights obstructed.

When motor and other vehicles are operated in combination during the times that lights are required, any lamp, except tail lamps, need not be lighted which, by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination. This section shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps or all lights required on the rear of the rearmost vehicle of any combination shall be lighted.
(Ord. No. SRO-417-2013, § 16-82, 2-1-2013; Ord. No. SRO-428-2014, § 16-82, 1-1-2014)

Sec. 16-83. Parked vehicles.

(a) *Sufficient light.* When a vehicle is lawfully parked upon a street or highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal any person or object within a distance of 500 feet upon the street or highway, no lights need be displayed upon the parked vehicles.

(b) *Insufficient light.* When a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended during the hours between sunset and sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet upon the highway, the vehicle so parked or stopped shall be equipped with one or more lamps which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of the vehicle and a red light visible from a distance of 500 feet to the rear. The foregoing provisions shall not apply to a motor-driven cycle.

(c) *Dim headlamps.* Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.
(Ord. No. SRO-417-2013, § 16-83, 2-1-2013; Ord. No. SRO-428-2014, § 16-83, 1-1-2014)

Sec. 16-84. Lamps on animal-drawn and other equipment or vehicles.

All vehicles, including animal-drawn vehicles and including those referred to in section 16-52 (c) not specifically required by this article to be equipped with lamps, shall at the times specified in 16-71 be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet to the front of the vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear.
(Ord. No. SRO-417-2013, § 16-84, 2-1-2013; Ord. No. SRO-428-2014, § 16-84, 1-1-2014)

Sec. 16-85. Spot and auxiliary lamps.

(a) *Spot lamps.* A motor vehicle may be equipped with not to exceed one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle. The requirements set forth in this subsection shall not apply to authorized emergency vehicles.

(b) *Fog lamps.* A motor vehicle may be equipped with not to exceed two fog lamps mounted on the front to a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall, at a distance of 25 feet ahead, project higher than a level of four inches below the level of the center of the lamp from which it comes.

(c) *Passing lamps.* A motor vehicle may be equipped with not to exceed two auxiliary passing lamps mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands and every auxiliary passing lamp shall meet the requirements and limitations set forth in this division within this Community Code of Ordinances.

(d) *Driving lamps.* A motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands and every auxiliary driving lamp shall meet the requirements and limitations set forth in this division within this Community Code of Ordinances.
(Ord. No. SRO-417-2013, § 16-85, 2-1-2013; Ord. No. SRO-428-2014, § 16-85, 1-1-2014)

Sec. 16-86. Signal lamps and devices.

(a) A motor vehicle when required under this chapter, shall be equipped with the following signal lamps or devices:

(1) A stop lamp on the rear which shall emit a red light upon application of the service or foot brake and which may, but need not be incorporated with a tail lamp.

(2) A lamp or lamps or mechanical signal device capable of clearly indicating any

intention to turn either to the right or to the left and which shall be visible both from the front and rear.

(b) A stop lamp shall be plainly visible and distinguishable from a distance of 100 feet to the rear both during normal daytime and at nighttime and a signal lamp or lamps indicating intention to turn shall be visible and distinguishable during daytime and nighttime from a distance of 100 feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

(c) All mechanical signal devices shall be self-illuminated when in use at the times mentioned in section 16-71.

(d) It is unlawful for any person to sell any new motor vehicle, including any motorcycle, ATV, or motor-driven cycle, in this Community or for any person to drive a vehicle on the highway unless it is equipped with a stop lamp meeting the requirements of this section.
(Ord. No. SRO-417-2013, § 16-86, 2-1-2013; Ord. No. SRO-428-2014, § 16-86, 1-1-2014)

Sec. 16-87. Fender, running-board and backup lamps.

(a) *Side cowl or fender lamps.* A motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) *Courtesy lamps.* A motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) *Backup lamps.* A motor vehicle may be equipped with not more than two backup lamps either separately or in combination with other lamps, but a backup lamp shall not be lighted when the motor vehicle is in forward motion.
(Ord. No. SRO-417-2013, § 16-87, 2-1-2013; Ord. No. SRO-428-2014, § 16-87, 1-1-2014)

Sec. 16-88. Multiple lighting specifications.

Except as provided in this article, the head lamps, the auxiliary driving lamp, the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that selection may be made between distributions of light projected to different elevations, subject to the following requirements and limitations:

(1) There shall be an uppermost distribution of light or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 300 feet ahead for all conditions of loading.

(2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead, and under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(3) Every new motor vehicle, other than a motorcycle or motor-driven cycle, which has multiple-beam road-lighting equipment, shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Such indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(4) A person may equip a motorcycle with a means of modulating the intensity of a head lamp between the higher and lower brightness at a rate of 200 to 280 cycles per minute. A person shall not modulate the head lamp beam during sunset to sunrise.

(Ord. No. SRO-417-2013, § 16-88, 2-1-2013; Ord. No. SRO-428-2014, § 16-88, 1-1-2014)

Sec. 16-89. Multiple beam lighting equipment usage.

When a motor vehicle is being operated on a roadway or shoulder adjacent thereto during sun-

set to sunrise, the driver shall use a distribution light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle subject to the following requirements and limitations:

(1) When a driver of a vehicle approaches an oncoming vehicle within 500 feet, the driver shall use a distribution of light of composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam specified in section 16-88(2) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(2) When the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, the driver shall use a distribution of light permissible under this article other than the uppermost distribution of light specified in section 16-88(1).

(Ord. No. SRO-417-2013, § 16-89, 2-1-2013; Ord. No. SRO-428-2014, § 16-89, 1-1-2014)

Sec. 16-90. Single-beam lights.

Head lamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to January 1, 1951, in lieu of multiple-beam and road-lighting equipment specified in this article if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall be at a distance of 25 feet ahead or project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet.

(Ord. No. SRO-417-2013, § 16-90, 2-1-2013; Ord. No. SRO-428-2014, § 16-90, 1-1-2014)

Sec. 16-91. Alternate road-lighting equipment.

Any motor vehicle may be operated under the conditions specified in 16-71 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects 75 feet ahead in lieu of lamps required in the previous section; however, at no time shall it be operated at a speed in excess of 20 miles per hour.

(Ord. No. SRO-417-2013, § 16-91, 2-1-2013; Ord. No. SRO-428-2014, § 16-91, 1-1-2014)

Sec. 16-92. Number of driving lamps required, permitted.

(a) *Number.* At all times specified in 16-71, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle, ATV, or motor-driven cycle, except when the vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) *Auxiliary lamps.* When a motor vehicle equipped with head lamps as required by this article is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time upon a highway.

(Ord. No. SRO-417-2013, § 16-92, 2-1-2013; Ord. No. SRO-428-2014, § 16-92, 1-1-2014)

Sec. 16-93. Special restrictions on lamps.

(a) *Intensity of beam restricted.* Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps or flashing front-direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) *Red and blue lights.* No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying a red or red and blue light visible from directly in front of the center thereof. Lights visible from the front of the vehicle shall be amber or white. This section shall not apply to authorized emergency vehicles.

(c) *Flashing lights.* Flashing lights are prohibited except on an authorized emergency vehicle, school bus, and tow trucks, as warning lights on disabled or parked vehicles or on any vehicle as a means for indicating a right or left turn.
(Ord. No. SRO-417-2013, § 16-93, 2-1-2013; Ord. No. SRO-428-2014, § 16-93, 1-1-2014)

Sec. 16-94. Head lamps on motor-driven cycles and ATV.

The head lamp or head lamps upon every ATV and motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

(1) Every head lamp or head lamps on an ATV or motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the ATV or motor-driven cycle is operated at any speed less than 25 miles per hour and at a distance of not less than 200 feet when the ATV or motor-driven cycle is operated at a speed of 25 or more miles per hour, and the motor-driven cycle shall be subject to the speed limitations in section 16-214.

(2) In the event the ATV or motor-driven cycle is equipped with a multiple-beam head lamp or head lamps, the upper beam shall meet the minimum requirements set forth in subsection (a) of this section and shall not exceed the limitations set forth in section 16-88(1) and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in section 16-88(2).

(3) In the event the ATV or motor-driven cycle is equipped with a single-beam lamp or lamps, the lamp or lamps shall be so aimed that when the vehicle is loaded none of the high intensity portion of the light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes.

(4) All ATV or motor-driven cycles shall be operated with at least one headlamp illuminated at all times.

(Ord. No. SRO-417-2013, § 16-94, 2-1-2013; Ord. No. SRO-428-2014, § 16-94, 1-1-2014)

DIVISION 3. SEAT BELT REQUIREMENTS

Sec. 16-95. Restraint use for children who are at least nine years of age.

(a) *Lap and shoulder belt.* A person shall not operate a motor vehicle operated on public highways within the Community, with any child passenger between the ages of 17 and nine inside the vehicle unless the child is properly secured in lap and shoulder belt.

(b) *Lap belt only.* Children between the ages of 17 and nine may be transported while restrained by a lap belt only when:

(1) The vehicle is not equipped with lap and shoulder belts; or

(2) Not including the driver's seat, the vehicle is equipped with one or more lap and shoulder belts that are all being used to properly restrain other children under the age of 18.

(c) *One child per seating position.* An operator of a motor vehicle shall ensure that no more than one child occupies each vehicle seating position equipped with a seat belt.

(d) *Pick up trucks.* Passengers under 18 years old must ride within the passenger compartment of a pickup truck except:

(1) When accompanied by adult as participants in parades;

(2) When the passenger is secured by a seat belt in a manufacturer-installed seat located outside the passenger compartment; or

(3) When accompanied by an adult during wake or funeral-related activities.

(e) *Air bags.* Children under 13 years old shall not be placed in an air bag-equipped front seat unless the air bag has been disabled or no other seat is available.

(f) *Emergencies.* Motor vehicle operators are exempt from the requirements of subsections (a) through (e) of this section when transporting a child in a life threatening emergency, or when a child is being transported in an authorized emergency vehicle.

(g) *Determining child's age.* If a law enforcement officer stops a vehicle for an apparent violation of this section, the officer shall determine from the motor vehicle operator the age(s) of the unrestrained child or children within the vehicle.

(h) *Penalty.* The operator of any motorized vehicle shall be responsible for all passengers within the vehicle. An operator of any motorized vehicle who violates any provision of this section shall be subject to a civil penalty of $40.00. An operator may be separately responsible for each unrestrained passenger that may arise from the same incident. If the violation was based upon an operator who is the parent or guardian of a child who failed to secure a child under nine) years of age, the court may waive the fine upon sufficient proof of purchase and installation of a child restraint system into the registered vehicle of that parent or guardian that meets Federal Motor Vehicle Safety Standards, if that parent or guardian has no prior violations for this offense.
(Ord. No. SRO-417-2013, § 16-95, 2-1-2013; Ord. No. SRO-428-2014, § 16-95, 1-1-2014)

Sec. 16-96. Restraint use for children under nine years of age.

(a) *Passenger child restraint system.* A person shall not transport a child under nine years old in a motor vehicle on the public highways within the Community unless the child is correctly secured in an appropriate passenger child restraint system that is correctly installed and that meets or exceeds the requirements of the applicable federal motor vehicle safety standards.

(b) *Age of child.* If a law enforcement officer stops a vehicle for an apparent violation of this section, the officer shall determine from the motor vehicle operator the age(s) of the unrestrained child or children within the vehicle.

(c) *Penalty.* The operator of any motorized vehicle shall be responsible for all children within the vehicle. An operator of any motorized vehicle who violates any provision of this section shall be subject to a civil penalty of $40.00. An operator may be separately responsible for each unrestrained child that may arise from the same incident. If the violation was based upon an operator who is the parent or guardian of a child who failed to secure a child under nine years of age, the court may waive the fine upon sufficient proof of purchase and installation of a child restraint system into the registered vehicle of that parent or guardian that meets Federal Motor Vehicle Safety Standards, if that parent or guardian has no prior violations for this offense.
(Ord. No. SRO-417-2013, § 16-96, 2-1-2013; Ord. No. SRO-428-2014, § 16-96, 1-1-2014)

Sec. 16-97. Operator and passenger seat belt use.

(a) *Restraint.* All operators and passengers of motor vehicles being operated on public roadways, streets and highways within the Community shall be restrained correctly in a vehicle seat by the appropriate manufacturer's installed seat belt device.

(b) *Operator.* The operator of a motor vehicle being operated on public roadways, streets and highways within the Community, shall ensure that all passengers be properly restrained.

(c) *Exceptions to this section shall be limited to the following:*

(1) A person who operates a motor vehicle that was originally manufactured without a passenger restraint devices;

(2) A person who must transport a child in a life threatening situation to obtain necessary medical care;

(3) Police, fire, and emergency medical personnel responding to emergencies;

(4) A person possessing a written statement from a physician that the person is unable for medical or psychological reasons to wear a lap and shoulder belt or lap belt or is wheel-chair bound; or

(5) United States postal carrier in the performance of official duties.

(d) *Penalty.* The operator of any motorized vehicle shall be responsible for all passengers within the vehicle. A driver who violates any provision of this chapter shall be subject to a civil penalty of $40.00. A driver may be separately responsible for each unrestrained passenger that may arise from the same incident. Any adult passenger within a motor vehicle who violates any provision of this chapter shall be subject to a civil penalty of $40.00.
(Ord. No. SRO-417-2013, § 16-97, 2-1-2013; Ord. No. SRO-428-2014, § 16-97, 1-1-2014)

Secs. 16-98—16-100. Reserved.

ARTICLE IV. SIZE, WEIGHT AND LOAD

Sec. 16-101. Effect and scope.

(a) *Prohibitions.* It is a violation of this section for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in this article, or otherwise in violation of this article, and the fact that a vehicle is within the maximum size and weight of vehicles specified in this article shall have no power or authority to alter the limitations except as express authority may be granted by this article. Any person who violates this section is subject to civil penalties as provided in this chapter.

(b) *Exceptions.* The provisions of this article governing size shall not apply to authorized emergency vehicles, fire apparatus, road machinery, or to implements of husbandry, including farm tractors, temporarily moved upon a highway, or to a vehicle operated under the terms of a special permit issued as provided by this article.
(Ord. No. SRO-417-2013, § 16-101, 2-1-2013; Ord. No. SRO-428-2014, § 16-101, 1-1-2014)

Sec. 16-102. Council's power to restrict weight of vehicles.

(a) *Prohibitions.* The council may prohibit the operation of vehicles upon the highway or impose restrictions as to the weight of vehicles to be operated upon such highway, for a total period not to exceed 90 days in any one calendar year, when such highway, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) *Signs.* The council must erect or cause to be erected and maintained signs designating the restrictions as to the weight of vehicles upon a highway or prohibition of the use of the highway.

(c) *Commercial vehicles.* The council may also prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on the highways.

(d) *Weight.* The council may impose restrictions as to the weight of vehicles operated upon any Community highway, and such restrictions shall be effective when signs giving notice thereof are erected upon the highway.
(Ord. No. SRO-417-2013, § 16-102, 2-1-2013; Ord. No. SRO-428-2014, § 16-102, 1-1-2014)

Sec. 16-103. Liability for damage resulting from overweight load.

(a) *Illegal operation.* Any person driving any vehicle, object or contrivance upon any highway or highway structure shall be liable for all damage which the highway or structure may sustain as a result of any illegal operation, driving or moving of the vehicle, object or contrivance, or as a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight of this article, but authorized by a special permit issued as provided in section 16-113.

(b) *Liability.* When the driver is not the owner of the vehicle, object or contrivance, but the driver is operating, driving or moving the same with the

express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any damage.

(c) *Civil action.* Such damage may be recovered in a civil action brought by the Community.
(Ord. No. SRO-417-2013, § 16-103, 2-1-2013; Ord. No. SRO-428-2014, § 16-103, 1-1-2014)

Sec. 16-104. Width of vehicle and load.

(a) *Outside width.* The total outside width of any vehicle or the load thereon shall not exceed eight feet, except as otherwise provided in the section.

(b) *Pneumatic tires.* When pneumatic tires, in substitution for the same type or other type of tires, are placed upon vehicles in operation on July 1, 1950, the maximum width from the outside of one wheel and tire to the outside of the opposite wheel and tire shall not exceed eight feet, six inches, but in such event the outside width of the body of the vehicle or load thereon shall not exceed eight feet.

(c) *Federal regulations.* Upon enactment of federal regulations allowing the operation of vehicles up to 102 inches in width on the interstate system, the council may designate highways to conform with federal regulations.
(Ord. No. SRO-417-2013, § 16-104, 2-1-2013; Ord. No. SRO-428-2014, § 16-104, 1-1-2014)

Sec. 16-105. Projecting loads on passenger vehicles.

No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of the vehicle and extending more than six inches beyond the line of the fenders on the right side thereof.
(Ord. No. SRO-417-2013, § 16-105, 2-1-2013; Ord. No. SRO-428-2014, § 16-105, 1-1-2014)

Sec. 16-106. Height and length of vehicles and loads.

(a) *Height.* No vehicle, including any load thereon, shall exceed a height of 13 feet six inches.

(b) *Length.* No vehicle, including any load thereon, shall exceed a length of 40 feet, extreme overall dimension, inclusive of front and rear bumpers. This provision shall not apply to a semitrailer as defined in this chapter when used in combination with a truck tractor, but such combination shall not exceed the length of combinations of vehicles as set forth in subsection (c) of this section.

(c) *Combination of vehicles.* No combination of vehicles coupled together shall consist of more than two units except that a truck tractor and semitrailer will be permitted to haul one full trailer and no such combination of vehicles shall exceed a total length of 65 feet.
(Ord. No. SRO-417-2013, § 16-106, 2-1-2013; Ord. No. SRO-428-2014, § 16-106, 1-1-2014)

Sec. 16-107. Length of load projection.

(a) *Length limit.* Subject to provisions of sections 16-101 through 16-106, limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than six feet beyond the rear of the bed or body of the vehicle. The extensions beyond the front and rear of the vehicle in this section are not included for determining the length of the vehicle under section 16-106.

(b) *Pole trailers.* The limitations as to length of vehicles and loads set forth in section 16-106 and subsection (a) of this section shall not apply to any load upon a pole trailer as defined in this chapter when transporting poles or pipes or structural material which cannot be dismembered, provided that no pole or pipe or other material exceeding 80 feet in length shall be so transported unless a permit has first been obtained as authorized in section 16-113.
(Ord. No. SRO-417-2013, § 16-107, 2-1-2013; Ord. No. SRO-428-2014, § 16-107, 1-1-2014)

Sec. 16-108. Loads and covers to be secured.

(a) No vehicle shall be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, or otherwise escaping there from, except the following are permitted:

(1) Sufficient sand may be dropped for the purpose of securing traction;

(2) Water or other substance may be applied on a roadway in cleaning, dust control or maintaining the roadway;

(3) Minor pieces of agricultural materials such as leaves and stems from agricultural loads.

(b) No person shall operate on any highway a vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.
(Ord. No. SRO-417-2013, § 16-108, 2-1-2013; Ord. No. SRO-428-2014, § 16-108, 1-1-2014)

Sec. 16-109. Towed vehicles.

(a) *Connection strength.* When one vehicle is towing another, the drawbar or other connection shall be of sufficient strength to pull all weight towed by the vehicle and the drawbar or other connection shall not exceed 15 feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other object of structural nature which cannot readily be dismembered.

(b) *Flag displayed.* When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon the connection a white flag or cloth not less than 12 inches square.
(Ord. No. SRO-417-2013, § 16-109, 2-1-2013; Ord. No. SRO-428-2014, § 16-109, 1-1-2014)

Sec. 16-110. Single-axle load limit.

(a) *Gross weight.* The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed 20,000 pounds, provided that the council may in accordance with the provisions of section 16-113 issue a special permit for the purpose of moving from job to job within the Community, and from job to place of servicing and return within the Community, road machinery which exceeds the maximum weight specified in this section.

(b) *Axle load.* For the purposes of this article, an axle load means the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(c) *Special permits.* This section shall not be construed to limit in any manner the power of the council to issue special permits pursuant to the provisions of section 16-113.

(d) *Punishment-fines.* A person convicted of violating this provision shall be punished by a fine, the maximum of which shall be $2,500.00 and the minimum of which shall be set forth in the following table:

If the excess weight is	*The minimum fine shall be:*
1,000 to 2,000 pounds	$100.00
2,001 to 3,000 pounds	$200.00
3,001 to 4,000 pounds	$300.00
4,001 to 5,000 pounds	$400.00
5,001 pounds and over	$500.00

(Ord. No. SRO-417-2013, § 16-110, 2-1-2013; Ord. No. SRO-428-2014, § 16-110, 1-1-2014)

Sec. 16-111. Gross weight of vehicles and loads.

(a) *Limits set out—Up to 18 feet.* Subject to the limit upon the weight imposed upon the highway through any one axle as set forth in the previous section, the total gross weight with load imposed upon the highway by any one group of two or more consecutive axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance between first and last axles of group (feet)	*Allowed load on ground of axles (pounds)*
4	32,000
5	32,000
6	32,200
7	32,900
8	33,600
9	34,300
10	35,000
11	36,400
12	37,100
13	43,200
14	43,200
15	44,000
16	44,800
17	45,600
18	46,400

(b) *Same—Over 18 feet.* The total gross weight with load imposed on the highway by any vehicle or combination of vehicles where the distance between the first and last axles is more than 18 feet shall not exceed that given for the respective distances in the following table:

Distance in Feet	*Allowed Load in Pounds*
18	46,400
19	47,200
20	48,000
21	48,800
22	49,600
23	50,400
24	51,200
25	55,250
26	56,100
27	56,950
28	57,800
29	58,650
30	59,500
31	60,350
32	61,200
33	62,050
34	62,900

Distance in Feet	*Allowed Load in Pounds*
35	63,750
36	64,600
37	65,450
38	66,300
39	68,000
40	70,000
41	72,000
42—51	73,280
52	73,600
53	74,400
54	75,200
55	76,000
56 and over	76,800

(c) *How distance measured.* The distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half foot, the next larger whole number shall be used.

(d) *Punishment fines.* A person convicted of violating this provision shall be punished by a fine, the maximum of which shall be $2,500.00 and the minimum of which shall be set forth in the following table:

If the excess weight is	*The minimum fine shall be:*
1,000 to 2,000 pounds	$100.00
2,001 to 3,000 pounds	$200.00
3,001 to 4,000 pounds	$300.00
4,001 to 5,000 pounds	$400.00
5,001 pounds and over	$500.00

(e) *Axle weight violations.* If the officer finds that the person has violated only the axle weight limitation and not the total weight limitation, the officer shall request the driver to reload the vehicle to comply with the axle weight limitations; and if the driver so complies, the driver shall not be subject to a fine. If the driver does not comply with the request of the officer to reload, the driver shall be subject to a fine as provided in subsection (d) of this section.

Cross reference—Size, weight and load, §§ 16-101—16-113.

(Ord. No. SRO-417-2013, § 16-111, 2-1-2013; Ord. No. SRO-428-2014, § 16-111, 1-1-2014)

Sec. 16-112. Community officers authorized to stop vehicles, weigh and require removal of excess weight.

(a) *Stops authorized.* A police officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales and may require that the vehicle be driven to the nearest scales in the event such scales are within two miles.

(b) *Load removal.* When a police officer, upon weighing a vehicle and load as provided in subsection (a) of this section, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit as permitted under this article. All material so unloaded shall be cared for by the owner or operator of the vehicle at the wish of the owner or operator.

(c) *Refusing to stop.* Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses

when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section is guilty of a criminal offense.
(Ord. No. SRO-417-2013, § 16-112, 2-1-2013; Ord. No. SRO-428-2014, § 16-112, 1-1-2014)

Sec. 16-113. Permit for excess size and weight.

(a) *Council authorized to grant.* The council may, in its discretion, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this article or otherwise not in conformity with the provisions of this chapter upon Community highways.

(b) *Contents of application.* The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways for which permit to operate is requested, and whether the permit is requested for a single trip or for continuous operation.

(c) *Limitations on permit.* The council is authorized to issue or withhold the permit at its discretion. If the permit is issued, the council may limit the number of trips, establish seasonal or other time limitations within which the vehicles described may be operated on the highways indicated or otherwise limit or prescribe conditions of operation of the vehicle or vehicles, when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.

(d) *Permit to be carried, displayed.* Such a permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer and no person shall violate any of the terms or conditions of the special permit.

(e) *Fees.* The following fees shall be assessed for each permit issued in accordance with the provisions of this section:

(1) For a single trip and one load—$100.00.

(2) For 30 days—$300.00.

(f) *Government vehicles exempt.* No fees shall be assessed for any permit issued in accordance with the provisions of this section for the movement of vehicles or combination of vehicles owned by the United States or the Community, federally recognized Indian tribes, the State of Arizona or any political subdivision thereof.
(Ord. No. SRO-417-2013, § 16-113, 2-1-2013; Ord. No. SRO-428-2014, § 16-113, 1-1-2014)

Secs. 16-114—16-120. Reserved.

ARTICLE V. TRAFFIC-CONTROL DEVICES

Sec. 16-121. Council authorized to place signs on all Community highways.

The council shall designate a Community agency to adopt a manual and specifications for a uniform system of traffic control devices for use on highways within the Community. The designated Community agency will have the authority to place and maintain signs according to the manual and specifications adopted. The goal of placing and maintaining the traffic devices on the highways of the Community is for the purpose of regulating, guiding, or warning traffic.
(Ord. No. SRO-417-2013, § 16-121, 2-1-2013; Ord. No. SRO-428-2014, § 16-121, 1-1-2014)

Sec. 16-122. Obedience to devices required; exceptions.

(a) *Traffic control device.* The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a police officer, subject to the exemptions granted to a driver of an authorized emergency vehicle in this chapter.

(b) *Gore area.* The driver of any vehicle shall not drive over or across or park in any part of a gore area. This subsection does not apply to the driver of a vehicle that is disabled while on the paved or main traveled portion of a highway in a manner and to an extent that it is impossible to

avoid stopping and temporarily leaving the disabled vehicle in that position. For the purpose of this subsection, the term "gore area" means the area that is between a through roadway and an entrance ramp or exit ramp and that is defined by two wide solid white lines that guide traffic entering or exiting a roadway. Gore area does not include a safety zone. The restriction in this subsection shall not apply to a driver of an authorized emergency vehicle in this chapter or if the driver is directed by a police officer.

(c) *Signage.* No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. When a particular section does not state that signs are required, that section shall be effective even though no signs are erected or in place.
(Ord. No. SRO-417-2013, § 16-122, 2-1-2013; Ord. No. SRO-428-2014, § 16-122, 1-1-2014)

Sec. 16-123. Signal legend.

(a) When traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word or symbol legend, and such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

a. Vehicular traffic facing a green signal may proceed straight through or turn right or left unless a sign at that place prohibits either turn. Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the same time the signal is exhibited.

b. Vehicular traffic facing a green arrow signal, shown along or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian control signal, as provided in section16-127, pedestrians facing any green signal, except if the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication:

a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

b. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in section 16-127, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Red indication:

a. Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line; but if none, before entering the crosswalk on the near side of the intersection; or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown except as provided in subdivisions (b) and (c) of this subsection.

b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the

near side of the intersection or, if there is no crosswalk, then at the entrance to the intersection, in obedience to a red signal may make a right turn, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal. Right turns may be prohibited against a red signal at any intersection when a sign is erected at the intersection prohibiting such turn.

c. The driver of a vehicle on a one-way street which intersects another one-way street on which traffic moves to the left shall stop in obedience to a red signal, but may then make a left turn into such one-way street, but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that any such left turn as above described may be prohibited when a sign is erected at such intersection giving notice thereof.

d. Unless otherwise directed by a pedestrian control signal as provided in section 16-127, pedestrians facing a steady red signal alone shall not enter the roadway.

(b) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of a sign or marking the stop shall be made at the signal.

Cross reference—Pedestrians' rights and duties, §§ 16-281—16-287.

(Ord. No. SRO-417-2013, § 16-123, 2-1-2013; Ord. No. SRO-428-2014, § 16-123, 1-1-2014)

Sec. 16-124. Flashing signals.

When an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(1) *Flashing red stop signal.* When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) *Flashing yellow caution signal.* When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past the signal only with caution.

(Ord. No. SRO-417-2013, § 16-124, 2-1-2013; Ord. No. SRO-428-2014, § 16-124, 1-1-2014)

Sec. 16-125. Stop signs and yield signs.

(a) *Council's authority to place.* The council or a Community agency designated by council, with reference to Community highways, may designate through highways and erect stop or yield signs at specified entrances thereto or may designate any intersection as a stop or yield intersection and erect like signs at one or more entrances to the intersection.

(b) *Specifications.* Every stop sign shall bear the word "stop" in letters not less than six inches in height. Every yield sign shall bear the word "yield" in letters not less than three inches in height. The sign shall at nighttime be rendered luminous by steady or flashing internal illumination or by efficient reflecting elements on the face of the sign.

(c) *Placement.* Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk, then as close as practicable to the nearest line of the intersecting roadway.

(d) *Obedience to stop sign.* Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

(e) *Obedience to yield sign.* The driver of a vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection, provided that if such driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield the right-of-way.
(Ord. No. SRO-417-2013, § 16-125, 2-1-2013; Ord. No. SRO-428-2014, § 16-125, 1-1-2014)

Sec. 16-126. Reserved.

Sec. 16-127. Pedestrian control signals.

(a) When special pedestrian control signals exhibiting the words "walk" or "don't walk" or a symbol of a walking person that symbolizes the word "walk" or a symbol of an upraised hand that symbolizes the words "don't walk" are in place, the signals shall indicate as follows:

(1) *Walk.* Pedestrians facing the signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of vehicles.

(2) *Don't walk.* No pedestrian shall start to cross the roadway in the direction of the signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety island while the "don't walk" signal is showing.

(b) A pedestrian shall not loiter or unduly delay crossing the roadway after traffic has stopped to give the right-of-way.

Cross reference—Pedestrians' rights and duties, §§ 16-281—16-287.

(Ord. No. SRO-417-2013, § 16-127, 2-1-2013; Ord. No. SRO-428-2014, § 16-127, 1-1-2014)

Sec. 16-128. Construction or road work site warning devices.

Any contractor, firm, corporation or political subdivision performing work on roads, streets or highways shall post and maintain at the work site, until the work is completed or until such time as the governing body authorizes removal, such warning signs, signals, markers and barricades in compliance with the manual and specifications for uniform system of traffic control devices adopted pursuant to section 16-121, to warn those using such streets, roads or highways.

Cross reference—Construction of roadways, §§ 17-41—17-47.

(Ord. No. SRO-417-2013, § 16-128, 2-1-2013; Ord. No. SRO-428-2014, § 16-128, 1-1-2014)

Sec. 16-129. Injuring, defacing, traffic-control or warning signs.

(a) *Prohibition.* No person shall without lawful authority attempt to or in fact alter, deface, injure or knock down any official traffic-control device thereon or any other part thereof.

(b) *Preemption emitter.* A person shall not possess a traffic preemption emitter unless the person is authorized to possess a traffic preemption emitter within the course and scope of the person's duties with a law enforcement agency, fire department, ambulance service or agency of the federal government, federally recognized Indian Tribe, or the State of Arizona or a political subdivision of Arizona.

Cross reference—Injury to public property, § 6-101.

(Ord. No. SRO-417-2013, § 16-129, 2-1-2013; Ord. No. SRO-428-2014, § 16-129, 1-1-2014)

Secs. 16-130—16-140. Reserved.

ARTICLE VI. OPERATION OF VEHICLES

DIVISION 1. GENERALLY

Sec. 16-141. Operation of vehicles by nonmembers on land other than Community roadways.

(a) *Prohibited.* No person, except members of the Community, employees of the United States government, or employees of the Community, may operate any motor-driven vehicle on any land within the Community except over highways as defined by this chapter.

(b) *Impoundment of vehicle; notification of owner.* If any vehicle is operated in violation of this section, the vehicle shall be impounded by a police officer of the Community and shall be kept at a place of storage within the Community. Within 15 days of the date of impoundment, notice by certified mail, return receipt requested, shall be sent to the registered owner and the lienholder of the vehicle impounded informing such owner of the time and place of a hearing to determine whether the vehicle was operated in violation of the section and what, if any, damages resulted from such operation. The notice will be sent by the police department and a record of the notice will be kept by the police department and Community court.

(c) *Hearing.* After a hearing, if the court determines that the vehicle was being unlawfully operated and caused damages, the court shall enter its judgment determining such illegal operation and the amount of damages caused and ordering that the police department shall hold the vehicle until the owner of the vehicle pays to the court for the benefit of the Community the amount of damages which the court has determined was caused by the unlawful operation of the vehicle, or the value of the vehicle, whichever is the lesser. A copy of the court's judgment shall be forwarded to the owner of the vehicle within three days of the issuance of the judgment.

(d) *Sale of vehicle for recovery of damages.* Any judgment by the court under this section finding illegal operation and damages shall provide that unless payment of the damages as provided for herein is made within 30 days after the entry of judgment, the vehicle will be sold at public auction after reasonable notice by certified mail to the owner of the vehicle of said sale. Upon payment of such amount within 30 days, the vehicle will be returned to the owner. The proceeds of the sale necessary for the satisfaction of the judgment shall be paid by the clerk of the court to the Community for the benefit of the beneficial owners of the land damaged, and any excess over such judgment shall be paid first to satisfy the expenses incurred by the court and the police department in the impoundment and hearing proceedings and second to the owner of the vehicle.

(e) *Release of vehicle on posting of bond.* In the event the owner of the vehicle posts a cash bond with the clerk of the Community court in an amount equal to the value of the vehicle, prior to the hearing required by this section, the vehicle will be returned to such owner at the time of the posting of the bond. The value of the vehicle shall be determined from any commercially recognized valuation periodical by the clerk of the court. In the event the owner of the vehicle objects to the value set by the clerk of the court, the judge of the Community court shall make such determination upon affidavits submitted by the owner of the vehicle and the police chief of the Community.
(Ord. No. SRO-417-2013, § 16-141, 2-1-2013; Ord. No. SRO-428-2014, § 16-141, 1-1-2014)

Sec. 16-142. Driving on right side of roadway; exceptions.

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(2) When the right half of a roadway is closed to traffic while under construction or repair.

(3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon.

(4) Upon a roadway designated and signposted for one-way traffic.

(b) Upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.
(Ord. No. SRO-417-2013, § 16-142, 2-1-2013; Ord. No. SRO-428-2014, § 16-142, 1-1-2014)

Sec. 16-143. Driving on roadways laned for traffic and rotary traffic islands.

(a) When any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to others consistent with this section shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety.

(2) Upon a roadway which is divided into three lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of the allocation.

(3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every sign.

(b) A person shall drive a vehicle passing around a rotary traffic island only to the right of the island.
(Ord. No. SRO-417-2013, § 16-143, 2-1-2013; Ord. No. SRO-428-2014, § 16-143, 1-1-2014)

Sec. 16-144. Driving on divided highways.

When any highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within the dividing space, barrier or section, except through an opening in the physical barrier or dividing section or space or at a crossover or intersection established by public authority.
(Ord. No. SRO-417-2013, § 16-144, 2-1-2013; Ord. No. SRO-428-2014, § 16-144, 1-1-2014)

Sec. 16-145. Drivers on controlled access roadways to use only authorized entrances and exits.

No person shall drive a vehicle onto or from any controlled access roadway except at entrance and exits established by public authority.
(Ord. No. SRO-417-2013, § 16-145, 2-1-2013; Ord. No. SRO-428-2014, § 16-145, 1-1-2014)

Sec. 16-146. Driving on mountain highways.

The driver of a motor vehicle traveling through canyons or on mountain highways shall hold the motor vehicle under control and as near the right-hand edge of the roadway as safely as possible.
(Ord. No. SRO-417-2013, § 16-146, 2-1-2013; Ord. No. SRO-428-2014, § 16-146, 1-1-2014)

Sec. 16-147. Moving parked vehicle.

No person shall move a vehicle which is stopped, standing or parked unless and until the movement can be made with reasonable safety.
(Ord. No. SRO-417-2013, § 16-147, 2-1-2013; Ord. No. SRO-428-2014, § 16-147, 1-1-2014)

Sec. 16-148. Motorcycle, motor-driven cycle, and ATV riders and passengers to ride only on designated seats.

A person operating a motorcycle, motor-driven cycle, or ATV's shall ride only upon the permanent and regular seat attached thereto, and the operator shall not carry any other person nor shall any other person ride on a motorcycle, motor-driven cycle, or all-terrain vehicle unless the motorcycle, motor-driven cycle, or all-terrain vehicle is designed to carry more than one person, in which event a passenger may ride upon the

permanent and regular seat if designed for two persons, or upon another seat firmly attached to the rear or side of the operator.
(Ord. No. SRO-417-2013, § 16-148, 2-1-2013; Ord. No. SRO-428-2014, § 16-148, 1-1-2014)

Sec. 16-149. Operation of vehicles upon approach of authorized emergency vehicle.

(a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red or red and blue light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle or bell:

(1) The driver of every vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection, and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(2) The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park the vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(3) This section shall not apply to an authorized emergency vehicle operating with activated emergency lights and siren.

(b) When a police vehicle in motion is giving a visual signal with at least one lighted red or red and blue light or lens and is giving an audible signal by siren:

(1) The driver of another vehicle shall not approach or drive parallel to the police vehicle.

(2) The driver of another vehicle shall maintain a distance of three hundred feet behind any police vehicle involved in an emergency until the police vehicle moves to the lane closest to the right-hand edge or curb of the highway.

(c) If a person who drives a vehicle approaches a stationary authorized emergency vehicle and the authorized emergency vehicle is giving a signal by displaying alternately flashing red or red and blue lights, the operator of the motor vehicle shall do either of the following:

(1) If on a highway having at least four lanes with at least two lanes proceeding in the same direction as the approaching vehicle, proceed with due caution and if possible, with due regarding to safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle; or

(2) If changing lanes would be impossible or unsafe, proceed with due caution and reduce the speed of the vehicle, maintain a safe speed for road condition.

(d) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.
(Ord. No. SRO-417-2013, § 16-149, 2-1-2013; Ord. No. SRO-428-2014, § 16-149, 1-1-2014)

Sec. 16-150. Operation of vehicle upon approach of school bus.

(a) *Driver to stop when bus stops.* The driver of a vehicle on a highway, upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching the school bus and shall not proceed until the school bus resumes motion or until signaled by the driver to proceed.

(b) *School bus identification.* Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of

children either to or from school, all markings thereon indicating "school bus" shall be covered or concealed.

(c) *Manual stop sign required for bus.* Every bus used for the transportation of school children shall be equipped with a signal with the word "stop" printed on both sides in white letters not less than five inches high on a red background. The signal shall not be less than 20 inches long and shall be manually operated by the operator of the school bus in such manner as to be clearly visible from both front and rear when extended from the left of the body of the bus. It shall be displayed only when passengers are being received or discharged from the bus.

(d) *Stop not required on divided highway.* The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled access highway and the school bus stopped in loading zone which is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.
(Ord. No. SRO-417-2013, § 16-150, 2-1-2013; Ord. No. SRO-428-2014, § 16-150, 1-1-2014)

Sec. 16-151. Following too closely.

(a) *Following too closely.* The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway.

(b) *Drawn vehicles.* The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside a business or residence district, which vehicle is following another motor truck or motor vehicle drawing another vehicle shall, when conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy the space without danger, except that this shall not prevent a motor truck or vehicle drawing another vehicle from overtaking and passing any type vehicle or other vehicles.

(c) *Caravan or motorcade.* Motor vehicles being driven upon any roadway outside a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy the space without danger. This provision shall not apply to funeral processions.
(Ord. No. SRO-417-2013, § 16-151, 2-1-2013; Ord. No. SRO-428-2014, § 16-151, 1-1-2014)

Sec. 16-152. Coasting prohibited.

(a) *Motor vehicle.* The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of the vehicle in neutral.

(b) *Commercial vehicle.* The driver of a commercial motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged.
(Ord. No. SRO-417-2013, § 16-152, 2-1-2013; Ord. No. SRO-428-2014, § 16-152, 1-1-2014)

Sec. 16-153. Turning movements; signals required.

(a) *Prohibitions.* No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 16-156, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until the movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner provided by this article in the event any other traffic may be affected by the movement.

(b) *Distance.* A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(c) *Sudden stops.* No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided by this article to the driver of any vehicle immediately to the rear when there is opportunity to give the signal.
(Ord. No. SRO-417-2013, § 16-153, 2-1-2013; Ord. No. SRO-428-2014, § 16-153, 1-1-2014)

Sec. 16-154. Signals by hand and arm or device.

Any stop or turn signal when required by this article shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device of a type approved by the council; but when a vehicle is so constructed or loaded that a hand or arm signal would not be visible both to the front and rear of the vehicle, then the signals must be given by a lamp or lamps or signal device.
(Ord. No. SRO-417-2013, § 16-154, 2-1-2013; Ord. No. SRO-428-2014, § 16-154, 1-1-2014)

Sec. 16-155. Method of giving hand and arm signals.

All signals required by this article to be given by hand and arm shall be given from the left side of the vehicle in the following manner and the signals shall indicate as follows:

(1) *Left turn.* Hand and arm extended horizontally.

(2) *Right turn.* Hand and forearm extended upward.

(3) *Stop or decrease speed.* Hand and forearm extended downward.

(Ord. No. SRO-417-2013, § 16-155, 2-1-2013; Ord. No. SRO-428-2014, § 16-155, 1-1-2014)

Sec. 16-156. Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) *Right turns.* Both the approach for a right turn and a right turn, shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) *Left turns on two-way roadways.* At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the center line where it enters the intersection, after entering the intersection to the right of the center line of the roadway being entered. When practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) *Left turns on other than two-way roadways.* At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle; and after entering the intersection, the left turn shall be made so as to leave the intersection as nearly as practicable in the left-hand lane lawfully available to traffic moving in that direction upon the roadway being entered.

(4) *Two-way left turn lanes.* If a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices:

a. A driver shall not make a left turn from any other lane.

b. A driver shall not drive a vehicle in the lane except if preparing for or making a left turn from or into the roadway of if preparing for a U-turn if otherwise permitted by law.

(5) If markers, buttons, or signs are placed directing the driver to take a different course from specified in this section, the driver shall not turn a vehicle other than as directed and required by the markers, buttons, or signs.

(Ord. No. SRO-417-2013, § 16-156, 2-1-2013; Ord. No. SRO-428-2014, § 16-156, 1-1-2014)

Sec. 16-157. Turning on curve or crest of grade prohibited.

No vehicle shall be turned so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade, where the

vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.
(Ord. No. SRO-417-2013, § 16-157, 2-1-2013; Ord. No. SRO-428-2014, § 16-157, 1-1-2014)

Sec. 16-158. Backing.

(a) *Safety.* The driver of a vehicle shall not back the vehicle unless the movement can be made with reasonable safety and without interfering with other traffic.

(b) *Prohibitions.* The driver of a vehicle shall not back the vehicle on any access road, exit or entrance ramp or roadway of a controlled access highway.
(Ord. No. SRO-417-2013, § 16-158, 2-1-2013; Ord. No. SRO-428-2014, § 16-158, 1-1-2014)

Sec. 16-159. Obstruction of driver's view or interference with driver's control of vehicle prohibited.

(a) *Obstructions.* A person shall not drive a vehicle when the vehicle's load or passengers obstruct the driver's view to the front or sides of the vehicle or interfere with the driver's control over the vehicle's driving mechanism.

(b) *Passengers.* A passenger in a vehicle shall not ride in a position that interferes with the driver's view or to the sides or that interferes with the driver's control over the vehicle's driving mechanism.
(Ord. No. SRO-417-2013, § 16-159, 2-1-2013; Ord. No. SRO-428-2014, § 16-159, 1-1-2014)

Secs. 16-160—16-170. Reserved.

DIVISION 2. RIGHT-OF-WAY AND PASSING

Sec. 16-171. Right-of-way of vehicles entering intersection at same time; entering freeway.

(a) *Yield.* When two vehicles enter or approach an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. This subsection does not apply to vehicles approaching or entering an uncontrolled "T" intersection when the vehicle on the left is on a continuing street or highway and the vehicle on the right is on the terminating street or highway.

(b) *Through highways.* The right-of-way rule declared in subsection (a) of this section is modified at through highways and otherwise as stated in this article.

(c) *Intersections.* Intersecting road crossings between the main roadway of a freeway and acceleration lanes, ramps or any other approach road shall yield the right-of-way to a vehicle on the main roadway of the freeway entering such merging area at the same time.
(Ord. No. SRO-417-2013, § 16-171, 2-1-2013; Ord. No. SRO-428-2014, § 16-171, 1-1-2014)

Sec. 16-172. Right-of-way of vehicle turning left at intersection.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.
(Ord. No. SRO-417-2013, § 16-172, 2-1-2013; Ord. No. SRO-428-2014, § 16-172, 1-1-2014)

Sec. 16-173. Right-of-way of vehicle entering intersection.

The driver of a vehicle shall stop in obedience to a stop sign as required by section 16-125 and then proceed with caution yielding to vehicles that are not required to stop and that are within the intersection or are approaching so closely as to constitute an immediate hazard.
(Ord. No. SRO-417-2013, § 16-173, 2-1-2013; Ord. No. SRO-428-2014, § 16-173, 1-1-2014)

Sec. 16-174. Vehicle entering highway from private road or driveway.

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all closely approaching vehicles on the highway.
(Ord. No. SRO-417-2013, § 16-174, 2-1-2013; Ord. No. SRO-428-2014, § 16-174, 1-1-2014)

Sec. 16-175. Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other on the right; and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.
(Ord. No. SRO-417-2013, § 16-175, 2-1-2013; Ord. No. SRO-428-2014, § 16-175, 1-1-2014)

Sec. 16-176. Overtaking vehicles on the left, generally.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules stated in this section:

(1) The driver of a vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal or blinking of headlamps at nighttime, and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle.

(Ord. No. SRO-417-2013, § 16-176, 2-1-2013; Ord. No. SRO-428-2014, § 16-176, 1-1-2014)

Sec. 16-177. Prerequisites for overtaking on the left.

A person shall not drive to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. The overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.
(Ord. No. SRO-417-2013, § 16-177, 2-1-2013; Ord. No. SRO-428-2014, § 16-177, 1-1-2014)

Sec. 16-178. When driving on the left prohibited.

(a) A person shall not drive the vehicle to the left of the center of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(2) When approaching within 100 feet of or traversing any intersection or where appropriate signs or markings have been installed to define a no-passing zone.

(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

(b) The limitations set forth in subsection (a) of this section shall not apply upon a one-way roadway.
(Ord. No. SRO-417-2013, § 16-178, 2-1-2013; Ord. No. SRO-428-2014, § 16-178, 1-1-2014)

Sec. 16-179. Overtaking on the right.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn.

(2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction.

(3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting the movement in safety. In no event shall the movement be made by driving off the pavement or main-traveled portion of the roadway.
(Ord. No. SRO-417-2013, § 16-179, 2-1-2013; Ord. No. SRO-428-2014, § 16-179, 1-1-2014)

Sec. 16-180. No passing zones.

Those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones; and when the signs or markings are in place and clearly visible to an ordinary observant person, every driver of a vehicle shall obey the directions thereof.
(Ord. No. SRO-417-2013, § 16-180, 2-1-2013; Ord. No. SRO-428-2014, § 16-180, 1-1-2014)

Secs. 16-181—16-190. Reserved.

DIVISION 3. STOPPING, STANDING AND PARKING

Sec. 16-191. Vehicles to be parked or stopped off pavement if possible.

(a) Upon any highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave the vehicle off that part of the highway. If a person stops, parks, or leaves standing a vehicle, the person shall leave an unobstructed width of the highway opposite a standing vehicle for the free passage of other vehicles and a clear view of the vehicle shall be available from a distance of 200 feet in each direction of the highway.

(b) This section shall not apply to:

(1) The driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it would be impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

(2) No vehicle nor the driver thereof engaged in the official delivery of the United States mail shall stop on the right-hand side of the highway for the purpose of picking up or delivering mail except if a clear view of the vehicle may be obtained from a distance of 300 feet in each direction upon such highway, or a flashing amber light not less than four inches in diameter with the word "stop" printed on the light is attached to the rear of the vehicle.

(Ord. No. SRO-417-2013, § 16-191, 2-1-2013; Ord. No. SRO-428-2014, § 16-191, 1-1-2014)

Sec. 16-192. Parking, stopping, standing prohibited in specified places.

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk.

(2) In front of a public or private driveway except for a vehicle or the driver of a vehicle engaged in official delivery of the United States mail if the driver does not leave the vehicle and the vehicle is stopped only momentarily.

(3) Within an intersection.

(4) Within 15 feet of a fire hydrant.

(5) On a crosswalk.

(6) Within 20 feet of a crosswalk at an intersection.

(7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.

(8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length by signs or markings are indicated.

(9) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly posted.

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

(13) At any place where official signs prohibit stopping.

(14) On a controlled access highway except for emergency reasons.

(b) The stopping, standing, or parking restriction shall not apply to authorized emergency vehicle if the stopping, standing or parking is for the purpose of actual performance of official duty.
(Ord. No. SRO-417-2013, § 16-192, 2-1-2013; Ord. No. SRO-428-2014, § 16-192, 1-1-2014)

Sec. 16-193. Parking within eighteen inches of curb.

(a) *Right hand curb.* Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be stopped or parked with the right-hand wheels of the vehicle parallel to and within 18 inches of the right-hand curb.

(b) *Left hand curb.* Vehicles may be parked or stopped with the left-hand wheels adjacent to and within 18 inches of the left-hand curb of a one-way roadway.
(Ord. No. SRO-417-2013, § 16-193, 2-1-2013; Ord. No. SRO-428-2014, § 16-193, 1-1-2014)

Sec. 16-194. Angle parking.

Angle parking shall be permitted on a highway only if the council or a Community agency designated by council has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.
(Ord. No. SRO-417-2013, § 16-194, 2-1-2013; Ord. No. SRO-428-2014, § 16-194, 1-1-2014)

Sec. 16-195. Community authorized to place signs prohibiting or restricting parking, stopping and standing.

The council or a Community agency designated by council, with respect to highways under its jurisdiction, may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where, based upon an engineering and traffic investigation, stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. The signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on the signs.
(Ord. No. SRO-417-2013, § 16-195, 2-1-2013; Ord. No. SRO-428-2014, § 16-195, 1-1-2014)

Sec. 16-196. Parking privilege for physically disabled.

A physically disabled person who displays upon the motor vehicle parked by the person or under the person's direction and for the person's use, a valid distinguishing insignia issued by any governmental body may use parking spaces designed for handicapped parking in the Community.
(Ord. No. SRO-417-2013, § 16-196, 2-1-2013; Ord. No. SRO-428-2014, § 16-196, 1-1-2014)

Sec. 16-197. Removal of illegally stopped vehicles.

(a) When any police officer finds a vehicle standing upon a highway in violation of the provisions of section 16-191, the officer is authorized to move the vehicle or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of the highway.

(b) Any police officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon

any highway, bridge, or causeway, in such position or under such circumstances as to obstruct the normal movement of traffic.

(c) Any police officer is authorized to remove or cause to be removed to the nearest storage yard or other place of safety any vehicle found upon a highway:

(1) When a report has been made that such vehicle has been stolen or taken without the consent of its owner.

(2) When the person or persons in charge of such vehicle are unable to provide for its custody or removal.

(3) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a Community judge without unnecessary delay.

(4) When any vehicle is left unattended for more than two hours upon the right-of-way of any freeway, within the boundaries of the Community, which has full control of access and no crossings at grade.

(d) If a police officer removes or causes the removal of a vehicle pursuant to this section, the police officer shall do one of the following when the vehicle is removed:

(1) Provide to the tow truck operator a form that the police officer signs and that includes the following information:

a. The vehicle identification number.

b. A number identifying the law enforcement agency and the officer ordering the tow.

c. The year, make and model of the vehicle.

d. The license plate number if available.

e. The date and time the vehicle was towed.

f. The address from which the vehicle was towed.

g. The name, address and telephone number, if the telephone number is known, of the registered owner and the primary lienholder of the vehicle to permit the towing company to notify the registered owner or the primary lien holder.

(2) Communicate to the police department both of the following and provide to the towing company that towed the vehicle the name, address and telephone number, if the telephone number is known, of the registered owner and the primary lienholder of the vehicle:

a. The name and telephone number of the person towing the vehicle.

b. The information prescribed by subsection (d)(1) of this section.

(e) If a police officer provides the tow truck operator with the form described in subsection (d)(1) of this section, the tow truck operator must provide the form to the person responsible for filing the abandoned vehicle report pursuant to section 16-293. The person responsible for filing the abandoned vehicle report shall submit the form to the police department at the time the person files the abandoned vehicle report.

(f) When the police department receives notice from the person responsible for filing the abandoned vehicle report pursuant to section 16-293, police department shall send notice of by first class mail to all persons known to have an ownership interest in the vehicle. The notice shall include the vehicle identification number and the name and telephone number of the person that towed the vehicle.

(g) Except as provided in subsection (h) of this section:

(1) An officer who removes or causes the removal of a vehicle under this section is not liable for the cost of towing or storing the vehicle if the officer acts under color of the officer's lawful authority.

(2) Before release of the vehicle by the towing service, the owner or the owner's agent of a vehicle that is removed or caused to be removed under this article shall pay or make satisfactory arrangements to pay

for any reasonable towing and storage costs incurred in towing or storing the vehicle.

(h) If a tow truck operator is required in writing by police department to tow or store a vehicle that is required as evidence in a criminal action or for future criminal investigation by the police department, the police department is liable for the towing and storage costs of the vehicle.

(i) If a police officer removes or causes the removal of a vehicle as permitted by this section, the officer shall provide the registered owner of the vehicle or the registered owner's agent with the opportunity for a post storage hearing to determine the validity of the removal. This hearing shall be conducted by a Community judge within 48 hours after a request, excluding weekends and holidays. Police department shall be responsible for the costs incurred for towing and storage if it is determined at the hearing that probable cause for the removal cannot be established.

(Ord. No. SRO-417-2013, § 16-197, 2-1-2013; Ord. No. SRO-428-2014, § 16-197, 1-1-2014)

Cross reference—Abandoned or seized vehicles, §§ 16-291—16-296.

Sec. 16-198. Stop required before emerging from alley or driveway.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all closely approaching vehicles on the roadway.

(Ord. No. SRO-417-2013, § 16-198, 2-1-2013; Ord. No. SRO-428-2014, § 16-198, 1-1-2014)

Secs. 16-199—16-210. Reserved.

DIVISION 4. SPEED RESTRICTIONS

Sec. 16-211. Reserved.

Sec. 16-212. Maximum speed limit.

(a) *Maximum speed.* No maximum speed limit on any highway in this Community shall be in excess of 65 miles per hour except as established pursuant to any other provision of law. This shall not be construed as altering any existing maximum speed limit which is less than 65 miles per hour or to prevent the Community from establishing, altering or lowering any maximum speed limit which is less than 65 miles per hour within the Community.

(b) *Four or more lanes of traffic.* The speed limit for all types of motor vehicles shall be 65 miles per hour on any portion of any highway that has four or more traffic lanes, the opposing lanes of which are physically separated other than by striping, unless otherwise provided by action of the Community.

(c) *Prohibition.* It is unlawful for any person to drive a motor vehicle at a speed in excess of 65 miles per hour, or in excess of a higher maximum speed if changed as set forth under subsection (b) of this section.

(Ord. No. SRO-417-2013, § 16-212, 2-1-2013; Ord. No. SRO-428-2014, § 16-212, 1-1-2014)

Sec. 16-213. Minimum speed limit.

(a) *Impeding traffic.* No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law or if the reasonable flow of traffic exceeds the maximum safe operating speed of the lawfully operated implement of husbandry.

(b) *Determining minimum speed.* Whenever the Community determines on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the Community may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

(c) *Enforcement.* Police officers are authorized to enforce this section by directions to drivers, and in the event of apparent willful disobedience

to this section and refusal to comply with the direction of an officer in accordance with this section, the continued slow operation by a driver is a criminal offense.
(Ord. No. SRO-417-2013, § 16-213, 2-1-2013; Ord. No. SRO-428-2014, § 16-213, 1-1-2014)

Sec. 16-214. Speed limits for motor-driven cycles and ATV's.

No person shall operate any motor-driven cycle or all-terrain vehicle at any time mentioned in 16-71 at a speed greater than 25 miles per hour unless such motor-driven cycle or all-terrain vehicle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead.
(Ord. No. SRO-417-2013, § 16-214, 2-1-2013; Ord. No. SRO-428-2014, § 16-214, 1-1-2014)

Sec. 16-215. Speeds to be reasonable and prudent.

(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the circumstances, conditions and actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to exercise reasonable care for the protection of others.

(b) Except as provided in subsections (c) and (d) of this section or where a special hazard requires a lesser speed, any speed in excess of these speeds shall be prima facie evidence that the speed is too great and therefore unreasonable and unlawful as follows:

(1) Fifteen miles per hour approaching school crossing.

(2) Twenty-five miles per hour in any residential area.

(3) Forty-five miles per hour in other locations.

(c) The maximum lawful speed as provided in this section shall be reduced to that which is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, such as when:

(1) Approaching and crossing an intersection.

(2) Approaching and going around a curve.

(3) Approaching a hill crest.

(4) Traveling upon any narrow or winding roadway.

(5) Special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) No person shall drive a motor vehicle at a speed that is less than that which is reasonable and prudent under existing conditions.

(e) The maximum speed limits set forth in this section may be altered as authorized in sections 16-218 and 16-219.

(f) The prima facie speed limits set forth in this section may be altered as authorized in section 16-218.

(g) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(h) If the person exceeds the posted speed limit by more than 20 miles per hour, the violation is a criminal offense.
(Ord. No. SRO-417-2013, § 16-215, 2-1-2013; Ord. No. SRO-428-2014, § 16-215, 1-1-2014)

Sec. 16-216. Speed restriction on bridges and elevated structures.

(a) *Maximum speed.* No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which

can be maintained with safety to the bridge or structure, when the structure is signposted as provided in this section.

(b) *Investigation.* The council upon request from any local agency shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway; and if it thereupon finds that the structure cannot safely withstand vehicles traveling at the speed otherwise permissible under this article, the council shall determine and declare the maximum speed of vehicles which the structure can withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of 300 feet before each end of the structure.

(c) *Evidence.* Upon the trial of any person charged with a violation of this section, proof of determination of the maximum speed by the council and the existence of the signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety on the bridge or structure.
(Ord. No. SRO-417-2013, § 16-216, 2-1-2013; Ord. No. SRO-428-2014, § 16-216, 1-1-2014)

Sec. 16-217. Speed limits for solid-rubber-tired vehicles.

No person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum speed of ten miles per hour.
(Ord. No. SRO-417-2013, § 16-217, 2-1-2013; Ord. No. SRO-428-2014, § 16-217, 1-1-2014)

Sec. 16-218. Establishment and amendment of speed limits.

When the council or a Community agency designated by council determines upon the basis of an engineering and traffic investigation that any prima facie speed set forth in this article is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a Community highway, the council may determine and declare a reasonable and safe prima facie speed limit which shall be effective at such times as may be determined when appropriate signs giving notice thereof are erected at the intersection or other place or part of the highway.
(Ord. No. SRO-417-2013, § 16-218, 2-1-2013; Ord. No. SRO-428-2014, § 16-218, 1-1-2014)

Sec. 16-219. Speed limits on freeways authorized to be variable.

When the council determines upon the basis of an engineering and traffic survey that the safe and orderly movement of traffic upon any highway which is a freeway will be facilitated by the establishment of variable speed limits, the council may erect, regulate and control signs upon the highway which is a freeway, or any portion thereof, which sign shall be so designed as to permit display of different speed limits at various times of the day or night. Such signs shall be of sufficient size and clarity to give adequate notice of the applicable speed limit. The speed limit upon the freeway at a particular time and place shall be that which is then and there displayed upon such sign.
(Ord. No. SRO-417-2013, § 16-219, 2-1-2013; Ord. No. SRO-428-2014, § 16-219, 1-1-2014)

Sec. 16-220. Racing and drag races.

(a) *Prohibited.* No person shall drive any vehicle in any race, speed competition or contest drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record on a street or highway, and no person shall in any manner participate in any such race, competition, contest, test or exhibition. A violation of this section is a criminal offense.

(b) *First offense.* A person who violates this section shall be punished upon a first conviction by imprisonment for not more than 90 days, by a fine of not more than $300.00, or both.

(c) *Second and subsequent offenses.* When a second or subsequent violation is committed within a period of 24 months, upon conviction, such person shall be punished by imprisonment for not less than ten days nor more than six months, and in the discretion of the court, by a fine of not less than $150.00 nor more than $300.00, or both. No

judge may grant probation to or suspend the imposition of a jail sentence of any person for such a second or subsequent conviction.

(d) *Suspension of driving privileges.* When any person is convicted of a violation of the provisions of this section, the judge may, upon a first conviction, and shall upon a second or subsequent conviction for an offense committed within a period of 24 months require the surrender to court of any driver license of such person and immediately forward same to the police department with the abstract of conviction. The judge may upon a first conviction and shall upon a subsequent conviction for an offense committed within a period of 24 months order the suspension of the driving privileges in the Community of such person for a period not to exceed 90 days.

(e) *Community authorized races.* The Community may give authorization in writing for any organized and properly controlled event otherwise prohibited by this section to utilize a highway or part of a highway to be utilized, and any special conditions the Community may require for the particular event.
(Ord. No. SRO-417-2013, § 16-220, 2-1-2013; Ord. No. SRO-428-2014, § 16-220, 1-1-2014)

Sec. 16-221. Driving at speed which causes trailer to sway.

No person shall drive a vehicle towing a trailer or semitrailer at a rate of speed which causes the trailer or semitrailer to sway laterally from the line of traffic or fishtail.
(Ord. No. SRO-417-2013, § 16-221, 2-1-2013; Ord. No. SRO-428-2014, § 16-221, 1-1-2014)

Sec. 16-222. Charge of violation to specify alleged speed of violator; speed limit not to relieve plaintiff of proving negligence.

(a) *Citation.* In every charge of violation of any speed regulation in this article, the complaint or the citation shall specify the speed at which the driver is alleged to have driven and the prima facie speed applicable or at the location.

(b) *Burden of proof.* The provisions of this article declaring maximum speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.
(Ord. No. SRO-417-2013, § 16-222, 2-1-2013; Ord. No. SRO-428-2014, § 16-222, 1-1-2014)

Secs. 16-223—16-230. Reserved.

DIVISION 5. DRIVING WHILE UNDER THE INFLUENCE; RECKLESS DRIVING*

Sec. 16-231. Driving or actual physical control while under the influence.

(a) *Unlawful to drive or be in actual physical control of the vehicle while under the influence ("DUI").* It is a criminal offense for a person to drive or be in actual physical control of a motor vehicle within the exterior boundaries of the Community under any of the following circumstances:

(1) While under the influence of any intoxicating liquor, or under the influence of any drug, a vapor releasing substance containing any toxic substance, or any combination of liquor, drugs, or vapor releasing substances containing any toxic substance causing the person to be impaired to the slightest degree; or

(2) If the person has an alcohol concentration of 0.08 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle; or

(3) While there is any drug defined in section 6-121 or its metabolite in the person's body.

(b) *Unlawful to drive or be in actual physical control of the vehicle while under the extreme influence of intoxicating liquor ("extreme DUI").* It

*__Cross references—__Alcohol related offenses, §§ 6-121, 6-122; alcoholism, §§ 13-21—13-28; alcohol and contraband, ch. 14.

is a criminal offense for a person to drive or be in actual physical control of a motor vehicle within the exterior boundaries of the Community if the person has an alcohol concentration of 0.20 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle.

(c) *Unlawful to refuse to submit to a chemical test ("refusal").* It is a criminal offense for a person who, pursuant to an investigation for a violation of section 16-231(a) or (b), has been informed by a law enforcement officer that reasonable grounds exist to believe that the person was driving or in actual physical control of the vehicle within the exterior boundaries of the Community in violation of section 16-231(a) or (b), to refuse to submit to a chemical test as required under section 16-232.

(d) *Prescribed drugs.* It is not a defense to a charge of a violation of section 16-231(a)(1) that the person is or has been entitled to use the drug under the laws of the Community or pursuant to a valid prescription. If the person has a valid prescription issued by a licensed medical practitioner, the person does not violate section 16-231(a)(3).

(e) *Filing of offense.* Offenses in this section may be filed in the form of a juvenile petition, a criminal complaint, or a citation except as may be otherwise required. In any case in which the Community seeks sentencing pursuant to section 16-231(f)(2)—(5), the allegations of the necessary factors shall be alleged within 45 days of the filing of a criminal offense.

(f) *Penalties for violation of section 16-231(a)-DUI.* Any person who violates section 16-231(a) as follows shall be convicted of a criminal offense, and may be sentenced up to:

(1) *First violation.* One year incarceration and shall pay a mandatory fine of no less than $700.00 and no more than $5,000.00, as a first violation. The court may impose probation up to three years, but any sentence that is imposed shall include at least three but not more than five days of incarceration which shall not be deleted, deferred, or suspended. Any part of a sentence that is otherwise suspended shall be contingent upon the defendant complying with section 16-231(j) and (k).

(2) *Second violation.* One year incarceration and shall pay a mandatory fine of no less than $1,200.00 and no more than $5,000.00, for committing a second violation of section 16-231(a) or acts in another jurisdiction that if committed in the Community would be a violation of section 16-231(a) within a period of 84 months. The dates of commission of the offenses shall be applied as the determining factor for such period. The court may impose probation up to three years, but any sentence that is imposed shall include no less than 90 days incarceration, of which at least 60 days shall not be deleted, deferred or suspended. Any part of a sentence that is otherwise suspended shall be contingent upon the defendant complying with section 16-231(j) and (k).

(3) *Third or subsequent violation.* One year incarceration, and shall pay a mandatory fine of no less than $2,000.00 and no more than $5,000.00, for committing a third or subsequent violation of section 16-231(a) or acts in another jurisdiction that if committed in the Community would be a violation of section 16-231(a) within a period of 84 months. The dates of commission of the offenses shall be applied as the determining factor for such period. The court may impose probation up to three years, but any sentence that is imposed shall include no less than 180 days incarceration, of which at least 90 days shall not be deleted, deferred, or suspended. Any other part of a sentence that is otherwise suspended shall be contingent upon the defendant complying with section 16-231(j) and (k).

(4) *Child victim violation.* One year incarceration and a mandatory fine of not less than $2,000.00 and no more than $5,000.00 in any offense in which a child under 18 years of age was a passenger in the vehicle at the time of the alleged offense. The

court may impose probation up to three years, but any sentence imposed shall include no less than 30 days incarceration, which shall not be deleted, deferred, or suspended, in addition to any other applicable penalties under this section. Any other part of a sentence that otherwise is suspended shall be contingent upon the defendant complying with section 16-231(j) and (k).

(5) *Serious physical injury or loss of life violation.* One year incarceration and a mandatory fine of not less than $3,000.00 and no more than $5,000.00 in any offense in which serious physical injury or loss of life results to any other person. The court may impose probation up to three years, but any sentence imposed shall include no less than 180 days incarceration, which shall not be deleted, suspended, or deferred, in addition to any other applicable penalties under this section. Any other part of a sentence that is otherwise suspended shall be contingent upon the defendant complying with section 16-231(j) and (k).

(g) *Penalties for violation of section 16-231(b)-Extreme DUI.* Any person who violates section 16-231(b) shall be convicted of a criminal offense, and may be sentenced to up to one year incarceration and shall pay a mandatory fine of no less than $1,000.00 and no more than $5,000.00. The court may impose probation up to three years, but any sentence that is imposed shall include no less than 30 consecutive days of incarceration which shall not be deleted, deferred, or suspended. Any other part of a sentence that is otherwise suspended shall be contingent upon the defendant complying with section 16-231(j) and (k).

(h) *Penalties for violation of section 16-231(c)-Refusal.* Any person who violates section 16-231(c) shall be sentenced to up to one year incarceration and shall pay a mandatory fine not less than $1,000.00 and no more than $5,000.00. The court may impose probation up to three years, but any sentence that is imposed shall include no less than 48 hours of consecutive jail time which shall not be deleted, deferred, or suspended. Any other part of a sentence that is otherwise suspended shall be contingent upon the defendant complying with section 16-231(j) and (k). It is not a defense to this charge that the person was not under the influence of intoxicating liquor or drugs at the time the person refused to submit to a chemical test.

(i) *Eligibility for work release.* A person sentenced to a period of incarceration exceeding 30 days pursuant to subsections (f), (g) or (h) of this section shall not be eligible for work release program until the person has served at least 30 days of consecutive incarceration. If a person is allowed for work release, the person shall not be released from custody for more than 14 hours, in a calendar day and no more than six days per week.

(j) *Mandatory assessment, treatment for substance abuse and probation.* For any probation grant imposed under subsections (f), (g) or (h) of this section, the court shall require the defendant to submit to a chemical dependency assessment within the first 45 days of the probation grant. The defendant shall be required to follow the recommendations of that assessment as a term of the probation, which may include counseling or in-patient rehabilitation. Should the defendant not comply with the recommendations, the defendant shall have the opportunity to reject probation and serve a sentence of incarceration. This shall not be read to interfere with the ability of the Community to allege a violation of probation for failure to comply with any terms of probation. The requirements to pay any fines and restitution shall be included as terms of any probation grant in addition to other standard terms.

(k) *Restitution.* For any violation of sections 16-231(a), (b) and 16-236(c), the defendant shall be ordered to pay restitution for all loss of property, income or financial expenses incurred by any victim that is directly related to the offense, including court time.

(l) *Election of charge for violation of sections 16-231(a)-DUI and 16-231(c)-refusal.* If a defendant is charged and convicted of violating both sections 16-231(a)-DUI and 16-231(c)-Refusal that arise from the same incident or arrest, the court shall stay the conviction and sentence for viola-

tion of section 16-231(c) and sentence the defendant only on the conviction for violation of section 16-231(a).
(Ord. No. SRO-417-2013, § 16-231, 2-1-2013; Ord. No. SRO-428-2014, § 16-231, 1-1-2014)

Sec. 16-232. Implied consent; tests; refusal to submit.

(a) *Implied consent.* Any person who operates a motor vehicle within the Community gives consent, subject to the provisions of the following section to a test or tests of the person's blood, breath or urine, or other bodily substance for the purpose of determining alcoholic concentration or drug content, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of drugs or intoxicating liquor. The test or tests chosen by the law enforcement agency shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the highways of the Community while under the influence of drugs or intoxicating liquor.

(b) *Tests.* After an arrest, a violator shall submit to and successfully complete any test or tests prescribed by subsection (a) of this section. If the violator refuses to submit, the violator shall be informed that reasonable grounds exist to believe that the person was driving or in actual physical control of a vehicle in violation of section 16-231(a) or (b), and that refusal to submit to a chemical test shall result in the violation of section 16-231(c) and that the person shall be subject to all applicable penalties under section 16-231(h) unless the violator subsequently expressly agrees to submit to and successfully completes the test or tests. A failure to expressly agree to the test or successfully complete the test is deemed a refusal.

(c) *Refusal to submit to test.*

(1) If a person under arrest refuses to submit to a chemical test as provided in subsection (a) of this section, none shall be given. The violator will be informed of his or her violation of section 16-231(c), unless the violator subsequently expressly agrees to submit to and completes the test or tests. A failure to expressly agree to the test and complete the test is deemed a refusal.

(2) Persons incapable of refusal. Any person who is dead, unconscious or who is otherwise in a condition rendering him or her incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (a) of this section and the test or tests may be administered, subject to the provisions of section 16-233.

(Ord. No. SRO-417-2013, § 16-232, 2-1-2013; Ord. No. SRO-428-2014, § 16-232, 1-1-2014)

Sec. 16-233. Driving while under the influence; procedure for giving test.

(a) *Presumptions regarding chemical tests in evidence.* In the trial of any civil or criminal action or proceeding for a violation of section 16-231(a) or (b) relating to driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance shall give rise to the following presumptions:

(1) If there was at that time 0.05 percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor.

(2) If there was at that time in excess of 0.05 percent but less than 0.08 percent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(3) If there was at that time 0.08 percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor.

(b) *Basis for measurements.* Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 100 cubic centimeters of blood.

(c) *When test is considered valid.* Chemical analysis of the person's blood, urine, breath or other bodily substance to be considered valid under the provisions of this section shall have been performed according to methods approved by the Arizona State Department of Public Safety and by a person possessing a valid permit issued by the Arizona State Department of Public Safety for such purpose.

(d) *Persons qualified to administer test.* When a person shall submit to a blood or urine test under the provisions of the preceding section, only a physician or a registered nurse, phlebotomist or other persons who have received training in drawing blood or collection of urine, may withdraw blood or take the urine specimen for the purpose of determining the alcoholic content therein. Such limitation shall not apply to taking of breath specimens.

(e) *Person tested authorized to have own physician, etc.* The person tested may have a physician or a qualified technician, chemist, registered nurse or other qualified person, at the choosing and expense of the tested person, administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(f) *Results to be made available to person tested.* Upon the request of the person who shall submit to a chemical test or tests, full information concerning the test or tests shall be made available to him or her or his or her attorney or advocate. If a defendant is charged with the offense of driving while under the influence, the Community shall disclose to the defendant, any motor vehicle department records that the Community intends to use at trial, name and contact information of custodian of records if any, Quality Assurance Scan ("QAS") logs, Intoxilyzer checklist. If blood or urine was analyzed, the Community shall disclose the results of any chemical tests and the testing method used to analyze the blood or urine specimen.

(g) *Preliminary breath test.* A police officer who has reasonable suspicion to believe that a person has committed a violation of section 16-231(a) or (b) may request that the person submit to a preliminary breath test or breath tests before an arrest. Information from a preliminary breath test(s) shall be admissible to show the presence of alcohol but the blood alcohol concentration results of the preliminary breath test(s) shall not be admissible in the defendant's criminal trial.
(Ord. No. SRO-417-2013, § 16-233, 2-1-2013; Ord. No. SRO-428-2014, § 16-233, 1-1-2014)

Cross reference—Rules of Criminal Procedure, ch. 5.

Sec. 16-234. Reckless driving.

(a) *Violation.* It is unlawful for any person to drive any vehicle within the exterior boundaries of the Community with reckless disregard for the safety of persons or property.

(b) *Penalties for violation of section 16-234(a).*

(1) Any person who violates a provision of this section shall be convicted of a criminal offense and shall be sentenced to up to one year of incarceration, and a mandatory fine of no less than $500.00 and no more than $5,000.00. The court may impose probation, but any sentence that is imposed shall include no less than 24 consecutive hours of incarceration, which shall not be deleted, deferred or suspended.

(2) In any offense in which a child under 18 years of age was a passenger in the vehicle at the time of the alleged offense, the defendant shall serve no less than 30 days incarceration, which shall not be deleted, suspended or deferred, in addition to any other applicable penalty under this section.

(3) In any circumstances in which the defendant's commission of any of the offenses in this section results in serious physical injury or death to any other person, the defendant shall pay a fine of no less than

$3,000.00 and serve no less than 180 days incarceration, which shall not be deleted, suspended, or deferred, in addition to any other applicable penalty under this Code.

(Ord. No. SRO-417-2013, § 16-234, 2-1-2013; Ord. No. SRO-428-2014, § 16-234, 1-1-2014)

Sec. 16-235. Liability for emergency responses in flood areas.

(a) *Water.* A driver of a vehicle who drives the vehicle on a public street or highway that is temporarily covered by a rise in water level, including groundwater or overflow of water, and that is barricaded because of flooding is liable for the expenses of any emergency response that is required to remove from the public street or highway the driver or any passenger in the vehicle that becomes inoperable on the public street or highway or the vehicle that becomes inoperable on the public street or highway, or both.

(b) *Liability.* A person convicted of violating section 16-234 for driving a vehicle into any area that is temporarily covered by a rise in water level, including groundwater or overflow of water, may be liable for expenses of any emergency response that is required to remove from the area the driver or any passenger in the vehicle that becomes inoperable in the area or the vehicle that becomes inoperable in the area, or both.

(c) *Expenses.* The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (a) or (b) of this section. The charge constitutes a debt of that person and may be collected proportionately by the Community, for-profit entities or not-for-profit entities that incurred the expenses. The person's liability for the expenses of an emergency response shall not exceed $2,000.00 for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

(d) *Insurance.* An insurance policy may exclude coverage for a person's liability for expenses of an emergency response under this section.

(Ord. No. SRO-417-2013, § 16-235, 2-1-2013; Ord. No. SRO-428-2014, § 16-235, 1-1-2014)

Sec. 16-236. Suspension of driving privileges, reporting requirements and ignition interlock devices.

(a) *Suspension of driving privileges.* Upon conviction for violations of sections 16-231 and 16-234, the court shall order the suspension of driving privileges of such violator except as may be otherwise provided in subsection (d) of this section within the Community, for a period of at least 30, days but not to exceed 24 months.

(b) *Issuing jurisdiction.* Nothing in this chapter shall be read or interpreted to impede on any laws from the jurisdiction that issued any driving license or permits.

(c) *No reporting.* The court shall not report to the Arizona Department of Transportation, Motor Vehicle Division of any final conviction for violations section 16-231(a) or (b) unless authorized and approved by the council.

(d) *Ignition interlock device.* Once completing 90 consecutive days of suspension under subsection (a) of this section, the court may order that the defendant be allowed to drive a vehicle equipped, with a certified ignition interlock device and participation criteria approved by the council. The cost of the ignition interlock device shall be the responsibility of the defendant. The court shall restrict driving to defendant's own employment, education and health care purposes, and only between the defendant's residence and place of employment, education and health care facilities.

(Ord. No. SRO-417-2013, § 16-236, 2-1-2013; Ord. No. SRO-428-2014, § 16-236, 1-1-2014)

DIVISION 6. TRUCK ROUTES

Sec. 16-237. Certain commercial vehicles prohibited on non-truck routes; exceptions.

(a) No person shall operate any commercial vehicle exceeding 10,000 pounds gross vehicle weight at any time upon any streets within the Community except those streets or parts of streets described in section 16-238 as adopted truck routes; except that the operator of a commercial vehicle may leave an adopted truck route by the nearest

route to travel a distance no greater than three-fourths of a mile and, in so doing, not cross another truck route to make a single delivery or pickup, after which the vehicle must be returned immediately by the nearest route to an adopted truck route, not to exceed three-fourths of a mile and, in so doing, shall not cross another adopted truck route.

(b) In the event that a pickup or delivery is greater than three-fourths of a mile from an adopted truck route, then the operator of a commercial vehicle may leave an adopted truck route by the nearest route to make a single delivery or pickup, after which he or she must return immediately by the nearest route to an adopted truck route.

(c) The provisions of this section do not apply to:

(1) Passenger buses;

(2) Any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility;

(3) Any authorized emergency vehicle; or

(4) Any vehicle owned and operated by the Community.

Cross reference—Council's power to restrict weight of vehicles, § 16-102.

(Ord. No. SRO-417-2013, § 16-237, 2-1-2013; Ord. No. SRO-428-2014, § 16-237, 1-1-2014)

Sec. 16-238. Adopted; erection of signs.

(a) The adopted truck routes are as listed below:

(1) SR 87 (Beeline Highway);

(2) Pima Road;

(3) Gilbert Road;

(4) McDowell Road;

(5) McKellips Road;

(6) Alma School Road (south of McDowell);

(7) Hayden Road; and

(8) Chaparral Road (west of Dobson).

(b) Signs will be erected on adopted truck routes giving notice that such roads are adopted truck routes.

(Ord. No. SRO-417-2013, § 16-238, 2-1-2013; Ord. No. SRO-428-2014, § 16-238, 1-1-2014)

Sec. 16-239. Variances.

Any person seeking a variance from the provisions of this division within this Community Code of Ordinances may request such a variance in writing from the director of Engineering and Construction Services ("ECS"). The ECS director or his or her designee will respond to the request for variance within five business days of the receipt of the request. There shall be no appeal from the decision of the director or his or her designee.

(Ord. No. SRO-417-2013, § 16-239, 2-1-2013; Ord. No. SRO-428-2014, § 16-239, 1-1-2014)

ARTICLE VII. ACCIDENTS

Sec. 16-240. Duty to give information and render aid.

The driver of any vehicle involved in an accident resulting in injury, death, or damage to any vehicle which is driven or attended by any person shall:

(1) Give the driver's name, address, vehicle registration number, and shall upon request exhibit the person's driver or commercial license to the person struck or the driver or occupants of a person attending any vehicle collided with; and

(2) Render to any person injured in the accident reasonable assistance, including the making of arrangements for the carrying of the person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if requested by the injured person.

(Ord. No. SRO-417-2013, § 16-240, 2-1-2013; Ord. No. SRO-428-2014, § 16-240, 1-1-2014)

Sec. 16-241. Accidents involving death or injury to a person.

(a) *Violation.* The driver of any vehicle involved in an accident resulting in injury or death shall immediately stop the vehicle at the scene of

the accident or as close thereto as possible and shall remain at the scene of the accident until the driver has fulfilled the requirements of section 16-240. Every such stop shall be made without obstructing traffic more than is necessary.

(b) *Penalty.* Any person who violates subsection (a) of this section shall be convicted of a criminal offense and sentenced to incarceration for not less than 30 days and not more than one year, shall pay a fine of not less than $100.00 and not more than $500.00 or both.

(c) *Suspension of driving privileges.* Upon conviction for this offense, the judge shall suspend the person's driving privilege in the Community for not less than one year.
(Ord. No. SRO-417-2013, § 16-241, 2-1-2013; Ord. No. SRO-428-2014, § 16-241, 1-1-2014)

Sec. 16-242. Accidents involving vehicle damage only.

The driver of any vehicle involved in an accident, resulting only in damage to a vehicle which is driven or attended by any person, shall immediately stop the vehicle at the scene of the accident or as close thereto as possible, and shall remain at the scene of the accident until the driver has fulfilled the requirements of section 16-240. Every such stop shall be made without obstructing traffic more than is necessary. Any person who fails to comply with the requirements in this section is guilty of a criminal offense.
(Ord. No. SRO-417-2013, § 16-242, 2-1-2013; Ord. No. SRO-428-2014, § 16-242, 1-1-2014)

Sec. 16-243. Duty upon striking unattended vehicle.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately:

(1) Stop; and

(2) Either:

a. Locate and notify the operator or owner of the struck vehicle of the name and address of the driver and owner of the vehicle doing the striking; or

b. Leave the required information under subsection (2)a of this section in a conspicuous place in the struck vehicle.

(3) Any person who fails to comply with the requirements in this section is guilty of a criminal offense.

(Ord. No. SRO-417-2013, § 16-243, 2-1-2013; Ord. No. SRO-428-2014, § 16-243, 1-1-2014)

Sec. 16-244. Duty upon striking fixtures upon a highway.

(a) The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of the property of:

(1) The damage to fixture or other property;

(2) The driver's name and address;

(3) The registration number of the vehicle the driver is driving; and

(4) Shall upon request exhibit his or her driver license and shall make report of the accident when and as required in Sec. 16-247.

(b) Any person who fails to comply with the requirements in this section is guilty of a violation of this section and is subject to civil penalties as provided in this chapter.
(Ord. No. SRO-417-2013, § 16-244, 2-1-2013; Ord. No. SRO-428-2014, § 16-244, 1-1-2014)

Sec. 16-245. Immediate reports of certain accidents.

The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication, whether oral or written, give notice of the accident to the police department.
(Ord. No. SRO-417-2013, § 16-245, 2-1-2013; Ord. No. SRO-428-2014, § 16-245, 1-1-2014)

Sec. 16-246. Reserved.

Sec. 16-247. Written reports of accidents.

(a) A law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident resulting in physical injury, death or damage to the property of any person in excess of $5,000.00 or the issuance of a citation shall complete a written report of the accident as follows:

(1) Either at the time of and at the scene of the accident or after the accident by interviewing participants or witnesses.

(2) Within 24 hours after completing the investigation.

(b) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident that results in damage to the property of any person in an amount of $5,000.00 or less, but that does not result in the issuance of a citation or physical injury or death, shall complete a portion of the written report of the accident. The portion of the written report shall:

(1) Be completed either at the time of and at the scene of the accident or after the accident by interviewing participants or witnesses.

(2) Be completed within 24 hours after completing the investigation.

(3) Include the following minimum information:

a. The time, day, month and year of the accident.

b. Information adequate to identify the location of the accident.

c. Identifying information for all involved parties and witnesses, including name, age, sex, address, telephone number, vehicle ownership and registration and proof of insurance.

d. A narrative description of the facts of the accident, a simple diagram of the scene of the accident and the investigating officer's name, agency and identification number.

(c) The police department:

(1) Shall not allow a person to examine the accident report or any related investigation report or a reproduction of the accident report or a related investigation report if the request is for a commercial solicitation purpose.

(2) May require a person requesting the accident or related investigative report to state under penalty of perjury that the report is not examined or copied for a commercial solicitation purpose.

(3) May retain the original report.

(4) Shall maintain an electronic copy of the original report if the agency elects not to retain the original report pursuant to subsection (3) of this subsection.

(5) Except as otherwise provided by law, on request shall provide a copy of the unredacted report to the following:

a. A person who is involved in the accident or the owner of a vehicle involved in the accident or a representative of the person or owner.

b. Any insurer licensed pursuant to Title 20 of Arizona Revised Statutes if the report is related to an investigation into fraudulent claims, or any insurer that writes automobile liability or motor vehicle liability policies and that is both of the following:

1. Under the jurisdiction of the Arizona Department of Insurance or insurance support organization or a self-insured entity or its agents, employees or contractors in connection with claims investigation activities, antifraud activities, rating or underwriting.

2. An insurer of a person or vehicle involved in the accident.

c. An attorney licensed to practice law or to a licensed private investigator representing a person involved in the accident in connection with any civil, administrative or arbitration proceeding in any court or government agency or before any self-regulatory body, including the ser-

vice of process, investigation in anticipation of litigation and the execution or enforcement of judgments and orders, or pursuant to a court order.

(d) If a request is made pursuant to subsection (c)(5)a. or c. of this section and the accident report indicates that a criminal complaint has been issued, before the report is released the personal identifying information regarding any victim shall be redacted from the accident report.

(e) The police department may deny a request for a copy of an unredacted accident report if the agency determines that release of the report would be harmful to a criminal investigation.

(f) The police department may place notes, date stamps, identifying numbers, marks or other information on the copies as needed, if they do not alter the original information reported by the investigating officer or public employee.

(g) Any law restricting the distribution of personal identifying information by a business entity described in subsection (c)(5)b. of this section applies to personal identifying information contained in an accident report. If a person who receives information under this section is not otherwise subject to distribution restrictions for information contained in accident reports, the person shall not release the report or any information contained in the report except to those persons designated in subsection (c)(5) of this section.

(h) For the purposes of this section, "commercial solicitation purpose" means a request for an accident report if there is neither:

(1) A relationship between the person or the principal of the person requesting the accident report and any party involved in the accident.

(2) A reason for the person to request the report other than for the purposes of soliciting a business or commercial relationship.

(Ord. No. SRO-417-2013, § 16-247, 2-1-2013; Ord. No. SRO-428-2014, § 16-247, 1-1-2014)

Sec. 16-248. Reserved.

Sec. 16-249. Accident report forms.

(a) The police department shall maintain forms for accident reports required under this article. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing and the persons and vehicles involved.

(b) Every accident report required to be made in writing shall be made on the appropriate form approved by the Community and shall contain all of the information required therein unless not available.

(c) The accident report shall at the very minimum contain the following:

(1) The time, day, month, and year of the accident;

(2) The location of the accident;

(3) Identifying information for all involved parties and witnesses, including name, age, address, telephone number, vehicle ownership and registration and proof of insurance;

(4) A narrative description of the facts of the accident;

(5) If a law enforcement officer is involved, the officer's name, agency, and identification number.

(Ord. No. SRO-417-2013, § 16-249, 2-1-2013; Ord. No. SRO-428-2014, § 16-249, 1-1-2014)

Sec. 16-250. Additional penalty for failure to report.

The court shall suspend the privilege of driving in the Community of any person failing to report an accident as provided by this article until the report has been filed. Any person failing to make a report as required by this article shall be responsible for a civil offense as provided in section 16-2.

(Ord. No. SRO-417-2013, § 16-250, 2-1-2013; Ord. No. SRO-428-2014, § 16-250, 1-1-2014)

Sec. 16-251. Auto repair shops to report.

The person in charge of any auto repair shop to which is brought any motor vehicle which shows evidence of having been struck by a bullet, recently involved in an accident, has evidence of blood on the vehicle, or contains blood or human body parts shall report to the police department within 24 hours after the motor vehicle is received, giving the VIN, license plate number and the name and address of the owner or operator of the vehicle.
(Ord. No. SRO-417-2013, § 16-251, 2-1-2013; Ord. No. SRO-428-2014, § 16-251, 1-1-2014)

Secs. 16-252—16-260. Reserved.

ARTICLE VIII. PROCEDURE IN TRAFFIC CASES*

DIVISION 1. GENERAL PROVISIONS FOR ALL TRAFFIC CASES

Sec. 16-261. Authority to detain.

Any authorized law enforcement officer of the Community may stop and detain a person if the officer has a reasonable and articulable suspicion that the person has committed a violation of this chapter. Any authorized law enforcement officer of the Community may arrest a person who is subject to the criminal jurisdiction of the Community, for any criminal offense arising under this chapter, consistent with the laws of the Community and the Community rules of criminal procedure.
(Ord. No. SRO-417-2013, § 16-261, 2-1-2013; Ord. No. SRO-428-2014, § 16-261, 1-1-2014)

Sec. 16-262. Forms of citations.

(a) *Uniform citation.* Every law enforcement officer of the Community shall use a uniform traffic ticket and complaint form for traffic citations adopted by the police department and approved by the council which shall be issued in books with citations with multiple copies and meeting the requirements of this article.

(b) *Issuing citation books and recordkeeping.* The chief of the police department or his or her designee shall be responsible for the issuance of the books and shall maintain a record of every book and each citation contained therein issued to individual officers and shall require and retain a receipt for every book so issued.

(c) *Juveniles.* If the person accused of violating any offense under this chapter is a juvenile, the juvenile's case shall be processed consistent with section 16-276. The citation shall also include space for the cited juvenile to provide contact information for his or her parent or legal guardian.

(d) *Affirmations.* The citation shall include a place for the cited person to affirm the mailing address of the person to receive service of any necessary court documents, and shall advise the person that the duty to inform the court of any changes in address remains solely with the cited person.

(e) *Notices.* The citation shall also include the following:

(1) If the citation is for a criminal offense, a notice that if the person fails to appear for a criminal offense, a warrant may be issued;

(2) If the citation is for a civil offense, a notice that if the person fails to appear, a default judgment will be entered against the person, a civil penalty will be assessed, and that the person's driving privilege could be suspended.

(Ord. No. SRO-417-2013, § 16-262, 2-1-2013; Ord. No. SRO-428-2014, § 16-262, 1-1-2014)

Sec. 16-263. Disposition of citations.

(a) *Original delivered to the court.* Every officer or the officer's designated agent from the police department, upon issuing a civil traffic citation to an alleged violator of any provision of this chapter shall deliver the original or a copy of the traffic citation to the court.

(b) *Disposition required upon filing.* Upon the delivery of the original or a copy of the traffic citation to the court, the original or copy of the traffic citation may be disposed of only after

*__Cross reference__—Criminal procedure generally, § 5-31 et seq.

payment of the fine is received in accordance with the disposition schedule, by trial in the Community court or upon a motion by the Community or other official action by a judge of the court, including forfeiture of the bail or by deposit of sufficient bail with or payment of a fine to the clerk of the court by the person to whom the traffic citation has been issued by the officer.

(c) *Unlawful disposition of citation.* It is unlawful and misconduct for any officer or a Community employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required by this article.

(d) *Copy to chief administrative officer.* The chief of police or his or her designee shall require the return to him or her of a copy of every traffic citation issued by an officer under his or her supervision of alleged violations of any traffic law or ordinance and of all copies of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator. These citations and copies may only be destroyed pursuant to the Community's policy on purging court records.
(Ord. No. SRO-417-2013, § 16-263, 2-1-2013; Ord. No. SRO-428-2014, § 16-263, 1-1-2014)

Sec. 16-264. Record of traffic cases.

The court shall keep or cause to be kept a record of every traffic complaint, traffic citation or other legal form of traffic charge deposited with or presented to the court, and shall keep a record of every official action by the court, including, but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of fine or forfeiture resulting from every traffic complaint or citation deposited with or presented to the court, for a period of time set by the Council.
(Ord. No. SRO-417-2013, § 16-264, 2-1-2013; Ord. No. SRO-428-2014, § 16-264, 1-1-2014)

Sec. 16-265. Burden of proof and consolidation of cases.

(a) *Standard of proof.* The standard of proof on a civil offense shall be by a preponderance of the evidence. The standard of proof on a criminal offense shall be beyond a reasonable doubt.

(b) *Consolidation.* Civil and criminal traffic offenses based on the same conduct or otherwise related in their commission may be consolidated at any point in the proceedings on motion of a party or on the court's own motion. At the trial of any consolidated case, the rules governing the criminal offense shall apply, except that the civil offenses shall be tried to the court. The consolidated trial shall not change the applicable burden of proof for the civil or the criminal offense.
(Ord. No. SRO-417-2013, § 16-265, 2-1-2013; Ord. No. SRO-428-2014, § 16-265, 1-1-2014)

DIVISION 2. RULES OF PROCEDURE FOR CRIMINAL TRAFFIC OFFENSES

Sec. 16-266. Applicability of rules of criminal procedure for criminal traffic cases.

The rules of criminal procedure for the Community shall apply to all aspects of the criminal traffic offense, unless specifically described in this chapter. Criminal offenses alleged to have been committed under this chapter may be brought by the issuance of a traffic citation without bearing the prosecutor's signature, or by the submittal of a criminal complaint.
(Ord. No. SRO-417-2013, § 16-266, 2-1-2013; Ord. No. SRO-428-2014, § 16-266, 1-1-2014)

Sec. 16-267. Procedure for issuance of citation when officer completes personal service.

(a) *Filing of the citation.* When a law enforcement officer of the Community alleges a criminal offense arising under this chapter and issues a citation in person, whether that person is arrested or not, the officer shall immediately provide the cited person a copy of that citation, and shall promptly submit the citation to the Community prosecutor and the police department's designated agent for prompt filing with the Community court.

(b) *Time for appearance.* For any criminal offense arising under this chapter, where the person is issued a citation in person and not arrested, the citation shall require the appearance of the cited person at the Community court for an ar-

raignment, at a time at least ten) and no more than 30 days after the alleged offense occurred. The citation shall advise the cited person of the court date and time of the arraignment, and address of the court. Arraignment shall not be set on weekends or any Community holiday. Should any citation direct a cited person to appear on a weekend or Community holiday, the court shall reset the date and notify the cited person of a new date and time. The cited person shall be required to sign the citation which includes the notice of the time to appear. If the person refuses to sign the notice to appear, the officer may make an arrest without a warrant. This provision does not alter the officer's legal authority to make an arrest without a warrant pursuant to any other provision of the Community Code of Ordinances.

(c) *Arrested persons.* When an officer makes an arrest without a warrant, the citation accompanied by a sworn probable cause statement by the officer, shall be submitted to the court, and the court shall make a determination of probable cause. The citation will serve as the complaint.
(Ord. No. SRO-417-2013, § 16-267, 2-1-2013; Ord. No. SRO-428-2014, § 16-267, 1-1-2014)

Sec. 16-268. Procedure for issuance of citation not served in person.

In the event that the officer does not serve the cited person with a citation, the officer may submit the citation, or the requested charges along with the probable cause statement, to the Community prosecutor with a request for charges. The Community prosecutor shall determine if criminal charges should be submitted to the court from the request. The prosecutor may file a citation or a complaint with the court that includes the alleged offenses arising under this chapter. The prosecutor shall also request either a summons or a warrant to secure the appearance of the accused. The court shall refer to the rules of criminal procedure for guidance as to whether a summons or a warrant shall issue.
(Ord. No. SRO-417-2013, § 16-268, 2-1-2013; Ord. No. SRO-428-2014, § 16-268, 1-1-2014)

DIVISION 3. RULES OF PROCEDURE FOR CIVIL TRAFFIC OFFENSES

Sec. 16-269. Sufficiency and amendment of the complaint.

(a) *Sufficiency.* No civil traffic citation or complaint shall be deemed insufficient for failure to contain a sufficient statement of essential facts constituting the specific offense which the cited person is alleged to have committed if the citation or the complaint contains either a written description or the code designation of the offense.

(b) *Juveniles.* For offenses alleged against a juvenile, the citation or the complaint shall include a space that allows the juvenile to provide the name and address of his or her parent or legal guardian.

(c) *Amendments.* The court may permit a civil traffic citation or the complaint to be amended at any time before judgment if no additional or different offense is charged and if substantial rights of the cited person are not thereby prejudiced.

(d) *Conform to evidence.* The citation or the complaint may be amended to conform to the evidence adduced at hearing, if no additional or different offense is charged thereby and if substantial rights of the cited person are not thereby prejudiced.

(e) *Notice required.* If the cited person has convictions or adjudications for a prior offense under this chapter that would expose the person to any additional penalties, the prosecutor shall file a notice of prior adjudications or convictions five business days prior to the cited person's scheduled hearing.

(f) *Conflicts.* If the judge determines there is a conflict between the written description and the statutory description of a civil offense, the descriptive text shall take precedence unless the substantial rights of the cited person are prejudiced or such action would result in a criminal offense. In the event the judge cannot determine what offense was charged, the judge shall dismiss the offense without prejudice and provide the officer

who issued the citation or tribal prosecutor with an opportunity to refile the citation or charging document.
(Ord. No. SRO-417-2013, § 16-269, 2-1-2013; Ord. No. SRO-428-2014, § 16-269, 1-1-2014)

Sec. 16-270. Representation of parties.

(a) *Counsel.* Counsel for the cited person shall be permitted consistent with section 4-4 of the Community Code of Ordinances. If counsel has been retained to represent the cited person, counsel shall file an entry of appearance with the Community court and notify the prosecutor of the counsel's appearance. The hearing will be rescheduled if counsel for a cited party fails to notify the Prosecutor at least three business days before the hearing.

(b) *Community representation.* The Community law enforcement agency may be represented by the prosecutor, but may proceed without the assistance of the prosecutor. At the beginning of any traffic offense hearing, the prosecutor or the law enforcement agent shall advise the court of the representation.
(Ord. No. SRO-417-2013, § 16-270, 2-1-2013; Ord. No. SRO-428-2014, § 16-270, 1-1-2014)

Sec. 16-271. Initial appearance and entry of plea.

(a) *Time and place.* The citation shall require the appearance of the cited person at the Community court for an initial appearance, at a time at least ten and no more than 30 days after the alleged offense occurred. The citation shall advise the cited person of the court date and time of the initial appearance, and address of the court. Initial appearances shall not be set on weekends or any Community recognized holiday. If any cited person is ordered to appear on a weekend or Community holiday, the court shall reset the date and notify the cited person of a new date and time.

(b) *Entry of plea.* The cited person shall enter a plea of responsible or denial at the time of initial appearance to each and every offense in the citation. Failure to enter a plea to any offense shall be entered as an admission to the offense.

(c) *Denial of offenses.* The cited person may enter a denial to any and all of the offenses in the citation and an informal hearing on any challenged offenses shall be set consistent with section 16-272. When the cited person enters a denial and the matter is set for a hearing, the cited person shall ensure that the court is provided with a valid mailing address for service of any necessary court orders. The court shall advise the person that the duty to update the court for address changes is solely the responsibility of the cited person. In lieu of personal appearance, the cited person may mail in a correspondence denying responsibility for the cited offense and requesting a hearing. A default judgment will not be entered against a person who does not appear at the scheduled initial appearance if the person has mailed in correspondence denying responsibility for the cited offense and requesting a hearing and the correspondence is received by the court before the date of the scheduled initial appearance.

(d) *Admission of offenses.* The cited person may admit responsibility to any and all of the offenses, and offer any explanation to the court. The court shall consider any explanation of the person and impose a fine as penalty and enter the judgment.

(e) *Resolved by payment of fine.* When a cited person elects to admit the offense(s) in the citation, the cited person may submit payment to the clerk of the court pursuant to the established disposition schedule at appendix A prior to the initial appearance with the signed admission of responsibility for the offense either in person or by mail. The cited person bears the responsibility of ensuring that payment is received by the court prior to the scheduled initial appearance. Failure to ensure that payment is received by the court subjects the cited person to default judgment as described in subsection (b) of this section. In the event that the cited person submits payment, but such payment is received after the initial appearance, any entry of default shall prevail, but the submitted payment may be applied towards any imposed fine.
(Ord. No. SRO-417-2013, § 16-271, 2-1-2013; Ord. No. SRO-428-2014, § 16-271, 1-1-2014)

Sec. 16-272. Hearing.

(a) *Hearing.* If the cited person denies the allegations in the citation at the initial appearance, the matter shall be heard in an informal hearing before a judge of the Community court. The hearing shall be heard no sooner than 15 days and no later than 45 days after the initial appearance. The hearing shall be informal and without a jury. Witnesses may testify in narrative form. The Community shall have the burden of proof and shall prove the civil violation by a preponderance of the evidence. The rules of evidence do not apply, except for provisions relating to privileged communications.

(b) *Order of proceedings.* The order of proceedings shall be as follows:

(1) Direct, cross, and re-direct examination of Community's witnesses.

(2) Direct, cross, and re-direct examination of defense witnesses.

(3) Direct, cross, and re-direct examination of Community's rebuttal witnesses, if any.

(4) Argument of the parties or their counsel if permitted by the Court.

(5) Ruling by the court.

(c) *Witnesses.* The cited person and the Community may subpoena witnesses, but shall request the court issue subpoenas at least ten days prior to the hearing.

(d) *Discovery.* No pre-trial discovery shall be permitted absent extraordinary circumstances. Immediately prior to the hearing for the alleged offense, both parties shall produce for inspection any pre-prepared exhibits and written or recorded statements of any witness which may be offered at the hearing. Failure to comply with this rule may result, in the court's discretion, a continuance or recess to permit such inspection, or denying the admission of the evidence not so exchanged.

(e) *Continuances.* The Community or the cited person may request a continuance for the informal hearing in writing prior to the hearing, or in extraordinary circumstances, by oral motion at the beginning of the hearing. The court may grant a continuance when such a continuance is in the interest of justice, but shall not permit undue delay for the matter to proceed. When a continuance is requested and not granted, the parties are required to appear for the hearing, or may be subject to default consistent with section 16-273. (Ord. No. SRO-417-2013, § 16-272, 2-1-2013; Ord. No. SRO-428-2014, § 16-272, 1-1-2014)

Sec. 16-273. Outcomes of hearing, payment of fines.

(a) *Admissions by cited person.* The cited person may enter an admission of responsible to any and all of the offenses at the time of the hearing. After the admission of such offense, the judge shall consider any explanation of those offenses, and impose a fine as penalty.

(b) *Contested offenses.* For those offenses that the person enters a denial, the judge shall evaluate the evidence presented and determine if the Community has proven the contested allegation by a preponderance of the evidence.

(c) *Finding for Community, cited person responsible.* For any offense the judge finds in favor of the Community and the cited person is responsible, the judge shall impose a fine as penalty and record the judgment in accordance with disposition schedule at appendix A.

(d) *Finding for cited person, not responsible or dismissal of offense.* For any offense the judge finds in favor of the cited person, the judge shall enter and record judgment for the person.

(e) *Dismissal by Community.* The Community may also dismiss any and all alleged offenses in the citation at any time prior to the judge rendering a decision.

(f) *Default for Community, cited person's failure to appear.* When the court finds that the cited person received proper notice for the hearing and no requested continuance on behalf of the cited person for the hearing has been granted, and the person fails to appear, the court shall find the person responsible for the offenses alleged in the citation and impose a fine as penalty in accordance with disposition schedule at appendix A.

Notice shall be sent within three business days to the cited person at the address on record with the court as to the fine due and the date due.

(g) *Default for cited person, Community failure to prosecute.* When the court finds that the Community received proper notice for the hearing and no requested continuance on behalf of the Community has been granted, and the Community fails to appear and present evidence to support the alleged offenses in the citation, the court shall find that the Community has failed to prosecute the citation and dismiss the citation in its entirety with prejudice.

(Ord. No. SRO-417-2013, § 16-273, 2-1-2013; Ord. No. SRO-428-2014, § 16-273, 1-1-2014)

Sec. 16-274. Admissions, not evidence in other matters.

Any admission of an allegation contained in a civil traffic citation or a judgment on the matter shall not be evidence in any negligence-related claim or in any criminal matter.

(Ord. No. SRO-417-2013, § 16-274, 2-1-2013; Ord. No. SRO-428-2014, § 16-274, 1-1-2014)

Sec. 16-275. Payment of fines.

If a fine has been ordered under this section, the person shall pay the fine within 30 days of either the entry of judgment or the date the judgment is mailed to the cited person, whichever is later. If the payment of fine within 30 days of entry of judgment will create an economic burden on the person, the court may permit the person to make payments in installments. If the person fails to pay the fine imposed for violation of this chapter, the court may order that the driving privilege of the person be suspended after mailing the notice to the person's last known address in addition to other fine collection procedures. The court ordered suspension shall remain in effect until the person satisfies the fine. If the person is cited while their license is suspended pursuant to this chapter, the court may impose double the maximum penalty allowed pursuant to section 16-40.

(Ord. No. SRO-417-2013, § 16-275, 2-1-2013; Ord. No. SRO-428-2014, § 16-275, 1-1-2014)

DIVISION 4. JUVENILE TRAFFIC OFFENSES PROVISIONS

Sec. 16-276. Juvenile provisions.

For any offense with a criminal penalty arising under this chapter against a juvenile, the matter shall be heard and adjudicated by the juvenile court in accordance with chapter 11 and the delinquency process. Any matter that is subject to the delinquency process shall be transferred to the juvenile court without undue delay, and with proper notice to the juvenile and the parent or legal guardian and Tribal prosecutor's office. For any civil offense against a juvenile arising under this chapter, the matter shall be heard consistent with this chapter, with the following exceptions:

(1) A court shall not dispose of a civil traffic violation offense arising from the issuance of a traffic citation to a juvenile under 18 years of age unless a parent or guardian of such juvenile appears in court with such juvenile at the time of the disposition of such charge.

(2) In the event of unusual circumstances preventing the appearance of the parent or guardian, the court may waive the appearance and shall instead send written notice to the parent or guardian, if such be known, advising them of the charge and its disposition.

(3) When a fine is to be imposed upon a juvenile for a civil traffic offense, and the juvenile does not have the means to pay, the court may impose community service or an educational driving course.

(4) The court will exercise jurisdiction pursuant to this chapter only over those juveniles for whom it can exercise criminal jurisdiction.

(Ord. No. SRO-417-2013, § 16-276, 2-1-2013; Ord. No. SRO-428-2014, § 16-276, 1-1-2014)

Secs. 16-277—16-279. Reserved.

DIVISION 5. APPEALS

Sec. 16-280. Right to appeal.

A party may appeal any civil traffic case, criminal traffic case and juvenile traffic case as prescribed by the law of the Community and in the manner provided by the respective rules of appellate procedure. Any person who has admitted responsibility for any civil offense, shall be deemed to have forfeited any right to appeal.
(Ord. No. SRO-417-2013, § 16-280, 2-1-2013; Ord. No. SRO-428-2014, § 16-280, 1-1-2014)

ARTICLE IX. PEDESTRIANS' RIGHTS AND DUTIES*

Sec. 16-281. Right-of-way in crosswalks.

(a) *Yield.* When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is on the half of the roadway on which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. A pedestrian shall not suddenly leave any curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in subsection (b) of this section.

(b) *Prohibitions.* When any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.
(Ord. No. SRO-417-2013, § 16-281, 2-1-2013; Ord. No. SRO-428-2014, § 16-281, 1-1-2014)

Sec. 16-282. Crossing at other than at crosswalks.

(a) *Yield.* Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) *Tunnel or overhead crossing.* Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) *Marked crosswalk.* Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.
(Ord. No. SRO-417-2013, § 16-282, 2-1-2013; Ord. No. SRO-428-2014, § 16-282, 1-1-2014)

Sec. 16-283. Reserved.

Sec. 16-284. Pedestrians on roadways.

(a) *Sidewalks.* Where sidewalks are provided, a pedestrian shall not walk along and upon an adjacent roadway.

(b) *No sidewalks.* Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(c) *Soliciting rides.* No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle.
(Ord. No. SRO-417-2013, § 16-284, 2-1-2013; Ord. No. SRO-428-2014, § 16-284, 1-1-2014)

Sec. 16-285. School crossings.

(a) *In front of school.* In front of each school building, or school grounds abutting thereon, the Community by and with the advice of the school authorities is empowered to mark or cause to be marked a single crosswalk where children shall be required to cross the highway.

(b) *Additional crossings.* Additional crossings across highways not abutting school grounds may be approved by the Community upon application of school authorities, with written satisfactory assurance given to the Community that guards will be maintained by the school authorities at the elementary school crossings to enforce the proper use of the crossing by the school children.

*__Cross reference—__Pedestrian control signals, § 16-127.

(c) *Marking and signs required.* The Community shall provide for yellow marking of the school crossing, yellow marking of the center line of the roadway and the erection of portable signs indicating that vehicles must stop when persons are in the crossing. The Community shall also provide for the type and working of portable signs indicating that school is in session and permanent signs providing warning of approach to school crossings.

(d) *Placement of signs.* When such crossings are established, school authorities shall place within the highway the portable signs indicating that school is in session, placed not to exceed 300 feet each side of the school crossings, and "stop when children in crosswalk" signs at school crossings. School authorities shall maintain these signs when school is in session and shall cause them to be removed immediately thereafter.

(e) *Speed limit.* No vehicle shall proceed at a speed to exceed 15 miles per hour when approaching the crosswalk and while between the portable signs placed on the highway indicating "school in session" and "stop when children in crosswalk."

(f) *School in session defined.* When the phrase "school in session" is used in this section, either referring to the period of time or to signs, it means during school hours or while children are going to or leaving school during opening or closing hours.

(g) *Vehicles to obey signs.* When the school authorities place and maintain the required portable "school in session" signs and "stop when children in crosswalk" signs, all vehicles shall come to a complete stop at the school crossing when the crosswalk is occupied by any person.
(Ord. No. SRO-417-2013, § 16-285, 2-1-2013; Ord. No. SRO-428-2014, § 16-285, 1-1-2014)

Sec. 16-286. Use of white cane.

(a) *Cane required.* Any person who is wholly or industrially blind shall, when walking on a street or highway, unless guided by a guide dog or assisted by a person with sight, carry a white cane with a red tip of approximately eight inches.

(b) *Definition.* For the purposes of this section a person is blind who has central visual acuity of 20/200 or less in the better eye or central visual acuity of more than 20/200 in the better eye if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees.

(c) *Yield.* Any person operating a motor vehicle other than an emergency vehicle the siren of which is being sounded shall bring the motor vehicle to a stop and yield the right-of-way at a street, avenue, alley or other public highway intersection to a blind or industrially blind person carrying a white cane with a red tip, or who is being guided by a guide dog when the person enters the intersection.

(d) *Exception.* This section shall not be construed to deprive a totally or industrially blind person not carrying a white cane or being guided by a dog of the rights and privileges conferred by law upon pedestrians crossing ways, nor shall the failure of a blind person to carry a white cane or be guided by a guide dog while on the ways be held to constitute prima facie evidence of contributory negligence.
(Ord. No. SRO-417-2013, § 16-286, 2-1-2013; Ord. No. SRO-428-2014, § 16-286, 1-1-2014)

Secs. 16-287—16-290. Reserved.

ARTICLE X. ABANDONED AND SEIZED VEHICLES*

Sec. 16-291. Reserved.

Sec. 16-292. Abandonment prohibited; removal; presumption.

(a) *Violation.* No person shall abandon a vehicle upon any street or on the right-of-way of any highway or thoroughfare.

(b) *Removal.* Any law enforcement officer of the Community who has reasonable grounds to believe that a vehicle has been lost, stolen, aban-

*__Cross references—__Procedure for recovery of property in possession of Community, §§ 1-6—1-8; seizure of vehicle used in narcotics-related offense, § 6-122; removal of illegally stopped vehicle, § 16-197.

doned or otherwise unclaimed may remove or cause the removal of such vehicle from any street, highway or thoroughfare.

(c) *Presumption of responsibility.* The abandonment of any vehicle in a manner provided in this article shall constitute a presumption that the last registered owner of record is responsible for such abandonment, unless a person who has filed:

(1) An affidavit that the vehicle has been stolen pursuant to the laws of any state, United States government, federally recognized Indian tribes, or foreign government;

(2) A stolen vehicle report with the Salt River Police Department; or

(3) A report transferring title or interest with respect to the motor vehicle pursuant to Arizona Revised Statutes, Sec. 28-2058.

(d) *Evidence.* Evidence that a vehicle was left unattended for a period of 48 hours within the right-of-way of a highway, road, street, or other thoroughfare, shall be prima facie evidence of abandonment.
(Ord. No. SRO-417-2013, § 16-292, 2-1-2013; Ord. No. SRO-428-2014, § 16-292, 1-1-2014)

Sec. 16-293. Required report of abandoned and seized motor vehicles; violation.

Any person having knowledge and custody of a vehicle which is lost, stolen, abandoned or otherwise unclaimed, or of a vehicle which has been seized pursuant to law or removed from the right-of-way of any highway, road, street or other Community property, by order of a Community police officer, or other authorized law enforcement officer, and which has been held for a period of 15 days, where no claim has been made for the return or possession thereof by any person legally entitled thereto, shall make a report thereof to the police department within five business days after the expiration of the 15-day retention period for disposal of the vehicle by public auction and sale in accordance with this article. The report shall contain a complete description of the vehicle, the vehicle license or registration number, if any, the circumstances of the officer's removal or custody and other information which may be required by the police department. Any person who fails to make such report is guilty of a criminal offense.
(Ord. No. SRO-417-2013, § 16-293, 2-1-2013; Ord. No. SRO-428-2014, § 16-293, 1-1-2014)

Sec. 16-294. Notice of sale.

(a) *Inquiry.* The police department shall, upon receipt of a report as required by this article, make an inquiry to the Arizona Department of Transportation, Records Division, to ascertain the name and address of the owner or lien holder, if any, of the vehicle. If the vehicle appears to be registered in another state or foreign country, the police department shall make inquiry of the vehicle registration agency of such state or foreign country to ascertain the name and address of the owner or lien holder, if any, of the vehicle.

(b) *Notice.* Upon receipt of information disclosing the name and address of the owner or lien holder, if any, the police department shall, not less than 15 days prior to the date of taking such action, give to the owner or lienholder, if any, notice of its intention to sell the vehicle. Notice shall be given by registered or certified mail and request made for a return receipt.

(c) *Publication.* If the records of the Arizona Department of Transportation or the vehicle registration agency of another state or foreign country, fail to disclose the name and address of the owner or lienholder, if any, and there appears to be no registered holder in any state or foreign country, or if the notice is returned marked "unclaimed" or "addressee unknown," then notice of the police department's intention to sell shall be published once in a newspaper of general circulation in Maricopa County. The notice shall include a complete description of the vehicle and the place and date the vehicle was found, seized or taken into possession.

(d) *Claimed vehicle.* Any person who has filed a report of an abandoned vehicle in accordance with this article shall notify the police department within 24 hours if the vehicle is claimed by the owner.
(Ord. No. SRO-417-2013, § 16-294, 2-1-2013; Ord. No. SRO-428-2014, § 16-294, 1-1-2014)

Sec. 16-295. Sale of vehicles.

(a) *Sale.* If at the expiration of 15 days from the mailing of the registered or certified notice, or upon the expiration of the 15 days from the publication as provided in this article, the vehicle is unclaimed, the police department may sell the vehicle at public auction to the highest bidder upon notice of the sale published in one issue of a newspaper of general circulation in Maricopa County. The notice shall include a complete description of the vehicle to be sold and the time, place and date of sale, which shall not be less than five nor more than ten days following the date of publication of the notice.

(b) *Affidavit.* Prior to the sale at public auction of the abandoned, seized, lost or otherwise unclaimed vehicle, the police department shall present to the Community court evidence of compliance with this article by an affidavit signed under oath by an officer of the police department. Such affidavit shall be made on a form approved by the Community.

(c) *Court order.* The Community court, upon submission of the affidavit in subsection (b) of this section and there being no proper responses to such notice, and just cause appearing, shall sign an order extinguishing and permitting the sale of said vehicle at public auction.
(Ord. No. SRO-417-2013, § 16-295, 2-1-2013; Ord. No. SRO-428-2014, § 16-295, 1-1-2014)

Sec. 16-296. Required report of towed vehicles; violations.

Except if acting under the direction of the police department, a person who moves, or tows any vehicle into an auto repair shop, parking lot, private property, storage yard or wrecking yard, without the consent of the owner, shall notify the police department within one hour of the time the vehicle is moved or towed. The notification may be made in person or by telephone. Any person who fails to make such report is guilty of a criminal offense.
(Ord. No. SRO-417-2013, § 16-296, 2-1-2013; Ord. No. SRO-428-2014, § 16-296, 1-1-2014)

Secs. 16-297—16-300. Reserved.

ARTICLE XI. BICYCLES AND PLAY VEHICLES

Sec. 16-301. Application of provisions.

(a) *Parents and guardians.* The parent or a guardian of a child and the guardian, with the exception of Community employees and officials serving as guardian in an official capacity of a ward, shall not authorize or knowingly permit the child or ward to violate any of the provisions of this chapter.

(b) *Highways and paths.* The regulations of this chapter in their application to bicycles shall apply when a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated in this article.
(Ord. No. SRO-417-2013, § 16-301, 2-1-2013; Ord. No. SRO-428-2014, § 16-301, 1-1-2014)

Sec. 16-302. Traffic laws apply to persons riding bicycles.

Every person riding a bicycle upon a roadway shall be granted all the rights and shall be subject to all the duties applicable to the driver of a vehicle by this chapter except as to special regulations in this article, and except as to those provisions of this chapter which by their nature can have no application.
(Ord. No. SRO-417-2013, § 16-302, 2-1-2013; Ord. No. SRO-428-2014, § 16-302, 1-1-2014)

Sec. 16-303. Riding on roadways and bicycle paths.

(a) *Right side.* Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) *Prohibition.* Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) *Use of path.* Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use the path and shall not use the roadway.
(Ord. No. SRO-417-2013, § 16-303, 2-1-2013; Ord. No. SRO-428-2014, § 16-303, 1-1-2014)

Sec. 16-304. Manner of riding.

(a) *Seat.* A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) *Prohibition.* No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(Ord. No. SRO-417-2013, § 16-304, 2-1-2013; Ord. No. SRO-428-2014, § 16-304, 1-1-2014)

Sec. 16-305. Carrying articles.

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handle bars.
(Ord. No. SRO-417-2013, § 16-305, 2-1-2013; Ord. No. SRO-428-2014, § 16-305, 1-1-2014)

Sec. 16-306. Lamps and other equipment on bicycles.

(a) *Lamp required.* Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on motor vehicles. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) *Prohibition.* No person shall operate a bicycle equipped with a siren or whistle.

(c) *Brake required.* Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
(Ord. No. SRO-417-2013, § 16-306, 2-1-2013; Ord. No. SRO-428-2014, § 16-306, 1-1-2014)

Sec. 16-307. Clinging to vehicles.

No person riding upon any bicycle, coaster, skateboard, roller skates, sled or toy vehicle shall attach that thing being ridden or that person to any vehicle upon a roadway.
(Ord. No. SRO-417-2013, § 16-307, 2-1-2013; Ord. No. SRO-428-2014, § 16-307, 1-1-2014)

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
Article I, §	In General				
16-7	Obedience to law enforcement officers				Criminal Offense
16-9	Driver's duty when approaching horse or livestock			X	
16-10	Injuring, unlawfully starting, using or preventing use of vehicles				Criminal Offense
16-11	Placing or allowing dangerous articles on roadway			X	
16-12	Crossing fire hose				Criminal Offense

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
Article II, §	Registration, Licensing & Inspection				
16-31	Registration of motor vehicle required; exceptions			X	
16-32	Registration violations				Criminal Offense
16-33	Driver's License Required; penalty				Criminal Offense
16-34	License to operate a motorcycle or motor-driven cycle; exception.		X		
16-35	Restricted licenses				Criminal Offense
16-36	Possession and Display of driver license	X			
16-37	Unlawful Use of License				Criminal Offense
16-38	Permitting unauthorized person to drive	X			
16-39	Permitting unauthorized minor to drive; liability therefore				Criminal Offense
16-40	Driving on suspended license	X			
16-42	Inspection by community officers	X, reduce to zero if repair made			
16-43	Owner or driver to comply with inspection provisions	X, reduce to zero if repair made			
Article III, §	Equipment				
	Div. 1. Generally				
16-51	Vehicle to be in good working order	X			
16-52	Vehicle to comply with article; exceptions	X			
16-53	Special requirements for motorcycles and motor-driven cycles		X		
16-54	Brakes	X, reduce to zero if repair made			
16-55	Horns and audible warning devices	X, reduce to zero if repair made			
16-56	Mufflers and air pollution control devices	X, reduce to zero if repair made			
16-57	Mirrors	X, reduce to zero if repair made			
16-58	Windshields	X, reduce to zero if repair made			

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
16-59	Tires	X, reduce to zero if repair made			
16-60	Rear fender splash guards	X, reduce to zero if repair made			
16-61	Prohibition Against Image Display Device	X			
16-62	Certain vehicles to carry flares or other warning devices	X			
16-63	Display of warning devices when vehicle disabled	X			
16-64	Vehicles transporting explosives	X			
16-66	Projecting loads	X			
	Div. 2. Lights, Lamps, Reflectors and Illuminating Devices				
16-71	When lamps require to be lighted	X			
16-72	Visibility distance and mounted height of the lamp	X			
16-73	Head lamps	X, reduce to zero if repair made			
16-74	Tail lamps	X, reduce to zero if repair made			
16-75	Reflectors on new motor vehicles	X, reduce to zero if repair made			
16-77	Additional equipment required on certain vehicles	X, reduce to zero if repair made			
16-79	Color of clearance lamps and reflectors	X, reduce to zero if repair made			
16-80	Mounting of reflectors and clearance and marker lamps	X, reduce to zero if repair made			
16-81	Visibility of reflectors and clearance and marker lamps	X, reduce to zero if repair made			
16-82	Lights Obstructed	X, reduce to zero if repair made			
16-83	Parked vehicles	X, reduce to zero if repair made			
16-84	Lamps on animal-drawn and other equipment or vehicles	X, reduce to zero if repair made			
16-85	Spot and auxiliary lamps	X, reduce to zero if repair made			

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
16-86	Signal lamps and devices	X, reduce to zero if repair made			
16-87	Fender, running-board and backup lamps	X, reduce to zero if repair made			
16-88	Multiple Lighting Specifications	X, reduce to zero if repair made			
16-89	Multiple beam lighting equipment usage	X, reduce to zero if repair made			
16-90	Single-beam lights	X, reduce to zero if repair made			
16-91	Alternate road-lighting equipment	X, reduce to zero if repair made			
16-92	Number of driving lamps required, permitted	X			
16-93	Special restrictions on lamps	X			
16-94	Head lamps on motor-driven cycles and ATV	X			
	Div. 3. Seat Belt Requirements				
16-95	Restraint Use for Children at least nine years of age				$40
16-96	Restraint use for children under nine years of age				$40
16-97	Operator and Passenger seat belt use				$40
Article IV, §	Size, Weight & Scope				
16-103	Liability for damage resulting from overweight load				TBD upon filing of a civil action brought by the Community
16-104	Width of vehicle and load	X			
16-105	Projecting loads on passenger vehicles	X			
16-106	Height and length of vehicle loads	X			
16-107	Length of load projection	X			
16-108	Loads and covers to be secured	X			
16-109	Towed vehicles	X			
16-110	Single-axel load limit				See Table. Min $100 to $500; Max $2,500

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
16-111	Gross weight of vehicles and loads				See Table. Min $100 to $500; Max $2,500
16-112	Community officers authorized to stop vehicles, weigh, and require removal of excess weight				Criminal Offense
16-113	Permit for excess size and weight				Permit Fees
Article V, §	Traffic-Control Devices				
16-122	Obedience to devices required; exception	X			
16-124	Flashing signals	X			
16-125	Stop signs and yield signs	X			
16-127	Pedestrian control signals			X	
16-128	Construction or road work site warning devices	X			
16-129	Injuring, defacing traffic-control or warning signs	X			
Article VI, §	Operation of Vehicles				
	Div. 1. Generally				
16-141	Operation of vehicles by non-members on land other than Community roadways	X			Plus Civil Damages and vehicle impounded
16-142	Driving on right side of roadway; exceptions	X			
16-143	Driving on roadways laned for traffic and rotary traffic islands	X			
16-144	Driving on divided highways	X			
16-145	Drivers on controlled access roadways to use only authorized entrances and exits	X			
16-146	Driving on mountain highways		X		
16-147	Moving parked vehicle			X	
16-148	Motorcycle, motor-driven-cycle, and ATV riders and passengers to ride on designated seats		X		

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
16-149	Operation of vehicles upon approach of authorized emergency vehicle	X			
16-150	Operation of vehicle upon approach of school bus	X			
16-151	Following too closely			X	
16-152	Coasting prohibited			X	
16-153	Turning movements; signals required			X	
16-154	Signals by hand and arm or device			X	
16-155	Method of giving hand and arm signals			X	
16-156	Required positions and method of turning at intersections	X			
16-157	Turning on curve or crest of grade prohibited	X			
16-158	Backing			X	
16-159	Obstruction of driver's view or interference with the driver's control of vehicle	X			
	Div. 2. Right-of-way and Passing				
16-171	Right-of-way of vehicles entering intersection at same time; entering freeway		X		
16-172	Right-of-way of vehicle turning left at intersection		X		
16-173	Right-of-way of vehicle entering through highway or stop intersection		X		
16-174	Vehicle entering highway from private road or driveway		X		
16-175	Passing vehicles proceeding in opposite directions	X			
16-176	Overtaking vehicles on the left, generally		X		
16-177	Prerequisites for overtaking on the left		X		
16-178	When driving on the left prohibited	X			
16-179	Overtaking on the right		X		
16-180	No passing zones	X			
	Div. 3. Stopping, Standing and Parking				

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
16-191	Vehicles to be parked or stopped off pavement if possible			X	
16-192	Parking, stopping, standing prohibited in specified places			X	
16-193	Parking within eighteen inches of curb			X	
16-194	Angle parking			X	
16-195	Council authorized to place signs prohibiting or restricting parking, stopping and standing			X	
16-196	Parking privilege for physically disabled	X			
16-197	Removal of illegally stopped vehicles				Costs
16-198	Stop required before emerging from alley or driveway	X			
	Div. 4. Speed Restrictions				
16-212	Maximum speed limit			X	
16-213	Minimum speed limit			X	
16-214	Speed limits for motor-driven cycles or ATV's			X	
16-215	Speeds to be reasonable and prudent			X	Plus $5/every mile over & becomes a criminal offense if more than 20 miles above speed limit
16-216	Speed restriction on bridges and elevated structures	X			
16-217	Speed limits for solid-rubber tired vehicles			X	
16-218	Establishment and amendment of speed limits			X	
16-219	Speed limits on freeways			X	
16-220	Racing and drag races				Criminal Offense
16-221	Driving at speed which causes trailer to sway	X			
	Div. 5. DUI; Reckless Driving				

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
16-231(a)	DUI				Criminal Offense
16-231(b)	Extreme DUI				Criminal Offense
16-231(c)	Refusal to submit				Criminal Offense
16-234	Reckless driving				Criminal Offense
16-235	Liability for Emergency Responses in Flood Areas				Rescue costs
	Div. 6. Truck Routes				
16-237	Certain commercial vehicles prohibited on non-truck routes; exceptions	X			
Article VII, §	Accidents				
16-240	Duty to give information and render aid	X			
16-241	Accidents involving death or injury to a person				Criminal Offense
16-242	Accidents involving vehicle damage only				Criminal Offense
16-243	Duty upon striking unattended vehicle				Criminal Offense
16-244	Duty upon striking fixtures upon a highway	X			
16-245	Immediate reports of certain accidents	X			
16-250	Additional Penalty for failure to report	X			
16-251	Auto Repair Shops to report	X			
Article IX, §	Pedestrians' Rights & Duties				
16-281	Right-of-way in crosswalks			X	
16-282	Crossing at other than at crosswalks			X	
16-284	Pedestrians on roadways			X	
16-285	School Crossings	X			
16-286	Use of a White Cane	X			
Article X, §	Abandoned & Seized Vehicles				
16-292	Abandonment prohibited; removal; presumption	X			

*CHAPTER 16,TRAFFIC AND MOTOR VEHICLES, DISPOSITION SCHEDULE, CIVIL OFFENSES**					
		Civil			
Article, §	*Offense*	*Class 1 ($100)*	*Class 2 ($75)*	*Class 3 ($50)*	*Other***
16-293	Required report of abandoned and seized motor vehicle; violation				Criminal Offense
16-296	Required Report of towed vehicles; violations				Criminal Offense
Article XI, §	Bicycles & Play Vehicles				
16-301	Application of Provisions			X	
16-302	Traffic laws apply to persons riding bicycles			X	
16-303	Riding on roadways and bicycle paths			X	
16-304	Manner of riding			X	
16-305	Carrying articles			X	
16-306	Lamps and other equipment on bicycles			X	
16-307	Clinging to vehicles	X			
*From page 1	Description	Action by schedule or Code section			
First Offense	Civil traffic violation	Apply above schedule			
Unenumerated	Any traffic offense not on this schedule	Follow § 16-2 and/or specific offense			
Criminal	Various criminal penalties. Note above classification schedule is limited to civil traffic offenses.	Follow § 16-2 (b)(2) and/or specific offense			
Interpretation	Apply schedule, harmonize and reconcile with applicable statutory provisions in case of conflict and consistent with disposition contained specific offense, if any.	§16-1 et seq.			
**	Denotes special civil sanction, or criminal offense	Follow specific Code provision			

Chapter 17

DEVELOPMENT, REAL PROPERTY AND HOUSING

Article I. In General

Sec. 17-1. Definitions.
Sec. 17-2. Policy concerning cultural preservation in development.
Sec. 17-3. Development standards.
Sec. 17-4. Construction of chapter.
Sec. 17-5. Authority of Community Council in matters affecting development of allotted lands and public property.
Sec. 17-6. Approval of contracts, leases and other instruments.
Sec. 17-7. Land management board.
Sec. 17-8. Community development department.
Sec. 17-9. Application for development of allotted lands or public property.
Sec. 17-10. Modified procedure and requirements for short-term mining and other nondevelopment land uses.
Sec. 17-11. Special procedure for grants of right-of-way.
Sec. 17-12. Modified procedure and requirements regarding the lease of developed agricultural land for agricultural purposes.
Sec. 17-13. Exception for purchase or construction of home.
Sec. 17-14. Agricultural lease conditions for cotton or grain crops.
Sec. 17-15. Group homes.
Secs. 17-16—17-33. Reserved.

Article II. Eminent Domain

Sec. 17-34. Purposes for which eminent domain may be exercised.
Sec. 17-35. Prerequisite to condemnation.
Sec. 17-36. Actions for condemnation; immediate possession; money deposit.
Sec. 17-37. Complaint.
Sec. 17-38. Summons; contents; service.
Sec. 17-39. Right to defend action.
Sec. 17-40. Ascertainment and assessment of value, damages and benefits.
Sec. 17-41. Accrual of right to compensation and damages; limitation.
Sec. 17-42. Final order of condemnation; vesting of property.
Sec. 17-43. Procedures following judgment.
Sec. 17-44. Costs.
Secs. 17-45—17-61. Reserved.

Article III. Roadway Construction

Sec. 17-62. Definitions.
Sec. 17-63. Authorization required for construction.
Sec. 17-64. Applicability of article.
Sec. 17-65. Exclusion of certain lands.
Sec. 17-66. Procedure; hearing and notice.
Sec. 17-67. Report to the Community Council.
Sec. 17-68. Action by Community Council.
Secs. 17-69—17-94. Reserved.

Article IV. Street Numbers and Names

Sec. 17-95. Policy.
Sec. 17-96. Street addressing.
Sec. 17-97. Street naming.
Sec. 17-98. Block addressing.

Secs. 17-99—17-124. Reserved.

Article V. Homesites

Division 1. Generally

Sec. 17-125. Policy.
Sec. 17-126. Definitions.
Secs. 17-127—17-150. Reserved.

Division 2. Homesite Leases On Tribal Lands

Sec. 17-151. Designated area for homesites on tribal lands.
Sec. 17-152. Application for homesite lease on tribal lands.
Secs. 17-153—17-172. Reserved.

Division 3. Homesites On Allotted Lands

Sec. 17-173. Community development department to maintain and administer.
Secs. 17-174—17-199. Reserved.

Division 4. Homesites Generally

Sec. 17-200. Period of assignment; renewal option; fee.
Sec. 17-201. Rights of homesite assignee.
Sec. 17-202. Governmental access and responsibilities.
Sec. 17-203. Veteran's preference.
Sec. 17-204. Exchange of land for homesites.
Secs. 17-205—17-233. Reserved.

Article VI. Forcible Entry and Detainer

Sec. 17-234. Definitions.
Sec. 17-235. Forcible entry.
Sec. 17-236. Forcible detainer.
Sec. 17-237. Immateriality of time possession obtained by tenant.
Sec. 17-238. Complaint and answer; service and return.
Sec. 17-239. Demand for jury; trial procedure.
Sec. 17-240. Trial and issue; postponement of trial.
Sec. 17-241. Judgment; writ of restitution; limitation on issuance.
Sec. 17-242. Appeal to Community court of appeals; notice; bond.
Sec. 17-243. Stay of proceedings on judgment; record on appeal.
Sec. 17-244. Trial and judgment on appeal; writ of restitution.
Sec. 17-245. Proceedings no bar to certain actions.
Secs. 17-246—17-268. Reserved.

Article VII. Outdoor Advertising Signs

Sec. 17-269. Title.
Sec. 17-270. Purpose.
Sec. 17-271. Applicability.
Sec. 17-272. Definitions.
Sec. 17-273. Permit.
Sec. 17-274. Additional outdoor advertising signs prohibited.
Sec. 17-275. Nonconformity.
Sec. 17-276. Sign standards.
Sec. 17-277. Required removal.
Sec. 17-278. Signage agreements.

Secs. 17-279—17-304. Reserved.

Article VIII. Uniform Road and Utility Corridors

Sec. 17-305. Policy.
Sec. 17-306. Definitions.
Sec. 17-307. Utilization of roadway rights-of-way.
Sec. 17-308. Width standards for roadway and utility corridor rights-of-way.
Sec. 17-309. Procedure for request of right-of-way easements.
Sec. 17-310. Limitations of grantees.
Sec. 17-311. Effect of corridor grant of right-of-way.
Sec. 17-312. Regulations.
Secs. 17-313—17-342. Reserved.

Article IX. Highway Rights-of-Way

Sec. 17-343. Encroachment permit requirement.
Sec. 17-344. Scope.
Sec. 17-345. Encroachment permit application procedures.
Sec. 17-346. Minimum setback.
Sec. 17-347. City-issued state permits.
Sec. 17-348. Maintenance responsibility.
Sec. 17-349. Unauthorized encroachments.
Sec. 17-350. Rule-making authority.
Secs. 17-351—17-373. Reserved.

Article X. Subdivisions

Sec. 17-374. Policy.
Sec. 17-375. Generally.
Sec. 17-376. Scope and contents of development master plan.
Sec. 17-377. Preliminary plat review.
Sec. 17-378. Information required on preliminary plat.
Sec. 17-379. Final plat review.
Sec. 17-380. Information required on final plat.
Secs. 17-381—17-403. Reserved.

Article XI. Encumbrance of Land

Division 1. Generally

Secs. 17-404—17-434. Reserved.

Division 2. Mortgages

Sec. 17-435. Jurisdiction.
Sec. 17-436. Definitions.
Sec. 17-437. Interests which may be mortgaged; formal requirements; recording.
Sec. 17-438. Mortgage as lien; rights of possession.
Sec. 17-439. Acknowledgements of satisfaction; recording; liability for failure to acknowledge satisfaction.
Sec. 17-440. Foreclosure.
Sec. 17-441. Notice of default to Community.
Sec. 17-442. Recordation of documents.
Secs. 17-443—17-467. Reserved.

Division 3. Deeds of Trust

Sec. 17-468. Definitions.
Sec. 17-469. Description of property; mailing address.
Sec. 17-470. Trustee qualifications.
Sec. 17-471. Appointment of successor trustee by beneficiary.
Sec. 17-472. Transfers in trust of real property.
Sec. 17-473. Right to transfer; fee limit; interest rate increase limit.
Sec. 17-474. Sale of trust property; power of trustee; foreclosure of deed.
Sec. 17-475. Notice to Community; Community right to purchase property.
Sec. 17-476. Notice of trustee's sale.
Sec. 17-477. Request for copies of notice of sale; mailing by trustee or beneficiary; disclosure of information regarding trustee sale.
Sec. 17-478. Sale by public auction; postponement of sale.
Sec. 17-479. Payment of bid; deliverance of deed.
Sec. 17-480. Disposition of proceeds of sale.
Sec. 17-481. Default in performance of contract secured; reinstatement; cancellation of recorded notice of sale.
Sec. 17-482. Action to recover balance after sale or foreclosure on property under deed.
Sec. 17-483. Recordkeeping.
Sec. 17-484. Limitation on action or sale of trust property.
Sec. 17-485. Transfer of secured contract.
Sec. 17-486. Notice from instruments recorded; assignment of a beneficial interest.
Sec. 17-487. Rights of trustee and attorney.
Secs. 17-488—17-512. Reserved.

Article XII. Development Fees

Sec. 17-513. Policy and purpose.
Sec. 17-514. Findings.
Sec. 17-515. Adoption of technical report as basis of development fees.
Sec. 17-516. Interpretations of article.
Sec. 17-517. Effect on other regulations and requirements.
Sec. 17-518. Definitions.
Sec. 17-519. Applicability of this article; exemptions.
Sec. 17-520. Application; calculation, collection of development fees; administrative fees.
Sec. 17-521. Individual assessment of development fee.
Sec. 17-522. Offsets against development fees due.
Sec. 17-523. Use of funds collected; development fee accounting.
Sec. 17-524. Refunds.
Sec. 17-525. Updating; annual adjustments.
Sec. 17-526. Annual statement; capital improvements program.
Sec. 17-527. Storm drainage development fee.
Sec. 17-528. Street development fee.
Sec. 17-529. Water development fee.
Sec. 17-530. Wastewater development fee.
Sec. 17-531. Public safety development fee.
Sec. 17-532. Appeals.
Sec. 17-533. Violation; penalty.

ARTICLE I. IN GENERAL

Sec. 17-1. Definitions.

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

Allotted land means land which has been allotted to individual ownership under the trusteeship of the United States government.

Commercial development means any use of land which includes construction or installation of buildings or other structures which will be used in any business enterprise or activity or engaging in business or commerce on such land.

Designates land means the action by the Community Council memorializing in a written document the description of a particular parcel of land or other natural resource of the Community which the Community Council thereby sets aside, subject to whatever conditions it imposes in such document, for the use of a division of the Community or of any other business entity of which the Community owns at least a majority interest.

Lands, natural resources and other public property of the Community means all real property in the Community including the products thereof, in the ownership of the Community-at-large under the trusteeship of the United States government.

Other instruments shall include in its meaning any instrument by which the Community Council designates land or any natural resource owned by the Community for use of a division of the Community or of any other business entity of which the Community has at least a majority ownership interest.

(Code 1981, § 17-1; Code 2012, § 17-1; Ord. No. SRO-25-74, § 1, 3-21-1979; Ord. No. SRO-183-95, § 1, 10-12-1994; Ord. No. SRO-204-95, 6-21-1995; Ord. No. SRO-402-2012, § 17-1, 5-30-2012)

Sec. 17-2. Policy concerning cultural preservation in development.

(a) The Community Council, recognizing the profound impact of population growth, high-density urbanization, industrial expansion, resource exploitation, and the critical importance of maintaining the Community as a Community of Indian people dedicated to the preservation of Indian cultural and the economic, educational and cultural advancement of the Community of Indian people declares that it is the continuing policy of the Community to use all practicable means and measures, in a manner calculated to foster and promote the general welfare to create and maintain conditions under which the Indian people of the Community can exist in productive harmony, and fulfill the social, cultural, economic and other requirements of their present and future generation.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Community to use all practicable means to improve and coordinate its plans, functions, programs, and resources to the end that the Community may:

(1) Fulfill the responsibilities of each generation as trustees of the culture and the environment for succeeding generations;

(2) Ensure for all Indian people of the Community safe, healthful, productive and aesthetically and culturally pleasing surroundings;

(3) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) Preserve important historic, cultural and natural aspects of our heritage, and maintain, within the Pima-Maricopa tradition, an environment which supports diversity and variety of individual choice;

(5) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(Code 1981, § 17-2; Code 2012, § 17-2; Ord. No. SRO-25-74, § 2, 3-21-1979; Ord. No. SRO-402-2012, § 17-2, 5-30-2012)

Sec. 17-3. Development standards.

The Community Council authorizes and directs that, to the fullest extent possible the policies, regulations and public laws of the Community shall be interpreted and administered in accordance with the policies set forth in this chapter and all agencies of the Community shall:

(1) Utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision-making which may have an impact on the continued integrity of the Community as an Indian Community;

(2) Identify and develop methods and procedures which will ensure that the integrity of the Community and its Indian culture and values may be given appropriate consideration in decision-making along with economic and technical considerations:

(3) Include in every recommendation or report on proposals for the use, development or disposition of allotted or Community land, a detailed statement by the land management board on:

a. The impact of the proposed action on Community integrity and Indian culture;

b. Any adverse effects on Community integrity and Indian culture which cannot be avoided should the proposal be implemented;

c. Alternatives to the proposed action;

d. The relationship between local short-term economic benefit and the maintenance and enhancement of Community integrity and Indian culture; and

e. Any irreversible and irretrievable commitments affecting the Community integrity and Indian culture, which would be involved in the proposed action should it be implemented.

Prior to the making of any detailed statement by the land management board, the planning and land management department shall consult with and obtain the comments of any Community agency which has jurisdiction by law or special expertise with respect to any impact involved. Copies of such statement and the comments and views obtained shall accompany the proposal through the review process;

(4) Study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

(Code 1981, § 17-3; Code 2012, § 17-3; Ord. No. SRO-25-74, § 3, 3-21-1979; Ord. No. SRO-402-2012, § 17-3, 5-30-2012)

Sec. 17-4. Construction of chapter.

The policies and goals set forth in this chapter are supplementary to those set forth in existing ordinances of the Community and subject to the laws of the United States.

(Code 1981, § 17-4; Code 2012, § 17-4; Ord. No. SRO-25-74, § 4, 3-21-1979; Ord. No. SRO-402-2012, § 17-4, 5-30-2012)

Sec. 17-5. Authority of Community Council in matters affecting development of allotted lands and public property.

(a) No contract, lease or other instrument affecting the use and disposition of allotted land within the Community shall be binding upon the signatories thereto unless such contract, lease or other instrument is approved by the Community Council, and no person shall commence any commercial development within the Community without approval by the Community Council, and no person shall commence any commercial development within the Community without approval by the Community Council.

(b) No contract, lease or other instrument affecting the use and development of the lands, natural resources and other public property of the Community shall be entered into or be binding without the approval of the Community Council.

(c) The final decision in all matters relating to the use and disposition of allotted land and the use and development of land, natural resources and other public property of the Community shall be vested in the Community Council.

(d) Prior to the final decision of the Community Council relating to any proposal received by the Community Council from the land management board, and within 20 days of the receipt of such proposal, the Community Council shall set a time upon its agenda at a regularly scheduled council meeting with a consideration of such proposal and the recommendation of the land management board. Notice for such hearing shall be made no less than seven days prior to the date of hearing and shall be sent by ordinary mail to all persons who had received notice of the hearing concerning the proposal before the land management board as well as all other members of the Community, who, in writing, request such notice.

(e) If the Community Council finds in any particular situation that it is unnecessary to utilize the procedures of subsection (d) of this section and section 17-7(d) because adequate public hearing and notice has occurred or will occur under special procedures adopted by the Community Council to adequately inform members of the Community of the intended use and development of land, natural resources and/or other public property of the Community, and if the Community Council by resolution sets out the facts that is has found and the conclusions it has drawn from those facts, it may, by the same resolution, adopt special procedures and waive the procedures of subsection (d) of this section and section 17-7(d) for the particular use and development. The waiver will be effective upon adoption of the resolution.

(Code 1981, § 17-5; Code 2012, § 17-5; Ord. No. SRO-25-74, § 5, 3-21-1979; Ord. No. SRO-183-95, § 1, 10-12-1994; Ord. No. SRO-216-96, § 1, 3-20-1996; Ord. No. SRO-402-2012, § 17-5, 5-30-2012)

Sec. 17-6. Approval of contracts, leases and other instruments.

(a) The Community Council shall not approve any contract, lease or other instrument pursuant to section 17-5 unless such contract, lease or other instrument shall adequately provide for the employment, promotion and training of members of the Community in the business or other enterprise located with the Community and subject of the contract, lease or other instrument.

(b) The Community Council shall not approve any contract, lease or other instrument pursuant to section 17-5 unless such contract, lease or other instrument shall provide that the Community shall have the right to provide utility services to the premises either through its own facilities or by contract or the permitting of contracts with other governmental or private entities capable of providing such services.

(Code 1981, § 17-5.1; Code 2012, § 17-5.1; Ord. No. SRO-93-85, § 2, 1-23-1985; Ord. No. SRO-100-86, § 1, 7-23-1986; Ord. No. SRO-402-2012, § 17-5.1, 5-30-2012)

Editor's note—Inclusion of § 2 of Ord. No. SRO-93-85, adopted Jan. 23, 1985, as § 17-5.1, and subsequent inclusion of Ord. No. SRO-100-86, § 1, adopted July 23, 1986, as subsection 17-5.1(b), was at the discretion of the editor.

Sec. 17-7. Land management board.

(a) *Created; membership; appointment.* There shall be a land management board. The land management board shall consist of seven members. Each member shall be appointed for a three-year term and the appointment shall be so made that the terms of office of no more than three members shall expire during the same calendar year. Members of the land management board shall serve at the pleasure of the council and may be removed by the council by a majority vote of the members of the council present at any regularly or specially called council meeting. Members of the land management board shall be appointed, from time-to-time as the vacancies occur, by the Community Council.

(b) *Responsibility to make recommendations.* The land management board shall have the responsibility to recommend to the Community Council, for its consideration, courses of action relating to proposals affecting the use and disposition of allotted land and the use and development of the lands, natural resources and other public property of the Community.

(c) *Rule-making authority.* The land management board shall prescribe, subject to the approval of the Community Council, rules and regulations not in conflict with the ordinances of the Community, necessary to enforce this chapter and shall be charged with the enforcement of such rules and regulations.

(d) *Hearings.* The land management board shall hold a hearing prior to recommending to the Community Council courses of action relating to proposals as provided in subsection (b) of this section, but no later than 15 days after the proposal has been transmitted to the land management board. Notice of the hearing shall be given by ordinary mail, or delivery in person, no less than seven days prior to the hearing, to:

(1) The applicant;

(2) The persons on whose land the development is proposed to occur;

(3) All authorized spokesmen of allottee landowners of the land for which development is proposed; and

(4) All persons, members of the Community, who are allottee landowners of land located within one-half mile of land where the development is proposed to occur, or the authorized spokesman of such allottee landowners.

The director of the Community development department shall be responsible for the notifications provided for in this subsection, as well as, for the setting of dates for the hearing provided for in this subsection. The subject of the hearing will be the nature of the recommendation to be made to the Community Council. A decision by the land management board shall be made within five days of the conclusion of the hearing, and the land management board shall transmit its recommendation together with the statement and comments provided for in section 17-3(3) and a report supporting its recommendation to the Community Council within ten days of the conclusion of the hearing.
(Code 1981, § 17-6; Code 2012, § 17-6; Ord. No. SRO-25-74, § 6, 3-21-1979; Ord. No. SRO-402-2012, § 17-6, 5-30-2012)

Sec. 17-8. Community development department.

(a) *Responsibility for forwarding proposals.* The Community development department shall be responsible for the transmittal to the land management board of all applications pursuant to this article. Transmittal of such applications shall be made at such time as an application contains all the data required by the Community development department so that the land management board may make an appropriate recommendation to the Community Council.

(b) *Rule-making authority.* The Community development department shall prescribe, subject to the approval of the Community Council, rules and regulations, not in conflict with the ordinances of the Community, necessary to perform its functions under this section.

(c) *Board to make recommendation.* The land management board shall make recommendations concerning approval, or disapproval of any application to the Community Council, based solely on its findings pursuant to section 17-3(3). The Community Council shall thereafter make such decision as the general welfare of the Community requires.
(Code 1981, § 17-7; Code 2012, § 17-7; Ord. No. SRO-25-74, § 7, 3-21-1979; Ord. No. SRO-97-85, 2-27-1985; Ord. No. SRO-183-95, § 1, 10-12-1994; Ord. No. SRO-402-2012, § 17-7, 5-30-2012)

Editor's note—Ord. No. SRO-97-85, adopted Feb. 27, 1985, changed the name of the planning and land management department to the Community development department. As pages are pulled for supplements, the change in wording will be made.

Sec. 17-9. Application for development of allotted lands or public property.

(a) *To be given to Community development department.* Any person seeking the approval of the Community Council for any contract, lease or other instrument affecting the use and disposition of allotted land or affecting the use and development of the lands, natural resources and other public property in the Community or to commence any development within the Community shall make application therefor to the Community development department.

(b) *Transmittal to land management board.* The Community development department shall transmit to the land management board all applications which are complete pursuant to the requirements for data established under the rules and regulations of the Community development department.

(c) *Board to make recommendations.* The land management board shall make recommendations concerning approval, or disapproval of any contract, lease or other instrument affecting the use and disposition of allotted land or affecting the use and development of the lands, natural resources, and other public property of the Community, to the Community Council, based solely on its findings pursuant to section 17-3(3). The Community Council shall thereafter make such decision as the general welfare of the Community requires.

(d) *Changes in existing contracts, etc., subject to chapter.* Any change in any contract, lease or other instrument affecting the use and disposition of allotted land previously entered into including but not limited to changes in terms, parties and matters allowed to be changed with the approval of one or all of the parties to the instrument shall be subject to the provisions of this chapter.
(Code 1981, § 17-8; Code 2012, § 17-8; Ord. No. SRO-25-74, § 8, 3-21-1979; Ord. No. SRO-183-95, § 1, 10-12-1994; Ord. No. SRO-402-2012, § 17-8, 5-30-2012)

Sec. 17-10. Modified procedure and requirements for short-term mining and other nondevelopment land uses.

(a) *When permit may be issued.* Upon the determination of the land management board, as provided for herein, the president or vice-president of the Community may issue a permit for the use of allotted land or the land, natural resources and other public property of the Community, together with facilities located on such lands for periods of time not less than 90 days or more than 365 days.

(b) *Application to land management board.* Any person seeking to secure a permit within the scope of this article shall make application to the Community development department which will forthwith forward the application to the land management board. If the land management board determines after a hearing that the requested permit will not allow for any substantial development or alteration of the lands sought to be subject of the permit, except in the case of sand and gravel mining operations; and will not adversely affect the adjoining landowners or the Community, the land management board shall certify to the president or vice-president of the Community that the requested permit is authorized under this section. A hearing upon the application shall be held within ten days of the filing of the application, and within five days after such hearing the land management board shall forward its determination to the president or vice-president of the Community.

(c) *Special notice requirements.* If the requested permit involves utilization of land within one-half mile of any residence or commercial enterprise, then the land management board shall notice the hearing provided for in subsection (b) of this section in the same manner as provided for in section 17-7(d).

(d) *Permits for less than 90-day period.* Applications for permits for periods of less than 90 days shall be submitted to the president or vice president of the Community who shall be authorized to issue such permits if such officer deems it to be in the best interest of the Community.

(e) *Criteria for determination.* In making the determination pursuant to subsections (a) and (d) of this section, the president or vice president of the Community shall determine the conditions, fees and prices of the permits applied for where such permits utilize the land, natural resources, and other property of the Community.

(f) *Filing fee.* Applications presented to the Community development department shall be accepted only if the applicant pays a filing fee with such other fees as will be necessary to offset the costs connected with the review of the documents submitted. The filing fees shall be based upon the length of the intended use and shall be as follows:

(1) $25.00 for a period up to 90 days;

(2) $50.00 for a period from 90 days to six months;

(3) $75.00 for a period from six months to nine months; and

(4) $100.00 for a period from nine months to 12 months.

The filing fee and review costs may be waived by the planning and land management board where the applicant is unable to make such payments as the result of economic circumstances and where the proposed use would appear to be beneficial to the Community.

(g) *Short-term lease amendments.* Upon the determination of the land management board, as provided for herein, the president of the Community may approve an amendment in any lease which has a term of five years or less in situations in which the amendment does not significantly affect the interest of the lessors. Utilizing the procedure set out in subsections (b) and (c) of this section, a decision concerning such a determination shall be made by the land management board and forwarded to the president or vice-president.
(Code 1981, § 17-9; Code 2012, § 17-9; Ord. No. SRO-25-74, § 9, 3-21-1979; Ord. No. SRO-183-95, § 1, 10-12-1994; Ord. No. SRO-402-2012, § 17-9, 5-30-2012)

Sec. 17-11. Special procedure for grants of right-of-way.

(a) *When right-of-way may be allowed.* Upon the recommendation of the Community development department, as provided for herein, the president or vice president of the Community may issue a utility right-of-way over allotted land or the land of the Community.

(b) *Application to Community development department.* Any person seeking to secure a utility right-of-way within the scope of this section shall make application to the Community development department. If the Community development department determines after a hearing that the requested right-of-way:

(1) Will be compatible with the general plan and zoning ordinances of the Community;

(2) Will not adversely affect adjoining landowners or the Community; and

(3) Has been approved by allotted landowners over or through whose land the right-of-way will go;

the Community development department shall certify to the president or vice president of the Community that the requested utility right-of-way is authorized under this section. A hearing upon the application for utility rights-of-way shall be held within ten days of the filing of the application, and within five days after such hearing the Community development department shall forward its determination to the president or vice president of the Community. Hearings shall not be heard for right-of-way applications when right-of-way has already been obtained in utility corridor.

(c) *Authorization by president.* Upon receipt of the certification of the utility right-of-way from the Community development department, the president or vice president of the Community may authorize such utility right-of-way if the president or vice president of the Community determines that the issuance of the utility right-of-way is beneficial to the party to be served therewith and the Community.

(d) *Filing of copies.* Copies of all approved utilities rights-of-way shall be filed with the Community development department and with each member of the Community council.
(Code 1981, § 17-10; Code 2012, § 17-10; Ord. No. SRO-25-74, 3-21-1979; Ord. No. SRO-402-2012, § 17-10, 5-30-2012)

Sec. 17-12. Modified procedure and requirements regarding the lease of developed agricultural land for agricultural purposes.

The provisions of this article in regard to the holding of public hearings shall not be applicable as to any lease or other agreement which would allow the use of already developed and previously farmed agricultural land for agricultural purposes.
(Code 1981, § 17-11; Code 2012, § 17-11; Ord. No. SRO-67-81, § 1, 10-8-1980; Ord. No. SRO-402-2012, § 17-11, 5-30-2012)

Sec. 17-13. Exception for purchase or construction of home.

The provisions of sections 17-1 through 17-12 shall not be applicable to transactions involving the securing, with a member's interest in allotted land or leased allotted or Community land located within the Community, a loan for the purchase or construction of a home for a member of the Community or the purchase or construction of a home for a member of the Community.
(Code 1981, § 17-11.1; Code 2012, § 17-11.1; Ord. No. SRO-99-85, 8-7-1985; Ord. No. SRO-402-2012, § 17-11.1, 5-30-2012)

Sec. 17-14. Agricultural lease conditions for cotton or grain crops.

(a) No agricultural lease will be approved by the Community unless the lessee shall have given adequate assurance, through cash deposit, that all acreage to be planted with cotton or grain shall be plowed down or disked within 30 days of the harvesting of any cotton or grain crop.

(b) The Community development department shall prescribe, subject to the approval of the Community Council, rules, regulations and standards of compliance, not in conflict with ordinances of the Community, necessary to perform its functions under this section.

(c) Requirements:

(1) Every lessee of agricultural land leases within the Community shall plow down or disk all acreage planted with cotton or grain within 30 days of the harvesting of any cotton or grain crop.

(2) In the event any such lessee fails to comply with this section, the Community may undertake the plow down or disking in order to protect the land and crops of other persons within the Community. Such action by the Community, whether through its employees, agents, or independent contractors, shall be done with due care and regard for the land and its owners, shall be a public responsibility undertaken by the Community, and excepting only negligence, shall not be a trespass on landowners or lessees.

(3) The lessee who leased land is plowed down or disked pursuant to subsection (c) of this section shall pay to the Community within ten days of the conclusion of the work by the Community the actual cost of the work together with an amount equal to 15 percent of such actual cost to pay for otherwise unaccounted administrative expenses resulting from the failure of the lessee to perform.

(4) If payment is not made within ten days of the completion of the work, five days' notice of the sum due having been given to the lessee by mailing to lessee at lessee's last known address by registered letter a full statement of the amount owed, the Community may secure payment by seizure of the deposit to the amount of the obligation. In the event no such deposit has been made, the Community may bring an action for damages against the lessee in the Community court or in any other court having jurisdiction over lessee. The court may award advocate's/attorney's fees to the Community in the event the Community is granted judgment. Advocate/attorney's fees will be calculated by their reasonable value.

(5) No person against whom a judgment has been rendered, which judgment is unsatisfied, is qualified to be a lessee of land within the Community.

(Code 1981, § 17-12; Code 2012, § 17-12; Ord. No. SRO-86-84, 5-16-1984; Ord. No. SRO-402-2012, § 17-12, 5-30-2012)

Sec. 17-15. Group homes.

(a) Unrelated persons living together notwithstanding, a residential facility operated by or licensed and supervised by the Community which serves eight or fewer persons shall be considered a residential use of property for the purposes of the Community's zoning ordinances if such facility provides care on a 24-hour per day basis. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property. The limitation of eight or fewer persons does not include the operator of a resi-

dential facility, members of the operator's family or persons employed as staff, except that the total number of all persons living at the residential facility shall not exceed ten.

(b) For the purpose of the zoning ordinance, a residential facility which serves eight or fewer persons shall not be included within the definition of any term which implies that the residential facility differs in any way from a single-family residence.

(c) The provisions of this section shall not be construed to forbid the Community from placing restrictions on building heights, setbacks, lot dimensions and placements of signs of a residential facility which serves eight or fewer persons as long as such restrictions are identical to those applied to other single-family residences.

(d) The provisions of this section shall not be construed to forbid the application to a residential facility of any Community law or regulation which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of the Community, so long as the law or regulation applies equally to other single-family dwellings and does not distinguish residents of such residential facilities from persons who reside in other single-family dwellings.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves eight or fewer persons which is not required of other single-family residences in the same zone.

(f) For the purposes of any contract, deed, lease or covenant for the transfer of an interest in real property executed subsequent to the effective date of this section, a residential facility which serves eight or fewer persons shall be considered a residential use of property and a use of property by a single-family, notwithstanding any disclaimers to the contrary.

(g) No residential facility shall be established within a 1,200-foot radius of an existing residential facility in a residential area.

(h) Residential facilities which serve nine or more persons shall be a permitted use in any zone in which residential buildings of similar size, containing rooms or apartments which are provided on a continuing basis for compensation, are a permitted use. Nothing in this section shall be construed to prohibit the Community from requiring a conditional use permit in order to maintain a residential facility serving nine or more persons, provided that no conditions shall be imposed on such a facility which are more restrictive than those imposed on other similar dwellings in the same zones.

(i) The provisions of this section shall apply only to residential facilities licensed, operated, supported or supervised by the Community and the establishment of a particular facility shall not create any zoning rights with respect to any subsequent use of the property involved.

(Code 1981, § 17-13; Code 2012, § 17-13; Ord. No. SRO-286-02, 1-30-2002; Ord. No. SRO-402-2012, § 17-13, 5-30-2012)

Secs. 17-16—17-33. Reserved.

ARTICLE II. EMINENT DOMAIN

Sec. 17-34. Purposes for which eminent domain may be exercised.

Subject to the provisions of this chapter and in accordance with article III of the bylaws of the Community, the right of eminent domain, also called condemnation, may be excised by the Community to:

(1) Acquire all or any portion of any ownership interest in any real property or improvements located within the exterior boundaries of the Community which ownership interest is held by any nonmember of the Community who is not an heir of an original allottee and which land is not subject to trust status.

(2) Acquire the leasehold interest of a lessee of Community land for the purpose of using such land for roadway and utility corridors and other public purposes.

(Code 1981, § 5-61; Code 2012, § 17-21; Ord. No. SRO-110-88, § 1, 2-17-1988; Ord. No. SRO-125-89, § 1, 7-12-1989; Ord. No. SRO-402-2012, § 17-21, 5-30-2012)

Sec. 17-35. Prerequisite to condemnation.

Before instituting an action for condemnation the council shall first enact a resolution of its intention to condemn. The legal description of the property and/or improvements or interests in property to be condemned shall be set forth in the resolution.
(Code 1981, § 5-62; Code 2012, § 17-22; Ord. No. SRO-110-88, § 2, 2-17-1988; Ord. No. SRO-125-89, § 2, 7-12-1989; Ord. No. SRO-402-2012, § 17-22, 5-30-2012)

Sec. 17-36. Actions for condemnation; immediate possession; money deposit.

(a) *Commencement of action; application for possession.* All actions for condemnation shall be brought as other civil actions in the Community court. The action shall be commenced in the name of the Community as plaintiff. The plaintiff may, at the time of filing the complaint, or at any time thereafter, make application to the court for an order permitting it to take possession of and use the property or interest therein sought to be condemned.

(b) *Service of notice.* Upon filing the application, a time for hearing shall be fixed, and notice thereof served upon the parties in interest by personal service pursuant to section 5-23 or by publication in a newspaper of general circulation in Maricopa County, Arizona, if they cannot be served pursuant to the Community's Rules of Civil Procedure.

(c) *Evidence or probable damages.* On the day of the hearing the court shall receive evidence as to the probable damages to each owner, possessor or person having an interest in each parcel of land and/or improvements or interests in property sought to be condemned, and may direct that upon a deposit of money or a bond in a form to be approved by the court, the plaintiff shall be let into the possession and full use of the parcels of land and/or improvements or interests in property, as described in the order. In determining the value of a lessee's interest in a leasehold estate the value shall be limited by the more restrictive of:

(1) The uses allowed under the lease;

(2) The uses permitted in the zoning of the land subject of the lease in force at the time the application was filed; and

shall be further limited to the extent the considerations for the leasehold interest were less than the highest value obtainable as allowed under the provisions of 25 USC 416.

(d) *Deposit of money or bond.* The money or bond may be deposited with the Community treasurer at the election of the plaintiff and held for the use and benefit of each person having an interest in each parcel of land sought to be condemned, subject to final judgment after trial of the action, and held also as a fund to pay any further damages and costs recovered in the proceedings, as well as all damages sustained by the defendant if for any cause the property is not finally taken. The deposit of the money or bond shall not discharge the plaintiff from liability to maintain the fund in full but it shall remain deposited for all accidents, defalcations or other contingencies, as between the parties to the proceedings, at the risk of the plaintiff, until the compensation or damage is finally settled by judicial determination, and the court awards such part thereof as shall be determined to the defendant or the treasurer is ordered by the court to disburse it.

(e) *Investment and disbursement of money or bond.* The treasurer shall receive the money or bond and return a receipt therefor to the court and the treasurer shall safely keep such deposit in a special fund to be entered on his or her books as the condemnation fund. The treasurer shall invest and reinvest the monies in the condemnation fund. The treasurer shall disburse the money deposited and, if necessary, convert such investments to cash for the purpose of making such disbursements or forfeit the bond as the court may direct pursuant to its judgment. After satisfaction of the judgment in a condemnation action, the excess, if any, of the deposit made regarding such action, including monies earned by the investment and reinvestment of such deposit, shall be returned by the treasurer to the plaintiff.

(f) *Amount of deposit.* The parties may stipulate as to the amount of deposit, or for a bond from the plaintiff in lieu of a deposit.

(g) *Rights of persons in interest.* The parties may stipulate that:

(1) The plaintiff deposit with the clerk of the court the amount in money for each person in interest which plaintiff's valuation evidence shows to be the probable damages to each person in interest; and

(2) Upon order of the court each person in interest may withdraw the amount which plaintiff has deposited for his or her interest.

(h) *Withdrawal or repayment of funds.* No person in interest for whom a deposit has been made, pursuant to stipulation for his or her withdrawal, shall be entitled to interest upon the amount which he or she is allowed to withdraw, but he or she shall be entitled to interest upon that portion of the final judgment, exclusive of costs allowed by the court, which exceeds the amount which is deposited for his or her withdrawal. Should the amount which is withdrawn by any defendant exceed the amount of the final judgment awarded the defendant inclusive of costs allowed by the court, such defendant withdrawing the funds shall forthwith repay the plaintiff such excess, with legal interest, as set by the court, but, not to exceed ten percent, from date of withdrawal to date of repayment.

(i) *Use as evidence.* No stipulation which is made nor any evidence which is introduced pursuant to this section shall be introduced in evidence or used to the prejudice of any party in interest on the trial for the action.
(Code 1981, § 5-63; Code 2012, § 17-23; Ord. No. SRO-110-88, § 3, 2-17-1988; Ord. No. SRO-125-89, § 3, 7-12-1989; Ord. No. SRO-402-2012, § 17-23, 5-30-2012)

Sec. 17-37. Complaint.

The complaint shall set forth:

(1) The names of all owners and claimants of the property, if known, or a statement that they are unknown, as defendants.

(2) A statement that the owner or owners are not members of the Community nor heirs of an original allottee and that the land described in section 17-36 is not in trust status.

(3) A description of each interest in land and/or improvement sought to be taken, and whether the interest in land constitutes the whole or only a part of an entire parcel or tract.

(Code 1981, § 5-64; Code 2012, § 17-24; Ord. No. SRO-110-88, § 4, 2-17-1988; Ord. No. SRO-125-89, § 4, 7-12-1989; Ord. No. SRO-402-2012, § 17-24, 5-30-2012)

Sec. 17-38. Summons; contents; service.

(a) The clerk shall issue a summons containing:

(1) The names of the parties.

(2) A general description of the whole property.

(3) A reference to the complaint for descriptions of the respective parcels.

(4) Notice to defendants to appear and show cause why the property described should not be condemned as prayed for in the complaint.

(b) The summons in all other particulars shall be as provided in civil actions and shall be served in like manner.
(Code 1981, § 5-65; Code 2012, § 17-25; Ord. No. SRO-110-88, § 5, 2-17-1988; Ord. No. SRO-125-89, § 5, 7-12-1989; Ord. No. SRO-402-2012, § 17-25, 5-30-2012)

Sec. 17-39. Right to defend action.

All persons occupying, or having or claiming an interest in any of the property described in the complaint, or in the damages for the taking thereof, though not named, may appear, plead and defend in respect to his or her property or interest, or that claimed by him or her, as if named in the complaint.
(Code 1981, § 5-66; Code 2012, § 17-26; Ord. No. SRO-110-88, § 6, 2-17-1988; Ord. No. SRO-125-89, § 6, 7-12-1989; Ord. No. SRO-402-2012, § 17-26, 5-30-2012)

Sec. 17-40. Ascertainment and assessment of value, damages and benefits.

The court shall ascertain and assess in regard to eminent domain exercised under:

(1) Section 17-34(1), the value of the property sought to be condemned and all improvements thereon pertaining to the realty, and of each and every separate estate or interest therein, and if it consists of different parcels, the value of each parcel and each estate or interest therein separately;

(2) Section 17-34(2), the value of the lessee's interest in the leasehold estate shall be limited by the more restrictive of the uses:

a. Allowed under the lease;

b. Permitted in the zoning of the land subject of the lease in force at the time the application was filed; and

shall be further limited to the extent the considerations for the leasehold interest were less than the highest value obtainable as allowed under the provisions of 25 USC 416.
(Code 1981, § 5-67; Code 2012, § 17-27; Ord. No. SRO-110-88, § 7, 2-17-1988; Ord. No. SRO-125-89, § 7, 7-12-1989; Ord. No. SRO-402-2012, § 17-27, 5-30-2012)

Sec. 17-41. Accrual of right to compensation and damages; limitation.

(a) For the purpose of assessing compensation and damages, the right to compensation and damages shall be deemed to accrue at the date of the summons, and its actual value at that date shall be the measure of compensation and damages.

(b) If an order is made letting the plaintiff into possession prior to final judgment, the compensation and damages awarded shall draw legal interest from the date of the order except that where the defendant is allowed, pursuant to section 17-36(c), to withdraw the money deposited by plaintiff, such defendant shall not be entitled to any legal interest upon the money which he or she is allowed to withdraw regardless of the date of the order letting plaintiff into possession.

(c) No improvements placed upon the property subsequent to the date of service of summons shall be included in the assessment of compensation or damages.
(Code 1981, § 5-68; Code 2012, § 17-28; Ord. No. SRO-110-88, § 8, 2-17-1988; Ord. No. SRO-125-89, § 8, 7-12-1989; Ord. No. SRO-402-2012, § 17-28, 5-30-2012)

Sec. 17-42. Final order of condemnation; vesting of property.

When the final judgment has been satisfied, the court shall make a final order of condemnation, describing the property condemned; and thereupon the property described shall vest in plaintiff.
(Code 1981, § 5-69; Code 2012, § 17-29; Ord. No. SRO-110-88, § 9, 2-17-1988; Ord. No. SRO-125-89, § 9, 7-12-1989; Ord. No. SRO-402-2012, § 17-29, 5-30-2012)

Sec. 17-43. Procedures following judgment.

(a) *Possession by plaintiff after judgment or pending appeal.* At any time after judgment is entered, or pending an appeal from the judgment to the appellate division, when plaintiff has paid into court for defendant or defendants the full amount of the judgment, and such other amounts as required by the court as a fund to pay further damages and costs which may be recovered in the proceedings, as well as all damages that may be sustained by defendant or defendants if for any cause the property is not finally taken the trial court may, upon notice of not less than ten days, authorize plaintiff, if already in possession, to continue therein, or if not, then to take possession of and use the property until final conclusion of the litigation, and may, if necessary, stay all actions and proceedings against plaintiff on account thereof.

(b) *Receipt of payment by defendants.* The defendant or defendants who are entitled to the money paid into court upon any judgment may demand and receive the money at any time thereafter upon an order of the court. The court shall, upon application, order the money so paid into court delivered to the party entitled thereto upon his or her filing either a satisfaction of the judg-

ment or a receipt for the money, and an abandonment of all defenses to the action or proceeding except as to the amount of damages to which he or she may be entitled if a new trial is granted. Such payment shall be deemed an abandonment of all defenses, except the party's claim for greater compensation.

(c) *Custody of money paid into court.* The money paid into court on final judgment may be placed by order of court in the custody of the treasurer to be held or disbursed upon order of court, and plaintiff and such officers shall be subject to the same responsibility, liabilities and restrictions with respect thereto as provided in this article when money is paid into court by plaintiff upon application for possession before trial.

(d) *Costs of new trial.* When a new trial is granted upon application of a defendant, and he or she fails upon the trial to obtain greater compensation than was allowed upon the first trial, the costs of the new trial shall be taxed against him or her.
(Code 1981, § 5-70; Code 2012, § 17-30; Ord. No. SRO-110-88, § 10, 2-17-1988; Ord. No. SRO-125-89, § 10, 7-12-1989; Ord. No. SRO-402-2012, § 17-30, 5-30-2012)

Sec. 17-44. Costs.

(a) Costs may be allowed or not, and if allowed may be apportioned between the parties on the same or adverse sides, in the discretion of the court.

(b) If, prior to commencement of the action or proceeding, the Community tenders to the owner of the property and/or improvements such sum of money as it deems the reasonable value of the property, or interests in property, and the owner refuses to accept it and transfer the property, then all costs and expenses of the action or proceeding shall be taxes against the owner unless the sum of money assessed in the judgment as the value of the property and compensation to be paid therefor is greater than the amount so tendered.
(Code 1981, § 5-71; Code 2012, § 17-31; Ord. No. SRO-110-88, § 11, 2-17-1988; Ord. No. SRO-125-89, § 11, 7-12-1989; Ord. No. SRO-402-2012, § 17-31, 5-30-2012)

Secs. 17-45—17-61. Reserved.

ARTICLE III. ROADWAY CONSTRUCTION

Sec. 17-62. Definitions.

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

Private road or *driveway* means a place in allotted assigned fee or tribal ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner, but not by other persons.

Roadway means all streets, highways and roads which are not defined as private roads or driveways.
(Code 1976, § 14.11; Code 1981, § 17-41; Code 2012, § 17-41; Ord. No. SRO-30-74, 5-29-1974; Ord. No. SRO-402-2012, § 17-41, 5-30-2012)

Sec. 17-63. Authorization required for construction.

No roadway shall be constructed upon the lands within the exterior boundaries of the Community unless the Community Council enacts a resolution authorizing such roadway construction.
(Code 1976, § 14.12; Code 1981, § 17-42; Code 2012, § 17-42; Ord. No. SRO-30-74, 5-29-1974; Ord. No. SRO-346-09, § 1, 1-21-2009; Ord. No. SRO-402-2012, § 17-42, 5-30-2012)

Sec. 17-64. Applicability of article.

This article shall apply only to the construction of new roadways and to the widening of old roadways by the addition of no less than five feet.
(Code 1976, § 14.16; Code 1981, § 17-43; Code 2012, § 17-43; Ord. No. SRO-30-74, 5-29-1974; Ord. No. SRO-402-2012, § 17-43, 5-30-2012)

Sec. 17-65. Exclusion of certain lands.

This article will not apply to roadways proposed to be constructed in the following described

portion of the Community: Section 1, Township 1 North, Range 4 East, Gila and Salt River Meridian, Arizona.
(Code 1976, § 14.17; Code 1981, § 17-44; Code 2012, § 17-44; Ord. No. SRO-30-74, 5-29-1974; Ord. No. SRO-402-2012, § 17-44, 5-30-2012)

Sec. 17-66. Procedure; hearing and notice.

The land management board of the Community shall sit as a hearing board in all matters concerning the construction of roadways upon lands within the exterior boundaries of the Community. Hearings will be conducted by the land management board at the direction of the Community council. At such hearings, the land management board will take testimony as to whether the general welfare of the Community will be served by the construction of a proposed roadway. All such hearings shall be publicly noticed by the posting of notices 14 days prior to the holding on all public bulletin boards within the Community, by publication at least once, no less than 14 days prior to the holding of the hearing in any newspaper of general circulation distributed within the Community, and by written notice to all persons having an interest in assigned land or allotments located within one-half mile of the proposed roadway. The notices of hearing will solicit the attendance and advice of all Community members.
(Code 1976, § 14.13; Code 1981, § 17-45; Code 2012, § 17-45; Ord. No. SRO-30-74, 5-29-1974; Ord. No. SRO-402-2012, § 17-45, 5-30-2012)

Sec. 17-67. Report to the Community Council.

At the conclusion of its hearing and within five days thereof, the land management board shall make its report to the Community Council. The report shall relate the findings of the land management board, based upon the testimony received at the hearing, as to whether the general welfare of the Community will be served by the construction of the proposed roadway.
(Code 1976, § 14.14; Code 1981, § 17-46; Code 2012, § 17-46; Ord. No. SRO-30-74, 5-29-1974; Ord. No. SRO-402-2012, § 17-46, 5-30-2012)

Sec. 17-68. Action by Community Council.

Within 14 days after receiving the report of the land management board, the Community Council shall determine whether the proposed roadway construction shall be approved or disapproved, including any new stipulations or modifications that the Community Council may require, unless, the Community Council continues the determination. The Community Council may continue a determination no more than twice and for no more than 14 days of each such continuance occasion. Approval of construction shall be by resolution enacted by the Community Council. Failure to act within the time set out shall constitute a denial of the application for construction of a roadway. Notice of the enactment of a resolution or of nonaction for 14 days subsequent to the receipt of a report from the land management board, or for such continued time as determined by the Community Council, shall be given to the person who has solicited the approval of the Community Council, to all persons who had previously received personal mailed notice of the proposed construction, and to all persons who attended the hearing of the land management board. The Community Council may approve the roadway construction for the outer loop freeway and for other construction of roadways which have utilized or are complying with applicable Community and federal right-of-way processes without a public hearing before the land management board and/or the Community Council, and in addition, without submission of a report from the land management board.
(Code 1976, § 14.15; Code 1981, § 17-47; Code 2012, § 17-47; Ord. No. SRO-30-74, 5-29-1974; Ord. No. SRO-131-90, 8-20-1990; Ord. No. SRO-346-09, § 2, 1-21-2009; Ord. No. SRO-402-2012, § 17-47, 5-30-2012)

Secs. 17-69—17-94. Reserved.

ARTICLE IV. STREET NUMBERS AND NAMES

Sec. 17-95. Policy.

(a) It shall be the policy of the Community to assign street addresses to all properties and buildings thereon and naming of streets or roads within the Community.

(b) The planning and land management department is hereby authorized to administer the provisions of this article.

(c) The director is further authorized to promulgate such rules and regulations as required to implement this article.

(d) All house numbering shall correspond to the Maricopa County address and street assignment policy.
(Code 1981, § 17-48; Code 2012, § 17-48; Ord. No. SRO-73-81, § 1, 9-2-1981; Ord. No. SRO-402-2012, § 17-48, 5-30-2012)

Sec. 17-96. Street addressing.

(a) Property having one building will be issued one address and must front on a named street that corresponds to existing nearby streets and numbering.

(b) Property having several buildings with interior street or drives shall be issued one master address for the project on which the main entrance fronts.

(c) Property having several buildings without interior streets or drives shall be issued one address for each building on a dedicated street.
(Code 1981, § 17-49; Code 2012, § 17-49; Ord. No. SRO-73-81, § 2, 9-2-1981; Ord. No. SRO-402-2012, § 17-49, 5-30-2012)

Sec. 17-97. Street naming.

(a) The land management board shall review and recommend to the Community Council approval or disapproval of all street names.

(b) Alignment is the arrangement, positioning, adjustment or formation of a line, road or street with another line, road or street of extension of that line.

(c) Street names. Any combination of no fewer than two of a prefix, primary, and suffix will constitute a full or total name.

(d) A complete name shall consist of no more than four words including suffix.

(e) Existing mile and half-mile road or street names are to remain fixed except where recommendations calling for changes are approved by the Community Council.

(f) All future road or street names shall be approved as provided herein.
(Code 1981, § 17-50; Code 2012, § 17-50; Ord. No. SRO-73-81, § 3, 9-2-1981; Ord. No. SRO-402-2012, § 17-50, 5-30-2012)

Sec. 17-98. Block addressing.

A series of addresses assigned to 1½-mile grids within a range must be in a sequential series using zero as a base point extending north and east from an existing Maricopa County system.
(Code 1981, § 17-50.1; Code 2012, § 17-50.1; Ord. No. SRO-73-81, § 4, 9-2-1981; Ord. No. SRO-402-2012, § 17-50.1, 5-30-2012)

Secs. 17-99—17-124. Reserved.

ARTICLE V. HOMESITES

DIVISION 1. GENERALLY

Sec. 17-125. Policy.

(a) The issuance of a residential homesite lease is reserved for enrolled Community members only. Any other person not enrolled in the Community seeking permission to have a residential lease within the Community boundaries will be denied.

(b) It is the policy of the Community that the council designates certain tribal lands to be made available for residential homesites for enrolled Community members to provide for the health and welfare of the Community.

(c) The Community also recognizes the limited availability of tribal lands for homesite purposes and as such, homesite leases on tribal lands shall be made in a responsible and prudent manner.

(d) It is the policy of the Community that enrolled Community members, who are landowners within the Community, be provided the opportunity to have a homesite lease on allotted lands in which they hold ownership interests.

(e) The Community also recognizes the limited availability of public resources to provide roadway and utility easements and services to remote areas of the Community, and as such, a homesite applicant or assignee may be required to pay for, at their own expense, certain easements or services to their homesite.

(f) The Community provides important governmental services and capital improvements and infrastructure, including fire, police, ambulatory, water, sewer and road maintenance services to individuals who live within the boundaries of the Community and due to limited resources and jurisdictional concerns, only enrolled Community members may obtain a homesite lease within the boundaries of the Community.

(g) The Community supports providing educational opportunities for homeowners and potential homeowners to ensure that enrolled Community members are aware of homeownership opportunities and responsibilities including the manner and type of building materials available, financing options, the dangers of predatory lending and the responsibilities of long-term care and maintenance of homes.

(Code 1981, § 17-51(a); Code 2012, § 17-51(a); Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-15(a), 5-30-2012; Ord. No. SRO-453-2015, § 17-125, 10-22-2014)

Sec. 17-126. Definitions.

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

Allotted lands means land held in trust status by the United States federal government for the benefit of an individual person.

Applicant means any natural person(s) that is requesting approval for a homesite lease within the jurisdictional and/or physical boundaries of the Community.

Assignee means any natural person(s) to whom homesite rights or benefits are transferred to.

Community means the Salt River Pima-Maricopa Indian Community.

Homesite means an area of land that has been encumbered or is in the process of being encumbered for use by an assignee for a primary residence.

Homesite assignment or homesite lease means a lawfully approved agreement between either an allotted landowner(s) or the Community and a natural person(s) who is the assignee, and such assignee shall have the right to use of the land for a primary residence for a certain term.

Landowner means either a natural person or the Community who owns title to the underlying land interests.

SRPMIC means the Salt River Pima-Maricopa Indian Community.

Supporting easement means any and all ingress/egress easements (i.e. roadway) and basic utility easements (including but not limited to sewer, wastewater, water, telecommunications, irrigation, natural gas and/or electrical) necessary for the health, welfare and safety of the homesite assignee.

Tribal land means land owned by the Community.

(Code 1981, § 17-51(b); Code 2012, § 17-51(b); Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-15(b), 5-30-2012)

Secs. 17-127—17-150. Reserved.

DIVISION 2. HOMESITE LEASES ON TRIBAL LANDS

Sec. 17-151. Designated area for homesites on tribal lands.

The Community Council shall designate certain tribal lands within the Community to be used solely for the purpose of residential homesite development. The Community development department shall be responsible for maintaining and administering all records relating to the Community's tribal lands that are designated for residential homesite development.

(Code 1981, § 17-52; Code 2012, § 17-52; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-52, 5-30-2012)

Sec. 17-152. Application for homesite lease on tribal lands.

(a) *Application and approval process.* All applications for a homesite lease on tribal land shall be filed with the Community development department.

(1) Upon receipt of a complete application and the availability of tribal land suitable for homesite purposes, the Community development department shall review and recommend approval or denial of any proposed homesite lease on tribal land.

(2) The president or vice president shall approve or deny, on behalf of the council, a homesite lease application. The president or vice president shall take into account the recommendation of the Community development department when making their decision.

(b) *Qualifications of all applicants.* In order for an applicant to qualify for a homesite lease on tribal land, an applicant must:

(1) Be an enrolled member of the Community;

(2) Be at least 18 years of age;

(3) Not be an owner of any interests of allotted land within the Community that are suitable for use as a homesite:

a. If the applicant owns any interest of allotted land that is not suitable for use as a homesite, the applicant may exchange their interest in accordance with provisions of section 17-205, in order to obtain land suitable for a homesite;

b. If an applicant sells an interest of allotted land that is suitable for homesite use to the Community after November 1, 2009, such applicant is not eligible for a homesite on tribal land, unless expressly authorized by council; and

(4) Have enrolled in and completed a Community-endorsed home ownership education class.

(c) *Conditions of assignment.* All assignees for a homesite lease on tribal land shall agree to the following conditions:

(1) If a homesite assignee has not obtained at least a letter of engagement from a bona fide lender within three years from the date of the homesite lease approval, the assignment shall terminate and the Community may elect to reassign the assignment.

(2) A homesite assignee shall be responsible for all costs and charges associated with the assigned property and its use.

(3) A homesite assignee shall bear all costs of construction related to the building of a home on the homesite, including costs associated with acquiring supporting easements to the residential dwelling from the nearest existing easement.

(4) A homesite assignee shall hold the Community harmless from any and all liability in regards to the construction of the home on the homesite.

(5) A homesite assignee shall agree to abide by all of the laws, ordinances, regulations, policies and rules of the Community, including those related to securing relevant building permits and approvals for the construction of a house upon the assigned homesite.

(6) The homesite assignment shall terminate if the house erected on the homesite is vacant for a period of more than one year or is destroyed by fire or other casualty and not replaced and occupied within two years of such event.

(7) No more than one dwelling unit shall be constructed on any homesite. Accessory structures authorized by the Community zoning code, with the approval of the Community development department, may be constructed.

(8) The homesite shall be used primarily for the applicant's residential use. An assignee shall not sell, lease or encumber to a third party their homesite lease without the approval of the Community.

(d) *Penalties.* Any person who violates any provisions of this section may be subject to termination of their homesite lease, including the possibility of also being subject to civil or criminal prosecution by the Community.
(Code 1981, § 17-53; Code 2012, § 17-53; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-53, 5-30-2012; Ord. No. SRO-453-2015, § 17-152, 10-22-2014)

Secs. 17-153—17-172. Reserved.

DIVISION 3. HOMESITES ON ALLOTTED LANDS

Sec. 17-173. Community development department to maintain and administer.

(a) *Adminstration of records.* The Community development department shall be responsible for maintaining and administering all records regarding homesites on allotted land.

(1) *Application process and qualification.*

a. *Application process.* The application for a homesite on allotted land shall be filed with the Community development department.

1. The Community development department shall review and process the homesite application.

2. Until a homesite application has been executed and approved by the secretary of the interior, the applicant shall have no rights or interest in the land underlying the proposed homesite location.

b. *Qualification.* The Community development department shall only process a homesite application if the applicant is an enrolled Community member.

(2) *Landowner consent.* All homesites on allotted lands shall require at least the minimum consents of all other co-landowners, as required by federal law.

(3) *Infrastructure and capital improvements.*

a. The homesite applicant shall be required to meet with the engineering and construction services and the public works departments to verify basic utility services and supporting easements for the proposed homesite through a homesite verification or withdrawal process. This verification of utility service shall include a review of all legal access to domestic water sources, sewer and waste water, electricity and roadway access to the homesite.

b. No homesite shall be approved by the Community until any and all necessary supporting easements have been obtained.

1. If the proposed homesite, does not have access to certain necessary supporting easements, the applicant is solely responsible for obtaining the necessary roadway and/or utility easements that cross adjacent allotted or tribal lands.

2. If the supporting easements necessary for the proposed homesite are not planned for and incorporated in the Community's Capital Improvement Plan (CIP) budget for the current fiscal year, the applicant shall be required to pay for all such supporting utilities easements.

3. All supporting easements shall be constructed in accordance with the laws, ordinances and policies of the Community and upon completion such utilities and easement shall be dedicated by the applicant/assignee to the Community who will then assume the costs and responsibilities of operation and maintenance of the supporting easement.

(4) *Haul permit.* A Community haul permit shall be required prior to the transporting of any modular or mobile homes within the boundaries of the Community.

(b) *Homeownership education.* All applicants seeking a homesite on allotted lands are encouraged to attend an educational workshop on building materials, long-term maintenance and financing.

(Code 1981, § 17-53a; Code 2012, § 17-53A; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-53a, 5-30-2012)

Secs. 17-174—17-199. Reserved.

DIVISION 4. HOMESITES GENERALLY

Sec. 17-200. Period of assignment; renewal option; fee.

Homesite leases on either tribal or allotted land shall be granted for a period of 65 years and may be renewed after expiration of the original term.

(1) *Assignment on tribal land.* The fee for homesite assignments on tribal land shall be $65.00.

(2) *Assignment on allotted lands.* The fee for assignments of homesite leases on allotted land shall be determined by the landowner(s) and the assignee. In accordance with federal law, assignments of homesite leases to and from certain family members may occur without monetary consideration.

(Code 1981, § 17-54; Code 2012, § 17-54; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-54, 5-30-2012)

Sec. 17-201. Rights of homesite assignee.

(a) A homesite assignee shall have the right to the quiet enjoyment of the use of the homesite so long as the conditions of the assignment are not violated.

(b) A homesite assignee may devise the remaining length of their homesite lease and/or assignment to the following:

(1) Heirs, including spouses, who are enrolled members of the Community, lineal descendents of an enrolled member of the Community or enrolled members of a federally recognized tribe; or

(2) A life-estate interest to a non-Indian spouse conditioned on the non-Indian spouse's express written consent to the laws, ordinances, policies and jurisdiction of the Community.

(c) In the absence of a will, the assignment, which is personal property, shall descend to heirs at law of the assignee who are enrolled members of the Community or another federally recognize tribe.

(Code 1981, § 17-55; Code 2012, § 17-55; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-55, 5-30-2012)

Sec. 17-202. Governmental access and responsibilities.

Community governmental access to homesites on allotted or tribal lands is as follows:

(1) *Blighted areas.* The Community has determined that certain blighted areas constitute a serious and growing menace, injurious or harmful to the Community and its members. The existence of these blighted areas contributes substantially and increasingly to the spread of disease and crime, necessitating expenditures of Community funds to ensure the preservation of the public health, safety, morals and welfare.

a. The Community government shall not exercise its power to remove or remediate any serious growing menace, injurious and harmful to the public health, safety, morals and welfare of the Community and its members unless the Community Council adopts a resolution that finds the following:

1. Conditions exist that meet the standards of a serious growing

menace, injurious and harmful to the public health, safety, morals and welfare of the Community;

2. Removal or remediation of that area is necessary in the interest of the public health, safety, morals or welfare of the residents of the Community.

b. The Community shall notify both the landowner(s) and the assignee of the proposed removal or remediation of the condition that is a serious growing menace, injurious and harmful to the public health, safety, morals and welfare of the Community.

1. The notice to the landowners and the assignee shall contain the time, date and location of the public meeting in which the council resolution will be presented.

2. The notice shall be made by standard mail to the address stated on the most recent records of the Community.

(2) *Surveys and other assessments.* All homesite lease applications on allotted or tribal land shall provide for a provision authorizing the Community to perform land or other nondestructive surveys as needed including surveys of environmental impacts, public safety access, or cultural or archaeological investigations for purposes of obtaining a homesite lease.

(3) *Operation and maintenance of supporting easements.* All homesite leases on allotted or tribal land shall provide a provision authorizing the Community to maintain ingress/egress roadways and basic utilities for purposes of public safety and the protection of the health and welfare of the Community.

(Code 1981, § 17-56; Code 2012, § 17-56; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-56, 5-30-2012)

Sec. 17-203. Veteran's preference.

Any veteran of the United States Armed Forces who is an enrolled Community member shall have a preference in the assignment of a homesite on tribal land.

(Code 1981, § 17-57; Code 2012, § 17-57; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-57, 5-30-2012)

Sec. 17-204. Exchange of land for homesites.

Application procedure for homesite exchange:

(1) If an applicant has interests in allotted land that are insufficient enough to be used as a homesite location or that is otherwise inappropriate for homesite use, the applicant may apply to the Community development department to exchange their allotted land interest for tribal land.

(2) The applicant's interest in allotted land would be exchanged with tribal land on a value-for-value basis consistent with any applicable federal requirements.

(3) The Community development department will review a land exchange application and present its review together with its recommendation to the president, and in the absence of the president, the vice president, who shall have the authority to determine whether or not the exchange is in the best interest of the Community, and if such a determination is made, the president or vice president may agree to proceed with such an exchange.

(Code 1981, § 17-58; Code 2012, § 17-58; Ord. No. SRO-353-2010, 10-21-2010; Ord. No. SRO-402-2012, § 17-58, 5-30-2012)

Secs. 17-205—17-233. Reserved.

ARTICLE VI. FORCIBLE ENTRY AND DETAINER

Sec. 17-234. Definitions.

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

Allottee or *allottees* means a person or persons to whom land has been allotted in individual ownership under the trusteeship of the United States Government pursuant to 25 USC ch. 9.

Community leasing authority means the Community Council which has, under article VII, section 1(d) of the Constitution of the Community, the authority to lease and otherwise grant to private parties and public bodies the right to use tribal land and to use, explore, develop and extract natural resources of the Community, subject to such requirements of approval by the secretary of interior or other officials as may be required by federal law.

Fee owner means any person owning land within the exterior boundaries of the Community in fee simple absolute.

Landlord means an allottee or allottees, Community leasing authority, fee owner, and beneficiary or mortgagor after a foreclosure or trustee's sale under the mortgage Ordinance No. SRO-198-95, adopted May 3, 1995, codified herein as divisions 2 and 3 of article XI of this chapter including, but not limited to, a leasehold mortgage under section 184 of the housing loan guarantee program.

Tenant means any person who has possession of the real property of a landlord as a result of an agreement with such other person or entity allowing such possession, whether or not such agreement has terminated.

(Code 1976, § 15.1; Code 1981, § 17-61; Code 2012, § 17-61; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-208-95, § 2, 8-30-1995; Ord. No. SRO-402-2012, § 17-61, 5-30-2012)

Sec. 17-235. Forcible entry.

A person is guilty of forcible entry and detainer, or of forcible detainer, as the case may be, if he or she:

(1) Makes an entry into any lands except in cases where entry is given by law.

(2) Makes such an entry by force.

(3) Willfully and without force, holds over any lands after termination of the time for which such lands were let to him, her or to the person under whom he or she claims, after demand made in writing for the possession thereof by the person entitled to such possession.

(Code 1976, § 15.2; Code 1981, § 17-62; Code 2012, § 17-62; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-208-95, § 2, 8-30-1995; Ord. No. SRO-402-2012, § 17-62, 5-30-2012)

Sec. 17-236. Forcible detainer.

There is a forcible detainer if:

(1) A tenant at will or by sufferance, after termination of his or her tenancy or after written demand of possession by his or her landlord, or a tenant from month to month or a lesser period whose rent is due and unpaid, or a mortgagee or beneficiary under a mortgage or deed of trust after a foreclosure or trustee's sale pursuant to Ordinance No. SRO-198-95 codified herein as divisions 2 and 3 of article XI of this chapter, fails or refuses for five days after demand in writing to surrender and give possession to his or her landlord.

(2) The tenant of a person who has made a forcible entry refuses for five days after written demand to give possession to the person upon whose possession the forcible entry was made.

(3) A person who has made a forcible entry upon the possession of one who acquired such possession by forcible entry refuses for five days after written demand to give possession to the person upon whose possession the first forcible entry was made.

(4) A person who has made a forcible entry upon the possession of a tenant for a term refuses to deliver possession to the landlord for five days after written demand, after the term expires. If the term expires while a writ of forcible entry applied for by the tenant is pending, the landlord may, at his or her own cost and for his or her own benefit, prosecute in the name of the tenant.

(Code 1976, § 15.3; Code 1981, § 17-63; Code 2012, § 17-63; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-208-95, § 2, 8-30-1995; Ord. No. SRO-402-2012, § 17-63, 5-30-2012)

Sec. 17-237. Immateriality of time possession obtained by tenant.

It is not material whether a tenant received possession from his or her landlord or became his or her tenant after obtaining possession.

(Code 1976, § 15.5; Code 1981, § 17-64; Code 2012, § 17-64; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-64, 5-30-2012)

Sec. 17-238. Complaint and answer; service and return.

(a) When a party aggrieved files a complaint of forcible entry or forcible detainer, in writing and under oath, with the clerk of the Community court, summons shall immediately issue commanding the person against whom the complaint is made to appear and answer the complaint at a time and place named, not more than six nor less than three days from the date of the summons.

(b) The complaint shall contain a description of the premises of which possession is claimed in sufficient detail to identify them, and shall also state the facts which entitle plaintiff to possession and authorize the action.

(c) The summons shall be served at least two days before the return day, and return made thereof on the day assigned for trial.

(Code 1976, § 15.6; Code 1981, § 17-65; Code 2012, § 17-65; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-65, 5-30-2012)

Sec. 17-239. Demand for jury; trial procedure.

(a) The clerk shall at the time of issuing the summons, if requested by plaintiff, issue a venire to the chief of police commanding him or her to summon a jury of six persons, qualified jurors of the Community, to appear on the day set for trial to serve as jurors in the action. The venire shall be served and returned on the day assigned for trial.

(b) If the plaintiff does not request a jury, the defendant may do so when he or she appears, and the jury shall be summoned in the manner set forth in subsection (a) of this section.

(Code 1976, § 15.7; Code 1981, § 17-66; Code 2012, § 17-66; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-66, 5-30-2012)

Sec. 17-240. Trial and issue; postponement of trial.

(a) On the trial of an action of forcible entry or forcible detainer, the only issue shall be the right of actual possession and the merits of title shall not be inquired into.

(b) If a jury is demanded, it shall return a verdict of guilty or not guilty of the charge as stated in the complaint. If a jury is not demanded, the action shall be tried by the court.

(c) For good cause shown, supported by affidavit, the trial may be postponed for a time not to exceed three days.

(Code 1976, § 15.8; Code 1981, § 17-67; Code 2012, § 17-67; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-67, 5-30-2012)

Sec. 17-241. Judgment; writ of restitution; limitation on issuance.

(a) If the defendant is found guilty, the court shall give judgment for the plaintiff for restitution of the premises and for costs and, at the plaintiff's option, for all rent found to be due and unpaid at the date of judgment; such reasonable attorney's fees as shall have been provided in any agreement between the parties or if none shall exist, such reasonable attorney's fees as the court shall adjudicate, damages as shall be proven, and shall grant a writ of restitution.

(b) If the defendant is found guilty, and the plaintiff does not exercise the option set out in subsection (a) of this section for a judgment for rent, attorney's fees and damages, if any, the court shall, upon motion of the plaintiff, set a hearing to determine sums due for rent, attorneys' fees and damages within 30 days of said motion.

(c) If the defendant is found guilty, and there existed between the parties a lease agreement which has by its terms not expired, the plaintiff may upon motion, and from time-to-time, request that the court set a time for hearing to determine the amount of damages which have accrued, if any, since the time of judgment on rent damages, or since the time of judgment or any next prior motion pursuant to this section, and at such hearing shall determine such damages, if any, and enter judgment thereon giving credit for mitigation of damages.

(d) If the defendant is found not guilty, judgment shall be given the defendant against the plaintiff for costs, and if it appears that the plaintiff has acquired possession of the premises since commencement of the action, a writ of restitution shall issue in favor of defendant.

(e) No writ of restitution shall issue until the expiration of five days after the rendition of judgment.

(Code 1976, § 15.9; Code 1981, § 17-68; Code 2012, § 17-68; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-68, 5-30-2012)

Sec. 17-242. Appeal to Community court of appeals; notice; bond.

(a) Either party may appeal from the Community court to the Community court of appeals by giving notice as in other civil actions in accordance with chapter 4 and filing with the Community court within five days after rendition of the judgment a bond in an amount equal to double the yearly value or rental of the premises in dispute.

(b) The yearly value or rental of the premises in dispute shall be determined by the court for the purpose of fixing the amount of the bond.

(Code 1976, § 15.10; Code 1981, § 17-69; Code 2012, § 17-69; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-69, 5-30-2012; Ord. No. SRO-415-2013, § 17-69, 3-1-2013)

Sec. 17-243. Stay of proceedings on judgment; record on appeal.

When an appeal bond is ordered and filed with the Community court to stay further proceedings on the judgment, the trial court clerk shall prepare a transcript of all entries in the action and transmit it, together with all the original papers, to the clerk of the court of appeals in accordance with chapter 4.

(Code 1976, § 15.11; Code 1981, § 17-70; Code 2012, § 17-70; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-70, 5-30-2012; Ord. No. SRO-415-2013, § 17-70, 3-1-2013)

Sec. 17-244. Trial and judgment on appeal; writ of restitution.

(a) On trial of the action in the court of appeals, the appellee, if out of possession and the right of possession is adjudged to him or her, shall be entitled to damages for withholding possession of the premises during pendency of the appeal and the court shall also render judgment in favor of appellee and against appellant and the sureties on his or her bond for damages proved and costs.

(b) The writ of restitution or execution shall be issued by the clerk of the Community court and shall be executed by the chief of police as in other actions.

(Code 1976, § 15.12; Code 1981, § 17-71; Code 2012, § 17-71; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-71, 5-30-2012)

Sec. 17-245. Proceedings no bar to certain actions.

The proceedings under a forcible entry or forcible detainer shall not bar an action for trespass, damages, waste, rent or mesne profits.

(Code 1976, § 15.13; Code 1981, § 17-72; Code 2012, § 17-72; Ord. No. SRO-26-74, 5-1-1974; Ord. No. SRO-402-2012, § 17-72, 5-30-2012)

Secs. 17-246—17-268. Reserved.

ARTICLE VII. OUTDOOR ADVERTISING SIGNS

Sec. 17-269. Title.

This article shall be known as the "Outdoor Advertising Sign Ordinance of the Community."
(Code 1981, § 17-101; Code 2012, § 17-101; Ord. No. SRO-123-89, § I, 5-24-1989; Ord. No. SRO-402-2012, § 17-101, 5-30-2012)

Sec. 17-270. Purpose.

The purpose of this article is to define the status of outdoor advertising signs in existence on the effective date of the ordinance from which this article is derived.
(Code 1981, § 17-102; Code 2012, § 17-102; Ord. No. SRO-123-89, § II, 5-24-1989; Ord. No. SRO-402-2012, § 17-102, 5-30-2012)

Sec. 17-271. Applicability.

The provisions of this article shall apply to the construction, erection, alteration, use, relocation or removal of all outdoor advertising signs located within the Community.
(Code 1981, § 17-103; Code 2012, § 17-103; Ord. No. SRO-123-89, § III, 5-24-1989; Ord. No. SRO-402-2012, § 17-103, 5-30-2012)

Sec. 17-272. Definitions.

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

Outdoor advertising sign means any billboard or other sign, which is not appurtenant to a use of the property, a product sold on or the sale or lease of the property on which it is displayed and which does not identify the place of business as a purveyor of the merchandise, services, etc., advertised upon the sign.
(Code 1981, § 17-104; Code 2012, § 17-104; Ord. No. SRO-123-89, § IV, 5-24-1989; Ord. No. SRO-402-2012, § 17-104, 5-30-2012)

Sec. 17-273. Permit.

Outdoor advertising permits shall be subject to the development Ordinance No. SRO-25-74, section 17-7. Permits shall be issued only for the use of outdoor advertising signs allowed under this article.
(Code 1981, § 17-105; Code 2012, § 17-105; Ord. No. SRO-123-89, § V, 5-24-1989; Ord. No. SRO-402-2012, § 17-105, 5-30-2012)

Sec. 17-274. Additional outdoor advertising signs prohibited.

No permit shall be issued for the erection of any outdoor advertising signs except:

(1) As provided in section 17-275(2), (otherwise pursuant to a variance granted under SRO-74-82, § 10.200A1; or

(2) If part of a comprehensive plan for the placement of outdoor advertising signs adopted by the Community Council.

(Code 1981, § 17-106; Code 2012, § 17-106; Ord. No. SRO-123-89, § VI, 5-24-1989; SRO-242-99, § 1, 11-18-1998; Ord. No. SRO-402-2012, § 17-106, 5-30-2012)

Editor's note—Ord. No. SRO-74-82 is not included in this Community Code of Ordinances.

Sec. 17-275. Nonconformity.

Outdoor advertising signs constructed or erected before the effective date of SRO-74-82 shall be nonconforming and shall be subject to the provisions listed hereinbelow:

(1) Outdoor advertising signs may be used pursuant to the requirements of this article until removal is required by the provisions of section 17-277.

(2) Outdoor advertising signs may not be enlarged, relocated, altered or reconstructed without a variance granted under the Community's Zoning Code.

(3) Outdoor advertising signs shall be maintained so as to be in safe, clean and neat condition at all times.

(4) In the event the director of the Community development department finds that an emergency exists, the director may make application for a use variance. Notice of such application shall be sent by mail to the affected landowners, who may

cancel the application by a writing received by the director within 15 days of the mailing of the notice.

(Code 1981, § 17-107; Code 2012, § 17-107; Ord. No. SRO-123-89, § VII, 5-24-1989; Ord. No. SRO-402-2012, § 17-107, 5-30-2012)

Editor's note—Ord. No. SRO-74-82 is not included in this Community Code of Ordinances.

Sec. 17-276. Sign standards.

(a) *Illumination.*

(1) Outdoor advertising signs may be illuminated but such illumination shall not be intermittent, flashing, animated or of a varying intensity. If located in the line of vision of any traffic signal, no red, green or yellow illumination shall be used.

(2) The source of illumination for outdoor advertising signs shall be oriented and shielded as necessary so that no such source of illumination shall be visible off site.

(b) *Materials.* Materials used in the construction of outdoor advertising signs shall conform to the requirements of the Community.

(c) *Sound.* No outdoor advertising signs shall emit sound.

(d) *Movement.* No outdoor advertising signs shall move by any means.

(e) *Size.* No outdoor advertising sign shall exceed 672 square feet on each side. A variance must be granted pursuant to section 17-275(2) before any sign may be increased in size.

(f) *Height.* No outdoor advertising sign shall exceed the maximum height of 30 feet, and a variance must be granted pursuant to section 17-275(2) before any sign may be increased in height.

(g) *Spacing.* Spacing of outdoor advertising signs shall be such that no sign is less than 450 feet from any other outdoor advertising sign on the same side of the roadway and that no sign is spaced less than 25 feet from a right-of-way.

(Code 1981, § 17-108; Code 2012, § 17-108; Ord. No. SRO-123-89, § VIII, 5-24-1989; Ord. No. SRO-402-2012, § 17-108, 5-30-2012)

Sec. 17-277. Required removal.

Any outdoor advertising signs located on an undeveloped, partially developed or agricultural parcel of property shall be removed prior to the issuance of a building permit for any other structure or use of the parcel, and shall not be reconstructed after the construction of such other structure or use on such parcel.

(Code 1981, § 17-109; Code 2012, § 17-109; Ord. No. SRO-123-89, § IX, 5-24-1989; Ord. No. SRO-402-2012, § 17-109, 5-30-2012)

Sec. 17-278. Signage agreements.

(a) Upon good cause shown, the director of the Community development department, or his or her authorized representative, may enter into a signage agreement with an owner or developer-lessee of land being developed under the general zoning category C-3, if such development shall encompass no fewer than 50 gross acres. The signage agreement shall provide for the style and design of signs, which shall be uniform throughout the development, shall provide for the placement of signs, may provide for the use of free-standing signs where not otherwise permitted, may provide for the use of up to three modifiers on wall signage, may provide for the use of exposed neon or similar tube type illumination, and shall provide for the number and sizes of signs which may exceed the square footage of signage area and height of signage allowed in other provisions of this article by no more than 60 percent on developments of similar usage. The purpose of a signage agreement shall be to establish aesthetic uniformity consistent with commercially reasonable advertising standards.

(b) A signage agreement may be entered into by the director of the Community development department, or his or her authorized representative, only if it has been shown by the owner or developer-lessee that the signage requested beyond the ordinary provisions of this article is necessary to the business to be located on the premises and that the signage will not adversely effect the aesthetic standards of this article or the agreement under which the development will occur.

(c) Any signage agreement shall provide for a waiver by the owner or developer-lessee of any right to request a variance from the provisions of this article.

(d) Any signage agreement when executed shall be fully binding and enforceable upon the owners or developer-lessees. The Community court shall have jurisdiction of all actions arising under the signage agreement and may grant equitable relief for a violation of it, including but not limited to mandatory injunctions requiring the removal of signs violating a signage agreement.
(Code 1981, § 17-110; Code 2012, § 17-110; Ord. No. SRO-133-91, § 1, 10-10-1990; Ord. No. SRO-402-2012, § 17-110, 5-30-2012)

Secs. 17-279—17-304. Reserved.

ARTICLE VIII. UNIFORM ROAD AND UTILITY CORRIDORS

Sec. 17-305. Policy.

It is the policy of the Community to establish uniform road and utility corridors within the Community so that road and utility services can be supplied to Community residents without undue delay.
(Code 1981, § 17-121; Code 2012, § 17-121; Ord. No. SRO-153-92, § 1, 6-3-1992; Ord. No. SRO-402-2012, § 17-121, 5-30-2012)

Sec. 17-306. Definitions.

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

Arterial street means a roadway with a 110-foot-wide right-of-way.

Collector street means a roadway with an 80-foot-wide right-of-way.

Local street means a roadway with a 50-foot-wide right-of-way.

Monument line means the linear center of a roadway and utility corridor from which all distances and widths on either side of the right-of-way are measured and which correspond to lines of the rectangular survey system including meridian, base, township, range and section lines.

Private road or driveway and *roadway* has the same meaning as set out in section 17-62, and are adopted by reference.

Utility corridor means a designated area underneath and/or parallel to a roadway in which gas, water, sewer, storm drain, telephone, and electric power or other similar pipes or lines are installed beneath or above the ground surface.
(Code 1981, § 17-122; Code 2012, § 17-122; Ord. No. SRO-153-92, § 2, 6-3-1992; Ord. No. SRO-402-2012, § 17-122, 5-30-2012)

Sec. 17-307. Utilization of roadway rights-of-way.

Roadway rights-of-way shall serve as utility corridors for the installation of gas, water, sewer, storm drain, telephone, and electric power and other similar pipes or lines.
(Code 1981, § 17-123; Code 2012, § 17-123; Ord. No. SRO-153-92, § 3, 6-3-1992; Ord. No. SRO-402-2012, § 17-123, 5-30-2012)

Sec. 17-308. Width standards for roadway and utility corridor rights-of-way.

All construction or improvement of roadways or utility corridors within acquired rights-of-way shall conform to the following specifications:

(1) For utility poles carrying electric power or telephone lines, or for buried electric power lines, the distance from the monument line for arterial streets, for collector streets, and for local streets shall be specified by such implementing regulations as the Community development department promulgates.

(2) For pipes carrying water, the distance from the monument line for arterial streets, for collector streets, and for local streets shall be as specified by such implementing regulations as the Community development department promulgates.

(3) For buried major telephone trunk lines, the distance from the monument line for

arterial, collector, and local streets shall be as specified by such implementing regulations as the Community development department promulgates.

(4) Sewer and storm drain pipes shall be buried beneath roadway surfaces at a depth sufficient to ensure complete safety at a distance measured from the pipe's center of as many feet from the monument line as the Community development department shall specify in such implementing regulations as it promulgates.

(5) Pipes carrying gas shall be buried at such distances from the monument line as accords with accepted industry practice and standards of safety.

(6) Open-channel irrigation or drainage ditches shall be located either outside of or on the outer right-of-way boundary lines of rights-of-way which are at a distance from the monument line for arterial streets, for collector streets, and for local streets as the Community development department shall specify in such implementing regulations as it promulgates.

(Code 1981, § 17-124; Code 2012, § 17-124; Ord. No. SRO-153-92, § 4, 6-3-1992; Ord. No. SRO-402-2012, § 17-124, 5-30-2012)

Sec. 17-309. Procedure for request of right-of-way easements.

All requests, proposals, and applications for right-of-way easements for roadways and utility corridors shall comply with and conform to the provisions of section 17-11 and any other applicable provisions of this Community Code of Ordinances.

(Code 1981, § 17-125; Code 2012, § 17-125; Ord. No. SRO-153-92, § 5, 6-3-1992; Ord. No. SRO-402-2012, § 17-125, 5-30-2012)

Sec. 17-310. Limitations of grantees.

Only the may be the grantee of a utility corridor easement for right-of-way.

(Code 1981, § 17-126; Code 2012, § 17-126; Ord. No. SRO-153-92, § 6, 6-3-1992; Ord. No. SRO-402-2012, § 17-126, 5-30-2012)

Sec. 17-311. Effect of corridor grant of right-of-way.

Upon the issuance of a grant of right-of-way for a utility corridor, the Community Council may grant easements within the corridor for the use of utilities, gas, water, sewer, storm drain, telephone, electric power or other similar pipes or lines.

(Code 1981, § 17-127; Code 2012, § 17-127; Ord. No. SRO-153-92, § 7, 6-3-1992; Ord. No. SRO-402-2012, § 17-127, 5-30-2012)

Sec. 17-312. Regulations.

The director of the Community development department shall, from time-to-time, subject to the approval of the Community Council, prescribe rules and regulations not in conflict with this article and necessary to the administration of this article.

(Code 1981, § 17-128; Code 2012, § 17-128; Ord. No. SRO-153-92, § 8, 6-3-1992; Ord. No. SRO-402-2012, § 17-128, 5-30-2012)

Secs. 17-313—17-342. Reserved.

ARTICLE IX. HIGHWAY RIGHTS-OF-WAY

Sec. 17-343. Encroachment permit requirement.

No person or persons shall access or build a driveway or turnout onto rights-of-way abutting or running through the lands of the Community from such lands without an approved permit from the Community development department, unless the driveway or turnout is built on a nonarterial road within a residential area.

(Code 1981, § 17-141; Code 2012, § 17-141; Ord. No. SRO-181-95, § A, 10-12-1994; Ord. No. SRO-402-2012, § 17-141, 5-30-2012)

Sec. 17-344. Scope.

The provisions of this article include permit application procedures, permit processing procedures, initial placement, adjustment, relocation,

reconstruction and replacement for use in all highway rights-of-way within the Community as limited in section 17-343.
(Code 1981, § 17-142; Code 2012, § 17-142; Ord. No. SRO-181-95, § B, 10-12-1994; Ord. No. SRO-402-2012, § 17-142, 5-30-2012)

Sec. 17-345. Encroachment permit application procedures.

(a) *Applications delivered to Community development department.* Completed applications shall be delivered to the Community development department, which is responsible for all phases of implementing the control of encroachment permits from the initial application, review, approval, construction and final inspection.

(b) *Plans required.* Applicants shall submit a set of plans indicating highway route number, mileposts, highway engineering stations, and physical features such as building, bridges, culverts, poles and other stationary landmarks necessary to adequately describe the location. Permit applicants are encouraged to employ competent design professionals such as registered professional engineers or architects when preparing plans of a complex nature. Permit applications shall include four sets of plans on primary and secondary highways.

(c) *Application review.* All permit applications are initially submitted to the Community development department which shall conduct a comprehensive review for uniformity and consistency in compliance with industry standards, specifications and special requirements in the issuance of permits. No work is to be performed until the permit is approved.

(d) *Time limit.* 90 calendar days will be the normal time allowed for completion of construction. Time limits beyond 90 days' time may be granted as determined by the Community development department.

(e) *Time extension.* Applicants may apply to the Community development department for a time extension beyond the allotted time indicated on the permit.

(f) *Bonding.*

(1) Performance bonds or other assurances of construction shall be posted to ensure the faithful performance of a permittee's obligation. The amount shall be equal to one-half the amount of the cost of the work and any other possible financial loss to the Community.

(2) The performance bonds shall be executed by the applicant as principal with a corporation duly authorized to transact surety business in the State of Arizona. The bond shall be in favor of the Community, shall be continuous in form, and shall be limited to the face amount of the bond. The bond shall be released upon satisfactory performance and acceptance of the work or may be canceled after the applicant has provided other security satisfactory to the Community development department which will cover the obligations.

(3) In instances where an applicant is issued numerous small permits throughout the year, he or she may post a continuing bond to cover work under more than one permit. The continuing bond shall be of a value sufficient to cover all work under construction by the permittee at any time and shall be satisfactory to the Community development department.

(4) The bonding requirement may be waived when it can be determined by the Community development department that adequate protection is provided the department to ensure satisfactory completion of the construction.

(g) *Access.*

(1) No access will be granted in limited access highways beyond that legally established.

(2) Access from highway rights-of-way will be permitted in accordance with uniform and appropriate standards.

(3) Median openings may be allowed on divided highways provided they conform to the Community development design guidelines regarding the design and spacing of such openings.

(4) Permits shall be only for the construction of a new turnout or driveway or changing the location of an existing driveway. Permits shall not be issued for the purpose of providing a parking area or for servicing vehicles on a highway right-of-way.

(5) Landowners of adjacent properties requiring a joint driveway may apply jointly, or one may apply for both with the written, notarized consent of the other.

(6) All standards and policies are public instruction and will be supplied to prospective applicants on request.

(h) *Landscaping.*

(1) The highway roadside is an integral unit of a total highway facility. The term "roadside" generally refers to the area between the outer edge of the roadway and the right-of-way boundary. These include all unpaved areas within the right-of-way.

(2) All plans and specifications shall be sufficiently complete and detailed for easy analysis and compliance inspection and shall be submitted in accordance with the Community's development design guidelines.

(3) Plans shall be designed to select plant materials appropriate for the intended use and location, to arrange plants for optimum effect, and to ensure reasonable maintenance within the capability of the proposed permittee. Permit application will be reviewed for consideration of the factors which can affect the safe and efficient operation of the highway facility. It will be the responsibility of the permit applicant to ensure that all landscaping is maintained after construction.

(4) A clear line of sight must be maintained at all highway intersections and entrances; therefore, all plantings in this zone must be limited to an ultimate height of 30 inches or less.

(5) Plants shall not be used where they may encroach upon drainageways and impede their functional value or increase maintenance. It shall be the responsibility of the permit applicant to ensure that all landscaping is maintained after construction.

(i) *Hydraulics.* At the discretion of the Community development department the following information compiled by a qualified engineer shall be submitted by permit applicants if it appears that changes may be made in drainage condition if the application is granted:

(1) A narrative report including a description of the existing drainage conditions, the proposed revisions and the effect of the proposed changes on existing conditions;

(2) Maps and/or drawings sufficient to show all pertinent features of the proposed modifications. This may include site maps, drainage area maps, contour maps, grading plans, structure profiles, channel profiles, etc.;

(3) Hydrologic and hydraulic calculations when applicable for design discharge, headwater elevations, tailwater elevations, flow depths and flow velocities in channels.

(j) *Utilities.*

(1) *Applications.* All applicants whose proposed access to rights-of-way intersects or may intersect existing or proposed utilities shall include utility plans with the application. Utility plans shall adequately show such features as pavement and right-of-way lines in relation to proposed facilities and shall clearly indicate the location, size, and depth of existing buried utilities.

(2) *Jack or bore.* When approved, pipes, conduit or other utilities shall be jacked or bored through beneath paved area. Pits may be placed in the median for boring, jacking or driving of pipes or conduits under divided roadways. The pit areas shall be completely fenced or barricaded and placed at a minimum distance of 30 feet from the edge of shoulder. Pavement cuts shall be considered only when jacking, boring or other alternatives are proved

impractical and then only when approved by the Community development department.

(Code 1981, § 17-143; Code 2012, § 17-143; Ord. No. SRO-181-95, § C, 10-12-1994; Ord. No. SRO-402-2012, § 17-143, 5-30-2012)

Sec. 17-346. Minimum setback.

(a) *50 mph or greater design speed.*

(1) Minimum setback of a fixed object from the edge of the traffic lane should be 30 feet unless one of the following reasons will allow for a lesser distance:

a. Cuts of three to one or steeper: obstacles are allowed ten feet behind the point of vertical intersection at the toe of the slope.

b. Where concrete barriers, walls, abutments, or other rigid obstructions are used: fixed objects may be placed four feet behind the obstructions.

c. Where flexible guardrail (box-beam, W-beam, or cable) is used: six to 20 feet behind the face of the guardrail, depending upon the type.

d. Where there are barrier curbs (five inches or more vertical face) near a traveled land: six feet behind the face of the curb; adjacent to a parking lane no definite setback distance.

(2) Where limited right-of-way or the necessity for planting would result in less clearance, all factors in the particular problem area should be weighed to decide if a special exception is warranted.

(b) *50 mph or less design speed.*

(1) Minimum setback of a fixed object from the edge of the traffic lane may be 25 feet unless one of the reasons set forth under subsection (a) of this section will allow for a lesser distance.

(2) On curves, adequate sight distance for the design speed of the highway must be maintained.

(Code 1981, § 17-144; Code 2012, § 17-144; Ord. No. SRO-181-95, § D, 10-12-1994; Ord. No. SRO-402-2012, § 17-144, 5-30-2012)

Sec. 17-347. City-issued state permits.

Access to or from any road which is abutted by both the Community and a state municipality shall be subject to a permit granted by the Community or by the municipality in those cases in which the municipality and the Community are parties to an agreement with the Arizona department of transportation relative to the granting of access.

(Code 1981, § 17-145; Code 2012, § 17-145; Ord. No. SRO-181-95, § E, 10-12-1994; Ord. No. SRO-402-2012, § 17-145, 5-30-2012)

Sec. 17-348. Maintenance responsibility.

The adjacent property owners having access to rights-of-way described by this article shall be fully responsible for the maintenance of their driveway including the portion from the highway right-of-way line to the outside edge of the highway shoulder or curbline. This maintenance responsibility includes keeping the portion within the highway right-of-way in a safe condition for the general public. The owner shall be responsible for the maintenance of ditches, pipes, catchbasins, grates, poles, gates, aerial wires, buried cables and other structures of installations placed in connection with encroachment permits. The owner will be given ten days' notice to perform the required maintenance. After this period, the Community development department may then perform the required maintenance, and the owner shall be liable for the costs of such maintenance. If an emergency exists wherein there is an immediate hazard to the highway, the Community development department may perform the required remedial maintenance, and the owners shall be liable for all such costs incurred. The owner shall be responsible for any revisions or improvements required as a result of changed conditions of use after the permit is issued and/or after construction is completed.

(Code 1981, § 17-146; Code 2012, § 17-146; Ord. No. SRO-181-95, § F, 10-12-1994; Ord. No. SRO-402-2012, § 17-146, 5-30-2012)

Sec. 17-349. Unauthorized encroachments.

Use of highway rights-of-way shall be limited to authorized uses herein described. Persons mak-

ing unauthorized uses of such right-of-way will be notified that they are in violation of this Community Code of Ordinances. If the encroachment has not been removed within the time prescribed, the Community development department may remove the unauthorized encroachment, and the person violating the right-of-way shall be liable for the cost of such removal. Parking areas and any substantial commercial or industrial activity in connection with highway rights-of-way will not be permitted.
(Code 1981, § 17-147; Code 2012, § 17-147; Ord. No. SRO-181-95, § G, 10-12-1994; Ord. No. SRO-402-2012, § 17-147, 5-30-2012)

Sec. 17-350. Rule-making authority.

The Community development department shall make rules for the proper administration of this article and shall additionally adopt regulations to administer applications for encroachment permits not subject to this article.
(Code 1981, § 17-148; Code 2012, § 17-148; Ord. No. SRO-181-95, § H, 10-12-1994; Ord. No. SRO-402-2012, § 17-148, 5-30-2012)

Secs. 17-351—17-373. Reserved.

ARTICLE X. SUBDIVISIONS

Sec. 17-374. Policy.

The purpose of this article is:

(1) To provide for the orderly growth and harmonious development of the Community;

(2) To ensure adequate traffic circulation through coordinated street systems with relation to thoroughfares, adjoining subdivisions and public facilities;

(3) To achieve individual property lots of reasonable commercial utility and livability;

(4) To secure adequate provisions for water supply, drainage, protection against flood, stormwater detention, sanitary sewage and other health and safety requirements;

(5) To ensure consideration for adequate sites for recreation areas and other public facilities; and

(6) To provide practical procedures for the achievement of this purpose.

(Code 1981, § 17-151; Code 2012, § 17-151; Ord. No. SRO-182-95, § 1, 10-12-1994; Ord. No. SRO-402-2012, § 17-15, 5-30-2012)

Sec. 17-375. Generally.

(a) *Article definitions.* All terms regarding the development of land appearing in this section shall be defined by reference to the definitions that appear in section 2.000 of the Community's zoning ordinance SRO-74-82.

(b) *Final plat approval procedure.* The process of final plat approval for the development of subdivisions within the Salt River Pima-Maricopa Indian Reservation, whether on tribal or allotted land, and whether for commercial or residential purposes, shall include:

(1) The initial proposal as set forth in a development master plan;

(2) Review and approval of a preliminary plat; and

(3) Review and approval of a final plat which conforms substantially to the preliminary plat, as hereinafter described.

(c) *Applicability.* This article shall be subject to and be interpreted to conform with all provisions, where applicable, of this chapter.
(Code 1981, § 17-152; Code 2012, § 17-152; Ord. No. SRO-182-95, § 2, 10-12-1994; Ord. No. SRO-402-2012, § 17-152, 5-30-2012)

Sec. 17-376. Scope and contents of development master plan.

(a) A development master plan shall accompany any proposal to develop land as a commercial or residential subdivision within the Salt River Pima-Maricopa Indian Reservation. Such plan shall be submitted to the Community development department for initial approval and authorization to proceed with the subsequent plat review and approval processes. A report consist-

ing of maps, tables, and explanatory text should be prepared for and part of any proposed development master plan.

(b) The development master plan shall be prepared by the party proposing the subdivision development to a scale and accuracy commensurate with its purpose and shall include the following information as a minimum:

(1) Designation of the various categories of proposed land uses including designation of areas proposed for residential or commercial uses.

(2) General arrangement of arterial streets and collector streets.

(3) General location of size of proposed parks and other common areas.

(4) Methods proposed for water supply, sewage disposal, fire protection, drainage and protection from floods.

(5) Major geographical features including but not limited to hills, rock outcrops, arroyos, canals, rivers, major washes and major highways.

(6) Any additional information that may be needed in order to carry out the purpose and intent of the development master plan.

(Code 1981, § 17-153; Code 2012, § 17-153; Ord. No. SRO-182-95, § 4, 10-12-1994; Ord. No. SRO-402-2012, § 17-153, 5-30-2012)

Sec. 17-377. Preliminary plat review.

(a) The preliminary plat stage of land subdivision includes detailed subdivision planning, submittal, review and approval of the preliminary plat by the Community development department. Application for final approval of the preliminary plat is made to the council upon recommendation by the Community development department, which shall review the preliminary plat as submitted to it by the Community development department.

(b) The subdivision shall be designed to comply with the requirements of the specific zoning district within which it is located. In the event that a change of zoning is necessary, the zoning application and subdivision shall be processed concurrently with the processing required under this chapter pertaining to development.

(c) The developer shall submit five copies of the preliminary plat, for purposes of review by the Community development department. The information herein required as part of the preliminary plat submitted shall be shown graphically or by note on plans, or by letter, and may comprise several sheets showing various elements of required data. All mapped data for the same plat shall be drawn at the same standard engineering scale, not greater than 200 feet to an inch.

(d) No subdivision shall be considered by the Community development department unless there is adequate assurance that satisfactory access to the subdivision can be provided.

(Code 1981, § 17-154; Code 2012, § 17-154; Ord. No. SRO-182-95, § 4, 10-12-1994; Ord. No. SRO-402-2012, § 17-154, 5-30-2012)

Sec. 17-378. Information required on preliminary plat.

(a) All preliminary plats shall contain the following information obtained from a field survey:

(1) Proposed name of subdivision and its location by section, township and range; small scale vicinity map showing relative location of the plat; reference by dimension and bearing to section corners and quarter-section corners, and subdivision boundaries clearly identified.

(2) Name, address and phone number of engineer, surveyor, landscape architect or land planner preparing the plat, including registration number if registered.

(3) North point, scale and date of preparation, including dates of any subsequent revisions.

(4) Name, book and page numbers of the names of record allottees or lessees of adjoining parcels of unsubdivided land, if any.

(5) Existing and proposed contours established by field survey relating to USGS survey data, or other data, to be shown on

the same map as the proposed subdivision layout. Location and elevation of the benchmark used is also to be shown on the plat. Acceptable contour intervals are as follows:

a. Grades up to five percent: two feet;

b. Grades of five percent to ten percent grades: five feet;

c. Grades over ten percent: ten feet.

(6) Location by survey of streams, washes, canals, irrigation laterals, private ditches, culverts, or other water features, including direction of flow and water level elevations, and location and extent of areas subject to inundation and whether such inundation is frequent, periodic or occasional. If any portion of the land subdivided is below the elevation of the delineated floodplain, the limit of such flood and/or of the floodplain shall be shown.

(7) Whenever any stream or important surface drainage course is located in the area being subdivided, provision shall be made for an adequate easement along each side of the stream or drainage course for the purpose of widening, deepening, realigning, improving or protecting the stream for drainage purposes.

(8) Location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract, existing permanent buildings, and other important features such as section lines.

(9) Existing sewers, water mains, culverts, or other underground structures within the tract and immediately adjacent thereto with pipe sizes, grades and locations indicated. Where water mains are not immediately adjacent thereto, give direction and distance to nearest such usable utility.

(10) Location, width and names of proposed streets, alleys, drainageways, crosswalks and easements including all connections to adjoining platted or unplatted tracts. A statement as to the type and extent of proposed improvements should appear on the face of the plat.

(11) Lot layout, including minimum building lines related to all streets; lot numbers, and approximate dimensions and area of proposed lots. A nonaccess easement shall be provided on all residential lots adjoining an arterial street.

(12) Designation of all land to be dedicated, provided or reserved for public or semipublic uses, with use indicated.

(13) Reference by note to source of proposed electricity, gas and telephone service and provision that such services will be underground.

(14) Sewage disposal. It shall be the responsibility of the developer to furnish the Community development department with evidence in the form of specific plans as to design and operation of sanitary sewage facilities proposed. A statement as to the type of facilities proposed shall appear on the preliminary plat. If the subdivision is for residential use, there shall be provided for every lot a clear unencumbered setback from the lot line to the nearest point in the foundation line of 35 feet, and a total unencumbered area of not less than 1,800 square feet to accommodate the system and provide for the replacement of defective units. Septic tank systems shall be planned and oriented with respect to abutting streets or alleys so as to minimize exterior plumbing changes needed to connect to a future central sewage collection system.

(15) Water supply. It shall be the responsibility of the developer to furnish the Community development department with evidence in the form of specific plans as to the facilities for supplying domestic water. A statement as to the type of facilities proposed shall appear on the preliminary plat, and shall be in conformity with the provisions of chapter 18.

(16) Stormwater disposal.

a. All existing drainage patterns affecting the land included in the proposed subdivision shall be shown. Washes must indicate the following:

1. Size of contributing drainage area, in acres.

2. Approximate length and width of contributing drainage area.

b. Type and amount of peak flow at lower boundary of the proposed subdivision, indicating the effect on neighboring property. It is the developer's responsibility to provide for drainage across the proposed subdivision for water which enters the proposed subdivision and water which falls on the area of the proposed subdivision. The developer must also properly dispose of this water in nearly as possible the same manner as before subdivision or development or by other approved means. Peak discharge at the lower boundary of the proposed subdivision shall not be increased as a result of development.

c. If any part of the stormwater flow is to be handled by an underground pipe system, the location of the inlets, tentative size and line of pipe and the outlet grade must be shown.

d. All information and calculations as required in this section must be prepared in report form by a registered professional civil engineer with five copies submitted at the time of filing the preliminary plat and must conform with the master drainage plan of the Community.

(17) Irrigation. If lots are proposed to be irrigated, all easements, the preliminary location of valves, and the tentative line of the underground pipe must be shown.

(18) Fire hydrants. The type, number and location of fire hydrants shall be shown on the preliminary plat. Subsequently submitted domestic water distribution plans shall show connections of fire hydrants.

(b) If satisfied that all objectives of this section have been met, the council, upon recommendation of the Community development department, shall determine whether to approve the preliminary plat, and if approved a notation of approval shall be stamped on the submitted copy of the plat.

(c) If the council finds that the plat requires revision, the plat shall be reconsidered by the council upon revision, resubmittal, processing and re-review by the Community development department.

(Code 1981, § 17-155; Code 2012, § 17-155; Ord. No. SRO-182-95, § 5, 10-12-1994; Ord. No. SRO-402-2012, § 17-155, 5-30-2012)

Sec. 17-379. Final plat review.

(a) The final plat stage includes submittal, review and approval of the final plat, and any improvements thereto, as required by the provisions of this section as hereinafter described. Application for approval of the final plat is made to the council, upon recommendation by the Community development department.

(b) The subdivision engineer shall submit one sepia copy of the plat to the utility agency or agencies, including the Community's irrigation coordinator if lots are to be irrigated, concerned with the installation of utilities within the subdivision. This sepia shall be submitted prior to the submittal of the final plat to the Community development department. One copy of the plat will be returned directly to the subdivision engineer and the Community development department with any required additions or corrections noted thereon from all utility companies franchised to provide services to the property.

(c) The final plat shall conform to the approved preliminary plat and any stipulations attached thereto by reviewing agencies. The plat shall be drawn to an accurate scale of not more than 200 feet to an inch.

(1) If the final plat is complete and conforms to the approved preliminary plat, it will be transmitted to all concerned depart-

ments. Upon receipt of the letters of approval from all departments concerned, the final plat will be forwarded to the council. If the final plat is not in conformance with the preliminary plat or stipulations attached thereto, it will be returned for compliance.

(2) If additional information or changes are recommended by any of the reviewing agencies, a revised final plat must be submitted to the Community development department. Referral and scheduling of a revised final plat shall be the same as that required for the original final plat.

(Code 1981, § 17-156; Code 2012, § 17-156; Ord. No. SRO-182-95, § 6, 10-12-1994; Ord. No. SRO-402-2012, § 17-156, 5-30-2012)

Sec. 17-380. Information required on final plat.

The final plat shall contain the following information:

(1) A title, which includes the name of the subdivision and its location by section, township, range and county.

(2) Name, registration number, and seal of the registered professional civil engineer or registered land surveyor preparing the plat.

(3) Name and registration number of the registered professional civil engineer responsible for the engineering that is necessary in preparation of the proposed subdivision.

(4) Scale (written and graphic), north point and date of plat preparation.

(5) Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the plat shall be referenced.

(6) Any parcel or parcels within the plat boundary not included in the subdivision plat shall be accurately described by bearings and distances. Proper street and alley dedications adjacent to any proposed tracts or accepted parcels shall be provided by inclusion within the plat or by separate dedication noted on the plat.

(7) Boundaries of the tract to be subdivided fully balanced and closed, showing all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof. Corners of the plat should be noted and monuments found or set should be indicated; each of two corners of the subdivision traverse shall be tied by course and distance to separate section corners or quarter section corners. Portions of any adjacent property between major road intersections shall not be excluded from within the boundaries of the subdivision when needed or required for dedication or improvements of any traffic, drainage, or flood control facility. Such areas may be indicated as excluded tracts after necessary dedications are shown.

(8) Names, centerlines, right-of-way lines, course, lengths and widths of all public streets, alleys, crosswalks and utility easements; radii, points of tangency and central angles of all curvilinear streets and alleys, and radii of all rounded street line intersections.

(9) All drainageways shall be shown on the plat.

(10) The location, width and use of all public or private utility easements shall be noted.

(11) Location and dimensions of all lots shall be shown. Lot dimensions shall be indicated for at least one side lot line and either the front or rear lot line. All minimum building setback lines which adjoin all streets shall also be shown and dimensioned. In areas subject to flooding, minimum finished first floor elevations shall be shown as may be recommended by the appropriate authority.

(12) All lots shall utilize a block and lot numbering system or be numbered consecutively throughout the plat. Exceptions,

tracts and parks shall be so designated, lettered or named, and clearly dimensioned.

(13) The record plat is to be drawn at a scale of not more than 200 feet to an inch from an accurate survey. If more than two sheets are required, a key map shall be shown on the first sheet or on a separate sheet.

(14) Certification by the registered professional civil engineer or registered land surveyor making the plat that the plat is correct and accurate, that the monuments described in it have been located or established as described and the lot corners permanently set.

(15) Minimum building lines shall be shown on the street side of all lots intended for residential use of any character and on all lots intended for commercial or industrial use. Such building lines shall not be less than required by any zoning ordinance or building line regulation applying to the property.

(Code 1981, § 17-157; Code 2012, § 17-157; Ord. No. SRO-182-95, § 7, 10-12-1994; Ord. No. SRO-402-2012, § 17-157, 5-30-2012)

Secs. 17-381—17-403. Reserved.

ARTICLE XI. ENCUMBRANCE OF LAND

DIVISION 1. GENERALLY

Secs. 17-404—17-434. Reserved.

DIVISION 2. MORTGAGES

Sec. 17-435. Jurisdiction.

The court shall have jurisdiction to resolve and adjudicate any and all issues arising under this division within this Community Code of Ordinances.

(Code 1981, § 17-201; Code 2012, § 17-201; Ord. No. SRO-198-95, § I(A), 5-3-1995; Ord. No. SRO-402-2012, § 17-201, 5-30-2012)

Sec. 17-436. Definitions.

As used in this division within this Community Code of Ordinances, the following terms shall have the meanings ascribed in this section, except where context clearly indicates a different meaning:

Mortgage means every transfer of an interest in real property, other than in trust or trust deed subject to division 3 of this article, made only as a security for the performance of another act.

Mortgagee means the financial lender.

Mortgagor means the borrower or the debtor.

Provision for assignment means a mortgage or trust deed that provides for an assignment to the mortgagee or beneficiary of the interest of the mortgagor or trustor in leases, rents, issues, profits or income from the property covered thereby, whether effective before, upon or after a default under such mortgage or trust deed or any contract secured thereby, such assignment being enforceable without regard to the adequacy of the security or the solvency of the mortgagor or trustor by any one or more of the following methods:

(1) The appointment of a receiver.

(2) The mortgagee or beneficiary taking possession of the property, or without the mortgagee or beneficiary taking possession of the property.

(3) Collecting such monies directly from the parties obligated for payment.

(4) Injunction.

Real estate and land services section means the section of the Community development department or its successor responsible for maintaining land records.

(Code 1981, § 17-202; Code 2012, § 17-202; Ord. No. SRO-198-95, § I(B), 5-3-1995; Ord. No. SRO-402-2012, § 17-202, 5-30-2012)

Sec. 17-437. Interests which may be mortgaged; formal requirements; recording.

(a) Any interest in real property within the Community held in trust by the United States for individual Indian owners or subject to a restric-

tion against alienation imposed by the United States, including, but not limited to, leaseholds, may be mortgaged, except that the mortgage of any interest in land shall be subject to the requirements of 25 USC 483a and other applicable federal law.

(b) A mortgage or an assignment of mortgage may be created, renewed or extended only by writing executed with the formalities required of a grant of real property, and may be acknowledged, certified and recorded in the real estate services, land title and records section, B.I.A. Albuquerque, N.M. and the real estate and land services section of the Community development department, and such recordation shall be notice of the mortgage and its priority and effect on the title to the interest in the real property to any person thereafter claiming an interest in the real property.

(Code 1981, § 17-203; Code 2012, § 17-203; Ord. No. SRO-198-95, § I(C), 5-3-1995; Ord. No. SRO-402-2012, § 17-203, 5-30-2012)

Sec. 17-438. Mortgage as lien; rights of possession.

(a) A mortgage is a lien upon everything that would pass by a grant of the property, but does not entitle the mortgagee to possession of the property unless authorized by the express terms of the mortgage. After execution of the mortgage, the mortgagor may agree to change of possession without a new consideration.

(b) Title acquired by the mortgagor subsequent to the execution of the mortgage inures to the mortgagee as security as if acquired before the execution.

(Code 1981, § 17-204; Code 2012, § 17-204; Ord. No. SRO-198-95, § I(D), 5-3-1995; Ord. No. SRO-402-2012, § 17-204, 5-30-2012)

Sec. 17-439. Acknowledgements of satisfaction; recording; liability for failure to acknowledge satisfaction.

(a) If a mortgagee, trustee or person entitled to payment receives full satisfaction of a mortgage or deed of trust, he or she shall acknowledge satisfaction of the mortgage or deed of trust by delivering to the person making satisfaction or by recording a sufficient release or satisfaction of mortgage or deed of release and reconveyance of the deed of trust, which release, satisfaction of mortgage or deed of release and reconveyance shall contain the docket and page number of the mortgage or deed of trust or acknowledge satisfaction as provided in subsection (c) of this section when applicable. It shall not be necessary for the trustee to join in the acknowledgement or satisfaction of mortgage or deed of release and reconveyance. The recorded release or satisfaction of mortgage or deed of release and reconveyance constitutes conclusive evidence of full or partial satisfaction and release of the mortgage or deed of trust in favor of purchaser and encumbrancers for value and without actual notice.

(b) When a mortgage or deed of trust is satisfied by a release or satisfaction of mortgage or deed of release and reconveyance, except where the record of such deed of trust or mortgage has been destroyed or reduced to microfilm, the real estate and land services section shall not on the margin of the record of the deed of trust or mortgage the book and page where the release is recorded.

(c) If the record of such mortgage or deed of trust has been destroyed and the record thereof reduced to microfilm, it shall be sufficient evidence of satisfaction of any such mortgage or deed of trust for the release or satisfaction of mortgage or deed of release and reconveyance to be recorded and indexed as such. If the person acknowledging satisfaction appears in the office of the real estate and land services section without a release or satisfaction of mortgage or deed of release and reconveyance, the person shall acknowledge satisfaction on a form of instrument provided by the recorder for such purpose, which instrument shall sufficiently identify the mortgage or deed of trust by parties and by book and page of the official records. Such instrument shall be certified to by the real estate and land services section and thereupon shall be treated as a release or satisfaction of mortgage or deed of release and reconveyance and recorded and indexed as such.

(d) If satisfaction is acknowledged by an assignee, the note secured shall be produced and cancelled in the presence of the real estate and

land services section, who shall enter that fact on the margin of the record. If the record of such mortgage or deed of trust has been destroyed and the record thereof reduced to microfilm, the real estate and land services section shall reduce such production and cancellation of note to a written and signed statement which shall thereafter be recorded and indexed as releases, satisfactions of mortgage and deeds of release and reconveyance are recorded and indexed. If the note secured by a mortgage or deed of trust has been lost or destroyed, the assignee, mortgagee or beneficiary shall, before acknowledging satisfaction, make an affidavit that he or she is the lawful owner of the note and that it has been paid, but cannot be produced for the reason that it has been lost or destroyed, and the affidavit shall be entered on the face or margin of the record or appended thereto. If the record of such mortgage or deed of trust has been destroyed and the record thereof reduced to microfilm, such affidavit shall be recorded and indexed as releases, satisfactions of mortgage and deeds of release and reconveyance are recorded and indexed and shall have the same force and effect as a release or satisfaction of a mortgage or deed of release and reconveyance as provided in subsection (a) of this section.

(e) If a release or satisfaction of mortgage or deed of release and reconveyance of deed of trust, which, according to its terms, recites that it secures an obligation having a stated indebtedness not greater than $500,000.00 exclusive of interest, has not been executed and recorded pursuant to subsection (a) or (c) of this section within 60 days of satisfaction of the obligation secured by such mortgage or deed of trust, then a title insurer may prepare, execute and record a release or satisfaction of mortgage or deed of release and reconveyance of deed of trust. However, at least 30 days prior to the issuance and recording of any such release or satisfaction of mortgage or deed of release and reconveyance pursuant to this subsection, the title insurer shall mail, by certified mail with postage prepaid, return receipt requested, to the mortgagee of record or to the trustee and beneficiary of record and their respective successors in interest of record at their last known address shown of record and to any persons who, according to the records of the title insurer, received payment of the obligation at the address shown in such records, a notice of its intention to release the mortgage or deed of trust accompanied by a copy of the release or satisfaction of mortgage or deed of release and reconveyance to be recorded, which shall set forth:

(1) The name of the beneficiary or mortgagee or any successors in interest of record of such mortgagee or beneficiary and, if known, the name of any servicing agent.

(2) The name of the original mortgagor or trustor.

(3) The name of the current record owner of the property.

(4) The recording reference to the deed of trust or mortgage.

(5) The date and amount of payment, if known.

(6) A statement that the title insurer has actual knowledge that the obligation secured by the mortgage or deed of trust has been paid in full.

(f) The release or satisfaction of mortgage or release and reconveyance of deed of trust may be executed by a duly appointed attorney-in-fact of the title insurer, but such delegation shall not relieve the title insurer from any liability pursuant to this section.

(g) A release or satisfaction of mortgage or deed of release and reconveyance of deed of trust issued pursuant to subsection (e) of this section shall be entitled to recordation and, when recorded, shall constitute a release or satisfaction of mortgage or deed of release and reconveyance of deed of trust issued pursuant to subsection (a) or (c) of this section.

(h) Where an obligation secured by a deed of trust or mortgage was paid in full prior to the effective date of this section, and no release or satisfaction of mortgage or deed of release and reconveyance of deed of trust has been issued and recorded within 60 days of the effective date of this section, a release or satisfaction of mortgage or deed of release and reconveyance of deed of trust, as provided for in subsection (e) of this section, may be prepared and recorded.

(i) A release or satisfaction of mortgage or a release and reconveyance of deed of trust by a title insurer under the provisions of subsection (e) of this section shall not constitute a defense nor release any person from compliance with subsections (a) through (d) of this section.

(j) In addition to any other remedy provided by law, a title insurer preparing or recording the release and satisfaction of mortgage or the release and reconveyance of deed of trust pursuant to this section shall be liable to any party for actual damage, including attorneys' fees, which any person may sustain by reason of the issuance and recording of the release and satisfaction of mortgage or release and reconveyance of deed of trust.

(k) The title insurer shall not record a release and satisfaction of mortgage or release and reconveyance of deed of trust if, prior to the expiration of the 30-day period specified in this section, the title insurer receives a notice from the mortgagee, trustee, beneficiary, holder or servicing agent which states that the mortgage or deed of trust continues to secure an obligation.

(l) The title insurer may charge a reasonable fee to the owner of the land or other person requesting a release and satisfaction of mortgage or release and reconveyance of deed of trust, including, but not limited to, search of title, document preparation and mailing services rendered, and may, in addition, collect official fees.

(m) An attorney-in-fact to whom the money due on a mortgage or deed of trust is paid may execute the release provided for in this division within this Community Code of Ordinances. Such acknowledgment of satisfaction or deed of release, duly acknowledged and recorded, releases the mortgage or deed of trust and reinvests in the mortgagor or person who executed the deed of trust, or his or her legal representatives, all title to the property affected by the mortgage or deed of trust.

(n) The executor or administrator of a mortgagee or of the holder or owner of an indebtedness secured by a mortgage or deed of trust shall, if the indebtedness was paid to the decedent in his or her lifetime, acknowledge satisfaction thereof on the margin of the record of the mortgage or deed of trust, or deliver to such person a sufficient release, satisfaction of mortgage or deed of release of the mortgage or deed of trust or acknowledge satisfaction, as provided in subsection (c) of this section. If the executor or administrator, upon proof to him or her of the payment of the indebtedness to his or her decedent, does not, within 30 days, acknowledge satisfaction in the margin of the record or deliver to the person owning the property a sufficient release, satisfaction of mortgage or deed of release, or acknowledge satisfaction, as provided in subsection (c) of this section, he or she shall personally forfeit to the party aggrieved $100.00 and be personally liable for the damages thereby sustained. The executor or administrator shall not be liable to the estate of which he or she is executor or administrator for any indebtedness by mortgage or deed of trust release by him or her in accordance with this section.

(o) Liability for failure to acknowledge satisfaction.

(1) If any person receiving satisfaction of a mortgage or deed of trust shall, within 30 days, fail to record or cause to be recorded, with the recorder or real estate and land services section, a sufficient release, satisfaction of mortgage or deed of release or acknowledge satisfaction, he or she shall be liable to the mortgagor, trustor or current property owner for actual damages occasioned by the neglect or refusal.

(2) If, after the expiration of the time provided in subsection (o)(1) of this section, the person fails to record or cause to be recorded a sufficient release and continues to do so for more than 30 days after receiving a written request which identifies a certain mortgage or deed of trust by certified mail from the mortgagor, trustor, current property owner or his or her agent, he or she shall be liable to the mortgagor, trustor or current property owner for $1,000.00, in addition to any actual damage occasioned by the neglect or refusal.

(3) Any action to enforce the provisions of this section, including any action to recover amounts due under this section,

shall be brought and maintained in the individual names of, and shall be prosecuted by, persons entitled to recover under the terms thereof, and not in a representative capacity or otherwise.

(Code 1981, § 17-205; Code 2012, § 17-205; Ord. No. SRO-198-95, § I(E), 5-3-1995; Ord. No. SRO-402-2012, § 17-205, 5-30-2012)

Sec. 17-440. Foreclosure.

(a) *Foreclosure of mortgage by court action.* Mortgages of real property, notwithstanding any other provision in the mortgage, shall be foreclosed by action in a court.

(b) *Election between action on debt or to foreclose.* If separate actions are brought on the debt and to foreclose the mortgage given to secure it, the plaintiff shall elect which to prosecute and the other shall be dismissed.

(c) *Right of junior lienholder upon foreclosure action by senior lienholder.* Any time after an action to foreclose a mortgage or deed of trust is brought, and prior to the sale, a person having a junior lien on the property shall be entitled to an assignment of all the interest of the holder of the mortgage or deed of trust by paying him or her the amount secured, with interest and costs, together with the amount of any other superior liens of the same holder. The assignee may then continue the action in his or her name.

(d) *The Community as party to foreclosure actions.*

(1) The shall be made a party to any action to foreclose a mortgage upon real property located within the Community. The complaint shall set forth the nature of the estate, interest or lien allegedly claimed by the Community.

(2) When the Community is made defendant, a copy of the summons and complaint shall be served upon the Community manager of the Community.

(3) The Community may bid on the property and may purchase the property in preference to any deed in lieu of foreclosure to any person not a mortgagee or trustor in regard to the property at the price of the deed in lieu.

(e) *Judgment of foreclosure; contents; sale of property; resale.*

(1) When a mortgage or deed of trust is foreclosed, the court shall give judgment for the entire amount determined due, and shall direct the mortgaged property, or as much thereof as is necessary to satisfy the judgment, to be sold.

(2) Judgments for the foreclosure of mortgages and other liens shall provide that the plaintiff recover his or her debt, damages and costs, with a foreclosure of the plaintiff's lien on the property subject to the lien, and except in judgments against executors, administrators and guardians, that a special execution issue to the Community police department, directing it to seize and sell the property as under execution, in satisfaction of the judgment. If the property cannot be found, or if the proceeds of the sale are insufficient to satisfy the judgment, then, if so ordered by the court, the Community police department shall take the money or any balance thereof remaining unpaid out of any other property of the defendant. Any sale of real property to satisfy a judgment under this section shall be a credit on the judgment in the amount of either the fair market value of the real property or the sale price of the real property at the Community police department sale, whichever is greater.

(3) If the debt for which the lien is held is not all due, as soon as enough of the property is sold to pay the amount due, with costs, the sale shall cease, and afterward as often as more becomes due for principal and interest, the court may, on motion, order more property sold. If the property cannot be sold in portions without injury to the parties, the whole may be ordered sold in the first instance and the entire debt and costs paid, allowing a rebate of interest where proper.

(f) *Redemption of property by payment to officer directed under foreclosure judgment to sell the property.* If payment is made to the officer directed to sell mortgaged property under a foreclosure judgment, before the foreclosure sale takes place, the officer shall make a certificate of payment and acknowledge it, and the certificate shall be recorded in the office in which the mortgage or deed of trust is recorded and shall have the same effect as satisfaction entered on the margin of the record.

(g) *Sale under execution; deficiency; order of liens; writ of possession.*

(1) If the mortgaged property does not sell for an amount sufficient to satisfy the judgment, an execution may be issued for the balance against the mortgagor where there has been personal service, or the defendant has appeared in the action.

(2) If there are other liens on the property sold, or other payments secured by the same mortgage, they shall be paid in their order, and if the money secured by any such lien is not yet due, a rebate of interest, to be ascertained by the court, shall be made by the holder, or his or her lien on such property will be postponed to those of a junior date, and if there are no other liens the balance shall be paid to the mortgagor. If redemption is not made and the mortgagor or his or her assigns refuse, after expiration of the time for redemption, to deliver possession of the foreclosed property, the court shall order a writ of possession issued placing the purchaser or his or her assigns in possession.

(h) *Notation upon record that mortgage is foreclosed and judgment satisfied; effect.* When a mortgage has been foreclosed by action in court, and the judgment has been paid and satisfaction thereof entered upon the docket, the recorder or real estate and land services section, upon presentation to him or her of the certificate of the clerk of the court certifying such facts, shall note on the margin of the record of the mortgage the fact of foreclosure, giving the title of the court, title of the action and noting that the judgment docketed therein has been fully paid and satisfied. Such entry shall have the same effect as the record of discharge by the mortgagee.

(i) *Purchase money mortgage; limitation on liability.*

(1) Except as provided in subsection (i)(2) of this section, if a mortgage is given to secure the payment of the balance of the purchase price, or to secure a loan to pay all or part of the purchase price, of a parcel of real property of 2½ acres or less which is limited to and utilized for either a single one-family or a single two-family dwelling, the lien of judgment in an action to foreclose such mortgage shall not extend to any other property of the judgment debtor, nor may general execution be issued against the judgment debtor to enforce such judgment; and if the proceeds of the mortgaged real property sold under special execution are insufficient to satisfy the judgment, the judgment may not otherwise be satisfied out of other property of the judgment debtor, notwithstanding any agreement to the contrary.

(2) The balance due on a mortgage foreclosure judgment after sale of the mortgaged property shall constitute a lien against other property of the judgment debtor, general execution may be issued thereon, and the judgment may be otherwise satisfied out of other property of the judgment debtor, if the court determines, after sale upon special execution and upon written application and such notice to the judgment debtor as the court may require, that the sale price was less than the amount of the judgment because of diminution in possession, or control of the judgment debtor because of voluntary waste committed or permitted by the judgment debtor, not to exceed the amount of diminution in value as determined by such court.

(j) *Limitation on deficiency judgment on mortgage or deed of trust as collateral for consumer goods.* If both a security agreement and a mortgage or deed of trust have been given to secure

payment of the balance of the purchase price of real property and consumer goods or services or the balance of the combined purchase price of such real property and consumer goods or services, no deficiency shall lie thereunder if no deficiency would lie under the mortgage or deed of trust given under such transaction, notwithstanding any agreement to the contrary. For the purposes of this section, consumer goods and services are goods and services used or acquired for use primarily for personal, family or household purposes.
(Code 1981, § 17-206; Code 2012, § 17-206; Ord. No. SRO-198-95, § I(F), 5-3-1995; Ord. No. SRO-402-2012, § 17-206, 5-30-2012)

Sec. 17-441. Notice of default to Community.

If the trustor or the mortgagee defaults on any mortgage or deed of trust, the trustee or mortgagee is to provide immediate notice to the president of the Community and the Community shall have the absolute right, in its sole discretion, to purchase the property from the trustee or mortgagee.
(Code 1981, § 17-207; Code 2012, § 17-207; Ord. No. SRO-198-95, § I(G), 5-3-1995; Ord. No. SRO-402-2012, § 17-207, 5-30-2012)

Sec. 17-442. Recordation of documents.

All documents which must be recorded pursuant to this division within this Community Code of Ordinances must be recorded in the real estate and land services section and the Real Estate Services, Land Title and Records Section, P.O. Box 26567, Albuquerque, NM 87125-6567. All recordation of documents in the real estate services, land title and records section shall be done through the real estate and land services section.
(Code 1981, § 17-208; Code 2012, § 17-208; Ord. No. SRO-198-95, § I(H), 5-3-1995; Ord. No. SRO-402-2012, § 17-208, 5-30-2012)

Secs. 17-443—17-467. Reserved.

DIVISION 3. DEEDS OF TRUST

Sec. 17-468. 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:

Beneficiary means the person named or otherwise designated in a trust deed as the person for whose benefit a trust deed is given, or his or her successor in interest.

Contract means a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty, including, but not limited to, a note, promissory note or provisions of any trust deed.

Credit bid means a bid made by the beneficiary in full or partial satisfaction of the contract or contracts which are secured by the trust deed. Such credit bid may only include an amount up to the full amount of the contract or contracts secured by the trust deed, less any amount owing on liens or encumbrances with interest which are superior in priority to the trust deed and which the beneficiary is obligated to pay under the contract or contracts or under the trust deed, together with the amount of other obligations provided in or secured by the trust deed and the costs and expenses of exercising the power of sale and sale, including the trustee's fees and reasonable attorney fees actually incurred.

Parent corporation means a corporation which owns 80 percent or more of each and every class of the issued and outstanding stock of another corporation or, in the case of a savings and loan association, 80 percent or more of its issued and outstanding guaranty capital.

Real estate and land services section means the section of the Community development department, or its successor, of the Community responsible for maintaining land records.

Trust deed or *deed of trust* means a deed executed in conformity with this article and conveying trust property to a trustee or trustees qualified under section 17-470 to secure the performance of a contract or contracts.

Trust property means any legal, equitable, leasehold or other interest in an allotted landowner's interest in real property which is capable of being

transferred, whether or not it is subject to any prior mortgages, trust deeds, contracts for conveyance of real property or other liens or encumbrances or its status as land which is held by the United States in trust for individual Indian owners or is subject to a restriction against alienation imposed by the United States.

Trustee means an individual, association or corporation qualified pursuant to section 17-470, or the successor in interest thereto, to whom trust property is conveyed by trust deed. The trustee's obligations to the trustor, beneficiary and other persons are as specified in this chapter, together with any other obligations specified in the trust deed.

Trustor means the person conveying trust property by a trust deed as security for the performance of a contract or contracts, or the successor in interest of such person.
(Code 1981, § 17-221; Code 2012, § 17-221; Ord. No. SRO-198-95, § II(A), 5-3-1995; Ord. No. SRO-402-2012, § 17-221, 5-30-2012)

Sec. 17-469. Description of property; mailing address.

(a) In deeds of trust, the legal description of trust property shall be given by one of the following methods:

(1) By the use of lot, block, tract or parcel as set forth within a recorded subdivision plat.

(2) By the use of a metes and bounds or course and distance survey.

(3) By the use of the governmental rectangular survey system with specific identification of the location within any section or sections, tract or tracts, of a township and range.

(b) The mailing address of each trustor, beneficiary, and trustee shall be specified in each deed of trust.
(Code 1981, § 17-222; Code 2012, § 17-222; Ord. No. SRO-198-95, § II(B), 5-3-1995; Ord. No. SRO-402-2012, § 17-222, 5-30-2012)

Sec. 17-470. Trustee qualifications.

(a) Except as provided in section 17-469, the trustee of a trust deed shall be:

(1) A person certified to so act by the chief judge of the Community court.

(2) An association or corporation doing business under the laws of the State of Arizona as a bank, trust company, savings and loan association, credit union, insurance company, escrow agent or small loan company.

(3) A person who is a member of the state bar of Arizona.

(4) A person who is a licensed real estate broker under the laws of the State of Arizona or the Community.

(5) A person who is a licensed insurance agent under the laws of the State of Arizona or the Community.

(6) An association or corporation which is licensed, chartered or regulated by the Federal Deposit Insurance Corporation, the comptroller of the currency, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank, the National Credit Union Administration, the farm credit administration or any successors.

(7) The parent corporation of any association or corporation referred to in this subsection or any corporation all the stock of which is owned by or held solely for the benefit of any such association or corporation referred to in this subsection.

(8) Effective as of April 6, 2006, the Salt River Financial Services Institution.

(b) An individual trustee of a trust deed who qualifies under the provisions of subsection (a) of this section shall not be the beneficiary of the trust, but such restriction shall not preclude a corporate or association trustee which qualifies under the provisions of subsection (a) of this section and while acting in good faith from being

the beneficiary, or after appointment from acquiring the interest of the beneficiary by succession, conveyance, grant, descent or devise.

(Code 1981, § 17-223; Code 2012, § 17-223; Ord. No. SRO-198-95, § II(C), 5-3-1995; Ord. No. SRO-402-2012, § 17-223, 5-30-2012; Ord. No. SRO-437-2014, 2-26-2014)

Sec. 17-471. Appointment of successor trustee by beneficiary.

(a) If a person appointed as trustee fails to qualify, is unwilling or unable to serve, or resigns as trustee of the beneficiary, the beneficiary may appoint a successor trustee, and such appointment shall constitute a substitution of trustee.

(b) The beneficiary may at any time remove a trustee for any reason or cause and appoint a successor trustee, and such appointment shall constitute a substitution of trustee.

(c) A notice of substitution of trustee shall be recorded in the office of the Maricopa County recorder and real estate services, land title and records section of the Community development department. The beneficiary shall give written notice through registered or certified mail, postage prepaid, to the trustor.

(d) A notice of substitution of trustee shall be sufficient if acknowledged by all beneficiaries under the trust deed or their agents as authorized in writing and if prepared in substantially the following form:

Notice of Substitution of Trustee

The undersigned beneficiary hereby appoints _____ successor trustee under the trust deed executed by _____ as trustee, and recorded _____, 20____, in _____ county in book or docket _____, page _____, and recorded in the Real Estate Services Land Title and Records Section in records domiciled at _____ and legally describing the trust property as:

(Legal description of trust property)

Dated this _____ day of _____, 20____.

/s/ _____
Signature

(Acknowledgement)

(e) A notice of substitution of trustee is effective immediately on execution as prescribed by subsection (d) of this section.

(f) A person appointed as a trustee under a deed of trust may resign as trustee at any time. Any such resignation shall be without liability, provided he or she has not agreed in writing or by his or her conduct to act in such capacity. If the trustee has agreed in writing or by his or her conduct to act in such capacity, he or she may only resign in accordance with the terms of the trust deed and this division within this Community Code of Ordinances. If a trustee fails to qualify or is unwilling or unable to serve or resigns, it does not affect the validity of the deed of trust, except that no action required to be performed by the trustee under this division within this Community Code of Ordinances or under the deed of trust may be taken until a successor trustee is appointed by the beneficiary or his or her agent as authorized in writing pursuant to this section. Resignation by a trustee is made by recordation of a notice of resignation in the office of the real estate and land services section. Written notice shall be given through registered or certified mail, postage prepaid, to the trustor and the beneficiary. A notice of resignation of trustee is sufficient if acknowledged by the trustee and prepared in substantially the following form:

Notice of Resignation of Trustee

The undersigned trustee hereby resigns as trustee under the deed of trust executed by _____, as trustor, in which _____ is named beneficiary, and recorded _____, 20____, in _____ county, in book or docket _____, page _____, and recorded in the Real Estate and Land Services Section and legally describing the trust property as:

(Legal description of trust property)

Dated this _____ day of _____, 20____.

/s/ _____
Signature

(Acknowledgement)

(Code 1981, § 17-224; Code 2012, § 17-224; Ord. No. SRO-198-95, § II(D), 5-3-1995; Ord. No. SRO-402-2012, § 17-224, 5-30-2012)

Sec. 17-472. Transfers in trust of real property.

(a) Transfers of trust property may be made to secure the performance of a contract or contracts of the trustor or any other person. An interest in the trust property acquired by the trustor subsequent to the execution of the trust deed shall inure to the trustee as security for the contract or contracts for which the trust property is conveyed as if the interest or claim had been acquired before execution of the trust deed.

(b) No transfer of trust property may be made as provided for in this section except in conformity with the requirements of 25 USC 483a and other applicable federal laws.

(c) The trustee or beneficiary shall have a right to maintain an action against any person, including the trustor, for a claim for relief where damage or injury occurs or may occur to the trust property or interests therein, including, but not limited to, actions for damages or to prevent:

(1) Physical abuse to or destruction of the trust property, or any portion thereof.

(2) Waste, as defined by the laws of the State of Arizona.

(3) Impairment of the security provided by the trust deed. In any such action, the trustee or beneficiary, or both, shall also be entitled to recover costs and reasonable attorney's fees and shall be entitled to all remedies available. Recovery of damages under this section shall be limited to damages or injuries incurred during the time the trustor is in possession or control of the trust property.

(Code 1981, § 17-225; Code 2012, § 17-225; Ord. No. SRO-198-95, § II(E), 5-3-1995; Ord. No. SRO-402-2012, § 17-225, 5-30-2012)

Sec. 17-473. Right to transfer; fee limit; interest rate increase limit.

(a) Nothing in this division within this Community Code of Ordinances shall be construed to prevent or limit the right of a trustor to transfer his or her interest in the trust property, or authorize a beneficiary or trustee to arbitrarily withhold his or her consent to a transfer by the trustor of his or her interest in the trust property.

(b) When a trustor transfers his or her interest in the trust property, no beneficiary or trustee shall charge a fee on the transfer of more than $100.00 or one percent of the balance due on the obligation secured by the trust deed, whichever is lesser.

(c) When a trustor transfers his or her interest in the trust property, no beneficiary or trustee shall increase the interest rate on the obligation secured by such trust deed unless the transferring trustor is released from all liability thereon, and in no event shall the amount of such increase exceed 0.50 percent per annum more than the interest rate paid by the transferring trustor.

(d) This section shall be applicable only to trust property of 2½ acres or less which is not used for commercial purposes and which is limited to and utilized for dwelling units, not to exceed four single-family units.
(Code 1981, § 17-226; Code 2012, § 17-226; Ord. No. SRO-198-95, § II(F), 5-3-1995; Ord. No. SRO-402-2012, § 17-226, 5-30-2012)

Sec. 17-474. Sale of trust property; power of trustee; foreclosure of deed.

(a) By virtue of his or her position, a power of sale is conferred upon the trustee of a trust deed under which the trust property may be sold, in the manner provided in this division within this Community Code of Ordinances, after a breach or default in performance of the contract or contracts, for which the trust property is conveyed as security, or a breach or default of the trust deed. At the option of the beneficiary, a trust deed may be foreclosed in the manner provided by law for the foreclosure of mortgages on real property, in which event the provisions of division 2 of this article, mortgages, govern the proceedings. The beneficiary or trustee shall constitute the proper and complete party plaintiff in any action to foreclose a deed of trust. The power of sale may be exercised by the trustee without express provision therefor in the trust deed.

(b) The trustee or beneficiary may file and maintain an action to foreclose a deed of trust at any time before the trust property has been sold under the power of sale. A sale of trust property under the power of sale shall not be held after an action to foreclose the deed of trust has been filed unless the foreclosure action has been dismissed.

(c) The power of sale of trust property conferred upon the trustee shall not be exercised before the expiration of 90 days from the recording of the notice of the sale.

(d) The trustee need only be joined as a party in legal actions pertaining to a breach of the trustee's obligation under this division within this Community Code of Ordinances or under the deed of trust. Any order of the court entered against the beneficiary is binding upon the trustee with respect to any actions which the trustee is authorized to take by the trust deed or by this division within this Community Code of Ordinances. If the trustee is joined as a party in any other action, the trustee is entitled to be immediately dismissed and to recover costs and reasonable attorney's fees from the person joining the trustee.
(Code 1981, § 17-227; Code 2012, § 17-227; Ord. No. SRO-198-95, § II(G), 5-3-1995; Ord. No. SRO-402-2012, § 17-227, 5-30-2012)

Sec. 17-475. Notice to Community; Community right to purchase property.

The trustee shall immediately notify the president of the Community of the trustor's default and of the trustee's intention to sell the property under his or her statutory power. The Community shall have an absolute right to purchase such property from the trustee at a price equal to the balance of the indebtedness on the property, together with reasonable costs. The Community shall notify the trustee of its intention to purchase within 30 days of the notice and the Community will, at that time, tender full payment to the trustee who will deliver to the Community his or her trustee's deed. The provisions of this section through section 17-479 will not be applicable in the event of a sale to the Community.
(Code 1981, § 17-228; Code 2012, § 17-228; Ord. No. SRO-198-95, § II(H), 5-3-1995; Ord. No. SRO-402-2012, § 17-228, 5-30-2012)

Sec. 17-476. Notice of trustee's sale.

(a) The trustee shall give written notice of the time and place of sale legally describing the trust property to be sold by each of the following methods:

(1) Publication of such notice in a newspaper of general circulation in the Community and the county. Such notice shall be published at least once. The last date of publication shall not be less than ten days prior to the date of sale.

(2) Posting of such notice, at least 20 days before the date of sale in some conspicuous place on the trust property to be sold, if such can be accomplished without a breach of the peace, and at one of the places provided for posting public notices at the Community courts building.

(3) Recording of such notice in the office of the Maricopa County recorder and the real estate services land title and records section.

(4) Giving notice as provided in section 17-477, to the extent applicable.

(b) The sale shall be held at the time and place designated in the notice of sale, on a day other than a Saturday, Sunday or other legal holiday, between the hours of 9:00 a.m. and 5:00 p.m. at a specified place on the trust property, at a specified place at the Community courts building, or at a specified place at a place of business of the trustee, in Maricopa County.

(c) The notice of sale shall contain:

(1) The street address, if any, or identifiable location, as well as the legal description of the trust property.

(2) The original principal balance as shown on the deed of trust. If the amount is not shown on the deed of trust, it shall be listed as unspecified.

(3) The names and addresses, as of the date the notice of sale is recorded, of the beneficiary and the trustee, the name and address of the original trustor as stated in the deed of trust, and the signature of the trustee.

(d) The notice of sale shall be sufficient if made in substantially the following form:

Notice of Trustee's Sale

The following legally described trust property will be sold, pursuant to the power of sale under that certain trust deed recorded in docket or book _____ at page _____ records of the Real Estate and Land Services Section in records described as _____, at public auction to the highest bidder at (specific place of sale as permitted by law) _____, in _____ county, in or near _____, Arizona, on _____, 20____, at ____ o'clock ____.m. of said day:

(Street address if any, or identifiable location of trust property)
(Legal description of trust property)

Original principal balance $ _____
Name and address of beneficiary _____
Name and address of original trustor _____
Name and address of trustee _____

Signature of trustee _____
Dated this _____ day of _____, 20____.

(Acknowledgment)

(e) Any error or omission in the information required by subsection (c) or (d) of this section, other than an error in the legal description of the trust property, shall not invalidate a trustee's sale if, considered as a whole, the information provided is sufficient to identify the trust property being sold. The trustee, or any person furnishing information to the trustee, shall not be subject to liability for any error or omission in the information required by subsection (c) of this section, except for the willful and intentional failure to provide such information. The provisions of this subsection are not applicable to claims made by an insured under any policy of title insurance.
(Code 1981, § 17-229; Code 2012, § 17-229; Ord. No. SRO-198-95, § II(I), 5-3-1995; Ord. No. SRO-402-2012, § 17-229, 5-30-2012)

Sec. 17-477. Request for copies of notice of sale; mailing by trustee or beneficiary; disclosure of information regarding trustee sale.

(a) A person desiring a copy of a notice of sale under a trust deed shall, at any time subsequent to the recording of the trust deed and prior to the recording of a notice of sale pursuant thereto, record in the office of the real estate and land services section a duly acknowledged request for a copy of any such notice of sale. The request shall set forth the name and address of the person or persons requesting a copy of such notice and shall identify the trust deed by setting forth the recording record of the real estate and land services section and by stating the names of the original parties to such deed, the date of the deed was recorded, the legal description of the entire trust property, and shall be in substantially the following form:

Request for Notice

Request is hereby made that a copy of any notice of sale under the trust deed recorded in the Records of the Real Estate and Land Services Section.

(Legal description of trust property)

Executed by _____ a trustor, in which
_____ is named as beneficiary and
_____ as trustee, be mailed to _____ at
_____.

Dated this _____ day of _____, 20____.

/s/ _____
Signature

(Acknowledgement)

(b) Not later than 30 days after recording the notice of sale, the trustee or beneficiary shall mail, by certified or registered mail with postage prepaid, a copy of such notice with the recording date shown thereon, together with any notice required to be given by subsection (c) of this section addressed as follows:

(1) To each person whose name and address are set forth in a request for notice, which has been recorded prior to the recording of the notice of sale, directed to the address designated in such request.

(2) To each person who, at the time of recording of the notice of sale, appears on the records of the county recorder in the county in which any part of the trust property is situated to have an interest in any of the trust property. Such copy of the notice shall be addressed to the person whose interest so appears at the address set forth in the document. If no address for the person is set forth in the document, the copy of the notice may be addressed in care of the person to whom the recorded document evidencing such interest was directed to be mailed at the time of its recording or to any other address of the person known or ascertained by the trustee. If the interest which appears on the records of the county recorder is a deed of trust, a copy of the notice need only be mailed to the beneficiary under the deed of trust. If any person having such an interest, or the trustor, or any person who has recorded a request for notice, desires to change the address to which notice shall be mailed, such change shall be accomplished by a request as provided under this section.

(c) The trustee or beneficiary shall, within five days after the recordation of such notice of sale, mail by certified or registered mail, with postage prepaid, a copy of any notice of sale to each of the persons who were parties to the trust deed except the trustee. The copy of the notice mailed to the parties need not show the recording date the notice was recorded. Such notice shall be addressed to the mailing address specified in the trust deed. In addition, notice to each such party shall contain a statement that a breach or nonperformance of the trust deed or the contract or contracts secured by the trust deed or both has occurred, and setting forth the nature of such breach or nonperformance and of the beneficiary's election to sell or cause to be sold the trust property under the trust deed, and the additional notice shall be signed by the beneficiary or his or her agent. A copy of such additional notice shall also be sent with the notice provided for in subsection (b)(2) of this section to all persons whose interest in the trust property is subordinate in priority to that of the deed of trust, along with a written statement that the interest may be subject to being terminated by the trustee's sale. The written statement may be contained in the statement of breach or nonperformance.

(d) No request for a copy of a notice recorded pursuant to this section, nor any statement or allegation in any such request, nor any record thereof, shall affect the title to the trust property or be deemed notice to any person that a person requesting a copy of a notice of sale has or claims any interest in, or claim upon, the trust property.

(e) At any time that the trust deed is subject to reinstatement pursuant to section 17-481, but not sooner than 30 days after recordation of the notice of trustee's sale, the trustee shall, upon receipt of a written request, provide, if actually known to the trustee, the following information relating to the trustee's sale and the trust property:

(1) The unpaid principal balance of the note or other obligation which is secured by the deed of trust.

(2) The name and address of record of the owner of the trust property as of the date of recordation of the notice of trustee's sale.

(3) A list of the liens and encumbrances upon the trust property as of the date of recordation of the notice of trustee's sale. If the trustee elects to charge a fee for providing the information requested, the fee shall not exceed 1/20 of the amount the trustee may charge pursuant to section 17-481(b)(5), except the trustee shall not be required to accept a fee less than $20.00, but may accept a lesser fee at the trustee's

discretion. The trustee, or any other person furnishing information pursuant to this subsection to the trustee, shall not be subject to liability for any error or omission in providing the information requested, except for the willful and intentional failure to provide information in the trustee's actual possession.

(f) At any time during the day of sale, but prior to the sale or on the last business day preceding the day of sale, the trustee shall provide to any person who requests it a good faith estimate of the maximum credit bid the beneficiary shall be entitled to make at the sale.

(g) In providing information pursuant to subsections (e) and (f) of this section, the trustee may, without obligation or liability for the accuracy of completeness of the information, respond to oral requests, respond orally or in writing or provide additional information not required by such subsections. With respect to property which is the subject of a trustee's sale, the beneficiary of such deed of trust or the holder of any prior lien may, but shall not be required to, provide information concerning such deed of trust or any prior lien which is not required by subsection (e) or (f) of this section and may charge a reasonable fee for providing the information. The providing of such information by any beneficiary or holder of a prior lien shall be without obligation or liability for the accuracy or completeness of the information.
(Code 1981, § 17-230; Code 2012, § 17-230; Ord. No. SRO-198-95, § II(J), 5-3-1995; Ord. No. SRO-402-2012, § 17-230, 5-30-2012)

Sec. 17-478. Sale by public auction; postponement of sale.

(a) On the date and at the time and place designated in the notice of sale, the trustee shall offer to sell the trust property at public auction for cash to the highest bidder. The attorney or agent for the trustee may conduct the sale and act at such sale as the auctioneer for the trustee. Any person, including the trustee or beneficiary, may bid at the sale. Only the beneficiary may make a credit bid, in lieu of cash, at such sale. The trustee shall require every bidder, except the beneficiary, to provide a $1,000.00 deposit, in a form satisfactory to the trustee, as a condition of entering a bid. Every bid shall be deemed an irrevocable offer until the sale is completed, except that a subsequent bid by the same bidder for a higher amount shall cancel that bidder's lower bid. To determine the highest price bid, the trustor or beneficiary present at the sale may recommend the manner in which the known lots, parcels or divisions of the trust property be sold. The trustee shall conditionally sell the trust property under each recommendation, and, in addition thereto, shall conditionally sell the trust property as a whole. The trustee shall determine which conditional sale or sales result in the highest total price bid for all of the trust property. The trustee shall return deposits to all but the bidder or bidders whose bid or bids result in the highest bid price. The sale shall not be deemed completed until the purchaser pays the price bid in a form satisfactory to the trustee.

(b) The person conducting the sale may, for any cause deemed in the interest of the beneficiary or trustor, or both, postpone or continue the sale from time-to-time, or change the place of the sale to any other location authorized pursuant to this chapter by giving notice of the new date, time and place by public declaration at the time and place last appointed for the sale. Any new sale date shall be a fixed date within 90 calendar days of the date of the declaration. No other notice of the postponed, continued or relocated sale is required, except as provided in subsection (c) of this section.

(c) A sale shall not be complete if the sale as held is contrary to, or in violation of, any federal statute in effect because of an unknown or undisclosed bankruptcy. A sale so held shall be deemed to be continued to a date, time and place announced by the trustee at the sale and shall comply with subsection (b) of this section or, if not announced, shall be continued to the same place and at the same time 30 days later, unless the thirtieth day falls on a Saturday, Sunday or other legal holiday, in which event it shall be continued to the first business day thereafter. In the event a sale is continued because of an unknown or undisclosed bankruptcy, the trustee shall notify, by registered or certified mail with postage prepaid, all bidders who provide their names, addresses

and telephone numbers in writing to the party conducting the sale of the continuation of the sale.
(Code 1981, § 17-231; Code 2012, § 17-231; Ord. No. SRO-198-95, § II(K), 5-3-1995; Ord. No. SRO-402-2012, § 17-231, 5-30-2012)

Sec. 17-479. Payment of bid; deliverance of deed.

(a) The purchaser at the sale, other than the beneficiary to the extent of his or her credit bid, shall pay the price bid by no later than 5:00 p.m. of the following day, other than a Saturday or legal holiday. If the purchaser fails to pay the amount bid by him or her for the property struck off to him or her at the sale, the trustee, in his or her sole discretion, shall either continue the sale to reopen bidding or immediately offer the trust property to the second highest bidder, who shall purchase the trust property at his or her bid price. The deposit of the purchaser who fails to pay the amount bid by him or her shall be forfeited, and shall be treated as additional sale proceeds to be applied in accordance with subsection 17-480(a). If the second highest bidder does not pay his or her bid price by 5:00 p.m. of the next day, excluding Saturdays, Sundays and other legal holidays, after the property has been offered to him or her by the trustee, the trustee shall either continue the sale to reopen bidding or offer the trust property to each of the prior bidders on successive days, excluding Saturdays, Sundays and other legal holidays, in order of their highest bid, until a bid price is paid, or, if there is no other bidder, the sale shall be deemed to be continued to a time and place designated by the trustee. If the sale is continued, the trustee shall provide notice of the continuation of the sale by registered and certified mail, with postage prepaid, to all bidders who provide their names, addresses and telephone numbers in writing to the party conducting the sale. In addition to the forfeit of his or her deposit, a purchaser who fails to pay the amount bid by him or her is liable to any person who suffers loss or expenses as a result, including attorney's fees. In any subsequent sale of trust property, the trustee may reject any bid of that person.

(b) The price bid shall be paid at the office of the trustee or his or her agent, or any other reasonable place designated by the trustee. The payment of the bid price may be made at a later time if agreed upon in writing by the trustee. Upon receipt of payment, in a form satisfactory to the trustee, the trustee shall execute and deliver his or her deed to the purchaser. The trustee's deed shall raise the presumption of compliance with the requirements of the deed of trust and this division within this Community Code of Ordinances relating to the exercise of the power of sale and the sale of the trust property, including recording, mailing, publishing and posting of notice of sale and the conduct of the sale. Such deed shall constitute conclusive evidence of the meeting of such requirements in favor of purchasers or encumbrances for value and without actual notice. Knowledge of the trustee shall not be imputed to the beneficiary.

(c) The trustee's deed shall operate to convey to the purchaser the title, interest and claim of the trustee, the trustor, the beneficiary, their respective successors in interest and of all persons claiming the trust property sold by or through them, including all interest or claim in the trust property acquired subsequent to the recording of the deed of trust and prior to delivery of the trustee's deed. Such conveyance shall be absolute, without right to redemption and clear of all liens, claims or interests having a priority subordinate to the deed of trust.
(Code 1981, § 17-232; Code 2012, § 17-232; Ord. No. SRO-198-95, § II(L), 5-3-1995; Ord. No. SRO-402-2012, § 17-232, 5-30-2012)

Sec. 17-480. Disposition of proceeds of sale.

(a) The trustee shall apply the proceeds of the trustee's sale as follows:

(1) To the costs and expenses of exercising the power of sale and of sale, including the payment of the trustee's fees and reasonable attorney's fees actually incurred.

(2) To the payment of the contract or contracts secured by the trust deed.

(3) To the payment of all other obligations provided in or secured by the trust deed.

(4) To the junior lienholds or encumbrances in order of their priority. After payment in

full to all junior lienholders and encumbrancers, payment shall be made to the trustor.

(b) The trustee may, in his or her discretion, instead of any one or more of the applications specified in subsection (a) of this section, elect to deposit the balance of such proceeds with the clerk of the Community court. Upon deposit of the balance of such monies, the trustee shall be discharged from all responsibility for acts performed in good faith according to the provisions of this article, and the clerk shall deposit the amount with the Community treasurer subject to order of the Community court upon the application, by civil action, of any interested party.
(Code 1981, § 17-233; Code 2012, § 17-233; Ord. No. SRO-198-95, § II(M), 5-3-1995; Ord. No. SRO-402-2012, § 17-233, 5-30-2012)

Sec. 17-481. Default in performance of contract secured; reinstatement; cancellation of recorded notice of sale.

(a) If, prior to the maturity date fixed by the contract or contracts, all or a portion of a principal sum or interest of the contract or contracts secured by a trust deed becomes due or is declared due by reason of a breach or default in the performance of the contract or contracts or of the trust deed, the trustor or his or her successor in interest, any person having a subordinate lien or encumbrance of record thereon, or any beneficiary under a subordinate trust deed may, subject to section 17-475, before 5:00 p.m. on the last day other than a Saturday, Sunday or other legal holiday before the date of sale or the filing of an action to foreclose the trust deed, reinstate by paying to the beneficiary, the trustee or the trustee's agent, in a form acceptable to the beneficiary or the trustee, the entire amount then due under the terms of the contract or contracts or trust deed, other than such portion of the principal as would not then be due had no default occurred, by curing all other defaults and by paying the amounts due under subsection (b) of this section.

(b) The beneficiary shall notify the trustee of the performance and the name of the person who performed such conditions. The proceedings shall be dismissed and the contract or contracts and trust deed shall be deemed reinstated and in force as if no breach or default had occurred upon performance of such of the following which may be applicable:

(1) Payment of the entire amount then due.

(2) Payment of costs and expenses incurred in enforcing the terms of such contract or trust deed.

(3) Payment of reasonable attorney's fees actually incurred, in an amount not to exceed $250.00 or 0.50 percent of the entire unpaid principal sum secured, whichever is greater.

(4) Payment of the recording fee for cancellation of notice of sale.

(5) Payment of the trustee's fees, in an amount not to exceed $250.00 or 0.50 percent of the entire unpaid principal sum secured, whichever is greater.

(c) Fees charged pursuant to subsection (b)(3) of this section shall not duplicate or include fees charged for services rendered under subsection (b)(5) of this section. Upon request, the trustee shall provide to the trustor, or any person entitled to notice pursuant to subsection 17-477(b), at any time that the trust deed is subject to reinstatement, a good faith estimate of the sums which appear necessary to reinstate the trust deed, separately specifying costs, fees, accrued interest, unpaid principal balance and any other amounts which are required to be paid as a condition to reinstatement of the trust deed.

(d) If the trust deed is reinstated as provided in subsection (b) of this section, the trustee shall have a cancellation of the notice of sale recorded in the Maricopa County recorder's office and in the real estate services land title and trust section. A trustee who, for 30 days after reinstatement, fails to have proper notice of the cancellation of the notice of sale recorded is liable, to the person who performed the conditions resulting in reinstatement, for all actual damages resulting from such failure.

(e) An acknowledged recorded cancellation of a recorded notice of sale under a trust deed shall be sufficient if it is in substantially the following form:

Cancellation of Notice of Sale

The undersigned hereby cancels the notice of sale recorded _____, 20____, on trust property legally described as:

(Legal description of trust property)

which notice of sale refers to a trust deed executed by _____ as trustor, in which _____ is named a beneficiary and _____ as trustee, and recorded in the Records of the Real Estate and Land Services Section.

Dated this _____ day of _____, 20____.

/s/ _____
Signature

(Acknowledgement)

(Code 1981, § 17-234; Code 2012, § 17-234; Ord. No. SRO-198-95, § II(N), 5-3-1995; Ord. No. SRO-402-2012, § 17-234, 5-30-2012)

Sec. 17-482. Action to recover balance after sale or foreclosure on property under deed.

(a) Except as provided in subsections (f) and (g) of this section, within 90 days after the date of sale of trust property under a trust deed pursuant to section 17-474, an action may be maintained to recover a deficiency judgment against any person directly, indirectly or contingently liable on the contract for which the trust deed was given as security, including any guarantor of or surety for the contract and any partner of a trustor or other obligor which is a partnership. In any such action against such a person, the deficiency judgment shall be for an amount equal to the sum of the total amount owed the beneficiary as of the date of the sale, as determined by the court, less the fair market value of the trust property on the date of the sale, as determined by the court, or the sale price at the trustee's sale, whichever is higher. A written application for determination of the fair market value of the real property may be filed by a judgment debtor with the court in the action for a deficiency judgment or in any other action on the contract which has been maintained. Notice of the filing of an application and the hearing shall be given to all parties to the action. The fair market value shall be determined by the court at a priority hearing upon such evidence as the court may allow. The court shall issue an order crediting the amount due on the judgment with the greater of the sales price or the fair market value of the real property. The term "fair market value" means the most probable price, as of the date of the execution sale, in cash, or in terms equivalent to cash, or in other precisely revealed terms, after deduction of prior liens and encumbrances with interest to the date of sale, for which the real property or interest therein would sell after reasonable exposure in the market under conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably and for self-interest, and assuming that neither is under

duress. Any deficiency judgment recovered shall include interest on the amount of the deficiency from the date of the sale at the rate provided in the deed of trust or in any of the contracts evidencing the debt, together with any costs and disbursements of the action.

(b) If a trustee's sale is a sale of less than all of the trust property or is a sale pursuant to one of two or more trust deeds securing the same obligation, the 90-day time limitations of subsection (a) of this section shall begin on either the date of the trustee's sale of the last of the trust property or be sold or the date of sale under the last trust deed securing the obligation, whichever occurs last.

(c) The obligation of a person who is not a trustor to pay, satisfy or purchase all or a part of the balance due on a contract secured by a trust deed may be enforced, if the person has so agreed, in an action regardless of whether a trustee's sale is held. If, however, a trustee's sale is held, the liability of a person who is not a trustor for the deficiency is determined pursuant to subsection (a) of this section and any judgment for the deficiency against the person shall be reduced in accordance with subsection (a) of this section. If any such action is commenced after a trustee's sale has been held, it is subject, in addition, to the 90-day time limitations of subsections (a) and (b) of this section.

(d) If no action is maintained for a deficiency judgment within the time period prescribed in subsections (a) and (b) of this section, the proceeds of the sale, regardless of amount, shall be deemed to be in full satisfaction of the obligation and no right to recover a deficiency in any action shall exist.

(e) Except as provided in subsection (f) of this section, the provisions of this division within this Community Code of Ordinances do not preclude a beneficiary from foreclosing a deed of trust in the same manner as a real property mortgage. In an action for the foreclosure of a deed of trust as a real property mortgage, the provisions of division 2 of this article are applicable.

(f) A deed of trust may, by express language, validly prohibit the recovery of any balance due after trust property is sold pursuant to the trustee's power of sale, or the trust deed is foreclosing in the manner provided by law for the foreclosure of mortgages on real property.

(g) If trust property of 2½ acres or less which is limited to and utilized for either a single one-family or a single two-family dwelling is sold pursuant to the trustee's power of sale, no action may be maintained to recover any difference between the amount obtained by sale and the amount of the indebtedness and any interest, costs and expenses.

(Code 1981, § 17-235; Code 2012, § 17-235; Ord. No. SRO-198-95, § II(O), 5-3-1995; Ord. No. SRO-402-2012, § 17-235, 5-30-2012)

Sec. 17-483. Recordkeeping.

The real estate and land services section shall keep all of the records required to be filed or filed with such section pursuant to this division within this Community Code of Ordinances in a uniform system of recording and shall maintain an index of such documents by the name of the parties listed on such documents, and legal description.

(Code 1981, § 17-236; Code 2012, § 17-236; Ord. No. SRO-198-95, § II(P), 5-3-1995; Ord. No. SRO-402-2012, § 17-236, 5-30-2012)

Sec. 17-484. Limitation on action or sale of trust property.

The trustee's sale of trust property under a trust deed shall be made, or any action to foreclose a trust deed as provided by law for the foreclosure of mortgages on real property shall be commenced, within the period prescribed by the law of the Community for the commencement of an action on the contract secured by the trust deed.

(Code 1981, § 17-237; Code 2012, § 17-237; Ord. No. SRO-198-95, § II(Q), 5-3-1995; Ord. No. SRO-402-2012, § 17-237, 5-30-2012)

Sec. 17-485. Transfer of secured contract.

The transfer of any contract or contracts secured by a trust deed shall operate as a transfer of the security for such contract or contracts.

(Code 1981, § 17-238; Code 2012, § 17-238; Ord. No. SRO-198-95, § II(R), 5-3-1995; Ord. No. SRO-402-2012, § 17-238, 5-30-2012)

Sec. 17-486. Notice from instruments recorded; assignment of a beneficial interest.

Except as otherwise provided in this section, a trust deed, substitution of trustee, notice of resignation of trustee, assignment of a beneficial interest under a trust deed, notice of sale, cancellation of notice of sale, trustee's deed, deed of release, and any instrument by which a trust deed is subordinate or waived as to priority, if acknowledged as provided by law, shall, from the time of being recorded, impart notice of the content to all persons, including subsequent purchasers and encumbrancers, for value. The recording of an assignment of the beneficial interest in a trust deed shall not be deemed notice of such assignment to the trustor, his or her heirs or personal representatives, so as to invalidate any payment made by them, or any of them, to the person previously holding the note, bond, or other instrument evidencing the contract or contracts secured by the trust deed.
(Code 1981, § 17-239; Code 2012, § 17-239; Ord. No. SRO-198-95, § II(S), 5-3-1995; Ord. No. SRO-402-2012, § 17-239, 5-30-2012)

Sec. 17-487. Rights of trustee and attorney.

(a) In carrying out his or her duties under the provisions of this division within this Community Code of Ordinances or any deed of trust, a trustee, shall, when acting in good faith, have the absolute right to rely upon any written direction or information furnished to him or her by the beneficiary.

(b) An attorney for the beneficiary shall also be qualified to act as attorney for the trustee or to be the trustee.
(Code 1981, § 17-240; Code 2012, § 17-240; Ord. No. SRO-198-95, § II(T), 5-3-1995; Ord. No. SRO-402-2012, § 17-240, 5-30-2012)

Secs. 17-488—17-512. Reserved.

ARTICLE XII. DEVELOPMENT FEES*

Sec. 17-513. Policy and purpose.

(a) *Policy.* It is the policy of the Community that new development pay its fair share of public facility costs through development fees, which will be used to finance, defray, or reimburse all or a portion of the costs incurred by the Community for public improvements necessitated by and provided to serve such development.

(b) *Purpose.* The purpose of this article is to provide for the assessment and payment of development fees by applicants for new development such that the fair share of new development's impacts on public facilities are mitigated and adequate public facilities may be provided in a timely manner to new development.
(Code 1981, § 17-251; Code 2012, § 17-251; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-251, 5-30-2012; Ord. No. SRO-450-2014, § 17-513, 9-24-2014)

Sec. 17-514. Findings.

The Community Council recognizes that growth and development in the Community will require that the capacity of the Community's public facilities be expanded in order to maintain adequate levels of service, and that without a funded program for public facility improvements, new growth and development will have to be limited to ensure that the health, safety and welfare of the members of the Community are not compromised.

(1) The Community Council has completed a study establishing the type, amount, and cost of projected public facility improvements needed to serve new development.

(2) The regulatory framework set forth in this article, which requires new development to pay reasonable development fees, requires new development to pay only its fair share of the costs of capital capacity of new public facilities created by new growth and development.

(3) The technical data, findings, and conclusions herein are based on the Community general plan, as amended, the "technical report," and other relevant studies and

*__Editor's note—__Ord. No. SRO-450-2014, adopted Sept. 24, 2014, repealed the former art. XII, §§ 17-513—17-534, and enacted a new art. XII as set out herein in §§ 17-513—17-533. The former art. XII pertained to similar subject matter; prior legislative history has been retained as applicable in the history notes following sections.

reports providing detailed background for the establishment of appropriate development fees.

(Code 1981, § 17-252; Code 2012, § 17-252; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-252, 5-30-2012; Ord. No. SRO-450-2014, § 17-514, 9-24-2014)

Sec. 17-515. Adoption of technical report as basis of development fees.

The Community hereby adopts and incorporates by reference the report entitled "Salt River Pima-Maricopa Indian Community Development Fee Study: Land Use Assumptions, Infrastructure Improvements Plan, and Development Fee Report," dated June 30, 2014, prepared by TischlerBise, which supports the amounts and reasonableness of the development fees implemented by this article.

(Code 1981, § 17-253; Code 2012, § 17-253; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-253, 5-30-2012; Ord. No. SRO-450-2014, § 17-515, 9-24-2014)

Sec. 17-516. Interpretations of article.

Interpretation of the provisions of this article shall be made by the director based on, among other things, the policies, purposes, and findings set forth sections 17-513 and 17-514, the technical report upon which development fees implemented herein are based, the Community's Constitution, and other applicable laws governing development fees.

(Code 1981, § 17-254; Code 2012, § 17-254; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-254, 5-30-2012; Ord. No. SRO-450-2014, § 17-516, 9-24-2014)

Sec. 17-517. Effect on other regulations and requirements.

(a) This article may not be construed to alter, amend, or modify any provision of this Community Code of Ordinances. Other provisions of this Community Code of Ordinances shall be operative and remain in full force and effect notwithstanding any contrary provisions, definitions, or intentions that are or may be expressed or implied in this article.

(b) The payment of development fees shall not entitle the applicant to a building or construction permit, tenant improvement permit, certificate of occupancy, or other final Community approval unless all land use, zoning, planning, building code, fire code and other applicable requirements, standards, and conditions have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of development fees required by this article.

(c) This article shall not affect, in any manner, the permissible use of property, density, or intensity of development, design and improvement standards, or other applicable standards or requirements of the Community's zoning ordinance, design review requirements and this Community Code of Ordinances.

(Code 1981, § 17-255; Code 2012, § 17-255; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-255, 5-30-2012; Ord. No. SRO-450-2014, § 17-517, 9-24-2014)

Sec. 17-518. Definitions.

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

Accessory use means a land use incidental to or subordinate to, but on the same lot or parcel as a principal land use and necessary to the convenience of those engaged in the principal use, which use may be conducted in an accessory building or structure.

Capital improvements.

(1) The term "capital improvements" includes, but is not limited to, costs associated with the planning, design, and construction of new or expanded public facilities, which have a life expectancy of three or more years, and the land acquisition, easements, land improvement, design, and engineering related thereto. The term "capital improvements" also includes, but is not limited to, the following costs as they relate to the provision of public facilities:

a. The cost of all labor and materials;

b. The cost of all lands, right-of-way, property, rights, easements and franchises acquired, including costs of acquisition or condemnation;

c. The cost of all plans and specifications;

d. The cost of new equipment;

e. The cost of all construction, new drainage facilities in conjunction with new buildings and structures, and public facility site improvements;

f. The cost of relocating utilities to accommodate new construction;

g. The cost of engineering and master plans;

h. The cost of all land surveying and soils and materials testing; and

i. The cost of mitigating negative impacts of construction including natural resource impacts, environmental impacts, noise impacts, air quality impacts, cultural resources impacts and Community impacts.

(2) The term "capital improvements" does not include site-related capital improvements, routine and periodic maintenance expenditures, personnel, training or other operating costs.

Capital improvements program (CIP) means a schedule of planned public facility capital improvements, which indicates the estimated costs and timing for planned capital improvements, including Community master plans, infrastructure improvements plans, and other capital planning schedules and budgetary documents.

Capital improvements program advisory committee (CIPAC) means a multidisciplinary staff team of the SRPMIC, designated by the Community manager, responsible for compiling project needs, reviewing cost estimates, preparing budget requests and planning a program schedule.

Community means the Salt River Pima-Maricopa Indian Community.

Community manager means the Community manager or the Community manager's designee.

Developer means a person, corporation, organization, or other legal entity undertaking development, or the developer's authorized agent.

Development means any construction or expansion of a building or structure, or any changes in the use of any building or structure or land use that will generate additional impacts on the Community's public facilities.

Development fee means a fee imposed pursuant to this article.

Development fee service area means a geographic area, including all or a designated portion of the Community, from which development fees are collected and for the benefit of which development fees are spent, pursuant to the specific provisions of this article.

Director means the director of the Community development department or the director's designee.

Encumbered means legally obligated or otherwise committed to use by appropriation or contract.

Essential public services means services or buildings owned, managed, or operated by or in the interest of a governmental entity, which provides a function critical to the health, safety, and welfare of the public, but which is not proprietary in nature. The term "essential public services" may specifically include, but not be limited to, schools, water and sewer services, emergency services, publicly owned housing, and public safety facilities and services.

Fee payer means a person undertaking development who pays a development fee in accordance with the terms of this article.

New development means development for which a building permit, construction permit, tenant improvement permit, certificate of occupancy, or other Community approval is issued after the effective date of this article. The term "new development" includes intensifications of existing land uses.

Noncommencement means the cancellation of construction activity making a material change in

a structure, or the cancellation of any other development activity making a material change in the use or appearance of land.

Nonresidential development means those land uses that are not for residential purposes.

Offset means a credit, payment, reimbursement, or waiver of development fees due, given pursuant to the terms of this article as a result of the dedication, construction or funding of an offset-eligible improvement.

Offset agreement means an executed, binding agreement between an applicant and the Community and other necessary parties, which provides for offsets against development fees in exchange for offset-eligible improvements provided by the applicant or the applicant's agent.

Offset-eligible improvement means a capital improvement constructed, dedicated, or funded by a party other than the Community, pursuant to the requirements of this article, and which is not a site-related capital improvement.

Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having joint or common interest, or any other legal entity.

Public facilities means storm drainage, street, water, wastewater, and public safety facilities for which development fees are collected pursuant to this article, which are not site-related capital improvements.

Public facilities capital costs means the costs of providing capital improvements for public facilities.

Public safety development fee means the development fee imposed upon new development by this article in order to offset new development's fair share impact on public safety facilities.

Public safety facilities means capital improvements necessary to provide Community law enforcement and fire protection services to new development, consistent with the technical report.

Residential development means development intended for permanent housing.

Site-related capital improvements means a capital improvement, whether on or off site, necessary to provide direct access to a particular proposed development or to address impacts attributable solely to a proposed development; including, but not limited to, direct access improvements, driveways, turn lanes, acceleration or deceleration lanes, medians and median openings, curb cuts, sidewalks, signalization primarily serving a particular development, signage, frontage roads, and on-site water, wastewater and storm drainage improvements, which are not on the CIP. The term "site-related capital improvements" includes any relocation of utilities that are required to accommodate the proposed development.

Storm drainage development fee means the development fee imposed upon new nonresidential development by this article in order to offset nonresidential development's fair share impact on storm drainage facilities.

Storm drainage facilities means capital improvements necessary to provide storm drainage services to new development, consistent with the technical report, which estimates the demand for storm drainage facilities created by nonresidential land uses only.

Street facilities means capital improvements necessary to provide roadway capacity to new nonresidential development, consistent with the technical report, which estimates the demand for street facilities created by nonresidential land uses only.

Street facilities development fee means the development fee imposed upon new nonresidential development by this article in order to offset nonresidential development's fair share impact on street facilities.

Technical report means the report entitled "Salt River Pima-Maricopa Indian Community Development Fee Study: Land Use Assumptions, Infrastructure Improvements Plan, and Development Fee Report," dated June 30, 2014, prepared by TischlerBise, which report supports the amounts and reasonableness of the development fees imposed by this article.

Temporary uses means uses that are required in the construction phase of development or are uniquely short-term or seasonal in nature, including, but not limited to: contractor's project offices, project sales offices, seasonal sales of trees or farm produce, carnivals, and tent meetings.

Wastewater development fee means the development fee imposed upon new development by this article in order to offset new development's fair share impact on wastewater facilities.

Wastewater facilities means capital improvements necessary to provide wastewater capacity to new development, consistent with the technical report.

Water development fee means the development fee imposed upon new development by this article in order to offset new development's fair share impact on water facilities.

Water facilities means capital improvements necessary to provide potable water capacity to new development, consistent with the technical report.

(Code 1981, § 17-256; Code 2012, § 17-256; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-256, 5-30-2012; Ord. No. SRO-450-2014, § 17-518, 9-24-2014)

Sec. 17-519. Applicability of this article; exemptions.

(a) *Affected area.* Except as expressly provided in this section, this article shall apply to all new development within the Community-based on the development fee service areas described in sections 17-527 through 17-532.

(b) *Type of development affected.* Development fees shall be paid by new development, unless the proposed development specifically is not subject to or is exempt from the terms of this article, or has received an offset pursuant to section 17-522.

(c) *Type of development not affected.* The following types of development shall not be required to pay development fees for a particular public facility type, pursuant to this article:

(1) The replacement of a destroyed or partially destroyed building or structure, with a new building or structure of the same size and use;

(2) Developments or redevelopments that do not increase the demand for a particular public facility, based on the demand factors and methodology used in the technical report;

(3) Developments that are the subject of a development agreement or other binding agreement with the Community, or a condition of development approval, which agreement or condition would result in a contribution or payment by an applicant in excess of the applicant's proportionate share or which is in direct conflict with this article, but only to the extent of such excessive contribution or payment, or conflict; or

(4) Temporary uses.

(d) *Exemptions.*

(1) No development fees shall be required for the following land uses:

a. Agriculture;

b. Essential public services;

c. Residential development;

d. For up to 1,000 square feet of outdoor dining; or

e. Tribal government.

(2) For uses exempt by this subsection (d) only, funding sources other than development fee revenues will be used, as necessary and appropriate, to fund improvements to public facilities such that the level of service standards in the technical report are maintained. No development fee shall exceed new development's proportionate share capital capacity costs as a result of these exemptions. On an annual basis, the Community will assess the need for these payments during the annual review of the development fee program and applicable CIPs, pursuant to section 17-526.

(e) *Appeals.* Pursuant to section 17-533, if an applicant has filed an appeal and bond or other surety, no development fee shall be required prior

to resolution of the appeal, in accordance with the final written determination by the Community manager or hearing officer.
(Code 1981, § 17-257; Code 2012, § 17-257; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-257, 5-30-2012; Ord. No. SRO-450-2014, § 17-519, 9-24-2014)

Sec. 17-520. Application; calculation, collection of development fees; administrative fees.

(a) *Calculation.*

(1) The amount of development fees owed for each type of development project shall be in accordance with sections 17-527 through 17-531.

(2) A development fee shall be assessed for each use within the proposed development, except that accessory uses shall be assessed at the same rate as the principal land use.

(3) Where the specific use for a new development is not known at the time of building or construction permit issuance, the development fee required for the most intense use allowed within the relevant zoning district shall be paid upon the issuance of the building or construction permit. Upon the issuance of a tenant improvement permit or certificate of occupancy, whichever is first required to establish the actual use, the development fee shall be adjusted by a partial reimbursement by the Community, if applicable, based on the actual land use and the fee schedules set forth in sections 17-527 through 17-531.

(4) If the proposed land use is not listed in the fee schedules set forth in sections 17-527 through 17-531, the director shall determine whether the proposed use is similar in demand to a listed use, based on the factors, assumptions, and methodologies set forth in the technical report, the North American Industry Classification System, the ITE Trip Generation Manual, the Land-Based Classification Standards (APA), and other relevant and generally-accepted indicators of land use intensity. The director also may consult with other department heads or outside professionals in making this determination, based on the factors, assumptions, and methodology set forth in the technical report and other relevant documentation.

(5) If the proposed land use represents an expansion or intensification of an existing land use, the development fee shall be equal to the difference between the existing land use and the proposed land use. However, no refund of development fees will be made for the conversion of an existing land use to a less intense proposed use.

(b) *Collection.*

(1) Development fees shall be paid, in the amounts set forth in sections 17-527 through 17-531 or as determined by the director pursuant to section 17-520(a) of this article, at the time of issuance of a building permit, construction permit, tenant improvement permit, certificate of occupancy, or other Community approval of new development.

(2) Development fees will not be received by the Community prior to the time of issuance of a building permit, construction permit, tenant improvement permit, certificate of occupancy, or other Community approval of new development, which is necessary for the developer to establish an actual land use on a property.

(c) *Administrative fees.* In order to offset the Community's costs to administer development fees, an administrative fee equal to two percent of the total development fees due shall be paid at the time development fees are paid.
(Code 1981, § 17-258; Code 2012, § 17-258; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-258, 5-30-2012; Ord. No. SRO-450-2014, § 17-520, 9-24-2014)

Sec. 17-521. Individual assessment of development fee.

(a) At the request of applicant, an individual assessment may be used to determine whether a fair share of the public facilities costs necessi-

tated by the proposed development will be less than the fees in the fee schedules set forth in sections 17-527 through 17-532 or as determined by the director pursuant to section 17-520(a). The individual assessment shall be calculated according to the methodology used for the particular public facility in the technical report and the costs of the individual assessment shall be borne by the applicant.

(b) The individual assessment analysis shall be funded by the applicant and prepared by qualified professionals in the fields of planning and engineering, impact analysis, and economics, as deemed appropriate to the circumstances of the assessment selected by applicant and reasonably approved by the director.

(c) With the individualized assessment, the applicant shall submit an administrative fee of $1,000.00 for costs incurred by the Community to have the study evaluated. If the costs to the Community exceed $1,000.00, the director will assess the additional costs to the applicant, along with documentation verifying the costs incurred. The director will not issue a final decision until all documented costs have been paid by the applicant. If the costs to the Community to have the assessment evaluated are less than $1,000.00, the Community will refund any balance to the applicant at the time of the director's final determination.

(d) Within 30 working days of receipt of an individual assessment analysis, the director shall determine if the individual assessment analysis is complete and that the required $1,000.00 administrative fee has been paid. If the director determines the application is not complete or the administrative fee has not been paid, the director shall send a written statement specifying the deficiencies to the person submitting the application. Until the deficiencies are corrected and all fees paid, the director shall take no further action on the application.

(e) When the director determines the individual assessment analysis is complete and the fees paid, the director shall review it within 45 working days. The director shall approve the proposed fee if he or she determines that the data, factors, and methodology used to determine the proposed development fee are professionally acceptable and fairly assess the costs for capital improvements to the Community's public facilities systems that are necessitated by the proposed development if the facilities are to be maintained at levels of service in the technical report. If the director determines that the data, factors, or methodology are unreasonable, the proposed fee shall be denied, the director shall provide a summary of the reasons for its determination, and the developer shall pay the development fees according to section 17-520.

(Code 1981, § 17-259; Code 2012, § 17-259; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-259, 5-30-2012; Ord. No. SRO-450-2014, § 17-521, 9-24-2014)

Sec. 17-522. Offsets against development fees due.

(a) *Applicability; eligibility.*

(1) *Applicability.* This section shall apply to any request for an offset submitted on or after the effective date of this article.

(2) *Eligibility.*

a. Offsets may be provided pursuant to either an offset agreement with the Community Council, as provided herein, or by the director pursuant to a documented condition of development approval.

b. Offsets may be granted only for offset-eligible improvements scheduled by the Community to commence construction within five years of the approval of an offset agreement or the condition of approval, which offset-eligible improvement is included on a CIP or for which the Community Council agrees by resolution to add to a CIP during its immediately subsequent annual CIP review.

c. Offsets shall be given only for the same category of public facility as the offset-eligible improvement.

d. Nothing in this subsection precludes the Community from entering into an agreement with an applicant in

order to clarify the timing and manner of providing offset-eligible improvements pursuant to a documented condition of development approval.

(b) *Requirements and procedures for development fee offsets.* Applications for offsets must be made on a form provided by the CIPAC for such purposes. Unless the offset is sought pursuant to a documented condition of development, the offset application must be accompanied by a proposed offset agreement as provided herein.

(1) *Procedure.*

a. Upon receipt of a complete application, the CIPAC, Community general counsel, and other appropriate staff must review the application, as well as such other information and evidence as may be deemed relevant.

b. Within 60 calendar days of the receipt of a complete application, the director must either:

1. Forward a report to the Community Council as to whether an offset is proper based on the provisions of this article; or

2. Provide written comments or objections to the applicant with respect to the application for an offset or the offset agreement.

c. Within 60 calendar days of the receipt from the director's report, and based on the terms of the proposed offset agreement, the provisions of this article, the CIP, the general plan, adopted Community budget, and the technical report, the Community Council must make a final decision to accept, reject or accept with conditions the proposed offset application regarding the dedication, construction or funding of an offset-eligible capital improvement in exchange for an offset against development fees owed.

(2) *Calculation of the value of offset.*

a. The value of any offset shall be calculated as the lower of the following:

1. The amount of the development fees due; or

2. The actual verified costs of dedication or construction.

b. This section does not apply to any reimbursements, credits, or refunds for capital improvements provided by an applicant, which exceed the value of the offset pursuant to subsection (b)(2)a of this section. However, this section does not prohibit the Community from agreeing to such excess reimbursements, credits, or refunds, at its sole discretion, by separate agreement.

c. Actual verified costs shall be calculated as follows:

1. *Facilities and equipment associated with the offset-eligible improvement.* Actual cost of construction or equipment, as evidenced by receipts or other sufficient documentation provided by the developer of the offset-eligible improvement and verified by the CIPAC. For projects yet to be built, sufficient documentation may include three bids prepared for and submitted by the applicant or an outside cost estimate commissioned by the Community.

2. *Dedication of land associated with the offset-eligible improvement.* The fair market value of the land as determined by a certified property appraiser hired and paid for by the developer. If the CIPAC rejects the developer's appraisal, the Community may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by

an appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the Community and the developer. The third appraisal is binding on both parties. All appraisals must be consistent with generally- accepted appraisal techniques.

(3) *Offset agreement requirements.* No capital improvement may be accepted in exchange for an offset except pursuant to a documented condition of development approval or an executed offset agreement between the Community and the provider of the offset-eligible improvement, which agreement shall include the following:

a. A schedule for the initiation, completion, and dedication, as applicable, of proposed offset- eligible improvements;

b. The agreed to offset mechanism including, but not limited to, credits, waivers, payments and reimbursements;

c. The amount of the development fees, by type, proposed to be offset by the Community;

d. The timing of any offset that will be issued by the Community, with any necessary conditions or limitations;

e. The method of accounting for offsets;

f. Terms related to the assignment or transfer of the burdens and benefits conferred under the agreement;

g. A provision that all construction will be in accordance with Community specifications and all regulations set forth in this Community Code of Ordinances; and

h. Such other terms and conditions as deemed necessary by the Community to effectuate the provisions of this article.

(c) *Recordation; assignability.* Not later than ten working days after the execution of the offset agreement, the Community shall record a copy of the agreement with the secretary of the Community Council. Recordation constitutes notice of the offset agreement to all persons. The burdens and benefits conferred under the offset agreement shall be assigned or transferred to other parties only as provided in the offset agreement.

(d) *Transferability.* Offsets granted pursuant to this section, including credits against future development fee payments, may be transferred from the applicant to property owners within the original development without further approval by the Community. No other transfer of offsets shall be allowed except as expressly provided in an offset agreement.

(Code 1981, § 17-260; Code 2012, § 17-260; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-260, 5-30-2012; Ord. No. SRO-450-2014, § 17-522, 9-24-2014)

Sec. 17-523. Use of funds collected; development fee accounting.

(a) Development fees collected pursuant to this article shall be used solely for the purpose of acquisition, expansion, and development of capital improvements included in and scheduled for commencement of construction within the first five years of the CIP or which the council agrees by resolution to include within the first five years of the CIP. Development fees may not be used for site-related capital improvements. Allowable expenditures include, but are not limited to:

(1) Public facilities and public facilities capital costs;

(2) Repayment of monies transferred or borrowed from any budgetary fund of the Community which were used to fund the acquisition, expense, and development of public facilities for new development;

(3) Payment of principal and interest and costs of issuance under any bonds or other indebtedness issued by the Community to provide funds for acquisition, expansion, and development of public facilities;

(4) Refunds granted pursuant to section 17-524;

(5) Updates to the technical report as required by this article; and

(6) Offset-eligible improvements, pursuant to section 17-522.

(b) Development fees collected for each public facility category must be spent for the benefit of new development within the development fee service areas described in sections 17-527 through 17-532. Incidental benefits accruing to nonfee payers as a secondary result or minor consequence of the provision of facilities to those paying development fees or to existing development do not invalidate the use of development fee revenues pursuant to this article.

(c) Development fees collected shall be spent or encumbered for the construction of public facilities within ten years of the date of collection. Development fees shall be considered spent or encumbered in the order received by the Community on a first-in, first-out basis.

(d) In order to ensure that development fee revenues are earmarked and spent solely for the expansion of public facilities necessary to offset the impacts of new development, the following provisions apply:

(1) The Community shall establish an external bank account into which all collected development fees will be deposited, separate from the general fund and all other Community funds. Administrative fees shall not be deposited into this account.

(2) In order to track the collection and expenditures of development fees, the Community also shall establish an internal revenue fund for development fees, with an internal accounting methodology such that the Community may at all times identify the amount of development fees previously spent and remaining, by public facility type and service area.

(3) Amounts withdrawn from a development fee account must be used solely in accordance with the provisions of this article. Amounts retained in a development fee account shall not be used for any expenditure that would be classified as a maintenance, operations, or repair expense, or to address existing deficiencies in public facilities.

(Code 1981, § 17-261; Code 2012, § 17-261; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-261, 5-30-2012; Ord. No. SRO-450-2014, § 17-523, 9-24-2014)

Sec. 17-524. Refunds.

(a) Upon application, development fees shall be returned to the fee payer if the approved development is canceled due to noncommencement of construction or the Community approval expires or is revoked before the funds have been spent or encumbered. Refunds may be made in accordance with this section provided the fee payer, or the fee payer's authorized agent, files a petition for a refund within one year from the date of noncommencement, expiration, or revocation. Applicable administrative fees already collected will be retained by the Community.

(b) Upon application, in the event development fees are not spent or encumbered by the Community within ten years from the date of collection, the Community shall refund the amount of the fee to the fee payer, or the fee payer's authorized agent, provided a petition for a refund is filed within one year from the expiration of the ten-year timeframe.

(c) A refund application shall include the following information:

(1) Evidence that the development fee was paid for the property, the date of payment, and the amount paid; and

(2) Other information deemed by the director to be reasonably necessary in order to determine compliance with the provisions of this section, based on the circumstances of the refund request.

(d) Within 30 working days of receipt of a refund application, the director shall determine if it is complete. If the director determines the refund application is not complete, the director shall send a written statement specifying the deficiencies by mail to the person submitting the

refund application. Unless the deficiencies are corrected, the director shall take no further action on the refund application.

(e) When the director determines the refund application is complete, the director shall review it within 30 working days, and shall approve the proposed refund if he or she determines that a refund is appropriate based on the criteria of this section.

(f) Except for refunds granted pursuant to subsection (b) of this section, an administrative fee equal to $500.00 shall be paid at the time the refund application is submitted in order to offset the Community's costs to process the refund application.

(Code 1981, § 17-262; Code 2012, § 17-262; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-262, 5-30-2012; Ord. No. SRO-450-2014, § 17-524, 9-24-2014)

Sec. 17-525. Updating; annual adjustments.

(a) *Updates.*

(1) At least once every five years, the Community shall update the technical report that provides the basis for the development fees imposed under this article.

(2) Prior to adopting development fees pursuant to a technical report update, the Community Council will hold a public hearing and will give published notice in the Community newspaper at least 30 calendar days prior to the public hearing.

(b) *Annual adjustments.*

(1) During years when no update occurs and not sooner than one year after the adoption of the applicable technical report, the development fees established in the technical report may be adjusted during preparation of the annual budget, in order to account for changes in the costs of providing public facilities to new development. These annual adjustments shall be consistent with the methodology set forth in the technical report and shall be based on the Construction Cost Index calculated by the Engineering News-Record (ENR), the U.S. Department of Labor Consumer Price Index, and the Arizona Department of Transportation databases, or other generally-accepted indicators of facility costs used in the technical report to determine the development fees set forth in this article.

(2) Notice and meetings for annual adjustments shall be as provided for during annual budget preparation, or if adjusted at a time other than the annual budget preparation, annual adjustments shall require a public meeting with the Community Council and published notice in the Community newspaper at least 30 calendar days prior to the meeting.

(Code 1981, § 17-263; Code 2012, § 17-263; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-263, 5-30-2012; Ord. No. SRO-407-2013, 10-17-2012; Ord. No. SRO-450-2014, § 17-525, 9-24-2014)

Sec. 17-526. Annual statement; capital improvements program.

(a) *Annual statement.* The director will prepare a statement that shall address, among other things, the following:

(1) The amount assessed by the Community for each category of development fee.

(2) The balance of each development fee account maintained for each type of development fee assessed as of the beginning and end of the fiscal year.

(3) The amount of development fee monies spent on and/or planned for public facility capital improvement projects and the location of each project.

(b) *Capital improvements program.* At least annually, the CIPAC will review current CIPs for each public facility for which development fees are collected, and shall address, among other things, the following:

(1) Reviewing planned capital improvements to ensure level of service (LOS) standards are maintained, based on the technical report and any exemptions made pursuant to section 17-519(d);

(2) Ensuring that planned capital improvements, to be funded with the development fees revenues, reflect the proportionate impact of new development;

(3) Ensuring that development fee revenues are spent on capital improvements that benefit new development, as provided for in this article;

(4) Proposing amendments to the CIPs related to offsets granted or to be granted pursuant to this article; and

(5) Other matters related to the efficient implementation of this article and its ongoing lawful application to new development.

(Code 1981, § 17-264; Code 2012, § 17-264; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-264, 5-30-2012; Ord. No. SRO-450-2014, § 17-526, 9-24-2014)

Sec. 17-527. Storm drainage development fee.

(a) *Storm drainage development fee service area.* The development fee services areas for storm drainage development fees shall be the following geographic areas:

(1) *North of Arizona Canal service area.* The areas indicated as north of the Arizona Canal, in Figure 1 set forth in this subsection.

(2) *South of Arizona Canal service area.* The areas indicated as south of the Arizona Canal, in Figure 2 set forth in this subsection.

Figure 1

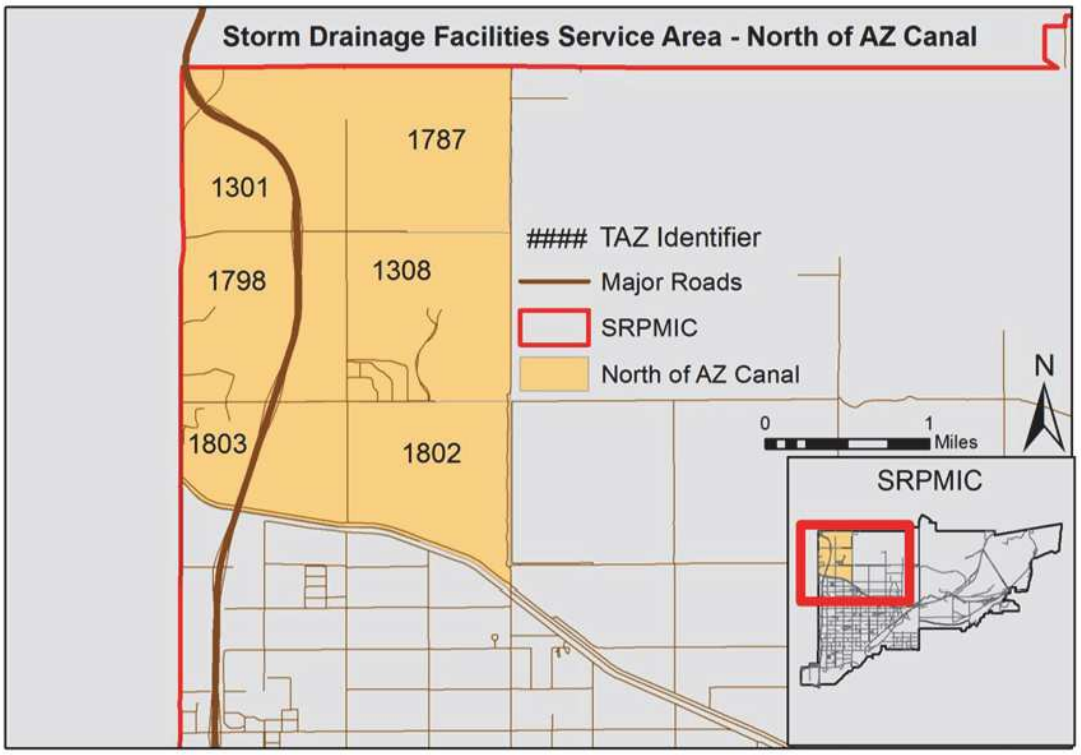
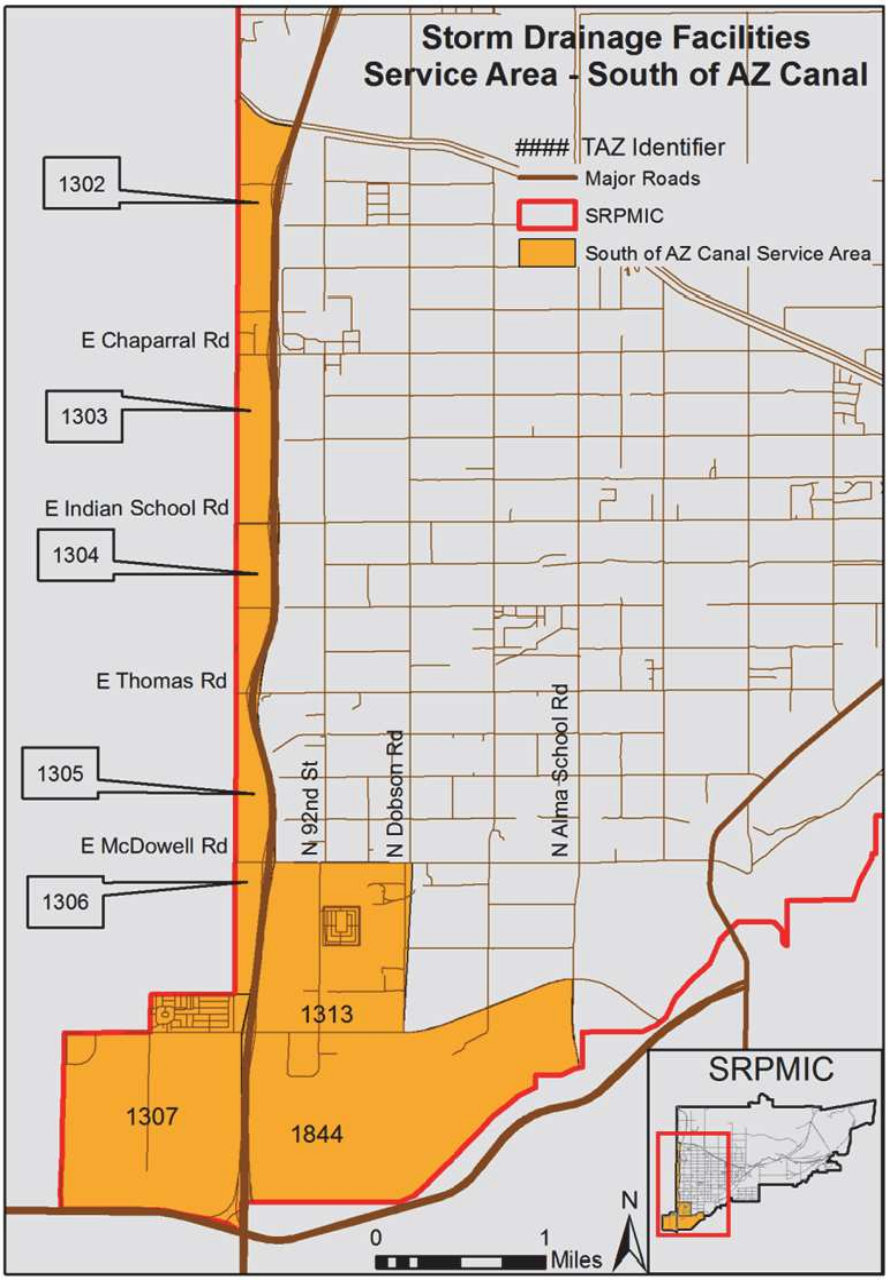


Figure 2



Development fees for storm drainage facilities shall be collected only within these service areas and said fee revenues shall be spent only to the benefit of new development within the service area from which fees are collected.

(b) *Storm drainage development fee schedule.* Storm drainage development fees shall be assessed and collected from new nonresidential development only, pursuant to all applicable provisions of this article, in accordance with the development fee service areas described in subsection (a) of this section and the following fee schedule:

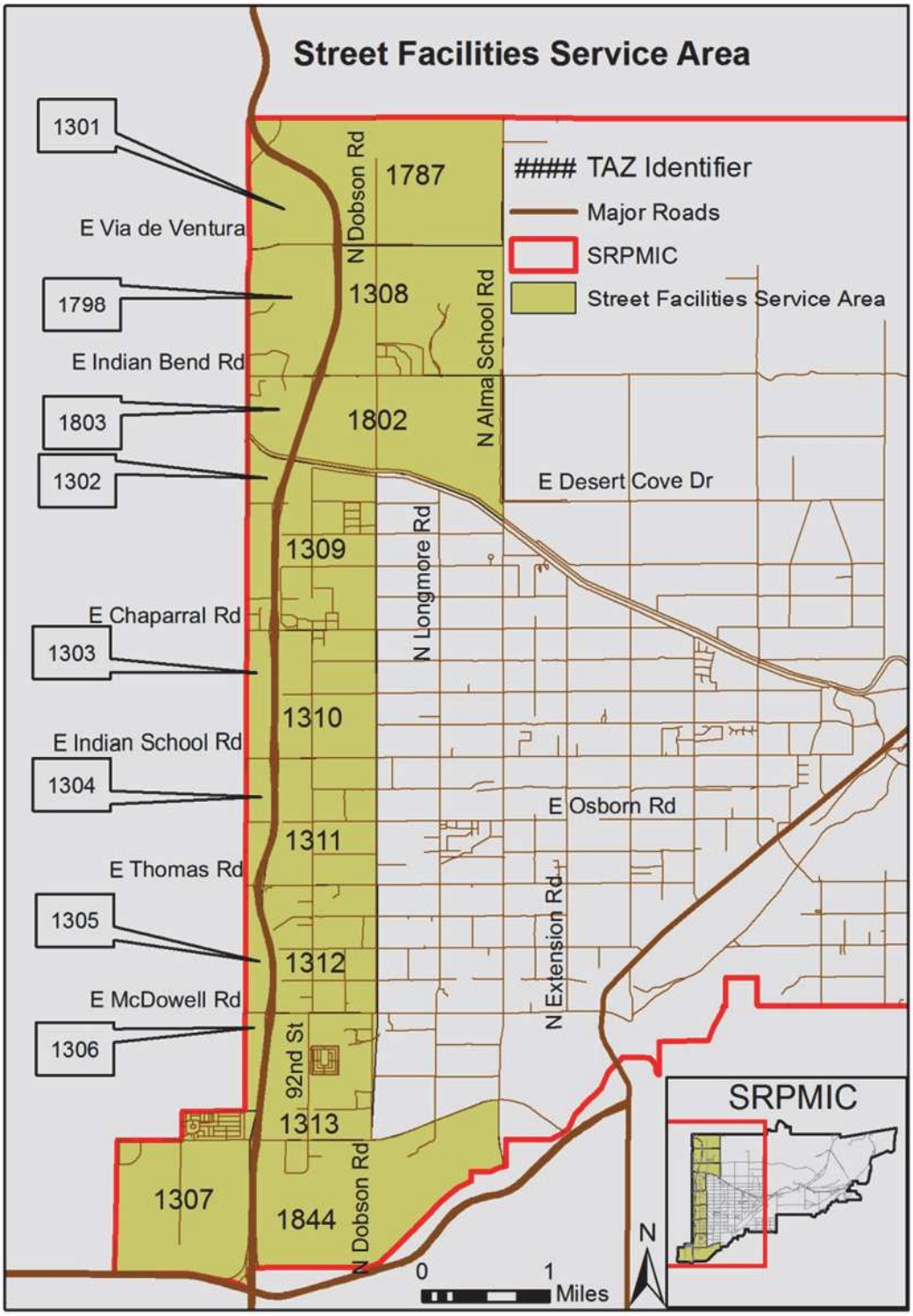
Land Use	*Development Fee (per gross square foot of land)*	
	North of AZ Canal	*South of AZ Canal*
Commercial	$0.14	$0.20
Industrial	$0.15	$0.21
Commercial Recreation	$0.07	$0.08

(c) *Storm drainage development fee account.* There shall be established two internal revenue accounts, under which all storm drainage development fees collected shall be kept, a north of Arizona Canal account and a south of Arizona Canal account. Storm drainage development fee revenues collected from each development fee service area described in subsection (a) of this section shall be accounted for according to the service area from which they were collected. Other than any interest that accrues on the accounts, no other funds shall be maintained in the storm drainage development fee accounts.
(Code 1981, § 17-265; Code 2012, § 17-265; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-265, 5-30-2012; Ord. No. SRO-450-2014, § 17-527, 9-24-2014)

Sec. 17-528. Street development fee.

(a) *Street development fee service area.* The development fee services area for street development fees shall be the area indicated in Figure 3 set forth in this subsection:

Figure 3


Street Facilities Service Area
TAZ Identifier
Major Roads
SRPMIC
Street Facilities Service Area
1301
1798
1803
1302
1303
1304
1305
1306
1307
1787
1308
1802
1309
1310
1311
1312
1313
1844
E Via de Ventura
E Indian Bend Rd
E Chaparral Rd
E Indian School Rd
E Thomas Rd
E McDowell Rd
E Desert Cove Dr
E Osborn Rd
N Dobson Rd
N Alma School Rd
N Longmore Rd
N Extension Rd
92nd St
SRPMIC
N
0
1
Miles

Development fees for street facilities shall be collected only within this service area and said fee revenues shall be spent only to the benefit of new development within this service area.

(b) *Street development fee schedule.* A street development fee shall be assessed and collected from new nonresidential development only, pursuant to all applicable provisions of this article, in accordance with the following fee schedule:

Land Use	*Development Fee (per gross square foot)*
Commercial	$6.57
Office and other services	$2.84
Industrial	$1.70
Institutional	$3.62

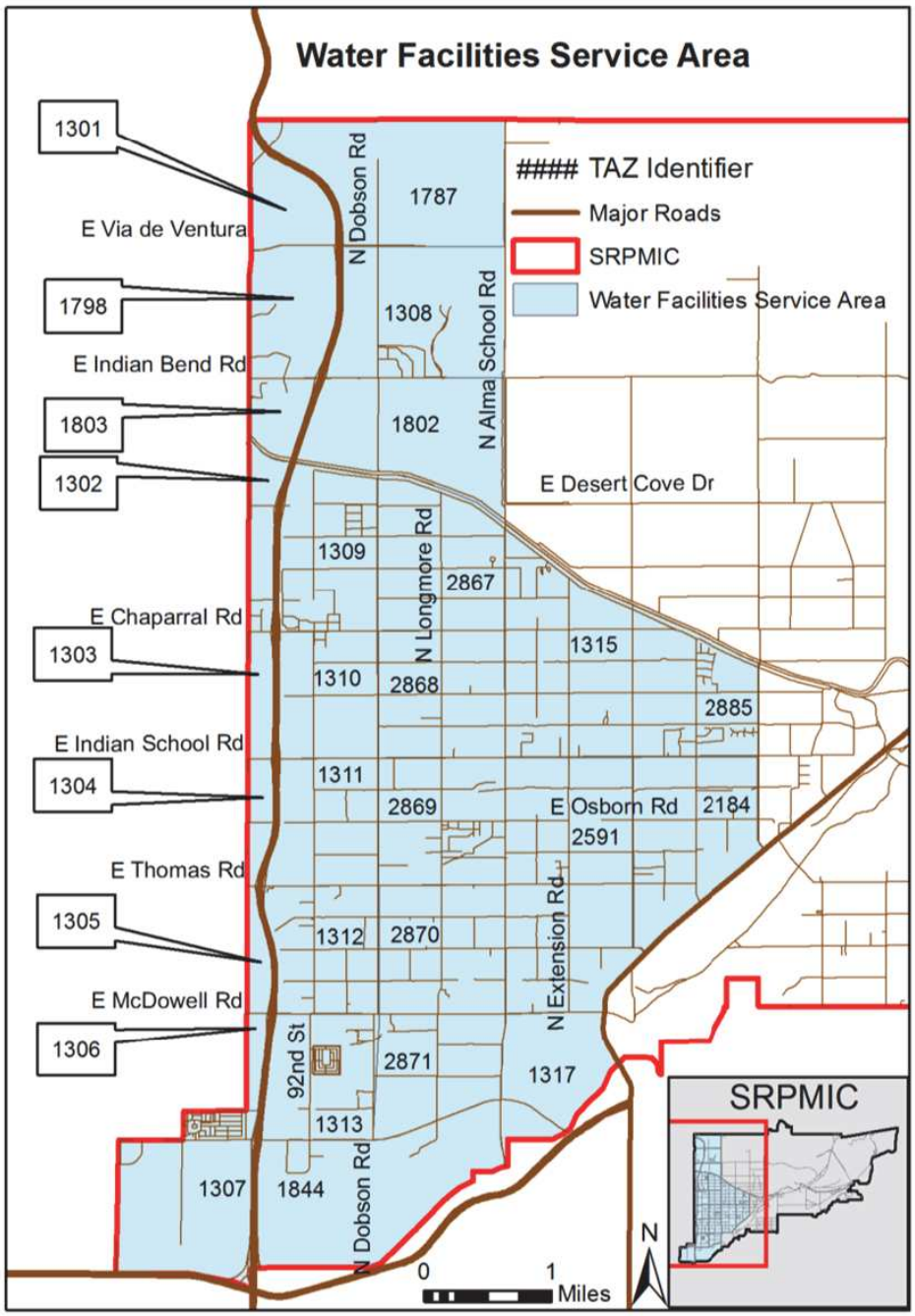
(c) *Street development fee account.* There shall be established an internal revenue account, under which all street development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the street development fee account. Street development fee revenues shall be spent only on street facilities and street capital costs as provided in this article.

(Code 1981, § 17-266; Code 2012, § 17-266; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-266, 5-30-2012; Ord. No. SRO-450-2014, § 17-528, 9-24-2014)

Sec. 17-529. Water development fee.

(a) *Water development fee service area.* The development fee services area for water facilities development fees shall be the area indicated as such in Figure 4:

Figure 4



Development fees for water facilities shall be collected only within this service area and said fee revenues shall be spent only to the benefit of new development within this service area.

(b) *Water development fee schedule.* A water development fee shall be assessed and collected from new development, pursuant to all applicable provisions of this article, in accordance with the following fee schedule:

Meter Size (inches)	*Type*	*Capacity Ratio**	*Development Fee (per meter)*
0.75	Magnetic	1.00	$5,179
1.00	Magnetic	1.67	$8,649
1.50	Magnetic/Turbine	3.33	$17,247
2.00	Magnetic/Turbine	5.33	$27,607
3.00	Magnetic/Turbine	10.67	$55,265
4.00	Magnetic/Turbine	16.67	$86,343
6.00	Magnetic/Turbine	33.33	$172,634
8.00	Magnetic/Turbine	53.33	$ 276,225

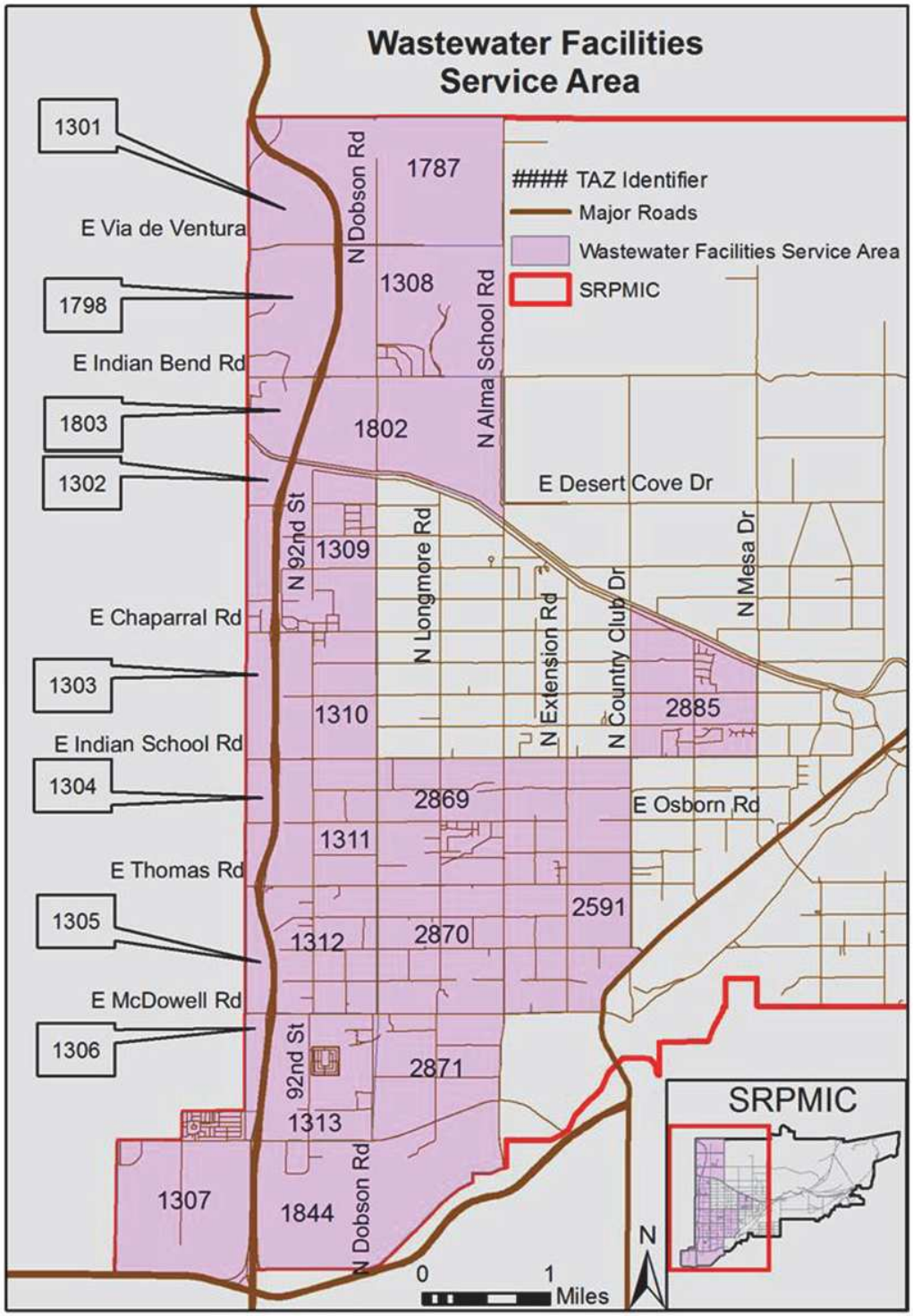
*Capacity ratios by meter size are from the American Water Works Association (AWWA), M6 Water Meters-Selection, Installation, Testing and Maintenance, 5th Ed.

(c) *Water development fee account.* There shall be established an internal revenue account, under which all water development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the water development fee account. Water development fee revenues shall be spent only on water facilities and water capital costs as provided in this article. (Code 1981, § 17-267; Code 2012, § 17-267; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-267, 5-30-2012; Ord. No. SRO-450-2014, § 17-529, 9-24-2014)

Sec. 17-530. Wastewater development fee.

(a) *Wastewater development fee service area.* The development fee services area for wastewater facilities development fees shall be the area indicated as such in Figure 5:

Figure 5


Wastewater Facilities
Service Area
TAZ Identifier
Major Roads
Wastewater Facilities Service Area
SRPMIC
1301
1798
1803
1302
1303
1304
1305
1306
1307
1787
1308
1802
1309
1310
1311
1312
1313
2869
2870
2871
2591
2885
1844
E Via de Ventura
E Indian Bend Rd
E Chaparral Rd
E Indian School Rd
E Thomas Rd
E McDowell Rd
E Desert Cove Dr
E Osborn Rd
N Dobson Rd
N Alma School Rd
N 92nd St
N Longmore Rd
N Extension Rd
N Country Club Dr
N Mesa Dr
SRPMIC
N
0
1
Miles

Development fees for wastewater facilities shall be collected only within this service area and said fee revenues shall be spent to the benefit of new development only within this service area.

(b) *Wastewater development fee schedule.* A wastewater development fee shall be assessed and collected from new development, pursuant to all applicable provisions of this article, in accordance with the following fee schedule:

Meter Size (inches)	*Capacity Ratio**	*Development Fee (per meter)*
0.75	1.00	$684
1.00	1.67	$1,143
1.50	3.33	$2,279
2.00	5.33	$3,649
3.00	10.67	$7,304
4.00	16.67	$11,412
6.00	33.33	$22,818
8.00	53.33	$36,510

*Capacity ratios by meter size from the American Water Works Association (AWWA), M6 Water Meters-Selection, Installation, Testing and Maintenance, 5th Ed.

(c) *Wastewater development fee account.* There shall be established an internal revenue account, under which all wastewater development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the wastewater development fee account. Wastewater development fee revenues shall be spent only on wastewater facilities and wastewater capital costs as provided in this article.

(Code 1981, § 17-268; Code 2012, § 17-268; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-268, 5-30-2012; Ord. No. SRO-450-2014, § 17-530, 9-24-2014)

Sec. 17-531. Public safety development fee.

(a) *Public safety development fee service area.* The development fee service area for public safety development fees shall include all lands within the Community. Except as expressly provided otherwise by this article, development fees for public safety facilities shall be collected only within this service area and said fee revenues shall be spent only to the benefit of new development within this service area.

(b) *Public safety development fee schedule.* A public safety development fee shall be assessed and collected from new development, pursuant to all applicable provisions of this article, in accordance with the following fee schedule: *Land Use Development Fee*

Land Use	*Development Fee (per gross square foot)*
Commercial	$0.91
Office and other Services	$0.35
Industrial	$0.22
Institutional	$0.45

(c) *Public development fee account.* There shall be established an internal revenue account, under which all public safety development fees collected shall be kept. Other than any interest that accrues on the account, no other funds shall be maintained in the public safety development fee account. Public safety development fee revenues shall be spent only on public safety facilities and public safety capital costs as provided in this article.

(Code 1981, § 17-269; Code 2012, § 17-269; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-269, 5-30-2012; Ord. No. SRO-450-2014, § 17-531, 9-24-2014)

Sec. 17-532. Appeals.

(a) *Initiation.*

(1) An appeal from a final determination made by the director or other Community official may be made within 30 calendar days of the time the official's determination has been communicated to the applicant.

(2) An appeal shall be made on a form provided by the director and filed with the Community executive secretary.

(3) The appeal will be decided by the Community manager, or by a hearing officer appointed by the Community manager, as provided in this section.

(4) The filing of an appeal does not stay the imposition or the collection of the development fee as calculated by the Community unless an appeal bond or other sufficient surety, satisfactory to the office of the general counsel and the Community treasurer has been provided. If no such bond or other surety has been accepted by the Community, the applicant must pay all development fees owed prior to filing an appeal.

(5) The bond or other surety shall not be released in whole until the Community manager or hearing officer either grants the appeal and determines in writing that no additional development fees are thereafter owed by the applicant or the applicant pays all development fees owed following the written determination regarding the appeal by the Community manager or hearing officer. The bond may provide for partial draws on bond funds or partial releases by the Community.

(6) If the appeal form is accompanied by a bond or other sufficient surety, in an amount equal to the development fee calculated by the director to be due, a building permit, construction permit, tenant improvement permit, certificate of occupancy, or other Community approval of new development, which is necessary for the developer to establish an actual land use on a property may be issued to the new development, pending the outcome of the appeal.

(b) *Hearing on the appeal.* The Community manager or hearing officer shall set the appeal for hearing and shall notify the applicant in writing of the date, time, and location of the hearing.

(c) *Burden of proof.* The appellant has the burden of proof to demonstrate that the decision of the director or other Community official is erroneous, based on the terms of this article, the Community Constitution, or other applicable law.

(d) *Decision.*

(1) The Community manager or hearing officer must:

a. Determine whether there is an error in an order, article requirement, or decision of a Community official in the enforcement of this article; and/or

b. Based on the information provided, reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the Community official appealed, and make such order, requirement, decision, or determination as necessary, including recommending amendments to the provisions of this article to the council.

(2) The Community manager or hearing officer must render a decision on the appeal within 60 calendar days after the receipt by the Community executive secretary of the appeal application form.

(3) Should the appeal result in a determination that development fees paid should be refunded in whole or in part to the applicant, the written decision of the Community manager or hearing officer shall so indicate and shall direct appropriate Community staff to make the refund consistent with the final decision.

(4) Should the appeal be rejected, any development fees not paid, but secured by bond or other surety, shall be paid in full within 30 calendar days of the written decision of the Community manager or hearing officer, unless the written decision provides otherwise. If all development fees owed pursuant to the final decision are not paid within 30 calendar days, the Community may draw an amount of the bond funds equal to the amount of development fees owed. The availability of this remedy does not preclude the Community from seeking or enforcing any other lawful remedy necessary to enforce the provisions of this article.

(Code 1981, § 17-271; Code 2012, § 17-271; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-271, 5-30-2012; Ord. No. SRO-450-2014, § 17-532, 9-24-2014)

Sec. 17-533. Violation; penalty.

When required to provide information pursuant to this article, all persons shall act in good

faith and provide correct and accurate information. Furnishing false information to any official or agent of the Community charged with the administration of this article on any matter relating to the administration of this article, including without limitation the furnishing of materially false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this article. Any person, firm, or corporation that violates any of the provisions of this article shall be guilty of a misdemeanor. Persons determined to have falsified information to any official or agent of the Community shall be fined in an amount not to exceed $5,000.00 and may have their Community business license revoked. Firms or corporations or other entities determined to have falsified information to an official or agent of the Community shall be fined not to exceed $20,000.00. Each violation shall be considered a separate offense, and fined as described in this section.

(Code 1981, § 17-272; Code 2012, § 17-272; Ord. No. SRO-348-09, 5-13-2009; Ord. No. SRO-402-2012, § 17-272, 5-30-2012; Ord. No. SRO-450-2014, § 17-533, 9-24-2014)

Chapter 17.5

FLOODPLAIN AND DRAINAGE

Sec. 17.5-1. Requirements and regulations established; short title.
Sec. 17.5-2. Definitions.
Sec. 17.5-3. The floodplain administrator.
Sec. 17.5-4. Appeals and variances.
Sec. 17.5-5. Interpretation.
Sec. 17.5-6. Warning and disclaimer of liability.
Sec. 17.5-7. Prohibited development.
Sec. 17.5-8. Development requirements to be met for issuance of a permit.
Sec. 17.5-9. Requirement for certifications and required permits.
Sec. 17.5-10. Obstruction of a waterway prohibited.
Sec. 17.5-11. Removal of obstructions.
Sec. 17.5-12. Penalties.

Sec. 17.5-1. Requirements and regulations established; short title.

(a) It is the purpose of this chapter to establish requirements and regulations pertaining to the use and development of land in the Community which will minimize the occurrence of losses, hazards and conditions adversely affecting the public health, safety and general welfare which might result from flooding caused by the surface runoff of rainfall.

(b) This chapter may be referred to as the floodplain and drainage ordinance.
(Code 1981, § 17.5-1; Code 2012, § 17.5-1; Ord. No. SRO-185-95, § A, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-1, 5-30-2012)

Sec. 17.5-2. Definitions.

Unless specifically defined as follows, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year. This is also called a 100-year flood.

Basement means the lowest level or story of a structure which has its floor subgrade on all sides.

Construction means new construction of or substantial improvements to a structure.

Detention basin means a hydraulic structure similar to a reservoir that intercepts and retards or detains stormwater and is specifically designed to attenuate or dampen peak discharge rates.

Development means any manmade change to improved or unimproved real estate, including but not limited to construction, mining, excavation, filling, grading, paving or farming.

Environmentally sensitive lands means environmentally sensitive lands as defined in regulations adopted pursuant to this chapter.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of floodwaters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source; and/or

(3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

Floodplain or *floodprone area* means any land area susceptible to being inundated by water from any source.

Floodplain administrator means the Community development director or designee who is authorized by this chapter to administer its provisions.

Floodproofing or *flood protection* means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. The structure must be watertight, with walls which are substantially impermeable to the passage of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

Floodway means the channel of a river or other watercourse and the adjacent land areas necessary in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot above the base floodwater surface elevation.

Grading means an excavation or filling of land or combination thereof.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An

unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

Natural areas means those areas within environmentally sensitive areas which are required to be retained in a natural state, including areas stipulated as such through the zoning process. Special conditions relating to environmentally sensitive lands will apply to such natural areas.

Regulatory base flood elevation means the water surface elevation of the base flood.

Regulatory floodway means the channel of a wash or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without raising the water surface elevation more than one foot above the base floodwater surface elevation.

Residential structure means a place of residence and may be a single-family or multifamily dwelling.

Retention basin means a hydraulic structure similar to a reservoir that intercepts and stores stormwater and is specifically designed to be drained to the underground or to be emptied by evaporation to the atmosphere.

Start of construction for purposes of this chapter only, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building or a gas or liquid storage tank that is principally above ground. The term "structure" includes, but is not limited to, houses, commercial buildings, factories, storage buildings, mobile homes and similar structures.

Substantial improvement.

(1) The term "substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the:

a. Improvement is started; or

b. Damage occurred, if the structure has been damaged and is being restored.

For the purposes of this subsection of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(2) The term "substantial improvement does not include any alteration to comply with existing local health, sanitary, building or safety codes or regulations which are solely necessary to ensure safe living conditions.

Variance means a grant of relief from some of the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

Waste disposal system means any system of disposing of worthless materials and useless byproducts, either sanitary or commercial or industrial, except: existing single-family septic systems and sanitary sewer pipe lines.

Watercourse means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least period-

ically. The term "watercourse" includes specifically designated areas in which substantial flood damage may occur.
(Code 1981, § 17.5-2; Code 2012, § 17.5-2; Ord. No. SRO-185-95, § B, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-2, 5-30-2012)

Sec. 17.5-3. The floodplain administrator.

(a) *Designated.* The Community development department director or designee shall be the floodplain administrator.

(b) *Responsibilities.* It is the responsibility of the floodplain administrator or his or her authorized representative to do the following:

(1) Review all applications for development permits and ensure that the requirements of this chapter are enforced.

(2) Take action on violations of the regulations in this chapter.

(3) Review proposed development documents to ensure that necessary permits required by section 404 of the Clean Water Act (33 USC 1344) have been obtained for such development prior to issuance of any development permits.

(4) Administer the processing of requests for a variance from the requirements of this chapter, maintain records of all actions taken.

(Code 1981, § 17.5-3; Code 2012, § 17.5-3; Ord. No. SRO-185-95, § C, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-3, 5-30-2012)

Sec. 17.5-4. Appeals and variances.

(a) A person may appeal to the Community Council for a variance or for a judgment on the interpretation of this chapter. The Community Council upon the recommendation of the land management board may grant a variance if conditions would not be created by the variance which would result in danger or damage to persons or property and if strict application of the regulations would deprive the property owner of privileges enjoyed by similar property in the floodplain. The subsections of this section describe the conditions applicable to the granting of a variance.

(b) A variance shall not be granted for property within a regulatory floodway if the water surface elevation during a base flood discharge would result in an increase in water surface elevation greater than one foot.

(c) A variance may be granted in conformance with subsections (d), (e) and (f) of this section for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures with lowest floors constructed below the base flood level.

(d) A variance shall only be granted upon the determination of the following: Granting the variance will not allow conditions to be created which result in increased floodwater heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, the causing of fraud or victimization of the public, or conflict with other laws or ordinances.

(e) A variance shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief for the applicant.

(f) The floodplain administrator shall notify the applicant in writing that the following condition will exist as a result of the variance.

(1) Construction of a lowest floor below the base flood level will result in increased premium rates for flood insurance.

(2) Construction below the base flood level increases risks to life and property.

(g) While the granting of variances generally is limited to a lot size less than one-half acre, deviations from this limit may be considered by the floodplain administrator; however, as the lot size is increased beyond one-half acre, the technical justifications required for a variance must be more detailed and comprehensive.
(Code 1981, § 17.5-4; Code 2012, § 17.5-4; Ord. No. SRO-185-95, § D, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-4, 5-30-2012)

Sec. 17.5-5. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the Community; and

(3) Deemed neither to limit or repeal any other powers granted under law.

(Code 1981, § 17.5-5; Code 2012, § 17.5-5; Ord. No. SRO-185-95, § E, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-5, 5-30-2012)

Sec. 17.5-6. Warning and disclaimer of liability.

The degree of flood protection provided by the requirements in this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Floods larger than the base flood can and will occur on rare occasions. Floodwater heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Community, any officer or employee thereof, or the federal government for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Code 1981, § 17.5-6; Code 2012, § 17.5-6; Ord. No. SRO-185-95, § F, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-6, 5-30-2012)

Sec. 17.5-7. Prohibited development.

(a) A development is prohibited if it would create hazards to life or property by increasing the potential for flooding either on the property to be developed or on adjacent property or to any other property. A watercourse may not be altered. Alteration within the meaning of this section includes, but is not limited to: Encroachments, fill, new construction, substantial improvements to existing developments, and other construction within a watercourse, unless a professional engineer certifies that the alterations will not increase flooding hazards within, upstream or downstream of the altered portion of the watercourse.

(b) Waste disposal systems shall not be installed wholly or partially in a floodway and/or a regulatory floodway. Replacement of existing systems will be reviewed on an individual basis and may be granted a variance.

(Code 1981, § 17.5-7; Code 2012, § 17.5-7; Ord. No. SRO-185-95, § G, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-7, 5-30-2012)

Sec. 17.5-8. Development requirements to be met for issuance of a permit.

Prior to the issuance of a permit by the Community for development on private property or for work in the public rights-of-way, the applicant for the permit shall furnish the floodplain administrator information as required to determine that all proposed building sites will be reasonably safe from flooding and sufficient data to enable the Community development department to determine that the proposed work is not of such a scope that it would be prohibited in accordance with subsections (1) and (2) of this section. Reports, construction plans, and other data submitted in support of an application for a permit shall comply with the following criteria:

(1) *Drainage reports.* When a drainage report is required, it must be prepared and sealed by a civil engineer registered as a professional engineer in the State of Arizona, and it must be prepared in accordance with the criteria established by the Community. The purpose of the report is to analyze the effect that a proposed development would have upon the rainfall runoff in the vicinity of the development, to provide data to ensure that the development is designed to be protected from flooding, to provide data to ensure that the development is to be designed to minimize flooding and to provide data supporting the design of facilities to be constructed for the management of rainfall runoff. Each drainage report must consider rainfall runoff from storms with a return frequency up to and including a 100-year storm. The complexity of the report depends upon the nature of the development and the site on which the

development will occur. A drainage report shall be submitted by an applicant requesting one of the following:

a. A permit for grading, unless the requirement is waived by the floodplain administrator.

b. A permit to construct right-of-way improvements.

c. A permit to construct any structure, except that a report will not be required if the structure is to be a single-family residential structure to be built without a basement and to be located at a site which the floodplain administrator has determined will not be in the vicinity of a watercourse in which the flow of rainfall runoff might be hazardous to the structure or its occupants.

(2) *Drainage characteristics.* Rainfall runoff from storms of all return frequencies should enter and depart from property after its development in substantially the same manner as under predevelopment conditions. Any proposals to modify drainage characteristics must be fully justified by engineering data which shall demonstrate to the floodplain administrator that hazards to life and property will not be increased by the proposed modifications. As a minimum, drainage and flood control easements will be dedicated to the Community to the extent of the estimated 100-year flood for all watercourses having a capacity of 25 cubic feet per second or greater, and the development shall be responsible for the maintenance of the watercourse. Exceptions to this regulation will be for environmentally sensitive lands and other areas covered by master drainage plans or other provisions of this chapter which ensure that the standards established by this section are met. Any proposed modification must be compatible with environmentally sensitive lands criteria.

(3) *Street crossings at natural or manmade drainage channels.*

a. The crossing structure requirements listed herein will normally apply; however, the engineer may depart from these requirements if he or she can demonstrate to the floodplain administrator's satisfaction that they are inappropriate because of the type of development or the nature of the terrain or because the requirements violate environmentally sensitive land ordinances. In extreme cases it may be necessary to allow for the entire channel flow to pass over the road.

1. Local and minor collector streets shall have a culvert or bridge which is capable of carrying all of the peak flow of runoff from a ten-year frequency storm beneath the roadway and which is also capable of carrying enough of the peak flow of runoff from a 25-year frequency storm beneath the road so that the portion of the flow over the road is no more than six inches deep.

2. Major collector and major or minor arterial streets shall have a culvert or bridge which is capable of carrying all of the peak flow of runoff from a 50-year frequency storm beneath the roadway and which is also capable of carrying enough of the peak flow of runoff from a 100-year frequency storm so that the portion of the flow over the road is no more than six inches deep.

3. Watercourse crossings for roads shall be designated so that all lots and structures within a development will be accessible from the boundary of that development by at least one route during the period of peak flow of runoff from a 100-year fre-

quency storm. The boundary shall include any adjacent street or streets. Accessibility will be considered to exist if it can be demonstrated by the engineer that at the time of the peak flow the depth of flow over the road will be no greater than one foot.

b. Regardless of the size of the culvert or bridge, the street crossing should be designed to convey the 100-year storm runoff flow under and/or over the road to the area downstream of the crossing to which the flow would have gone in the absence of the street crossing. The construction of a channel crossing must not cause the diversion of the drainage flows except when that diversion is part of an approved plan for modification of drainage patterns.

(4) *Streets as water carriers.* It is expected that streets will carry water from adjacent property and from local areas, but they are not to be used as major water carriers in lieu of natural washes or manmade channels. The maximum depth for water flowing in any street shall be eight inches during the peak runoff from a 100-year frequency storm. The above requirements imply that in some cases water may flow deeper than a normal vertical curb height and may flow for a short distance over sidewalk or other back-of-curb areas, but the flow of the water shall always be confined to the road right-of-way or to drainage easements. Particular care must be taken in street sag locations to ensure that these requirements are met. Catchbasins, scuppers or similar facilities, together with the necessary channels, must be provided at appropriate locations to remove water flowing in the streets so as not to exceed the above described depth limit.

(5) *Design procedures and criteria.* The design procedures and criteria to be used shall be in accordance with those prepared and published by the Community.

(6) *Lowest floor elevations in residential structures.*

a. New residential structures (single or multifamily) shall be constructed according to one of the two following requirements:

1. The lowest floor shall be constructed at an elevation which is a minimum of one foot above the base floodwater surface elevation. In all cases the finished floor elevation shall be a minimum of 14 inches above the lot outfall elevation.

2. The lowest floor may be constructed below the base floodwater surface elevation, but floodproofing shall be provided for the structure to an elevation which is at least one foot above the base floodwater surface elevation. In all cases the finished floor elevation shall be a minimum of 14 inches above the lot outfall elevation.

b. In those single-family residential structures which are to be built without a basement and located at a site which the floodplain administrator has determined will not be in the vicinity of a watercourse in which the flow of rainfall runoff might be hazardous to the structure or its occupants, the elevation of the lowest floor may be established by the method described in this subsection as follows: The floor elevations chosen for the residence may be indicated on a topographic plan of the building site parcel which shows the construction pad site and any grading proposed on the parcel. This plan must be prepared and sealed by a civil engineer or architect registered as a professional engineer or architect in the State of Arizona. The floor elevations indicated on the plan are to be elevations certified by the engineer or architect sufficiently high

to provide protection during the base flood in the event of flooding caused by a 100-year storm.

(7) *Lowest floor elevations in nonresidential structures.*

a. New nonresidential structure or the substantial improvement of an existing nonresidential structure shall be constructed according to one of the following requirements:

1. The lowest floor shall be constructed at an elevation which is at or above the base floodwater surface elevation.

2. The lowest floor may be constructed below the elevation of the base floodwater surface elevation but floodproofing shall be provided for the structure to an elevation which is at least as high as the base floodwater surface elevation.

b. Adequate drainage paths must be constructed to guide floodwaters around and away from the structures.

(8) *Reference to regulatory base floodwater surface elevations on development plans.* The grading and drainage plans for any development adjacent to a regulatory floodway and the grading and drainage plans for any development which proposes to modify an existing regulatory floodway as a part of the development must indicate the base floodwater surface elevations.

(9) *Information pertaining to flood protection to be placed on building plans.* The following subsections describe requirements for information which shall be placed on building plans for both residential and nonresidential structures. Depending upon the type of structure and its location, one or more of the subsections will apply:

a. The proposed elevation of the lowest floor must be shown, regardless of the type of structure or its location.

b. If the structure is to be built in a regulatory floodway, the base floodwater surface elevation must be shown.

c. If the structure is to be floodproofed, the elevation to which the floodproofing will be provided must be shown.

(10) *Minimizing the potential for flood damage.* Within any area of the Community where the floodplain administrator determines that the land is subject to flooding, all development, including substantial improvements to structures, must meet the following requirements:

a. All structures shall be anchored to their foundations to prevent flotation, collapse, or lateral movement.

b. Building construction materials and utility system equipment shall be resistant to flood damage.

c. The construction methods and practices shall be those which minimize flood damage.

d. Multiple occupancy developments such as subdivisions, shopping centers, etc., shall have their public utility systems such as sewer, water, gas and electric lines and their associated facilities located and constructed in a manner to minimize or eliminate the potential for flood damage. The developments must be constructed with drainage systems which will minimize the exposure to flood damage.

e. New and replacement water supply systems shall be designated and constructed to minimize or eliminate infiltration of floodwater into the systems.

f. New and replacement sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of floodwaters into the systems and the discharge of sewage into the floodwaters.

(11) *Stormwater detention or retention storage facilities.*

a. Except as noted below, development of all land within the Community must include provisions for the management of stormwater runoff from the property which is to be developed. This management shall consist of constructing stormwater storage facilities which includes detention basins. Stormwater storage facilities will provide reduced peak rates of outlet flow from the developed property onto downstream property in comparison to the peak rates of runoff flow from the same property under natural conditions with no development. As a minimum, all development will make provisions to store runoff from rainfall events up to and including the 100-year two-hour duration event. If a suitable outlet for a detention basin is not available, or if engineering analysis indicates that available outlet systems would be overtaxed by a detention basin outflow a retention basin may be constructed in lieu of a detention basin. The requirement for construction of a detention system or a retention basin may be waived in the following cases:

1. The runoff has been included in a storage facility at another location.
2. An application for a building permit to construct a single-family residential structure.
3. Development adjacent to a floodway or a watercourse drainage channel which has been determined by the Community development department using engineering analyses provided by the development to have been designed and constructed to handle the additional runoff flow without increasing the potential for flood damage on any other downstream property.
4. Development of a parcel under one-half acre in an area where it can be demonstrated by engineering analyses that no significant increase in the potential for flood damage will be created by the development.

If storage is waived, the development shall be required to contribute to the cost of public drainage works on the basis of runoff contribution.

b. Stormwater storage facilities shall be designed and constructed according to the procedures and criteria established by the Community including the following:

1. The extent of the area to be used to estimate development storage requirements is the entire proposed development including: streets, alleys, easements and rights-of-way, and one-half or other fractional parts of streets, alleys, easements and rights-of-way.
2. If possible, storage facilities are to be located so they can intercept the flow from the entire development.
3. If portions of the area cannot drain to a primary storage facility then additional facilities are to be added for these additional areas as approved by the director of the Community development department. These facilities may include individual lot retention.
4. No stormwater storage facility shall detain or retain standing water longer than 36 hours if the basin has not been designed and constructed to be a permanent body of water with appropriate health, safety, and water quality measures for such a body of water.

c. Stormwater storage facilities are to be drained by either controlled bleed-off, discharge pump and, in limited cases, by infiltration or dry well or injection wells. Controlled bleed-off or pumping to a recognized watercourse is the preferred method. Methods which discharge stored stormwater to the underground must be approved by the floodplain administrator.

(12) *Parking in flood hazard areas.* Parking areas shall be permitted within regulatory floodways provided that there will be no overnight parking, that there will be no unattended vehicles, and that there will be no obstruction to the natural flow of water.

a. Overnight parking shall be considered to exist when a vehicle is left unattended during the hours from sunset to sunrise.

b. The term "unattended" means that the owner or authorized driver cannot reasonably be expected to be available to remove the vehicle before flooding occurs.

Whenever parking is permitted within regulatory floodways, warning signs shall be posted by the parking area owner to indicate that the parking area is subject to flooding.

(13) *Special considerations in environmentally sensitive land areas.*

a. Existing watercourses with a capacity of 50 cubic feet per second or greater, disregarding any estimated peak discharge values, shall be maintained in their natural state unless it is determined that alterations are required to meet other provisions of this chapter.

b. A drainage and flood control easement will be dedicated to the Community which encompasses the area required to convey the base flood in the watercourse.

c. Road-wash crossings may disrupt the natural channel beyond the right-of-way limits if engineering investigations determine the need, and are approved by the director of project review.

d. Stormwater storage facilities may not be required in areas zoned for environmentally sensitive development if the Community staff determines that such facilities cannot be built without conflicting with the Community's environmentally sensitive lands ordinance requirements. If on-site stormwater storage facilities requirements are waived, the development may be required to contribute to the cost of public drainage works at another location on the basis of runoff contribution.

e. All drainage structures and detention facilities shall be constructed in such a manner as to minimize the impact on the natural environment, promote recharge and when finished, shall be revegetated to be compatible with nearby natural areas.

(Code 1981, § 17.5-8; Code 2012, § 17.5-8; Ord. No. SRO-185-95, § H, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-8, 5-30-2012)

Sec. 17.5-9. Requirement for certifications and required permits.

Before the Community will make a final inspection and grant a utility clearance for a single-family residential structure built in a regulatory floodway, a special flood hazard area or before the Community will grant a certificate of occupancy for a structure other than a single-family residential structure built in a regulatory floodway, the builder must submit certain certificates to the floodplain administrator. The certificates which are required pertain to lowest floor elevations, adjacent ground elevations and floodproofing. The following subsections describe the required certificates:

(1) Certificates pertaining to elevations shall be made by either a civil engineer or land surveyor who is registered to practice in the State of Arizona.

(2) Certificates pertaining to the adequacy of floodproofing shall be made by a civil engineer or architect who is registered to practice in the State of Arizona.

(3) A certificate shall be submitted stating the as-built elevation (in relation to mean sea level) of the lowest floor of each new structure or substantial improvement to a structure built in a regulatory floodway. If the lowest floor is below grade on one or more sides, the certificate must also state the elevation of the floor immediately above the lowest floor. This certificate must indicate whether the structure does or does not have a basement. If a structure has been floodproofed, a statement of the elevation to which the structure was floodproofed must be included with this certificate.

(4) For those structures which have been built in a regulatory floodway and have been floodproofed, a certificate shall be submitted which certifies that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood conditions expected at the building site.

(Code 1981, § 17.5-9; Code 2012, § 17.5-9; Ord. No. SRO-185-95, § I, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-9, 5-30-2012)

Sec. 17.5-10. Obstruction of a waterway prohibited.

No person, firm or corporation in the Community shall either obstruct or reduce the capacity of a watercourse by any use or by filling, dumping, or constructing or by any other means, except as provided in this chapter.

(Code 1981, § 17.5-10; Code 2012, § 17.5-10; Ord. No. SRO-185-95, § J, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-10, 5-30-2012)

Sec. 17.5-11. Removal of obstructions.

(a) Any person who owns, occupies, or leases real property within the Community and who obstructs or reduces the capacity of a watercourse other than as provided for in this chapter, shall be deemed to have created a public nuisance. Such persons shall be notified in writing, either personally delivered or by certified or registered mail, return receipt requested, by the floodplain administrator or his or her authorized representative, to remove said obstructions or the materials creating the reduction of the capacity of a watercourse within ten days after receipt of said written notice. If the owner does not reside on such property, a duplicate shall also be sent to him or her at his or her last known address.

(b) If the owner, lessee, or occupant of such real property, after having been given notice as required by this chapter, does not comply and abate such conditions which constitute a public nuisance, the floodplain administrator shall be authorized to abate such condition at the expense of such owner, lessee or occupant.

(c) The floodplain administrator, or his or her authorized representative, shall prepare a verified statement and account of actual cost of such abatement, including inspection and other incidental costs in connection with such abatement. Said verified statement and account is hereby declared as a debt of such owner, lessee, or occupant. A copy of said statement and account shall be personally delivered or sent by certified mail, return receipt requested, to the party served with the original notice. The Community attorney may institute an action to collect the debts so created in the Community court at any time after delivery of said statement and account.

(d) Within ten days after receipt of the notice described in subsection (a) of this section, any person, firm or corporation may appeal the Community's request by serving written notice of appeal upon the Community secretary and shall be entitled to a hearing before the administrative hearing officer on said appeal. In the event such an appeal is filed, all proceedings shall be stayed pending disposition of the appeal. Any person, firm or corporation may also appeal to the Community land management board within ten days after the receipt of the statement and account prepared and served pursuant to subsection (c) of this section the amount of said debt by serving written notice of appeal upon the Community secretary which also shall stay all further proceed-

ings pending disposition of said appeal. The decision of the land management board shall be final and not appealable.

(e) When, in the opinion of the floodplain administrator, there is immediate danger to life or property, constituting an emergency, as the result of any obstruction or reduction of the capacity of a watercourse not authorized under this chapter, he or she may order the immediate abatement of said condition notwithstanding the notice provisions provided in subsection (a) of this section. The cost of said abatement shall be collected in the same manner as other debts, as provided for in subsection (c) of this section.
(Code 1981, § 17.5-11; Code 2012, § 17.5-11; Ord. No. SRO-185-95, § K, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-11, 5-30-2012)

Sec. 17.5-12. Penalties.

Any person, corporation, partnership or association violating or failing to comply with the provisions of this chapter, shall, upon conviction thereof, be guilty of a civil offense and be subject to a fine not to exceed $1,000.00 for each day of violation. Each day of violation of this chapter shall constitute a separate civil offense.
(Code 1981, § 17.5-12; Code 2012, § 17.5-12; Ord. No. SRO-185-95, § L, 10-26-1994; Ord. No. SRO-402-2012, § 17.5-12, 5-30-2012)

Chapter 18

WATER AND OTHER NATURAL RESOURCES

Article I. In General

Sec. 18-1. Conversion of wells from agricultural to domestic use.
Secs. 18-2—18-20. Reserved.

Article II. Groundwater Management

Sec. 18-21. Short title.
Sec. 18-22. Policy.
Sec. 18-23. Scope of regulation.
Sec. 18-24. Violation and penalty.
Sec. 18-25. Definitions.
Sec. 18-26. Permits; standards of issuance and use.
Sec. 18-27. Application procedure.
Sec. 18-28. Records of application, permit and proceedings.
Sec. 18-29. Records of water usage.
Sec. 18-30. Rule-making authority.
Secs. 18-31—18-48. Reserved.

Article III. Environmental Protection

Sec. 18-49. Policy.
Sec. 18-50. Definitions.
Sec. 18-51. Compliance required generally.
Sec. 18-52. Enforcement of article and regulations.
Sec. 18-53. Production, processing, distribution, sale, etc., prohibited.
Sec. 18-54. Wildlife and natural plants.
Sec. 18-55. License suspension or revocation.
Sec. 18-56. Judicial proceedings; Community court.
Secs. 18-57—18-85. Reserved.

Article IV. Surface Water Management

Sec. 18-86. Short title.
Sec. 18-87. Policy.
Sec. 18-88. Scope of regulation.
Sec. 18-89. Definitions.
Sec. 18-90. Permits; standards of issuance and use.
Sec. 18-91. Shortage; retired agricultural lands.
Sec. 18-92. Application procedure.
Sec. 18-93. Records of applications and permit.
Sec. 18-94. Records of water usage.
Sec. 18-95. Violation; penalty.
Sec. 18-96. Rule-making authority.
Sec. 18-97. Effective date.
Secs. 18-98—18-122. Reserved.

Article V. GRUSP Groundwater Recharge Control and Quality Protection

Sec. 18-123. Declaration of policy.
Sec. 18-124. Definitions.
Sec. 18-125. Water quality regulation.
Sec. 18-126. Operational management and MSL regulation.

Sec. 18-127. Formulation and adoption of regulations.
Sec. 18-128. Enforcement authority.
Sec. 18-129. Employment of consultants.
Sec. 18-130. GRUSP maintenance.
Sec. 18-131. Additional regulations to ensure water integrity authorized.
Secs. 18-132—18-160. Reserved.

Article VI. Agriculture Fugitive Dust Control

Sec. 18-161. Title, authority, purpose, etc.
Sec. 18-162. Definitions.
Sec. 18-163. Applicability.
Sec. 18-164. Administration for compliance and enforcement.
Sec. 18-165. Judicial proceedings; Community court.
Sec. 18-166. Remedies not exclusive.

ARTICLE I. IN GENERAL

Sec. 18-1. Conversion of wells from agricultural to domestic use.

(a) *Policy.* It is the policy of the Community that wells drilled within the Community for agricultural irrigation or for any other nondomestic purposes will be constructed in such a manner as to allow for conversion to domestic purposes with minimum reconstruction costs so as to ensure the members of the Community an uninterrupted supply of domestic water.

(b) *Restrictions on issuance of permits.* The building official shall not issue a building and construction permit pursuant to section 10.100 of the zoning code for the drilling or construction of a well to supply water for agricultural irrigation or for any other nondomestic use unless the plans and specifications indicate and the permit requires that the well be constructed in such a way that it can be readily converted to use supplying domestic water. Such wells shall have such protections against contamination as are required in wells constructed for domestic water supply.
(Code 1981, § 18-1; Code 2012, § 18-1; Ord. No. SRO-96-85, §§ 1, 2, 1-23-1985; Ord. No. SRO-402-2012, § 18-1, 5-30-2012)

Secs. 18-2—18-20. Reserved.

ARTICLE II. GROUNDWATER MANAGEMENT

Sec. 18-21. Short title.

This article may be referred to as the "Groundwater Management Code."
(Code 1981, § 18-21; Code 2012, § 18-21; Ord. No. SRO-94-85, § 1, 12-23-1985; Ord. No. SRO-402-2012, § 18-21, 5-30-2012)

Sec. 18-22. Policy.

The groundwaters of the Community are in one groundwater basin underlying the Community. The owners of the land have a right to the reasonable and beneficial use of such waters to the extent that such use does not defeat the right of other landowners to reasonable and beneficial use of such waters. It is the policy of the Community that use of such groundwater should be subject to an equitable system of control, distribution, allocation and regulation so as to achieve the maximum beneficial use and conservation of such waters in recognition of the drain on the water resource and the changing state of the art of the use of water and the ability to determine the usable extent of the resource. It is the goal of the Community that groundwater use will be limited to replenishable supplies.
(Code 1981, § 18-22; Code 2012, § 18-22; Ord. No. SRO-94-85, § 2, 1-23-1985; Ord. No. SRO-402-2012, § 18-22, 5-30-2012)

Sec. 18-23. Scope of regulation.

This article shall regulate all groundwater within the Community.
(Code 1981, § 18-23; Code 2012, § 18-23; Ord. No. SRO-94-85, § 4, 1-23-1985; Ord. No. SRO-402-2012, § 18-23, 5-30-2012)

Sec. 18-24. Violation and penalty.

Any permittee who violates the conditions of the permit or the provisions of this article shall be subject to the forfeiture of the permit after notice and hearing as provided for in section 18-27. The Community shall have the jurisdiction to provide injunctive relief in order to prevent the use of groundwater in violation of this article upon a petition of the groundwater administrator. The Community court shall have the jurisdiction over civil actions brought by the groundwater administrator against permittees for civil damages resulting from the violation of the permit issued, or for using groundwater without a permit and such damages shall include the value of the water used in violation of this article, the cost of investigations and attorneys' fees and all hearing and court costs incurred.
(Code 1981, § 18-24; Code 2012, § 18-24; Ord. No. SRO-94-85, § 10, 1-23-1985; Ord. No. SRO-402-2012, § 18-24, 5-30-2012)

Sec. 18-25. Definitions.

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

Groundwater means all water which is taken by well and pump or any like method from underground water sources except when such water is so taken by the Community for domestic water purposes of the members and Indian residents of the Community.

Groundwater administrator shall be the Community director of the Community development department or the director's designee or designees.

Reserved water rights means those rights to the use of waters recognized as reserved in accordance with the principles enunciated in *Winters* v. *United States,* 207 U.S. 564 (1908), *Cappaert* v. *United States,* 426 U.S. 128 (1976), and subsequent cases, which rights have either an immemorial priority or a priority date as of the establishment of the reservation.
(Code 1981, § 18-25; Code 2012, § 18-25; Ord. No. SRO-94-85, § 3, 1-23-1985; Ord. No. SRO-402-2012, § 18-25, 5-30-2012)

Sec. 18-26. Permits; standards of issuance and use.

(a) *Required.* No groundwater may be used for any purpose unless the user has received a groundwater use permit from the groundwater administrator.

(b) *Establishment of presumptive right.*

(1) Within 60 days of the enactment of this article, the groundwater administrator shall send by certified mail notice of the enactment of the ordinance from which this article is derived, together with a copy of this article to each user of groundwater within the Community. Mailing of such notice shall be conclusive proof of receipt of notice.

(2) Any person using groundwater at the time of the enactment of the ordinance from which this article is derived shall have a presumptive right to the use of such groundwater, in the amount used, for the term of any contract or other instrument which forms the basis of the groundwater use, or if there is no such contract or interest, for a period of five years. Such user shall apply for a groundwater use permit within 180 days of the enactment of the ordinance from which this article is derived. Failure to apply within such time shall result in the user's loss of any presumptive right. The presumptive right created by this section may be defeated by a fair showing that:

a. The amount of water used for the purpose exceeds the amount of water required to achieve the purpose intended; or

b. The purpose for which the water is used is wasteful of the resource in terms of other feasible uses.

If a finding under subsection (b)(2)a of this section is made, a groundwater use permit shall be issued for such an amount of groundwater as is reasonable and necessary for the use, provided the applicant submits to the groundwater administrator an amended application in the amount found to be reasonable and necessary for the use. If the use has been found to be wasteful under subsection (b)(2)b of this section, a permit may be issued only if the applicant submits to the groundwater administrator an amended application for an amount of water reasonable and necessary for a feasible alternative use. An amended application under subsection (b)(2)b of this section shall be treated as an application under subsection (c) of this section.

(c) *Permits for new use.*

(1) *Application.* Any member of the Community or any other person who holds a contractual right which requires the use of water for its enjoyment or any allotted landowner of the land for which a groundwater permit is being sought may apply for a groundwater use permit. The appli-

cation shall be on a form provided by the Community and shall provide information sufficient to enable the groundwater administrator to make a decision in regard to the issuance of a permit and to enable the groundwater administrator to impose reasonable use criteria on any issued permit.

(2) *Groundwater use permit.*

a. A groundwater use permit may be issued for a period of five years if the use to which the water is to be put is agricultural and the land on which the water is to be used is not subject of a contract or other instrument.

b. If the water is to be used for agricultural purposes and the land is subject of a contract or other instrument, then the permit may be issued for a period equal to that of the term of the contract or other instrument.

c. If the use to which the water is to be put is other than agricultural, the term of any groundwater use permit shall be coexistent with the term for which the use shall be reasonably required by the applicant, but in no event longer than the term of any contract or other instrument under which the use arises.

(3) *Determination of permitted water.* The amount of water permitted to be used under each groundwater use permit shall be determined by the need proven, and the available groundwater resources for all potential uses within the Community lands subject of this article.

(d) *Use permits conditional.* All groundwater use permits shall be issued conditioned on a term of use; the nature of the use permitted; and the amount of water to be used per week, month or year, depending on the nature of use; the parcel or tract of land within which the use will take place; and upon such other reasonable conditions as the groundwater administrator shall determine is necessary to carry out the policies of this article.

(e) *Actual and potential use permits.* Groundwater use permits may be issued for actual and potential uses. Groundwater use permits issued for potential uses shall be limited in time so that water resources will not be reserved beyond a reasonable period of time. For good and sufficient cause shown, extension in time may be granted.

(f) *Permits conditioned on available water.* All groundwater use permits shall be conditioned on the right of the groundwater administrator to change the amount or permitted use of groundwater depending on changing quantities of available groundwater. Any such change by the groundwater administrator shall be based upon clear and convincing evidence that the change is required to ensure the future availability of the resource, and shall be subject to the notice, hearing and appellate procedures of this article.
(Code 1981, § 18-26; Code 2012, § 18-26; Ord. No. SRO-94-85, § 5, 1-23-1985; Ord. No. SRO-402-2012, § 18-26, 5-30-2012)

Sec. 18-27. Application procedure.

(a) Any application for a groundwater use permit pursuant to section 18-26(b) or (c) shall be made to the groundwater administrator with an application fee as provided by the rules and regulations. The groundwater administrator shall determine whether and under what conditions a groundwater use permit shall be issued after a hearing has been held. The hearing shall be noticed by certified mail or delivered notice to all landowners owning land which is within the Community and within one mile of the perimeter of the land within which the water use is to be made, and all of the land within which the water use is to be made, and all persons having a right to use land which is within the Community and within one mile of the perimeter of the land within which the water use is to be made pursuant to a valid contract or other instrument, and by notice in the Community newspaper. Notice shall be given no less than ten days prior to such hearing. Mailing of notice shall be conclusive proof of receipt of notice. The hearing shall be conducted by the groundwater administrator in an informal manner with rules adopted pursuant to this article calculated to ensure full disclosure of all relevant information. Professional attorneys

shall not be permitted to represent parties at any such hearing. The groundwater administrator shall hear all relevant issues and within five days after the hearing is concluded, shall issue a written decision. The decision will contain the findings of act relied on by the groundwater administrator for the decision as well as the decision. The findings of fact and decision shall be distributed to the applicant and any other land user or Community member who files a notice of appearance pursuant to subsection (b) of this section.

(b) A decision of the groundwater administrator may be appealed to the Community court by the applicant, any Community member or other person having the right to the use of land within the Community, who files a notice of appearance with the groundwater administrator before the hearing is adjourned.

(c) Appeals shall be taken from any decision of the groundwater administrator in the following manner:

(1) *Notice of appeal.* Written notice of appeal shall be given within five days after the day the written and executed decision is filed with the secretary of the Community. The notice of appeal shall state all the grounds for appeal relied on by the appellant. The notice of appeal shall not be amended once it is filed. The appellee may file a short written response to the grounds for appeal within ten days after the notice of appeal is filed. The notice of appeal and response shall be mailed to the opposing party on the day it is filed. If the appellant is the applicant for the groundwater use permit, the appellee shall in all cases be the groundwater administrator. If the appellant is a person who filed a notice of appearance, the appellee shall in all cases be the applicant. The applicant for the groundwater permit shall in all cases be permitted to appeal. No more than three persons who filed notice of appearance, in addition to the applicant for the permit, shall be permitted to appeal the decision of the groundwater administrator. The first three such notices of appeal shall conclude filings.

(2) *Costs.* There shall be posted with the clerk of the Community court a cash fee of $25.00 to cover costs of the court.

(3) *Grounds for appeal.* The court shall determine the appeal upon the findings of fact and decision entered in the case by the groundwater administrator.

(4) *Findings of fact.* The findings of fact shall be presumed to be without reversible error. The presumption may be overcome by a sworn written statement presented to the court at the time of the filing of the notice of appeal which establishes on the basis of the statement, any one or more of the following grounds:

a. A witness ready and willing to testify at the time of the hearing on behalf of the appellant was not allowed by the groundwater administrator to take the witness stand and testify, and such testimony would have materially altered the decision of the groundwater administrator.

b. The groundwater administrator refused to admit documentary or other physical evidence, and such evidence would have materially altered the decision of the groundwater administrator.

c. After the hearing the appellant discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the hearing, and such evidence would have materially altered the decision of the groundwater administrator.

In the event the court finds the presumption is overcome pursuant to this subsection, the court shall remand the case back to the groundwater administrator for the limited purpose of hearing only the excluded or new evidence and any evidence presented in rebuttal to such evidence. The hearing will be held within ten days after the order of the court prior to its decision to give the court such parties and appellee. At the conclusion of such remand hearing, the groundwater adminis-

trator shall, within ten days of the hearing, make and enter such amended findings of fact and decision as the groundwater administrator deems necessary, or in the event the groundwater administrator determines that the evidence adduced at the remand hearing requires no amendment, the groundwater administrator will issue a decision reaffirming its prior findings of fact and decision. The findings of fact and decision will be transmitted to the court and such findings of fact and decision will not be subject to a separate appeal.

(5) *Decision.* The court shall determine whether the decision is supported by the finding of fact and the law. Any party to the case may request an opportunity to appear before the court prior to its decision to give the court such parties view of the case. The other party or parties shall be given adequate notice of the hearing and an opportunity to present such party or parties view of the case. Such views shall be presented orally by the parties and shall only deal with the ground relied on by the appellant as set out in the notice of appeal. The hearing shall be limited to one hour and the time will be equally divided between the appellant and the appellee. If the court finds that the decision is incorrect, it shall issue a new decision correctly stating the decision. Such decision shall be final and not subject to rehearing, review or appeal.

(Code 1981, § 18-27; Code 2012, § 18-27; Ord. No. SRO-94-85, § 6, 1-23-1985; Ord. No. SRO-402-2012, § 18-27, 5-30-2012)

Sec. 18-28. Records of application, permit and proceedings.

A complete record of all applications, actions taken thereon, and any permits issued shall be maintained by the Community and shall be open for public inspection at the office of the groundwater administrator.

(Code 1981, § 18-28; Code 2012, § 18-28; Ord. No. SRO-94-85, § 7, 1-23-1985; Ord. No. SRO-402-2012, § 18-28, 5-30-2012)

Sec. 18-29. Records of water usage.

Each permittee shall maintain a complete record of groundwater withdrawal and usage. The record shall be maintained contemporaneously with withdrawal and use and shall contain the amount of water withdrawn on a weekly basis; the use to which it was put; the location of the use; the amount and cost of electrical power in connection with the withdrawal; and such other information as shall reasonably be required by the groundwater administrator. A true and complete copy of such records certified by the permittee to be accurate shall be filed by the permittee with the groundwater administrator on the 15th day of each month for the prior month.

(Code 1981, § 18-29; Code 2012, § 18-29; Ord. No. SRO-94-85, § 8, 1-23-1985; Ord. No. SRO-402-2012, § 18-29, 5-30-2012)

Sec. 18-30. Rule-making authority.

The groundwater administrator shall prescribe, subject to the approval of the Community Council, rules and regulations, not in conflict with the ordinances of the Community, necessary to perform the groundwater administrator's functions under this article.

(Code 1981, § 18-30; Code 2012, § 18-30; Ord. No. SRO-94-85, § 9, 1-23-1985; Ord. No. SRO-402-2012, § 18-30, 5-30-2012)

Secs. 18-31—18-48. Reserved.

ARTICLE III. ENVIRONMENTAL PROTECTION

Sec. 18-49. Policy.

It is the policy of the Community that:

(1) The health and welfare of the Community and its members are enhanced by compliance with federal and Community environmental law;

(2) Consistent with the 1984 statement of policy by the United States Environmental Protection Agency entitled "EPA Policy for the Administration of Environmental Programs on Indian Reservations," the Community develop and fulfill its princi-

pal role as the appropriate nonfederal party for making decisions and carrying out program responsibilities affecting the reservation, its environment, and the health and welfare of the reservation populace;

(3) Reasonable and feasible means within existing Community resources be regularly taken both to ensure compliance with federal and Community environmental law and to limit the Community's liability in the event of environmental damage caused by commercial lessees of Community property;

(4) The Community shall have the responsibility and capability of regulating any environmentally harmful conduct by any commercial lessee who is a party to a contract, lease or other instrument with the Community.

(Code 1981, § 18-41; Code 2012, § 18-41; Ord. No. SRO-180-95, § 1, 10-12-1994; Ord. No. SRO-402-2012, § 18-41, 5-30-2012)

Sec. 18-50. Definitions.

In this article, unless the context otherwise requires, the following terms shall have the meanings herein ascribed to them:

Business means all activities or acts, personal or corporate, engaged in and caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, but not casual activities or sales.

Commercial lessee means any person who, by means of a contract, lease or other instrument subject to the provisions of section 17-5, engages in business within the exterior boundaries of the Community Reservation.

Community means the Salt River Pima-Maricopa Indian Community.

Director means the director of the Community development department of the Community.

Environmentally harmful substance means any pollutant, solid, liquid or gaseous, subject to regulation and so defined by federal environmental law.

Federal environmental law means that body of public laws, as amended, enacted by the United States Congress to protect the environment including, but not limited to:

(1) Toxic Substances Control Act of 1976, 90 Stat. 2003, codified as 15 USC 2601 to 2654;

(2) Federal Water Pollution Control Act of 1987, 101 Stat. 76, codified as 33 USC 1251 to 1387;

(3) Solid Waste Disposal Act of 1976, 90 Stat. 2795, codified as 42 USC 6901 to 6991i;

(4) Clean Air Act of 1970, as amended, 84 Stat. 1705, codified as 42 USC 7401 to 7642;

(5) National Environmental Policy Act of 1969, 83 Stat. 852, codified as 42 USC 4321 to 4370a;

(6) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767, 3300, codified as 42 USC 9601 to 9675;

and the federal regulations promulgated by agencies and departments of the United States pursuant to such public laws, and as such statutes and regulations may be hereafter amended.

Person means any individual, partnership, association, corporation or any organized group of persons whether incorporated or not, including a person acting in a fiduciary or representative capacity, and further including any governmental agency.

(Code 1981, § 18-42; Code 2012, § 18-42; Ord. No. SRO-180-95, § 2, 10-12-1994; Ord. No. SRO-402-2012, § 18-42, 5-30-2012)

Sec. 18-51. Compliance required generally.

(a) *Handling of environmentally harmful substances.* No person or commercial lessee shall generate, handle, store, transport, apply, or dispose of any environmentally harmful substance as defined within the scope of federal or Community environmental law, within the Community, if such activity or the manner of its conduct under the circumstances would be prohibited by federal or Community environmental law.

(b) *Amendment to section 17-6.* The Community Council shall not approve any contract, lease or instrument pursuant to section 17-6 unless such contract, lease or other instrument shall provide:

(1) An agreement to comply fully with all applicable federal and Community environmental law; and

(2) An agreement to hold the Community and/or allotted landowners harmless for all environmental damage caused by lessee or, in the alternative, to indemnify or reimburse the Community and/or allotted landowners for economic losses sustained as a result of such damage.

(Code 1981, § 18-43; Code 2012, § 18-43; Ord. No. SRO-180-95, § 3, 10-12-1994; Ord. No. SRO-402-2012, § 18-43, 5-30-2012)

Sec. 18-52. Enforcement of article and regulations.

(a) *Director designated to enforce article.* The director of the Community development department or his or her designee shall enforce this article and the regulations adopted pursuant to it.

(b) *Functions.* The director shall enforce this article to protect the health, safety and welfare of all residents of the Community against adverse effect of the restricted, regulated or unlawful generation, storage, transportation, handling or application of environmentally harmful substances within the Community. The director is authorized and directed to utilize all reasonably available resources to monitor regularly commercial developments pursuant to this section, and by rules and regulations to adopt and impose such restrictions, requirements, controls and prohibitions upon generation, storage, transportation, handling or application of environmentally harmful substances within the Community as, considering all reasonably available and material data and information, appear technically and scientifically reasonable for the protection of the public health, safety and welfare.

(c) *Authority.* The authority of the director shall include the following procedures and undertakings, as may be necessary, reasonable or appropriate for the protection of public health, safety and welfare, and to prevent harm to the environment:

(1) To designate environmentally harmful substances and activities.

(2) To restrict, regulate or prohibit the generation, storage, transportation, handling and application of environmentally harmful substances within the Community.

(3) To enter in a lawful manner any commercially leased premises within the Community to observe or inspect any equipment, supplies, materials, storage and handling areas and facilities, disposal sites and devices which are used or intended for use in connection with any environmentally harmful substance or potentially environmentally harmful substance.

(4) To issue, promulgate and enforce regulations to implement this article, subject to the approval of the Community Council.

(5) To require violators of this section and others liable for disposal or spillage of environmentally harmful substances within the Community to remove and clean or bear the costs of removing and cleaning such substances within a time frame established by the director.

(6) To obtain advice and assistance of federal, state, county and municipal government agencies, and private agencies, and persons with technical expertise, in the adoption and implementation of a comprehensive environmental program; to coordinate activities and cooperate with such other governmental agencies having similar or related responsibilities within their respective jurisdictions; and to utilize the Community court to enforce the environmental program, the provisions of this article, and the regulations adopted pursuant to this article.

(7) To designate authorized representatives of the director and to delegate to them authority to act on behalf of the director in the conduct of inspections, observa-

tions, inquiries, and enforcement of this article, regulations adopted pursuant to it.

Until an alternate waste disposal system is available for use by a user or installer of a septic tank system, nothing in this article shall limit the use or installation of a septic tank system or subject any user or installer of any such a system to any penalty provided such a septic tank system is maintained in a reasonable manner.
(Code 1981, § 18-44; Code 2012, § 18-44; Ord. No. SRO-180-95, § 4, 10-12-1994; Ord. No. SRO-402-2012, § 18-44, 5-30-2012)

Sec. 18-53. Production, processing, distribution, sale, etc., prohibited.

No person may generate, produce, process, manufacture, distribute, sell or offer to sell or dispose of any hazardous, toxic, or environmentally harmful substance within the Community.
(Code 1981, § 18-45; Code 2012, § 18-45; Ord. No. SRO-180-95, § 5, 10-12-1994; Ord. No. SRO-402-2012, § 18-45, 5-30-2012)

Sec. 18-54. Wildlife and natural plants.

(a) Except as otherwise provided by chapter 12, article II and chapter 15, article III, it is unlawful for any person to take, acquire, receive, damage, destroy, transport, purchase or sell any naturally occurring fish or wildlife or plant within the exterior boundaries of the Community without first obtaining a permit.

(b) It is unlawful for any person to take, acquire, receive, damage, destroy, transport, purchase, or sell any endangered or threatened fish or wildlife or plant, or to impair the critical habitat thereof, in violation of any law, treaty, or regulation of the United States, including, but not limited to, the Endangered Species Act (16 USC 1531 et seq.), or in violation of the laws and regulations of the State of Arizona governing the protection of native plants.
(Code 1981, § 18-46; Code 2012, § 18-46; Ord. No. SRO-211-96, § 2, 12-6-1995; Ord. No. SRO-402-2012, § 18-46, 5-30-2012)

Sec. 18-55. License suspension or revocation.

Violation of the provisions of this article shall be cause for suspension or revocation of license under section 15-36.
(Code 1981, § 18-47; Code 2012, § 18-47; Ord. No. SRO-180-95, § 6, 10-12-1994; Ord. No. SRO-211-96, § 1, 12-6-1995; Ord. No. SRO-402-2012, § 18-47, 5-30-2012)

Sec. 18-56. Judicial proceedings; Community court.

(a) If at any time it appears to the director that any person or commercial lessee has violated or failed to comply with the provisions of this article or any of the regulations adopted pursuant to it or that such person is then so violating or failing to comply therewith, the director may institute proceedings in the Community court for any appropriate remedies, whether criminal or civil in nature, including injunctive relief, seizure and forfeiture, and the posting of bonds or sureties to ensure compliance.

(b) The Community court shall have jurisdiction to hear all actions brought by the director pursuant to subsection (a) of this section, and may impose:

(1) Civil fines and penalties for violation of this article or the regulations issued pursuant thereto, not to exceed $10,000.00 for each such violation and for each day of its continuance; and/or

(2) A sentence of imprisonment for violation of this article or the regulations issued pursuant thereto not to exceed six months in the Community jail or a $5,000.00 fine or both, with costs.

(Code 1981, § 18-48; Code 2012, § 18-48; Ord. No. SRO-180-95, § 7, 10-12-1994; Ord. No. SRO-211-96, § 1, 12-6-1995; Ord. No. SRO-402-2012, § 18-48, 5-30-2012)

Secs. 18-57—18-85. Reserved.

ARTICLE IV. SURFACE WATER MANAGEMENT

Sec. 18-86. Short title.

This article may be referred to as the "Surface Water Management Code."
(Code 1981, § 18-71; Code 2012, § 18-71; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-71, 5-30-2012)

Sec. 18-87. Policy.

The rights of the Community to the waters of the Salt and Verde Rivers and the Central Arizona Project (surface water) have been quantified by the Salt River Pima-Maricopa Indian Community Water Rights Settlement Agreement of 1988 and the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (Act). These rights constitute an invaluable asset of the Community which ought to be wisely managed for the benefit of the members of the Community and landowners within the Community. It is the policy of the Community that use of such surface water should be subject to an equitable system of control, distribution, allocation and regulation so as to achieve the maximum beneficial use and conservation of such waters in recognition of the drain on the water resource and the changing state of the art of the use of water and the varying annual quantity of available Community water. Surface water shall first be used to satisfy the agricultural requirements of the Community's lands, and then be used for appropriate commercial purposes. Groundwater shall be used for domestic and commercial purposes which require no water treatment beyond fluoridation.
(Code 1981, § 18-72; Code 2012, § 18-72; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-72, 5-30-2012)

Sec. 18-88. Scope of regulation.

This article shall regulate all surface water of the Community.
(Code 1981, § 18-73; Code 2012, § 18-73; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-73, 5-30-2012)

Sec. 18-89. Definitions.

The following terms, when used in this article, shall have the meanings ascribed herein, except where context clearly indicates a different meaning:

Regulated surface water means water diverted from any surface watercourse or surface water storage facility and carried to the Community for any other purpose.

Surface water administrator means the director of the Community development department or the director's designee or designees.

Unregulated surface water or effluent means water which, after having been withdrawn as groundwater or diverted as surface water, has been used for domestic, municipal, agricultural or industrial purposes and which is available for reuse for any purpose, whether or not the water has been treated to improve its quality.
(Code 1981, § 18-74; Code 2012, § 18-74; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-74, 5-30-2012)

Sec. 18-90. Permits; standards of issuance and use.

(a) *Permit required.* No surface water may be used for any purpose unless the user has received a surface water use permit from the surface water administrator.

(b) *Establishment of presumptive right.*

(1) Within 60 days of the enactment of this article, the surface water administrator shall send, by certified mail, notice of the enactment of this article, together with a copy of this article to each user of surface water within the Community. Mailing of such notice shall be conclusive proof of receipt of notice.

(2) Any person using regulated surface water at the time of the enactment of the ordinance from which this article is derived shall have a presumptive right to the use of such surface water, in the amount used, for the term of any contract or other instrument which forms the basis of the surface water use, or, if there is no such

contract or interest, for a period of five years. Such user shall apply for a surface water use permit within 180 days of the enactment of the ordinance from which this article is derived. Failure to apply within such time shall result in the user's loss of any presumptive right. The presumptive right created by this section may be defeated by a fair showing that:

a. The amount of water used for the purpose exceeds the amount of water required to achieve the purpose intended; or

b. The purpose for which the water issued is wasteful of the resource in terms of other feasible uses.

If a finding under subsection (b)(2)a of this section is made, a surface water use permit shall be issued for such an amount of surface water as is reasonable and necessary for the use, provided the applicant submits to the surface water administrator an amended application in the amount found to be reasonable and necessary for the use. If the use has been found to be wasteful under subsection (b)(2)b of this section, a permit may be issued only if the applicant submits to the surface water administrator an amended application for an amount of water reasonable and necessary for a feasible alternative use. An amended application under subsection (b)(2)b of this section shall be treated as an application under subsection (c) of this section.

(3) Any allottee or other person upon whose property unregulated surface water occurs, whether naturally or whether by return or salvage, is presumed to have usage rights to such water. These persons are not required to obtain a permit for use of such water.

(c) *Permits for new use.*

(1) *Permit form.* Any member of the Community or any other person who holds a contractual right which requires the use of water for its enjoyment or any allotted landowner of the land for which a surface water permit is being sought may apply for a surface water use permit. The application shall be on a form provided by the Community and shall provide information sufficient to enable the surface water administrator to make a decision in regard to the issuance of a permit and to enable the surface water administrator to impose reasonable use criteria on any issued permit.

(2) *Term.*

a. A surface water use permit may be issued for a period of five years if the use to which the water is to be put is agricultural and the land on which the water is to be used is not subject to a contract or other instrument.

b. If the water is to be used for agricultural purposes and the land is subject to a contract or other instrument, then the permit may be issued for a period equal to that of the term of the contract or other instrument.

c. If the use to which the water is to be put is other than agricultural, the term of any surface water use permit shall be coexistent with the term for which the use shall be reasonably required by the applicant, but in no event longer than the term of any contract or other instrument under which the use arises.

(3) *Determination of amount of water.* The amount of regulated surface water permitted to be used under each surface water use permit shall be determined by both the need proven and the available supply of surface water.

a. *Use permits conditional.* All surface water use permits shall be issued conditioned on:

1. A term of use;

2. The nature of the use permitted;

3. The amount of water to be used per week, month or year, depending on the nature of use;

4. The parcel or tract of land within which the use will take place; and

5. Upon such other reasonable conditions as the surface water administrator shall determine are necessary to carry out the policies of this article.

b. *Actual and potential use permits.* Surface water use permits may be issued for actual and potential uses. Surface water use permits issued for potential uses shall be limited in time so that water resources will not be reserved beyond a reasonable period of time. For good and sufficient cause shown, extension in time may be granted.

c. *Permits conditioned on available water.* All surface water use permits shall be conditioned on the right of the surface water administrator to change the amount or permitted use of surface water depending on changing quantities of available regulated surface water. Any such change by the surface water administrator shall be based upon the administrator's written finding that the change is required to ensure the equitable distribution of the resource, and shall be subject to the notice, hearing and appellate procedures of this article.

d. *Redetermination of water requirements.* The surface water administrator may, upon notice and hearing, and subject to the appellate provisions of this article, determine that the use of water by a permittee in any year requires a redetermination of such permittee's water requirements and the surface water administrator may, upon a written finding, reduce the amount of water to be used in the remaining years of the permit to the amount actually required.

(d) *Renewal.* Permittees must apply for a renewal of a permit at least six months prior to its expiration. In the absence of clear and convincing evidence that a permit should not be renewed, it will be renewed. Renewal may be on different terms than contained in the prior permit and the applicant shall be required to meet the standards of this article for the issuance of a permit for a use with a presumptive right.
(Code 1981, § 18-75; Code 2012, § 18-75; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-75, 5-30-2012)

Sec. 18-91. Shortage; retired agricultural lands.

(a) *Shortage.* When the surface water administrator determines that there will be insufficient surface supplies for a stated period of time, the surface water administrator shall determine in a written finding the facts leading to the conclusion, the conclusion of shortage and the determination of reallocation of surface water to permittees.

(1) The findings will be made only after a public hearing which has been noticed at least ten days prior to its conveying and at which testimony and written memoranda regarding the issue of water availability shall be received by the surface water administrator, who shall be the hearing officer, unless the surface water administrator designates another person to be the hearing officer.

(2) The allocation of surface water shall be accomplished by an equal reduction in water supplies delivered in the most efficient time pattern as determined by the surface water administrator whether or not any permittee is disadvantaged thereby.

(b) *Extended water shortage.* The surface water administrator shall impose a moratorium on the delivery of surface water to agricultural or other uses which have not had delivery of surface water to the time the moratorium commences if the surface water administrator makes written findings pursuant to the process provided in subsection (a)(1) of this section that a finding requir-

ing a reallocation under this section has been made for the period just ending and for the ensuing period.

(c) *Retirement of agricultural lands and other uses.* Permits for surface water delivery for agricultural or other purposes shall terminate when the use for which the permit was issued lapses. (Code 1981, § 18-76; Code 2012, § 18-76; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-76, 5-30-2012)

Sec. 18-92. Application procedure.

(a) Any application for a surface water use permit pursuant to section 18-90 shall be made to the surface water administrator with an application fee as provided by the rules and regulations. The surface water administrator shall determine whether and under what conditions a surface water use permit shall be issued after a hearing has been held. The hearing shall be noticed by certified mail or delivered notice to all landowners owning land which is within the Community and within one mile of the perimeter of the land within which the water use is to be made, and all of the land within which the water use is to be made, and all persons having a right to use land which is within the Community and within one mile of the perimeter of the land within which the water use is to be made pursuant to a valid contract or other instrument, and by notice in the Community newspaper. Notice shall be given no less than ten days prior to such hearing. Mailing of notice shall be conclusive proof of receipt of notice. The hearing shall be conducted by the surface water administrator in an informal manner with rules adopted pursuant to this article calculated to ensure full disclosure of all relevant information. Professional attorneys shall not be permitted to represent parties at any such hearing. The surface water administrator shall hear all relevant issues and, within five days after the hearing is concluded, shall issue a written decision. The decision will contain the findings of fact relied on by the surface water administrator for the decision as well as the decision. The findings of fact and decision shall be distributed to the applicant and any other land user or Community member who files a notice of appearance pursuant to subsection (b) of this section.

(b) A decision of the surface water administrator may be appealed to the Community court by the applicant, any Community member, or other person having the right to the use of land within the Community, who files a notice of appearance with the surface water administrator before the hearing is adjourned.

(c) Appeals shall be taken from any decision of the surface water administrator in the following manner:

(1) *Notice of appeal.* Written notice of appeal shall be given within five days after the day the written and executed decision is filed with the secretary of the Community. The notice of appeal shall state all the grounds for appeal relied on by the appellant. The notice of appeal shall not be amended once it is filed. The appellee may file a short written response to the grounds for appeal within ten days after the notice of appeal is filed. The notice of appeal and response shall be mailed to the opposing party on the day it is filed. If the appellant is the applicant for the surface water use permit, the appellee shall, in all cases, be the surface water administrator. If the appellant is a person who filed a notice of appearance, the appellee shall, in all cases, be the applicant. The applicant for the surface water permit shall, in all cases, be permitted to appeal. No more than three persons who filed notice of appearance, in addition to the applicant for the permit, shall be permitted to appeal the decision of the surface water administrator. The first three such notices of appeal shall conclude filings.

(2) *Costs.* There shall be posted with the clerk of the Community court a cash fee of $25.00 to cover costs of the court.

(3) *Grounds for appeal.* The court shall determine the appeal upon the findings of fact and decision entered in the case by the surface water administrator.

(4) *Findings of fact.* The findings of fact shall be presumed to be without reversible error. The presumption may be overcome by a sworn written statement presented to

the court at the time of the filing of the notice of appeal which establishes, on the basis of the statement, any one or more of the following grounds:

a. That a witness ready and willing to testify at the time of the hearing on behalf of the appellant was not allowed by the surface water administrator to take the witness stand and testify, and such testimony would have materially altered the decision of the surface water administrator.

b. That the surface water administrator refused to admit documentary or other physical evidence, and such evidence would have materially altered the decision of the surface water administrator.

c. That after the hearing the appellant discovered material evidence which, with reasonable diligence, could not have been discovered and produced at the hearing, and such evidence would have materially altered the decision of the surface water administrator.

In the event the court finds the presumption is overcome pursuant to this subsection, the court shall remand the case back to the surface water administrator for the limited purpose of hearing only the excluded or new evidence and any evidence presented in rebuttal to such evidence. The hearing will be held within ten days after the order of the court prior to its decision to give the court such parties and appellee. At the conclusion of such remand hearing, the surface water administrator shall, within ten days of the hearing, make and enter such amended findings of fact and decision as the surface water administrator deems necessary, or, in the event the surface water administrator determines that the evidence adduced at the remand hearing requires no amendment, the surface water administrator will issue a decision reaffirming its prior findings of fact and decision. The findings of fact and decision will be transmitted to the court and such findings of fact and decision will not be subject to a separate appeal.

(5) *Decision.* The court shall determine whether the decision is supported by the finding of fact and the law. Any party to the case may request an opportunity to appear before the court prior to its decision to give the court such party's view of the case. The other party or parties shall be given adequate notice of the hearing and an opportunity to present such party's or parties' view of the case. Such views shall be presented orally by the parties and shall only deal with the ground relied on by the appellant as set out in the notice of appeal. The hearing shall be limited to one hour and the time will be equally divided between the appellant and the appellee. If the court finds that the decision is incorrect, it shall issue a new decision correctly stating the decision. Such decision shall be final and not subject to rehearing, review or appeal.

(Code 1981, § 18-77; Code 2012, § 18-77; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-77, 5-30-2012)

Sec. 18-93. Records of applications and permit.

A complete record of all applications, actions taken thereon, and any permits issued shall be maintained by the Community and shall be open for public inspection at the office of the surface water administrator.

(Code 2012, § 18-78; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-78, 5-30-2012)

Sec. 18-94. Records of water usage.

(a) Each permittee shall maintain a complete record of surface water usage. The record shall be maintained contemporaneously with use and shall contain:

(1) The amount of water used on a weekly basis;

(2) The use to which it was put;

(3) The location of the use; and

(4) Such other information as shall reasonably be required by the surface water administrator.

(b) A true and complete copy of such records certified by the permittee to be accurate shall be filed by the permittee with the surface water administrator on the 15th day of each month for the prior month. The surface water administrator shall monitor the accuracy of the records.
(Code 1981, § 18-79; Code 2012, § 18-79; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-79, 5-30-2012)

Sec. 18-95. Violation; penalty.

Any permittee who violates the conditions of the permit or the provisions of this article shall be subject to the forfeiture of the permit after notice and hearing as provided for in section 18-92. The Community shall have the jurisdiction to provide injunctive relief in order to prevent the use of surface water in violation of this article upon a petition of the surface water administrator. The Community court shall have the jurisdiction over civil actions brought by the surface water administrator against permittees for civil damages resulting from the violation of the permit issued, or for using surface water without a permit, and such damages shall include the value of the water used in violation of this article, the cost of investigations and attorney's fees, and all hearing and court costs incurred.
(Code 1981, § 18-80; Code 2012, § 18-80; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-80, 5-30-2012)

Sec. 18-96. Rule-making authority.

The surface water administrator shall prescribe, subject to the approval of the Community Council, rules and regulations, not in conflict with the ordinances of the Community, necessary to perform the surface water administrator's function under this article.
(Code 1981, § 18-81; Code 2012, § 18-81; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-81, 5-30-2012)

Sec. 18-97. Effective date.

The provisions of this article shall become effective as of May 3, 1995.
(Code 1981, § 18-82; Code 2012, § 18-82; Ord. No. SRO-199-95, 5-3-1995; Ord. No. SRO-402-2012, § 18-82, 5-30-2012)

Secs. 18-98—18-122. Reserved.

ARTICLE V. GRUSP GROUNDWATER RECHARGE CONTROL AND QUALITY PROTECTION

Sec. 18-123. Declaration of policy.

It is the policy of the Community that the groundwater underlying Community lands be protected from contamination resulting from contact with Community landfills. In furtherance of that policy, a plan and appropriate regulations shall be established to help ensure separation between groundwater levels and low points of the landfill refuse cells. The purpose of this plan and its related regulations is to provide the Community a mechanism by which it may adjust groundwater levels in the event of an emergency involving the rapid rise of such levels. Furthermore, additional regulations designed to improve Community oversight of groundwater quality shall be authorized. This plan and its related regulations are in no way intended to alleviate or absolve the Salt River Project or any other interested parties from their respective duties and obligations in maintaining safe groundwater levels and preserving groundwater quality.
(Code 1981, § 18-83; Code 2012, § 18-83; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-83, 5-30-2012)

Sec. 18-124. Definitions.

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

Aquifer means the groundwater aquifer underlying the Community landfills and the GRUSP.

Community means the Salt River Pima-Maricopa Indian Community.

Community landfills means the Salt River Landfill located on the north side of the Bee Line Highway in Section 19, Township 2 North, Range 6 East, the Tri-Cities Landfill, a closed landfill located on the south side of the Bee Line Highway in Section 34, Township 2 North, Range 5 East along with Sections 3 and 4, Township 1 North, Range 5 East, Gila and Salt River Base and Meridian, and other landfills that may have been or may be established.

GRUSP means the Granite Reef Underground Storage Project located on approximately 350 acres of land in Sections 28, 29 and 30, Township 2 North, Range 6 East, leased to it by the Community, and any related Community lands or facilities, used for recharging water into the ground.

GRUSP permittees means the entities recognized and given a permit by the Arizona department of water resources to utilize the GRUSP for purposes of obtaining credits, consisting of the Salt River Project (as operating agent), the City of Chandler, the City of Phoenix, the City of Mesa, the City of Scottsdale, the City of Tempe, and the Town of Gilbert.

Maximum safe level means the highest level of groundwater underlying Community landfills that is permitted under regulations of the Community and under orders issued by a responsible Community official or agency under authority of this article.

Salt River Project means collectively, the Salt River Project Agricultural Improvement and Power District, an Arizona municipality, as the GRUSP lessee and as a GRUSP permittee, and the Salt River Valley Water Users Association, an Arizona corporation, as a GRUSP permittee.
(Code 1981, § 18-84; Code 2012, § 18-84; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-84, 5-30-2012)

Sec. 18-125. Water quality regulation.

Primary authority to preserve the integrity of the Community's groundwater is in the Community development department (CDD). The CDD is authorized to monitor and regulate groundwater quality and perform necessary related functions. Such functions include developing appropriate regulations as required herein and providing appropriate oversight procedures to ensure Community and GRUSP permittee compliance with this article and relevant groundwater quality standards. These functions shall be performed by CDD subject to the supervision of the CDD director and of the Community manager or his or her designee. This responsibility is delegated by the Community Council, and such delegation may be reassigned by the council by resolution should the need arise.
(Code 1981, § 18-85; Code 2012, § 18-85; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-85, 5-30-2012)

Sec. 18-126. Operational management and MSL regulation.

Primary authority for carrying out the Community's operational and management functions set forth in this article is in the engineering and construction services department (ECS). Such functions include performing the management and enforcement functions set forth below, as well monitoring groundwater levels and rates of flow and rise into and out of the GRUSP to ensure that the maximum safe level (MSL) is maintained. These functions shall be performed by ECS subject to the supervision of the ECS director and the Community manager, or their respective designee(s). This responsibility is delegated by the Community Council, and such delegation may be reassigned by the council by resolution should the need arise.
(Code 1981, § 18-86; Code 2012, § 18-86; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-86, 5-30-2012)

Sec. 18-127. Formulation and adoption of regulations.

CDD, in conjunction with ECS, shall formulate regulations that prescribe the maximum safe level of groundwater underlying Community landfills, recognizing that the maximum safe level may vary from time-to-time depending upon the quantity of Salt River and Verde River waters being released from the facilities of the Salt River Project as determined by factors including but not limited to the water level of the associated reservoir, the extent of Salt River and Verde River

watersheds snow cover, and precipitation predictions. Such regulations shall require periodic reports from the Salt River Project on groundwater levels as determined from various means including but not limited to monitoring well depth-to-groundwater levels, water recharge quantities, groundwater withdrawals from the associated Aquifer through supply wells, and data described above which determines the release of river water from the Salt River Project facilities. Formulated regulations shall be furnished, together with an invitation to submit written comments, to other Community departments and agencies having an interest in the subject and to the Salt River Project. After reviewing the comments, CDD and ECS shall submit the proposed final regulations to the Community Council for its consideration and approval. CDD, in conjunction with ECS, may issue temporary regulations that shall be in effect during the comment and review process.
(Code 1981, § 18-87; Code 2012, § 18-87; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-87, 5-30-2012)

Sec. 18-128. Enforcement authority.

ECS shall have the authority to enforce the maximum safe level of groundwater by issuing orders to the Salt River Project limiting and prohibiting groundwater recharge. This authority will be applicable not only if the maximum safe level has been exceeded, but also in instances where the maximum safe level has not been exceeded. The Community may enforce orders issued pursuant to this section by excluding the violators from the GRUSP or by other appropriate means.
(Code 1981, § 18-88; Code 2012, § 18-88; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-88, 5-30-2012)

Sec. 18-129. Employment of consultants.

ECS, in consultation with CDD, shall have the authority to employ expert consultants as may be necessary to conduct the efficient performance of the duties assigned to it by this article.
(Code 1981, § 18-89; Code 2012, § 18-89; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-89, 5-30-2012)

Sec. 18-130. GRUSP maintenance.

The CDD and ECS directors shall request through the Community's budgeting process the funds necessary for their departments to perform the regulatory and operational functions set forth in this article.
(Code 1981, § 18-90; Code 2012, § 18-90; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-90, 5-30-2012)

Sec. 18-131. Additional regulations to ensure water integrity authorized.

CDD is authorized to develop additional regulations as needed to ensure the integrity of waters entering into and being stored in the GRUSP. Such additional regulations shall be effective when approved by the Community Council by resolution.
(Code 1981, § 18-91; Code 2012, § 18-91; Ord. No. SRO-326-08, 12-5-2007; Ord. No. SRO-402-2012, § 18-91, 5-30-2012)

Secs. 18-132—18-160. Reserved.

ARTICLE VI. AGRICULTURE FUGITIVE DUST CONTROL

Sec. 18-161. Title, authority, purpose, etc.

(a) *Title.* This article shall be known as the Community agriculture fugitive dust control ordinance.

(b) *Authority.* This article is enacted pursuant to article VII, section 1(c)(1), (c)(7) and (k) of the Community Constitution.

(c) *Purpose/policy.* The purpose of this article is to regulate and mitigate agricultural fugitive dust sources within the exterior boundaries of the Community by minimizing the amount of particulate matter (PM-10 and PM-2.5) emitted into the ambient air as a result of the impact of human related activities through regulatory measures aimed to prevent, reduce, or mitigate particulate matter emissions.

(d) *Scope.* This article shall regulate the release of all agricultural fugitive dust within the Community.

(e) *Regulatory authority.* The authority of the Community, the Community development department director, or as may be delegated by the director, shall include the promulgation, issuance, and enforcement of regulations, policies, procedures or rules, as may be necessary or appropriate for the implementation of this article.
(Code 2012, § 18-95; Ord. No. SRO-368-2010, § 18-85, 8-18-2010; Ord. No. SRO-402-2012, § 18-95, 5-30-2012)

Sec. 18-162. Definitions.

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

Access restriction means restricting or eliminating public access to noncropland with signs or physical obstruction.

Aggregate cover means gravel, concrete, recycled road base, caliche or other similar material applied obstruction.

Artificial wind barrier means a physical barrier to the wind.

Caliche means a hardened deposit of calcium carbonate.

Carryout/trackout means any and all bulk materials that adhere to and agglomerate on the exterior surfaces of motor vehicles, haul trucks and/or equipment (including tires) and that have fallen onto a paved public roadway.

Cessation of night tilling means the discontinuance of night tilling on high pollution advisory days during stagnant air conditions.

Chemical irrigations means applying fertilizer, pesticide or other agricultural chemicals to cropland through an irrigation system.

Combining tractor operations means performing two or more tillage, cultivation, planting or harvesting operations with a single tractor or harvester pass.

Community means the Salt River Pima-Maricopa Indian Community (SRPMIC).

Community manager means the Community manager or his or her authorized representative.

Cover crop means plants or a green manure crop grown for seasonal soil protection or soil improvement.

Critical area planting means using trees, shrubs, vines, grasses or other vegetative cover on noncropland.

Cropland means land that is suited to or used for crops.

Cross wind ridges means soil ridges formed by a tillage operation.

Cross wind strip cropping means planting strips of alternating crops within the same field.

Cross wind vegetative strips means herbaceous cover established in one or more strips within the same field.

Dust suppressants are those materials applied to a soil surface to prevent soil particles from becoming airborne. Examples include fiber based, calcium chloride, magnesium chloride, lignosulfonate, petroleum resin, and acrylic polymers, nonpetroleum based organics and ligninsulfonate.

Environmental protection and natural resources means the Community's environmental protection and natural resources office (EPNR). The person authorized to act on behalf of the EPNR is the Community's EPNR manager or his or her authorized representative.

Equipment modification means modifying agricultural equipment to prevent or reduce fugitive dust from cropland.

Fugitive dust means particulate matter emissions made airborne by forces of wind, mechanical disturbances of surfaces or both. Unpaved roads, construction sites and tilled land are examples of sources of fugitive dust.

Green chop means harvesting of a forage crop without allowing it to dry in the field.

Integrated pest management means the use of a combination of techniques including organic, conventional and biological practices.

Limited activity during a high-wind event means performing no tillage or soil preparation activity when the measured winds peek at six feet height is more than 25 miles per hour at the farm site.

Manure application means applying animal waste or biosolids to a soil surface.

Mulching means applying plant residue or other material that is not produced on site to a soil surface.

Multiyear crop means a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than a year.

Noncropland means any land that does not meet the definition of cropland including unpaved roads and buffer strips.

Owner and/or o*perator* means any person who owns, leases, operates, controls, or supervises a fugitive dust source subject to the requirements of this article.

Permanent cover means a perennial vegetative cover on cropland.

Planting based on soil moisture means applying water to soil before performing planting operations.

Precision farming means using global positioning system (GPS) to precisely guide farm equipment in the field.

Reduced harvest activity means reducing the number of harvest passes using a mechanized method to cut and remove crops from a field.

Reduced tillage system means reducing the number of tillage operations used to produce a crop.

Reduced vehicle speed means operating farm vehicles or farm equipment on unpaved farm roads at speeds not to exceed 15 miles per hour.

Residue management means managing the amount and distribution of crop and other plant residues on a soil surface.

Sequential cropping means growing crops in a sequence that minimizes the amount of the time bare soil is exposed on a field.

Surface roughening means manipulating a soil surface to produce or maintain clods.

Tillage and *harvest* means arable land that is worked by plowing and sowing, raising crops and the yield from plants in a single growing season.

Tillage based on soil moisture means applying water to soil before or during tillage, or delaying tillage to coincide with precipitation.

Timing of tillage operation means performing tillage operations at a time that will minimize the soil's susceptibility to generate fugitive dust emissions.

Transgenic crops means the use of plants that are genetically modified.

Tree, shrub or windbreak planting means providing a woody vegetative barrier to the wind.

Watering means applying water to noncropland. (Code 2012, § 18-96; Ord. No. SRO-368-2010, § 18-86, 8-18-2010; Ord. No. SRO-402-2012, § 18-96, 5-30-2012)

Sec. 18-163. Applicability.

(a) *Purpose.* This article limits particulate matter (PM-10 and PM-2.5) emissions into the ambient air from any agriculture property, operation, activity or land use that may serve as an agricultural fugitive dust source.

(b) *Dust control measures and requirements.* The owner and/or operator who farms more than five contiguous acres of land within the Community must complete an agricultural fugitive dust general plan for each location and shall employ two of the following dust control measures for each category of agricultural activity at each location (if applicable). All general plans shall identify, at minimum, the contact information for the owner and/or operator, the location, the dust control sources and the measures to be taken before, after, and while conducting any dust generating activity; and must be submitted to the EPNR within 30 days of being requested by the EPNR to do so. The EPNR shall approve, disap-

prove, or conditionally approve the general plan, in accordance with the requirements herein within five days of receipt of the general plan.

(1) *Tillage and harvest.*

a. Cessation of night tilling.

b. Chemical irrigation.

c. Combining tractor operations.

d. Equipment modification.

e. Green chop.

f. Integrated pest management.

g. Limited activity during high-wind events.

h. Multiyear crop.

i. Planting based on soil moisture.

j. Precision farming.

k. Reduced harvest activity.

l. Reduced tillage system.

m. Tillage based on soil moisture.

n. Timing of tillage operations.

o. Transgenic crops.

(2) *Noncropland.*

a. Access restriction.

b. Aggregate cover.

c. Artificial wind barrier.

d. Critical area planting.

e. Manure application.

f. Reduce vehicle speed.

g. Dust suppressants approved by environmental protection and natural resources division.

h. Trackout control system.

i. Tree/shrub/windbreak planting.

j. Watering.

(3) *Cropland.*

a. Artificial wind barrier.

b. Cover crop.

c. Crosswind ridges.

d. Crosswind strip cropping.

e. Crosswind wind vegetative strip.

f. Integrated pest management.

g. Manure application.

h. Mulching.

i. Multiyear crop.

j. Permanent cover.

k. Planting based on soil moisture.

l. Residue management.

m. Sequential cropping.

n. Surface roughening.

o. Transgenic crops.

p. Trees/shrub/windbreak planting.

(c) *Additional control measures.* Should any single control measure prove ineffective, the owner and/or operator shall immediately implement additional control measures, which may require submitting a revised general plan to the EPNR.

(d) *Dust control records.* The owner and/or operator must keep records detailing the dust control measures selected for each category. The owner and/or operator must make available the records to the environmental protection and natural resources division within three business days of the notice to the owner and/or operator.

(e) *Fee.* No fee is associated with the agriculture fugitive dust general plan.

(f) *Violations.* Failure to comply with the provisions of this section including the chosen control measures, or failure to obtain and implement an approved fugitive dust general plan is deemed to be a violation of this article.
(Code 2012, § 18-97; Ord. No. SRO-368-2010, § 18-87, 8-18-2010; Ord. No. SRO-402-2012, § 18-97, 5-30-2012)

Sec. 18-164. Administration for compliance and enforcement.

(a) *Issurance of notice of violation.* When EPNR determines that a violation of any of the applicable provisions of this article has been committed, an administrative compliance process shall be initiated by the issuance of a notice of violation (NOV) sent certified mail to the owner or operator within 30 days of the violation. Depending on the nature and seriousness of the violation, the EPNR

manager, at his or her discretion, shall determine whether or not the violation constitutes a fine. During the administrative compliance process, the EPNR manager shall have the authority to determine the fine assessment on applicable violations. The EPNR will consult with the office of the general counsel (OGC) and/or office of prosecutor in carrying out enforcement measures. Administrative fines and penalties for violation of this article shall not exceed $500.00 for each such violation and for each day of its continuance which may constitute a separate violation.

(b) *Contents.* EPNR's NOV will at minimum state the sections of this article the owner or operator violated, corrective action to remedy the violation, and specify a time period for corrective action.

(c) *Appeal process.* The owner or operator receiving the NOV may appeal the determination of the EPNR in writing to the Community manager within five business days from the date the NOV is received. A meeting on the appeal before the Community manager shall take place within 30 days from the date the appeal is received by the Community manager. The decision of the Community manager shall be final.

(d) *Judicial proceedings.* If the owner or operator fails to pay the administrative fine or fails to comply with this article, the EPNR shall initiate judicial proceedings by referring the violation to the Community's office of the general counsel who may file civil proceedings in the Community's tribal court in accordance with the applicable laws of the Community.

(Code 2012, § 18-98; Ord. No. SRO-368-2010, § 18-88, 8-18-2010; Ord. No. SRO-402-2012, § 18-98, 5-30-2012)

Sec. 18-165. Judicial proceedings; Community court.

The Community court shall have jurisdiction to hear all actions brought by the office of the general counsel or the office of prosecutor pursuant to section 18-164(d) or other applicable law, and may impose:

(1) Civil fines and penalties for violation of this article shall not exceed $1,000.00 for each such violation and for each day of its continuance which may constitute a separate offense.

(2) Other relief as may be available by law, which may include injunctive relief, and the posting of bonds or sureties to ensure compliance.

(Code 2012, § 18-99; Ord. No. SRO-368-2010, § 18-89, 8-18-2010; Ord. No. SRO-402-2012, § 18-99, 5-30-2012)

Sec. 18-166. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, tribal or local laws and is within the discretion of the Community to seek cumulative remedies.

(Code 2012, § 18-100; Ord. No. SRO-368-2010, § 18-90, 8-18-2010; Ord. No. SRO-402-2012, § 18-100, 5-30-2012)

Chapter 19

CULTURAL RESOURCES

Article I. In General

Sec. 19-1. Title.
Sec. 19-2. Violations; penalties.
Sec. 19-3. Policy.
Sec. 19-4. Excavating or exploring archeological site; taking objects.
Sec. 19-5. Permit; conditions.
Sec. 19-6. Archaeological officer.
Sec. 19-7. Administrative regulations.
Sec. 19-8. Fees; bonds.
Sec. 19-9. Duty to report discoveries.
Sec. 19-10. Defacing site or object.
Secs. 19-11—19-38. Reserved.

Article II. Memorial Hall

Sec. 19-39. Policy.
Sec. 19-40. Manager.
Sec. 19-41. Policies and procedures.

ARTICLE I. IN GENERAL

Sec. 19-1. Title.

This chapter shall be known as the "Antiquities Ordinance."
(Code 1981, § 19-1; Code 2012, § 19-1; Ord. No. SRO-102-86, § 10, 7-23-1986; Ord. No. SRO-402-2012, § 19-1, 5-30-2012)

Sec. 19-2. Violations; penalties.

Any person violating any of the provisions of this chapter is guilty of an offense and shall upon conviction be punished by a fine not exceeding $500.00 or by imprisonment for a period not to exceed six months, or both, and shall, in addition, forfeit to the Community all articles and material discovered, collected or excavated, together with all photographs and records relating to such objects.
(Code 1981, § 19-2; Code 2012, § 19-2; Ord. No. SRO-102-86, § 8, 7-23-1986; Ord. No. SRO-402-2012, § 19-2, 5-30-2012)

Sec. 19-3. Policy.

It is the policy of the Community that sites within the external boundaries of the Community reflecting historic or prehistoric evidence of human activity shall be preserved so that members of the Community and others may gain greater knowledge concerning the historic and prehistoric habitation of the Community.
(Code 1981, § 19-3; Code 2012, § 19-3; Ord. No. SRO-102-86, § 1, 7-23-1986; Ord. No. SRO-402-2012, § 19-3, 5-30-2012)

Sec. 19-4. Excavating or exploring archeological site; taking objects.

No person, except when acting pursuant to a duly issued permit as provided for in section 19-5, shall excavate in or upon any historic or prehistoric ruin or monument, burial ground or site, including fossilized footprints, inscriptions made by human agency, or other archaeological or historical features, situated on lands within the external boundaries of the Community, nor shall any person not a holder of a permit as provided in section 19-5 explore for or take any object of antiquity from such site.
(Code 1981, § 19-4; Code 2012, § 19-4; Ord. No. SRO-102-86, § 2, 7-23-1986; Ord. No. SRO-402-2012, § 19-4, 5-30-2012)

Sec. 19-5. Permit; conditions.

Permits for the exploration and excavation of sites described in section 19-4 may be issued by the archaeological officer of the Community only to reputable museums, universities, colleges or other recognized scientific or educational institutions, scientists or their duly authorized agents, or other qualified archaeological research organizations. Such permits may be issued on condition that the permittee will restore the site excavated to the condition it was in prior to the excavation or such modification of such condition as may be appropriate, upon the condition that any objects of antiquity found in exploration and excavation be and remain the property of the Community to be held by the Community through its appropriate agencies or lent by the Community to such other appropriate agencies for such period of time as seems reasonable to the archaeological officer of the Community, and upon such other conditions as the archaeological officer of the Community shall require or as shall be required by regulations adopted pursuant to this chapter. No permit shall be issued for a period of more than one year, but permits may be renewed.
(Code 1981, § 19-5; Code 2012, § 19-5; Ord. No. SRO-102-86, § 3, 7-23-1986; Ord. No. SRO-402-2012, § 19-5, 5-30-2012)

Sec. 19-6. Archaeological officer.

The director of the Community development department or that director's designee shall be the archaeological officer of the Community.
(Code 1981, § 19-6; Code 2012, § 19-6; Ord. No. SRO-102-86, § 4, 7-23-1986; Ord. No. SRO-402-2012, § 19-6, 5-30-2012)

Sec. 19-7. Administrative regulations.

The director of the Community development department shall, within 120 days of the enactment of this chapter, propose to the Community

Council regulations not inconsistent with this chapter for the administration of this chapter. The proposed regulations shall be deemed adopted, as they may have been modified by the Community Council, as of a date 30 days after the date of submission to the Community Council. The regulations may be amended from time-to-time by the same process as required for adoption.
(Code 1981, § 19-7; Code 2012, § 19-7; Ord. No. SRO-102-86, § 11, 7-23-1986; Ord. No. SRO-402-2012, § 19-7, 5-30-2012)

Sec. 19-8. Fees; bonds.

(a) A uniform fee equal to $25.00 per week for each of the weeks for which a permit is to be issued shall be charged to the permittee. Payment of the fees shall be made for the total period of the permit at the time of the issuance of the permit. The fee is not payable for issuance of a permit to the Community or any person or entity as described in section 19-5 who is retained by the Community.

(b) The permittee shall, prior to the issuance of the permit, post a bond payable to the Community either in cash or its equivalent, or by a surety acceptable to the Community, in an amount sufficient to ensure the restoration of the sites to be explored and excavated, to ensure that all antiquities discovered in such exploration and excavation will be promptly turned over to the Community, and to ensure performance of all the conditions of the permit, or in such other amount as may be determined by the archaeological officer.
(Code 1981, § 19-8; Code 2012, § 19-8; Ord. No. SRO-102-86, § 5, 7-23-1986; Ord. No. SRO-402-2012, § 19-8, 5-30-2012)

Sec. 19-9. Duty to report discoveries.

Any person in charge of any survey, excavation or construction on any lands within the Community shall report promptly to the archaeological officer of the Community the existence of any archaeological or historical site or object discovered in the course of such survey, excavation or construction and shall take all reasonable steps to secure its preservation. The archaeological officer may determine that all such survey, excavation or construction actions shall cease pending an investigation of the discovery of any such site or object.
(Code 1981, § 19-9; Code 2012, § 19-9; Ord. No. SRO-102-86, § 6, 7-23-1986; Ord. No. SRO-402-2012, § 19-9, 5-30-2012)

Sec. 19-10. Defacing site or object.

No person, institution or corporation shall deface or otherwise alter any site or object embraced within the terms of section 19-5, except as has been specifically provided for in the permit granted pursuant to section 19-5.
(Code 1981, § 19-10; Code 2012, § 19-10; Ord. No. SRO-102-86, § 7, 7-23-1986; Ord. No. SRO-402-2012, § 19-10, 5-30-2012)

Secs. 19-11—19-38. Reserved.

ARTICLE II. MEMORIAL HALL

Sec. 19-39. Policy.

(a) It is the policy of the Community that the Memorial Hall shall be made available to all Community members, regardless of affiliation with a religious denomination or whether affiliated with a religious denomination, for the primary purpose of conducting wakes, funerals, and traditional memorial or reburial services.

(b) The Memorial Hall may not be used for purposes other than those identified in subsection (a) of this section.

(c) During reburial services, the Memorial Hall shall be closed to anyone other than those affiliated with the reburial services.
(Code 1981, § 19-31; Code 2012, § 19-31; Ord. No. SRO-297-2003, 9-3-2003; Ord. No. SRO-402-2012, § 19-31, 5-30-2012)

Sec. 19-40. Manager.

(a) The position of the Memorial Hall manager is hereby established within the department of public works. The Memorial Hall manager or his or her delegate shall be available around the clock for the purposes of this article.

(b) The Memorial Hall manager's duties include, but are not limited to, scheduling use of the Memorial Hall, assisting families of the deceased in coordinating with Community departments or other entities for assignment of burial plots, financial assistance, and selection of a funeral home. The Memorial Hall manager shall make available pamphlets, handouts, and the like that contain information relating to the preceding sentence.

(c) Community member preference applies in filling the position of Memorial Hall manager.
(Code 1981, § 19-32; Code 2012, § 19-32; Ord. No. SRO-297-2003, 9-3-2003; Ord. No. SRO-402-2012, § 19-32, 5-30-2012)

Sec. 19-41. Policies and procedures.

(a) The Community's department of public works is responsible for operating, securing, and maintaining the Memorial Hall.

(b) The Community manager may, from time-to-time, issue policies and procedures for implementing this article. Such policies and procedures shall not be inconsistent with this article. Prior to issuing such policies and procedures, the Community manager shall consult with the Memorial Hall manager, the public works director, the Memorial Hall committee if available, and all other interested departments, and shall provide at least 30 days' public notice.
(Code 1981, § 19-33; Code 2012, § 19-33; Ord. No. SRO-297-2003, 9-3-2003; Ord. No. SRO-402-2012, § 19-33, 5-30-2012)

Chapter 20

FINANCES

Article I. In General

Secs. 20-1—20-18. Reserved.

Article II. Distribution of Moneys From "Outer Loop" Highway

Sec. 20-19. Policy; public fiduciary established.
Sec. 20-20. Definitions.
Sec. 20-21. Notice.
Sec. 20-22. Minors.
Sec. 20-23. Mature person.
Secs. 20-24—20-49. Reserved.

Article III. Sale of Securities

Sec. 20-50. Policy.
Sec. 20-51. Definitions.
Sec. 20-52. Permit.
Sec. 20-53. Fees.
Sec. 20-54. Bond.
Sec. 20-55. Adoption of state statutes by reference.
Sec. 20-56. Penalties and enforcement.
Secs. 20-57—20-85. Reserved.

Article IV. Welfare Assistance

Sec. 20-86. Enactment and purpose.
Sec. 20-87. Definitions.
Sec. 20-88. Provision of general welfare assistance.
Sec. 20-89. Determination of needs based programs.
Sec. 20-90. Limitation on payments; annual budgeting.
Sec. 20-91. Forfeiture of welfare assistance rights.
Sec. 20-92. Inalienability of welfare assistance benefit rights.
Sec. 20-93. Administration.
Secs. 20-94—20-109. Reserved.

Article V. Unclaimed Personal Property

Sec. 20-110. Definitions.
Sec. 20-111. Property which has not been claimed.
Sec. 20-112. Procedure for disposition of unclaimed property.
Sec. 20-113. Unclaimed money.
Sec. 20-114. Repossession of personal property.

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. DISTRIBUTION OF MONEYS FROM "OUTER LOOP" HIGHWAY

Sec. 20-19. Policy; public fiduciary established.

It is the policy of the Community to provide a means whereby those members of the Community of immature or superannuated years who are entitled to right-of-way payments from the State of Arizona for rights-of-way for the "Out Loop" Highway shall have their monies protected, saved and invested for them by the public fiduciary whose position and duties are herein established.
(Code 1981, § 20-21; Code 2012, § 20-21; Ord. No. SRO-129-90, § 1, 6-27-1990; Ord. No. SRO-402-2012, § 20-21, 5-30-2012)

Sec. 20-20. Definitions.

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

Authorized investment means an IIM account or other interest-bearing instrument or account authorized in advance by the court.

Court means Salt River Pima-Maricopa Indian Community Court.

Mature person means any person who has attained his or her 75th birthday.

Minor means a person who has not attained his or her 18th birthday.

Public fiduciary means a person appointed by the council who shall serve at the will of the council under such terms and conditions, which may include a fidelity bond, and for such salary as the council determines proper.
(Code 1981, § 20-22; Code 2012, § 20-22; Ord. No. SRO-129-90, § 2, 6-27-1990; Ord. No. SRO-402-2012, § 20-22, 5-30-2012)

Sec. 20-21. Notice.

Whenever appropriate or required, notice of any proposed action hereunder shall be made by personal service upon the minor, mature person or public fiduciary, and, in the case of a minor, upon one of his or her custodial parents or guardians.
(Code 1981, § 20-23; Code 2012, § 20-23; Ord. No. SRO-129-90, § 3, 6-27-1990; Ord. No. SRO-402-2012, § 20-23, 5-30-2012)

Sec. 20-22. Minors.

(a) Upon prior notice, all payments to which minors may be entitled shall be made to the public fiduciary who shall immediately open a file with the court, bearing the minor's name and the number of the cause to be supplied by the court. These files shall be administered by the chief judge.

(b) Within 30 days of receipt, the monies shall be deposited in an authorized investment by the public fiduciary. That authorized investment shall contain on its face the identity of the public fiduciary and the minor, although only the public fiduciary may transfer the funds to another authorized investment after authorization by the court.

(c) The record of every deposit and transfer shall be recorded in the court file.

(d) Monies may be withdrawn by the public fiduciary upon prior petition to and authorization by the court to be paid to or for the benefit of the minor. The minor, his or her parent or next friend or the public fiduciary may file such a petition with the court.

(e) A report by the public fiduciary of the status of the account or accounts shall be made to the minor and the court no less than four times a year, dating from receipt of the monies by the public fiduciary.

(f) Upon attainment of 18 years by the minor, or at the time of the minor's death, the account or accounts shall be turned over to the minor or the

estate after a final accounting has been made by the public fiduciary and approved by the council.
(Code 1981, § 20-24; Code 2012, § 20-24; Ord. No. SRO-129-90, § 4, 6-27-1990; Ord. No. SRO-402-2012, § 20-24, 5-30-2012)

Sec. 20-23. Mature person.

(a) Upon prior notice, all payments to which mature persons may be entitled shall be made to the public fiduciary, who shall immediately open a file with the court, bearing the mature person's name and the number of the cause to be supplied by the court. These files shall be administered by the chief judge.

(b) Within 30 days of receipt, the monies shall be deposited in an authorized investment by the public fiduciary. That authorized investment shall contain on its face the identity of the public fiduciary and the mature person, although only the public fiduciary may transfer the funds to another authorized investment after authorization by the court.

(c) The record of every deposit and transfer shall be recorded in the court file.

(d) Monies may be withdrawn by the public fiduciary upon prior petition to and authorization by the court to be paid to or for the benefit of the mature person. The mature person or next friend or the public fiduciary may file such a petition with the court.

(e) A report by the public fiduciary of the status of the account or accounts shall be made to the mature person and the court no less than four times a year, dating from receipt of the monies by the public fiduciary.

(f) At any time the mature person may petition the court for transfer of account or accounts to him or her personally, and such transfer shall forthwith be ordered and made unless the public fiduciary or relative of the first or second degree of the mature person shall demonstrate to the court's satisfaction that the mature person requires the assistance of public fiduciary to maintain and protect his or her estate. In that event, sections 10-151 through 10-154 shall apply.

(g) Upon the death of the mature person the account or accounts shall be transferred to the mature person's estate after a final accounting has been made by the public fiduciary and approved by the court.
(Code 1981, § 20-25; Code 2012, § 20-25; Ord. No. SRO-129-90, § 5, 6-27-1990; Ord. No. SRO-402-2012, § 20-25, 5-30-2012)

Secs. 20-24—20-49. Reserved.

ARTICLE III. SALE OF SECURITIES

Sec. 20-50. Policy.

It is the policy of the Community to provide an environment where those who reside in the Community or visit the Community may be secure in their persons or property; to secure those ends it is necessary to provide civil penalties, including vehicle retention, for breach of the civil offenses described in this article.
(Code 1981, § 20-31; Code 2012, § 20-31; Ord. No. SRO-130-90, § 1, 7-11-1990; Ord. No. SRO-402-2012, § 20-31, 5-30-2012)

Sec. 20-51. Definitions.

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

Dealer means:

(1) A person who directly or indirectly engages full- or part-time as agent, broker or principal in the business of offering, buying, selling or otherwise dealing or trading in securities issued by another person, including salesmen and all other employees, agents, principals and partners of dealer.

(2) An issuer who, directly or through an officer, director, employee or agent engages in selling securities issued by such issuer.

Person means any individual, corporation, company, association, firm, co-partnership or any group of individuals acting as a unit.

Security means any note, stock, treasury stock, bond, commodity investment contract, commodity option, debenture, evidence of indebtedness, partnership interest of any kind, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, real property investment contract or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.
(Code 1981, § 20-32; Code 2012, § 20-32; Ord. No. SRO-130-90, § 2, 7-11-1990; Ord. No. SRO-402-2012, § 20-32, 5-30-2012)

Sec. 20-52. Permit.

No person shall commence, practice, transact or carry on the business of dealing in securities, either as dealer or salesman, within the boundaries of the Community without first having obtained a permit from the Community manager. The application for permit shall be in a form approved by the Community manager and, at a minimum, shall include the name and address of the dealer and the name and address of the salesman if different. No salesman's permit shall be issued unless there is a preexisting valid dealer's permit outstanding for the dealer by whom the salesman is employed.
(Code 1981, § 20-33; Code 2012, § 20-33; Ord. No. SRO-130-90, § 3, 7-11-1990; Ord. No. SRO-402-2012, § 20-33, 5-30-2012)

Sec. 20-53. Fees.

(a) Dealer's fees shall be $300.00 per year, payable at the time of application or renewal.

(b) Salesman's fees shall be $25.00 per year, payable at the time of application and renewal.
(Code 1981, § 20-34; Code 2012, § 20-34; Ord. No. SRO-130-90, § 4, 7-11-1990; Ord. No. SRO-402-2012, § 20-34, 5-30-2012)

Sec. 20-54. Bond.

Before a permit shall be issued to a dealer, the dealer shall file a bond in the amount of $25,000.00 to secure payment of any civil penalty that might be assessed for the violation of any of the sections in this article. On the first day of each month, the bond shall, if having been reduced by penalty, be restored to $25,000.00.
(Code 1981, § 20-35; Code 2012, § 20-35; Ord. No. SRO-130-90, § 5, 7-11-1990; Ord. No. SRO-402-2012, § 20-35, 5-30-2012)

Sec. 20-55. Adoption of state statutes by reference.

(a) Except for any penalty provision the following Arizona statutes, and any amendments thereto, are hereby adopted by reference and made applicable to the Community as if fully set forth herein: chapter 9 and article 2, chapter 10, article 7, all in title 44, Arizona Revised Statutes (A.R.S. §§ 44-1211—44-1224 and 44-1521—44-1534).

(b) The following Arizona statutes are hereby adopted by reference as if fully set forth herein; except whenever securities are mentioned, the definition of securities shall be that set forth in section 20-51: A.R.S. 44-1991, 44-1992, 44-1993, 44-1994, 44-2001, 44-2002, 44-2003, 44-2005.
(Code 1981, § 20-36; Code 2012, § 20-36; Ord. No. SRO-130-90, § 6, 7-11-1990; Ord. No. SRO-402-2012, § 20-36, 5-30-2012)

Sec. 20-56. Penalties and enforcement.

(a) *Civil penalties.*

(1) The civil penalty for violation of section 20-52 shall be $2,000.00 for each occasion.

(2) The civil penalty for each violation of section 20-55 shall not exceed $5,000.00, to be determined by the gravity of the offense to the Community and the number of previous penalties assessed against the violator.

(b) *Department of public safety to enforce.* Civil offenses shall be enforced by the department of public safety who, upon their own initiative or the complaint of any other person that they believe to be valid, may issue a civil citation and summons to the person charged, who shall then accompany

the police to the Community courthouse and await the appearance of any judge or any other person appointed therefor to set a hearing date and, unless the bond specified in section 20-54 is still outstanding for at least $5,000.00, to obtain sufficient security to satisfy three-quarters of the maximum civil penalty to which the person charged may be subject. Such security shall be retained by the Community until satisfaction of any judgment that may be rendered against a person charged under this article.

(c) *Retainment of vehicle.* In lieu of the security prescribed in subsection (b) of this section, the clerk of the court may retain any motor vehicle of which the alleged violator was an operator or passenger until proper security is substituted, the civil penalty is paid or the alleged violation exonerated.

(d) *Notice of hearing civil citation.* At the time the hearing date is set pursuant to subsection (b) this section, a notice shall set out the time, date and place of hearing the civil offense. The hearing shall be set for no less than 30 days nor more than 90 days after issuance of the notice.

(e) *Answer to civil citation.* Within 20 days after issuance of the civil citation the person cited with a civil offense may file an answer to the citation. No extension of time shall be granted for the purpose of filing the answer.

(f) *Failure to answer.* If an answer to the civil citation and summons given as prescribed by this section is not filed within 20 days after the issuance thereof, the security shall be forfeited to the Community.

(g) *Failure to appear for hearing.* Failure of the person cited to appear for any hearing prescribed hereunder shall result in immediate forfeiture of any security that has been posted.

(h) *Hearing.* A civil penalty may be assessed after the person charged with a violation of a civil offense has been given an opportunity for a hearing conducted in accordance with chapter 5 governing civil actions except as specifically modified by this article.

(i) *Exoneration.* If the person charged shall be exonerated at any stage, the security shall thereupon be returned without interest.

(j) *Civil action to recover penalties.* Civil penalties owed under this article may be recovered in a civil action by the Community as plaintiff in any court having jurisdiction.

(k) *Effect on additional enforcement.* Nothing in this article shall preclude the filing of a criminal charge for a criminal offense arising out of the same transaction as the civil offense.

(l) *Voidability.* Any contract, sale or purchase made in violation of this article is voidable at the option of aggrieved party.
(Code 1981, § 20-37; Code 2012, § 20-37; Ord. No. SRO-130-90, § 7, 7-11-1990; Ord. No. SRO-402-2012, § 20-37, 5-30-2012)

Secs. 20-57—20-85. Reserved.

ARTICLE IV. WELFARE ASSISTANCE

Sec. 20-86. Enactment and purpose.

(a) *Background and purpose.* The Salt River Pima-Maricopa Indian Community (Community) is a federally recognized Indian Tribe, organized under a Constitution adopted and approved in accordance with section 16 of the Indian Reorganization Act of 1934, codified at 25 USC 461 et seq. The Constitution confirms the sovereign duty and responsibility of the Community to maintain the culture and independence of its members, to encourage the economic well-being of its members, and to promote the rights of its members and their common welfare. Article VII, section 1 of the Constitution further directs the Community Council in exercising its sovereign powers, to protect the public health, morals and private property rights of its members, to provide for the public welfare and particularly the welfare and protection of children, the poor, unfortunate, disabled and aged, and to preserve the history and culture of the people of the Community. The

Community exercises its sovereign power to provide member assistance under the Internal Revenue Service' general welfare doctrine:

(1) The Internal Revenue Service, through its general welfare doctrine, has recognized the sovereign right of all governments, including federally recognized Indian tribes, to provide public health, safety, basic need and financial support assistance to individuals under certain circumstances on a nontaxable basis.

(2) The Community, as a sovereign government, exercises its right to provide general welfare assistance through the Community Council's approval of programs to foster the public health, safety, basic needs, cultural preservation and financial assistance to Community members consistent with the Community Constitution, and desires to affirm its sovereign right to do so on a nontaxable basis.

(3) The first purpose of this article is to memorialize the procedures used by the Community to determine what services or programs are needed to promote public health, safety and other basic need services for the general welfare of the Community such as sewer, water, electrical service/power, infrastructure, housing, public sanitation services, public education and other such functions that support the long historical and cultural general welfare of the Community.

(4) The second purpose of this article is to establish basic guidelines and procedures for programs to follow in ensuring compliance with the general welfare doctrine.

(b) *Ratification of prior acts; intent of legislation.* This article does not establish a new program or programs. This article is intended to memorialize and confirm existing procedures used in the administration of general welfare assistance programs and services and is not to be construed as the creation of new general welfare assistance rights that previously did not exist. Assistance provided prior to the enactment of this article is hereby ratified and confirmed as general welfare assistance pursuant to the authority of the Community Constitution. It is intended to establish a framework to improve the coordination of general welfare doctrine compliance. Programs and services referred to herein must be authorized by independent action of the council or its designees.

(c) *General welfare doctrine.* The Internal Revenue Service recognizes that payments by a Community government to Community members under a legislatively provided social benefit program for the promotion of the general welfare of the Community are excludable from the gross income of those Community members who receive said payments. The assistance payments and services authorized by this article are intended to qualify for favorable tax treatment under the general welfare doctrine to the fullest extent permitted by law. All amounts budgeted by the Community for welfare assistance payments shall remain general assets of the Community until such payments are disbursed; the welfare assistance payment arrangement authorized by this article shall be an unfunded arrangement, and shall be limited to appropriated funds at the discretion of the council from time-to-time.

(d) *Nonresource designation.* General welfare services and payments hereunder are paid from assets of Community government; all payments are based on budget availability of the Community government, and the Community government does not guarantee any payments hereunder. Benefits paid hereunder on the basis of need shall not be treated as a resource of the member for any purpose. The council reserves the right to cancel, adjust, modify or revoke any benefits that are treated as a resource of the Community member.

(e) *Federal trust obligations; executive orders.* The Community reserves the right to provide assistance, including circumstances where federal funding is insufficient to operate federal programs designed to benefit Community members and when federal funding is insufficient to adequately and consistently fulfill federal trust obligations. The Community's adoption of approved programs is not intended to relieve or diminish the federal government of its funding and trust responsibilities. Nothing herein shall

waive the Community's right to seek funding shortfalls or to enforce the trust rights of the Community and its members. The Community shall be entitled to government-to-government consultation and coordination rights in regard to this article including, without limitation, those rights and responsibilities mandated under Executive Order 13175 or any successor documents or orders thereto.

(f) *Governing law.* All rights and liabilities associated with the enactment of this article, or the welfare assistance payments made hereunder, shall be construed and enforced according to the laws of the Community.

(g) *Sovereignty.* Nothing in this article or the related policies or procedures, if any, shall be construed as or interpreted to constitute a waiver of sovereign immunity or to make applicable any laws or regulations which the Community is entitled to exemption from in accordance with its sovereign status.
(Code 1981, § 20-41; Code 2012, § 20-41; Ord. No. SRO-357-2010, § I, 1-27-2009; Ord. No. SRO-402-2012, § 20-41, 5-30-2012)

Sec. 20-87. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved program means any program or programs approved by the Community Council to provide assistance intended to qualify for treatment under the general welfare doctrine.

Assistance means benefits or payments under an approved program, which are paid to or on behalf of a beneficiary pursuant to this article and the definition of the term "general welfare doctrine" in this section.

Beneficiary means the person or persons entitled to receive welfare assistance payments or services pursuant to this article or an approved program.

Code means the Internal Revenue Code of 1986, as amended.

Constitution means the Community Constitution.

Council means the Salt River Pima-Maricopa Indian Community Council.

General welfare doctrine means the doctrine, as recognized by the Internal Revenue Service, permitting a sovereign Indian tribal government to provide needs based assistance to Community members on a nontaxable basis. All payments qualifying for treatment under the general welfare doctrine must be:

(1) Provided on a needs basis (which need not necessarily be based on individual financial needs);

(2) For a purpose deemed to benefit the general welfare of the Community including, without limitation, the promotion of public health, safety, basic needs, cultural preservation and financial assistance to Community members consistent with the Community Constitution, sewer, water, infrastructure, housing, public sanitation services, electrical service/power, public education and other such functions to support the long historical and cultural general welfare of the Community; and

(3) In no event, will general welfare doctrine payments be made on a per capita basis or as compensation for services.

Ordinance means the Community's General Welfare Ordinance.
(Code 1981, § 20-42; Code 2012, § 20-42; Ord. No. SRO-357-2010, § II, 1-27-2009; Ord. No. SRO-402-2012, § 20-42, 5-30-2012)

Sec. 20-88. Provision of general welfare assistance.

(a) *Council approved programs.* The Community Council shall designate funding to programs through annual fiscal year budget processes, consistent with the purposes of this article.

(b) *Purpose.* Approved programs shall serve purposes consistent with treatment under the general welfare doctrine. Such purposes may include, by way of example and not by way of limitation, assistance for public health, medical

care, shelter, cultural preservation, infrastructure, and subsistence benefits. Any approved program must be established and operated to promote the general welfare of the Community, including, without limitation, programs designed to enhance the promotion of health, education, self-sufficiency, self determination, Community image and the maintenance of culture and tradition, entrepreneurship, and the employment of Community members.

(c) *Eligibility and application procedures.* Assistance intended to qualify for general welfare doctrine treatment shall be limited to enrolled members of the Community. Each approved program shall set forth the specific eligibility rules and limitations applied to that program. Each designated department or Community division shall present program descriptions, which include eligibility rules and limitations, along with application forms and procedures, for approval by the council or its designee. Only those descriptions, application forms and procedures which are approved by the council or its designee shall be in force and effect.

(d) *Limited use of assistance payments/services.* All assistance disbursed or provided pursuant to this article must be used for the purpose stated in the approved program description, and the Community member's application for the applicable assistance. In the event that assistance payments and/or services are used or pledged for a purpose inconsistent with the purpose set forth in the applicable approved program or the beneficiary's application, the council or designee shall require the repayment of the welfare assistance payment. The council or designee is authorized to offset any other payments owed to a Community member if such an offset is necessary to secure repayment of a welfare assistance payment in accordance with this subsection.
(Code 1981, § 20-43; Code 2012, § 20-43; Ord. No. SRO-357-2010, § III, 1-27-2009; Ord. No. SRO-402-2012, § 20-43, 5-30-2012)

Sec. 20-89. Determination of needs based programs.

(a) *Needs basis; eligibility certification.* All assistance disbursed pursuant to this article shall be needs based in accordance with the applicable Community income and need guidelines in effect at the time said benefits are paid. A beneficiary must certify his or her financial needs, and that the assistance benefits do not exceed the amount of the beneficiary's financial need. The Community's offices, or other departments that the council may designate, shall adopt procedures and forms for certifying a beneficiary's eligibility for assistance under the general Community income and need guidelines.

(b) *Community income and need guidelines.* The Community Council shall establish minimum standards of living and income guidelines for purposes of determining a beneficiary's qualification for needs based benefits hereunder. The council may look for guidance from federal guidelines such as the federal poverty levels, federal earned income credit levels, and median income figures for national, state, local and/or other communities. However, the council, as the sovereign government of the Community, shall retain ultimate authority in establishing minimum standards of living within the Community. In doing so, the council may take into account such issues as the number of dependants in a household, the level of household income, and household expenditures, the average and median Community incomes, traditional and cultural values and financial matters unique to the Community. Different approved programs may include different income and need guidelines. It is recognized, for example, that certain programs with federal or state funding may require additional guidelines, and programs with limited funding may need to implement additional restrictions to meet program specific budget limitations. In the absence of a specific program guideline to the contrary, the Community shall use median income guidelines that are published by the Census Bureau or other federal agencies and adjusted annually.

(c) *Community needs determinations.* In lieu of or in addition to subsections (a) or (b) of this section, the Community Council may also designate certain assistance or programs as necessary to satisfy a core need of the Community itself, such as, but not limited to, the maintenance and improvement of Community infrastructure and housing, the long term promotion of an educated membership, the reversal of historic trends or

barriers to self determination, preservation of Community traditions or culture, or the promotion of economic development and self determination within the Community; provided that any such program or assistance is consistent with the general welfare doctrine as codified herein and as may be amplified in published guidance from the Internal Revenue Service.

(d) *Special circumstances.* An individual who does not satisfy specific income guidelines may nonetheless qualify for an individual needs based program; provided that the individual demonstrates special circumstances such as high financial burdens and responsibilities. Special circumstance applications must include certifications and/or factual support established by the council or at the program level, as applicable, showing consistency with the general welfare doctrine.

(e) *Infrastructure, health care, housing and education as core needs.* Notwithstanding anything in a particular program to the contrary, Community infrastructure and safety standards, member health care, consistent with the historic policies and purposes of the Indian Health Care Improvement Act, and housing and education related assistance and incentives are core needs of the Community that are necessary to reverse historic trends and patterns experienced by the Community and which will, if not reversed, hinder self determination. The council retains ultimate sovereign authority to determine what program incentives are necessary and in the overall interest of the Community for achieving its long term infrastructure, health, housing and education goals. It is also expressly recognized by the Community that individual financial status or other resources may not, without program assistance, be sufficient to encourage the pursuit of certain endeavors that are in the interest of the Community's self determination. The Community has and shall develop its education, infrastructure and other core programs with the recognition that the long term benefit to the Community of having an educated membership and supporting certain core Community values is greater in the aggregate than the individual benefit conveyed to any particular recipient.

(f) *Underfunded programs.* The Community reserves the right to provide assistance to make up for federal program underfunding, which shall be treated as satisfying an overall need of the Community on a nontaxable basis under the general welfare doctrine to the same extent as if provided by the federal government. The Community's funding of such programs shall not waive the Community's right to seek funding shortfalls from the federal government and shall not relieve the federal government of its responsibilities and duties to provide such benefits.
(Code 1981, § 20-44; Code 2012, § 20-44; Ord. No. SRO-357-2010, § IV, 1-27-2009; Ord. No. SRO-402-2012, § 20-44, 5-30-2012)

Sec. 20-90. Limitation on payments; annual budgeting.

(a) *Limitations on welfare assistance payments.* The council, within its annual budgets, by resolution or by motion, may adopt guidelines establishing the maximum assistance payments to be made to Community members for certain specified purposes or programs or may delegate the establishment of such limitations to the program level. Such guidelines may also include, by way of example, factors to be considered in determining whether deviations from the general payment limitations should be permitted. Departments or Community divisions charged with administering particular programs may be delegated authority to adopt program guidelines to the extent not contrary to the overall guidelines and limitations established by the council hereunder.

(b) *Annual budgeting; unfunded program.* The council, through its annual budgeting process, by resolution or by motion, shall designate those funding sources that are available for the payment of assistance benefits. Notwithstanding anything to the contrary, the assistance payments authorized hereunder shall be "unfunded" for tax purposes and no beneficiary shall have an interest in or right to any funds budgeted for or set aside for assistance payments until actually paid. Assistance benefits shall remain assets of the Community until distributed, and the approved

programs shall be administered to avoid premature taxation through the doctrines of constructive receipt and/or economic benefit.
(Code 1981, § 20-45; Code 2012, § 20-45; Ord. No. SRO-357-2010, § V, 1-27-2009; Ord. No. SRO-402-2012, § 20-45, 5-30-2012)

Sec. 20-91. Forfeiture of welfare assistance rights.

(a) *Forfeiture.* Notwithstanding anything herein to the contrary, assistance benefits may be revoked or forfeited for any beneficiary who is found to have misapplied program funds or to have made any misrepresentations during the application process. Assistance may also be forfeited should said benefits be treated as a resource to the detriment of the Community or a beneficiary. The Community shall have a right of recovery with regard to any excess or improper payments hereunder.

(b) *Due process.* Each program shall offer procedures that afford a beneficiary an opportunity to address forfeiture issues or concerns with the program director or designee.
(Code 1981, § 20-46; Code 2012, § 20-46; Ord. No. SRO-357-2010, § VI, 1-27-2009; Ord. No. SRO-402-2012, § 20-46, 5-30-2012)

Sec. 20-92. Inalienability of welfare assistance benefit rights.

A Community member's rights to apply for welfare assistance payments and/or services under this article are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, levy, attachment or garnishment by creditors of the Community member or his or her beneficiaries.
(Code 1981, § 20-47; Code 2012, § 20-47; Ord. No. SRO-357-2010, § VII, 1-27-2009; Ord. No. SRO-402-2012, § 20-47, 5-30-2012)

Sec. 20-93. Administration.

The Community government departments and divisions shall be charged with the responsibility and authority to administer the welfare assistance payment and service programs called for by this article. All duties performed by an employee or official of the Community in accordance with this article or an approved program are deemed to be conducted in his or her official capacity.
(Code 1981, § 20-48; Code 2012, § 20-48; Ord. No. SRO-357-2010, § VIII, 1-27-2009; Ord. No. SRO-402-2012, § 20-48, 5-30-2012)

Secs. 20-94—20-109. Reserved.

ARTICLE V. UNCLAIMED PERSONAL PROPERTY

Sec. 20-110. Definitions.

The following words, terms and phrases, when used in sections 20-111 through 20-113, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Claim means a written assertion of rights to or over personal property, whether or not the writing is made by the claimant or the person to whom the claim is made.

Property means personalty, including money or goods.
(Code 1976, § 15.20; Code 1981, § 1-5; Code 2012, § 17-301; Ord. No. SRO-44-77, 1-26-1977; Ord. No. SRO-402-2012, § 17-301, 5-30-2012)

Sec. 20-111. Property which has not been claimed.

(a) Any official or employee of the Community who has in his or her custody any property which has not been claimed or the ownership of which has not been ascertained shall report the fact of the existence of such property, its location and description, to the clerk of the Community court.

(b) All unclaimed property shall be stored in a secured location.
(Code 1976, § 15.21; Code 1981, § 1-6; Code 2012, § 17-302; Ord. No. SRO-44-77, 1-26-1977; Ord. No. SRO-402-2012, § 17-302, 5-30-2012)

Sec. 20-112. Procedure for disposition of unclaimed property.

(a) At any time no less than 30 days but no more than 50 days after a report of unclaimed property has been made to the clerk of the court,

the person making such report shall file a petition with the clerk of the Community court requesting that the court order that the property be sold or otherwise disposed of. The petition shall set forth a description of the property, the name of the person last lawfully possessed of the property, if known, the names, if any, of the person or persons claiming the property and the facts and circumstances, if known, concerning the acquisition of the property by the person making the initial report of unclaimed property.

(b) Upon the filing of the petition, the clerk of the Community court shall send a copy of the petition to any person whose name is listed in the petition or who has otherwise made a claim to the property described in the petition. The petition shall be sent by certified mail, return receipt requested, to the last known address of such person.

(c) A copy of the petition shall be posted on the Community bulletin boards.

(d) There shall be appended to each copy of the petition mailed or posted a notice stating that the Community court shall on a date certain, not less than 30 days nor more than 45 days from the date of mailing and posting, hold a hearing to determine what the proper disposition of the property should be.

(e) At the court hearing concerning the proper disposition of the property, the court shall determine whether the property shall be sold, or turned over to a person claiming the property. If the court determines that the property should be sold, a private sale shall be conducted by the clerk of the court at the office of the clerk of the court on a day certain no later than ten days nor more than 20 days after the judicial determination. The judicial determination of disposition shall be made within five days after the hearing. Notice of private sale shall be given by registered mail to any person whose name appears on the petition or who has after the date of the petition made a claim to the personal property, and by such other methods as are calculated to secure interested buyers.

(f) The proceeds of the private sale shall be paid to the general funds of the Community.
(Code 1976, § 15.22; Code 1981, § 1-7; Code 2012, § 17-303; Ord. No. SRO-44-77, 1-26-1977; Ord. No. SRO-402-2012, § 17-303, 5-30-2012)

Sec. 20-113. Unclaimed money.

In the event the property is money, the procedures set out in sections 20-111, 20-112 and this section shall obtain except that the court shall determine whether the money shall be turned over to the general funds of the Community or shall be turned over to a claimant or person listed on the petition. If the court determines that the funds should be turned over to the general fund of the Community, the clerk of the court shall forthwith turn such funds over to the treasurer of the Community for deposit in the general fund.
(Code 1976, § 15.23; Code 1981, § 1-8; Code 2012, § 17-304; Ord. No. SRO-44-77, 1-26-1977; Ord. No. SRO-402-2012, § 17-304, 5-30-2012)

Sec. 20-114. Repossession of personal property.

(a) *Policy.* It is the policy of the Community that only peaceful, voluntary and court-approved methods be used to settle and adjudicate disputes regarding personal property subject of a security agreement.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Personal property means any property which is not affixed to real property and is subject to a security agreement which is recorded in the Arizona department of transportation, the county recorder's office, the secretary of State of Arizona's office or any other place where a security agreement or a Uniform Commercial Code filing may be made.

(c) *Voluntary surrender.* The seller under any security agreement may remove personal property from the possession of a buyer of such property if the buyer in possession of the property agrees in writing before the clerk or assistant clerk of the Community court or an officer of the Community, department of public safety, to allow the seller to take possession of the personal property and remove it.

(d) *Possession by court order.* Any seller of personal property may petition the Community court for an order requiring the Community department of public safety to take possession of such personal property and hold it in the custody of the department of public safety for a period of no longer than three days, during which time a hearing will be held before the Community court to determine entitlement to the possession of the personal property. Such an order shall be issued upon a verified petition that petitioner is the seller or assignee of the seller of the personal property and that the purchaser is in default of the security agreement. The petitioner shall post a bond in twice the amount of the value of the personal property, and the petition shall state the value of the personal property. If upon such hearing it is determined that petitioner has proven the allegations of the petition and is entitled to the personal property notwithstanding any defenses raised by the buyer, the court will enter judgment ordering the department of public safety to turn the personal property over to the petitioner upon full payment of all costs expended by the department of public safety in taking possession of the personal property and retaining it. The court may enter judgment in such event against the buyer for the amount of such costs. If the petitioner fails to prove the allegation of the petitioner, and it is determined that petitioner is not entitled to the personal property, a judgment will be entered ordering the personal property to be turned over to the buyer and requiring that all costs of the department of public safety as described herein be paid forthwith by petitioner or be taken from the bond. The bond shall in such event remain with the court for a period of 30 days, during which an action for damages which may have been suffered by deprivation of the use of the personal property may be filed by the buyer against the petitioner on the bond or its surety; and if so filed, the bond will remain until a final judgment is entered but in no event for longer than one year.

(e) *Not applicable to Community.* This section is not applicable to personal property owned, leased or in the possession of the Community, or any of its divisions. Community personal property may be repossessed only in accordance with the express terms of an applicable financing contract entered into by the Community or one of its divisions.

(Code 1981, § 1-1-8.1; Code 2012, § 17-305; Ord. No. SRO-128-90, §§ 1—4, 1-3-1990; Ord. No. SRO-225-97, 7-23-1997; Ord. No. SRO-402-2012, § 17-305, 5-30-2012)

Chapter 21

GRAFFITI

Sec. 21-1. Purpose and intent.
Sec. 21-2. Definitions.
Sec. 21-3. Graffiti prohibited.
Sec. 21-4. Possession of graffiti implements prohibited.
Sec. 21-5. Limiting access to graffiti implements.
Sec. 21-6. Storage and display of graffiti implements.
Sec. 21-7. Graffiti abatement.
Sec. 21-8. Sentencing.
Sec. 21-9. Civil sanctions.
Sec. 21-10. Appellate review.

Sec. 21-1. Purpose and intent.

(a) The purpose of this chapter is to provide a program for abatement of graffiti from public and private property; to reduce blight and deterioration within the Community, to expedite removal of graffiti from structures on both public and private property; and to prevent the further spread of graffiti.

(b) Graffiti, on both public and private property, is creating a condition within the Community which results in blight and deterioration of property and an impairment of comfortable enjoyment of life and property for adjacent and surrounding residents and contributes to the overall detriment of the Community.

(c) Graffiti constitutes a public nuisance and a threat to public safety which must be abated to alleviate the detrimental impact of such graffiti on the Community.

(d) Certain types of graffiti which incite violence, are especially harmful and must be removed as quickly as possible to avoid or minimize harm to persons and the whole Community in general.
(Code 1981, § 21-1; Code 2012, § 21-1; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-1, 5-30-2012)

Sec. 21-2. Definitions.

For the purposes of this chapter, the following words and terms shall have the meanings herein ascribed to them:

Abatement means removal of graffiti where costs are incurred.

Adult means any person who is 18 years or older, their age of majority.

Aerosol paint container means any aerosol container which is adapted or made for the purpose of spraying on paint.

Broad tip marker means any marker or similar implement which has a writing surface which is one-half of an inch or greater and containing anything other than a solution which can be removed with water after the solution dries.

Graffiti means a drawing or inscribing of a message, slogan, sign, symbol or mark of any type that is made on any public or private building, structure or surface, and that is made without permission of the owner or legal occupant.

Graffiti implement means an aerosol paint container, or paint tips adaptable to aerosol paint containers, broad tip marker, paint stick, graffiti stick or bleeder.

Juvenile means any person under the age of 18 years of age.

Paint stick, graffiti stick or *bleeder* means an implement containing paint, wax, epoxy or other similar substance.

Responsible party means an owner, occupant, lessor, lessee, manager, licensee or other person having the right to control such property.

Restitution means financial or other reimbursement to the party actually responsible for abating the graffiti and necessary to repair or restore the property to the condition it was before the graffiti occurred.
(Code 1981, § 21-2; Code 2012, § 21-2; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-2, 5-30-2012)

Sec. 21-3. Graffiti prohibited.

(a) *Offenses.*

(1) All sidewalks, walls, buildings, fences, signs and other structures or surfaces shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

(2) Any person who knowingly places or causes to be placed, graffiti as described in subsection (a)(1) of this section shall be guilty of an offense.

(3) Any person who knowingly entices or induces others to engage in graffiti as described in subsection (a)(1) of this section shall be guilty of an offense.

(b) *Persons hiring, etc., for committing offense.* Any person who hires, engages or uses a minor for any conduct preparatory to or in completion of any offense in this section shall be guilty of an offense.

(c) *Penalties.*

(1) *First offense.* Any person convicted of an offense defined in this section shall be sentenced to imprisonment for a period of not less than three days or more than ten days and to a fine not to exceed $500.00 or both, with costs. Imprisonment may be commuted to supervised Community service.

(2) *Second and subsequent offenses.* Any person convicted of a second or subsequent offense under this section shall be imprisoned for a period of not less than 20 days nor more than one year and fined an amount of not less than $500.00 nor more than $1,000.00 or both, with costs. There shall be no commutation of sentence.

(Code 1981, § 21-3; Code 2012, § 21-3; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-3, 5-30-2012)

Sec. 21-4. Possession of graffiti implements prohibited.

(a) No person shall knowingly possess any graffiti implement with the intent to use the implement for the purpose of committing a violation of this chapter.

(b) Violation of this section is punishable by a term of 24 hours in jail for a first offense and restitution for labor and supplies needed to abate the graffiti for which charges were filed and not less than 20 hours of Community service aimed at abating graffiti within the Community.

(c) Conviction of a second and subsequent offense of illegal possession of graffiti implements shall be punishable by a term of imprisonment for not less than 72 hours and shall be fined not less than $300.00 or more than $1,000.00 and not less than 40 hours nor more than 80 hours of Community service aimed at abating graffiti within the Community. Additionally, restitution shall be ordered for labor and supplies used to abate the property.

(Code 1981, § 21-4; Code 2012, § 21-4; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-4, 5-30-2012)

Sec. 21-5. Limiting access to graffiti implements.

(a) No person other than a parent or legal guardian shall sell, exchange, give, loan or otherwise furnish, or cause to be furnished, any graffiti-type implement to any person under the age of 18 years.

(b) Evidence that a person, his or her employee, or agent demanded and was shown acceptable evidence of majority age and acted upon such evidence in a transaction or sale shall be a defense to any prosecution under this section. Acceptable evidence of majority age shall include, but is not limited to: a tribal identification card, a valid driver's license or state identification or military identification.

(c) This section does not apply to the transfer of graffiti implements from parent to child, guardian to ward, employer to employee, teacher to student or in any other similar relationship when such transfer is for educational or other lawful purpose.

(d) Any person found in violation of this section shall be subject to a fine of not less than $100.00 nor more than $300.00 for a first offense and not less than $300.00 nor more than $750.00 for a second and subsequent offense.

(Code 1981, § 21-5; Code 2012, § 21-5; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-5, 5-30-2012)

Sec. 21-6. Storage and display of graffiti implements.

(a) No person who owns, conducts, operates or manages a business where aerosol paint containers or broad tip markers are sold, nor any person who sells or offers for sale aerosol paint containers or broad-tipped markers, shall store or display, or cause to be stored or displayed, such aerosol spray paint containers and broad tip mark-

ers in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition.

(b) Nothing herein shall preclude the storage or display of aerosol paint containers and broad tip markers in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

(c) Violation of this section is a civil offense, subject to a fine of not less than $500.00 for a first offense and not less than $1,000.00 for a subsequent offense.
(Code 1981, § 21-6; Code 2012, § 21-6; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-6, 5-30-2012)

Sec. 21-7. Graffiti abatement.

(a) *Notice of violation and duty to remove.* If it is determined by the public works department that graffiti exists on property in violation of this section, the public works department of the Community shall, in writing, notify the responsible party with a notice of violation, informing the party of the duty to remove the graffiti.

(b) *Contents of notice of violation.*

(1) The notice of violation shall:

a. Identify the property in violation;

b. Generally describe the location;

c. Direct that the graffiti be removed within 15 days of receipt of notice; and

d. State that if the responsible party fails to remove the graffiti within the specified time period, the Community public works department shall remove the graffiti and may bill the responsible party for the costs.

(2) The notice shall also state that the responsible party may appeal the notice by filing a written notice of appeal with the Community manager within the same time period given to remove the graffiti. The effective date of the notice of violation shall be the date received if delivered in person or sent by certified mail, or the date of first publication, if service by publication is used.

(c) *Service of notice.* The notice may be served by certified mail, personal service, or by posting copies of the notice at the subject property and prominently within the Community, including at a minimum, the court lobby, the IHS health clinic, the administration building, the Lehi Community Center and the Community bulletin board located at the southeast corner of Longmore and Osborn Roads.

(d) *Filing of appeals.* As an administrative matter, initial appeals shall be made to and decided by the Community manager. The final appellate body shall be the trial court of the Community court.

(1) All administrative appeals shall be filed with the Community manager in the manner described in this subsection (d).

(2) A person has a right to appeal the decision of the Community manager to the trial court of the Community court within five working days of the Community manager's final decision. The appeal shall be in writing and shall include a copy of the final decision of the Community manager, a general statement of the nature of the appeal, and the relief sought. A copy shall be sent to the director of public works.

a. The trial court may determine the matter based upon the documents submitted, or may conduct a hearing on the matter.

b. All hearings shall be informal.

c. The decision of the trial court shall be in writing and shall be final. No further appeals shall be allowed.

(e) *Community's authority to abate.*

(1) If the responsible party fails to abate the graffiti as required by the notice of violation, the Community public works department may proceed to abate the graffiti, and shall bill the responsible party for costs incurred. The Community or its authorized representative is expressly au-

thorized to enter private property and abate graffiti thereon in accordance with this section. The Community police department shall assist in the enforcement of this chapter.

(2) If the party notifies the department of public works of its willingness to abate the graffiti, but lacks the financial means to do so, the department of public works, with the prior approval of the Community manager, may make the materials available to the party at no cost, or a limited cost.

(Code 1981, § 21-7; Code 2012, § 21-7; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-7, 5-30-2012)

Sec. 21-8. Sentencing.

(a) *Mandatory sentencing.* Unless otherwise stated in this section, any person convicted of an offense defined in this section shall not be eligible for suspension of sentence, probation, parole or any other release from custody until the sentence imposed by the court is served in its entirety. Mandatory sentencing shall apply to juveniles in accordance with chapter 11.

(b) *Payment of fines and restitution.* The court may demand restitution and/or fines to be paid from any minor or adult's trust account.

(Code 1981, § 21-8; Code 2012, § 21-8; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-8, 5-30-2012)

Sec. 21-9. Civil sanctions.

(a) *Removal and exclusion from the Community.* Whenever a nonmember is involved in violating any section of this chapter, proceedings for removal and exclusion of the nonmember from the Community may be initiated in accordance with chapter 7.

(b) *Civil fines.* A person found to be in violation of any section of this chapter may be liable for civil fines pursuant to section 21-6.

(Code 1981, § 21-9; Code 2012, § 21-9; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-402-2012, § 21-9, 5-30-2012)

Sec. 21-10. Appellate review.

(a) *Appeals.*

(1) Appeals of administrative actions as set forth in section 21-7(d) regarding abatement shall be made first to the Community manager and then to the trial court of the Community court. All decisions of the trial court shall be final.

(2) Appeals of civil or criminal violations shall be made in accordance with article II of chapter 4.

(b) *Stay of execution of sentence.* Execution of sentences under this chapter shall be stayed in accordance within accordance with chapter 4.

(Code 1981, § 21-10; Code 2012, § 21-10; Ord. No. SRO-256-2000, 10-6-1999; Ord. No. SRO-416-2013, 3-1-2013; Ord. No. SRO-402-2012, § 21-10, 5-30-2012)

Chapter 22

RESERVED

Chapter 23

LABOR AND EMPLOYMENT

Article I. In General

Secs. 23-1—23-18. Reserved.

Article II. Right To Work

Sec. 23-19. Definitions.
Sec. 23-20. Sovereign immunity.
Sec. 23-21. Title.
Sec. 23-22. Authority.
Sec. 23-23. Purpose.
Sec. 23-24. Findings.
Sec. 23-25. Right to work.
Sec. 23-26. Unlawful agreements.
Sec. 23-27. Deductions.
Sec. 23-28. Coercion and intimidation prohibited.
Sec. 23-29. Discrimination and retaliation prohibited.
Sec. 23-30. Enforcement.
Sec. 23-31. NLRA.
Secs. 23-32—23-50. Reserved.

Article III. Workers' Compensation

Division 1. Generally

Sec. 23-51. Title and effective date.
Sec. 23-52. Purpose.
Sec. 23-53. Policy.
Sec. 23-54. Scope.
Sec. 23-55. Definitions.
Sec. 23-56. Exclusive remedy.
Sec. 23-57. Reporting obligations.
Sec. 23-58. Third party administrator.
Sec. 23-59. Independent medical examination, assignment of treating physician and duty to submit to medical treatment.
Sec. 23-60. Acts outside course or scope of employment.
Sec. 23-61. Benefits.
Sec. 23-62. Amendment.
Secs. 23-63—23-82. Reserved.

Division 2. Dispute Resolution; Appeal and Settlement

Sec. 23-83. Final administrator determination.
Sec. 23-84. First level of appeal; administrator managerial review.
Sec. 23-85. Final appeal; Community's workers' compensation appeals board.
Sec. 23-86. Composition of the appeals board.
Sec. 23-87. Requests for appeal.
Sec. 23-88. Notice of hearing date.
Sec. 23-89. Discovery.
Sec. 23-90. Conduct of hearing.
Sec. 23-91. Standard of proof.
Sec. 23-92. Burden of proof.
Sec. 23-93. Right to counsel.
Sec. 23-94. Applicable law.

Sec. 23-95. Final decision.
Sec. 23-96. Claimant's attorneys' fees.
Sec. 23-97. Effect of request for hearing.
Sec. 23-98. Statute of limitations.
Sec. 23-99. Settlement and release.
Sec. 23-100. Claim closure.
Sec. 23-101. Claim reopening and rearrangement.
Sec. 23-102. Recovery of payments made due to error, mistake, erroneous adjudication, fraud, etc.
Sec. 23-103. Claim files and records confidentiality.
Secs. 23-104—23-134. Reserved.

Article IV. Retirement/Benefit Compliance and Advisory Committee

Sec. 23-135. Definitions.
Sec. 23-136. Coordination of federal and tribal law.

ARTICLE I. IN GENERAL

Secs. 23-1—23-18. Reserved.

ARTICLE II. RIGHT TO WORK

Sec. 23-19. Definitions.

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

Community.

(1) The term "Community" means the Salt River Pima-Maricopa Indian Community and any subdivision, agency, arm or department thereof, including, but not limited to:

a. Salt River Community Gaming Enterprises;

b. Salt River Commercial Landfill Company;

c. Salt River Sand and Rock Company;

d. Saddleback Communications Company;

e. Salt River Community Property Development and Asset Management Company;

f. Salt River Community Golf Enterprises; and

g. Other enterprises of the Community, as applicable.

(2) The term "Community" does not include any legal entity established and organized by the Salt River Pima-Maricopa Indian Community under the laws of any state with a principal place of business located outside of Community lands (as defined herein).

Community Council means the Salt River Pima-Maricopa Indian Community Council.

Community lands means all lands within the boundaries of the Community, established pursuant to the Act of February 28, 1859, and Executive Orders, other lands added thereto, lands owned by the Community, and all other lands subject to the jurisdiction of the Community.

Employee means any individual employed by an employer.

Employer means any person, firm, association, corporation or other entity, including the Community, that operates in or upon Community lands and directly or indirectly employs one or more employees to perform work.

Labor organization means any organization, agency, committee or plan in which employees participate that exists for the purpose of representing such employees in dealing with an employer or employers concerning hours of employment, wages, rates of pay, working conditions, or grievances of any kind relating to employment.

Person means any individual, labor organization, corporation, partnership, company, association or other legal entity.
(Code 1981, § 23-21; Code 2012, § 23-21; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-21, 5-30-2012)

Sec. 23-20. Sovereign immunity.

Except as set forth explicitly in section 23-30(e), nothing in this article is intended to be or shall be construed as a waiver of the sovereign immunity of the Community, its divisions, agents, entities, instrumentalities, employees or officials.
(Code 1981, § 23-22; Code 2012, § 23-22; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-22, 5-30-2012)

Sec. 23-21. Title.

This article shall be known as the Community's "Right To Work Ordinance."
(Code 1981, § 23-23(a); Code 2012, § 23-23(a); Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-23(a), 5-30-2012)

Sec. 23-22. Authority.

This article is enacted pursuant to:

(1) Article VII of the Community's Constitution; and

(2) The Community's inherent sovereign authority to govern activities on Community lands that are based on consensual relationships with the Community or that have a direct effect on the political integrity, economic security, or health or welfare of the Community.

(Code 1981, § 23-23(b); Code 2012, § 23-23(b); Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-23(b), 5-30-2012)

Sec. 23-23. Purpose.

The purpose of this article is to ensure for all persons working for the Community and all persons working on Community lands the right to work and pursue employment without the restraints of mandatory affiliation with, membership in, or payment to a labor organization. This article establishes that the right of persons to work shall not be denied, abridged, restrained, or otherwise jeopardized because of membership in, affiliation with, or financial or other support of a labor organization, or refusal to join, affiliate with, or financially or otherwise support a labor organization.

(Code 1981, § 23-23(c); Code 2012, § 23-23(c); Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-23(c), 5-30-2012)

Sec. 23-24. Findings.

The Community finds that:

(1) It is in the best interests of all persons working for the Community and all persons working on Community lands to have the right to obtain and retain employment regardless of membership in, affiliation with, or financial or other support of a labor organization, or refusal to join, affiliate with, or financially or otherwise support a labor organization;

(2) Persons have the right to be free from discrimination and retaliation that is based on membership in, affiliation with, or financial or other support of a labor organization, or refusal to join, affiliate with, or financially or otherwise support a labor organization;

(3) It is the public policy of the Community that, in order to maximize individual freedom of choice in the pursuit of employment and to encourage and enhance an employment atmosphere conducive to economic growth, the right of persons to work for the Community or to work on Community lands shall not be denied, abridged, restrained, or otherwise jeopardized based on membership in, affiliation with, or financial or other support of a labor organization, or refusal to join, affiliate with, or financially or otherwise support a labor organization;

(4) Given the Community's inherent authority over employment and labor relations on Community lands, the Community's regulation of employment on Community lands, and the longstanding federal policy protecting tribal self-government and promoting tribal self-sufficiency, the Community finds that the National Labor Relations Act (NLRA) does not apply to the Community government as an employer. Application of the NLRA to the tribal government as an employer would substantially impair the ability of the Community to exercise its sovereign authority and would subject the Community government to the threat of strikes and disrupt the Community government's ability to provide essential services to the Community;

(5) As an exercise of sovereignty and self-governance, the Community government sets standards for labor and employment within the Community that protect employees' interests with respect to issues such as hours of employment, wages, rates of pay, working conditions and grievances. The delegation of such sovereign authority, which is constitutionally vested in the Community Council, to an employer for purposes of bargaining with a labor organization is unlawful; and

(6) The Community has the right to enact this law protecting the right to work for

all persons working for the Community and all persons working on Community lands.

(Code 1981, § 23-23(d); Code 2012, § 23-23(d); Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-23(d), 5-30-2012)

Sec. 23-25. Right to work.

No person shall be required to, as a condition of employment or continuation of employment:

(1) Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(2) Become or remain a member of a labor organization or be affiliated with a labor organization;

(3) Pay any dues, fees, assessments or other charges of any kind or amount to a labor organization;

(4) Pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or

(5) Be recommended, approved, referred, or cleared by or through a labor organization.

(Code 1981, § 23-24; Code 2012, § 23-24; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-24, 5-30-2012)

Sec. 23-26. Unlawful agreements.

(a) Any agreement, understanding or practice, written or oral, implied or expressed, between an employer and a labor organization that violates the rights of employees guaranteed by this article shall be unlawful, null and void, and of no legal effect.

(b) Any striking, picketing, boycotting or other action by a labor organization for the sole purpose of inducing or attempting to induce an employer to enter into any agreement prohibited by this article is hereby declared to be for an illegal purpose and a violation of this article.

(Code 1981, § 23-25; Code 2012, § 23-25; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-25, 5-30-2012)

Sec. 23-27. Deductions.

(a) Employers shall not deduct from the wages, earnings or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received and accepted, a signed written request and authorization to deduct such amounts, which authorization may be revoked by the employee at any time by giving written notice of the revocation to the employer.

(b) Employers are under no obligation to accept any request from an employee to voluntarily deduct from the employee's wages, earnings or compensation any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization. Employers shall determine, at their discretion, whether to accept the administrative burden of making such voluntary deductions.

(Code 1981, § 23-26; Code 2012, § 23-26; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-26, 5-30-2012)

Sec. 23-28. Coercion and intimidation prohibited.

(a) It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer or agent thereof, by any threatened or actual intimidation of an employee or prospective employee or his or her immediate family members, or by any damage or threatened damage to an employee or prospective employee's property, to compel or attempt to compel an employee or prospective employee to join, affiliate with, or financially support a labor organization, or to refrain from doing so or to otherwise forfeit the rights guaranteed by this article.

(b) It shall be unlawful to cause or attempt to cause an employee to be denied employment or to be discharged from employment because the employee supports or does not support a labor organization by inducing or attempting to induce any other person to refuse to work with the employee.
(Code 1981, § 23-27; Code 2012, § 23-27; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-27, 5-30-2012)

Sec. 23-29. Discrimination and retaliation prohibited.

No employer shall discriminate or retaliate against any employee based on the employee's membership in, affiliation with, or financial or other support of a labor organization, or the employee's refusal to join, affiliate with, or financially or otherwise support a labor organization.
(Code 1981, § 23-28; Code 2012, § 23-28; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-28, 5-30-2012)

Sec. 23-30. Enforcement.

(a) Any person who violates any provision of this article shall be subject to a fine not exceeding $1,000.00 per day per violation. Such liability shall be solely imposed on a labor organization or its representative. This provision shall not, in any way, cause a fine to be levied or become due against the Community.

(b) Any employee injured as a result of any violation or threatened violation of the provisions of this article shall be entitled to petition the Community court for injunctive relief from or against any person who violates or threatens any violation of this article, and may, in addition thereto, file a claim to recover any and all damages, including costs and reasonable attorney's fees, resulting from the violation or threatened violation. This remedy shall be independent of and in addition to any other penalties and remedies prescribed by applicable law.

(c) Any claim brought pursuant to this article must be commenced by the filing of a complaint with the Community court in accordance with the rules of civil procedure for the Community court within 180 days from the date of the violation or threatened violation that form the basis of the complaint.

(d) The Community court shall have jurisdiction over all causes of action alleging violations of this article.

(e) The Community hereby consents to a limited waiver of sovereign immunity from suit exclusively for claims by Community employees alleging violations of this article against the Community in the Community court. This waiver is limited as described herein, and nothing herein is intended to be or shall be construed as a waiver of the sovereign immunity of the Community in any other courts, or for any other causes of action.
(Code 1981, § 23-29; Code 2012, § 23-29; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-29, 5-30-2012)

Sec. 23-31. NLRA.

Nothing in this article is intended to be or shall be construed as an imposition of any requirements of the NLRA on the Community, its divisions, agents, entities, instrumentalities, employees or officials.
(Code 1981, § 23-30; Code 2012, § 23-30; Ord. No. SRO-349-09, 7-29-2009; Ord. No. SRO-402-2012, § 23-30, 5-30-2012)

Secs. 23-32—23-50. Reserved.

ARTICLE III. WORKERS' COMPENSATION

DIVISION 1. GENERALLY

Sec. 23-51. Title and effective date.

This article shall be known as the Community's Workers' Compensation Ordinance (article) and shall be effective in regards to all claims that arise after August 17, 2011.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 1, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-52. Purpose.

The purpose of this article is to establish a systematic and uniform procedure for the administration of workers' compensation benefits for employees of the Community and its departments, divisions and enterprises.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 2, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-53. Policy.

(a) The Community utilizes a combination of insurance and self-insurance to provide workers' compensation coverage and to administer its workers' compensation program in accordance with Community law.

(b) The Community provides workers' compensation and other applicable benefits when employees suffer a work-related injury or death arising out of and occurring in the course and scope of employment with the Community.

(c) The Community provides workers' compensation benefits through an administrative system that allows qualifying employees and their dependents to obtain prompt medical treatment and fair, adequate and reasonable income benefits without incurring the costs and delays of litigation.

(d) The Community provides workers' compensation benefits through an administrative system to restore qualifying employees physically and economically to self-sufficient status in a reasonably expeditious manner and to the greatest extent practicable.

(e) The Community's workers' compensation program constitutes the sole and exclusive source and means by which employees and their dependents may seek and qualify for remedies for work-related injuries or death arising out of and occurring in the course and scope of employment with the Community.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 3, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-54. Scope.

(a) This article applies to all employees of the Community and its departments, divisions and enterprises.

(b) All employees of the Community, as defined in section 23-55, are covered by this article for compensable injuries, whether the compensable injuries occurred on or off the Community.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 4, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-55. Definitions.

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

Administrator means the third party entity that is responsible for managing the workers' compensation program. The administrator's responsibilities include, but are not limited to:

(1) Determining the compensability of claims;

(2) Making payments to injured workers, medical providers and others;

(3) Managing a trust account, if deemed appropriate for the purpose of dispensing the Community's workers' compensation payments; and

(4) Making reports to the Community regarding its program and individual claims.

The administrator's duties are more fully described in section 23-58.

Claimant means any employee or dependent who files a claim with the administrator for benefits under this article.

Community means the Salt River Pima-Maricopa Indian Community, a federally recognized Indian tribe, and all of its departments, divisions and enterprises.

Compensable injury means a work related injury to an employee, whether on or off the premises of the Community, that results in:

(1) Medical treatment, with or without lost work time; or

(2) The employee's death.

Council means the Community Council, the governing body of the Community.

Days means calendar days, unless otherwise provided.

Dependent means the spouse, parent, child, grandparent, stepparent, grandchild, sibling, half-sibling, niece, nephew or other extended family member or good faith member of the household of the employee who can prove through verifiable evidence that he or she was actually and necessarily dependent in whole or in part upon the earnings of the employee at the time of the employee's death caused by a compensable injury. The administrator shall verify that a claimed dependent qualifies for dependent status under this definition before administering dependency benefits under this article.

Designated workers' compensation liaison means the persons or entities that the Community and its departments, divisions and enterprises designate to accept incident reports and transfer them to the administrator. The Community government and each Community enterprise shall have a designated workers' compensation liaison.

Disability means an employee's incapacity, because of a work-related injury, to earn wages performing his or her job functions.

Employee.

(1) The term "employee" means a person employed by or in the service of the Community, its departments, divisions or enterprises under any appointment or contract for hire or apprenticeship, express or implied, oral or written, where the Community has the power or right to control and direct such individual, whether such individual receives a salary or wages or is a volunteer.

(2) The term "employee," for purposes of this article, does not include contractors, board or committee members or outside consultants.

Employer means the Community as defined in this article.

Impairment means any anatomic or functional abnormality or loss.

Incident means an event that causes impairment.

Independent medical examination (IME) means a medical examination and/or evaluation of the claimant scheduled by the employer or administrator, at the employer's expense, for the purpose of obtaining a medical opinion or information. The administrator may order an IME at its discretion, but normally shall order an IME when a medical dispute arises under a claim, or when the compensatory nature of an alleged injury is dependent upon a medical determination.

Managerial reviewer means a person or group of persons designated by the third party administrator to conduct an independent review of the final administrator decision issued by the claims examiner.

Mental injury means a mental, emotional, psychotic or neurotic injury, illness or condition.

Occupational disease means a disease caused by employee's performance of his or her job duties where all six of the following requirements exist:

(1) There is a direct causal connection between the conditions under which the work was performed and the occupational disease;

(2) The disease can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment;

(3) The disease can be fairly traced to the employment as the proximate cause;

(4) The disease does not come from a hazard to which workers would have been equally exposed outside of the employment;

(5) The disease is incidental to the character of the business and not independent of the relations of the employer and employee; and

(6) The disease, after its contraction, appears to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, although it need not have been foreseen or expected.

Permanent impairment means any impairment that the health care provider considers stable or nonprogressive upon evaluation after maximum medical rehabilitation has been achieved.

Permanent partial disability means as defined in section 23-61(d)(2).

Permanent total disability means as defined in section 23-61(d)(1).

Physician means a physician or surgeon holding an M.D. or D.O. degree, or a psychologist, acupuncturist, optometrist, dentist, podiatrist or chiropractic practitioner licensed under state law and practicing within the scope of his or her licensure.

Spouse means the husband or wife of the employee who was married to the employee at the time of the death caused by a compensable injury, and whose marriage is duly recognized by the laws of the state or the Community.

Temporary partial disability means as defined in section 23-61(c)(2).

Temporary total disability means as defined in section 23-61(c)(1).

Work-related injury.

(1) The term "work-related injury" means:

a. An impairment caused by an incident arising out of and occurring in the course and scope of employment;

b. An impairment caused by the willful act of a third person or third party directed against an employee during employment with the Community; or

c. An occupational disease arising out of and occurring in the course and scope of employment.

Work-related injuries under this section shall be either: specific, which means that the injury is a result of one incident or exposure that causes disability or a need for medical treatment; or cumulative, which means that the injury is a result of repetitive activities extending over a period of time that cause disability or a need for medical treatment. The date of a cumulative injury is the date upon which the employee first suffered the disability or need for medical treatment and knew, or in the exercise of reasonable diligence should have known, that the disability or need for medical treatment was caused by his or her present or prior employment.

(2) The term "work-related injury" does not include injuries caused by the acts identified in section 23-60. Mental injuries shall not be considered work-related injuries and shall not be compensable pursuant to this chapter unless an unexpected, unusual or extraordinary stress related to the employment, or a physical injury related to the employment, was a substantial contributing cause of the mental injury. Examples of mental injuries that are not considered work-related injuries and are not compensable pursuant to this chapter include, without limitation, mental injuries caused by good faith, nondiscriminatory employment actions, including termination and discipline of an employee.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 5, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-56. Exclusive remedy.

(a) The recovery of workers' compensation benefits pursuant to this article shall be the sole and exclusive remedy for all employees of the Community (including their dependents) for any liability or claims arising from any work-related injury, including death resulting from any work-related injury.

(b) The liability of the Community for any work-related injury, including death resulting from any work-related injury, shall be limited to the benefits available to claimants under this article. The Community shall not be liable for damages at common law or by statute. Such liability shall not be expanded except by amendment of this article by the council.

(c) Nothing in this article shall be deemed or construed as a waiver of the Community's sovereign immunity. The Community objects to and does not consent to the jurisdiction of:

(1) The state, including its statutory workers' compensation system and the industrial commission of the state;

(2) Any other state or municipality; or

(3) Any court of law or equity, including the Community court.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 6, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-57. Reporting obligations.

(a) The duty to report a work-related injury or death shall remain with the employee or surviving dependents until a supervisor or manager of the employee receives a report of the work-related injury or death from the employee, the surviving dependents or an authorized representative.

(b) Employees or their authorized representatives must report any work-related injury, no matter how slight, to a supervisor, higher level manager or the designated workers' compensation liaison immediately, but in no event more than 72 hours after the date of the work-related injury.

(c) Surviving dependents or their authorized representatives must report any employee death to a supervisor, higher level manager or the designated workers' compensation liaison within 30 days of the date of death.

(d) A supervisor or manager of an employee who receives a report of a work-related injury from an employee or an employee's authorized representative must present an initial report of injury to the designated workers' compensation liaison promptly, but in no event more than 90 days after the date of the work-related injury.

(e) The designated workers' compensation liaison must report a work-related injury to the administrator promptly, but in no event more than 14 days after receiving an initial report of injury.

(f) Notwithstanding any provision of this section, the time for reporting a work-related injury or death shall not begin to run until:

(1) The employee or surviving dependent is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the work-related injury or death and the employment; and

(2) The employee or surviving dependent is physically and mentally capable of reporting the work-related injury or death. Employees and surviving dependents will be presumed to be physically and mentally capable of meeting the reporting requirements unless they provide bona fide medical certification of their physical or mental incapability.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 7, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-58. Third party administrator.

The administrator will act on behalf of the Community in receiving, processing, and administering workers' compensation claims, including the payment of benefits, under this article. The responsibility of the administrator to make determinations and decisions includes, but is not limited to, the following:

(1) Based upon investigation and available information, the administrator will make a determination of the responsibility of the employer and will either accept or deny a claim. Within 90 days of receipt of an initial report of injury or death, the administrator will advise the claimant and employer of its determination or the necessity of postponing the decision for another 90-day period to obtain sufficient information to render a decision.

(2) The administrator will determine the reasonableness and necessity of medical care and charges and will determine the amounts payable under this article. The administrator will also approve or disapprove any request for a change of treating physician, referral to a physician or surgical procedure.

(3) The administrator will retain medical control for the life of the claim.

(4) The administrator will determine when the claimant has reached the point where no further material improvement from medical treatment would reasonably be expected, at which point the administra-

tor shall issue a determination that the claimant has reached the point of maximum medical improvement.

(5) Based on information supplied by the employer and/or claimant, the administrator will determine the compensation rate payable for temporary total disability, temporary partial disability, permanent partial disability, and/or permanent total disability (as defined in section 23-61(c) and (d)).

(6) The administrator will determine the eligibility of dependents and the terms of any dependency benefits payable.

(7) In the event of the need to allocate dependency benefits between dependents living in different households, the administrator will make the necessary allocation based on the obligations, legal or otherwise, of the decedent.

(8) If a claimant's claim is subject to the limitations of section 23-98, statute of limitations, the administrator shall advise the claimant and employer of the effect of the limitations in writing.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 8, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-59. Independent medical examination, assignment of treating physician and duty to submit to medical treatment.

(a) Whenever a claim for benefits under this article has been made, the claimant shall, upon the written request of the administrator, submit at reasonable intervals to an IME by a practicing physician provided and paid for by the employer.

(b) If the claimant unreasonably fails to appear for a scheduled IME, the responsibility of the employer for payment of medical expenses and/or other benefits relative to the workers' compensation claim shall cease until such time as the claimant appears for the IME.

(c) The employer, through its administrator, retains full control over claimant's medical treatment for the duration of the claim. This shall include, without limitation, sole discretion to assign or reassign claimant's treating physician, as well as to approve or deny any request for a change of treating physician or other medical provider.

(d) The administrator may reduce, suspend or terminate the compensation of a claimant who persists in unsanitary or injurious practices tending to imperil or impede his or her recovery, or who refuses to submit to medical or surgical treatment reasonably necessary to promote the claimant's recovery.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 9, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-60. Acts outside course or scope of employment.

(a) Employees determined to have been acting outside the course or scope of their employment when the incident giving rise to the work-related injury occurred shall be denied any benefits under this article.

(b) An incident that occurs while the employee is commuting to or from work does not arise out of or occur within the course and scope of employment.

(c) The Community shall not be legally liable for any injury, disease or death sustained by an employee in any of the following situations:

(1) Where alcohol intoxication or the improper or unlawful use of a controlled substance causes or contributes to the incident that gives rise to the injury, disease or death;

(2) Where the employee is under the influence of any substance that impairs the ability of the employee to perform his or her work duties in a safe manner;

(3) Where the employee has willfully and deliberately caused his or her own injury, disease or death;

(4) Where the injury, disease or death arises out of an altercation in which the injured employee is the initial physical aggressor;

(5) Where the injury, disease or death is caused by the commission of a criminal act by the employee;

(6) Where the injury, disease or death arises out of voluntary participation in any off-duty recreational, social or athletic activity not constituting a part of the employee's work-related duties, including but not limited to, voluntary intramural sporting events or activities sponsored by the employer;

(7) Where the injury, disease or death is predominantly (greater than 50 percent) caused by a preexisting condition or injury, whether or not work related;

(8) Where the injury, disease or death is actually or proximately caused by the inhalation of secondhand smoke;

(9) Where an injury is diagnosed as reflex sympathetic dystrophy (RSD) or complex regional pain syndrome (CRPS);

(10) Where the injury, disease or death is caused by an act of God, except when the employee's course and scope of work places the employee at greater risk of injury, disease or death than the general population during the act of God; or

(11) Where the injury, disease or death results from natural causes or other causes which are not caused by an employee's course and scope of work.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 10, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-61. Benefits.

(a) *Guidelines for calculating to be enacted; reviewed; adjusted.* Within 90 days of the date of enactment of this article, the administrator shall prepare written guidelines for calculating the amount of compensation benefits to be paid under this article, and these written guidelines may be comparable to benefits mandated for employees by the industrial commission of the state.

(1) The written guidelines shall not be effective until approved by a majority vote of the council.

(2) Every three years from the date of enactment of this article, the administrator shall review and adjust, if appropriate and necessary, the written guidelines for calculating the amount of compensation benefits to be paid under this article. Any adjustments to the written guidelines shall not be effective until approved by a majority vote of the council.

(b) *Customary medical and supportive care costs.*

(1) Usual and customary medical and supportive care costs will be provided under this article and may be comparable to those established by the state industrial commission. Unless there are extenuating circumstances, the administrator must preapprove medical services and providers.

(2) Supportive care is available after the claimant has reached the point of maximum medical improvement, and active medical treatment has ceased. Supportive care includes treatment for reducing pain or other care used to maintain the status quo after the claimant has reached the point of maximum medical improvement.

(c) *Temporary total and partial disability benefits.*

(1) Temporary total disability exists when the claimant is under active medical care and the work-related injury prevents the claimant from working at all.

(2) Temporary partial disability exists when the claimant is cleared by his or her medical provider to engage in some form of work-related activity while active medical care continues for the work-related injury.

(3) Temporary total and partial disability benefits will be provided under this article and may be comparable to those established by the laws of the state for comparable workers' compensation injuries, including any applicable schedules for the determination of temporary total or temporary partial disability benefits used by the industrial commission of the state. However, nothing herein shall mandate that the Community provide the same benefits recoverable under state law.

(4) Except for severe injuries that usually require extended recuperation (e.g., severe burns, amputations and major surgeries), temporary disability benefits shall not extend beyond 104 weeks. For severe injuries, temporary disability benefits shall not extend beyond 234 weeks.

(d) *Permanent total and partial disability benefits.*

(1) Permanent total disability exists when, after the administrator has determined that a claimant has reached the point of maximum medical improvement, the claimant's actual or presumed ability to engage in gainful employment is absent because of a work-related injury.

(2) Permanent partial disability occurs when, after the administrator has determined that the claimant has reached the point of maximum medical improvement, the claimant's actual or presumed ability to engage in gainful employment is reduced because of a work-related injury.

(3) Permanent partial disability benefits.

a. In determining the percentages of permanent partial disability, the administrator shall take into account the nature of the impairment, the occupation of the injured worker and the claimant's age at the time of the injury, with consideration given to the diminished ability of the claimant to compete in an open labor market within the Community or the surrounding county within which the claimant's job is located.

b. It is the intention of this article that the laws of the state for comparable workers' compensation injuries, including any applicable schedules for the determination of permanent total or permanent partial disability benefits used by the industrial commission of the state, may be used for guidance in determining permanent total or permanent partial disability benefits. However, nothing herein shall mandate that the Community provide the same benefits recoverable under state law.

c. In no event shall permanent partial disability for any and all work-related injuries combined exceed an aggregate total of 100 percent (i.e., it shall not be greater than permanent total disability).

(e) *Vocational rehabilitation.* If the claimant, because of a permanent disability, whether partial or total, is unable to return to either:

(1) His or her usual and customary work; or

(2) A permanent modified or alternate position, the Community will work with the claimant, as the administrator deems reasonably appropriate, to provide vocational rehabilitation services to assist the claimant to return to gainful employment. Claimants who fail or refuse to avail themselves of vocational rehabilitation services offered by the administrator may have their benefits under this article reduced or terminated.

(f) *Modified duty.* The Community will, within one year from the date of enactment of this article, adopt modified duty return to work policies and programs. The Community government and each division and enterprise of the Community shall adopt a modified duty return to work policy that meets the needs of its respective entity.

(g) *Aggravation of preexisting condition.* For purposes of permanent partial or permanent total disability caused by the aggravation of a preexisting condition, the amount of the award for that disability may be reduced or denied in its entirety by the administrator based upon the following:

(1) A prior settlement or award from any source for the preexisting condition; and

(2) The difference between the degree of disability of the claimant before the work-related injury and the claimant's present degree of disability.

(h) *Dependency benefits.*

(1) In case of a work-related injury causing death within three years from the date of the injury, benefits shall be payable to the employee's surviving dependents. The administrator shall determine whether the surviving dependents are qualified to receive benefits under this article, including whether the surviving dependents were necessarily totally or partially dependent upon the employee at the time of the employee's death.

(2) Upon request, a person seeking dependency benefits must furnish the administrator with proof, satisfactory to the administrator, of the nature, amount and extent of the contribution employee made to the surviving dependent's support.

(3) It is the intention of this article that state law for survivor benefits, including any applicable schedules for the determination of such benefits used by the industrial commission of the state, may be used for guidance in determining dependency benefits. However, in no event shall the aggregate total amount payable to the surviving dependents exceed $750,000.00.

(i) *Compensation limits.* In no event shall compensation payable to a claimant pursuant to this article exceed $1,250,000.00.

(j) *No compensation after death or retirement.* Compensation benefits paid to a claimant under this article shall cease upon the claimant's death or after the actual retirement of the claimant or after the claimant reaches age 65, whichever is sooner.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 11, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-62. Amendment.

This article may be amended in accordance with applicable Community law.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 19, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Secs. 23-63—23-82. Reserved.

DIVISION 2. DISPUTE RESOLUTION; APPEAL AND SETTLEMENT

Sec. 23-83. Final administrator determination.

When a final written determination has been made on a claim by the administrator, the final written determination shall include the following:

(1) A statement informing the claimant that this is a final written determination;

(2) A statement informing the claimant of his or her right to a managerial review;

(3) A statement explaining where a managerial review request should be sent; and

(4) A statement explaining that a managerial review request must be received by the administrator within 30 days of issuance of a final written determination.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(a), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-84. First level of appeal; administrator managerial review.

A managerial review request must be made in writing within 30 days of the administrator's issuance of the final written determination.

(1) The managerial review request must state in detail the basis for any disagreement with the administrator's determination.

(2) Requests for managerial review shall be made directly to the administrator.

(3) The managerial reviewer shall issue a decision in writing via certified mail to all managerial review requests within a reasonable time, not to exceed 60 days.

(4) This final managerial determination must include the following:

a. A statement informing the claimant that this is a final written managerial determination;

b. A statement informing the claimant of his or her right to file an appeal with the Community's workers' compensation appeals board;

c. A statement explaining where an appeal to the Community's workers' compensation appeals board should be sent; and

d. A statement explaining that an appeal must be received by the Community's workers' compensation appeals board within 30 days of receipt of a final written managerial determination.

In general, a claimant may not file a written request for a hearing with the Community's workers' compensation appeals board until after the claimant has received a final managerial determination. The limited exceptions to this general rule are set forth in section 23-85(b).
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(b), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-85. Final appeal; Community's workers' compensation appeals board.

(a) Within 30 days of receiving a final managerial determination, a claimant who disagrees with a final written determination made by the managerial reviewer may file a written request for a hearing before the Community's workers' compensation appeals board (appeals board).

(b) A claimant may also request a hearing before the appeals board:

(1) To address the administrator's failure to issue a written determination if, through no fault of the claimant's own, the administrator does not issue a written determination within 90 days of receipt of an initial report of a work-related injury or death;

(2) To address the administrator's failure to issue a written determination if, through no fault of the claimant's own, the administrator does not issue a written determination within 180 days of receipt of an initial report of a work-related injury or death, after the administrator has exercised the option to postpone the issuance of a written determination for 90 days; or

(3) To appeal the administrator's final written determination directly to the appeals board if, through no fault of the claimant's own, the managerial reviewer does not issue a final written determination within 60 days of receipt of a request for managerial review.

Any request for a hearing before the appeals board that is made pursuant to subsection (b)(1), (2) or (3) of this section must be filed within 30 days of the relevant lapsed deadline.

(c) A claimant who requests a hearing before the appeals board must include the following in his or her written request:

(1) The name, address and phone number of the claimant;

(2) A brief summary of the relevant facts;

(3) A brief statement of the disputed issue; and

(4) A brief statement of the relief sought.

(d) Failure by a claimant to request an appeal hearing within the timeframe specified in this article renders the previous decision by the administrator or the managerial reviewer final.

(e) A hearing before the appeals board shall be held within 90 days of receipt of a request for a hearing. The claimant may request, in writing, one extension of the hearing date for up to 90 days, which shall be granted by the appeals board.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(c), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-86. Composition of the appeals board.

(a) The Community Council shall appoint a hearing officer to serve as the appeals board. This hearing officer shall hear any issues and make any necessary final determinations that may arise under this article.

(b) The hearing officer shall be appointed by the Community Council for a two-year term and shall be an attorney licensed within the state who has either previous judicial experience or previous experience in the area of workers' compensa-

tion. The hearing officer shall not be an employee of the Community and shall serve in an objective and independent manner.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(c), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-87. Requests for appeal.

(a) Requests for appeal may be sent to:

Salt River Pima-Maricopa Indian Community

Workers' Compensation Appeals Board

c/o Office of the Treasurer, Risk Management Division

10005 East Osborn Road

Scottsdale, Arizona 85256

(b) A copy of an appeal request must also be sent to Community's office of the general counsel at the following address:

Salt River Pima-Maricopa Indian Community

Office of the General Counsel

10005 East Osborn Road

Scottsdale, Arizona 85256

Written appeal requests must be delivered by certified mail or via personal delivery.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(d), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-88. Notice of hearing date.

The appeals board shall send written notice to each party informing them of the hearing date at least 30 days prior to the hearing.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(e), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-89. Discovery.

(a) All medical reports relating to the claimed injury, disease or death must be filed with the appeals board and served by U.S. first class mail or hand delivery on all parties at least 15 days prior to the hearing date, if the reports have not been previously disclosed.

(b) Either party may request, in writing, disclosure of statements from witnesses, if any such statements exist, at least 15 days prior to the hearing date.

(c) Upon written request by a party, depositions may be ordered by the appeals board.

(1) Each party may request that the appeals board order the deposition of up to two individuals.

(2) The appeals board may, upon showing of good cause, allow a party to exceed its deposition limit and depose more than two individuals.

(3) The appeals board shall have authority in the appeals board's absolute discretion to order depositions of any number of party witnesses, including current employees of the Community.

(4) Attorneys' fees and costs associated with a deposition shall be borne by the party requesting the deposition.

(5) Claimant's refusal to submit to any deposition ordered by the appeals board may be grounds for denial of the appeal.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(f), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-90. Conduct of hearing.

The appeals board shall consider evidence, hear witnesses and receive exhibits in keeping with its goal of making a just and final determination.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(g), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-91. Standard of proof.

The appeals board shall weigh the evidence, testimony of witnesses and exhibits, and make its

decision based on the preponderance of the evidence and credibility of the evidence and witnesses.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(h), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-92. Burden of proof.

The burden of proof in any hearing before the appeals board shall be on the claimant.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(i), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-93. Right to counsel.

Both the Community and the claimant may have legal representation, including licensed attorneys, during the appeals process and at any hearing before the appeals board. The parties will each bear the fees and costs associated with their own legal representation.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(j), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-94. Applicable law.

(a) Any claim brought under this article shall be determined in accordance with the laws of the Community and the principles of law applicable to similar claims arising under applicable federal law. To the extent that Community law differs from applicable federal law, then the applicable federal law shall govern.

(b) The state workers' compensation laws, including applicable common law authority and regulations, may be used as a nonbinding source of guidance at the appeals board's sole discretion. Any use of state statutory law for guidance shall be liberally construed in favor of the employer.

(c) The use of federal, state or other case law as a source for guidance shall not be deemed or construed as a waiver of the Community's sovereign immunity.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(k), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-95. Final decision.

(a) Within 30 days of the hearing, the appeals board shall issue a written decision on the matter with copies of the decision mailed to all interested parties.

(b) The decision shall generally review the evidence and testimony and may compare the merits of the evidence or testimony of the opposing parties. The decision shall state the final determination of the appeals board on all issues before it.

(c) All decisions of the appeals board are final. There shall be no right to judicial review.

(d) Except as provided in section 23-96, no attorneys' fees, costs or punitive damages, including but not limited to, punitive damages awards for:

(1) Delay in payment of benefits;

(2) Serious and willful misconduct; or

(3) Discrimination against an injured employee, shall be awarded to any claimant.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(l), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-96. Claimant's attorneys' fees.

In a proceeding before the appeals board in which an attorney employed by the claimant has rendered services reasonably necessary in processing the claim, the appeals board, may, upon application from the claimant, order that a reasonable portion of the claimant's award be paid to the attorney as the attorney's fee.

(1) The attorney's fee shall not exceed 25 percent up to ten years from the date of the award. In cases involving solely loss of earning capacity, the maximum shall be 25 percent up to five years from the date of the final award.

(2) When the payment of the award to the claimant is made in installments, or in any manner other than a lump sum man-

ner, no more than 25 percent of the payment amount may be withheld from any single payment for the attorney's fee.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(m), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-97. Effect of request for hearing.

(a) During the pendency of the appeal, the claimant shall continue to receive all benefits approved by the administrator in its original written decision but shall not receive any new benefits claimed before the appeals board, unless and until the appeals board has issued a final written decision awarding additional benefits.

(b) Payments made to the claimant during the pendency of the action shall not be recouped or recovered by the administrator or the employer, except in the situations described in section 23-102.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 12(n), 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-98. Statute of limitations.

(a) The right to benefits under this article shall be barred if the reporting obligations described in section 23-57(b) and (c) are not met.

(b) A determination that is not appealed timely pursuant to the terms of sections 23-83 through 23-85 will render the determination final.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 13, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-99. Settlement and release.

Nothing in this article shall impair the parties' ability to settle any claim arising under this article, subject to the provisions herein. After reaching a settlement, a copy of the settlement agreement and release, signed by the parties must be sent to the Community's office of the general counsel at the address listed in section 23-87(b). If the settlement is negotiated by the administrator, then it shall be presented to the Community or its representative for approval. If approved, the administrator shall enter an award based on the release or compromise agreement.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 14, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-100. Claim closure.

The administrator shall close a claim when it determines any of the following:

(1) The claimant is not entitled to benefits under this article;

(2) All benefits payable under this article have been paid;

(3) The claimant unreasonably has failed to submit to medical treatment or has abandoned reasonable medical treatment; or

(4) Any other reason permitted under this article.

(Code 2012, art. III; Ord. No. SRO-384-2011, § 15, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-101. Claim reopening and rearrangement.

(a) The claimant may seek to reopen a previously accepted claim to secure an increase or rearrangement of benefits by filing with the administrator a petition requesting reopening of the claim no more than three years after the most recent final permanent disability award was entered on the claim.

(b) No petition to reopen shall be considered except upon proof of a new, additional or previously undiscovered temporary or permanent condition. The petition shall be accompanied by a statement from a physician setting forth the physical condition of the claimant relating to the claim.

(c) The Community retains jurisdiction to rearrange any permanent disability benefits award at any time, if the administrator determines that the claimant's earning capacity has increased or decreased. Among the bases the administrator

may consider in making this determination is proof of any change in the claimant's physical condition affecting his or her earning capacity.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 16, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-102. Recovery of payments made due to error, mistake, erroneous adjudication, fraud, etc.

(a) Whenever any payment of benefits under this article has been made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstances of a similar nature not induced by fraud, the recipient thereof shall repay it.

(1) The administrator must make a claim for such repayment or recoupment within one year of making any such payment, or it will be deemed that the claim has been waived.

(2) Upon the approval of the Community, or a designated representative, the administrator may waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(b) Whenever the administrator has made any payment of benefits under this article pursuant to a determination, and a timely appeal therefrom has been made which results in a final decision that the claimant is not entitled to such payments, the claimant shall repay such sums. Subject to approval by the Community or its authorized representative, the administrator may waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(c) Whenever any payment of benefits under this article is found by the appeals board to be induced by fraud or misrepresentation, the recipient thereof shall repay any such benefits together with a penalty of up to 50 percent of the total of any such payments. The administrator must make a claim for such repayment or recoupment within one year after discovery of the fraud or misrepresentation, or such claim shall be deemed waived.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 17, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Sec. 23-103. Claim files and records confidentiality.

(a) Information kept in the administrator's claims files and records for any claimant under the provisions of this article shall be deemed the property of the Community, shall be treated as strictly confidential and shall not be open to public inspection.

(b) Claimants or their authorized representatives may review a claims file or receive specific, nonprivileged information therefrom upon the presentation of a signed written authorization from the claimant or authorized representative.

(c) The employer or its authorized representative may review any claims files of any claimant in connection with any pending claims filed under this article.

(d) Treating or examining physicians of employees seeking benefits under this article, or physicians giving medical advice to the administrator regarding any claim hereunder, may, at the discretion of the administrator, inspect the relevant employees' claims files and records.

(e) Employees or authorized agents of the Community may make a claims file inspection, at the administrator's discretion, when they are rendering assistance to the administrator at any stage of the proceedings on any matter pertaining to administration of this article.

(f) The information contained in claims files and records is the property of the Community and is not subject to discovery for any purpose not expressly authorized by this article. Further, nothing in this article is intended to grant any federal, state, administrative or other court, other than the appeals board, jurisdiction to compel production and discovery of such claims files and records.
(Code 2012, art. III; Ord. No. SRO-384-2011, § 16, 8-17-2011; Ord. No. SRO-402-2012, 5-30-2012)

Secs. 23-104—23-134. Reserved.

ARTICLE IV. RETIREMENT/BENEFIT COMPLIANCE AND ADVISORY COMMITTEE

Sec. 23-135. Definitions.

The following words, terms and phrases, when used in this article, 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 Community Court as established pursuant to the Constitution of the Community.
(Code 2012, § 2-151; SRO 388-2012, § 85(I), 11-30-2011; Ord. No. SRO-402-2012, § 1-151, 5-30-2012)

Sec. 23-136. 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, section 404(a) and (c), fiduciary duties, and section 503, participant claims procedures, subject to the following modifications:

(1) The 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 the 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 article, 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 23-55(f). The Community also asserts its right to seek a waiver of any such conflicting requirements as provided in Executive Order 13175, section 23-56.

(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 article shall not be construed as a waiver if 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) The 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 section 23-136(a)(1) and (4) shall apply to the fullest extent permitted under law.

(4) The Community shall receive relief from current and future regulations under ERISA and the Code that were not (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; SRO 388-2012, § 85(II), 11-30-2011; Ord. No. SRO-402-2012, § 1-152, 5-30-2012)

Chapter 24

BUSINESS AND COMMERCE

Article I. Limited Liability Company Act

Sec. 24-1. Short title.
Sec. 24-2. Purpose.
Sec. 24-3. Definitions.
Sec. 24-4. Knowledge; notice.
Sec. 24-5. Nature, purpose, and duration of limited liability company.
Sec. 24-6. Powers; limitations.
Sec. 24-7. Governing law.
Sec. 24-8. Name.
Sec. 24-9. Operating agreement; scope, function, and limitations.
Sec. 24-10. Office and agent for service of process.
Sec. 24-11. Service of process.
Secs. 24-12—24-40. Reserved.

Article II. Formation and Certificate of Organization

Sec. 24-41. Formation of limited liability company; certificate of organization.
Sec. 24-42. Amendment or restatement of certificate of organization.
Sec. 24-43. Certificate of existence.
Secs. 24-44—24-74. Reserved.

Article III. Relations of Members and Managers to Persons Dealing With Limited Liability Company

Sec. 24-75. No agency power of member as member.
Sec. 24-76. Liability of members and managers.
Sec. 24-77. Privileges and immunities.
Sec. 24-78. Waiver of sovereign immunity.
Secs. 24-79—24-99. Reserved.

Article IV. Membership, Contributions, Distributions and Management

Sec. 24-100. Membership; actions by members.
Sec. 24-101. Contributions.
Sec. 24-102. Distributions.
Sec. 24-103. Limitations on distribution.
Sec. 24-104. Liability for improper distributions.
Sec. 24-105. Management of limited liability company.
Sec. 24-106. Indemnification and insurance.
Sec. 24-107. Right of members to information.
Sec. 24-108. Audit.
Secs. 24-109—24-129. Reserved.

Article V. Transfer of Membership Interest

Sec. 24-130. Transfer.
Secs. 24-131—24-158. Reserved.

Article VI. Dissolution and Winding Up

Sec. 24-159. Events causing dissolution.

Sec. 24-160. Winding up.
Sec. 24-161. Known claims against dissolved limited liability company.
Sec. 24-162. Other claims against dissolved limited liability company.
Sec. 24-163. Limitations of claims in dissolution.
Sec. 24-164. Distribution of assets in winding up limited liability company's activities.
Secs. 24-165—24-181. Reserved.

Article VII. Merger, Conversion, and Domestication

Sec. 24-182. Definitions.
Sec. 24-183. Merger.
Sec. 24-184. Plan of merger.
Sec. 24-185. Effect of merger.
Sec. 24-186. Conversion.
Sec. 24-187. Plan of conversion.
Sec. 24-188. Effect of conversion.
Sec. 24-189. Domestication of foreign limited liability company.
Sec. 24-190. Plan of domestication.
Sec. 24-191. Effect of domestication.
Sec. 24-192. Status of limited liability companies upon merger, conversion, and domestication.
Sec. 24-193. Domestication in other jurisdiction.

ARTICLE I. LIMITED LIABILITY COMPANY ACT

Sec. 24-1. Short title.

This Act may be cited as "the Salt River Pima-Maricopa Indian Community Limited Liability Company Act" (the Act).
(Code 1981, § 24-1(a); Code 2012, § 24-1(a); Ord. No. SRO-352-10, § 23-2-101, 10-14-2009; Ord. No. SRO-402-2012, § 24-1(a), 5-30-2012)

Sec. 24-2. Purpose.

The purposes of this Act are to:

(1) Permit the Community Council, on behalf of the Community and its members, to form or approve the formation of limited liability companies wholly owned by the Community or Community-controlled enterprises, so as to provide for the health, welfare, safety, and economic well-being of the Community and its members and to further exercise the Community's sovereignty; and

(2) Regulate the formation and operation of limited liability companies.

(Code 1981, § 24-1(b); Code 2012, § 24-1(b); Ord. No. SRO-352-10, § 23-2-101, 10-14-2009; Ord. No. SRO-402-2012, § 24-1(b), 5-30-2012)

Sec. 24-3. Definitions.

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

Certificate of organization means the certificate required by section 24-41. The term "certificate of organization" includes the certificate as amended or restated.

Community means the Salt River Pima-Maricopa Indian Community, a federally recognized Indian Community.

Community-controlled enterprise means any division or subdivision of the Community or any federally chartered corporation, Community-chartered corporation or limited liability company, or other Community-chartered entity, instrumentality, or unincorporated enterprise that is wholly owned by the Community or wholly owned by another Community-controlled enterprise.

Community Council or *council* means the governing body of the Community.

Contribution means any benefit provided by a person to a limited liability company in order to become a member upon formation of the limited liability company, or in the person's capacity as a member and in accordance with the operating agreement or an agreement among the members or between the member and the limited liability company.

Council secretary means the person appointed by the Community Council to maintain the records of the Community and perform such other duties as the Community Council may prescribe.

Distribution means a transfer of money or other property from a limited liability company to a member or other person on account of a membership interest.

Effective means the effective date specified in any ordinance, resolution, or other act of the Community Council, or if no effective date is so specified, the date on which the ordinance, resolution, or other such act is adopted, ratified, or approved by the council.

General counsel means the general legal counsel for the Community.

Limited liability company or *company* means an entity formed under this Act.

Manager means a person that, under the operating agreement of a manager-managed company, is responsible, alone or in concert with others, for managing the company as provided in section 24-105(c).

Manager-managed company means a limited liability company that is managed by one or more managers and is designated as manager-managed pursuant to section 24-105(a).

Member means the person holding an ownership interest in a limited liability company and acting in the capacity as a member of the limited liability company pursuant to section 24-100.

Member-managed company means a limited liability company that is not a manager-managed company.

Membership interest means the right to obtain distributions from a limited liability company and such other rights of ownership in the company, as may be accorded by this Act or the operating agreement.

Operating agreement means a written statement, declaration, or agreement, whether or not referred to as an operating agreement, governing the affairs of the company and the conduct of its business. The term "operating agreement" includes the agreement as amended or restated.

Person means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

Principal office means the principal executive office of a limited liability company, whether or not the office is located within the reservation.

Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Reservation means all lands within the exterior boundary of the Community, now existing or hereafter acquired by the Community in fee or trust.

State means a state of the United States; a federally recognized Indian tribe, Community, or nation; the District of Columbia; or any territory or insular possession subject to the jurisdiction of the United States.
(Code 1981, § 24-2; Code 2012, § 24-2; Ord. No. SRO-352-10, § 23-2-102, 10-14-2009; Ord. No. SRO-402-2012, § 24-2, 5-30-2012)

Sec. 24-4. Knowledge; notice.

(a) A person knows a fact when the person has:

(1) Actual knowledge of it;

(2) Received a notification of the fact; or

(3) Reason to know the fact exists from all of the facts known to the person at the time in question.

(b) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.
(Code 1981, § 24-3; Code 2012, § 24-3; Ord. No. SRO-352-10, § 23-2-103, 10-14-2009; Ord. No. SRO-402-2012, § 24-3, 5-30-2012)

Sec. 24-5. Nature, purpose, and duration of limited liability company.

(a) A limited liability company is an entity distinct from its members.

(b) A limited liability company may have any lawful purpose, regardless of whether for profit.

(c) A limited liability company has perpetual duration, unless otherwise stated in the company's certificate of organization.
(Code 1981, § 24-4; Code 2012, § 24-4; Ord. No. SRO-352-10, § 23-2-104, 10-14-2009; Ord. No. SRO-402-2012, § 24-4, 5-30-2012)

Sec. 24-6. Powers; limitations.

(a) A limited liability company may conduct or promote business and other activities, for any lawful purpose, subject to any law of the Community governing or regulating such activities, including but not limited to the power to:

(1) Subject to sections 24-77 and 24-78, sue and be sued, and defend in its name;

(2) Acquire, lease, license, manage, improve, encumber, dispose of, and otherwise deal in and with real property or tangible or intangible personal property, or any legal or equitable interest in property, wherever located;

(3) Upon prior approval by or authorization from the Community Council, be a shareholder, member, manager, partner, trustee, or associate of any corporation, limited liability company, partnership, joint venture, trust, or other entity, or acquire,

encumber, or dispose of shares or other interests in or obligations of any other entity or organization;

(4) Apply for, purchase or acquire by assignment, transfer or otherwise, and exercise, carry out and enjoy any license, power, authority, franchise, concession, right or privilege;

(5) Enter into and make contracts of every kind and nature with any person;

(6) Make distributions to the members or the persons entitled thereto, pursuant to section 24-102;

(7) Borrow and lend money for company purposes, invest and reinvest its funds, and receive, hold, or pledge real property and personal property as security for repayment;

(8) Its business, carry on its operations, have offices, and exercise the powers granted by this Act, within or without the reservation;

(9) Appoint officers, employees, and agents of the limited liability company, define their duties, and fix their compensation;

(10) Pay pensions and establish pension plans, pension trusts, profit sharing plans, bonus plans, option plans, and other benefits or incentive plans for any or all of its current or former officers, employees and agents;

(11) Make donations for the public welfare or for charitable, scientific or educational purposes;

(12) Indemnify a member, manager, employee, officer or agent or any other person; and

(13) Do any other act, not inconsistent with law, that furthers the business of the limited liability company.

(b) Unless otherwise expressly authorized by resolution of the Community Council, and subject to applicable federal and tribal law and any additional limitations set forth in the certificate of organization or operating agreement of the limited liability company, a limited liability company shall have no power to:

(1) Expressly, impliedly, or otherwise through its status or activities, waive the sovereign immunity of the Community or the Community's agents, employees, or officials, or otherwise subject the Community to debts, liabilities, other obligations, or claims arising from contract, tort, statute, regulations, licensing, taxation, or any other source;

(2) Expressly, impliedly, or otherwise enter into any agreement of any kind on behalf of the Community;

(3) Pledge the credit of the Community;

(4) Sell, mortgage, grant a security interest in, or otherwise dispose of or encumber any real or personal property of the Community, except that a limited liability company may be granted the power to encumber real property pursuant to the terms of any written lease agreement between the Community and the company;

(5) Waive any right of or release any obligation owed to the Community; or

(6) Waive any other right, privilege or immunity of the Community.

(Code 1981, § 24-5; Code 2012, § 24-5; Ord. No. SRO-352-10, § 23-2-105, 10-14-2009; Ord. No. SRO-402-2012, § 24-5, 5-30-2012)

Sec. 24-7. Governing law.

The law of the Community governs the internal affairs of a limited liability company and matters relating to the activities of the company.

(Code 1981, § 24-6; Code 2012, § 24-6; Ord. No. SRO-352-10, § 23-2-106, 10-14-2009; Ord. No. SRO-402-2012, § 24-6, 5-30-2012)

Sec. 24-8. Name.

(a) The name of a limited liability company must contain the words "limited liability company" or "limited company" or the abbreviation

"L.L.C.," "LLC," "L.C." or "LC." "Limited" may be abbreviated as "Ltd." and "company" may be abbreviated as "Co."

(b) The name of a limited liability company must be distinguishable from the name of each person that is not an individual and that is incorporated, organized, or authorized to transact business within the reservation, and must be distinguishable from the name of any Community-controlled enterprise.

(Code 1981, § 24-8; Code 2012, § 24-8; Ord. No. SRO-352-10, § 23-2-108, 10-14-2009; Ord. No. SRO-402-2012, § 24-8, 5-30-2012)

Sec. 24-9. Operating agreement; scope, function, and limitations.

(a) Unless otherwise provided in the certificate of organization or the operating agreement, an operating agreement may be adopted, and may be repealed or amended, by:

(1) The council, by resolution, ordinance, proclamation or otherwise;

(2) The governing board or an authorized agent or representative of a Community-controlled enterprise, in its capacity as a member of a limited liability company, if such person has been authorized by the Community Council, in the certificate of organization, operating agreement or otherwise, to adopt, repeal, or amend the operating agreement; or

(3) A manager of a limited liability company, if the manager has been authorized by the Community Council, in the certificate of organization, operating agreement, or otherwise, to adopt, repeal or amend the operating agreement.

(b) An operating agreement may contain any provision that is not otherwise contrary to law that relates to the business of the limited liability company, the conduct of its affairs, its rights, duties or powers and the rights, duties or powers of its members, managers, officers, employees or agents including:

(1) Whether the management of the limited liability company is vested in one or more managers and, if so, the powers to be exercised by managers;

(2) With respect to any matter requiring a vote, approval or consent of members or managers, provisions relating to notice of the time, place and purpose of any meeting at which the matter is to be voted on, waiver of notice, action by consent without a meeting, the establishment of a record date, quorum requirements, or any other matter concerning the exercise of any voting or approval rights;

(3) Obligations to make contributions to, and rights to receive distributions from, the limited liability company;

(4) Subject to section 24-130, restrictions on the transfer of a membership interest;

(5) Any matter relating to the exercise of the powers set forth in section 24-6(a), or other powers of the limited liability company.

(c) Except as otherwise provided in subsection (d) of this section, and unless a provision in this Act expressly states that a matter may not be altered by an operating agreement, the operating agreement governs and takes precedence over any differing or contrary provision in this Act.

(d) Unless otherwise provided in the certificate of organization, an operating agreement may not:

(1) Alter or modify the provisions of sections 24-6(a)(1), 24-77 and 24-78, relating to a limited liability company's capacity to sue and be sued in its own name and the company's privileges and immunities;

(2) Vary the limitations set forth in section 24-6(b) dealing with limitations of powers with respect to the Community; provided, however, the operating agreement may include additional limitations, restrictions, and conditions;

(3) Vary the law applicable under section 24-6;

(4) Vary the limitations set forth in section 24-76, relating to the liability of members and managers;

(5) Unreasonably restrict the duties and rights stated in section 24-107 relating to the rights of members to information; and

(6) Vary the requirement to wind up a limited liability company's business as specified in section 24-160(a) and (b)(1).

(Code 1981, § 24-11; Code 2012, § 24-10; Ord. No. SRO-352-10, § 23-2-110, 10-14-2009; Ord. No. SRO-402-2012, § 24-10, 5-30-2012)

Sec. 24-10. Office and agent for service of process.

Unless otherwise stated in the certificate or organization, the general counsel is the agent for service of process for each and every limited liability company formed under this Act, and as such, is the agent for service of any process, notice, or demand required or permitted by law to be served on the company.

(Code 1981, § 24-13; Code 2012, § 24-13; Ord. No. SRO-352-10, § 23-2-113, 10-14-2009; Ord. No. SRO-402-2012, § 24-13, 5-30-2012)

Sec. 24-11. Service of process.

Service of any process, notice, or demand on the agent for service of process for a limited liability company may be made by delivering to the agent an original or copy of the process, notice, or demand.

(Code 1981, § 24-16; Code 2012, § 24-16; Ord. No. SRO-352-10, § 23-2-116, 10-14-2009; Ord. No. SRO-402-2012, § 24-16, 5-30-2012)

Secs. 24-12—24-40. Reserved.

ARTICLE II. FORMATION AND CERTIFICATE OF ORGANIZATION

Sec. 24-41. Formation of limited liability company; certificate of organization.

(a) The Community Council may form or approve the formation of a limited liability company by adopting or approving a certificate of organization for the company. A limited liability company is formed as of the date the council adopts or approves the certificate of organization, unless the council specifies some other effective date or some other event or occurrence required for the formation of the company.

(b) A certificate of organization must state:

(1) The name of the limited liability company, which must comply with section 24-8;

(2) The name of the member or members; and

(3) The street and mailing addresses of the initial principal office and the name and street and mailing addresses of the initial agent for service of process of the company.

(c) A certificate or organization may also include any other provision consistent with law, including any provision that may be set forth in an operating agreement.

(Code 1981, § 24-21; Code 2012, § 24-21; Ord. No. SRO-352-10, § 23-2-201, 10-14-2009; Ord. No. SRO-402-2012, § 24-21, 5-30-2012)

Sec. 24-42. Amendment or restatement of certificate of organization.

(a) A certificate of organization may be amended or restated at any time by a resolution of the Community Council.

(b) An amendment to or restatement of a certificate of organization is effective upon approval by the Community Council, unless the Community Council specifies some other effective date.

(Code 1981, § 24-22; Code 2012, § 24-22; Ord. No. SRO-352-10, § 23-2-202, 10-14-2009; Ord. No. SRO-402-2012, § 24-22, 5-30-2012)

Sec. 24-43. Certificate of existence.

(a) Upon written request and payment of any requisite fee, the council secretary may furnish to any person a certificate of existence with respect to a limited liability company if the records of the Community show that the company has been formed under this Act and has not been dissolved or terminated pursuant to this Act.

(b) A certificate of existence must state:

(1) The company's name;

(2) That the company was duly formed under the laws of the Community, and the date of formation; and

(3) Whether the company has been dissolved or terminated.

(c) Subject to any qualification stated in the certificate, a certificate of existence issued by the council secretary is conclusive evidence that the limited liability company is in existence and has been formed under this Act.
(Code 1981, § 24-28; Code 2012, § 24-28; Ord. No. SRO-352-10, § 23-2-208, 10-14-2009; Ord. No. SRO-402-2012, § 24-28, 5-30-2012)

Secs. 24-44—24-74. Reserved.

ARTICLE III. RELATIONS OF MEMBERS AND MANAGERS TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

Sec. 24-75. No agency power of member as member.

A member is not an agent of a limited liability company solely by reason of being a member.
(Code 1981, § 24-31; Code 2012, § 24-31; Ord. No. SRO-352-10, § 23-2-301, 10-14-2009; Ord. No. SRO-402-2012, § 24-31, 5-30-2012)

Sec. 24-76. Liability of members and managers.

(a) The debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise:

(1) Are solely the debts, obligations, or other liabilities of the limited liability company, subject to sections 24-77 and 24-78; and

(2) Do not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.

(b) The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities is not a ground for imposing liability on the members or managers for the debts, obligations, or other liabilities of the company.

(c) A member or manager does not waive its immunity from suit solely by reason of being a member or manager, or by reason of the member acting as a member or manager acting as a manager.
(Code 1981, § 24-34; Code 2012, § 24-34; Ord. No. SRO-352-10, § 23-2-304, 10-14-2009; Ord. No. SRO-402-2012, § 24-34, 5-30-2012)

Sec. 24-77. Privileges and immunities.

The following apply to limited liability companies established under this Act:

(1) The limited liability company is an instrumentality of the Community, created for carrying out the authorities and responsibilities of the Community for economic development and for the benefit and advancement of Community members;

(2) The limited liability company 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 in section 24-78; and

(3) The managers, officers, employees, and agents of the limited liability company, acting in their official capacities as managers, officers, employees, and agents, are entitled to all of the privileges and immunities that may apply to the Community's officers, employees, and agents.

(Code 1981, § 24-35; Code 2012, § 24-35; Ord. No. SRO-352-10, § 23-2-305, 10-14-2009; Ord. No. SRO-402-2012, § 24-35, 5-30-2012)

Sec. 24-78. Waiver of sovereign immunity.

(a) A company's immunity from suit may only be waived as follows:

(1) The Community Council may at any time expressly waive the company's immunity from suit by written waiver, subject to the terms, conditions and limitations set forth in the written waiver.

(2) The Community Council may adopt or approve a provision in the certificate of organization or operating agreement expressly authorizing a limited liability company, or a Community-controlled enterprise in its capacity as a member or manager of a company, to specifically grant a written limited waiver of the company's immunity from suit, subject to the terms, conditions and limitations set forth in subsection (b) of this section, or any such

terms, conditions and limitations as may be set forth in the certificate of organization or operating agreement authorizing such written waiver of the company's immunity.

(b) The following terms, conditions, and limitations apply to all waivers of sovereign immunity as permitted under subsection (a)(2) of this section:

(1) The waiver must be in writing and must identify the party or parties for whose benefit the waiver is granted, the transaction or transactions and the claims or classes of claims for which the waiver is granted, the property of the company which may be subject to execution to satisfy any judgment which may be entered in the claim, and shall state whether the company consents to suit in court or to arbitration, mediation, or other alternative dispute resolution mechanism, or some combination thereof, and if consenting to suit in court, identify the court or courts in which suit against the company may be brought, or the requirements and procedures for initiating mediation or arbitration, if applicable.

(2) Any waiver shall be limited to claims arising from the acts or omissions of the company, its managers, employees, or agents, and shall be construed only to affect the property and income of the company.

(3) Nothing in this Act, and no waiver of immunity of a limited liability company pursuant to this section, shall be construed as a waiver of the sovereign immunity of the Community or any other Community-controlled enterprise, and no such waiver of a limited liability company shall create any liability on the part of the Community or any other Community-controlled enterprise for the debts and obligations of the company, or shall be construed as a consent to the encumbrance or attachment of any property of the Community or any other Community-controlled enterprise based on any action, adjudication or other determination of liability of any nature incurred by the company.

(4) The immunity of a company shall not extend to actions against the company brought by the Community, or by a Community-controlled enterprise in its capacity as a member or manager of a company, pursuant to this Act or the operating agreement.

(5) Any waiver shall comply with any such additional requirements as may be set forth in the certificate of organization, the operating agreement, or a resolution, ordinance, or other proclamation duly adopted by the Community Council.

(Code 1981, § 24-36; Code 2012, § 24-36; Ord. No. SRO-352-10, § 23-2-306, 10-14-2009; Ord. No. SRO-402-2012, § 24-36, 5-30-2012)

Secs. 24-79—24-99. Reserved.

ARTICLE IV. MEMBERSHIP, CONTRIBUTIONS, DISTRIBUTIONS AND MANAGEMENT

Sec. 24-100. Membership; actions by members.

(a) The membership interest in any limited liability company shall be held by the Community or a Community-controlled enterprise, on behalf of and for the benefit of the Community as a whole. No individual member of the Community shall have any personal ownership interest in any limited liability company, whether by virtue of such person's status as a member of the Community, as an officer of the Community, or otherwise.

(b) Any action which the Community is required or permitted to take as a member of a limited liability company with respect to any vote, approval, consent, appointment, direction, or other matter shall be taken in accordance with a council resolution, unless a different procedure is specified in the company's certificate of organization or operating agreement.

(c) Any action which a Community-controlled enterprise is required or permitted to take as a member or manager of a limited liability company with respect to any vote, approval, consent, appointment, direction, or other matter shall be taken by the governing board of the Community-controlled enterprise in accordance with the procedures set forth in the governing documents or governing law of that enterprise, unless a different procedure is specified in the company's certificate of organization or operating agreement.
(Code 1981, § 24-41; Code 2012, § 24-41; Ord. No. SRO-352-10, § 23-2-401, 10-14-2009; Ord. No. SRO-402-2012, § 24-41, 5-30-2012)

Sec. 24-101. Contributions.

(a) A person is not required to make a contribution to the limited liability company in order to become a member of the company.

(b) A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.
(Code 1981, § 24-42; Code 2012, § 24-42; Ord. No. SRO-352-10, § 23-2-402, 10-14-2009; Ord. No. SRO-402-2012, § 24-42, 5-30-2012)

Sec. 24-102. Distributions.

A limited liability company shall make distributions to the members or the persons entitled thereto as specified in the operating agreement, except that a limited liability company may retain reserves necessary to carry on the company's business in a reasonably prudent manner, subject to further limitations set forth in section 24-103 and in the operating agreement.
(Code 1981, § 24-43; Code 2012, § 24-43; Ord. No. SRO-352-10, § 23-2-403, 10-14-2009; Ord. No. SRO-402-2012, § 24-43, 5-30-2012)

Sec. 24-103. Limitations on distribution.

(a) A limited liability company may not make a distribution if after the distribution:

(1) The company would not be able to pay its debts as they become due in the ordinary course of the company's activities; or

(2) The company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.

(b) A limited liability company may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.
(Code 1981, § 24-45; Code 2012, § 24-45; Ord. No. SRO-352-10, § 23-2-405, 10-14-2009; Ord. No. SRO-402-2012, § 24-45, 5-30-2012)

Sec. 24-104. Liability for improper distributions.

A person that receives a distribution knowing that the distribution to that person was made in violation of section 24-103 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 24-103.
(Code 1981, § 24-46; Code 2012, § 24-46; Ord. No. SRO-352-10, § 23-2-406, 10-14-2009; Ord. No. SRO-402-2012, § 24-46, 5-30-2012)

Sec. 24-105. Management of limited liability company.

(a) A limited liability company is a member-managed company unless the certificate of organization or operating agreement expressly provides that the company is or will be "manager-managed" or "managed by managers," or that management is "vested in managers" or includes words of similar import.

(b) In a member-managed company:

(1) The management and conduct of the company are vested in the members.

(2) An act outside the ordinary course of the activities of the company may be undertaken only with the consent of the members.

(3) The operating agreement may be amended only with the consent of the members.

(c) In a manager-managed company:

(1) Except as otherwise expressly provided in this Act or the operating agreement, any matter relating to the activities of the company is decided exclusively by the managers.

(2) Unless otherwise provided in the operating agreement, the consent of the members is required to:

a. Sell, lease, exchange or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities;

b. Approve a merger, conversion, or domestication under this Act;

c. Undertake any other act outside the ordinary course of the company's activities; and

d. Amend the operating agreement.

(3) A manager may be chosen at any time by the consent of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

(4) A manager may be any person or group of persons, including an individual or a group of individuals acting as a management board, or a Community-controlled enterprise. A person need not be a member to be a manager.

(d) The dissolution of a limited liability company does not affect the applicability of this section.

(Code 1981, § 24-47; Code 2012, § 24-47; Ord. No. SRO-352-10, § 23-2-407, 10-14-2009; Ord. No. SRO-402-2012, § 24-47, 5-30-2012)

Sec. 24-106. Indemnification and insurance.

(a) A limited liability company shall reimburse for any payment made and indemnify for any debt, obligation, or other liability incurred by a member of a member-managed company or the manager of a manager-managed company in the course of the member's or manager's activities on behalf of the company.

(b) A limited liability company may purchase and maintain insurance on behalf of a member or manager of the company against liability asserted against or incurred by the member or manager in that capacity or arising from such status.

(Code 1981, § 24-48; Code 2012, § 24-48; Ord. No. SRO-352-10, § 23-2-408, 10-14-2009; Ord. No. SRO-402-2012, § 24-48, 5-30-2012)

Sec. 24-107. Right of members to information.

(a) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this Act.

(b) The company shall furnish to each member:

(1) Without demand, any information concerning the company's activities, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this Act, except to the extent the company can establish that it reasonably believes the member already knows the information; and

(2) On demand, any other information concerning the company's activities, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

(c) A member may exercise rights under this section through an authorized officer or agent. Any restriction or condition imposed by the operating agreement or under subsection (d) of this section applies both to the authorized officer or agent and the members.

(d) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.

(Code 1981, § 24-50; Code 2012, § 24-50; Ord. No. SRO-352-10, § 23-2-410, 10-14-2009; Ord. No. SRO-402-2012, § 24-50, 5-30-2012)

Sec. 24-108. Audit.

In addition to any member inspection rights provided in section 24-107 or the operating agreement, the Community may at any time, by resolution adopted by the Community Council, require that any limited liability company be audited by an independent auditor hired by the Community, who shall have the absolute right to require access to all of the company's records and documents necessary for such an audit.

(Code 1981, § 24-51; Code 2012, § 24-51; Ord. No. SRO-352-10, § 23-2-411, 10-14-2009; Ord. No. SRO-402-2012, § 24-51, 5-30-2012)

Secs. 24-109—24-129. Reserved.

ARTICLE V. TRANSFER OF MEMBERSHIP INTEREST

Sec. 24-130. Transfer.

No membership interest in any limited liability company may be alienated, through sale, transfer, merger, conversion, or otherwise, except as specifically authorized by resolution approved by the council.

(Code 1981, § 24-61; Code 2012, § 24-61; Ord. No. SRO-352-10, § 23-2-501, 10-14-2009; Ord. No. SRO-402-2012, § 24-61, 5-30-2012)

Secs. 24-131—24-158. Reserved.

ARTICLE VI. DISSOLUTION AND WINDING UP

Sec. 24-159. Events causing dissolution.

A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:

(1) An event or circumstance that the operating agreement states causes dissolution;

(2) The consent of the members; or

(3) Resolution or other such act of the Community Council.

(Code 1981, § 24-71; Code 2012, § 24-71; Ord. No. SRO-352-10, § 23-2-701, 10-14-2009; Ord. No. SRO-402-2012, § 24-71, 5-30-2012)

Sec. 24-160. Winding up.

(a) A dissolved limited liability company shall wind up its activities, and the company continues after dissolution only for the purpose of winding up.

(b) In winding up its activities:

(1) A limited liability company shall discharge the company's debts, obligations, or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company; and

(2) A limited liability company may:

a. Preserve the company activities and property as a going concern for a reasonable time;

b. Prosecute and defend actions and proceedings, whether civil, criminal, or administrative, or settle disputes by mediation or arbitration, provided however that any such action,

proceeding or settlement must be approved in advance by the Community Council;

c. Transfer the company's property;

d. Adopt and publish statements of dissolution and termination; and

e. Perform other acts necessary or appropriate to the winding up.

(Code 1981, § 24-72; Code 2012, § 24-72; Ord. No. SRO-352-10, § 23-2-702, 10-14-2009; Ord. No. SRO-402-2012, § 24-72, 5-30-2012)

Sec. 24-161. Known claims against dissolved limited liability company.

(a) A dissolved limited liability company may dispose of the known claims against it by following the procedure described in this section.

(b) A dissolved limited liability company shall notify its known claimants in writing of the dissolution. The notice must:

(1) Specify the information required to be included in a claim;

(2) Provide a mailing address to which the claim is to be sent;

(3) State the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited liability company is barred if the requirements of subsection (b) of this section are met and:

(1) The claim is not received by the specified deadline; or

(2) In the case of a claim that is timely received but rejected by the company, the claimant does not commence a proceeding to enforce the claim within 90 days after the claimant receives the company's notice of its rejection of the claim.

(Code 1981, § 24-73; Code 2012, § 24-73; Ord. No. SRO-352-10, § 23-2-703, 10-14-2009; Ord. No. SRO-402-2012, § 24-73, 5-30-2012)

Sec. 24-162. Other claims against dissolved limited liability company.

(a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

(b) The notice authorized by subsection (a) of this section must:

(1) Be published at least once in a newspaper of general circulation in the area in which the dissolved limited liability company's principal office is located;

(2) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and

(3) State that a claim against the company is barred unless an action to enforce the claim is commenced within the period of time set forth in the notice.

(c) If a dissolved limited liability company publishes a notice in accordance with subsection (b) of this section, unless the claimant commences an action to enforce the claim against the company within the period of time set forth in the notice, the claim of each of the following claimants is barred:

(1) A claimant that did not receive notice pursuant to section 24-161;

(2) A claimant whose claim was timely sent to the company but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

(1) Against a dissolved limited liability company, to the extent of its undistributed assets; and

(2) If assets of the company have been distributed after dissolution, against a member to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a

person's total liability for all claims under this section does not exceed the total amount of assets distributed to the person after dissolution.

(Code 1981, § 24-74; Code 2012, § 24-74; Ord. No. SRO-352-10, § 23-2-704, 10-14-2009; Ord. No. SRO-402-2012, § 24-74, 5-30-2012)

Sec. 24-163. Limitations of claims in dissolution.

(a) Any and all claims that may be brought against a limited liability company under sections 24-161 and 24-162 are subject to sections 24-77 and 24-78, relating to the privileges and immunities of limited liability companies, and may be further limited by any agreement, Community Council resolution or ordinance, or other governing law or provision applicable under the circumstances.

(b) Any and all claims that may be brought against a member under section 24-162(d)(2) are subject to section 24-76(c), relating to the privilege and immunities of members and managers, and may be further limited by any agreement, Community Council resolution or ordinance, or other governing law or provision applicable under the circumstances, including any basis supporting a claim of immunity from suit.

(Code 1981, § 24-75; Code 2012, § 24-75; Ord. No. SRO-352-10, § 23-2-705, 10-14-2009; Ord. No. SRO-402-2012, § 24-75, 5-30-2012)

Sec. 24-164. Distribution of assets in winding up limited liability company's activities.

(a) In winding up its activities, a limited liability company must apply its assets to discharge its obligations to creditors, including members that are creditors.

(b) After a limited liability company complies with subsection (a) of this section, any surplus must be distributed to the members or other persons entitled thereto as specified in the operating agreement.

(Code 1981, § 24-78; Code 2012, § 24-78; Ord. No. SRO-352-10, § 23-2-708, 10-14-2009; Ord. No. SRO-402-2012, § 24-78, 5-30-2012)

Secs. 24-165—24-181. Reserved.

ARTICLE VII. MERGER, CONVERSION, AND DOMESTICATION

Sec. 24-182. Definitions.

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

Foreign limited liability company means an unincorporated entity formed under the law of a jurisdiction other than the Community and denominated by that law as a limited liability company.

Governing statute means the statute that governs an organization's internal affairs.

Organization means a partnership, limited liability company, business trust, corporation, or any other legal entity or unincorporated association or enterprise.

Organizational documents means the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it, including a certificate or articles of organization or incorporation, bylaws, partnership agreement, operating agreement, declaration of trust, or other such documents.

Surviving organization means an organization into which one or more other organizations are merged or converted pursuant to this article, regardless whether, in the case of a merger, the organization preexisted the merger or was created by the merger.

(Code 1981, § 24-101; Code 2012, § 24-81; Ord. No. SRO-352-10, § 23-2-1001, 10-14-2009; Ord. No. SRO-402-2012, § 24-81, 5-30-2012)

Sec. 24-183. Merger.

The Community Council may cause or authorize a limited liability company to merge with any organization.

(Code 1981, § 24-102; Code 2012, § 24-82; Ord. No. SRO-352-10, § 23-2-1002, 10-14-2009; Ord. No. SRO-402-2012, § 24-82, 5-30-2012)

Sec. 24-184. Plan of merger.

The Community Council may adopt or approve a plan of merger setting forth, adopting, or approving the following:

(1) The name and form of each of the merging organizations;

(2) The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each merging organization into any combination of money, interests in the surviving organization, and other consideration;

(4) If the surviving organization is to be created by the merger, the surviving organization's organizational documents; and

(5) If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.

(Code 1981, § 24-103; Code 2012, § 24-83; Ord. No. SRO-352-10, § 23-2-1003, 10-14-2009; Ord. No. SRO-402-2012, § 24-83, 5-30-2012)

Sec. 24-185. Effect of merger.

Upon a merger:

(1) The surviving organization continues or comes into existence;

(2) Each organization that merges into the surviving organization ceases to exist as a separate entity;

(3) All property owned by each merging organization that ceases to exist vests in the surviving organization;

(4) All debts, obligations, or other liabilities of each merging organization that ceases to exist continue as debts, obligations, or other liabilities of the surviving organization;

(5) An action or proceeding pending by or against any merging organization that ceases to exist may be continued as if the merger had not occurred;

(6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each merging organization that ceases to exist vest in the surviving organization;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and

(8) Except as otherwise agreed, if a merging limited liability company ceases to exist, the merger does not dissolve such limited liability company for purposes of this Act.

(Code 1981, § 24-105; Code 2012, § 24-85; Ord. No. SRO-352-10, § 23-2-1005, 10-14-2009; Ord. No. SRO-402-2012, § 24-85, 5-30-2012)

Sec. 24-186. Conversion.

The Community Council may cause or authorize an organization other than a limited liability company or a foreign limited liability company to convert to a limited liability company, and may cause or authorize a limited liability company to convert to an organization other than a foreign limited liability company.

(Code 1981, § 24-106; Code 2012, § 24-86; Ord. No. SRO-352-10, § 23-2-1006, 10-14-2009; Ord. No. SRO-402-2012, § 24-86, 5-30-2012)

Sec. 24-187. Plan of conversion.

The council may adopt or approve a plan of conversion setting forth, adopting, or approving the following:

(1) The name and form of the organization before conversion;

(2) The name and form of the organization after conversion;

(3) The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration; and

(4) The organizational documents of the converted organization.

(Code 1981, § 24-107; Code 2012, § 24-87; Ord. No. SRO-352-10, § 23-2-1007, 10-14-2009; Ord. No. SRO-402-2012, § 24-87, 5-30-2012)

Sec. 24-188. Effect of conversion.

Upon a conversion the organization that has been converted is for all purposes the same entity that existed before the conversion:

(1) All property owned by the converting organization remains vested in the converted organization;

(2) All debts, obligations, or other liabilities of the converting organization continue as debts, obligations or other liabilities of the converted organization;

(3) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(4) Except as prohibited by law other than this Act, all of the rights, privileges, immunities, powers and purposes of the converting organization remain vested in the converted organization;

(5) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(6) Except as otherwise agreed, the conversion does not dissolve a converting limited liability company for purposes of this Act.

(Code 1981, § 24-108; Code 2012, § 24-88; Ord. No. SRO-352-10, § 23-2-1008, 10-14-2009; Ord. No. SRO-402-2012, § 24-88, 5-30-2012)

Sec. 24-189. Domestication of foreign limited liability company.

The Community Council may cause or authorize a foreign limited liability company to become a limited liability company.

(Code 1981, § 24-109; Code 2012, § 24-89; Ord. No. SRO-352-10, § 23-2-1009, 10-14-2009; Ord. No. SRO-402-2012, § 24-89, 5-30-2012)

Sec. 24-190. Plan of domestication.

The council may adopt or approve a plan of domestication setting forth, adopting, or approving the following:

(1) The name of the domesticating company before domestication and the jurisdiction of its governing statute;

(2) The name of the domesticated company after domestication;

(3) The terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and

(4) The organizational documents of the domesticated company.

(Code 1981, § 24-110; Code 2012, § 24-90; Ord. No. SRO-352-10, § 23-2-1010, 10-14-2009; Ord. No. SRO-402-2012, § 24-90, 5-30-2012)

Sec. 24-191. Effect of domestication.

Upon a domestication:

(1) The domesticated company is for all purposes the company that existed before the domestication;

(2) All property owned by the domesticating company remains vested in the domesticated company;

(3) All debts, obligations, or other liabilities of the domesticating company continue as debts, obligations, or other liabilities of the domesticated company;

(4) An action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred;

(5) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company remain vested in the domesticated company; and

(6) Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect.

(Code 1981, § 24-112; Code 2012, § 24-92; Ord. No. SRO-352-10, § 23-2-1012, 10-14-2009; Ord. No. SRO-402-2012, § 24-92, 5-30-2012)

Sec. 24-192. Status of limited liability companies upon merger, conversion, and domestication.

Any limited liability company that is created or that exists as a result of or following a merger, conversion, or domestication pursuant to this article, is subject to the provisions of this Act, including but not limited to section 24-76, relating to the liability of members and managers, and sections 24-77 and 24-78, relating to the company's privileges and immunities.

(Code 1981, § 24-113; Code 2012, § 24-93; Ord. No. SRO-352-10, § 23-2-1013, 10-14-2009; Ord. No. SRO-402-2012, § 24-93, 5-30-2012)

Sec. 24-193. Domestication in other jurisdiction.

The Community Council may authorize a limited liability company to become a foreign limited liability company, provided the applicable governing statute authorizes domestication. The council may adopt or approve a plan of domestication, including such terms and conditions as may be necessary or appropriate to give effect to such domestication.

(Code 1981, § 24-114; Code 2012, § 24-94; Ord. No. SRO-352-10, § 23-2-1014, 10-14-2009; Ord. No. SRO-402-2012, § 24-94, 5-30-2012)

CODE COMPARATIVE TABLE

1976 CODE

This table gives the location within this Code of those sections of the 1976 Code, as updated, which are included herein. Sections of the 1976 Code, as updated, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

1976 Code Section	Section this Code	1976 Code Section	Section this Code
1—4	1-1—1-4	6.10	6-103
3.1(A)—		6.11	6-93
3.1(C)	10-30—10-32	6.12	6-81
3.2	10-34	6.14	6-133
3.3	10-35	6.15	6-130
3.4	10-36	6.16	6-94
3.5	10-37	6.17	6-41
3.6	10-38	6.18	6-83
3.7	10-39	6.20	6-105
3.8	10-1, 10-2	6.21	6-106
3.9	10-77	6.22	6-43
3.10	10-78	6.23	6-42
3.11	10-79	6.24	6-5
3.12	10-80	6.25	6-131
3.13	10-82	6.26	6-98
3.14	10-83	6.27	6-97
3.15	10-81	6.29	6-138
3.16	10-84	6.30	6-95
3.18	10-85	6.34	6-3
3.19	10-115	6.35	6-96
3.20	10-121	6.37	6-6
3.21	10-122		6-8—6-10
3.22	10-116	6.41	6-68
3.23	10-118	6.42	6-101
3.24	10-120	6.44	6-4
3.25	10-123	6.45	6-102
3.26	10-124	6.46	6-84
3.27	10-119	6.47	6-107
3.28	10-125	6.48	6-132
3.29	10-126	6.49	6-108
3.30	10-114	6.50	15-212
3.31	10-117	6.51	6-44
3.32	10-151	6.53	6-62
3.33	10-152	6.54	6-92
3.34	10-153	6.56	6-31
3.35	10-154	6.57	6-51
4.1	9-1	6.58	6-104
4.2	9-2	6.59	6-111
4.3	9-3	6.64	6-121
6.1	6-1	6.65	6-122
6.3	6-134	7.11	7-73
6.5	6-2	7.12	7-74
6.9	10-33	8.1	13-1

1976 Code Section	Section this Code
8.2	13-2
8.3	13-4
8.4	13-3
8.21	13-35
8.22	13-36
8.23	13-37
8.24	13-38
8.25	13-39
8.26	13-40
8.27	13-41
8.28	13-42
9.1	15-1
9.11	15-51
9.12	15-52
9.21	15-73
9.22	15-75
9.23	15-81
9.24	15-77
9.25	15-76
9.26	15-79
9.27	15-80
9.28	15-78
9.29	15-74
10.1	4-232
11-21	14-133
11.22	14-134
11.24	14-136
11.24(a)—(c)	14-135
14.11	17-62
14.12	17-63
14.13	17-66
14.14	17-67
14.15	17-68
14.16	17-64
14.17	17-65
15.1	17-234
15.2	17-235
15.3	17-236
15.5	17-237
15.6	17-238
15.7	17-239
15.8	17-240
15.9	17-241
15.10	17-242
15.11	17-243
15.12	17-244
15.13	17-245
15.20	20-110
15.21	20-111
15.22	20-112
15.23	20-113
145(1)—145(23)	7-1—7-23
145(24.4)	7-24
145(25)—145(29)	7-25—7-29

CODE COMPARATIVE TABLE

1981 CODE

This table gives the location within this Code of those sections of the 1981 Code, as updated, which are included herein. Sections of the 1981 Code, as updated, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature.

1981 Code Section	Section this Code
1-1	1-1
1-1-8.1	20-114
1-2—1-4	1-2—1-4
1-5—1-8	20-110—20-113
1-9—1-11	1-7—1-9
2-0, 2-1	2-1, 2-2
2-2(a)—2-2(i)	2-23—2-31
2-3	2-32
2-3.1	2-33
2-3.2(a)—2-3.2(c)	2-55—2-57
2-4—2-6	7-73—7-75
2-7	9-25
2-45, 2-46	1-59, 1-60
2-55, 2-56	1-104, 1-105
2-75, 2-76	1-124, 1-125
3-3	3-5
3-5	3-3
3-6, 3-7	3-6, 3-7
3-8(a)	3-48
	3-65
3-10	3-101
3-11(a)—3-11(h)	3-118—3-125
3-11(i)	3-127
3-12(a)—3-12(k)	3-144—3-154
4-1—4-6	4-1—4-6
4-21—4-27	4-31—4-37
4-31	4-85
4-32	Ch. 5, Art.V, Rule 32(app.)
4-32(rule 1)	Ch. 5, Art.V, Rule 1
4-32(rule 1.1)	Ch. 5, Art.V, Rule 1.1
4-32(rule 2)—4-32(rule 12)	Ch. 5, Art.V, Rules 2—12
4-32(rule 12.1), 4-32(rule 12.2)	Ch. 5, Art.V, Rules 12.1, 12.2
4-32(rule 13)—4-32(rule 32)	Ch. 5, Art.V, Rules 13—32
4-33(rule 1)	Ch. 5, Art.VI, Rule 1
4-33(rule 1.1)	Ch. 5, Art.VI, Rule 1.1
4-33(rule 2)	Ch. 5, Art.VI, Rule 2
4-33(rule 2.1)	Ch. 5, Art.VI, Rule 2.1
4-33(rule 3)—4-33(rule 12)	Ch. 5, Art.VI, Rules 3—12
4-33(rule 12.1)	Ch. 5, Art.VI, Rule 12.1
4-33(rule 13)—4-33(rule 27)	Ch. 5, Art.VI, Rules 13—27
4-34	4-186
4-41	4-211
4-42	4-232
5-1	5-1
5-25	5-35
5-50—5-55	5-59—5-64
5-61—5-71	17-34—17-44
5-81, 5-82	4.5-1, 4.5-2
5-91—5-93	4.5-23—4.5-25
6-1—6-7	6-1—6-7
6-7	6-8
6-9	6-9
	6-38
6-10	6-10
6-42—6-44	6-42—6-44
6-51—6-54	6-51—6-54
6-62	6-62
6-68	6-68
6-81	6-81
6-83—6-86	6-83—6-86
6-89	6-90
6-92—6-98	6-92—6-98
6-101—6-115	6-101—6-115
6-116	6-117
6-118, 6-119	6-118, 6-119
6-121, 6-122	6-121, 6-122
6-130—6-140	6-130—6-140
7-1—7-29	7-1—7-29
7-50	7-49
8-1—8-9	8-1—8-9
9-1—9-3	9-1—9-3
10-1(a), 10-1(b)	10-1, 10-2
10-2—10-9	10-3—10-10

1981 Code Section	Section this Code
10-10—10-20	10-29—10-39
10-31—10-39	10-77—10-85
10-51—10-63	10-114—10-126
10-71—10-74	10-151—10-154
10-81—10-86	10-179—10-184
10-91—10-98	10-221—10-228
10-111—10-113	10-250—10-252
10-114, 10-115	10-254, 10-255
10-119	10-256
11-1(a), 11-1(b)	11-1, 11-2
11-2—11-6	11-23—11-27
11-7	11-51
11-8(a), (b)	11-76
11-8(c)	11-77
11-9—11-11	11-98—11-100
11-12—11-15	11-28—11-31
11-16—11-23	11-129—11-136
11-27—11-38	11-156—11-167
11-71—11-76	11-217—11-222
11-81—11-84	11-253—11-256
11-91—11-95	11-276—11-280
11-100—11-109	11-309—11-318
12-1—12-11	12-1—12-11
12-21—12-36	12-41—12-56
12-41—12-46	12-86—12-91
12-50—12-56	12-111—12-117
13-1—13-8	13-1—13-8
13-21—13-28	13-35—13-42
13-41—13-45	13-73—13-77
13-51—13-60	13-98—13-107
13-71—13-83	13-128—13-140
14-1	14-1
14-2—14-6	14-21—14-25
14-7(a), 14-7(b)	14-54, 14-55
14-8(a)—14-8(h)	14-56—14-63
14-9(a)—14-9(d)	14-64—14-67
14-9(e)—(h)	14-68
14-10, 14-11	14-69, 14-70
14-17, 14-18	14-101, 14-102
14-21—14-24	14-133—14-136
14-31, 14-32	14-156, 14-157
15-1	15-1
15-2	15-212
15-11, 15-12	15-51, 15-52
15-21—15-27	15-23—15-29
15-29—15-38	15-30—15-39
15-91—15-99	15-73—15-81
15-111	15-105
15-112	15-107
15-141—15-156	15-149—15-164
15-161—15-173	15-182—15-194
15-251—15-258	15-233—15-240
15.1-14	15.1-15
15.5-1	15.5-1
15.6-1—15.6-13	1-354—1-367
16-61	5.5-1
17-1—17-5	17-1—17-5
17-5.1	17-6
17-6—17-11	17-7—17-12
17-11.1	17-13
17-12, 17-13	17-14, 17-15
17-21, 17-22	1-79, 1-80
17-41—17-47	17-62—17-68
17-48—17-50	17-95—17-97
17-50.1	17-98
17-51(a), 17-51(b)	17-125, 17-126
17-52, 17-53	17-151, 17-152
17-53a	17-173
17-54—17-58	17-200—17-204
17-61—17-72	17-234—17-245
17-101—17-110	17-269—17-278
17-121—17-128	17-305—17-312
17-141—17-148	17-343—17-350
17-151—17-157	17-374—17-380
17-201—17-208	17-435—17-442
17-221—17-240	17-468—17-487
17-251—17-272	17-513—17-534
17-301—17-310	1-149—1-158
17.5-1	17.5-1
18-1	18-1
18-21—18-30	18-21—18-30
18-41—18-48	18-49—18-56
18-71—18-77	18-86—18-92
18-79—18-82	18-94—18-97
18-83—18-91	18-123—18-131
19-1—19-10	19-1—19-10
19-31—19-33	19-39—19-41
20-21—20-25	20-19—20-23
20-31—20-37	20-50—20-56
20-41—20-48	20-86—20-93
21-1—21-10	21-1—21-10
22-21—22-24	1-393—1-396
23-21, 23-22	23-19, 23-20
23-23(a)—23-23(d)	23-21—23-24
23-24—23-30	23-25—23-31
24-1(a), 24-1(b)	24-1, 24-2
24-2—24-6	24-3—24-7
24-8	24-8
24-11	24-9
24-13	24-10
24-16	24-11
24-21, 24-22	24-41, 24-42
24-28	24-43
24-31	24-75
24-34—24-36	24-76—24-78
24-41—24-43	24-100—24-102

1981 Code Section	Section this Code
24-45—24-48	24-103—24-106
24-50, 24-51	24-107, 24-108
24-61	24-130
24-71—24-75	24-159—24-163
24-78	24-164
24-101—24-103	24-182—24-184
24-105—24-110	24-185—24-190
24-112—24-114	24-191—24-193

CODE COMPARATIVE TABLE

2012 CODE

This table gives the location within this Code of those sections of the 2012 Code, as updated through May 16, 2012, which are included herein. Sections of the 2012 Code, as updated, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

2012 Code Section	Section this Code
1-1—1-4	1-1—1-4
1-5	1-6
1-9—1-11	1-7—1-9
1-20	1-35
1-25, 1-26	1-59, 1-60
1-40, 1-41	1-79, 1-80
1-45, 1-46	1-104, 1-105
1-55, 1-56	1-124, 1-125
1-60—1-69	1-149—1-158
1-75, 1-76	1-185, 1-186
1-80, 1-81	1-211, 1-212
1-85	1-233, 1-234
1-90—1-100	1-262—1-272
1-105	1-293, 1-294
1-155—1-168	1-354—1-367
1-170—1-173	1-393—1-396
2-0, 2-1	2-1, 2-2
2-2(a)—2-2(i)	2-23—2-31
2-3	2-32
2-3.1	2-33
2-3.2(a)—2-3.2(c)	2-55—2-57
2-151	1-347 23-135
2-152	1-348 23-136
art. III	23-51—23-62 23-83—23-103
3-3	3-5
3-5	3-3
3-6, 3-7	3-6, 3-7
3-8(a)	3-48 3-65
3-10	3-101
3-11(a)—3-11(h)	3-118—3-125
3-11(i)	3-127
3-12(a)—3-12(k)	3-144—3-154
4-1—4-6	4-1—4-6
4-21—4-27	4-31—4-37
4-31	4-85
4-32	Ch. 5, Art.V, Rule 32(app.)
4-32(rule 1)	Ch. 5, Art.V, Rule 1
4-32(rule 1.1)	Ch. 5, Art.V, Rule 1.1
4-32(rule 2)—4-32(rule 12)	Ch. 5, Art.V, Rules 2—12
4-32(rule 12.1), 4-32(rule 12.2)	Ch. 5, Art.V, Rules 12.1, 12.2
4-32(rule 13)—4-32(rule 32)	Ch. 5, Art.V, Rules 13—32
4-33(rule 1)	Ch. 5, Art.VI, Rule 1
4-33(rule 1.1)	Ch. 5, Art.VI, Rule 1.1
4-33(rule 2)	Ch. 5, Art.VI, Rule 2
4-33(rule 2.1)	Ch. 5, Art.VI, Rule 2.1
4-33(rule 3)—4-33(rule 12)	Ch. 5, Art.VI, Rules 3—12
4-33(rule 12.1)	Ch. 5, Art.VI, Rule 12.1
4-33(rule 13)—4-33(rule 27)	Ch. 5, Art.VI, Rules 13—27
4-34	4-186
4-41	4-211
4-42	4-232
5-1	5-1
5-25	5-35
5-31	Ch. 5, Art.IV, Rule 31.5
5-31(rule 1), 5-31(rule 2)	Ch. 5, Art.IV, Rules 1, 2
5-31(rule 2.1)	Ch. 5, Art.IV, Rule 2.1

2012 Code Section	Section this Code
5-31(rule 3)	Ch. 5, Art.IV, Rule 3
5-31(rule 3.1)—5-31(rule 3.3)	Ch. 5, Art.IV, Rules 3.1—3.3
5-31(rule 4)	Ch. 5, Art.IV, Rule 4
5-31(rule 4.1)	Ch. 5, Art.IV, Rule 4.1
5-31(rule 5)	Ch. 5, Art.IV, Rule 5
5-31(rule 5.1)	Ch. 5, Art.IV, Rule 5.1
5-31(rule 6)	Ch. 5, Art.IV, Rule 6
5-31(rule 6.1)	Ch. 5, Art.IV, Rule 6.1
5-31(rule 7)	Ch. 5, Art.IV, Rule 7
5-31(rule 7.1)—5-31(rule 7.3)	Ch. 5, Art.IV, Rules 7.1—7.3
5-31(rule 8), 5-31(rule 9)	Ch. 5, Art.IV, Rules 8, 9
5-31(rule 9.1), 5-31(rule 9.2)	Ch. 5, Art.IV, Rules 9.1, 9.2
5-31(rule 10)	Ch. 5, Art.IV, Rule 10
5-31(rule 10.1), 5-31(rule 10.2)	Ch. 5, Art.IV, Rules 10.1, 10.2
5-31(rule 11), 5-31(rule 12)	Ch. 5, Art.IV, Rules 11, 12
5-31(rule 12.1)—5-31(rule 12.3)	Ch. 5, Art.IV, Rules 12.1—12.3
5-31(rule 13)—5-31(rule 15)	Ch. 5, Art.IV, Rules 13—15
5-31(rule 15.1)—5-31(rule 15.7)	Ch. 5, Art.IV, Rules 15.1—15.7
5-31(rule 16)	Ch. 5, Art.IV, Rule 16
5-31(rule 16.1), 5-31(rule 16.2)	Ch. 5, Art.IV, Rules 16.1, 16.2
5-31(rule 16.13)	Ch. 5, Art.IV, Rule 16.3
5-31(rule 17.1)—5-31(rule 17.4)	Ch. 5, Art.IV, Rules 17.1—17.4
5-31(rule 18)	Ch. 5, Art.IV, Rule 18
5-31(rule 18.1), 5-31(rule 18.2)	Ch. 5, Art.IV, Rules 18.1, 18.2
5-31(rule 19)	Ch. 5, Art.IV, Rule 19
5-31(rule 20.1), 5-31(rule 20.2)	Ch. 5, Art.IV, Rules 20.1, 20.2
5-31(rule 21.1)—5-31(rule 21.5)	Ch. 5, Art.IV, Rules 21.1—21.5
5-31(rule 22.1)—5-31(rule 22.4)	Ch. 5, Art.IV, Rules 22.1—22.4
5-31(rule 23)	Ch. 5, Art.IV, Rule 23
5-31(rule 24.1), 5-31(rule 24.2)	Ch. 5, Art.IV, Rules 24.1, 24.2
5-31(rule 25)	Ch. 5, Art.IV, Rule 25
5-31(rule 26.1)—5-31(rule 26.13)	Ch. 5, Art.IV, Rules 26.1—26.13
5-31(rule 27.1)—5-31(rule 27.10)	Ch. 5, Art.IV, Rules 27.1—27.10
5-31(rule 29.1)—5-31(rule 29.5)	Ch. 5, Art.IV, Rules 29.1—29.5
5-31(rule 30.1)—5-31(rule 30.3)	Ch. 5, Art.IV, Rules 30.1—30.3
5-31(rule 31.1)—5-31(rule 31.4)	Ch. 5, Art.IV, Rules 31.1—31.4
app	5-375
5-50—5-55	5-59—5-64
5-81, 5-82	4.5-1, 4.5-2
5-91—5-93	4.5-23—4.5-25
5.5-2	5.5-2
6-0—6-7	6-0—6-7
6-7	6-8
6-9	6-9 6-38
6-10	6-10
6-42—6-44	6-42—6-44
6-51—6-54	6-51—6-54
6-62	6-62
6-68	6-68
6-81	6-81
6-83—6-86	6-83—6-86
6-89	6-90
6-92—6-98	6-92—6-98
6-101—6-115	6-101—6-115
6-116	6-117
6-118, 6-119	6-118, 6-119
6-121, 6-122	6-121, 6-122
6-130—6-140	6-130—6-140
7-1—7-29	7-1—7-29
7-50	7-49
7-60—7-63	7-72—7-75
8-1—8-9	8-1—8-9
9-1—9-3	9-1—9-3
9-4	9-25
10-1(a), 10-1(b)	10-1, 10-2

2012 Code Section	Section this Code
10-2—10-9	10-3—10-10
10-10—10-20	10-29—10-39
10-21(a), 10-21(b)	10-49, 10-50
10-22—10-30	10-51—10-59
10-31—10-39	10-77—10-85
10-51—10-63	10-114—10-126
10-71—10-74	10-151—10-154
10-75	10-161—10-167
10-81—10-89	10-179—10-187
10-89.1—10-89.4	10-188—10-191
10-91—10-98	10-221—10-228
10-111—10-113	10-250—10-252
10-114, 10-115	10-254, 10-255
10-119	10-256
11-1(a), 11-1(b)	11-1, 11-2
11-2—11-6	11-23—11-27
11-7	11-51
11-8(a), (b)	11-76
11-8(c)	11-77
11-9—11-11	11-98—11-100
11-12—11-15	11-28—11-31
11-16—11-23	11-129—11-136
11-27—11-38	11-156—11-167
11-71—11-76	11-217—11-222
11-81—11-84	11-253—11-256
11-91—11-95	11-276—11-280
11-100—11-109	11-309—11-318
12-1—12-11	12-1—12-11
12-21—12-36	12-41—12-56
12-41—12-46	12-86—12-91
12-50—12-56	12-111—12-117
13-1—13-8	13-1—13-8
13-21—13-28	13-35—13-42
13-41—13-45	13-73—13-77
13-51—13-60	13-98—13-107
13-71—13-83	13-128—13-140
14-1	14-1
14-2—14-6	14-21—14-25
14-7(b)	14-54, 14-55
14-8(a)—14-8(h)	14-56—14-63
14-9(a)—14-9(d)	14-64—14-67
14-9(e)—(h)	14-68
14-10, 14-11	14-69, 14-70
14-17, 14-18	14-101, 14-102
14-21—14-24	14-133—14-136
14-31, 14-32	14-156, 14-157
15-1, 15-2	15-1, 15-2
15-21—15-27	15-23—15-29
15-29—15-38	15-30—15-39
15-51, 15-52	15-51, 15-52
15-91—15-99	15-73—15-81
15-111	15-105
15-112	15-107
15-141—15-156	15-149—15-164
15-161—15-173	15-182—15-194
15-186	15-212
15-251—15-258	15-233—15-240
15.1a	15.1-1
15.5-1	15.5-1
17-1—17-5	17-1—17-5
17-5.1	17-6
17-6—17-11	17-7—17-12
17-11.1	17-13
17-12, 17-13	17-14, 17-15
17-21—17-31	17-34—17-44
17-41—17-47	17-62—17-68
17-48—17-50	17-95—17-97
17-50.1	17-98
17-51(a), 17-51(b)	17-125, 17-126
17-52, 17-53	17-151, 17-152
17-53A	17-173
17-54—17-58	17-200—17-204
17-61—17-72	17-234—17-245
17-101—17-110	17-269—17-278

2012 Code Section	Section this Code
17-121—17-128	17-305—17-312
17-141—17-148	17-343—17-350
17-151—17-157	17-374—17-380
17-201—17-208	17-435—17-442
17-221—17-240	17-468—17-487
17-251—17-272	17-513—17-534
17-301—17-305	20-110—20-114
17.5-12	17.5-12
18-1	18-1
18-21—18-30	18-21—18-30
18-41—18-48	18-49—18-56
18-71—18-82	18-86—18-97
18-83—18-91	18-123—18-131
18-95—18-100	18-161—18-166
19-1—19-10	19-1—19-10
19-31—19-33	19-39—19-41
20-21—20-25	20-19—20-23
20-31—20-37	20-50—20-56
20-41—20-48	20-86—20-93
21-1—21-10	21-1—21-10
23-21, 23-22	23-19, 23-20
23-23(a)—23-23(d)	23-21—23-24
23-24—23-30	23-25—23-31
24-1(a), 24-1(b)	24-1, 24-2
24-2—24-6	24-3—24-7
24-8	24-8
24-10	24-9
24-13	24-10
24-16	24-11
24-21, 24-22	24-41, 24-42
24-28	24-43
24-31	24-75
24-34—24-36	24-76—24-78
24-41—24-43	24-100—24-102
24-45—24-48	24-103—24-106
24-50, 24-51	24-107, 24-108
24-61	24-130
24-71—24-75	24-159—24-163
24-78	24-164
24-81—24-83	24-182—24-184
24-85—24-90	24-185—24-190
24-92—24-94	24-191—24-193
110—112	1-322—1-324

CODE COMPARATIVE TABLE

ORDINANCES

This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Ordinance Number	Date	Section	Section this Code
SRO-2-64	8-13-1963		15-73—15-81
SRO-3-64	3-24-1964		10-31, 10-32
SRO-14-72	4-25-1972		10-35
SRO-18-73	4-11-1973		6-121, 6-122
SRO-21-74	9-26-1973		15-51, 15-52
SRO-23-74	2-27-1974		13-35—13-42
SRO-26-74	5- 1-1974		17-234—
			17-245
SRO-27-74	5- 3-1974		6-5
			6-130
SRO-30-74	5-29-1974		17-62—17-68
SRO-31-74	5-29-1974		14-133—
			14-136
SRO-33-75	8- 7-1974		6-5
SRO-37-76	8-20-1975		6-1
			6-5
			6-130
			6-133, 6-134
SRO-44-77	1-26-1977		20-110—
			20-113
SRO-45-77	2-16-1977		7-1—7-29
SRO-49-78	10-26-1977	I	15-23
		II-1	15-24
		II-2	15-26
		II-3	15-25
		II-4—II-6	15-27—15-29
		II-8—II-10	15-32—15-34
		II-11, II-12	15-30, 15-31
		II-13	15-36
		III	15-35
		IV, V	15-37, 15-38
SRO-50-78	1-25-1978	I	12-41
		II-I	12-55
		IIA	12-42
		IIB	12-49
		IIC1	12-45
		IIC2	12-44
		IIC3	12-51
		IIC4	12-47
		IIC5	12-50
		IID	12-48
		IIE	12-46
		IIF, IIG	12-52, 12-53
		IIH	12-43

Ordinance Number	Date	Section	Section this Code
SRO-52-78	2-15-1978	1—5	13-73—13-77
SRO-25-74	3-21-1979		17-11
			17-1—17-5
		6—9	17-7—17-10
SRO-60-79	8-29-1979	1	13-99
		2	13-98
		3	13-100
		4	13-103
		5, 6	13-101,
			13-102
		7, 8	13-105,
			13-106
		9	13-104
		10	13-107
SRO-63-80	5- 5-1980	I	15-105
		II-1	15-107
SRO-33-75	5- 5-1980(Amd. Ord.)	1.1	4-1
		1.2	4-31
		1.3	4-33
		1.4	4-34
		1.5	4-32
		1.6	4-35
		1.7	4-36
		1.8	4-37
		1.9(a)	4-85
		1.9(b)	Ch. 5, Art.V,
			Rule 1
			Ch. 5, Art.V,
			Rule 1.1
			Ch. 5, Art.V,
			Rules 2—12
			Ch. 5, Art.V,
			Rules 12.1, 12.2
			Ch. 5, Art.V,
			Rules 13—32
			Ch. 5, Art.V,
			Rule 32(app.)
			Ch. 5, Art.VI,
			Rule 27(app.)
		1.9(c)	5-466
			Ch. 5, Art.VI,
			Rule 1
			Ch. 5, Art.VI,
			Rule 1.1
			Ch. 5, Art.VI,
			Rule 2
			Ch. 5, Art.VI,
			Rule 2.1
			Ch. 5, Art.VI,
			Rules 3—12
			Ch. 5, Art.VI,
			Rule 12.1

Ordinance Number	Date	Section	Section this Code
			Ch. 5, Art.VI, Rules 13—27
		1.10	4-186
		1.11	4-211
		1.12(a), 1.12(b)	4-2, 4-3
		1.13	4-4
SRO-65-80	5-31-1980	1(1), 1(2)	15-149, 15-150
		1(3)	15-159
		1(4)	15-151
		1(5)—1(7)	15-154—15-156
		1(8), 1(9)	15-152, 15-153
		1(10)	15-162
		1(11), 1(12)	15-157, 15-158
		1(13)	15-160
		2	15-163
		3	15-161
		4	15-164
SRO-67-81	10- 8-1980	1	17-12
SRO-68-81	10- 8-1980		7-2, 7-3
SRO-69A-81	2-25-1981		4-1
SRO-33-75	2-25-1981(Amd. Ord.)		4-32
SRO-73-81	9- 2-1981	1—4	17-95—17-98
SRO-75-82	12- 9-1981	1—3	15-182—15-184
		4	15-194
		5	15-185
		6	15-193
		7	15-190
		8	15-186
		9	15-191
		10	15-187
		11	15-189
		12	15-188
		13	15-192
SRO-86-84	5-16-1984		17-14
SRO-91-85	1-16-1985	1	6-114
		2	6-113
		3	6-112
		4, 5	6-115, 6-116
		5	6-117
		7, 8	6-118, 6-119
SRO-92-85	1-16-1985	1—3	6-109
SRO-93-85	1-23-1985	2	17-6
		3	15-39
		4	15-30
SRO-94-85	1-23-1985	2	18-22
		3	18-25
		4	18-23

Ordinance Number	Date	Section	Section this Code
		5—9	18-26—18-30
		10	18-24
SRO-95-85	1-23-1985		15-37
SRO-96-85	1-23-1985	1, 2	18-1
SRO-97-85	2-27-1985		17-8
SRO-98-85	4-24-1985		5-59—5-64
SRO-99-85	8- 7-1985		17-13
SRO-94-85	12-23-1985	1	18-21
SRO-100-86	7-23-1986	1	17-6
SRO-101-86	7-23-1986		7-1
SRO-102-86	7-23-1986		1-1
		1—4	19-3—19-6
		5—7	19-8—19-10
		8	19-2
		9	6-115
		10	19-1
		11	19-7
SRO-103-86	10-15-1986	2—8	6-130
SRO-108-87	4-22-1987	1	6-86
		4	6-90
SRO-112-88	12-16-1987		6-31
			6-41
			6-51
			6-62
			6-68
			6-95
			6-102, 6-103
			6-121
			6-134
			6-138
SRO-110-88	2-17-1988	1—11	17-34—17-44
SRO-111-88	2-17-1988	1, 2	4-1
		3	4-4
SRO-113-88	6-22-1988		4-2
SRO-114-88	8-10-1988	A	6-5
		C	6-51
		D	6-134
		F	6-104
		H	6-85
SRO-118-89	3- 1-1989	1—13	13-128—13-140
SRO-123-89	5-24-1989	I—IX	17-269—17-277
SRO-125-89	7-12-1989	1—11	17-34—17-44
SRO-128-90	1- 3-1990	1—4	20-114
SRO-129-90	6-27-1990		1-1
		1—5	20-19—20-23
SRO-130-90	7-11-1990	1—7	20-50—20-56
SRO-131-90	8-20-1990		17-68
SRO-133-91	10-10-1990	1	17-278
SRO-134-91	10-31-1990		1-1
SRO-135-91	11- 7-1990	1—5	7-75

Ordinance Number	Date	Section	Section this Code
SRO-136-91	11-28-1990	1—4	11-253—11-256
SRO-137-91	12-12-1990	1—6	12-54
SRO-138-91	3-27-1991	1	9-25
SRO-141-91	8-28-1991	1	4-1
SRO-142-92	10- 9-1991	1	15-28
		3	15-30
SRO-144-92	1-15-1992	1	7-2
		2, 3	7-4, 7-5
		4	7-7
		5	7-20
SRO-145-92	2- 5-1992	1	4-5
SRO-148-92	4- 8-1992	1—5	11-276—11-280
SRO-150-92	5- 6-1992	1, 2	9-25
SRO-151-92	5-13-1992	2	6-130
		3	6-133
		4	6-130
SRO-152-92	5-27-1992	1—6	10-179—10-184
SRO-153-92	6- 3-1992	1—8	17-305—17-312
SRO-154-92	6- 3-1992	1	6-113
		2	13-5
SRO-155-92	6-24-1992	1—6	4-6
SRO-156-93	10-28-1992	1	6-110
SRO-159-93	1-27-1993	1	6-122
SRO-161-93	1-27-1993	1	5-35
SRO-162-93	1-27-1993	1, 2	4.5-1, 4.5-2
SRO-163-93	1-27-1993	1(a)—1(c)	4.5-23—4.5-25
SRO-164-93	2- 3-1993	1	5-1
SRO-165-93	2- 3-1993	1	10-29
SRO-166-93	2- 3-1993	1	10-221
		2—7	10-223—10-228
		8	10-222
SRO-168-93	6-30-1993		1-233, 1-234
SRO-169-93	8- 9-1993	1	9-1—9-3
SRO-172-94	3-30-1994		1-211, 1-212
SRO-173-94	4-11-1994	1	15-183
SRO-1974-94	6- 1-1994	1	3-3 3-5 3-7 3-48 3-65
SRO-175-94	6-22-1994	1—3	6-139
SRO-176-94	6-22-1994	1—5	6-7, 6-8
SRO-177-94	6-22-1994		4.5-2
SRO-180-95	10-12-1994	1—5	18-49—18-53
		6, 7	18-55, 18-56
SRO-181-95	10-12-1994	A—H	17-343—17-350

Ordinance Number	Date	Section	Section this Code
SRO-182-95	10-12-1994	1, 2	17-374, 17-375
		4	17-376, 17-377
		5—7	17-378—17-380
SRO-183-95	10-12-1994	1	17-1
			17-5
			17-8—17-10
SRO-184-95	10-12-1994		6-134—6-137
			14-135
SRO-185-95	10-26-1994		1-1
		I	17.5-9
		A—H	17.5-1—17.5-8
		J—L	17.5-10—17.5-12
SRO-187-95	11- 2-1994	1—6	12-86—12-91
SRO-188-95	11- 2-1994	1—3	13-6
		4	6-115
		5—7	13-6
SRO-193-95	3-29-1995	1	4-2
SRO-196-95	5- 3-1995	1	10-84
SRO-198-95	5- 3-1995	I(A)—I(H)	17-435—17-442
		II(I)	17-476
		II(A)—II(H)	17-468—17-475
		II(J)—II(T)	17-477—17-487
SRO-199-95	5- 3-1995		18-86—18-97
SRO-203-95	6-14-1995		6-85
SRO-204-95	6-21-1995		17-1
SRO-206-95	7- 5-1995		6-140
SRO-208-95	8-30-1995	2	17-234—17-236
SRO-212-96	11- 8-1995		1-1
		1—18	15.5-1—15.5-16
SRO-210-96	11-15-1995	1	11-23—11-31
			11-51
			11-76, 11-77
			11-98—11-100
			11-156—11-167
		1(a), 1(b)	11-1, 11-2
SRO-211-96	12- 6-1995	1	18-55, 18-56
		2	18-54
SRO-213-96	2- 7-1996		4-34
SRO-216-96	3-20-1996	1	17-5
SRO-219-96	6-26-1996	1—13	15.5-1—15.5-13
SRO-221-97	12-18-1996	I	10-256
		A—C	10-250—10-252

Ordinance Number	Date	Section	Section this Code
		D, E	10-254, 10-255
SRO-225-97	7-23-1997		20-114
SRO-229-97	8-20-1997		3-101
SRO-232-97	9-30-1997		1-79, 1-80
SRO-237-98	4-15-1998	B	1-80
SRO-237-1998	4-15-1998	A	1-79
SRO-239-98	5- 6-1998	A—C	15.5-2
		E—G	15.5-9
		H—J	15.5-10
		K	15.5-13
SRO-250-99	3-17-1999		15.5-19
SRO-253-99	3-17-1999		15.5-19
SRO-255-99	9- 1-1999		6-8
			6-38
			6-83, 6-84
			6-86
			6-92—6-94
			6-96—6-98
			6-104
SRO-256-2000	10- 6-1999		1-1
			21-1—21-10
SRO-258-2000	12- 8-1999		1-59, 1-60
SRO-266-00	2- 9-2000		1-104, 1-105
SRO-264-2000	3-15-2000	2	4-35
SRO-265-2000	3-29-2000		4-4
SRO-269-00	7- 5-2000		1-124, 1-125
SRO-273-2000	9-27-2000		13-7, 13-8
SRO-276-01	3-21-2001		1-185, 1-186
SRO-279-2001	5- 9-2001		6-53
SRO-280-2001	5- 9-2001		6-54
SRO-281-2001	5- 9-2001		6-10
SRO-278-2001	9- 9-2001		6-9
			6-38
SRO-284-2002	11-21-2001	2	15.5-20
	12-21-2001	1	15.5-2
SRO-286-02	1-30-2002		17-15
SRO-288-2002	5- 1-2002		15.5-22
SRO-293-2003	2- 5-2003		11-26
SRO-294-03	2-19-2003	2	1-393—1-396
SRO-295-03	4- 2-2003		15.5-20
SRO-296-2003	6- 4-2003		15-233—15-240
SRO-297-2003	9- 3-2003		19-39—19-41
SRO-298-03	9- 3-2003		15.5-22
SRO-302-05	3-16-2005		6.5-14
SRO-303-05	3-30-2005		3-118—3-125
			3-127
SRO-304-2005	4- 6-2005		15.5-23
SRO-307-06	11-30-2005		11-309—11-318
SRO-308-06	1- 4-2006		11-309—11-318

Ordinance Number	Date	Section	Section this Code
SRO-309-06	2- 8-2006		11-309—
			11-318
SRO-311-06	4- 5-2006		1-149—1-158
SRO-312-06	6-21-2006		3-3
SRO-313-06	6-28-2006		3-144—3-154
SRO-314-06	8-16-2006		11-25
			11-309—
			11-318
SRO-315A-07	12-13-2006		4-31—4-37
			10-29
SRO-316-07	2-21-2007		1-395
SRO-319-07	7-25-2007		3-118—3-125
			3-127
SRO-320-07	9-26-2007		1-354—1-367
SRO-323-08	10-31-2007		4-32
SRO-324-08	10-31-2007		8-1—8-9
SRO-326-08	12- 5-2007		18-123—
			18-131
SRO-237-08	12-19-2007	I	1-348
SRO-329-08	4- 2-2008		1-59
SRO-330-08	4-23-2008		14-156, 14-157
SRO-331-08	4-23-2008		3-3
SRO-335-08	6-25-2008	6.5-10	
			6.5-14
SRO-336-08	6-25-2008		12-49
			12-52
			12-56
SRO-339-08	9-24-2008	I—XI	1-262—1-272
SRO-341-09	11-12-2008		11-1, 11-2
SRO-342-09	11-12-2008		11-129—
			11-136
SRO-344-09	11-12-2008		11-217—
			11-222
SRO-345-09	11-12-2008		6-134
SRO-346-09	1-21-2009	1	17-63
		2	17-68
SRO-357-2010	1-27-2009	I—VIII	20-86—20-93
SRO-347-09	3- 4-2009		6-7, 6-8
SRO-348-09	5-13-2009		17-513—
			17-532
			17-533,
			17-534
SRO-349-09	7-29-2009		23-19—23-31
SRO-355-2010	9-12-2009		14-1
			14-21—14-25
			14-54—14-70
			14-101,
			14-102
SRO-356-2010	9-12-2009		11-26
SRO-350-09	9-16-2009		1-124, 1-125
SRO-351-09	9-30-2009		4-6
SRO-352-10	10-14-2009	23-2-101	24-1, 24-2

Ordinance Number	Date	Section	Section this Code
		23-2-102—23-2-106	24-3—24-7
		23-2-108	24-8
		23-2-110	24-9
		23-2-113	24-10
		23-2-116	24-11
		23-2-201, 23-2-202	24-41, 24-42
		23-2-208	24-43
		23-2-301	24-75
		23-2-304—23-2-306	24-76—24-78
		23-2-401—23-2-403	24-100—24-102
		23-2-405—23-2-408	24-103—24-106
		23-2-410, 23-2-411	24-107, 24-108
		23-2-501	24-130
		23-2-701—23-2-705	24-159—24-163
		23-2-708	24-164
		23-2-1001—23-2-1003	24-182—24-184
		23-2-1005—23-2-1010	24-185—24-190
		23-2-1012—23-2-1014	24-191—24-193
SRO-354-2010	10-28-2009		2-1, 2-2
			2-23—2-33
			2-55—2-57
SRO-358-2010	2-10-2010	I, II	15.5-2, 15.5-16.2
SRO-359-2010	2-17-2010		12-111
SRO-359-2010	2-17-2010		12-112—12-117
SRO-360-2010	3- 3-2010		12-1—12-11
SRO-361-2010	3-31-2010		15.1-11
SRO-363-2010	4- 7-2010		1-293, 1-294
SRO-364-2010	4-28-2010	10-81—10-89	10-179—10-187
		10-89.1—10-89.4	10-188—10-191
SRO-365-2010	7- 7-2010	10-1(a), 10-1(b)	10-1, 10-2
		10-2—10-9	10-3—10-10
SRO-366-2010	7-14-2010	14-7(b)	14-54, 14-55
		14-18	14-102
SRO-367-2010	8-18-2010		6-52
SRO-368-2010	8-18-2010	18-85—18-90	18-161—18-166
SRO-369-2010	9-15-2010	13-78	13-135

Ordinance Number	Date	Section	Section this Code
SRO-353-2010	10-21-2010		17-125, 17-126 17-151, 17-152 17-173 17-200—17-204
SRO-371-2011	11- 1-2010		15.1-50
SRO-374-2011	12- 1-2010	1—7	1-324
SRO-375-2010	12- 8-2010		3-5
SRO-377-2011	2- 2-2011		5.5-1
SRO-378-2011	3-23-2011		7-49
SRO-376-2011	5- 5-2011		5.5-2
SRO-382-2011	8- 4-2011	11-100—11-109	11-309—11-318
SRO-383-2011	8-10-2011	10-51—10-63	10-114—10-126
SRO-384-2011	8-17-2011	1—11	23-51—23-61
		12(i)	23-92
		12(a)—12(c)	23-83—23-85
		12(c)—12(h)	23-86—23-91
		12(j)—12(n)	23-93—23-97
		13—16	23-98—23-101
		16	23-103
		17	23-102
		19	23-62
SRO-385-2011	9-28-2011	11-1(a), 11-1(b)	11-1, 11-2
		11-31	11-160
SRO-386-2011	9-28-2011	10-75	10-161—10-167
SRO-387-2011	10- 2-2011		11-160
SRO-388-2012	11-30-2011	85(I)	1-347
SRO-389-2012	1-11-2012	4-21	4-31
		4-22(d)	4-32
		4-24	4-34
SRO-391-2012	1-25-2012		11-98
SRO-390-2012	2- 1-2012	10-21(a), 10-21(b)	10-49, 10-50
		10-22—10-30	10-51—10-59
SRO-393-2012	2-29-2012		4-37
SRO-402-2012	5-30-2012		23-51—23-62 23-83—23-103
		1-2—1-4	1-2—1-4
		1-5	1-6
		1-9—1-11	1-7—1-9
		1-20	1-35
		1-25, 1-26	1-59, 1-60
		1-40, 1-41	1-79, 1-80
		1-45, 1-46	1-104, 1-105
		1-55, 1-56	1-124, 1-125
		1-60—1-69	1-149—1-158
		1-75, 1-76	1-185, 1-186
		1-80, 1-81	1-211, 1-212

Ordinance Number	Date	Section	Section this Code
		1-85, 1-86	1-233, 1-234
		1-90—1-100	1-262—1-272
		1-105, 1-106	1-293, 1-294
		1-112	1-324
		1-151	1-347
		1-155—1-168	1-354—1-367
		1-170—1-173	1-393—1-396
		2-0, 2-1	2-1, 2-2
		2-2(i)	2-31
		2-2(a)—2-2(h)	2-23—2-30
		2-3	2-32
		2-3.1	2-33
		2-3.2(a)—2-3.2(c)	2-55—2-57
		3-3	3-5
		3-5	3-3
		3-7	3-7
		3-8(a)	3-48
			3-65
		3-11(i)	3-127
		3-11(a)—3-11(h)	3-118—3-125
		3-12(i)	3-152
		3-12(a)—3-12(h)	3-144—3-151
		3-12(j), 3-12(k)	3-153, 3-154
		4-1—4-6	4-1—4-6
		4-21—4-27	4-31—4-37
		4-31	4-85
		4-32	Ch. 5, Art.V, Rule 32(app.)
		4-32(rule 1)	Ch. 5, Art.V, Rule 1
		4-32(rule 1.1)	Ch. 5, Art.V, Rule 1.1
		4-32(rule 2)—4-32(rule 12)	Ch. 5, Art.V, Rules 2—12
		4-32(rule 12.1), 4-32(rule 12.2)	Ch. 5, Art.V, Rules 12.1, 12.2
		4-32(rule 13)—4-32(rule 32)	Ch. 5, Art.V, Rules 13—32
		4-33(rule 1)	Ch. 5, Art.VI, Rule 1
		4-33(rule 1.1)	Ch. 5, Art.VI, Rule 1.1
		4-33(rule 2)	Ch. 5, Art.VI, Rule 2
		4-33(rule 2.1)	Ch. 5, Art.VI, Rule 2.1
		4-33(rule 3)—4-33(rule 12)	Ch. 5, Art.VI, Rules 3—12
		4-33(rule 12.1)	Ch. 5, Art.VI, Rule 12.1
		4-33(rule 13)—4-33(rule 27)	Ch. 5, Art.VI, Rules 13—27
		4-34	4-186

Ordinance Number	Date	Section	Section this Code
		4-41	4-211
		4-42	4-232
		5-1	5-1
		5-25	5-35
		5-31	Ch. 5, Art.IV, Rule 31.5
		5-31(rule 1), 5-31(rule 2)	Ch. 5, Art.IV, Rules 1, 2
		5-31(rule 2.1)	Ch. 5, Art.IV, Rule 2.1
		5-31(rule 3)	Ch. 5, Art.IV, Rule 3
		5-31(rule 3.1)— 5-31(rule 3.3)	Ch. 5, Art.IV, Rules 3.1—3.3
		5-31(rule 4)	Ch. 5, Art.IV, Rule 4
		5-31(rule 4.1)	Ch. 5, Art.IV, Rule 4.1
		5-31(rule 4.2)	Ch. 5, Art.IV, Rule 5
		5-31(rule 5.1)	Ch. 5, Art.IV, Rule 5.1
		5-31(rule 6)	Ch. 5, Art.IV, Rule 6
		5-31(rule 6.1)	Ch. 5, Art.IV, Rule 6.1
		5-31(rule 7)	Ch. 5, Art.IV, Rule 7
		5-31(rule 7.1)— 5-31(rule 7.3)	Ch. 5, Art.IV, Rules 7.1—7.3
		5-31(rule 8), 5-31(rule 9)	Ch. 5, Art.IV, Rules 8, 9
		5-31(rule 9.1), 5-31(rule 9.2)	Ch. 5, Art.IV, Rules 9.1, 9.2
		5-31(rule 10)	Ch. 5, Art.IV, Rule 10
		5-31(rule 10.1), 5-31(rule 10.2)	Ch. 5, Art.IV, Rules 10.1, 10.2
		5-31(rule 11), 5-31(rule 12)	Ch. 5, Art.IV, Rules 11, 12
		5-31(rule 12.1)— 5-31(rule 12.3)	Ch. 5, Art.IV, Rules 12.1—12.3
		5-31(rule 13)— 5-31(rule 15)	Ch. 5, Art.IV, Rules 13—15
		5-31(rule 15.1)— 5-31(rule 15.7)	Ch. 5, Art.IV, Rules 15.1—15.7
		5-31(rule 16)	Ch. 5, Art.IV, Rule 16
		5-31(rule 16.1)— 5-31(rule 16.3)	Ch. 5, Art.IV, Rules 16.1—16.3
		5-31(rule 17.1)— 5-31(rule 17.4)	Ch. 5, Art.IV, Rules 17.1—17.4

Ordinance Number	Date	Section	Section this Code
		5-31(rule 18)	Ch. 5, Art.IV, Rule 18
		5-31(rule 18.1), 5-31(rule 18.2)	Ch. 5, Art.IV, Rules 18.1, 18.2
		5-31(rule 19)	Ch. 5, Art.IV, Rule 19
		5-31(rule 20.1), 5-31(rule 20.2)	Ch. 5, Art.IV, Rules 20.1, 20.2
		5-31(rule 21.1)—5-31(rule 21.5)	Ch. 5, Art.IV, Rules 21.1—21.5
		5-31(rule 22.1)—5-31(rule 22.4)	Ch. 5, Art.IV, Rules 22.1—22.4
		5-31(rule 23.1)	Ch. 5, Art.IV, Rule 23
		5-31(rule 24.1), 5-31(rule 24.2)	Ch. 5, Art.IV, Rules 24.1, 24.2
		5-31(rule 25)	Ch. 5, Art.IV, Rule 25
		5-31(rule 26.1)—5-31(rule 26.13)	Ch. 5, Art.IV, Rules 26.1—26.13
		5-31(rule 27.1)—5-31(rule 27.10)	Ch. 5, Art.IV, Rules 27.1—27.10
		5-31(rule 29.1)—5-31(rule 29.5)	Ch. 5, Art.IV, Rules 29.1—29.5
		5-31(rule 30.1)—5-31(rule 30.3)	Ch. 5, Art.IV, Rules 30.1—30.3
		5-31(rule 31.1)—5-31(rule 31.4)	Ch. 5, Art.IV, Rules 31.1—31.4
		5-50—5-55	5-59—5-64
		5-81, 5-82	4.5-1, 4.5-2
		5-91—5-93	4.5-23—4.5-25
		6-0—6-4	6-0—6-4
		6-6, 6-7	6-6, 6-7
		6-7	6-8
		6-9	6-9
			6-38
		6-02	6-102
		6-10	6-10
		6-42—6-44	6-42—6-44
		6-51—6-54	6-51—6-54
		6-62	6-62
		6-68	6-68
		6-81	6-81
		6-83—6-86	6-83—6-86
		6-89	6-90
		6-92—6-98	6-92—6-98
		6-101	6-101
		6-103—6-115	6-103—6-115
		6-116	6-117
		6-118, 6-119	6-118, 6-119
		6-121, 6-122	6-121, 6-122

Ordinance Number	Date	Section	Section this Code
		6-130—6-140	6-130—6-140
		7-1—7-29	7-1—7-29
		7-50	7-49
		7-60—7-63	7-72—7-75
		8-1—8-9	8-1—8-9
		9-1—9-3	9-1—9-3
		9-4	9-25
		10-1(a), 10-1(b)	10-1, 10-2
		10-2—10-9	10-3—10-10
		10-10—10-20	10-29—10-39
		10-21(a), 10-21(b)	10-49, 10-50
		10-22—10-30	10-51—10-59
		10-31—10-39	10-77—10-85
		10-51—10-63	10-114—10-126
		10-71—10-74	10-151—10-154
		10-75(a)—10-75(g)	10-161—10-167
		10-81—10-89	10-179—10-187
		10-89.1—10-89.4	10-188—10-191
		10-91—10-98	10-221—10-228
		10-111—10-113	10-250—10-252
		10-114, 10-115	10-254, 10-255
		10-119	10-256
		11-1(a), 11-1(b)	11-1, 11-2
		11-2—11-6	11-23—11-27
		11-7	11-51
		11-8(a), 11-8(b)	11-76
		11-8(c)	11-77
		11-9—11-11	11-98—11-100
		11-12—11-15	11-28—11-31
		11-16—11-23	11-129—11-136
		11-27—11-38	11-156—11-167
		11-71—11-76	11-217—11-222
		11-81—11-84	11-253—11-256
		11-91—11-95	11-276—11-280

Ordinance Number	Date	Section	Section this Code
		11-100—11-109	11-309—11-318
		12-1—12-6	12-1—12-6
		12-6	12-117
		12-7—12-11	12-7—12-11
		12-21—12-36	12-41—12-56
		12-41—12-46	12-86—12-91
		12-50—12-55	12-111—12-116
		13-1—13-8	13-1—13-8
		13-21—13-28	13-35—13-42
		13-41—13-45	13-73—13-77
		13-51—13-60	13-98—13-107
		13-71—13-83	13-128—13-140
		14-1	14-1
		14-2—14-6	14-21—14-25
		14-7(b)	14-54, 14-55
		14-8(a)—14-8(h)	14-56—14-63
		14-9(a)—14-9(d)	14-64—14-67
		14-9(e)—(h)	14-68
		14-10, 14-11	14-69, 14-70
		14-17, 14-18	14-101, 14-102
		14-22—14-24	14-134—14-136
		14-31, 14-32	14-156, 14-157
		15-1, 15-2	15-1, 15-2
		15-21—15-27	15-23—15-29
		15-29—15-38	15-30—15-39
		15-51, 15-52	15-51, 15-52
		15-91—15-99	15-73—15-81
		15-111	15-105
		15-112	15-107
		15-141—15-156	15-149—15-164
		15-161—15-173	15-182—15-194
		15-186	15-212
		15-251—15-258	15-233—15-240
		17-1—17-5	17-1—17-5
		17-5.1	17-6
		17-6—17-11	17-7—17-12
		17-11.1	17-13
		17-12, 17-13	17-14, 17-15
		17-15	17-374
		17-15(a), 17-15(b)	17-125, 17-126
		17-21—17-31	17-34—17-44

Ordinance Number	Date	Section	Section this Code
		17-41—17-47	17-62—17-68
		17-48—17-50	17-95—17-97
		17-50.1	17-98
		17-52, 17-53	17-151, 17-152
		17-53a	17-173
		17-54—17-58	17-200—17-204
		17-61—17-72	17-234—17-245
		17-101—17-105	17-269—17-273
		17-107—17-110	17-275—17-278
		17-121—17-128	17-305—17-312
		17-141—17-148	17-343—17-350
		17-152—17-157	17-375—17-380
		17-201—17-208	17-435—17-442
		17-221—17-240	17-468—17-487
		17-251—17-272	17-513—17-534
		17-301—17-305	20-110—20-114
		18-1	18-1
		18-21—18-30	18-21—18-30
		18-41—18-48	18-49—18-56
		18-71—18-82	18-86—18-97
		18-83—18-91	18-123—18-131
		18-95—18-100	18-161—18-166
		19-1—19-10	19-1—19-10
		19-31—19-33	19-39—19-41
		20-21—20-25	20-19—20-23
		20-31—20-37	20-50—20-56
		20-41—20-48	20-86—20-93
		21-1—21-10	21-1—21-10
		23-21, 23-22	23-19, 23-20
		23-23(a)—23-23(d)	23-21—23-24
		23-24—23-30	23-25—23-31
		24-1(a), 24-1(b)	24-1, 24-2
		24-2—24-6	24-3—24-7
		24-8	24-8
		24-10	24-9
		24-13	24-10
		24-16	24-11
		24-21, 24-22	24-41, 24-42

Ordinance Number	Date	Section	Section this Code
		24-28	24-43
		24-31	24-75
		24-34—24-36	24-76—24-78
		24-41—24-43	24-100—24-102
		24-45—24-48	24-103—24-106
		24-50, 24-51	24-107, 24-108
		24-61	24-130
		24-71—24-75	24-159—24-163
		24-78	24-164
		24-81—24-83	24-182—24-184
		24-85—24-90	24-185—24-190
		24-92—24-94	24-191—24-193
		5.5-2	5.5-2
		15.1-3	15.1-4
		15.5-19	15.5-19
		17.5-4	17.5-4
		app	5-375
SRO-395-2012	6- 1-2012	5-31	Ch. 5, Art.IV, Rule 31.5
		5-31(rule 1), 5-31(rule 2)	Ch. 5, Art.IV, Rules 1, 2
		5-31(rule 2.1)	Ch. 5, Art.IV, Rule 2.1
		5-31(rule 3)	Ch. 5, Art.IV, Rule 3
		5-31(rule 3.1)—5-31(rule 3.3)	Ch. 5, Art.IV, Rules 3.1—3.3
		5-31(rule 4)	Ch. 5, Art.IV, Rule 4
		5-31(rule 4.1)	Ch. 5, Art.IV, Rule 4.1
		5-31(rule 5)	Ch. 5, Art.IV, Rule 5
		5-31(rule 5.1)	Ch. 5, Art.IV, Rule 5.1
		5-31(rule 6)	Ch. 5, Art.IV, Rule 6
		5-31(rule 6.1)	Ch. 5, Art.IV, Rule 6.1
		5-31(rule 7)	Ch. 5, Art.IV, Rule 7
		5-31(rule 7.1)—5-31(rule 7.3)	Ch. 5, Art.IV, Rules 7.1—7.3
		5-31(rule 8), 5-31(rule 9)	Ch. 5, Art.IV, Rules 8, 9

Ordinance Number	Date	Section	Section this Code
		5-31(rule 9.1), 5-31(rule 9.2)	Ch. 5, Art.IV, Rules 9.1, 9.2
		5-31(rule 10)	Ch. 5, Art.IV, Rule 10
		5-31(rule 10.1), 5-31(rule 10.2)	Ch. 5, Art.IV, Rules 10.1, 10.2
		5-31(rule 11), 5-31(rule 12)	Ch. 5, Art.IV, Rules 11, 12
		5-31(rule 12.1)—5-31(rule 12.3)	Ch. 5, Art.IV, Rules 12.1—12.3
		5-31(rule 13)—5-31(rule 15)	Ch. 5, Art.IV, Rules 13—15
		5-31(rule 15.1)—5-31(rule 15.7)	Ch. 5, Art.IV, Rules 15.1—15.7
		5-31(rule 16)	Ch. 5, Art.IV, Rule 16
		5-31(rule 16.1)—5-31(rule 16.3)	Ch. 5, Art.IV, Rules 16.1—16.3
		5-31(rule 17.1)—5-31(rule 17.4)	Ch. 5, Art.IV, Rules 17.1—17.4
		5-31(rule 18)	Ch. 5, Art.IV, Rule 18
		5-31(rule 18.1), 5-31(rule 18.2)	Ch. 5, Art.IV, Rules 18.1, 18.2
		5-31(rule 19)	Ch. 5, Art.IV, Rule 19
		5-31(rule 20.1), 5-31(rule 20.2)	Ch. 5, Art.IV, Rules 20.1, 20.2
		5-31(rule 21.1)—5-31(rule 21.5)	Ch. 5, Art.IV, Rules 21.1—21.5
		5-31(rule 22.1)—5-31(rule 22.4)	Ch. 5, Art.IV, Rules 22.1—22.4
		5-31(rule 23)	Ch. 5, Art.IV, Rule 23
		5-31(rule 24.1), 5-31(rule 24.2)	Ch. 5, Art.IV, Rules 24.1, 24.2
		5-31(rule 25)	Ch. 5, Art.IV, Rule 25
		5-31(rule 26.1)—5-31(rule 26.13)	Ch. 5, Art.IV, Rules 26.1—26.13
		5-31(rule 27.1)—5-31(rule 27.10)	Ch. 5, Art.IV, Rules 27.1—27.10
		5-31(rule 29.1)—5-31(rule 29.5)	Ch. 5, Art.IV, Rules 29.1—29.5
		5-31(rule 30.1)—5-31(rule 30.3)	Ch. 5, Art.IV, Rules 30.1—30.3
		5-31(rule 31.1)—5-31(rule 31.4)	Ch. 5, Art.IV, Rules 31.1—31.4
		app	5-375
SRO-396-2012	6- 1-2012	4-4	4-4

Ordinance Number	Date	Section	Section this Code
		4-26	4-36
		4-42	4-232
SRO-397-2012	6- 1-2012		5-35
SRO-398-2012	6- 1-2012		6-42
SRO-399-2012	6- 1-2012		8-7
SRO-404-2012	6-13-2012		15.1-53
SRO-405-2012	7-18-2012	6-149—6-162	6.5-1—6.5-14
SRO-406-2012	8- 8-2012	10-53—10-56	10-116—10-119
SRO-407-2013	10-17-2012		17-525
SRO-408-2013	12- 1-2012	11-39—11-60	11-168—11-189
SRO-409-2013	12- 1-2012		11-1, 11-2
SRO-410-2013	12- 5-2012	14-5	14-24
		14-9(a)—14-9(d)	14-64—14-67
		14-9(e)—(h)	14-68
		14-12	14-71
		14-18	14-102
SRO-417-2013	2- 1-2013	16-1	16-1
			16-61
		16-2—16-12	16-2—16-12
		16-12	16-13
		16-31—16-40	16-31—16-40
		16-42—16-44	16-42—16-44
		16-51—16-60	16-51—16-60
		16-62—16-64	16-62—16-64
		16-66	16-66
		16-71—16-75	16-71—16-75
		16-77—16-97	16-77—16-97
		16-101—16-113	16-101—16-113
		16-121—16-125	16-121—16-125
		16-127—16-129	16-127—16-129
		16-141—16-159	16-141—16-159
		16-171—16-180	16-171—16-180
		16-191—16-198	16-191—16-198
		16-212—16-222	16-212—16-222
		16-231—16-245	16-231—16-245
		16-247	16-247
		16-249—16-251	16-249—16-251
		16-261—16-276	16-261—16-276
		16-280—16-282	16-280—16-282

Ordinance Number	Date	Section	Section this Code
		16-284—16-286	16-284—16-286
		16-292—16-296	16-292—16-296
		16-301—16-307	16-301—16-307
SRO-411-2013	3- 1-2013	4-31	4-85
		4-32(rule 1)	Ch. 5, Art.V, Rule 1
		4-32(rule 1.1)	Ch. 5, Art.V, Rule 1.1
		4-32(rule 2)—4-32(rule 12)	Ch. 5, Art.V, Rules 2—12
		4-32(rule 12.1), 4-32(rule 12.2)	Ch. 5, Art.V, Rules 12.1, 12.2
		4-32(rule 13)—4-32(rule 32)	Ch. 5, Art.V, Rules 13—32
		4-32(app.)	Ch. 5, Art.V, Rule 32(app.)
		4-33(rule 1)	Ch. 5, Art.VI, Rule 1
		4-33(rule 1.1)	Ch. 5, Art.VI, Rule 1.1
		4-33(rule 2)	Ch. 5, Art.VI, Rule 2
		4-33(rule 2.1)	Ch. 5, Art.VI, Rule 2.1
		4-33(rule 3)—4-33(rule 12)	Ch. 5, Art.VI, Rules 3—12
		4-33(rule 12.1)	Ch. 5, Art.VI, Rule 12.1
		4-33(rule 13)—4-33(rule 27)	Ch. 5, Art.VI, Rules 13—27
		4-33(app.)	5-466
			Ch. 5, Art.VI, Rule 27(app.)
		4-34	4-186
SRO-412-2013	3- 1-2013		Ch. 5, Art.IV, Rule 11
SRO-414-2013	3- 1-2013	11-4(f)	11-25
		11-13	11-29
SRO-415-2013	3- 1-2013	17-69, 17-70	17-242, 17-243
SRO-416-2013	3- 1-2013		21-10
SRO-418-2013	3- 6-2013	6-1—6-4	6-1—6-4
		6-6—6-10	6-6—6-10
		6-10	6-102
		6-13	6-140
		6-31—6-44	6-31—6-44
		6-51—6-55	6-51—6-55
		6-61—6-65	6-61—6-65
		6-68	6-68

Ordinance Number	Date	Section	Section this Code
		6-81—6-90	6-81—6-90
		6-92—6-99	6-92—6-99
		6-101	6-101
		6-103—6-110	6-103—6-110
		6-110	6-119
		6-111—6-118	6-111—6-118
		6-121, 6-122	6-121, 6-122
		6-130—6-140	6-130—6-140
SRO-419-2013	3- 6-2013	8-3	8-3
		8-7—8-9	8-7—8-9
SRO-420-2013	3- 6-2013	6-158	6.5-10
SRO-421-2013	6- 1-2013	rule 101—	Ch. 5, Art.VII, Rules 101—106
		rule 106	
		rule 201	Ch. 5, Art.VII, Rule 201
		rule 301	Ch. 5, Art.VII, Rule 301
		rule 401— rule 413	Ch. 5, Art.VII, Rules 401—413
		rule 501— rule 505	Ch. 5, Art.VII, Rules 501—505
		rule 601— rule 615	Ch. 5, Art.VII, Rules 601—615
		rule 701— rule 706	Ch. 5, Art.VII, Rules 701—706
		rule 801— rule 807	Ch. 5, Art.VII, Rules 801—807
		rule 901— rule 903	Ch. 5, Art.VII, Rules 901—903
		rule 1001— rule 1008	Ch. 5, Art.VII, Rules 1001—1008
SRO-422-2013	6- 1-2013	5-31(rule 15.3)	Ch. 5, Art.IV, Rule 15.3
SRO-424-2013	6-12-2013	1-4.01	1-5
SRO-425-2013	9- 1-2013	A	15.1-50
SRO-426-2013	9- 1-2013	A	15.1-10
SRO-427-2014	11-13-2013	3-1—3-5	3-1—3-5
		3-7	3-7
		3-8(a)	3-48
		3-8(b)	3-65
		3-9	3-82
		3-11(c)	3-120
		3-12(c)	3-146
		3-12(f)	3-149
SRO-429-2014	11-13-2013		6-11
SRO-432-2014	12- 4-2013	6-12	6-12
SRO-433-2014	12- 4-2013	6-121(g)	6-121
SRO-428-2014	1- 1-2014	16-1	16-1
			16-61
		16-2—16-12	16-2—16-12
		16-12	16-13

Ordinance Number	Date	Section	Section this Code
		16-31—16-40	16-31—16-40
		16-42—16-44	16-42—16-44
		16-51—16-60	16-51—16-60
		16-62—16-64	16-62—16-64
		16-66	16-66
		16-71—16-75	16-71—16-75
		16-77—16-97	16-77—16-97
		16-101—	16-101—
		16-113	16-113
		16-121—	16-121—
		16-125	16-125
		16-127—	16-127—
		16-129	16-129
		16-141—	16-141—
		16-159	16-159
		16-171—	16-171—
		16-180	16-180
		16-191—	16-191—
		16-198	16-198
		16-212—	16-212—
		16-222	16-222
		16-231—	16-231—
		16-245	16-245
		16-247	16-247
		16-249—	16-249—
		16-251	16-251
		16-261—	16-261—
		16-276	16-276
		16-280—	16-280—
		16-282	16-282
		16-284—	16-284—
		16-286	16-286
		16-292—	16-292—
		16-296	16-296
		16-301—	16-301—
		16-307	16-307
SRO-430-2014	1- 1-2014	10-250—	10-250—
		10-257	10-257
SRO-431-2014	2-19-2014	15-111	15-105
		15-112	15-106, 15-107
		15-114—	15-108—
		15-130	15-124
SRO-434-2014	1-15-2014	15-112	15-106
		15-122	15-116
SRO-435-2014	2-12-2014	4-25a—4-25h	4-35
SRO-437-2014	2-26-2014	Added	17-470(a)(8)
SRO-438-2014	2-26-2014	15-112	15-106
		15-122	15-116
SRO-439-2014	3- 5-2014	14-5(b)(9) Added	14-24(b)(9)
SRO-440-2014	3-26-2014	Added	15.5-20(g)
SRO-441-2014	4-16-2014		Preface, p. vii

Ordinance Number	Date	Section		Section this Code
SRO-442-2014	4-16-2014	4-37		4-37(a), tit.
		4-85		4-85
		4-86—4-98	Added	4-86—4-98
SRO-443-2014	6- 4-2014		Added	15.1-53(7)
SRO-444-2014	7- 2-2014	10-300—10-307	Added	Ch. 10, Art. VIII, 10-300—10-307
SRO-445-2014	7- 2-2014	10-114		10-114
		10-119(i)(3)		10-119(i)(3)
SRO-446-2014	7-30-2014	6-5		6-5
SRO-447-2014	7-30-2014		Rpld	6-130, 6-132, 6-133, 6-135—6-138
		6-150—6-153	Added	6-150—6-153
SRO-448-2014	8-20-2014		Rpld	Ch. 1, Art. II, Div. 3, 1-79, 1-80
		1-79	Added	1-79
SRO-449-2014	8-27-2014			15.5-2, 15.5-3, 15.5-7, 15.5-9—15.5-14, 15.5-16.2, 15.5-23
			Added	15.5-16(30), 15.5-24
SRO-450-2014	9-24-2014		Rpld	Ch. 17, Art. XII, 17-513—17-534
		17-513—17-533	Added	17-513—17-533
SRO-451-2015	10- 1-2014	14-23		14-23
		14-25		14-25(a)
		14-102		14-102(z)
SRO-452-2015	10-22-2014	15-23		15-23
		15-28		15-28
		15-31		15-31
SRO-453-2015	10-22-2014	17-125		17-125
		17-152		17-152(b)
SRO-454-2015	12-10-2014	6.5-10		16.5-10(a)
SRO-455-2015	1- 7-2015	11-137	Added	11-137
		11-138	Added	11-138
SRO-456-2015	1-21-2015	4-37		4-37(a)
		4-85		4-85
		4-86—4-98		4-86—4-98
SRO-457-2015	1-28-2015	15.5-9		15.5-9
SRO-458-2015	1-28-2015		Rpld	6-122
SRO-459-2015	2- 4-2015	15.5-24	Added	15.5-24
			Rnbd as	15.5-24 15.5-25

CONSTITUTION INDEX

Section

A

AGREEMENTS. See: CONTRACTS AND AGREEMENTS

B

BOARDS. See: COMMUNITY, ENTERPRISES, DIVISIONS AND BOARDS

BUSINESS AND COMMERCE
- Powers of the Community Council
  - Powers
    - To Charter and Regulate Organizations . . . . . VII-1(f)

C

CERTIFICATES, CERTIFICATION
- Certificate of Results of Election XVI

CHARTER
- Adoption of Constitution XIV
- Amendments XIII
- Bill of Rights XII
- Certificate of Results of Election XVI
- Initiative VIII-1
- Recall IX-2
- Referendum VIII-2
- Removal IX-1
- Repeal of Previous Constitution and Savings Clause XV
- Territory I

COMMUNITY COUNCIL
- Legislative Branch . . . . . IV-1 et seq.
  - See: LEGISLATIVE BRANCH
- Powers of the Community Council . . . . . VII-1 et seq.
  - See: POWERS OF THE COMMUNITY COUNCIL
- Vacancies
  - Council Member X-1

COMMUNITY, ENTERPRISES, DIVISIONS AND BOARDS
- Nominations and Elections
  - Election Board VI-1

COMMUNITY PRESIDENT. See: PRESIDENT

COMMUNITY SECRETARY. See: SECRETARY

COMPENSATION, SALARIES, ETC.
- Executive Branch
  - Salaries of Officers III-7

CONTRACTS AND AGREEMENTS
- Powers of the Community Council
  - Powers
    - Agreements with Government . . . . . VII-1(h)

COUNCIL. See: COMMUNITY COUNCIL

Section

COURTS
- Membership
  - Court Jurisdiction II-3

E

ELECTION BOARD
- Nominations and Elections VI-1

ELECTIONS. See: NOMINATIONS AND ELECTIONS

ELECTORAL DISTRICTS
- Defined, Districts V-1
- Districts Apportionment V-2

EXECUTIVE BRANCH
- Oath of Office III-6
- Officers Defined III-5
- Other Officers III-4
- President III-1
- Salaries of Officers III-7
- Secretary III-3
- Vice President III-2

F

FINANCES
- Powers of the Community Council
  - Powers
    - Fiscal Powers . . . . . VII-1(e)

L

LAND
- Exchange, Land XI-3
- Land Acquisition Program XI-2
- Policy Against Alienation of Land XI-1
- Retention, Land XI-4

LAW ENFORCEMENT AND LEGAL OFFICES
- Powers of the Community Council
  - Powers
    - Police Power . . . . . VII-1(c)

LEGISLATIVE BRANCH
- Attendance Required IV-7
- Community Council Members Not to Hold Other Offices IV-5
- Council Members, Qualifications for IV-3
- Governing Body, Number of Members IV-1
- Meetings of Community Council IV-6
- Qualifications for the President and Vice President IV-2
- Term of Office IV-4

M

MEMBERSHIP
- Court Jurisdiction II-3
- Future Membership II-4
- Membership of Minors Enrolled Elsewhere II-2

Section

MEMBERSHIP (Cont'd.)
Right, Membership by II-1
Roll, Membership II-5

MINORS
Membership
Membership of Minors Enrolled Elsewhere II-2

N

NOMINATIONS AND ELECTIONS
Absentee Voting VI-5
Certificate of Results of Election XVI
Election Board VI-1
Elections VI-2
Electoral Districts
Defined, Districts V-1
Districts Apportionment V-2
Nominations of President and Vice President VI-3
Recall IX-2
Referendum VIII-2
Secret Ballot VI-6
Voter Qualifications VI-4

O

OATH, AFFIRMATION, SWEAR OR SWORN
Executive Branch
Oath of Office III-6

OFFICERS AND EMPLOYEES
Executive Branch . . . . . III-1 et seq.
See: EXECUTIVE BRANCH
Legislative Branch . . . . . IV-1 et seq.
See: LEGISLATIVE BRANCH
Powers of the Community Council
Powers
Employment of Lawyers . . . . . VII-1(i)

P

POWERS OF THE COMMUNITY COUNCIL
Powers VII-1
Agreements with Government . . . . . VII-1(h)
Employment of Lawyers . . . . . VII-1(i)
Exclusion . . . . . VII-1(g)
Executive Branch . . . . . VII-1(b)
Fiscal Powers . . . . . VII-1(e)
Legislative Branch . . . . . VII-1(a)
Police Power . . . . . VII-1(c)
To Administer Land and Other Public Property . . . . . VII-1(d)
To Advise and Recommend to the Federal Government . . . . . VII-1(j)
To Charter and Regulate Organizations VII-1(f)
To Take Necessary Action to Exercise Its Powers . . . . . VII-1(k)
Review of Secretary of the Interior VII-2

Section

PRESIDENT
Executive Branch III-1
Legislative Branch
Qualifications for the President and Vice President IV-2
Nominations and Elections
Nominations of President and Vice President VI-3
Vacancies
President X-2

PROPERTY
Powers of the Community Council
Powers
To Administer Land and Other Public Property . . . . . VII-1(d)

PUBLIC PROPERTY
Powers of the Community Council
Powers
To Administer Land and Other Public Property . . . . . VII-1(d)

R

RECORDS AND REPORTS
Membership
Roll, Membership II-5

RESIDENCE, RESIDENTIAL
Nominations and Elections
Voter Qualifications VI-4

S

SECRETARY
Executive Branch III-3
Powers of the Community Council
Review of Secretary of the Interior VII-2

V

VACANCIES
Council Member X-1
President X-2
Vacancy of Both Offices X-4
Vice President X-3

CODE INDEX

Section

A

ABANDONMENT
Animals and fowl
Abandonment of animals. 12-6
Rabies control
Dumping of animals 12-47
Finances . . . . . 20-110 et seq.
See: FINANCES
Traffic and motor vehicles . . . . . 16-292 et seq.
See: TRAFFIC AND MOTOR VEHICLES

ACCESS
Development, real property and housing
Highway rights-of-way
Encroachment permit application procedures . . . . . 17-345(g)
Homesites
Governmental access and responsibilities 17-202
Domestic relations
Protection for elderly and vulnerable adults
Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation
Warrant for forcible entry . . . . . 10-190(h)
Graffiti
Limiting access to graffiti implements. . 21-5
Juvenile court
Procedures and authorizations
Exclusion of public . . . . . 11-24(b)
Traffic and motor vehicles
Operation of vehicles
Drivers on controlled access roadways to use only authorized entrances and exits 16-145

ADVERTISING
Development, real property and housing. . 17-270 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Licensing and permitting
Sale of cigarettes at retail. 15-123

AGE
Criminal code
Eligible age for court jurisdiction 6-1
Domestic relations
Adoption
Age of person adopting 10-78
Consent to adoption by natural parents and by child over 12 years 10-80
Licensing and permitting
Amusement licenses
Age of licensee. 15-152
Business licenses generally
Age of licensee. 15-32

Section

AGE (Cont'd.)
Sex offender registration and Community notification
Required information
Date of birth . . . . . 6.5-6(c)
Traffic and motor vehicles
Equipment
Seat belt requirements
Children under nine years of age, restraint use for. 16-96
Restraint use for children who are at least nine years of age . . . 16-95

AGENCIES. See: DEPARTMENTS AND OTHER AGENCIES OF COMMUNITY

AGREEMENTS. See: CONTRACTS AND AGREEMENTS

AGRICULTURE
Development, real property and housing
Agricultural lease conditions for cotton or grain crops 17-14
Modified procedure and requirements regarding the lease of developed agricultural land for agricultural purposes. 17-12
Water and other natural resources . . . . . 18-1 et seq.
See: WATER AND OTHER NATURAL RESOURCES

ALARM SYSTEMS
Traffic and motor vehicles
Equipment
Horns and audible warning devices
Theft alarm. . . . . 16-55(c)

ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Business and commerce
Control, alcoholic beverage. See herein that subject
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles
Possession or use of narcotics, hallucinogens, and other dangerous drugs
Certain professionals exempt. . . . . 14-156(d)
Control, alcoholic beverage
Definitions. 14-23
Departments and other agencies of Community
Licenses
Coordination with the Community police department 14-71
Premises that may be licensed
Government license . . . . . 14-55(5)
Office of alcohol beverage control; director 14-24
Lawful commerce, possession or consumption 14-25

	Section
ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES (Cont'd.)	
Licenses	
Amendment	14-70
Appeals	14-63
Appeal process	14-63(1)
Grounds for appeal	14-63(3)
Status of initial determination	14-63(2)
Applicant's burden	14-59
Application	14-57
Beverage restrictions	14-65
Coordination with the Community police department	14-71
Designated area	14-54
Evidence	14-60
Inappropriate purpose	14-61
Injunction	14-69
Notice	14-58
Premises that may be licensed	14-55
Business ancillary license and/or special event license	14-55(6)
Business and commerce	
Business ancillary license and/or special event license	14-55(6)
Casino license	14-55(2)
Golf course clubhouse license	14-55(3)
Hotel-motel license	14-55(1)
Restaurant license	14-55(4)
Casino license	14-55(2)
Golf course clubhouse license	14-55(3)
Government license	14-55(5)
Hotel-motel license	14-55(1)
Restaurant license	14-55(4)
Public hearing	14-62
Qualifications, applicant and licensee	14-56
Reasons for revocation, suspension; grounds not to renew	14-66
Response; appeal	14-68
Suspension; revocation; refusal to renew; sanctions	14-67
Terms; fees	14-64
Office of alcohol beverage control; director	14-24
Authority of the office	14-24(b)
Inspection of premises, enforcement and investigations	14-24(c)
Office	14-24(a)
Scope	14-22
Title; authority; purpose; etc.	14-21
Application of 18 USC 1161	14-21(d)
Authority	14-21(b)
Effective date	14-21(e)
Purpose	14-21(c)
Title	14-21(a)

	Section
ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES (Cont'd.)	
Fines, forfeitures and other penalties	
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles	
Possession or use of narcotics, hallucinogens, and other dangerous drugs	
Penalties	14-156(i)
Seizure of vehicles used in drug violations	
Forfeiture of interest	14-157(a)
Unlawful acts	
Chapter violations	
Civil sanctions and penalties	14-101(a)
Criminal penalties	14-101(b)
Health and sanitation	13-35 et seq.
See: HEALTH AND SANITATION	
Licensing and permitting	
Public dance permits	
Alcoholic beverages	15-186
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles	
Possession or use of narcotics, hallucinogens, and other dangerous drugs	14-156
Certain professionals exempt	14-156(d)
Dangerous drugs	14-156(g)
Exempt, certain religious ceremonies	14-156(h)
Hallucinogens	14-156(f)
Inhalation prohibited	14-156(b)
Narcotics	14-156(e)
Penalties	14-156(i)
Prescription drugs exempt	14-156(c)
Prohibited generally	14-156(a)
Seizure of vehicles used in drug violations	14-157
Authority to compromise	14-157(e)
Forfeiture of interest	14-157(a)
Judgment	14-157(g)
Notice of seizure	14-157(c)
Owner's or claimant's answer to notice	14-157(d)
Police officer to seize vehicle	14-157(b)
Procedure for hearing	14-157(f)
Notice, notification	
Control, alcoholic beverage	
Licenses	14-58
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles	
Seizure of vehicles used in drug violations	
Notice of seizure	14-157(c)
Owner's or claimant's answer to notice	14-157(d)
Possession in a public place	
Application for return of confiscated material	14-135

Section

ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES (Cont'd.)
Civil action for wrongful confiscations; time and monetary limitations ... 14-136
Definitions ... 14-133
Illegality of possession, confiscation ... 14-134
Sovereign immunity ... 14-1
Taxation
Luxury tax
Alcohol tax ... 15.1-143
Traffic and motor vehicles ... 16-222 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Unlawful acts
Chapter violations ... 14-101
Civil sanctions and penalties ... 14-101(a)
Criminal penalties ... 14-101(b)
Provisions re ... 14-102

AMUSEMENTS AND ENTERTAINMENTS
Gaming ... 15.5-1 et seq.
See: GAMING
Licensing and permitting ... 15-51 et seq.
See: LICENSING AND PERMITTING
Salt River Community Gaming Enterprises
Capitalization; financial responsibility . 1-294
Established ... 1-293
Salt River Community Golf Enterprises
Capitalization; financial responsibility . 1-125
Established ... 1-124
Traffic and motor vehicles
Operation of vehicles
Speed restrictions
Racing and drag races ... 16-220

ANIMALS AND FOWL
Abandonment of animals ... 12-6
Animal forfeiture/seizure ... 12-4
Civil nature of chapter ... 12-2
Cruelty to animals ... 12-3
Damage, defacement, destruction or injury
Euthanasia of animals ... 12-5
Rabies control. See herein that subject
Definitions ... 12-1
Euthanasia of animals ... 12-5
Fines, forfeitures and other penalties
Animal forfeiture/seizure ... 12-4
Forfeiture/prohibited ownership ... 12-10
Rabies control
Penalties for violations ... 12-55
Wild free-roaming horses and burros
Civil penalty ... 12-90
Forfeiture/prohibited ownership ... 12-10
Health and sanitation
Disposal of dead animals ... 13-1
Law enforcement animals ... 12-8
Poisoning, animal ... 12-7
Rabies control
Anti-rabies vaccine; term of vaccination 12-43
Collection, usage and purpose of fees .. 12-46

Section

ANIMALS AND FOWL (Cont'd.)
Control of behavior of vicious dogs ... 12-54
Authority to destroy vicious dogs ... 12-54(d)
Definition ... 12-54(b)
Determination of vicious dog ... 12-54(a)
Liability of Community ... 12-54(f)
Owners of vicious dogs, liability of .. 12-54(e)
Vicious dogs not permitted at large .. 12-54(c)
Counterfeit or removal of tag ... 12-45
Damage, defacement, destruction or injury
Control of behavior of vicious dogs
Authority to destroy vicious dogs . 12-54(d)
Destruction of certain dogs ... 12-50
Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies
Destruction of animal prohibited . 12-49(f)
Definitions ... 12-41
Destruction of certain dogs ... 12-50
Dogs to wear collar with tag ... 12-44
Dumping of animals ... 12-47
Enforcement agency or its designated representatives, responsibility of . 12-52
Fee schedule adjustment ... 12-56
Finances
Collection, usage and purpose of fees 12-46
Fee schedule adjustment ... 12-56
Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies
Impoundment; fees ... 12-49(a)
Penalties for violations ... 12-55
Poisoning generally prohibited; poisoning program ... 12-51
Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies ... 12-49
Confinement at home ... 12-49(b)
Destruction of animal prohibited ... 12-49(f)
Impoundment; fees ... 12-49(a)
Interference unlawful ... 12-49(d)
Notification of public health service . 12-49(c)
Unauthorized removal from impoundment unlawful ... 12-49(e)
Rabies quarantine areas ... 12-48
Responsibility of the health service ... 12-53
Vaccination and reports ... 12-42
Restricting roaming animals ... 12-9
Sexual assault of an animal ... 12-11
Sonoran Desert Nesting Bald Eagle Protection Act
Definitions ... 12-112
Department; power to regulate ... 12-116
Enforcement ... 12-117
Findings and declarations ... 12-113
Management programs ... 12-114
Protected nesting habitats ... 12-115
Short title ... 12-111

Section

ANIMALS AND FOWL (Cont'd.)
Traffic and motor vehicles ..... 16-5 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Water and other natural resources
Environmental protection
Wildlife and natural plants 18-54
Wild free-roaming horses and burros
Civil penalty 12-90
Cooperative agreements 12-89
Crime 12-91
Definitions 12-87
Policy 12-86
Powers and duty of Community 12-88
Adoption ..... 12-88(c)
Inventory ..... 12-88(b)
Jurisdiction, protection and management; delegation ..... 12-88(a)

APPEALS
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Provisions re 14-63
Response; appeal 14-68
Community membership
As a matter of right, membership
Application and review process
Process, appeal ..... 2-26(e)
Courts
Appeals
Appellate division 4-85
Jurisdiction
Court of original and appellate jurisdiction ..... 4-1(a)
Development, real property and housing .. 17-43 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Floodplain and drainage
Appeals and variances 17.5-4
Food service establishments and retail food stores
Appeals; waiver of requirements 13-139
Graffiti
Abatement, graffiti
Filing of appeals ..... 21-7(d)
Appellate review 21-10
Juvenile court
Alternative method for resolution of cases
Entry of judgment; appeal ..... 11-31(f)
Appeals, juvenile court 11-29
Labor and employment ..... 23-83 et seq.
See: LABOR AND EMPLOYMENT
Licensing and permitting ..... 15-37 et seq.
See: LICENSING AND PERMITTING
Senior home repair or replacement program committee 1-367
Traffic and motor vehicles
Procedure in traffic cases

Section

APPEALS (Cont'd.)
Appeals
Right to appeal 16-280
Voting and elections
Initiative, referendum and recall elections
Petitions
Appeals, recall and initiative petition 3-125
Recordkeeping
Availability of petition for appeals hearings ..... 3-124(b)
Water and other natural resources
Agriculture fugitive dust control
Administration for compliance and enforcement
Appeal process ..... 18-164(c)

ARTS AND CULTURE
Cultural resources ..... 19-1 et seq.
See: CULTURAL RESOURCES
Development, real property and housing
Policy concerning cultural preservation in development 17-2

AUDITS
Business and commerce
Membership, contributions, distributions and management 24-108
Gaming 15.5-7

B

BICYCLES AND PLAY VEHICLES
Application of provisions 16-301
Highways and paths ..... 16-301(b)
Parents and guardians ..... 16-301(a)
Carrying articles 16-305
Clinging to vehicles 16-307
Lamps and other equipment on bicycles .. 16-306
Brake required ..... 16-306(c)
Lamp required ..... 16-306(a)
Prohibition ..... 16-306(b)
Manner of riding 16-304
Prohibition ..... 16-304(b)
Seat ..... 16-304(a)
Riding on roadways and bicycle paths 16-303
Prohibition ..... 16-303(b)
Right side ..... 16-303(a)
Use of path ..... 16-303(c)
Traffic laws apply to persons riding bicycles 16-302

BOARDS. See: COMMUNITY, ENTERPRISES, DIVISIONS AND BOARDS

BONDS, SURETY OR PERFORMANCE
Community court
Recievers 5-63
Courts
Bonds and witness expenses 4-86
Cultural resources
Fees; bonds 19-8

Section

BONDS, SURETY OR PERFORMANCE (Cont'd.)
Development, real property and housing . . 17-36 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations
Guardianship
Incompetent adults, guardians for
Duties; bond 10-152
Extradition and exclusion
Bail; in what cases; conditions of bond . 7-17
Finances
Sale of securities 20-54
Traffic and motor vehicles
Operation of vehicles
Nonmembers on land other than Community roadways, operation of vehicles by
Release of vehicle on posting of bond . . . . . 16-141(e)

BRIDGES AND CULVERTS
Traffic and motor vehicles
Operation of vehicles
Speed restrictions
Speed restriction on bridges and elevated structures 16-216

BUILDINGS AND BUILDING REGULATIONS
Criminal code
Weapons and explosives
Discharge of a firearm at an occupied structure; definitions; sentencing. 6-139
Seizure of vehicle used; discharge of a firearm at an occupied structure 6-140
Floodplain and drainage. . . . . 17.5-8 et seq.
See: FLOODPLAIN AND DRAINAGE
Voting and elections
Violations of election process
Violations by actions of candidates or issue supporters
Community school buildings and campus, campaigning in and around . . . . . 3-149(h)

BURNING. See: OPEN BURNING

BUSINESS AND COMMERCE
Alcoholic beverages and prohibited substances. . . . . 14-55 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Courts
Judges
Qualifications of judges
Commercial issues. . . . . 4-32(3)
Professional attorneys and lay advocates 4-4

Section

BUSINESS AND COMMERCE (Cont'd.)
Criminal code
Drug-related offenses
Possession or use of narcotics and drugs
Certain professionals exempt. . . . . 6-121(d)
Development, real property and housing
Group homes. 17-15
Dissolution and winding up
Distribution of assets in winding up limited liability company's activities. 24-164
Events causing dissolution 24-159
Known claims against dissolved limited liability company 24-161
Liability
Distribution of assets in winding up limited liability company's activities 24-164
Known claims against dissolved limited liability company 24-161
Other claims against dissolved limited liability company 24-162
Limitations of claims in dissolution 24-163
Other claims against dissolved limited liability company 24-162
Winding up 24-160
Food service establishments and retail food stores . . . . . 13-128 et seq.
See: FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES
Formation and certificate of organization
Amendment or restatement of certificate of organization. 24-42
Certificate of existence. 24-43
Formation of limited liability company; certificate of organization 24-41
Health and sanitation
Collection and haulage of solid waste from commercial enterprises 13-6
Liability
Dissolution and winding up. See herein that subject
Formation and certificate of organization
Formation of limited liability company; certificate of organization 24-41
Limited liability company act. See herein that subject
Membership, contributions, distributions and management
Liability for improper distributions. . 24-104
Management of limited liability company 24-105
Merger, conversion, and domestication
Foreign limited liability company, domestication of 24-189

Section

BUSINESS AND COMMERCE (Cont'd.)
Status of limited liability companies upon merger, conversion, and domestication. 24-192
Relations of members and managers to persons dealing with limited liability company. See herein that subject
Licensing and permitting . . . . . 15-74 et seq.
See: LICENSING AND PERMITTING
Limited liability company act
Definitions 24-3
Governing law 24-7
Knowledge; notice 24-4
Name 24-8
Nature, purpose, and duration of limited liability company 24-5
Office and agent for service of process . . 24-10
Operating agreement; scope, function, and limitations 24-9
Powers; limitations 24-6
Purpose 24-2
Service of process 24-11
Short title 24-1
Membership, contributions, distributions and management
Audit 24-108
Contributions 24-101
Distributions 24-102
Indemnification and insurance 24-106
Liability for improper distributions 24-104
Limitations on distribution 24-103
Management of limited liability company 24-105
Membership; actions by members 24-100
Right of members to information 24-107
Merger, conversion, and domestication
Conversion 24-186
Definitions 24-182
Domestication, plan of 24-190
Effect of conversion 24-188
Effect of domestication 24-191
Effect of merger 24-185
Foreign limited liability company, domestication of 24-189
Merger 24-183
Other jurisdiction, domestication in 24-193
Plan of conversion 24-187
Plan of merger 24-184
Planning
Domestication, plan of 24-190
Plan of conversion 24-187
Plan of merger 24-184
Status of limited liability companies upon merger, conversion, and domestication 24-192
Minors
Child protection
Placement of children
Licensed facility . . . . . 11-158(3)

Section

BUSINESS AND COMMERCE (Cont'd.)
Phoenix Cement Company
Capitalization; financial responsibility . 1-212
Established 1-211
Relations of members and managers to persons dealing with limited liability company
Liability of members and managers 24-76
No agency power of member as member 24-75
Privileges and immunities 24-77
Waiver of sovereign immunity 24-78
Saddleback Communications Company
Capitalization; financial responsibility . 1-186
Established 1-185
Salt River Commercial Landfill Company . 1-262 et seq.
See: SALT RIVER COMMERCIAL LANDFILL COMPANY
Salt River Community Gaming Enterprises
Capitalization; financial responsibility . 1-294
Established 1-293
Salt River Community Golf Enterprises
Capitalization; financial responsibility . 1-125
Established 1-124
Salt River Community Property Development and Asset Management Company
Capitalization; financial responsibility . 1-105
Established 1-104
Salt River Fields at Talking Stick . . . . . 1-322 et seq.
See: SALT RIVER FIELDS AT TALKING STICK
Salt River Financial Services Institution . . 1-149 et seq.
See: SALT RIVER FINANCIAL SERVICES INSTITUTION
Salt River Sand and Rock Company
Established 1-233
Sex offender registration and Community notification
Community notification
Notification to victim, neighbors, schools, Community human resources department and offender's employer . . . . . 6.5-11(b)
Taxation
Partnerships 15.1-5
Traffic and motor vehicles . . . . . 16-102 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Transfer of membership interest
Transfer 24-130
Voting and elections
Violations of election process
Violations by actions of candidates or issue supporters
Campaigning in and around the workplace during Community business hours, except for Community schools . . . . . 3-149(f)

Section

C

CERTIFICATES, CERTIFICATION
Business and commerce . . . . . 24-41 et seq.
See: BUSINESS AND COMMERCE
Finances
Welfare assistance
Determination of needs based programs
Needs basis; eligibility certification . . . . . 20-89(a)
Floodplain and drainage
Certifications and required permits, requirement for 17.5-9
Health and sanitation
Pesticides
Certificates, permits and licenses . . . 13-101
Tuberculosis
Procedure for commitment of tuberculous person
Certification . . . . . 13-75(b)
Salt River Financial Services Institution
Compliance with certification requirements 1-158
Senior home repair or replacement program committee
Eligibility and prioritization
Needs basis
Certification, individual. . . . . 1-358(c)(4)
Committee certification . . . . . 1-358(c)(5)
Traffic and motor vehicles
Registration, licensing and inspection
Owner or driver to comply with inspection provisions
Certification of adjustment. . . . . 16-43(b)
Voting and elections. . . . . 3-4 et seq.
See: VOTING AND ELECTIONS

CHARITABLE ORGANIZATIONS. See: NONPROFIT ORGANIZATIONS

CHURCHES
Alcoholic beverages and prohibited substances
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles
Possession or use of narcotics, hallucinogens, and other dangerous drugs
Exempt, certain religious ceremonies . . . . . 14-156(h)
Domestic relations
Domestic violence
Treatment and counseling
Religious consideration . . . . . 10-255(c)

CIVIL OFFENSES
Pedicabs 5.5-1
Ticket reselling 5.5-2

Section

CODE OF ORDINANCES*
Amendments to Code 1-9
Adding . . . . . 1-9(b)
Amending existing provisions . . . . . 1-9(a)
Repealing. . . . . 1-9(c)
Codification ratified 1-1
Construction of catchlines 1-7
Construction of Community Code of Ordinances provisions 1-6
Enacting, repealing, and amending sections within the Community Code of Ordinances 1-5
Repeal or amendment of sections of the Code of Ordinances as affecting existing liabilities . . . . . 1-5(a)
Savings clause of repealed and amended sections of the Community Code of Ordinances . . . . . 1-5(b)
History notes 1-4
Powers of codifier 1-3
Publication required 1-2
Severability of parts of Code 1-8

CODES
Amendments to Code 1-9
Codification ratified 1-1
Construction of Community Code of Ordinances provisions 1-6
Criminal code . . . . . 6-1 et seq.
See: CRIMINAL CODE
Domestic relations
Protection for elderly and vulnerable adults
Generally
Title. . . . . 10-179(a)
Enacting, repealing, and amending sections within the Community Code of Ordinances 1-5
Food service establishments and retail food stores
Food Code 13-135
Gaming
Granting of security interests
Uniform Commercial Code, application of . . . . . 15.5-23.5(c)
Licensing and permitting
Public dance permits
Regulations adopted pursuant to this division within this Community Code of Ordinances 15-193
Powers of codifier 1-3
Severability of parts of Code 1-8

*__Note—__The adoption, amendment, repeal, omissions, effective date, explanation of numbering system and other matters pertaining to the use, construction and interpretation of this Code are contained in the adopting ordinance and preface which are to be found in the preliminary pages of this volume.

Section

CODES (Cont'd.)
Voting and elections
Election board
Code of ethics, temporary removal, removal and resignation..... 3-3(6)
Initiative, referendum and recall elections
Petitions
Applicability of this division within this Community Code of Ordinances..... 3-127

COMMISSIONS
Gaming
Licenses for employee
Procedures for forwarding applications and reports for key employees and primary management officials to National Indian Gaming Commission..... 15.5-9(4)

COMMITTEE OF INQUIRY
Extradition and exclusion
Community territory, exclusion from
Removal of nonmembers who are detrimental to the Community
Committee of inquiry and council determination..... 7-75(d)

COMMITTEES
Retirement/benefit compliance and advisory committee
Coordination of federal and tribal law.. 23-136
Definitions..... 23-135
Retirement/benefit plan coordination of law
Coordination of federal and tribal law.. 1-348
Definitions..... 1-347
Senior home repair or replacement program committee ..... 1-354 et seq.
See: SENIOR HOME REPAIR OR REPLACEMENT PROGRAM COMMITTEE

COMMUNITY COUNCIL
Community membership
As a matter of right, membership
Finality of Community Council decision..... 2-31
Courts
Jurisdiction
Subject matter jurisdiction limited by council action..... 4-1(b)
Development, real property and housing.. 17-5 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Extradition and exclusion
Community territory, exclusion from
Removal of nonmembers who are detrimental to the Community
Committee of inquiry and council determination..... 7-75(d)

Section

COMMUNITY COUNCIL (Cont'd.)
Finances
Welfare assistance
Provision of general welfare assistance
Council approved programs ..... 20-88(a)
Licensing and permitting
Trailer space rental business
Application for licenses; authority of president; appeal to Community Council 15-75
Salt River Commercial Landfill Company
Reports to the Community Council 1-269
Salt River Financial Services Institution.. 1-150 et seq.
See: SALT RIVER FINANCIAL SERVICES INSTITUTION
Traffic and motor vehicles ..... 16-102 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections
Post election
Council members not employed by Community government or its divisions, departments and/or enterprises ..... 3-82(a)
Violations of election process
Penalties
Removal and exclusion from the Community by council action 3-152(4)

COMMUNITY COURT
Application of law..... 5-1
Civil procedure
Juries 5-35
Civil cases, jury trials in ..... 5-35(a)
Jury procedure ..... 5-35(c)
Traffic violation cases, jury trials in . 5-35(b)
Community rules of evidence
(Note—Citations within this subheading refer to sections found within Ch. 5, Art. VII)
Appeals
Witnesses
Impeachment by evidence of a criminal conviction
Pendency of an appeal ..... 609(d)
Authentication and identification
Authenticating or identifying evidence 901
Examples..... 901(b)
In general ..... 901(a)
Evidence that is self-authenticating . 902
Subscribing witness' testimony..... 903
Certificates, certification
Witnesses
Impeachment by evidence of a criminal conviction
Effect of a pardon, annulment, or certificate of rehabilitation..... 609(c)

Section

COMMUNITY COURT (Cont'd.)
Churches
Privileges
Religious or spiritual communications 504
Codes
Contents of writings, recordings, and photographs
Definitions that apply to this division within this Community Code of Ordinances 1001
Hearsay
Definitions that apply to this division within this Community Code of Ordinances; exclusions from hearsay 801
Compensation
Opinions and expert testimony
Court appointed expert witnesses. 706(c)
Contents of writings, recordings, and photographs
Admissibility of other evidence of content 1004
Copies of public records to prove content 1005
Definitions that apply to this division within this Community Code of Ordinances 1001
Duplicates, admissibility of 1003
Functions of the court and jury 1008
Requirement of the original. 1002
Summaries to prove content 1006
Testimony or statement of a party to prove content 1007
Contracts and agreements
Privileges
In general, privilege
Controlling effect of a party agreement. . . . . 501(f)
Domestic relations
Privileges
Marital privilege 505
Finances
Relevance and its limits
Offers to pay medical and similar expenses. 409
Health and sanitation
Privileges
Physician-patient privilege 503
Relevance and its limits
Offers to pay medical and similar expenses. 409
Hearings
Judicial notice
Adjudicative facts, judicial notice of
Opportunity to be heard . . . . . 201(e)
Preliminary questions
Conducting a hearing outside the presence of a jury . . . . . 104(c)

Section

COMMUNITY COURT (Cont'd.)
Hearsay
Attacking and supporting the declarant's credibility 806
Definitions that apply to this division within this Community Code of Ordinances; exclusions from hearsay 801
Exceptions to the rule against hearsay; when the declarant is unavailable as a witness 804
Criteria for being unavailable . . . . 804(a)
Exceptions . . . . . 804(b)
Only applicable to civil cases . . . . . 804(c)
Hearsay within hearsay 805
Regardless of whether the declarant is available as a witness; exceptions to the rule against hearsay 803
Residual exception 807
In general . . . . . 807(a)
Notice . . . . . 807(b)
Rule against hearsay. 802
Insurance
Relevance and its limits
Liability insurance 411
Judges
Purpose and applicability of the rules
To courts and judges. . . . . 102(b)
Witnesses
Judge's competency as a witness . 605
Judicial notice
Adjudicative facts, judicial notice of . 201
Instructing the jury . . . . . 201(f)
Kinds of facts that may be judicially noticed. . . . . 201(b)
Opportunity to be heard . . . . . 201(e)
Scope. . . . . 201(a)
Taking notice . . . . . 201(c)
Timing . . . . . 201(d)
Liability
Relevance and its limits
Liability insurance 411
Limiting evidence 105
Notice, notification
Hearsay
Residual exception . . . . . 807(b)
Judicial notice. See within this subheading that subject
Oath, affirmation, swear or sworn
Witnesses
Oath or affirmation to testify truthfully. 603
Offenses and miscellaneous provisions
Relevance and its limits
Sex-offense cases: the victim's sexual behavior 412
Witnesses
Impeachment by evidence of a criminal conviction
Serious offense . . . . . 609(e)

	Section
COMMUNITY COURT (Cont'd.)	
Opinions and expert testimony	
Bases of an expert's opinion testimony	703
Court appointed expert witnesses	706
Appointment process	706(a)
Compensation	706(c)
Disclosing the appointment to the jury	706(d)
Expert's role	706(b)
Parties' choice of their own experts	706(e)
Disclosing the facts or data underlying an expert's opinion	705
Lay witnesses, opinion testimony by.	701
Opinion on an ultimate issue	704
Exception	704(b)
In general; not automatically objectionable	704(a)
Testimony by expert witnesses	702
Non-scientific based evidence	702(b)
Scientific based evidence	702(a)
Ordinances, resolutions, etc.	
Contents of writings, recordings, and photographs	
Definitions that apply to this division within this Community Code of Ordinances	1001
Hearsay	
Definitions that apply to this division within this Community Code of Ordinances; exclusions from hearsay	801
Preliminary questions	104
Conducting a hearing outside the presence of a jury	104(c)
Cross-examining a defendant in a criminal case	104(d)
Evidence relevant to weight and credibility	104(e)
In general	104(a)
Relevance that depends on a fact	104(b)
Presumptions in civil cases generally	301
Privileges	
Counsel-client privilege and work product; limitations on waiver	502
In general, privilege	501
Applicability of these rules	501(a)
Controlling effect of a party agreement	501(f)
Court order, controlling effect of a	501(e)
Definition of "confidential communication"	501(g)
Disclosure made in a federal, state, or another tribal court proceeding	501(d)
Inadvertent disclosure	501(c)
Privileged communication and waiver	501(b)
Marital privilege	505
Physician-patient privilege	503
COMMUNITY COURT (Cont'd.)	
Religious or spiritual communications	504
Purpose and applicability of the rules	102
Exceptions	102(d)
Other laws and rules	102(e)
Purpose	102(a)
To cases and proceedings generally	102(c)
To courts and judges	102(b)
Records and reports	
Authentication and identification	
Subscribing witness' testimony	903
Contents of writings, recordings, and photographs. See within this subheading that subject	
Remainder of or related writings or recorded statements	106
Rulings on evidence	
Court's statement about the ruling; directing an offer of proof	103(c)
Relevance and its limits	
Character evidence; crimes or other acts	404
Character evidence	404(a)
Crimes, wrongs, or other acts	404(b)
Compromise offers and negotiations	408
Exceptions	408(b)
Prohibited uses	408(a)
Exclusion of relevant evidence for special circumstances	403
General admissibility of relevant evidence	402
Habit; routine practice	406
Liability insurance	411
Methods of proving character	405
By reputation or opinion	405(a)
By specific instances of conduct	405(b)
Offers to pay medical and similar expenses	409
Pleas, plea discussions and related statements	410
Exceptions	410(b)
Prohibited uses	410(a)
Sex-offense cases: the victim's sexual behavior	412
Definition of "victim	412(d)
Exceptions	412(b)
Procedure to determine admissibility	412(c)
When inadmissible	412(a)
Sexual misconduct cases, character evidence in	413
Subsequent remedial measures	407
Test for relevant evidence	401
Remainder of or related writings or recorded statements	106
Rulings on evidence	103
Court's statement about the ruling; directing an offer of proof	103(c)

Section

COMMUNITY COURT (Cont'd.)
Not needing to renew an objection or offer of proof. . . . . 103(b)
Preserving a claim of error . . . . . 103(a)
Preventing the jury from hearing inadmissible evidence . . . . . 103(d)
Sexual conduct
Relevance and its limits
Sex-offense cases: the victim's sexual behavior 412
Sexual misconduct cases, character evidence in 413
Suits, actions and other legal proceedings
Hearsay
Exceptions to the rule against hearsay; when the declarant is unavailable as a witness
Only applicable to civil cases . . 804(c)
Title; definitions. 101
Definitions . . . . . 101(b)
Title . . . . . 101(a)
Weights and measures
Preliminary questions
Evidence relevant to weight and credibility. . . . . 104(e)
Witnesses
A witness' character for truthfulness or untruthfulness 608
Reputation or opinion evidence . . . 608(a)
Specific instances of conduct . . . . . 608(b)
Competency to testify in general 601
Court's calling or examining a witness 614
Calling . . . . . 614(a)
Examining. . . . . 614(b)
Excluding witnesses 615
Impeachment by evidence of a criminal conviction 609
Effect of a pardon, annulment, or certificate of rehabilitation . . 609(c)
In general . . . . . 609(a)
Limit on using the evidence after ten years . . . . . 609(b)
Pendency of an appeal . . . . . 609(d)
Serious offense . . . . . 609(e)
Interpreter 604
Judge's competency as a witness 605
Juror's competency as a witness 606
At the trial . . . . . 606(a)
During an inquiry into the validity of a verdict . . . . . 606(b)
Mode and order of examining witnesses and presenting evidence 611
Control by the court; purposes. . . . 611(a)
Leading questions . . . . . 611(c)
Scope of cross-examination . . . . . 611(b)
Need for personal knowledge 602
Oath or affirmation to testify truthfully 603

Section

COMMUNITY COURT (Cont'd.)
Religious beliefs or opinions 610
Who may impeach a witness. 607
Witness' prior statements 613
Extrinsic evidence of a prior inconsistent statement. . . . . 613(b)
Showing or disclosing the statement during examination . . . 613(a)
Writing used to refresh a witness' memory 612
Adverse party's options; deleting unrelated matter . . . . . 612(b)
Failure to produce or deliver the writing . . . . . 612(c)
Scope. . . . . 612(a)
Writs, warrants and other legal processes
Privileges
In general, privilege
Court order, controlling effect of a . . . . . 501(e)
Health and sanitation
Pesticides
Judicial proceedings; Community court 13-107
Hearings. See also herein specific subjects
Recievers
Hearing on application 5-60
Juvenile court
Jurisdiction
Transfer to Community court . . . . . 11-25(f)
Minors
Truancy
Community court hearings 11-316
Recievers
Application for appointment. 5-59
Bond 5-63
Findings of fact 5-61
Hearing on application. 5-60
Qualifications of receiver. 5-62
Removal or suspension of receiver; termination of receivership 5-64
Dismissal of action. . . . . 5-64(a)
Suspension; removal of receiver . . . . . 5-64(c)
Termination of receivership. . . . . 5-64(b)
Rules of civil appellate procedure
(Note—Citations within this subheading refer to sections found within Ch. 5, Art. V)
Accelerated appeals 12.2
Access
Sealed proceedings and records
Access to sealed or redacted record 31(c)
Public access. . . . . 31(a)
Amicus curiae. 25
Contents of brief. . . . . 25(c)
Motion for leave to file . . . . . 25(b)
Only permitted with leave of court . . 25(a)
Time to file. . . . . 25(d)
Appeal as indigent 28

	Section
COMMUNITY COURT (Cont'd.)	
Briefs	12
Appellee's brief, contents of	12(d)
Briefs involving multiple appellants or appellees	12(h)
Contents of appellant's brief	12(c)
Form and length of the briefs	12(b)
No further brief	12(f)
Noncompliance	12(g)
Reply brief, contents of	12(e)
Time for filing	12(a)
Time to file briefs where a minor is a party to appeal or subject of the appeal	12(i)
Certificates, certification	
Certified questions	17
Filing and service	8(b)
Certified questions	17
Acceptance of jurisdiction	17(d)
Compliance with Rule 8	17(c)
Requirements	17(a)
Stay of proceedings	17(e)
Time for filing and content	17(b)
Composition of justices	18
Cross-appeals, briefs on	12.1
Additional time limitation to file briefs where any party to the cross-appeal is a minor	12.1(e)
Applicability	12.1(a)
Briefs	12.1(c)
Designation of appellant	12.1(b)
Time to serve and file a brief	12.1(d)
Definitions	1.1
Disposition and orders	15
Ancillary orders	15(a)
Disposition	15(b)
Entry of judgment	20
Entry	20(a)
Notice to parties	20(b)
Extraordinary writs	26
Action on the petition	26(d)
Compliance with Rule 8	26(c)
Designation of parties	26(b)
Other extraordinary writs	26(e)
Writs of mandamus and prohibition	26(a)
Filing and service	8
Certification	8(b)
Number of copies	8(c)
Service	8(a)
Filing notice of appeal and consolidation of appeals, time for	3
Consolidation of appeals	(d)
Dismissal of late appeals	3(b)
Extension of time to file appeal	3(c)
Time for filing	3(a)
Finances	
Prevailing party may be entitled to costs	30

	Section
COMMUNITY COURT (Cont'd.)	
Form and contents of the notice of appeal	4
Additional information required	4(c)
Contents of the notice of appeal	4(b)
Filing the notice of appeal	4(a)
Service of notice of appeal	4(d)
Special considerations for appeals involving minors	4(e)
Hearings	
Issuance of mandate	
Petition for rehearing filed	22(b)
Petition for rehearing not filed	22(a)
Oral arguments	
Hearing of appeals in open court	13(c)
Petitions for panel rehearing	21
Interest on civil judgments	29
Issuance of mandate	22
Effective date of mandate	22(c)
Petition for rehearing filed	22(b)
Petition for rehearing not filed	22(a)
Minors	
Briefs	
Time to file briefs where a minor is a party to appeal or subject of the appeal	12(i)
Cross-appeals, briefs on	12.1
Additional time limitation to file briefs where any party to the cross-appeal is a minor	12.1(e)
Form and contents of the notice of appeal	
Special considerations for appeals involving minors	4(e)
Transmission of the record	
Appeals involving minors	7(d)
Motion to dismiss	11
Effect of cross-appeals on dismissal of appeal	11(c)
Involuntary dismissal	11(b)
Voluntary dismissal	11(a)
Motions	10
Compliance with Rule 8	10(e)
Effect of motions on briefing schedule	10(c)
Form and content	10(a)
Length limitations	10(b)
Notice of supplemental authority	10(d)
Notice, notification	
Entry of judgment	
Notice to parties	20(b)
Filing notice of appeal and consolidation of appeals, time for	3
Form and contents of the notice of appeal	4
Motions	
Notice of supplemental authority	10(d)
Opinions and disposition	
Notification to parties	19(f)
Transmission of the record	
Notice to parties	7(c)

Section

COMMUNITY COURT (Cont'd.)
Officers and employees
Substitution of parties
Public officers; death or separation from office . . . . . 23(c)
Opinions and disposition 19
Designation of disposition . . . . . 19(e)
Disposition by opinion . . . . . 19(b)
Memorandum, disposition by . . . . . 19(c)
Notification to parties . . . . . 19(f)
Precedent . . . . . 19(d)
Time limitations . . . . . 19(a)
Oral arguments 13
Failure to appear at oral arguments. 13(d)
Hearing of appeals in open court . . . . 13(c)
Request and setting of oral arguments . . . . . 13(a)
Time limitations . . . . . 13(b)
Parties permitted to appeal 2
Examples . . . . . 2(c)
Final case-dispositive orders and judgments in civil cases . . . . . 2(a)
Special action . . . . . 2(b)
Petitions for panel rehearing 21
Grounds for panel rehearing . . . . . 21(b)
Time limitations for decision . . . . . 21(c)
Time to file . . . . . 21(a)
Prevailing party may be entitled to costs 30
Record on appeal 6
Composition . . . . . 6(a)
Correction or modification of the record when record is unavailable 6(c)
Stipulated record . . . . . 6(d)
Unavailability of recording of proceedings . . . . . 6(b)
Records and reports
Record on appeal 6
Responsibility of the parties; transcripts 5
Sealed proceedings and records 31
Transmission of the record. 7
Responsibility of the parties; transcripts 5
Scope of rule 1
Sealed proceedings and records 31
Access to sealed or redacted record . . 31(c)
Public access . . . . . 31(a)
Request for sealing of record or proceeding . . . . . 31(b)
Stay of appeal. 14
Stays and injunctive relief 16
Automatic stays of judgments involving monetary awards. . . . . 16(b)
Motion for stay . . . . . 16(a)
Substitution of parties 23
Death of a party . . . . . 23(a)
Public officers; death or separation from office . . . . . 23(c)
Substitution for reasons other than death . . . . . 23(b)

Section

COMMUNITY COURT (Cont'd.)
Suits, actions and other legal proceedings
Interest on civil judgments 29
Parties permitted to appeal
Final case-dispositive orders and judgments in civil cases . . . . . 2(a)
Stays and injunctive relief 16
Suspension of rules 32
Time computation and extension of time 9
Additional time after service by mail 9(c)
Computation . . . . . 9(a)
Extension of time . . . . . 9(b)
Transmission of the record 7
Appeals involving minors . . . . . 7(d)
Extension of time limits . . . . . 7(b)
Notice to parties . . . . . 7(c)
Time for transmission . . . . . 7(a)
Volunteer, voluntary
Motion to dismiss
Involuntary dismissal. . . . . 11(b)
Voluntary dismissal . . . . . 11(a)
Withdrawal of counsel 24
Writ of habeas corpus. 27
Answer; reply . . . . . 27(c)
Application to Community court . . . . 27(d)
Filing and contents . . . . . 27(a)
Service of petition. . . . . 27(b)
Writs, warrants and other legal processes
Amicus curiae 25
Certified questions
Stay of proceedings . . . . . 17(e)
Disposition and orders 15
Entry of judgment 20
Extraordinary writs 26
Interest on civil judgments 29
Issuance of mandate
Petition for rehearing filed . . . . . 22(b)
Petition for rehearing not filed . . . 22(a)
Parties permitted to appeal
Final case-dispositive orders and judgments in civil cases . . . . . 2(a)
Petitions for panel rehearing 21
Stay of appeal 14
Stays and injunctive relief 16
Writ of habeas corpus 27
Rules of criminal appellate procedure
(Note—Citations within this subheading refer to sections found within Ch. 5, Art. VI)
Access
Sealed proceedings and records
Access to sealed or redacted record 26(c)
Public access . . . . . 26(a)
Amicus curiae 25
Contents of brief. . . . . 25(c)
Motion for leave to file . . . . . 25(b)
Only permitted with leave of court . . 25(a)
Time to file . . . . . 25(d)

	Section
COMMUNITY COURT (Cont'd.)	
Appeal rights in criminal cases	2
Examples	2(c)
Exclusion of speedy trial time	2(d)
Final orders and judgments	2(a)
Special actions	2(b)
Briefs	12
Appellant; contents	12(c)
Appellee; contents	12(d)
Briefs involving multiple appellants or appellees	12(h)
Form and length of the briefs	12(b)
No further briefs	12(f)
Noncompliance	12(g)
Reply brief; contents	12(e)
Time for filing	12(a)
Time to file briefs where any party to an appeal is a juvenile	12(i)
Certificates, certification	
Certified questions	17
Filing and service	
Certification	8(b)
Certified questions	17
Acceptance of jurisdiction	17(d)
Compliance with Rule 8	17(c)
Exclusion of speedy trial time	17(f)
Requirements	17(a)
Stay of proceedings	17(e)
Time for filing and content	17(b)
Composition of justices	18
Cross-appeals, briefs on	12.1
Additional time limitation to file briefs where any party to cross-appeal is a juvenile	12.1(e)
Applicability	12.1(a)
Briefs	12.1(c)
Designation of appellant	12.1(b)
Time to serve and file a brief	12.1(d)
Death of party	23
Definitions	1.1
Disposition and orders	15
Ancillary orders	15(a)
Disposition	15(b)
Entry of judgment	20
Entry	20(a)
Notice to parties	20(b)
Filing and service	8
Certification	8(b)
Number of copies	8(c)
Service	8(a)
Form and contents of the notice of appeal	4
Additional information required	4(c)
Contents of the notice of appeal	4(b)
Filing the notice of appeal	4(a)
Service of notice of appeal	4(d)
Special considerations for appeals involving juveniles	4(e)

	Section
COMMUNITY COURT (Cont'd.)	
Hearings	
Issuance of mandate	
Petition for rehearing not filed	22(a)
Rehearing filed, petition for	22(b)
Oral arguments	
Hearing of appeals in open court	13(c)
Petitions for panel rehearing	21
Issuance of mandate	22
Effective date of mandate	22(c)
Petition for rehearing not filed	22(a)
Rehearing filed, petition for	22(b)
Juvenile cases, appeal rights in	2.1
Minors	
Briefs	
Time to file briefs where any party to an appeal is a juvenile	12(i)
Cross-appeals, briefs on	
Additional time limitation to file briefs where any party to cross-appeal is a juvenile	12.1(e)
Form and contents of the notice of appeal	
Special considerations for appeals involving juveniles	4(e)
Juvenile cases, appeal rights in	2.1
Transmission of the record	
Appeals involving juveniles	7(d)
Motion to dismiss	11
Effect of cross-appeals on dismissal of appeal	11(c)
Involuntary dismissal	11(b)
Voluntary dismissal	11(a)
Motions	10
Compliance with Rule 8	10(e)
Effect of motions on briefing schedule	10(c)
Form and content	10(a)
Length limitations	10(b)
Notice of supplemental authority	10(d)
Notice, notification	
Entry of judgment	
Notice to parties	20(b)
Form and contents of the notice of appeal	4
Motions	
Notice of supplemental authority	10(d)
Notice of appeal form	5-466
Opinions and disposition	
Notification to parties	19(f)
Time for filing notice of appeal, special action, and consolidation of appeals	3
Transmission of the record	
Notice to parties	7(c)
Notice of appeal form	5-466
Opinions and disposition	19
Designation of disposition	19(e)
Disposition by opinion	19(b)
Memorandum, disposition by	19(c)
Notification to parties	19(f)

	Section
COMMUNITY COURT (Cont'd.)	
Precedent	19(d)
Time limitations	19(a)
Oral arguments	13
Failure to appear at oral arguments	13(d)
Hearing of appeals in open court	13(c)
Request and setting of oral arguments	13(a)
Time limitations	13(b)
Petitions for panel rehearing	21
Grounds for panel rehearing	21(b)
Time limitations for decision	21(c)
Time to file	21(a)
Record on appeal	6
Composition	6(a)
Stipulated record	6(c)
Unavailability of recording of proceedings	6(b)
Records and reports	
Record on appeal	6
Sealed proceedings and records	26
Transmission of the record	7
Responsibility of the parties	5
Scope of rule	1
Sealed proceedings and records	26
Access to sealed or redacted record	26(c)
Public access	26(a)
Request for sealing of record or proceeding	26(b)
Sentencing	
Stays	
Stay of sentence	16(b)
Stay of appeal	14
Stays	16
Motion for stay	16(a)
Stay of sentence	16(b)
Suspension of rules	27
Time computation and extension of time	9
Additional time after service by mail	9(c)
Computation	9(a)
Extension of time	9(b)
Time for filing notice of appeal, special action, and consolidation of appeals	3
Consolidation of appeals	3(d)
Dismissal of late appeals	3(b)
Extension of time to file appeal	3(c)
Time for filing	3(a)
Transmission of the record	7
Appeals involving juveniles	7(d)
Extension of time limits	7(b)
Notice to parties	7(c)
Time for transmission	7(a)
Volunteer, voluntary	
Motion to dismiss	
Involuntary dismissal	11(b)
Voluntary dismissal	11(a)
Withdrawal of counsel	24

	Section
COMMUNITY COURT (Cont'd.)	
Writs, warrants and other legal processes	
Amicus curiae	25
Appeal rights in criminal cases	
Final orders and judgments	2(a)
Certified questions	
Stay of proceedings	17(e)
Disposition and orders	15
Entry of judgment	20
Issuance of mandate	
Petition for rehearing not filed	22(a)
Rehearing filed, petition for	22(b)
Petitions for panel rehearing	21
Stay of appeal	14
Stays	16
Rules of criminal procedure	
(Note—Citations within this subheading refer to sections found within Ch. 5, Art. IV)	
Access	
Post-trial proceedings and sentencing	
Sealed proceedings and records	
Access to sealed or redacted record	5-6.25(c)
Public access	5-6.25(a)
Trial	
Preparation of jurors	
Note taking; access to juror notes and notebooks	5-5.17.4(c)
Bonds, surety or performance	
Pretrial motions and discovery	
Dismissals of prosecution	
Release of defendant; exoneration of bond	5-4.16.3(e)
Rights of parties. See within this subheading that subject	
Complaints	
Preliminary proceedings	
Complaint against an arrested person; form of complaint; prosecution of complaint	5-2.3.3
Contracts and agreements	
Pretrial motions and discovery	
Depositions	
Deposition by agreement	5-4.15.3(h)
Pleas	
Plea agreement procedure	5-4.11(c)
Deferred prosecution and sentence	
Application for suspension of prosecution	5-9.30.1
Prosecution, deferred	5-9.30.1(a)
Sentencing, deferred	5-9.30.1(b)
Dismissal of prosecution	5-9.30.3
Resumption of prosecution and sentence	5-9.30.2
Prosecution, deferred	5-9.30.2(a)
Sentence, deferred	5-9.30.2(b)
Finances	
Post-trial proceedings and sentencing	

Section

COMMUNITY COURT (Cont'd.)
Contents of the presentence report
Restitution . . . . . 5-6.26.5(b)
Fines and restitution 5-6.26.11
Pretrial motions and discovery
Depositions
Expenses . . . . . 5-4.15.3(f)
Trial
Jury or nonjury trial
Jury size and fees generally . . . 5-5.17.1(a)
Fines, forfeitures and other penalties
Post-trial proceedings and sentencing
Fines and restitution 5-6.26.11
Rights of parties
Consideration for release pending trial
Bond forfeiture hearing . . . . . 5-3.8(6)
Forfeiture of bond. . . . . 5-3.8(5)
Health and sanitation
Pretrial motions and discovery
Insanity defense, notice of an; mental examination 5-4.12.2
Rights of parties
Competency to stand trial
Medical records and records related to the offense. . . . . 5-3.10.2(c)
Trial
Types of verdicts
Insanity verdicts. . . . . 5-5.22.2(b)
Hearings
Motions and time computations
Hearing; oral arguments 5-10.31.2
Post-trial proceedings and sentencing
Request for aggravation or mitigation hearing. 5-6.26.6
Probation and parole
Modification and clarification of conditions and regulations . . . . . 5-7.27.2(c)
Revocation of probation
Hearing, probation violation . . . 5-7.27.7(b)
Rights of parties. See within this subheading that subject
Investigations
Trial
Exclusion of witnesses and public
Investigator . . . . . 5-5.18.1(d)
Jails
Probation and parole. See within this subheading that subject
Rights of parties
Right to trial by jury
Traffic offenses without imprisonment . . . . . 5-3.7(c)
Judges
Powers of the court
Punishment for contempt and disqualification of judge 5-8.29.5
Rights of parties
Change of judge 5-3.10
Unavailability of judge. 5-3.10.1

Section

COMMUNITY COURT (Cont'd.)
Minors
Trial
Exclusion of witnesses and public
Testimony of a child witness or witness with special needs 5-5.18.1(c)
Motions and time computations
Hearing; oral arguments 5-10.31.2
Motions 5-10.31.1
Form and content . . . . . 5-10.31.1(a)
Length limitations. . . . . 5-10.31.1(b)
Requests to be in writing 5-10.31.3
Service and filing 5-10.31.4
Time 5-10.31.5
Additional time after service by mail . . . . . 5-10.31.5(c)
Computation . . . . . 5-10.31.5(a)
Enlargement of time. . . . . 5-10.31.5(b)
Notice, notification
Post-trial proceedings and sentencing
Notice of objections; special duty of the prosecutor; corrections to presentence report. 5-6.26.7
Powers of the court
Disposition and notice of contempt committed outside the presence of the court 5-8.29.4
Pretrial motions and discovery. See within this subheading that subject
Probation and parole. See within this subheading that subject
Rights of parties
Assistance of counsel
Notice of appearance . . . . . 5-3.6(d)
Oath, affirmation, swear or sworn
Trial
Preparation of jurors . . . . . 5-5.17.4(a)
Procedure for selecting the trial jury
Swearing panel . . . . . 5-5.17.3(a)
Offenses and miscellaneous provisions
Rights of parties
Competency to stand trial
Medical records and records related to the offense. . . . . 5-3.10.2(c)
Right to trial by jury
Traffic offenses without imprisonment . . . . . 5-3.7(c)
Trial
Conviction of necessarily included offenses (reserved). 5-5.22.3
Types of verdicts
Different offenses . . . . . 5-5.22.2(c)
Pensions and retirement
Trial
Retirement of jurors 5-5.21.1

Section

COMMUNITY COURT (Cont'd.)
Post-trial proceedings and sentencing
Contents of the presentence report . . 5-6.26.5
Disclosing the report and recommendation . . . . . 5-6.26.5(g)
Exclusions . . . . . 5-6.26.5(e)
In general . . . . . 5-6.26.5(a)
Interviewing the defendant . . . . . 5-6.26.5(c)
Presentence report . . . . . 5-6.26.5(d)
Restitution. . . . . 5-6.26.5(b)
Victim input . . . . . 5-6.26.5(f)
Date of sentencing; extension 5-6.26.3
Date of sentencing. . . . . 5-6.26.3(a)
Extension of time . . . . . 5-6.26.3(b)
Definitions for post-verdict proceedings. 5-6.26.1
Duty of the court after pronouncing sentence 5-6.26.10
Entry of judgment and sentence 5-6.26.13
Fines and restitution. 5-6.26.11
Action upon failure to pay a fine. . 5-6.26.11(c)
Installments; method of payment . 5-6.26.11(a)
Method of payment; to whom. . . . . 5-6.26.11(b)
Modify or correct sentence, motion to 5-6.24.2
Motions for new trial. 5-6.23
Defendant's motion . . . . . 5-6.23(a)
Grounds . . . . . 5-6.23(b)
Other grounds . . . . . 5-6.23(d)
Time to file based upon newly discovered evidence . . . . . 5-6.23(c)
Notice of objections; special duty of the prosecutor; corrections to presentence report 5-6.26.7
Corrections to presentence report. 5-6.26.7(c)
Disclosure of corrected presentence report . . . . . 5-6.26.7(d)
Notice of objections . . . . . 5-6.26.7(a)
Special duty of the prosecutor . . . . 5-6.26.7(b)
Presence of the defendant 5-6.26.8
Presentence report 5-6.26.4
When due. . . . . 5-6.26.4(b)
When prepared. . . . . 5-6.26.4(a)
Pronouncement of judgment and sentence. 5-6.26.9
Judgment, pronouncement of. . . . . 5-6.26.9(a)
Pronouncement of sentence . . . . . 5-6.26.9(b)
Sentencing policy. . . . . 5-6.26.9(c)
Records and reports
Contents of the presentence report 5-6.26.5
Notice of objections; special duty of the prosecutor; corrections to presentence report. 5-6.26.7
Presentence report 5-6.26.4
Sealed proceedings and records. . . 5-6.25
Request for aggravation or mitigation hearing 5-6.26.6
Nature, time and purpose of the presentencing hearing . . . . . 5-6.26.6(b)
Request for a presentencing hearing . . . . . 5-6.26.6(a)

Section

COMMUNITY COURT (Cont'd.)
Resentencing 5-6.26.12
Sealed proceedings and records 5-6.25
Access to sealed or redacted record 5-6.25(c)
Public access. . . . . 5-6.25(a)
Request for sealing of record or proceeding . . . . . 5-6.25(b)
Time for rendering judgment 5-6.26.2
Factual determination . . . . . 5-6.26.2(c)
Upon acquittal . . . . . 5-6.26.2(a)
Upon conviction . . . . . 5-6.26.2(b)
Vacate sentence, motion to. 5-6.24.1
Writs, warrants and other legal processes
Entry of judgment and sentence . . 5-6.26.13
Pronouncement of judgment and sentence 5-6.26.9
Time for rendering judgment 5-6.26.2
Powers of the court
Contempt of court. 5-8.29.2
Disposition and notice of contempt committed outside the presence of the court. 5-8.29.4
Procedure for contempt committed in the presence of the court 5-8.29.3
Punishment. . . . . 5-8.29.3(b)
Summary procedure . . . . . 5-8.29.3(a)
Punishment for contempt and disqualification of judge 5-8.29.5
Subpoenas 5-8.29.1
Alternative form of subpoena. . . . . 5-8.29.1(d)
Content. . . . . 5-8.29.1(a)
Place of service. . . . . 5-8.29.1(c)
Producing documents and objects . 5-8.29.1(b)
Preliminary proceedings
Arraignment 5-5
Arrest without a warrant . . . . . 5-2.5(b)
Procedure. . . . . 5-2.5(c)
Time period. . . . . 5-2.5(a)
Arrest warrant; presumption of summons. 5-2.4
Arrest warrant procedure . . . . . 5-2.4(c)
Authority for a warrantless arrest 5-2.4(f)
Execution of a warrant . . . . . 5-2.4(e)
Form of warrant . . . . . 5-2.4(d)
Issuance . . . . . 5-2.4(a)
Presumption of summons . . . . . 5-2.4(b)
Summons . . . . . 5-2.4(g)
Commencement of criminal proceeding. 5-2.3
Complaint against an arrested person; form of complaint; prosecution of complaint. 5-2.3.3
Complaint against an arrested person . . . . . 5-2.3.3(a)
Contents of criminal complaint . . . 5-2.3.3(b)
Prosecution of complaint . . . . . 5-2.3.3(c)

	Section
COMMUNITY COURT (Cont'd.)	
Initial appearance of an arrested person	5-2.3.2
A defendant arrested on a failure to appear warrant	5-2.3.2(e)
A defendant not arrested	5-2.3.2(d)
Appointment of counsel	5-2.3.2(c)
Finding of probable cause	5-2.3.2(b)
Time limits and purpose	5-2.3.2(a)
Search warrants	5-2.4.1
Setting of trial date	5-2.5.1
Without a warrant, arrest	5-2.3.1
Writs, warrants and other legal processes	
Arraignment	
Arrest without a warrant	5-2.5(b)
Arrest warrant; presumption of summons	5-2.4
Initial appearance of an arrested person	
A defendant arrested on a failure to appear warrant	5-2.3.2(e)
Search warrants	5-2.4.1
Without a warrant, arrest	5-2.3.1
Pretrial motions and discovery	
Alibi defense, notice of an	5-4.12.1
Continuing duty to disclose	5-4.12.1(c)
Disclosing prosecutor witnesses	5-4.12.1(b)
Exceptions	5-4.12.1(d)
Failure to comply	5-4.12.1(f)
Inadmissibility of withdrawn intention	5-4.12.1(g)
Notice to prosecutor	5-4.12.1(a)
Timeliness	5-4.12.1(e)
Continuing duty to disclose	5-4.15.6
Defendant, disclosure by	5-4.15.2
Additional disclosure upon request and specification	5-4.15.2(d)
Disclosures by defendant	5-4.15.2(c)
Extent of defendant's duty to obtain information	5-4.15.2(e)
General notice of defenses	5-4.15.2(b)
Physical evidence	5-4.15.2(a)
Depositions	5-4.15.3
Availability	5-4.15.3(a)
Deposition by agreement	5-4.15.3(h)
Expenses	5-4.15.3(f)
Manner of taking	5-4.15.3(c)
Motion for taking deposition	5-4.15.3(b)
Objection to deposition testimony	5-4.15.3(g)
Presence of defendant	5-4.15.3(d)
Use	5-4.15.3(e)
Discovery by prosecutor	5-4.15.1
Additional disclosure upon request and specification	5-4.15.1(c)
Disclosure of rebuttal evidence	5-4.15.1(e)
Extent of prosecutor's duty to obtain information	5-4.15.1(d)
Matters relating to guilt, innocence or punishment	5-4.15.1(a)
Possible collateral issues	5-4.15.1(b)
Dismissals of prosecution	5-4.16.3
Effect of dismissal	5-4.16.3(d)
On defendant's motion	5-4.16.3(b)
On prosecutor's motion	5-4.16.3(a)
Record	5-4.16.3(c)
Release of defendant; exoneration of bond	5-4.16.3(e)
Excision and protective orders	5-4.15.5
Deny, defer or regulate discovery, discretion of the court to	5-4.15.5(a)
Discretion of the court to authorize excision	5-4.15.5(b)
Preservation of record	5-4.15.5(d)
Protective and excision order proceedings	5-4.15.5(c)
General standards governing discovery	5-4.15
Failure to call a witness or raise a defense	5-4.15(3)
Materials not subject to disclosure	5-4.15(2)
Statements	5-4.15(1)
Use of materials	5-4.15(4)
Insanity defense, notice of an; mental examination	5-4.12.2
Burden of proof	5-4.12.2(f)
Expert evidence of a mental condition, notice of	5-4.12.2(b)
Failure to comply	5-4.12.2(d)
Inadmissibility of withdrawn intention	5-4.12.2(e)
Mental examination	5-4.12.2(c)
Notice of an insanity defense	5-4.12.2(a)
Joinder	5-4.13
Notice, notification	
Alibi defense, notice of an	5-4.12.1
Defendant, disclosure by	
General notice of defenses	5-4.15.2(b)
Insanity defense, notice of an; mental examination	5-4.12.2
Public authority defense, notice of a	5-4.12.3
Order of the court, disclosure by	5-4.15.4
Pleas	5-4.11
Considering and accepting a guilty or no contest plea	5-4.11(b)
Entering a plea	5-4.11(a)
Inadmissibility of a plea, plea discussions, and related statements	5-4.11(e)
Plea agreement procedure	5-4.11(c)
Withdrawing a guilty or no contest plea	5-4.11(d)
Pretrial conference	5-4.16
Additional issues addressed	5-4.16(c)
Issues addressed	5-4.16(b)
Mandatory when jury trial set	5-4.16(d)
Pretrial conference, additional	5-4.16(e)
Pretrial order	5-4.16(a)

	Section
COMMUNITY COURT (Cont'd.)	
Pretrial motions	5-4.12
Motions deadline	5-4.12(b)
Provisions re	5-4.12(a)
Ruling on a motion	5-4.12(c)
Procedure on pretrial motions to suppress	5-4.16.1
Burden of proof on pretrial motions to suppress evidence	5-4.16.1(b)
Duty of court to inform defendant	5-4.16.1(a)
Public authority defense, notice of a	5-4.12.3
Continuing duty to disclose	5-4.12.33(b)
Failure to comply	5-4.12.3(c)
Inadmissibility of withdrawn intention	5-4.12.3(e)
Notice of the defense and disclosure of witnesses	5-4.12.3(a)
Protective procedures unaffected	5-4.12.3(d)
Relief from prejudicial joinder	5-4.14
Defendant's statements	5-4.14b)
Relief	5-4.14(a)
Sanctions	5-4.15.7
Cessation of prosecutor's obligations	5-4.15.7(b)
Failure to comply	5-4.15.7(a)
Withdrawal of jury trial request or waiver of jury trial	5-4.16.2
Form of withdrawal or waiver	5-4.16.2(b)
Withdrawal of jury trial demand	5-4.16.2(a)
Writs, warrants and other legal processes	
Excision and protective orders	5-4.15.5
Order of the court, disclosure by	5-4.15.4
Pleas	5-4.11
Pretrial conference	
Pretrial order	5-4.16(a)
Probation and parole	
Admissions by the probationer	5-7.27.8
Early termination of probation and no early termination of parole	5-7.27.3
Eligibility for early termination of probation	5-7.27.3(a)
No early termination of parole	5-7.27.3(b)
Initial appearance after arrest	5-7.27.6
Initiation of revocation proceedings; securing the probationer's presence; notice	5-7.27.5
Petition to revoke probation	5-7.27.5(a)
Securing the probationer's presence	5-7.27.5(b)
Manner of imposing probation and parole	5-7.27.1
Parole eligibility and conditions	5-7.27.1(b)
Probation	5-7.27.1(a)
Modification and clarification of conditions and regulations	5-7.27.2
Acknowledgement	5-7.27.2(d)
Hearing	5-7.27.2(c)
Notice prior to modification or clarification	5-7.27.2(a)
Time for request	5-7.27.2(b)
Notice, notification	
Initiation of revocation proceedings; securing the probationer's presence; notice	5-7.27.5
Modification and clarification of conditions and regulations	
Notice prior to modification or clarification	5-7.27.2(a)
Order and notice of discharge	5-7.27.4
Order and notice of discharge	5-7.27.4
Parole, revocation of	5-7.27.9
Rejection of probation	5-7.27.10
Revocation of probation	5-7.27.7
Disposition	5-7.27.7(c)
Hearing, probation violation	5-7.27.7(b)
Probation violation arraignment	5-7.27.7(a)
Record	5-7.27.7(d)
Records and reports	
Post-trial proceedings and sentencing. See within this subheading that subject	
Pretrial motions and discovery	
Dismissals of prosecution	5-4.16.3(c)
Excision and protective orders	
Preservation of record	5-4.15.5(d)
Probation and parole	
Revocation of probation	5-7.27.7(d)
Rights of parties. See within this subheading that subject	
Trial	
Preparation of jurors	
Note taking; access to juror notes and notebooks	5-5.17.4(c)
Rights of parties	
Appointment of counsel for indigent defendant (reserved)	5-3.6.1
Assistance of counsel	5-3.6
Duty of continuing representation	5-3.6(e)
Notice of appearance	5-3.6(d)
Right to be represented by counsel	5-3.6(a)
Unreasonable delay in retaining counsel	5-3.6(c)
Waiver of right to counsel	5-3.6(b)
Change of judge	5-3.10
Duties of a challenged judge	5-3.10(d)
Entitlement	5-3.10(b)
For cause	5-3.10(a)
Reassignment of a judge	5-3.10(c)
Competency to stand trial	5-3.10.2
Confidentiality of the reports	5-3.10.2(g)
Hearing	5-3.10.2(e)
Medical records and records related to the offense	5-3.10.2(c)
Orders	5-3.10.2(f)
Policy	5-3.10.2(a)
Procedure	5-3.10.2(b)
Records and reports	
Confidentiality of the reports	5-3.10.2(g)

Section

COMMUNITY COURT (Cont'd.)
Medical records and records related to the offense ..... 5-3.10.2(c)
Report of examination ..... 5-3.10.2(d)
Report of examination ..... 5-3.10.2(d)
Consideration for release pending trial 5-3.8
Bond forfeiture hearing ..... 5-3.8(6)
Bonds, surety or performance
Bond forfeiture hearing ..... 5-3.8(6)
Forfeiture of bond ..... 5-3.8(5)
Return of bond ..... 5-3.8(8)
Conditions, release on ..... 5-3.8(2)
Detention after determination of guilt ..... 5-3.8(4)
Forfeiture of bond ..... 5-3.8(5)
Own recognizance, release on .... 5-3.8(1)
Return of bond ..... 5-3.8(8)
Revocation and modification of conditions of release ..... 5-3.8(3)
Right of counsel at hearing ..... 5-3.8(7)
Defendant's right to be present 5-3.9
Excluded periods and continuances .. 5-3.7.2
Delays on behalf of the defendant 5-3.7.2(1)
Interest of justice ..... 5-3.7.2(2)
Forms 5-375
Hearings
Competency to stand trial ..... 5-3.10.2(e)
Consideration for release pending trial
Bond forfeiture hearing ..... 5-3.8(6)
Right of counsel at hearing .... 5-3.8(7)
His or her presence, defendant's waiver of 5-3.9.1
Additional sanctions ..... 5-3.9.1(c)
Disruptive or disorderly conduct .. 5-3.9.1(b)
Proceeding in defendant's absence 5-3.9.1(a)
Other jurisdiction, defendant serving sentence in 5-3.9.2
Remedy for denial of speedy trial rights 5-3.7.3
Dismissal ..... 5-3.7.3(a)
Duties of parties ..... 5-3.7.3(b)
Right to trial by jury 5-3.7
Demand for jury trial ..... 5-3.7(a)
Right to jury trial ..... 5-3.7(b)
Traffic offenses without imprisonment ..... 5-3.7(c)
Speedy trial rights 5-3.7.1
All defendants ..... 5-3.7.1(a)
Defendants in custody ..... 5-3.7.1(b)
Extension of time limits ..... 5-3.7.1(e)
New trial ..... 5-3.7.1(d)
Released from custody, defendants 5-3.7.1(c)
Unavailability of judge 5-3.10.1
Scope, purpose and construction
Definitions 5-1.2.1
Interpretation 5-1.2
Scope 5-1.1

Section

COMMUNITY COURT (Cont'd.)
Sentencing
Deferred prosecution and sentence. See within this subheading that subject
Post-trial proceedings and sentencing. See within this subheading that subject
Rights of parties
Other jurisdiction, defendant serving sentence in 5-3.9.2
Traffic and motor vehicles
Rights of parties
Right to trial by jury
Traffic offenses without imprisonment ..... 5-3.7(c)
Trial
Assisting jurors at impasse 5-5.21.4
Challenges 5-5.17.2
Challenge for cause ..... 5-5.17.2(b)
Challenge to the panel ..... 5-5.17.2(a)
Peremptory challenges ..... 5-5.17.2(c)
Conviction of necessarily included offenses (reserved) 5-5.22.3
Directed verdict 5-5.19
After verdict ..... 5-5.19(b)
Before verdict ..... 5-5.19(a)
Discharge 5-5.21.5
Exclusion of witnesses and public ... 5-5.18.1
Investigator ..... 5-5.18.1(d)
Public ..... 5-5.18.1(b)
Testimony of a child witness or witness with special needs .. 5-5.18.1(c)
Victim ..... 5-5.18.1(e)
Witnesses ..... 5-5.18.1(a)
Further review of evidence and additional instructions 5-5.21.3
Jury or nonjury trial 5-5.17.1
Jury size and fees generally ..... 5-5.17.1(a)
Nonjury trial ..... 5-5.17.1(c)
Stipulation for a smaller jury .... 5-5.17.1(b)
Jury verdict 5-5.22.1
Materials used during deliberation .. 5-5.21.2
Polling of the jury 5-5.22.4
Preparation of jurors 5-5.17.4
Court may prohibit ..... 5-5.17.4(e)
Juror questions ..... 5-5.17.4(d)
Note taking; access to juror notes and notebooks ..... 5-5.17.4(c)
Oath ..... 5-5.17.4(a)
Preliminary instructions ..... 5-5.17.4(b)
Presence of defendant 5-5.18.2
Procedure for selecting the trial jury 5-5.17.3
Calling jurors for examination .... 5-5.17.3(b)
Challenge for cause ..... 5-5.17.3(f)
Exercise of peremptory challenges 5-5.17.3(g)
Inquiry by the court ..... 5-5.17.3(c)
Scope of examination ..... 5-5.17.3(e)
Selection of jury and an alternate juror ..... 5-5.17.3(h)

Section

COMMUNITY COURT (Cont'd.)
Swearing panel ..... 5-5.17.3(a)
Voir dire examination..... 5-5.17.3(d)
Requests for instructions and forms of verdict..... 5-5.20.1
Retirement of jurors 5-5.21.1
Permitting the jury to disperse ... 5-5.21.1(b)
Retirement ..... 5-5.21.1(a)
Rulings on instructions and forms of verdict 5-5.20.2
Conference..... 5-5.20.2(a)
Duty of the court..... 5-5.20.2(b)
Jurors' copies ..... 5-5.20.2(d)
Waiver of error..... 5-5.20.2(c)
Trial proceedings 5-5.18
Order of proceedings..... 5-5.18(a)
Proceedings when defendant is charged with prior convictions ..... 5-5.18(b)
Types of verdicts..... 5-5.22.2
Different degrees (reserved) ..... 5-5.22.2(d)
Different offenses..... 5-5.22.2(c)
General verdicts..... 5-5.22.2(a)
Insanity verdicts ..... 5-5.22.2(b)
Writs, warrants and other legal processes
Post-trial proceedings and sentencing. See within this subheading that subject
Powers of the court
Subpoenas 5-8.29.1
Preliminary proceedings. See within this subheading that subject
Pretrial motions and discovery. See within this subheading that subject
Probation and parole
Initiation of revocation proceedings; securing the probationer's presence; notice
Petition to revoke probation ... 5-7.27.5(a)
Order and notice of discharge 5-7.27.4
Rights of parties
Competency to stand trial
Orders ..... 5-3.10.2(f)
Water and other natural resources
Agriculture fugitive dust control
Judicial proceedings; Community court 18-165
Environmental protection
Judicial proceedings; Community court 18-56

COMMUNITY DEVELOPMENT DEPARTMENT
Development, real property and housing.. 17-8 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING

Section

COMMUNITY, ENTERPRISES, DIVISIONS AND BOARDS
Community Housing Program ..... 1-79 et seq.
See: COMMUNITY HOUSING PROGRAM
Development, real property and housing.. 17-7 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Gaming
Community regulatory agency
Procedures of the Community regulatory agency board..... 15.5-14(g)
Labor and employment
Workers' compensation
Dispute resolution; appeal and settlement
Appeal, final; Community's workers' compensation appeals board..... 23-85
Phoenix Cement Company..... 1-211 et seq.
See: PHOENIX CEMENT COMPANY
Preamble to enterprises
Authorization 1-35
Saddleback Communications Company ... 1-185 et seq.
See: SADDLEBACK COMMUNICATIONS COMPANY
Salt River Commercial Landfill Company. 1-262 et seq.
See: SALT RIVER COMMERCIAL LANDFILL COMPANY
Salt River Community Gaming Enterprises ..... 1-293 et seq.
See: SALT RIVER COMMUNITY GAMING ENTERPRISES
Salt River Community Golf Enterprises .. 1-124 et seq.
See: SALT RIVER COMMUNITY GOLF ENTERPRISES
Salt River Community Property Development and Asset Management Company ..... 1-104 et seq.
See: SALT RIVER COMMUNITY PROPERTY DEVELOPMENT AND ASSET MANAGEMENT COMPANY
Salt River Fields at Talking Stick ..... 1-322 et seq.
See: SALT RIVER FIELDS AT TALKING STICK
Salt River Financial Services Institution.. 1-149 et seq.
See: SALT RIVER FINANCIAL SERVICES INSTITUTION
Salt River Pima-Maricopa Community Schools Division ..... 1-59 et seq.
See: SALT RIVER PIMA-MARICOPA COMMUNITY SCHOOLS DIVISION
Salt River Sand and Rock Company..... 1-233 et seq.
See: SALT RIVER SAND AND ROCK COMPANY
Voting and elections
Election board 3-3

Section

COMMUNITY, ENTERPRISES, DIVISIONS AND BOARDS (Cont'd.)
Post election
Council members not employed by Community government or its divisions, departments and/or enterprises . . . . . 3-82(a)

COMMUNITY HOUSING PROGRAM
Community housing program; purpose and responsibilities 1-79

COMMUNITY MEMBERSHIP
As a matter of right, membership
Application and review process 2-26
Application . . . . . 2-26(a)
Confirmation of initial receipt of application . . . . . 2-26(c)
Preapplication review . . . . . 2-26(b)
Process, appeal . . . . . 2-26(e)
Review of application and supporting documentation . . . . . 2-26(d)
Burden of proof with applicant 2-28
Criteria for membership of minors enrolled elsewhere 2-24
Finality of Community Council decision 2-31
Applicant denied membership . . . . . 2-31(2)
Applicant entitled to membership . . . 2-31(1)
Jurisdiction over membership decisions 2-32
Biological relationship decisions . . . . . 2-32(c)
Paternity decisions . . . . . 2-32(b)
Review by court . . . . . 2-32(a)
Membership criteria 2-23
Notification 2-30
Secretary to coordinate information 2-27
Timeframe for decision 2-29
Truthfulness in the application process; civil fines 2-33
Verification of criteria 2-25
Definitions 2-2
Office of membership services 2-1
Records and reports
As a matter of right, membership
Application and review process
Confirmation of initial receipt of application . . . . . 2-26(c)
Removal from membership rolls. See herein that subject
Removal from membership rolls
Dual enrollment or otherwise ineligible for enrollment 2-57
Petition for disenrollment of a minor or adult 2-55
Relinquishment 2-56

COMMUNITY PRESIDENT. See: PRESIDENT

COMMUNITY TREASURER. See: TREASURER

Section

COMPENSATION, SALARIES, ETC.
Development, real property and housing
Eminent domain
Accrual of right to compensation and damages; limitation 17-41
Labor and employment . . . . . 23-51 et seq.
See: LABOR AND EMPLOYMENT
Sentencing
Classifications, sentencing; restitution or alternative compensation; offense specific penalty or sentence . 8-3
Voting and elections
Election board
Term and compensation . . . . . 3-3(2)

COMPLAINTS
Development, real property and housing
Eminent domain 17-37
Forcible entry and detainer
Complaint and answer; service and return 17-238
Domestic relations
Marriage, divorce, annulment, separate maintenance
Procedure for annulment, divorce or separate maintenance
Filing of complaint . . . . . 10-36(a)
Minors . . . . . 11-129 et seq.
See: MINORS
Traffic and motor vehicles
Procedure in traffic cases
Civil traffic offenses, rules of procedure for
Sufficiency and amendment of the complaint 16-269

CONSTRUCTION
Development, real property and housing . . 17-13 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Traffic and motor vehicles
Traffic-control devices
Construction or road work site warning devices 16-128

CONTRACTORS
Food service establishments and retail food stores
Intergovernmental agreements and consulting contracts 13-136

CONTRACTS AND AGREEMENTS
Animals and fowl
Wild free-roaming horses and burros
Cooperative agreements 12-89
Business and commerce
Limited liability company act
Operating agreement; scope, function, and limitations 24-9
Development, real property and housing . . 17-6 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING

Section

CONTRACTS AND AGREEMENTS (Cont'd.)
Food service establishments and retail food stores
Intergovernmental agreements and consulting contracts 13-136
Labor and employment
Right to work
Unlawful agreements 23-26
Minors ..... 11-130 et seq.
See: MINORS
Salt River Financial Services Institution
Powers
Contractual transactions ..... 1-150(c)
Taxation
Closing agreements 15.1-13

CONTROLLED SUBSTANCES
Alcoholic beverages and prohibited substances ..... 14-1 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Criminal code ..... 6-121 et seq.
See: CRIMINAL CODE
Domestic relations
Domestic violence
Treatment and counseling
Substance abuse treatment ..... 10-255(a)
Licensing and permitting
Public dance permits
Illegal substances prohibited 15-187
Traffic and motor vehicles ..... 16-222 et seq.
See: TRAFFIC AND MOTOR VEHICLES

COUNCIL SECRETARY
Community membership
As a matter of right, membership
Secretary to coordinate information . 2-27

COUNCIL. See: COMMUNITY COUNCIL

COURT ADMINISTRATOR
Courts 4-2

COURTS
Appeals
Advisory opinions 4-92
Appellate
Division 4-85
Justices 4-87
Attorneys and advocates 4-97
Consideration of the appeal 4-93
Court of appeals
Appointment to the 4-89
Composition of the 4-88
Jurisdiction of the 4-86
Designation and responsibilities of presiding justice 4-90
Disqualification and removal 4-95
Effective date 4-98
Justices by designation 4-96
Oath of office 4-91

Section

COURTS (Cont'd.)
Opinions, memoranda, and orders 4-94
Bonds and witness expenses 4-86
Civil bond ..... 4-86(b)
Criminal bond ..... 4-86(a)
Community court ..... 5-1 et seq.
See: COMMUNITY COURT
Community membership
As a matter of right, membership
Jurisdiction over membership decisions
Review by court ..... 2-32(a)
Consecutive sentencing 4-5
Court administrator 4-2
Duties ..... 4-2(b)
Selection ..... 4-2(a)
Criminal code ..... 6-1 et seq.
See: CRIMINAL CODE
Defendant's rights
Explanation of charges; judge to advise legal rights 4-232
Development, real property and housing .. 17-43 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations ..... 10-7 et seq.
See: DOMESTIC RELATIONS
Extradition and exclusion
Criminal prosecution, persons under in the Community at time of requisition 7-20
Detainee as a witness in a criminal proceeding in a foreign jurisdiction
Temporary removal or transfer of a detainee to attend as a witness in a criminal proceeding in a foreign jurisdiction 7-49
Finances
Unclaimed personal property
Repossession of personal property
Possession by court order ..... 20-114(d)
Health and sanitation
Pesticides
Judicial proceedings; Community court 13-107
Judges
Appointment and term of juvenile and associate judges; vacancy 4-34
Appointment of
Appointment authority ..... 4-37(a)
Compensation ..... 4-37(c)
Qualifications ..... 4-37(b)
Defendant's rights
Explanation of charges; judge to advise legal rights 4-232
Election of chief judge 4-33
By popular vote ..... 4-33(a)
Determination of qualification ..... 4-33(c)
Election declared ..... 4-33(d)
Filing for candidacy ..... 4-33(b)
Term ..... 4-33(e)
Vacancy ..... 4-33(f)

	Section
COURTS (Cont'd.)	
Generally	4-31
Authority of the chief judge	4-31(b)
Judges of the court	4-31(a)
Judicial conduct and discipline commission	4-35
Annual report	4-35(h)
Commission	4-35(e)
Commission protocols	4-35(f)
Commission review and formal hearing process	4-35(g)
Definitions	4-35(d)
Name	4-35(a)
Policy and purposes	4-35(b)
Scope	4-35(c)
Qualifications of judges	4-32
Associate judge (including juvenile)	4-32(2)
Chief judge (elected)	4-32(1)
Commercial issues	4-32(3)
Licensed judge	4-32(4)
Request for change of judge; judge recusal; conflict of interest	4-36
Conflict of interest	4-36(b)
Request for change	4-36(a)
Self disqualification; filing of affidavit	4-36(c)
Time limit upon requests, filing	4-36(d)
Jurisdiction	4-1
Civil jurisdiction over persons	4-1(d)
Court of original and appellate jurisdiction	4-1(a)
Criminal jurisdiction over persons	4-1(c)
Subject matter jurisdiction limited by council action	4-1(b)
Juvenile court	11-23 et seq.
See: JUVENILE COURT	
Limitation for bringing civil actions and criminal prosecutions into Community courts	4-6
Minors	11-131 et seq.
See: MINORS	
Officers and employees	
Court administrator	4-2
Judges. See herein that subject	
Probate	9-1 et seq.
See: PROBATE	
Professional attorneys and lay advocates	4-4
Insurance carriers; advocates for the Community	4-4(c)
Lay advocates	4-4(b)
Professional attorneys	4-4(a)
Records, court	4-3
Rulemaking of the court	
Preparation, proposal and circulation	4-211
Sentencing	8-1 et seq.
See: SENTENCING	
Sex offender registration and Community notification	
Failure to appear for registration and absconding	6.5-9

	Section
COURTS (Cont'd.)	
Taxation	
Judicial review	15.1-19
Traffic and motor vehicles	
Abandoned and seized vehicles	
Sale of vehicles	
Court order	16-295(c)
Procedure in traffic cases	
All traffic cases, general provisions for	
Disposition of citations	
Original delivered to the court	16-263(a)
Voting and elections	
Canvass	
Hearing of allegations of fraud by Community court	3-7(f)
Water and other natural resources	18-56 et seq.
See: WATER AND OTHER NATURAL RESOURCES	
CRIMINAL CODE	
Aiding or abetting	6-2
Authority to maintain law and order	6-0
Courts	
Drug-related offenses	
Possession or use of narcotics and drugs	
Sentencing	6-121(h)
Eligible age for court jurisdiction	6-1
Public administration, offenses against. See herein that subject	
Criminal street gangs	6-7
Definitions	6-7(a)
Evidence of gang membership	6-7(d)
Failure to adequately supervise minor	6-7(e)
Participating in or assisting a criminal street gang	6-7(b)
Sentencing for convictions of subsection (b) of this section	6-7(c)
Damage, defacement, destruction or injury	
Property, offenses against	
Real or tangible property	
Criminal damage	6-102
Injury to public property	6-101
Public administration, offenses against	
Court-related offenses	
Destroying evidence	6-43
Disorderly conduct	6-5
Drug-related offenses	
Possession or use of narcotics and drugs	6-121
Certain professionals exempt	6-121(d)
Dangerous drugs defined	6-121(g)
Hallucinogens enumerated	6-121(f)
Hospitalization of offender	6-121(i)
Inhalation prohibited	6-121(b)
Narcotics enumerated	6-121(e)
Option to retain jurisdiction over nonmembers	6-121(j)
Prescription drugs exempt	6-121(c)
Prohibited generally	6-121(a)

Section

CRIMINAL CODE (Cont'd.)
Sentencing . . . . . 6-121(h)
Eligible age for court jurisdiction. 6-1
Facilitation of a crime 6-12
False reporting 6-9
Gambling 6-6
Hearings
Property, offenses against
Trespass
Procedure for hearing. 6-118
Weapons and explosives
Seizure of vehicle used; discharge of a firearm at an occupied structure
Procedure for hearing. . . . . 6-140(e)
Interference with the peaceful conduct of educational institutions 6-10
Jails
Promoting jail or detention contraband 6-8
Public administration, offenses against
Concealment of fugitives and escapees; accessory after the fact. . . . 6-39
Unlawful imprisonment; kidnapping . . . 6-3
Law enforcement and legal offices
Authority to maintain law and order. . . 6-0
Public administration, offenses against. See herein that subject
Licensing and permitting
Property, offenses against
Real or tangible property
Without permit, cutting timber . . . 6-106
Trespass
Use of off-the-road vehicles prohibited without license and landowner's permission 6-114
Weapons and explosives. See herein that subject
Maintaining a public nuisance 6-4
Minors
Criminal street gangs
Failure to adequately supervise minor . . . . . 6-7(e)
Offenses against minors and dependents. See herein that subject
Public administration, offenses against
Failure to report suspicious death; failure to report missing child . 6-35
Notice, notification
Property, offenses against. See herein that subject
Weapons and explosives. See herein that subject
Offenses against minors and dependents
Child abuse; aggravated child abuse . . . 6-82
Contributing to the delinquency and dependency of a minor 6-83
Custodial interference 6-85
Failure to provide care of dependent persons 6-81
Selling tobacco, paper or wrappers to minors. 6-84

Section

CRIMINAL CODE (Cont'd.)
Sexual contact with children
Child prostitution. 6-90
Continuous sexual abuse of a child . . 6-89
Definitions 6-86
Sexual abuse of a child 6-88
With a child, sexual contact 6-87
Officers and employees
Property, offenses against. See herein that subject
Public administration, offenses against. See herein that subject
Weapons and explosives
Seizure of vehicle used; discharge of a firearm at an occupied structure
Seizure by officer . . . . . 6-140(a)
Persons, offenses against
Assault; aggravated assault 6-51
Homicide 6-52
Manslaughter . . . . . 6-52(b)
Murder . . . . . 6-52(c)
Negligent homicide . . . . . 6-52(a)
Sexual offenses
Abusive sexual contact 6-64
Definitions 6-61
Incest. 6-68
Indecent exposure 6-63
Prostitution 6-62
Sexual assault; aggravated sexual assault. 6-65
Aggravated sexual assault . . . . . 6-65(b)
Assault offense, aggravated . . . . . 6-65(e)
Definitions. . . . . 6-65(c)
Offense, sexual assault . . . . . 6-65(d)
Sexual assault . . . . . 6-65(a)
Threatening or intimidating. 6-53
Use of telephone or electronic device to commit offense 6-54
Police department
Property, offenses against
Trespass
Notice of seizure, police officer to file 6-116
Police officer to seize vehicle. 6-115
Public administration, offenses against
False reporting to law enforcement; interfering with police officer . . 6-38
Promoting jail or detention contraband . . . 6-8
Property, offenses against
Bribery 6-93
Generally . . . . . 6-93(a)
Threats by public officers . . . . . 6-93(b)
Tribal officers. . . . . 6-93(c)
Disposing of property of an estate 6-98
Embezzlement 6-97
Extortion 6-95
Forgery. 6-96
Fraudulent schemes and practices 6-94

	Section
CRIMINAL CODE (Cont'd.)	
Officers and employees	
Bribery	
Threats by public officers	6-93(b)
Tribal officers	6-93(c)
Trespass	
Notice of seizure, police officer to file	6-116
Police officer to seize vehicle	6-115
Real or tangible property	
Arson	6-110
Burglary	6-103
Criminal damage	6-102
Cutting fence	6-105
Injury to public property	6-101
Misbranding	6-107
Negligent handling of campfire and/or negligent starting of a fire	6-108
Short-handled hoes	6-109
Theft and robbery	6-104
Definitions	6-104(c)
Robbery	6-104(b)
Theft	6-104(a)
Without permit, cutting timber	6-106
Receiving stolen property	6-92
Taking identity of another person	6-99
Theft and stolen property	
Embezzlement	6-97
Real or tangible property	
Burglary	6-103
Theft and robbery	6-104
Receiving stolen property	6-92
Taking identity of another person	6-99
Trespass	
Criminal trespass	6-111
Illegal dumping, use of land for	6-113
Judgment	6-119
Notice, notification	
Notice of seizure, police officer to file	6-116
Owner's answer to notice	6-117
Owner's answer to notice	6-117
Notice of seizure, police officer to file	6-116
Owner's answer to notice	6-117
Police officer to seize vehicle	6-115
Policy of the Community	6-112
Procedure for hearing	6-118
Use of off-the-road vehicles prohibited without license and landowner's permission	6-114
Public administration, offenses against	
Concealment of fugitives and escapees; accessory after the fact	6-39
Court-related offenses	
Contempt of court	6-41
Destroying evidence	6-43
Disobedience to lawful orders of court	6-42
Perjury	6-44

	Section
CRIMINAL CODE (Cont'd.)	
Courts	
Court-related offenses. See within this subheading that subject	
Escape	6-33
Duty to assist law enforcement officer	6-32
Escape	6-33
Failure to report suspicious death; failure to report missing child	6-35
False reporting to law enforcement; interfering with police officer	6-38
Impersonation of peace officer or Community officer	6-34
Law enforcement and legal offices	
Duty to assist law enforcement officer	6-32
False reporting to law enforcement; interfering with police officer	6-38
Unlawful flight from a pursuing law enforcement vehicle	6-40
Violence or assault on a Community law enforcement officer or judge	6-36
Officers and employees	
Duty to assist law enforcement officer	6-32
False reporting to law enforcement; interfering with police officer	6-38
Impersonation of peace officer or Community officer	6-34
Violence or assault on a Community law enforcement officer or judge	6-36
Resisting lawful arrest	6-31
Tampering with a victim, witness, or informant	6-37
Unlawful flight from a pursuing law enforcement vehicle	6-40
Violence or assault on a Community law enforcement officer or judge	6-36
Records and reports	
False reporting	6-9
Property, offenses against	
Trespass	
Notice of seizure, police officer to file	6-116
Public administration, offenses against	
Failure to report suspicious death; failure to report missing child	6-35
False reporting to law enforcement; interfering with police officer	6-38
Rights of crime victims	6-11
Best efforts to afford rights	6-11(c)
Definition	6-11(e)
Effective date	6-11(g)
Enforcement and limitations	6-11(d)
Exercise of rights	6-11(b)
Future action	6-11(f)
Rights enumerated	6-11(a)
Traffic and motor vehicles	
Property, offenses against	
Trespass	
Police officer to seize vehicle	6-115

Section

CRIMINAL CODE (Cont'd.)
Use of off-the-road vehicles prohibited without license and landowner's permission 6-114
Public administration, offenses against
Unlawful flight from a pursuing law enforcement vehicle 6-40
Weapons and explosives
Seizure of vehicle used; discharge of a firearm at an occupied structure 6-140
Unlawful imprisonment; kidnapping 6-3
Definition ..... 6-3(c)
Kidnapping ..... 6-3(b)
Unlawful imprisonment ..... 6-3(a)
Weapons and explosives
Discharge of a firearm at an occupied structure; definitions; sentencing . 6-139
Definitions ..... 6-139(a)
Mandatory sentencing ..... 6-139(b)
Sentencing ..... 6-139(c)
Effective date 6-153
Endangerment 6-134
Misconduct involving weapons
Definitions 6-150
Offenses 6-152
Permits 6-151
Seizure of vehicle used; discharge of a firearm at an occupied structure .. 6-140
Claimant's answer to notice ..... 6-140(d)
Judgment ..... 6-140(f)
Notice, notification
Claimant's answer to notice ..... 6-140(d)
Notice of seizure ..... 6-140(b)
Owner's answer to notice ..... 6-140(c)
Notice of seizure ..... 6-140(b)
Owner's answer to notice ..... 6-140(c)
Procedure for hearing ..... 6-140(e)
Seizure by officer ..... 6-140(a)
Unlawful discharge of firearm 6-131
Writs, warrants and other legal processes
Property, offenses against
Trespass
Judgment 6-119
Public administration, offenses against
Court-related offenses
Disobedience to lawful orders of court 6-42
Weapons and explosives
Seizure of vehicle used; discharge of a firearm at an occupied structure
Judgment ..... 6-140(f)

CULTURAL RESOURCES
Administrative regulations 19-7
Archaeological officer 19-6
Defacing site or object 19-10
Duty to report discoveries 19-9
Excavating or exploring archeological site; taking objects 19-4
Fees; bonds 19-8

Section

CULTURAL RESOURCES (Cont'd.)
Memorial hall
Manager 19-40
Policies and procedures 19-41
Policy 19-39
Permit; conditions 19-5
Policy 19-3
Title 19-1
Violations; penalties 19-2

CURBS AND GUTTERS
Traffic and motor vehicles
Operation of vehicles
Stopping, standing and parking
Parking within eighteen inches of curb 16-193

CURFEW
Curfew described; exception 11-217
Law enforcement authority for transport . 11-222
Legal requirements 11-219
Lack of knowledge not a defense ..... 11-219(b)
Offense by omission ..... 11-219(a)
Procedure ..... 11-219(c)
Penalties 11-221
Responsibility of parent, guardian or custodian 11-218
Separate offenses, curfew violations to be . 11-220

D

DAMAGE, DEFACEMENT, DESTRUCTION OR INJURY
Animals and fowl ..... 12-5 et seq.
See: ANIMALS AND FOWL
Criminal code ..... 6-43 et seq.
See: CRIMINAL CODE
Cultural resources
Defacing site or object 19-10
Development, real property and housing .. 17-36 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Floodplain and drainage
Development requirements to be met for issuance of a permit
Minimizing the potential for flood damage ..... 17.5-8(10)
Health and sanitation
Impoundment; possible forfeiture of vehicles used in illegal dumping
Sale of vehicle for recovery of damages ..... 13-8(d)
Licensing and permitting
Public dance permits
Injuries at public dances on private property 15-191
Salt River Fields at Talking Stick
Spectator injuries 1-324
Traffic and motor vehicles ..... 16-10 et seq.
See: TRAFFIC AND MOTOR VEHICLES

Section

DEPARTMENT OF COMMUNITY PROSECUTOR
Duties 4.5-25
Established. 4.5-23
Gaming
Community regulatory agency. 15.5-14
Minors
Community prosecutor
Duties 11-51
Selection 4.5-24

DEPARTMENT OF PUBLIC SAFETY
Finances
Sale of securities
Penalties and enforcement. . . . . 20-56(b)

DEPARTMENTS AND OTHER AGENCIES OF COMMUNITY
Alcoholic beverages and prohibited substances. . . . . 14-24 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Animals and fowl
Rabies control
Enforcement agency or its designated representatives, responsibility of 12-52
Sonoran Desert Nesting Bald Eagle Protection Act
Department; power to regulate. 12-116
Community court . . . . . 5-1 et seq.
See: COMMUNITY COURT
Community Housing
Program, purpose and responsibilities . 1-79
Community membership
Office of membership services 2-1
Courts . . . . . 4-1 et seq.
See: COURTS
Department of Community Prosecutor. . . . 4.5-23 et seq.
See: DEPARTMENT OF COMMUNITY PROSECUTOR
Development, real property and housing. . 17-8 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations
Adoption
Form and content of consent to adoption
Designation of placement agency, adoptive parent . . . . . 10-81(d)
Finances
Sale of securities
Penalties and enforcement
Department of public safety to enforce. . . . . 20-56(b)
Minors
Child protective services
Duties and responsibilities of the Community social services department. 11-76

Section

DEPARTMENTS AND OTHER AGENCIES OF COMMUNITY (Cont'd.)
Investigation of persons working with children
Responsibilities of personnel department. 11-278
Police department
Establishment 4.5-1
Powers and duties. 4.5-2
Sex offender registration and Community notification
Community notification
Notification to victim, neighbors, schools, Community human resources department and offender's employer . . . . . 6.5-11(b)
Voting and elections
Post election
Council members not employed by Community government or its divisions, departments and/or enterprises . . . . . 3-82(a)

DEVELOPMENT, REAL PROPERTY AND HOUSING
Agricultural lease conditions for cotton or grain crops 17-14
Appeals
Eminent domain
Procedures following judgment
Possession by plaintiff after judgment or pending appeal. . . . . 17-43(a)
Fees, development
Applicability of this article; exemptions . . . . . 17-519(e)
Provisions re 17-532
Forcible entry and detainer. See herein that subject
Application for development of allotted lands or public property. 17-9
Board to make recommendations . . . . . 17-9(c)
Changes in existing contracts, etc., subject to chapter. . . . . 17-9(d)
To be given to Community development department . . . . . 17-9(a)
Transmittal to land management board 17-9(b)
Approval of contracts, leases and other instruments 17-6
Authority of Community Council in matters affecting development of allotted lands and public property 17-5
Bonds, surety or performance
Eminent domain
Actions for condemnation; immediate possession; money deposit
Deposit of money or bond . . . . . 17-36(d)
Investment and disbursement of money or bond . . . . . 17-36(e)

Section

DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)
Forcible entry and detainer
Appeal to Community court of appeals; notice; bond 17-242
Highway rights-of-way
Encroachment permit application procedures
Bonding . . . . . 17-345(f)
Community council
Authority of Community Council in matters affecting development of allotted lands and public property 17-5
Roadway construction
Action by Community Council 17-68
Report to the Community Council . . . 17-67
Community development department
Application for development of allotted lands or public property
To be given to Community development department . . . . . 17-9(a)
Board to make recommendation . . . . . 17-8(c)
Highway rights-of-way
Encroachment permit application procedures
Applications delivered to Community development department 17-345(a)
Homesites
Allotted lands, homesites on
Community development department to maintain and administer 17-173
Responsibility for forwarding proposals 17-8(a)
Rule-making authority. . . . . 17-8(b)
Special procedure for grants of right-of-way
Application to Community development department . . . . . 17-11(b)
Community, enterprises, divisions and boards
Application for development of allotted lands or public property
Board to make recommendations. . . . 17-9(c)
Transmittal to land management board . . . . . 17-9(b)
Community development department
Board to make recommendation. . . . . 17-8(c)
Land management board 17-7
Modified procedure and requirements for short-term mining and other nondevelopment land uses
Application to land management board 17-10(b)
Construction
Exception for purchase or construction of home. 17-13
Roadway construction. See herein that subject
Construction of chapter 17-4

Section

DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)
Contracts and agreements
Application for development of allotted lands or public property
Changes in existing contracts, etc., subject to chapter . . . . . 17-9(d)
Approval of contracts, leases and other instruments. 17-6
Encumbrance of land
Deeds of trust
Default in performance of contract secured; reinstatement; cancellation of recorded notice of sale 17-481
Secured contract, transfer of 17-485
Outdoor advertising signs
Agreements, signage 17-278
Courts
Eminent domain
Procedures following judgment
Custody of money paid into court . 17-43(c)
Encumbrance of land
Mortgages
Foreclosure
Court action, foreclosure of mortgage by . . . . . 17-440(a)
Forcible entry and detainer
Appeal to Community court of appeals; notice; bond 17-242
Criminal code . . . . . 6-101 et seq.
See: CRIMINAL CODE
Definitions 17-1
Departments and other agencies of Community
Application for development of allotted lands or public property
To be given to Community development department . . . . . 17-9(a)
Community development department . . 17-8
Highway rights-of-way
Encroachment permit application procedures
Applications delivered to Community development department 17-345(a)
Homesites
Allotted lands, homesites on
Community development department to maintain and administer 17-173
Special procedure for grants of right-of-way
Application to Community development department . . . . . 17-11(b)
Development standards 17-3
Eminent domain
Accrual of right to compensation and damages; limitation 17-41

	Section
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Actions for condemnation; immediate possession; money deposit	17-36
Amount of deposit	17-15(f)
Commencement of action; application for possession	17-36(a)
Deposit of money or bond	17-36(d)
Evidence or probable damages	17-36(c)
Investment and disbursement of money or bond	17-36(e)
Rights of persons in interest	17-15(g)
Service of notice	17-36(b)
Use as evidence	17-15(i)
Withdrawal or repayment of funds	17-15(h)
Ascertainment and assessment of value, damages and benefits	17-40
Complaint	17-37
Costs	17-44
Damage, defacement, destruction or injury	
Accrual of right to compensation and damages; limitation	17-41
Actions for condemnation; immediate possession; money deposit	
Evidence or probable damages	17-36(c)
Ascertainment and assessment of value, damages and benefits	17-40
Final order of condemnation; vesting of property	17-42
Finances	
Actions for condemnation; immediate possession; money deposit	17-36
Costs	17-44
Procedures following judgment. See within this subheading that subject	
Prerequisite to condemnation	17-35
Procedures following judgment	17-43
Costs of new trial	17-43(d)
Custody of money paid into court	17-43(c)
Finances	
Costs of new trial	17-43(d)
Custody of money paid into court	17-43(c)
Receipt of payment by defendants	17-43(b)
Possession by plaintiff after judgment or pending appeal	17-43(a)
Receipt of payment by defendants	17-43(b)
Purposes for which eminent domain may be exercised	17-34
Right to defend action	17-39
Summons; contents; service	17-38
Writs, warrants and other legal processes	
Final order of condemnation; vesting of property	17-42
Procedures following judgment	17-43
Summons; contents; service	17-38

	Section
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Encumbrance of land	
Deeds of trust	
Action to recover balance after sale or foreclosure on property under deed	17-482
Appointment of successor trustee by beneficiary	17-471
Community, notice to; Community right to purchase property	17-475
Default in performance of contract secured; reinstatement; cancellation of recorded notice of sale	17-481
Definitions	17-468
Description of property; mailing address	17-469
Disposition of proceeds of sale	17-480
Instruments recorded, notice from; assignment of a beneficial interest	17-486
Limitation on action or sale of trust property	17-484
Notice, notification	
Community, notice to; Community right to purchase property	17-475
Default in performance of contract secured; reinstatement; cancellation of recorded notice of sale	17-481
Instruments recorded, notice from; assignment of a beneficial interest	17-486
Notice of trustee's sale	17-476
Request for copies of notice of sale; mailing by trustee or beneficiary; disclosure of information regarding trustee sale	17-477
Notice of trustee's sale	17-476
Payment of bid; deliverance of deed	17-479
Public auction, sale by; postponement of sale	17-478
Recordkeeping	17-483
Records and reports	
Default in performance of contract secured; reinstatement; cancellation of recorded notice of sale	17-481
Instruments recorded, notice from; assignment of a beneficial interest	17-486
Recordkeeping	17-483
Request for copies of notice of sale; mailing by trustee or beneficiary; disclosure of information regarding trustee sale	17-477
Right to transfer; fee limit; interest rate increase limit	17-473
Rights of trustee and attorney	17-487
Sale of trust property; power of trustee; foreclosure of deed	17-474

Section

DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)
Sales
Action to recover balance after sale or foreclosure on property under deed 17-482
Default in performance of contract secured; reinstatement; cancellation of recorded notice of sale 17-481
Disposition of proceeds of sale 17-480
Limitation on action or sale of trust property 17-484
Notice of trustee's sale 17-476
Public auction, sale by; postponement of sale. 17-478
Request for copies of notice of sale; mailing by trustee or beneficiary; disclosure of information regarding trustee sale . . 17-477
Sale of trust property; power of trustee; foreclosure of deed . . 17-474
Secured contract, transfer of 17-485
Transfers in trust of real property . . . 17-472
Trustee qualifications 17-470
Mortgages
Acknowledgements of satisfaction; recording; liability for failure to acknowledge satisfaction 17-439
Definitions 17-436
Foreclosure. 17-440
Court action, foreclosure of mortgage by . . . . . 17-440(a)
Election between action on debt or to foreclose. . . . . 17-440(b)
Judgment of foreclosure; contents; sale of property; resale. . . . . 17-440(e)
Limitation on deficiency judgment on mortgage or deed of trust as collateral for consumer goods . . . . . 17-440(j)
Notation upon record that mortgage is foreclosed and judgment satisfied; effect. . . . . 17-440(h)
Purchase money mortgage; limitation on liability. . . . . 17-440(i)
Redemption of property by payment to officer directed under foreclosure judgment to sell the property . . . . . 17-440(f)
Right of junior lienholder upon foreclosure action by senior lienholder . . . . . 17-440(c)
Sale under execution; deficiency; order of liens; writ of possession . . . . . 17-440(g)
Sales
Judgment of foreclosure; contents; sale of property; resale. . . . . 17-440(e)

Section

DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)
Redemption of property by payment to officer directed under foreclosure judgment to sell the property. . . . . 17-440(f)
Sale under execution; deficiency; order of liens; writ of possession . . . . . 17-440(g)
The Community as party to foreclosure actions . . . . . 17-440(d)
Writs, warrants and other legal processes
Judgment of foreclosure; contents; sale of property; resale . . . . . 17-440(e)
Limitation on deficiency judgment on mortgage or deed of trust as collateral for consumer goods. . . . . 17-440(j)
Notation upon record that mortgage is foreclosed and judgment satisfied; effect . . . . . 17-440(h)
Sale under execution; deficiency; order of liens; writ of possession . . . . . 17-440(g)
Interests which may be mortgaged; formal requirements; recording 17-437
Jurisdiction 17-435
Lien, mortgage as; rights of possession. 17-438
Liens
Foreclosure
Right of junior lienholder upon foreclosure action by senior lienholder. . . . . 17-440(c)
Sale under execution; deficiency; order of liens; writ of possession . . . . . 17-440(g)
Lien, mortgage as; rights of possession 17-438
Notice of default to Community 17-441
Recordation of documents 17-442
Records and reports
Acknowledgements of satisfaction; recording; liability for failure to acknowledge satisfaction . 17-439
Foreclosure
Notation upon record that mortgage is foreclosed and judgment satisfied; effect . . . . . 17-440(h)
Interests which may be mortgaged; formal requirements; recording 17-437
Recordation of documents 17-442
Notice, notification
Deeds of trust. See within this subheading that subject
Mortgages
Notice of default to Community . . 17-441

	Section
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Exception for purchase or construction of home	17-13
Fees, development	
Adoption of technical report as basis of development fees	17-515
Annual statement; capital improvements program	17-526
Annual statement	17-526(a)
Capital improvements program	17-526(b)
Appeals	17-532
Burden of proof	17-532(c)
Decision	17-532(d)
Hearing on the appeal	17-532(b)
Initiation	17-532(a)
Applicability of this article; exemptions	17-519
Affected area	17-519(a)
Appeals	17-519(e)
Exemptions	17-519(d)
Not affected, type of development	17-519(c)
Type of development affected	17-519(b)
Application; calculation, collection of development fees; administrative fees	17-520
Administrative fees	17-520(c)
Calculation	17-520(a)
Collection	17-520(b)
Definitions	17-518
Effect on other regulations and requirements	17-517
Findings	17-514
Fire development fee	17-532
Account, fire development fee	17-532(c)
Schedule, fire development fee	17-532(b)
Service area, fire development fee	17-532(a)
Individual assessment of development fee	17-521
Interpretations of article	17-516
Offsets against development fees due	17-522
Applicability; eligibility	17-522(a)
Recordation; assignability	17-522(c)
Requirements and procedures for development fee offsets	17-522(b)
Transferability	17-522(d)
Policy and purpose	17-513
Policy	17-513(a)
Purpose	17-513(b)
Public safety development fee	17-531
Account	17-531(c)
Schedule	17-531(b)
Service area	17-531(a)
Refunds	17-524
Storm drainage development fee	17-527
Account, storm drainage development fee	17-527(c)
Schedule, storm drainage development fee	17-527(b)
Service area, storm drainage development fee	17-527(a)
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Street development fee	17-528
Account	17-528(c)
Schedule	17-528(b)
Service area	17-528(a)
Updating; annual adjustments	17-525
Annual adjustments	17-525(b)
Updates	17-525(a)
Use of funds collected; development fee accounting	17-523
Violation; penalty	17-533
Wastewater development fee	17-530
Account, wastewater development fee	17-530(c)
Schedule, wastewater development fee	17-530(b)
Service area, wastewater development fee	17-530(a)
Water development fee	17-529
Account, water development fee	17-529(c)
Schedule, water development fee	17-529(b)
Service area, water development fee	17-529(a)
Finances	
Eminent domain. See herein that subject	
Encumbrance of land. See herein that subject	
Fees, development. See herein that subject	
Homesites	
Period of assignment; renewal option; fee	17-200
Modified procedure and requirements for short-term mining and other nondevelopment land uses	
Filing fee	17-10(f)
Welfare assistance	
Determination of needs based programs	
Infrastructure, health care, housing and education as core needs	20-89(e)
Floodplain and drainage	
Development requirements to be met for issuance of a permit	17.5-8
Prohibited development	17.5-7
Forcible entry and detainer	
Appeal to Community court of appeals; notice; bond	17-242
Appeals	
Appeal to Community court of appeals; notice; bond	17-242
On appeal, trial and judgment; writ of restitution	17-244
Stay of proceedings on judgment; record on appeal	17-243
Complaint and answer; service and return	17-238
Definitions	17-234
Demand for jury; trial procedure	17-239
Detainer, forcible	17-236

	Section
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Forcible entry	17-235
Immateriality of time possession obtained by tenant	17-237
Judgment; writ of restitution; limitation on issuance	17-241
On appeal, trial and judgment; writ of restitution	17-244
Proceedings no bar to certain actions	17-245
Stay of proceedings on judgment; record on appeal	17-243
Trial and issue; postponement of trial	17-240
Writs, warrants and other legal processes	
Judgment; writ of restitution; limitation on issuance	17-241
On appeal, trial and judgment; writ of restitution	17-244
Stay of proceedings on judgment; record on appeal	17-243
Group homes	17-15
Hearings	
Fees, development	
Appeals	
Hearing on the appeal	17-532(b)
Land management board	17-7(d)
Roadway construction	
Procedure; hearing and notice	17-66
Highway rights-of-way	
City-issued state permits	17-347
Encroachment permit application procedures	17-345
Access	17-345(g)
Applications delivered to Community development department	17-345(a)
Bonding	17-345(f)
Extension, time	17-345(e)
Hydraulics	17-345(i)
Landscaping	17-345(h)
Plans required	17-345(b)
Review, application	17-345(c)
Time limit	17-345(d)
Utilities	17-345(j)
Licensing and permitting	
City-issued state permits	17-347
Encroachment permit application procedures	17-345
Requirement, encroachment permit	17-343
Maintenance responsibility	17-348
Minimum setback	17-346
50 mph or greater design speed	17-346(a)
50 mph or less design speed	17-346(b)
Requirement, encroachment permit	17-343
Rule-making authority	17-350
Scope	17-344
Unauthorized encroachments	17-349

	Section
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Homesites	
Allotted lands, homesites on	
Community development department to maintain and administer	17-173
Administration of records	17-173(a)
Homeownership education	17-173(b)
Definitions	17-126
Exchange of land for homesites	17-204
Governmental access and responsibilities	17-202
Blighted areas	17-202(1)
Operation and maintenance of supporting easements	17-202(3)
Surveys and other assessments	17-202(2)
Period of assignment; renewal option; fee	17-200
Assignment on allotted lands	17-200(2)
Tribal land, assignment on	17-200(1)
Policy	17-125
Rights of homesite assignee	17-201
Tribal lands, homesite leases on	
Application for homesite lease on tribal lands	17-152
Application and approval process	17-152(a)
Conditions of assignment	17-152(c)
Penalties	17-152(d)
Qualifications of all applicants	17-152(b)
Designated area for homesites on tribal lands	17-151
Veteran's preference	17-203
Land management board	
Application for development of allotted lands or public property	
Board to make recommendations	17-9(c)
Transmittal to land management board	17-9(b)
Community development department	
Board to make recommendation	17-8(c)
Created; membership; appointment	17-7(a)
Hearings	17-7(d)
Modified procedure and requirements for short-term mining and other nondevelopment land uses	
Application to land management board	17-10(b)
Responsibility to make recommendations	17-7(b)
Rule-making authority	17-7(c)
Licensing and permitting	
Highway rights-of-way. See herein that subject	
Modified procedure and requirements for short-term mining and other nondevelopment land uses	
Permits for less than 90-day period	17-10(d)
When permit may be issued	17-10(a)
Outdoor advertising signs	
Permit	17-273

	Section
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Maintenance	
Highway rights-of-way	
Maintenance responsibility	17-348
Homesites	
Allotted lands, homesites on	
Community development department to maintain and administer	17-173
Governmental access and responsibilities	
Operation and maintenance of supporting easements	17-202(3)
Modified procedure and requirements for short-term mining and other nondevelopment land uses	17-10
Application to land management board	17-10(b)
Criteria for determination	17-10(e)
Filing fee	17-10(f)
Permits for less than 90-day period	17-10(d)
Short-term lease amendments	17-10(g)
Special notice requirements	17-10(c)
When permit may be issued	17-10(a)
Modified procedure and requirements regarding the lease of developed agricultural land for agricultural purposes	17-12
Notice, notification	
Eminent domain	
Actions for condemnation; immediate possession; money deposit	
Service of notice	17-36(b)
Encumbrance of land. See herein that subject	
Forcible entry and detainer	
Appeal to Community court of appeals; notice; bond	17-242
Modified procedure and requirements for short-term mining and other nondevelopment land uses	
Special notice requirements	17-10(c)
Roadway construction	
Procedure; hearing and notice	17-66
Outdoor advertising signs	
Additional outdoor advertising signs prohibited	17-274
Agreements, signage	17-278
Applicability	17-271
Definitions	17-272
Nonconformity	17-275
Permit	17-273
Purpose	17-270
Required removal	17-277
Sign standards	17-276
Height	17-276(f)
Illumination	17-276(a)
Materials	17-276(b)
Movement	17-276(d)
Size	17-276(e)
DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)	
Sound	17-276(c)
Spacing	17-276(g)
Weights and measures	
Height	17-276(f)
Size	17-276(e)
Spacing	17-276(g)
Title	17-269
Policy concerning cultural preservation in development	17-2
Records and reports	
Encumbrance of land. See herein that subject	
Fees, development	
Adoption of technical report as basis of development fees	17-515
Offsets against development fees due	
Recordation; assignability	17-522(c)
Forcible entry and detainer	
Stay of proceedings on judgment; record on appeal	17-243
Homesites	
Allotted lands, homesites on	
Community development department to maintain and administer	
Administration of records	17-173(a)
Roadway construction	
Report to the Community Council	17-67
Right-of-way	
Highway rights-of-way. See herein that subject	
Special procedure for grants of right-of-way	17-11
Uniform road and utility corridors. See herein that subject	
Roadway construction	
Action by Community Council	17-68
Applicability of article	17-64
Authorization required for construction	17-63
Definitions	17-62
Exclusion of certain lands	17-65
Procedure; hearing and notice	17-66
Report to the Community Council	17-67
Salt River Community Property Development and Asset Management Company	
Capitalization; financial responsibility	1-105
Established	1-104
Senior home repair or replacement program committee	1-354 et seq.
See: SENIOR HOME REPAIR OR REPLACEMENT PROGRAM COMMITTEE	
Special procedure for grants of right-of-way	17-11
Application to Community development department	17-11(b)
Authorization by president	17-11(c)

Section

DEVELOPMENT, REAL PROPERTY AND HOUSING (Cont'd.)
Filing of copies . . . . . 17-11(d)
When right-of-way may be allowed . . . . 17-11(a)
Street numbers and names
Addressing, street 17-96
Block addressing 17-98
Policy 17-95
Street naming. 17-97
Subdivisions. . . . . 17-374 et seq.
See: SUBDIVISIONS
Traffic and motor vehicles
Chapter not to interfere with rights of owners of real property 16-6
Uniform road and utility corridors
Definitions 17-306
Effect of corridor grant of right-of-way . 17-311
Limitations of grantees 17-310
Policy 17-305
Procedure for request of right-of-way easements 17-309
Regulations 17-312
Right-of-way
Effect of corridor grant of right-of-way. 17-311
Procedure for request of right-of-way easements. 17-309
Utilization of roadway rights-of-way. 17-307
Width standards for roadway and utility corridor rights-of-way 17-308
Utilization of roadway rights-of-way . . . 17-307
Width standards for roadway and utility corridor rights-of-way. 17-308
Utilities
Fees, development
Wastewater development fee. 17-530
Highway rights-of-way
Encroachment permit application procedures . . . . . 17-345(j)
Uniform road and utility corridors. See herein that subject
Weights and measures
Highway rights-of-way
Minimum setback. 17-346
Outdoor advertising signs. See herein that subject

DIRECTOR OF ALCOHOL BEVERAGE CONTROL
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Office of alcohol beverage control; director 14-24

DISABLED OR HANDICAPPED PERSONS
Labor and employment
Workers' compensation
Benefits
Permanent total and partial disability benefits . . . . . 23-61(d)

Section

DISABLED OR HANDICAPPED PERSONS (Cont'd.)
Temporary total and partial disability benefits. . . . . 23-61(c)
Minors
Child protection
Disposition proceedings
Commitment to facility for mentally handicapped . . . . . 11-165(h)
Traffic and motor vehicles
Operation of vehicles
Stopping, standing and parking
Physically disabled, parking privilege for 16-196
Pedestrians' rights and duties
Use of white cane 16-286
Voting and elections
Voters
Home voting by disabled Community members within a 25 mile radius. . . . . 3-4(d)

DISCRIMINATION
Labor and employment
Right to work
Discrimination and retaliation prohibited 23-29

DOMESTIC RELATIONS
Adoption
Age of person adopting 10-78
Consent to adoption by natural parents and by child over 12 years 10-80
Child of 12 years . . . . . 10-80(b)
Minority no bar to competence . . . . . 10-80(d)
Parents/guardian . . . . . 10-80(a)
Waiver of consent . . . . . 10-80(c)
Form and content of consent to adoption 10-81
Dated; identified . . . . . 10-81(c)
Designation of placement agency, adoptive parent . . . . . 10-81(d)
Invalidity of certain consent . . . . . 10-81(f)
Time limit. . . . . 10-81(b)
True names to be used; exceptions . . 10-81(e)
Written; witnessed . . . . . 10-81(a)
Hearing, order and rights under adoption order. 10-84
Illegitimate child, adoption of by father 10-85
Juvenile court, hearing to be by; ruling on grounds for termination. 10-83
Minor, adoption of a 10-77
Minors
Consent to adoption by natural parents and by child over 12 years 10-80
Illegitimate child, adoption of by father. 10-85
Juvenile court, hearing to be by; ruling on grounds for termination. 10-83
Minor, adoption of a. 10-77
Spouse, consent of. 10-79
Termination of parental rights 10-82

Section

DOMESTIC RELATIONS (Cont'd.)
Commitment and treatment of mentally ill persons
Confidential records 10-228
Definitions 10-222
Detention for evaluation; hearing 10-225
Emergency apprehension 10-223
Hearing procedures 10-226
Conduct of hearing ..... 10-226(d)
Order ..... 10-226(f)
Right to attend and testify ..... 10-226(b)
Standard of proof ..... 10-226(e)
Time of hearing ..... 10-226(a)
Witnesses ..... 10-226(c)
Hearings
Detention for evaluation; hearing ... 10-225
Hearing procedures 10-226
Patient's rights at hearings 10-227
Patient's rights at hearings 10-227
Petition for evaluation; filing time 10-224
Policy 10-221
Community membership
As a matter of right, membership
Jurisdiction over membership decisions
Biological relationship decisions .. 2-32(c)
Paternity decisions ..... 2-32(b)
Courts
Adoption
Juvenile court, hearing to be by; ruling on grounds for termination. 10-83
Guardianship. See herein that subject
Marriage, divorce, annulment, separate maintenance. See herein that subject
Paternity
DNA testing; results; rebuttal; additional tests
Admission into evidence ..... 10-7(3)
Contempt of court ..... 10-7(5)
Protection for elderly and vulnerable adults
Court proceedings 10-187
General rules applicable to court proceedings under this article 10-191
Domestic violence
Definitions 10-252
Jurisdiction 10-251
Offenses 10-253
Aggravated domestic violence ..... 10-253(b)
Disclosure of domestic violence shelter ..... 10-253(e)
Domestic violence ..... 10-253(a)
Failure to report or false reporting of domestic violence ..... 10-253(d)
Mandatory detainment ..... 10-253(f)
Violation of an order of protection ... 10-253(c)
Orders of protection 10-256
Policy 10-250

Section

DOMESTIC RELATIONS (Cont'd.)
Reporting domestic violence 10-257
Immunity for reporting ..... 10-257(c)
Mandatory reporting requirements .. 10-257(a)
Report to law enforcement ..... 10-257(b)
Sentencing and penalties 10-254
Treatment and counseling 10-255
Cost for counseling or other treatment ..... 10-255(d)
Domestic violence counseling ..... 10-255(b)
Religious consideration ..... 10-255(c)
Substance abuse treatment ..... 10-255(a)
Emergencies
Commitment and treatment of mentally ill persons
Emergency apprehension 10-223
Guardianship
Minors, guardianship for
Hearing, guardianship
Emergency temporary guardianship ..... 10-119(e)
Protection for elderly and vulnerable adults
Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation 10-190
Finances
Domestic violence
Treatment and counseling
Cost for counseling or other treatment ..... 10-255(d)
Guardianship
Minors, guardianship for
Rights and responsibilities of guardians
Child support ..... 10-123(c)
Marriage, divorce, annulment, separate maintenance. See herein that subject
Protection for elderly and vulnerable adults
Medical and financial records 10-184
Fines, forfeitures and other penalties
Domestic violence
Sentencing and penalties 10-254
Protection for elderly and vulnerable adults
Causing or permitting imperilment of life, health or property; criminal penalties; civil remedies 10-185
Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation
Violation; penalties; remedies .... 10-190(l)
Guardianship
Guardian ad litem
Appointment of guardian ad litem .. 10-164
Legal services office to administer ... 10-162

Section

DOMESTIC RELATIONS (Cont'd.)
Procedure, appointment 10-167
Purpose 10-161
Scope of rules 10-163
Timing of appointments 10-166
Training 10-165
Incompetent adults, guardians for
Duties; bond 10-152
Guardians of incompetent members . 10-151
Restoration of capacity 10-153
State laws applicable 10-154
Minors, guardianship for
Appointment by will 10-121
Courts
Hearing, guardianship
Determination by the court . . . . 10-119(h)
Judicial inquiry . . . . . 10-119(c)
Jurisdiction over court-appointed guardians 10-120
Rules for selection of court-appointed guardian 10-122
Termination of powers of guardians appointed by court 10-125
Definitions 10-114
Delegation of powers by parent or legally appointed guardian 10-126
Hearing, guardianship 10-119
Attendance of guardian required . 10-119(b)
Determination by the court . . . . . 10-119(h)
Emergency temporary guardianship . . . . . 10-119(e)
Evidentiary guardianship hearing rules . . . . . 10-119(g)
Final order . . . . . 10-119(i)
General public exclusion from proceedings . . . . . 10-119(d)
Guardianship by default . . . . . 10-119(j)
Initial guardianship hearing . . . . . 10-119(f)
Judicial inquiry . . . . . 10-119(c)
Purpose/time limit . . . . . 10-119(a)
Jurisdiction over court-appointed guardians 10-120
Petition for guardianship 10-116
Contents of the petition . . . . . 10-116(c)
Generally . . . . . 10-116(a)
Who may file a petition . . . . . 10-116(b)
Removal of guardian; relinquishment proceedings; revocation of guardianship 10-124
Involuntary removal, petition to remove a guardian . . . . . 10-124(a)
Relinquishment proceedings . . . . . 10-124(b)
Revocation of guardianship . . . . . 10-124(c)
Report and background study, guardianship 10-118
Rights and responsibilities of guardians 10-123
Child support . . . . . 10-123(c)
Duties of a guardian . . . . . 10-123(a)
Responsibilities of a guardian . . . . 10-123(b)

Section

DOMESTIC RELATIONS (Cont'd.)
Rules for selection of court-appointed guardian 10-122
Service of the petition for guardianship; notice of hearing 10-117
Notice to respondent(s) . . . . . 10-117(b)
Petition for guardianship, service of . . . . . 10-117(a)
Service of subsequent documents . 10-117(c)
Termination of powers of guardians appointed by court 10-125
Types of guardianship 10-115
Writs, warrants and other legal processes
Hearing, guardianship
Final order . . . . . 10-119(i)
Petition for guardianship 10-116
Service of the petition for guardianship; notice of hearing . . . 10-117
Health and sanitation
Alcoholism
Intoxicated persons and persons incapacitated by alcohol, treatment and services for
Notification of next of kin . . . . . 13-38(d)
Commitment and treatment of mentally ill persons. See herein that subject
Domestic violence
Treatment and counseling 10-255
Protection for elderly and vulnerable adults
Causing or permitting imperilment of life, health or property; criminal penalties; civil remedies 10-185
Medical and financial records 10-184
Hearings
Adoption
Hearing, order and rights under adoption order 10-84
Juvenile court, hearing to be by; ruling on grounds for termination. 10-83
Commitment and treatment of mentally ill persons. See herein that subject
Guardianship
Minors, guardianship for
Hearing, guardianship 10-119
Service of the petition for guardianship; notice of hearing . . . 10-117
Marriage, divorce, annulment, separate maintenance
Child support
Hearings; noncontested orders; orders generally; default hearing; modification; enforcement 10-56
Paternity
Initial paternity hearing; evidentiary paternity hearing; evidence relating to paternity 10-6

	Section
DOMESTIC RELATIONS (Cont'd.)	
Protection for elderly and vulnerable adults	
Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation	
Preliminary hearing on petition to provide protective services	10-190(i)
Hearings	10-188
Identification	
Adoption	
Form and content of consent to adoption	
Dated; identified	10-81(c)
Paternity. See herein that subject	
Protection for elderly and vulnerable adults	
Reporting abuse, neglect or exploitation of an elderly or vulnerable adult	
Anonymous reports	10-181(f)
Juvenile court	
Jurisdiction	
Jurisdiction over extended family	11-25(b)
Required attendance of parent, guardian or custodian	11-25(c)
Marriage, divorce, annulment, separate maintenance	
Annulment of marriage	10-34
Authority of judges to perform marriages	10-29
Bigamy	10-33
Child support	
Definitions	10-50
General provisions; service; back child support; duties of support	10-53
Back child support	10-53(h)
Confidentiality	10-53(b)
Duties of support; exemption	10-53(i)
Financial records	10-53(d)
Generally	10-53(a)
Guidelines used for determination of ability to pay	10-53(j)
Sensitive data	10-53(c)
Service and summons	10-53(f)
Similar documents	10-53(e)
Subsequent documents, service of.	10-53(g)
Guidelines, child support	10-51
Hearings; noncontested orders; orders generally; default hearing; modification; enforcement	10-56
Additional hearings	10-56(m)
By default, child support	10-56(f)
Child support order generally	10-56(d)
Content	10-56(e)
Enforce child support order, motion to	10-56(k)
Enforcement hearing	10-56(l)
DOMESTIC RELATIONS (Cont'd.)	
Evidentiary child support hearing rules	10-56(b)
Financial information	10-56(j)
Initial child support hearing	10-56(a)
Modification hearing	10-56(i)
Modification of child support orders	10-56(g)
Motion for modification	10-56(h)
Noncontested child support orders	10-56(c)
Jurisdiction over nonresidents; notice; jurisdiction when modifying a child support order; modification of child support order of another jurisdiction	10-52
Basis for jurisdiction over nonresident	10-52(c)
Court to retain jurisdiction	10-52(b)
Jurisdiction when modifying a child support order	10-52(f)
Modification of child support order of another jurisdiction	10-52(g)
Nonresidency not to bar proceedings	10-52(a)
Notice to respondents	10-52(e)
Persons outside the Community, notice to	10-52(d)
Order of assignment; ex parte order of assignment; responsibilities; violation; termination	10-58
Petition for child support	10-55
Contents of petition	10-55(d)
Generally	10-55(a)
Governing rules of procedure	10-55(b)
Who may file petition	10-55(c)
Purpose	10-49
Representation by Community; modification of order by Community; liability of parents to bear expense	10-54
Support, order for; methods of payment; statute of limitations; notice	10-57
Termination; determination of controlling order; sovereign immunity	10-59
Writs, warrants and other legal processes	
General provisions; service; back child support; duties of support	
Service and summons	10-53(f)
Hearings; noncontested orders; orders generally; default hearing; modification; enforcement	10-56
Jurisdiction over nonresidents; notice; jurisdiction when modifying a child support order; modification of child support order of another jurisdiction.	10-52

Section

DOMESTIC RELATIONS (Cont'd.)
Order of assignment; ex parte order of assignment; responsibilities; violation; termination 10-58
Petition for child support 10-55
Representation by Community; modification of order by Community; liability of parents to bear expense 10-54
Support, order for; methods of payment; statute of limitations; notice 10-57
Termination; determination of controlling order; sovereign immunity 10-59
Courts
Annulment of marriage 10-34
Authority of judges to perform marriages 10-29
Child support
Jurisdiction over nonresidents; notice; jurisdiction when modifying a child support order; modification of child support order of another jurisdiction
Court to retain jurisdiction . . . . 10-52(b)
Divorce or separate maintenance 10-35
Divorce . . . . . 10-35(b)
Separate maintenance. . . . . 10-35(a)
Finances
Child support. See within this subheading that subject
Modification of judgment affecting alimony and support of minor children 10-39
Permanent alimony, custody of children and costs 10-38
Judgment of validity, procedure for 10-32
Legitimacy of children not affected by divorce 10-37
Marriages validated 10-31
Minors
Child support. See within this subheading that subject
Legitimacy of children not affected by divorce 10-37
Modification of judgment affecting alimony and support of minor children 10-39
Permanent alimony, custody of children and costs 10-38
Modification of judgment affecting alimony and support of minor children. 10-39
Permanent alimony, custody of children and costs 10-38
Procedure for annulment, divorce or separate maintenance 10-36
Filing of complaint. . . . . 10-36(a)

Section

DOMESTIC RELATIONS (Cont'd.)
Judgment . . . . . 10-36(b)
State law, marriages to be according to 10-30
Writs, warrants and other legal processes
Child support. See within this subheading that subject
Procedure for annulment, divorce or separate maintenance
Judgment. . . . . 10-36(b)
Notice, notification
Guardianship
Minors, guardianship for
Service of the petition for guardianship; notice of hearing . . . 10-117
Marriage, divorce, annulment, separate maintenance
Child support
Jurisdiction over nonresidents; notice; jurisdiction when modifying a child support order; modification of child support order of another jurisdiction. 10-52
Support, order for; methods of payment; statute of limitations; notice 10-57
Paternity
Jurisdiction; jurisdiction over nonresidents; notice 10-3
Protection for elderly and vulnerable adults
Reporting abuse, neglect or exploitation of an elderly or vulnerable adult. . . . . 10-181(d)
Office of public fiduciary
Annual audit. 10-307
Definitions 10-302
Duties and standards 10-304
Office as conservator. 10-305
Office as guardian 10-306
Purpose 10-300
Scope. 10-301
The office of the public fiduciary 10-303
Paternity
Definitions 10-2
Disestablishment of presumed paternity 10-10
DNA testing; results; rebuttal; additional tests. 10-7
Additional DNA testing . . . . . 10-7(c)
Admission into evidence . . . . . 10-7(3)
Affidavit of DNA expert . . . . . 10-7(4)
Contempt of court. . . . . 10-7(5)
DNA testing when specimens not available. . . . . 10-7(6)
Issuance of order . . . . . 10-7(7)
Lab accredited. . . . . 10-7(1)
May be required, DNA tests . . . . . 10-7(a)
Report of DNA testing. . . . . 10-7(2)
Results, DNA testing; rebuttal . . . . . 10-7(b)

Section

DOMESTIC RELATIONS (Cont'd.)
Initial paternity hearing; evidentiary paternity hearing; evidence relating to paternity 10-6
Evidence ..... 10-6(e)
Evidentiary paternity hearing rules . 10-6(d)
Generally ..... 10-6(a)
Initial paternity hearing..... 10-6(c)
Service of subsequent documents.... 10-6(b)
Jurisdiction; jurisdiction over nonresidents; notice 10-3
Paternity orders; default orders; paternity established by other jurisdictions 10-9
Default order of paternity ..... 10-9(c)
Order, paternity ..... 10-9(a)
Other jurisdictions, paternity established by ..... 10-9(d)
Records, paternity ..... 10-9(b)
Petition, paternity..... 10-4
Contents of petition..... 10-4(f)
Generally ..... 10-4(a)
Governing rule ..... 10-4(c)
Satisfying requirements under enrollment ordinance..... 10-4(b)
Use of similar documents..... 10-4(d)
Who may file petition ..... 10-4(e)
Presumption of paternity 10-5
Purpose 10-1
Rules for adjudication of paternity..... 10-8
Writs, warrants and other legal processes
DNA testing; results; rebuttal; additional tests
Issuance of order..... 10-7(7)
Paternity orders; default orders; paternity established by other jurisdictions..... 10-9
Petition, paternity 10-4
Protection for elderly and vulnerable adults
Causing or permitting imperilment of life, health or property; criminal penalties; civil remedies 10-185
Court proceedings 10-187
Definitions..... 10-180
Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation..... 10-190
Action in emergency situation ..... 10-190(j)
Contents of order ..... 10-190(e)
Contents of orders of protection..... 10-190(c)
Duration and amendments ..... 10-190(f)
Emergency orders..... 10-190(g)
Immunization from criminal or civil suit..... 10-190(k)
Order of protection..... 10-190(b)
Petition ..... 10-190(a)
Preliminary hearing on petition to provide protective services..... 10-190(i)

Section

DOMESTIC RELATIONS (Cont'd.)
Procedure for issuance of order of protection ..... 10-190(d)
Violation; penalties; remedies..... 10-190(l)
Warrant for forcible entry ..... 10-190(h)
General rules applicable to court proceedings under this article 10-191
Generally..... 10-179
Civil nature of article ..... 10-179(d)
Interpretation of this section..... 10-179(e)
Liberal interpretation of article ..... 10-17961(f)
Policy..... 10-179(b)
Purpose..... 10-179(c)
Title ..... 10-179(a)
Hearings 10-188
Immunity of participants; nonprivileged communication..... 10-183
Medical and financial records 10-184
Orders prior to a final determination .. 10-189
Other violations; remedies 10-186
Procedure for investigation of allegations of abuse, exploitation or neglect of an elderly or vulnerable adult 10-182
Reporting abuse, neglect or exploitation of an elderly or vulnerable adult.. 10-181
Anonymous reports ..... 10-181(f)
Civil remedies for not reporting..... 10-181(e)
Notification..... 10-181(d)
Persons mandated to report ..... 10-181(b)
Reports ..... 10-181(c)
Responsibility ..... 10-181(a)
Records and reports
Commitment and treatment of mentally ill persons
Confidential records..... 10-228
Domestic violence
Offenses
Failure to report or false reporting of domestic violence ..... 10-253(d)
Reporting domestic violence 10-257
Guardianship
Minors, guardianship for
Report and background study, guardianship..... 10-118
Marriage, divorce, annulment, separate maintenance
Child support
General provisions; service; back child support; duties of support
Financial records ..... 10-53(d)
Similar documents..... 10-53(e)
Paternity
DNA testing; results; rebuttal; additional tests
Report of DNA testing ..... 10-7(2)

Section

DOMESTIC RELATIONS (Cont'd.)
Paternity orders; default orders; paternity established by other jurisdictions
Records, paternity . . . . . 10-9(b)
Protection for elderly and vulnerable adults
Medical and financial records 10-184
Reporting abuse, neglect or exploitation of an elderly or vulnerable adult. 10-181
Writs, warrants and other legal processes
Adoption
Hearing, order and rights under adoption order 10-84
Commitment and treatment of mentally ill persons
Hearing procedures
Order . . . . . 10-226(f)
Petition for evaluation; filing time. . . 10-224
Domestic violence
Offenses
Violation of an order of protection 10-253(c)
Orders of protection. 10-256
Guardianship. See herein that subject
Marriage, divorce, annulment, separate maintenance. See herein that subject
Paternity. See herein that subject
Protection for elderly and vulnerable adults
Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation 10-190
Orders prior to a final determination 10-189

DRAINAGE. See: FLOODPLAIN AND DRAINAGE

DRUGS. See: CONTROLLED SUBSTANCES

DUST, ODORS, SMOKE AND OTHER AIRBORNE PARTICLES
Traffic and motor vehicles
Equipment
Mufflers and air pollution control devices 16-56
Water and other natural resources . . . . . 18-161 et seq.
See: WATER AND OTHER NATURAL RESOURCES

E

EASEMENTS
Development, real property and housing
Homesites
Governmental access and responsibilities
Operation and maintenance of supporting easements . . . . . 17-202(3)

Section

EASEMENTS (Cont'd.)
Uniform road and utility corridors
Procedure for request of right-of-way easements. 17-309

ELDERLY PERSONS
Domestic relations . . . . . 10-179 et seq.
See: DOMESTIC RELATIONS
Senior home repair or replacement program committee . . . . . 1-354 et seq.
See: SENIOR HOME REPAIR OR REPLACEMENT PROGRAM COMMITTEE

ELECTION BOARD
Voting and elections. 3-3

ELECTIONS. See: VOTING AND ELECTIONS

ELECTRIC, ELECTRICITY
Criminal code
Persons, offenses against
Use of telephone or electronic device to commit offense 6-54
Licensing and permitting
Sale of cigarettes at retail
Electronic cigarettes; sales to minors prohibited 15-124

EMERGENCIES
Domestic relations . . . . . 10-119 et seq.
See: DOMESTIC RELATIONS
Gaming
Community regulatory agency
Emergency powers of the director . . . 15.5-14(f)
Health and sanitation
Alcoholism
Emergency admission 13-39
Minors
Child protection
Investigation of reports; removal of child
Grounds for emergency removal . . 11-157(d)
Traffic and motor vehicles . . . . . 16-8 et seq.
See: TRAFFIC AND MOTOR VEHICLES

ENVIRONMENT
Animals and fowl . . . . . 12-111 et seq.
See: ANIMALS AND FOWL
Development, real property and housing
Homesites
Governmental access and responsibilities
Blighted areas . . . . . 17-202(1)
Floodplain and drainage
Development requirements to be met for issuance of a permit
Special considerations in environmentally sensitive land areas . . . . . 17.5-8(13)

Section

ENVIRONMENT (Cont'd.)
Gaming
Protection of environment and public health and safety 15.5-8
Water and other natural resources . . . . . 18-49 et seq.
See: WATER AND OTHER NATURAL RESOURCES

ETHICS
Voting and elections
Election board
Code of ethics, temporary removal, removal and resignation . . . . . 3-3(6)

EXPLOSIVES
Licensing and permitting . . . . . 15-233 et seq.
See: LICENSING AND PERMITTING
Traffic and motor vehicles
Equipment
Vehicles transporting explosives 16-64

EXTRADITION AND EXCLUSION
Applicability of chapter 7-3
Application for issuance of requisition; by whom made; contents 7-24
Arrest without a warrant 7-15
Authority of arresting officer 7-10
Bail; in what cases; conditions of bond 7-17
Commitment to await requisition; bail 7-16
Community territory, exclusion from
Nonmember lawbreakers, removal of . . 7-74
Power to exclude persons from Community territory 7-72
Removal of nonmembers who are detrimental to the Community 7-75
Committee of inquiry and council determination . . . . . 7-75(d)
Definitions . . . . . 7-75(b)
Policy . . . . . 7-75(a)
Procedure . . . . . 7-75(e)
Report of charged person . . . . . 7-75(c)
Trespassers, removal of 7-73
Confinement in jail when necessary 7-13
Costs and expenses 7-25
Criminal prosecution, persons under in the Community at time of requisition . . . 7-20
Definitions 7-1
Detainee as a witness in a criminal proceeding in a foreign jurisdiction
Temporary removal or transfer of a detainee to attend as a witness in a criminal proceeding in a foreign jurisdiction 7-49
Extension of time of commitment; adjournment 7-18
Extradition of persons not present in demanding jurisdiction at time of commission of crime 7-7
Forfeiture of bail 7-19
Form of demand 7-4

Section

EXTRADITION AND EXCLUSION (Cont'd.)
Fugitives from the Community; duty of president 7-23
Guilt or innocence of accused; when inquired into 7-21
Immunity from service of process in certain civil actions 7-26
Investigate case, president may 7-5
Issue of president's warrant of arrest; recitals of fact 7-8
Jails
Bail; in what cases; conditions of bond . 7-17
Commitment to await requisition; bail . 7-16
Confinement in jail when necessary 7-13
Persons imprisoned or awaiting trial in a state or another tribe or who have left the demanding jurisdiction under compulsion, extradition of 7-6
Justice, fugitives from; duty of chief executive 7-2
Manner and place of execution of warrant 7-9
No right of asylum; no immunity for other criminal prosecutions while in this jurisdiction 7-29
Nonwaiver by the Community 7-28
Penalty for noncompliance with section 7-11 7-12
Persons imprisoned or awaiting trial in a state or another tribe or who have left the demanding jurisdiction under compulsion, extradition of 7-6
President
Fugitives from the Community; duty of president 7-23
Investigate case, president may 7-5
Issue of president's warrant of arrest; recitals of fact 7-8
Justice, fugitives from; duty of chief executive 7-2
President may recall warrant or issue alias 7-22
President may recall warrant or issue alias 7-22
Requisition, arrest prior to 7-14
Rights of accused person; application for writ of habeas corpus 7-11
Writs, warrants and other legal processes
Arrest without a warrant 7-15
Issue of president's warrant of arrest; recitals of fact 7-8
Manner and place of execution of warrant 7-9
President may recall warrant or issue alias 7-22
Rights of accused person; application for writ of habeas corpus 7-11
Written waiver of extradition proceedings. 7-27

Section

F

FENCES, HEDGES, WALLS AND OTHER ENCLOSURES
Animals and fowl
Rabies control
Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies
Confinement at home . . . . . 12-49(b)
Criminal code
Property, offenses against
Real or tangible property
Cutting fence 6-105

FINANCES
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Terms; fees 14-64
Animals and fowl . . . . . 12-46 et seq.
See: ANIMALS AND FOWL
Courts
Bonds and witness expenses 4-86
Defendant's rights
Explanation of charges; judge to advise legal rights. 4-232
Cultural resources
Fees; bonds 19-8
Development, real property and housing . . 17-10 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Distribution of moneys from "outer loop" highway
Definitions 20-20
Mature person 20-23
Minors 20-22
Notice 20-21
Policy; public fiduciary established. 20-19
Domestic relations . . . . . 10-49 et seq.
See: DOMESTIC RELATIONS
Extradition and exclusion
Costs and expenses 7-25
Gaming
Financial services in gaming facilities. . 15.5-16.1
Use of revenue 15.5-6
Graffiti
Sentencing
Payment of fines and restitution . . . . 21-8(b)
Health and sanitation
Alcoholism
Payment for treatment; financial ability of patient or guardian. 13-41
Impoundment; possible forfeiture of vehicles used in illegal dumping
Sale of vehicle for recovery of damages . . . . . 13-8(d)
Juvenile court
Fees. 11-30

Section

FINANCES (Cont'd.)
Labor and employment
Workers' compensation
Dispute resolution; appeal and settlement
Claimant's attorneys' fees 23-96
Recovery of payments made due to error, mistake, erroneous adjudication, fraud, etc. 23-102
Licensing and permitting . . . . . 15-26 et seq.
See: LICENSING AND PERMITTING
Nonprofit organizations
Board of trustees; duties; fiscal year . . . 1-395
Contributions to the foundation 1-396
Phoenix Cement Company
Capitalization; financial responsibility . 1-212
Saddleback Communications Company
Capitalization; financial responsibility . 1-186
Sale of securities
Adoption of state statutes by reference. 20-55
Bond 20-54
Definitions. 20-51
Fees. 20-53
Penalties and enforcement 20-56
Answer to civil citation. . . . . 20-56(e)
Civil penalties . . . . . 20-56(a)
Department of public safety to enforce . . . . . 20-56(b)
Effect on additional enforcement . . . . 20-56(k)
Exoneration . . . . . 20-56(i)
Failure to answer. . . . . 20-56(f)
For hearing, failure to appear. . . . . 20-56(g)
Hearing . . . . . 20-56(h)
Notice of hearing civil citation . . . . . 20-56(d)
Recover penalties, civil action to . . . . 20-56(j)
Retainment of vehicle . . . . . 20-56(c)
Voidability . . . . . 20-56(l)
Permit. 20-52
Policy 20-50
Salt River Commercial Landfill Company
Financial duties and responsibilities . . . 1-264
Salt River Community Gaming Enterprises
Capitalization; financial responsibility . 1-294
Salt River Community Housing Division
Capitalization; financial responsibility . 1-80
Salt River Fields at Talking Stick
Capitalization; financial responsibility . 1-323
Salt River Financial Services Institution. . 1-149 et seq.
See: SALT RIVER FINANCIAL SERVICES INSTITUTION
Salt River Pima-Maricopa Community Schools Division
Capitalization; financial responsibility . 1-60
Senior home repair or replacement program committee
Funding 1-366

Section

FINANCES (Cont'd.)
Sentencing
Classifications, sentencing; restitution or alternative compensation; offense specific penalty or sentence . 8-3
Deposit and disposition of fine 8-5
Taxation . . . . . 15.1-1 et seq.
See: TAXATION
Traffic and motor vehicles . . . . . 16-113 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Unclaimed personal property
Definitions 20-110
Procedure for disposition of unclaimed property 20-112
Property which has not been claimed . . 20-111
Repossession of personal property 20-114
Definitions . . . . . 20-114(b)
Not applicable to Community . . . . . 20-114(e)
Policy . . . . . 20-114(a)
Possession by court order . . . . . 20-114(d)
Voluntary surrender . . . . . 20-114(c)
Unclaimed money 20-113
Water and other natural resources
Agriculture fugitive dust control
Applicability
Fee . . . . . 18-163(e)
Welfare assistance
Administration 20-93
Definitions 20-87
Determination of needs based programs 20-89
Community income and need guidelines . . . . . 20-89(b)
Determinations, Community needs . . 20-89(c)
Infrastructure, health care, housing and education as core needs . . . 20-89(e)
Needs basis; eligibility certification . . 20-89(a)
Special circumstances . . . . . 20-89(d)
Underfunded programs . . . . . 20-89(f)
Enactment and purpose 20-86
Background and purpose . . . . . 20-86(a)
Federal trust obligations; executive orders . . . . . 20-86(e)
General welfare doctrine . . . . . 20-86(c)
Governing law . . . . . 20-86(f)
Nonresource designation . . . . . 20-86(d)
Ratification of prior acts; intent of legislation . . . . . 20-86(b)
Sovereignty . . . . . 20-86(g)
Forfeiture of welfare assistance rights . 20-91
Due process . . . . . 20-91(b)
Forfeiture . . . . . 20-91(a)
Inalienability of welfare assistance benefit rights 20-92
Limitation on payments; annual budgeting 20-90
Annual budgeting; unfunded program 20-90(b)
Limitations on welfare assistance payments . . . . . 20-90(a)

Section

FINANCES (Cont'd.)
Provision of general welfare assistance. 20-88
Council approved programs . . . . . 20-88(a)
Eligibility and application procedures 20-88(c)
Limited use of assistance payments/services . . . . . 20-88(d)
Purpose . . . . . 20-88(b)
Writs, warrants and other legal processes
Sale of securities
Penalties and enforcement
Answer to civil citation . . . . . 20-56(e)
Notice of hearing civil citation . . . . 20-56(d)
Unclaimed personal property
Repossession of personal property
Possession by court order . . . . . 20-114(d)
Welfare assistance
Enactment and purpose
Federal trust obligations; executive orders . . . . . 20-86(e)

FINES, FORFEITURES AND OTHER PENALTIES
Alcoholic beverages and prohibited substances . . . . . 14-101 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Animals and fowl . . . . . 12-4 et seq.
See: ANIMALS AND FOWL
Community membership
As a matter of right, membership
Truthfulness in the application process; civil fines 2-33
Cultural resources
Violations; penalties 19-2
Curfew
Penalties 11-221
Development, real property and housing
Fees, development
Violation; penalty 17-533
Homesites
Tribal lands, homesite leases on
Application for homesite lease on tribal lands . . . . . 17-152(d)
Domestic relations . . . . . 10-185 et seq.
See: DOMESTIC RELATIONS
Extradition and exclusion
Forfeiture of bail 7-19
Penalty for noncompliance with section 7-11 7-12
Finances
Sale of securities
Penalties and enforcement 20-56
Welfare assistance
Forfeiture of welfare assistance rights 20-91
Floodplain and drainage
Penalties 17.5-12
Gaming
Penalties 15.5-17
Graffiti . . . . . 21-3 et seq.
See: GRAFFITI

Section

FINES, FORFEITURES AND OTHER PENALTIES (Cont'd.)
Health and sanitation
Collection and haulage of solid waste from commercial enterprises
Civil penalty . . . . . 13-6(e)
Impoundment; possible forfeiture of vehicles used in illegal dumping 13-8
Licensing and permitting
Fireworks and pyrotechnics 15-237
Sale of cigarettes at retail
Civil penalties 15-122
Minors
Child protection
Reporting child abuse and neglect
Penalty for not reporting. . . . . 11-156(e)
Truancy 11-317
Sentencing . . . . . 8-3 et seq.
See: SENTENCING
Sex offender registration and Community notification
Residency restrictions 6.5-10
Penalties for violation . . . . . 6.5-10(e)
Taxation
Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition 15.1-11
Interest and civil penalties 15.1-10
Traffic and motor vehicles . . . . . 16-2 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections
Initiative, referendum and recall elections
Petitions 3-126
Violations of election process
Penalties 3-152
Water and other natural resources
Groundwater management
Violation and penalty 18-24
Surface water management
Violation; penalty 18-95

FIRE PREVENTION AND PROTECTION
Criminal code
Property, offenses against
Real or tangible property
Arson 6-110
Negligent handling of campfire and/or negligent starting of a fire 6-108
Development, real property and housing
Fees, development
Fire development fee 17-532
Traffic and motor vehicles . . . . . 16-12 et seq.
See: TRAFFIC AND MOTOR VEHICLES

Section

FIREWORKS
Licensing and permitting . . . . . 15-233 et seq.
See: LICENSING AND PERMITTING

FLOODPLAIN ADMINISTRATOR
Floodplain and drainage. 17.5-3

FLOODPLAIN AND DRAINAGE
Appeals and variances 17.5-4
Certifications and required permits, requirement for 17.5-9
Definitions 17.5-2
Development requirements to be met for issuance of a permit. 17.5-8
Buildings and building regulations
Information pertaining to flood protection to be placed on building plans . . . . . 17.5-8(9)
Lowest floor elevations in nonresidential structures . . . . . 17.5-8(7)
Residential structures, lowest floor elevations in. . . . . 17.5-8(6)
Characteristics, drainage . . . . . 17.5-8(2)
Design procedures and criteria . . . . . 17.5-8(5)
Drainage reports . . . . . 17.5-8(1)
Information pertaining to flood protection to be placed on building plans 17.5-8(9)
Lowest floor elevations in nonresidential structures. . . . . 17.5-8(7)
Minimizing the potential for flood damage . . . . . 17.5-8(10)
Parking in flood hazard areas . . . . . 17.5-8(12)
Reference to regulatory base floodwater surface elevations on development plans . . . . . 17.5-8(8)
Residential structures, lowest floor elevations in. . . . . 17.5-8(6)
Special considerations in environmentally sensitive land areas . . . . . 17.5-8(13)
Stormwater detention or retention storage facilities . . . . . 17.5-8(11)
Street crossings at natural or manmade drainage channels . . . . . 17.5-8(3)
Water carriers, streets as . . . . . 17.5-8(4)
Interpretation 17.5-5
Obstruction of a waterway prohibited 17.5-10
Penalties 17.5-12
Prohibited development 17.5-7
Removal of obstructions 17.5-11
Requirements and regulations established; short title 17.5-1
The floodplain administrator. 17.5-3
Designated. . . . . 17.5-3(a)
Responsibilities . . . . . 17.5-3(b)
Warning and disclaimer of liability 17.5-6

FLOODS, FLOODING
Floodplain and drainage. . . . . 17.5-1 et seq.
See: FLOODPLAIN AND DRAINAGE

Section

FLOODS, FLOODING (Cont'd.)
Traffic and motor vehicles
Operation of vehicles
Driving while under the influence; reckless driving
Liability for emergency responses in flood areas 16-235

FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Premises that may be licensed
Restaurant license ..... 14-55(4)
Appeals; waiver of requirements 13-139
Application for license 13-132
Definitions 13-129
Display of licenses 13-134
Duration of license 13-133
Food Code 13-135
Intergovernmental agreements and consulting contracts 13-136
License required 13-130
Licensing and permitting
Application for license 13-132
Display of licenses 13-134
Duration of license 13-133
License required 13-130
Relationship of license to others 13-131
Suspension or revocation, license 13-138
Policy 13-128
Regulations 13-137
Relationship of license to others 13-131
Suspension or revocation, license 13-138
Violations 13-140

G

GAMBLING
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Premises that may be licensed
Casino license ..... 14-55(2)
Criminal code 6-6
Gaming ..... 15.5-1 et seq.
See: GAMING
Salt River Community Gaming Enterprises
Capitalization; financial responsibility . 1-294
Established 1-293

GAMING
Adoption of compact and subsequent amendments 15.5-3
Alcoholic beverages and prohibited substances
Control, alcoholic beverage

Section

GAMING (Cont'd.)
Licenses
Premises that may be licensed
Casino license ..... 14-55(2)
Audit 15.5-7
Authorization 15.5-4
Community regulatory agency 15.5-14
Director ..... 15.5-14(c)
Emergency powers of the director ..... 15.5-14(f)
Establishment of the Community regulatory agency ..... 15.5-14(a)
Powers and duties of the Community regulatory agency ..... 15.5-14(e)
Procedures of the Community regulatory agency board ..... 15.5-14(g)
Restriction on activities ..... 15.5-14(d)
Compliance with Act 15.5-15
Definitions 15.5-2
Detention and questioning of persons suspected of violations 15.5-19
Disclaimer 15.5-22
Effective date 15.5-25
Financial services in gaming facilities 15.5-16.1
Granting of security interests 15.5-23
Amendment of Ordinance SRO-106-87 . 15.5-23.5(e)
Application of section ..... 15.5-23.5(d)
Definitions ..... 15.5-23.5(b)
Purpose and authority ..... 15.5-23.5(a)
Uniform Commercial Code, application of ..... 15.5-23.5(c)
Licenses for
Employee 15.5-9
Application forms ..... 15.5-9(1)
Background investigations ..... 15.5-9(2)
Duration and renewal ..... 15.5-9(7)
Eligibility determination ..... 15.5-9(3)
Granting a license ..... 15.5-9(5)
Investigations
Background investigations ..... 15.5-9(2)
Procedures for forwarding applications and reports for key employees and primary management officials to National Indian Gaming Commission ..... 15.5-9(4)
Suspension and revocation ..... 15.5-9(6)
Facilities 15.5-11
Operators 15.5-12
Regulators 15.5-13
Application forms ..... 15.5-13(1)
Background investigations ..... 15.5-13(2)
Duration and renewal ..... 15.5-13(6)
Eligibility determination ..... 15.5-13(3)
Granting a license ..... 15.5-13(4)
Suspension and revocation ..... 15.5-13(5)
Services 15.5-10
Application forms ..... 15.5-10(1)
Background investigations ..... 15.5-10(2)
Duration and renewal ..... 15.5-10(6)
Eligibility determination ..... 15.5-10(3)
Granting a license ..... 15.5-10(4)

Section

GAMING (Cont'd.)
Suspension and revocation ..... 15.5-10(5)
Officers and employees
Community regulatory agency
Director ..... 15.5-14(c)
Emergency powers of the director ... 15.5-14(f)
Licenses for employee..... 15.5-9
Ownership 15.5-5
Penalties 15.5-17
Prohibited acts 15.5-16
Protection of environment and public health and safety 15.5-8
Purpose 15.5-1
Raffles 15.5-24
Repeal and severability 15.5-18
Salt River Community Gaming Enterprises
Capitalization; financial responsibility . 1-294
Established 1-293
Tort claims process..... 15.5-16.2
Trust protection for minor and incompetent beneficiaries receiving IGRA benefits; applicable law; jurisdiction 15.5-20
Use of revenue 15.5-6

GARBAGE AND TRASH
Criminal code
Property, offenses against
Trespass
Illegal dumping, use of land for .. 6-113
Health and sanitation ..... 13-3 et seq.
See: HEALTH AND SANITATION
Salt River Commercial Landfill Company. 1-262 et seq.
See: SALT RIVER COMMERCIAL LANDFILL COMPANY

GOLF, GOLF COURSES
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Premises that may be licensed
Golf course clubhouse license .. 14-55(3)
Salt River Community Golf Enterprises
Capitalization; financial responsibility . 1-125
Established 1-124

GRADING, GRADES
Traffic and motor vehicles
Operation of vehicles
Curve or crest of grade, turning on prohibited 16-157

GRAFFITI
Abatement, graffiti 21-7
Community's authority to abate ..... 21-7(e)
Contents of notice of violation ..... 21-7(b)
Filing of appeals ..... 21-7(d)
Notice, notification
Contents of notice of violation ..... 21-7(b)
Notice of violation and duty to remove..... 21-7(a)

Section

GRAFFITI (Cont'd.)
Service of notice ..... 21-7(c)
Notice of violation and duty to remove . 21-7(a)
Service of notice..... 21-7(c)
Appellate review..... 21-10
Appeals..... 21-10(a)
Stay of execution of sentence ..... 21-10(b)
Civil sanctions..... 21-9
Civil fines..... 21-9(b)
Removal and exclusion from the Community ..... 21-9(a)
Definitions 21-2
Fines, forfeitures and other penalties
Civil sanctions
Civil fines ..... 21-9(b)
Prohibited, graffiti..... 21-3(c)
Sentencing
Payment of fines and restitution .... 21-8(b)
Limiting access to graffiti implements 21-5
Possession of graffiti implements prohibited 21-4
Prohibited, graffiti 21-3
Offenses ..... 21-3(a)
Penalties ..... 21-3(c)
Persons hiring, etc., for committing offense ..... 21-3(b)
Purpose and intent 21-1
Sentencing 21-8
Mandatory sentencing ..... 21-8(a)
Payment of fines and restitution..... 21-8(b)
Storage and display of graffiti implements 21-6

H

HAZARDS, HAZARDOUS
Floodplain and drainage
Development requirements to be met for issuance of a permit
Parking in flood hazard areas..... 17.5-8(12)
Health and sanitation
Tri-city landfill, disposal of dangerous substances 13-5
Traffic and motor vehicles
Equipment
Certain vehicles to carry flares or other warning devices 16-62
Placing or allowing dangerous articles on highway 16-11

HEALTH AND SANITATION
Alcoholic beverages and prohibited substances
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles
Possession or use of narcotics, hallucinogens, and other dangerous drugs
Prescription drugs exempt ..... 14-156(c)
Alcoholism
Definitions 13-35

	Section
HEALTH AND SANITATION (Cont'd.)	
Emergency admission	13-39
Evaluation and treatment of persons charged with crime	13-40
Immunity from criminal or civil liability	13-42
Intoxicated persons and persons incapacitated by alcohol, treatment and services for	13-38
Further evaluation or treatment	13-38(e)
Immediate treatment	13-38(b)
Notification of next of kin	13-38(d)
Transportation to home or shelter	13-38(c)
Voluntary treatment	13-38(a)
Payment for treatment; financial ability of patient or guardian	13-41
Program established	13-36
Created; purpose	13-36(a)
Duties	13-36(c)
Standards	13-36(b)
Treatment of alcoholics	13-37
Animals and fowl	12-41 et seq.
See: ANIMALS AND FOWL	
Collection and haulage of solid waste from commercial enterprises	13-6
Civil penalty	13-6(e)
Collection and haulage of solid waste	13-6(c)
Definitions	13-6(f)
Policy	13-6(a)
Self-hauler	13-6(d)
Unlawful acts	13-6(b)
Criminal code	
Drug-related offenses	
Possession or use of narcotics and drugs	
Certain professionals exempt	6-121(d)
Offenses against minors and dependents	
Failure to provide care of dependent persons	6-81
Disposal of dead animals	13-1
Domestic relations	10-185 et seq.
See: DOMESTIC RELATIONS	
Finances	
Welfare assistance	
Determination of needs based programs	
Infrastructure, health care, housing and education as core needs	20-89(e)
Food service establishments and retail food stores	13-128 et seq.
See: FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES	
Gaming	
Protection of environment and public health and safety	15.5-8
Garbage and trash	
Collection and haulage of solid waste from commercial enterprises	13-6
Illegal dumping	13-3, 13-7

	Section
HEALTH AND SANITATION (Cont'd.)	
Impoundment; possible forfeiture of vehicles used in illegal dumping	13-8
Tri-city landfill, disposal of dangerous substances	13-5
Illegal dumping	13-3, 13-7
Impoundment; possible forfeiture of vehicles used in illegal dumping	13-8
Authority to implement reward system	13-8(g)
Compromise, authority to	13-8(f)
Forfeiture of vehicles used in illegal dumping	13-8(e)
Hearing	13-8(c)
Impoundment of vehicle; notification of owner	13-8(a)
Owner's answer to notice	13-8(b)
Sale of vehicle for recovery of damages	13-8(d)
Labor and employment	
Workers' compensation	
Benefits	
Customary medical and supportive care costs	23-61(b)
Independent medical examination, assignment of treating physician and duty to submit to medical treatment	23-59
Licensing and permitting	
Amusement licenses	
Operational regulations	
Sanitary facilities	15-163(a)
Notice, notification	
Alcoholism	
Intoxicated persons and persons incapacitated by alcohol, treatment and services for	
Notification of next of kin	13-38(d)
Impoundment; possible forfeiture of vehicles used in illegal dumping	
Impoundment of vehicle; notification of owner	13-8(a)
Owner's answer to notice	13-8(b)
Pesticides	
Certificates, permits and licenses	13-101
Alteration, modification of requirements	13-101(d)
Applicators of restricted pesticides require license	13-101(b)
Certain activities requiring permit under FEPCA require permit	13-101(a)
Licenses for other activities may be required	13-101(c)
Suspension or cancellation	13-101(e)
Definitions	13-98
Enforcement of article and regulations	13-100
Authority	13-100(c)
Director designated to enforce article	13-100(a)
Functions	13-100(b)
Publication of rules, regulations, etc.	13-100(d)
Federally prohibited activities prohibited	13-104

Section

HEALTH AND SANITATION (Cont'd.)
Judicial proceedings; Community court 13-107
Only registered pesticide use allowed . . 13-105
Policy adopted 13-99
Production, processing, distribution, sale, etc., prohibited 13-103
Records and reports 13-102
Use of registered pesticides to conform to federal and state requirements. 13-106
Pollution of domestic water 13-2
Sex offender registration and Community notification
Residency restrictions 6.5-10
Medical exception . . . . . 6.5-10(d)
Solid waste
Collection and haulage of solid waste from commercial enterprises 13-6
Illegal dumping 13-3, 13-7
Impoundment; possible forfeiture of vehicles used in illegal dumping 13-8
Tri-city landfill, disposal of dangerous substances 13-5
Traffic and motor vehicles
Operation of vehicles
Driving while under the influence; reckless driving
Driving or actual physical control while under the influence
Prescribed drugs . . . . . 16-222(d)
Tri-city landfill, disposal of dangerous substances 13-5
Tuberculosis
Declaration of policy 13-74
Definitions 13-73
Immunity from criminal and civil liability 13-77
Procedure for commitment of tuberculous person 13-75
Certification . . . . . 13-75(b)
Length of treatment . . . . . 13-75(c)
Petition for treatment . . . . . 13-75(a)
Reporting existence of nonresident tuberculous person, procedure for . . . 13-76
Violations 13-4

HEARING OFFICER
Taxation
Administrative review; petition for hearing or for redetermination; finality of order
Decision, the hearing officer's . . . . . 15.1-17(f)
The hearing officer . . . . . 15.1-17(d)

HEARINGS
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Public hearing 14-62

Section

HEARINGS (Cont'd.)
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles
Seizure of vehicles used in drug violations
Procedure for hearing . . . . . 14-157(f)
Courts
Judges
Removal or suspension of judges
Causes; hearing . . . . . 4-35(b)
Criminal code . . . . . 6-118 et seq.
See: CRIMINAL CODE
Development, real property and housing . . 17-7 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations . . . . . 10-6 et seq.
See: DOMESTIC RELATIONS
Finances . . . . . 20-56 et seq.
See: FINANCES
Health and sanitation
Impoundment; possible forfeiture of vehicles used in illegal dumping . . . . 13-8(c)
Juvenile court
Alternative method for resolution of cases 11-31(e)
Labor and employment . . . . . 23-88 et seq.
See: LABOR AND EMPLOYMENT
Licensing and permitting
Trailer space rental business
Revocation of licenses
Appeal; hearing . . . . . 15-79(a)
Minors . . . . . 11-98 et seq.
See: MINORS
Taxation
Administrative review; petition for hearing or for redetermination; finality of order 15.1-17
Traffic and motor vehicles . . . . . 16-141 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections
Canvass
Hearing of allegations of fraud by Community court . . . . . 3-7(f)
Initiative, referendum and recall elections
Petitions
Recordkeeping
Availability of petition for appeals hearings . . . . . 3-124(b)

HEATING, VENTILATION AND AIR CONDITIONING
Licensing and permitting
Business licenses generally
Standards of business operation
Lighting; ventilation; plumbing . . . 15-35(a)

Section

HISTORIC, HISTORICAL
Senior home repair or replacement program committee
Purpose
Historic needs . . . . . 1-355(b)

HOSPITALS
Criminal code
Drug-related offenses
Possession or use of narcotics and drugs
Hospitalization of offender . . . . . 6-121(i)
Minors
Child protection
Disposition proceedings
Hospitalization of child . . . . . 11-165(g)

HOTELS AND MOTELS
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Premises that may be licensed
Hotel-motel license. . . . . 14-55(1)
Taxation
Transaction privilege tax
Imposition of tax; tax schedule
Hotel occupancy tax . . . . . 15.1-50(8)

HOURS
Curfew. . . . . 11-217 et seq.
See: CURFEW
Voting and elections
Conduct of elections
Hours of voting . . . . . 3-6(d)
Violations of election process
Violations by actions of candidates or issue supporters
Campaigning in and around the workplace during Community business hours, except for Community schools. . . . . 3-149(f)

HOUSING. See: DEVELOPMENT, REAL PROPERTY AND HOUSING

HUMAN RESOURCES DEPARTMENT
Sex offender registration and Community notification
Community notification
Notification to victim, neighbors, schools, Community human resources department and offender's employer . . . . . 6.5-11(b)

I

IDENTIFICATION
Animals and fowl
Rabies control
Counterfeit or removal of tag 12-45
Dogs to wear collar with tag 12-44

Section

IDENTIFICATION (Cont'd.)
Criminal code
Property, offenses against
Real or tangible property
Misbranding 6-107
Taking identity of another person . . . 6-99
Domestic relations . . . . . 10-1 et seq.
See: DOMESTIC RELATIONS

Section

IDENTIFICATION (Cont'd.)
Sex offender registration and Community notification . . . . . 6.5-6 et seq.
See: SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
Traffic and motor vehicles
Operation of vehicles
Operation of vehicle upon approach of school bus
School bus identification . . . . . 16-150(b)

IMPOUNDMENT
Animals and fowl
Rabies control
Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies
Impoundment; fees . . . . . 12-49(a)
Unauthorized removal from impoundment unlawful. . . . . 12-49(e)
Health and sanitation
Impoundment; possible forfeiture of vehicles used in illegal dumping 13-8
Traffic and motor vehicles
Operation of vehicles
Nonmembers on land other than Community roadways, operation of vehicles by
Impoundment of vehicle; notification of owner. . . . . 16-141(b)

INDEMNIFICATION
Business and commerce
Membership, contributions, distributions and management
Indemnification and insurance 24-106

INSPECTIONS
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Office of alcohol beverage control; director
Inspection of premises, enforcement and investigations . . . . 14-24(c)
Juvenile court
Juvenile records
Preservation; inspection . . . . . 11-28(a)
Traffic and motor vehicles . . . . . 16-31 et seq.
See: TRAFFIC AND MOTOR VEHICLES

INSURANCE
Business and commerce
Membership, contributions, distributions and management
Indemnification and insurance 24-106

Section

INSURANCE (Cont'd.)
Courts
Professional attorneys and lay advocates
Insurance carriers; advocates for the Community. . . . . 4-4(c)
Labor and employment . . . . . 23-51 et seq.
See: LABOR AND EMPLOYMENT
Traffic and motor vehicles
Operation of vehicles
Driving while under the influence; reckless driving
Liability for emergency responses in flood areas
Insurance . . . . . 16-235(d)

INVESTIGATIONS
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Office of alcohol beverage control; director
Inspection of premises, enforcement and investigations . . . . 14-24(c)
Domestic relations
Protection for elderly and vulnerable adults
Procedure for investigation of allegations of abuse, exploitation or neglect of an elderly or vulnerable adult 10-182
Extradition and exclusion
Investigate case, president may 7-5
Gaming . . . . . 15.5-9 et seq.
See: GAMING
Minors . . . . . 11-135 et seq.
See: MINORS
Traffic and motor vehicles
Operation of vehicles
Speed restrictions
Speed restriction on bridges and elevated structures . . . . . 16-216(b)

INVESTMENTS
Development, real property and housing
Eminent domain
Actions for condemnation; immediate possession; money deposit
Investment and disbursement of money or bond . . . . . 17-36(e)

J

JAILS
Criminal code . . . . . 6-3 et seq.
See: CRIMINAL CODE
Extradition and exclusion . . . . . 7-6 et seq.
See: EXTRADITION AND EXCLUSION
Sentencing
Failure to complete Community service; imprisonment or fine 8-4

	Section
JUDGES	
Courts	4-31 et seq.
See: COURTS	
Juvenile court	
Personnel	11-27(a)
JUVENILE COURT	
Alternative method for resolution of cases	11-31
Applicability	11-31(d)
Entry of judgment; appeal	11-31(f)
Hearing	11-31(e)
Motion	11-31(c)
Preliminary procedure	11-31(b)
Purpose	11-31(a)
Appeals, juvenile court	11-29
Application of the Indian Child Welfare Act	11-26
Court orders; Community interests	11-26(4)
Other tribal court, transfer from	11-26(3)
State court, transfer from	11-26(1)
Transfer to state court or other tribal court	11-26(2)
Domestic relations	
Adoption	
Juvenile court, hearing to be by; ruling on grounds for termination.	10-83
Established	11-23
Fees	11-30
Jurisdiction	11-25
Continuing jurisdiction	11-25(d)
Generally	11-25(a)
Jurisdiction over extended family	11-25(b)
Required attendance of parent, guardian or custodian	11-25(c)
Termination	11-25(e)
Transfer to Community court	11-25(f)
Juvenile records	11-28
Confidentiality of law enforcement/social services records	11-28(b)
Preservation; inspection	11-28(a)
Minors	
Child protection	
Time for permanency disposition hearing	
Cases originating in the Community juvenile court, time for hearing for	11-171(a)
Personnel	11-27
Judge	11-27(a)
Juvenile probation officers' powers and duties	11-27(c)
Referee	11-27(b)
Procedures and authorizations	11-24
Burdens of proof	11-24(e)
Cooperation	11-24(c)
Exclusion of public	11-24(b)
Rules of procedure	11-24(a)
Social services	11-24(d)

L

	Section
LABOR AND EMPLOYMENT	
LABOR AND EMPLOYMENT (Cont'd.)	
Right to work	
Authority	23-22
Coercion and intimidation prohibited	23-28
Deductions	23-27
Definitions	23-19
Discrimination and retaliation prohibited	23-29
Enforcement	23-30
Findings	23-24
NLRA	23-31
Purpose	23-23
Right to work	23-25
Sovereign immunity	23-20
Title	23-21
Unlawful agreements	23-26
Workers' compensation	
Acts outside course or scope of employment	23-60
Amendment	23-62
Benefits	23-61
Aggravation of preexisting condition	23-61(g)
Compensation limits	23-61(i)
Customary medical and supportive care costs	23-61(b)
Dependency benefits	23-61(h)
Guidelines for calculating to be enacted; reviewed; adjusted	23-61(a)
Modified duty	23-61(f)
No compensation after death or retirement	23-61(j)
Permanent total and partial disability benefits	23-61(d)
Temporary total and partial disability benefits	23-61(c)
Vocational rehabilitation	23-61(e)
Definitions	23-55
Dispute resolution; appeal and settlement	
Appeal, final; Community's workers' compensation appeals board	23-85
Applicable law	23-94
Burden of proof	23-92
Claim files and records confidentiality	23-103
Claimant's attorneys' fees	23-96
Closure, claim	23-100
Composition of the appeals board	23-86
Conduct of hearing	23-90
Decision, final	23-95
Discovery	23-89
Effect of request for hearing	23-97
Final administrator determination	23-83
First level of appeal; administrator managerial review	23-84
Hearings	
Conduct of hearing	23-90
Effect of request for hearing	23-97
Notice of hearing date	23-88
Notice of hearing date	23-88

Section

LABOR AND EMPLOYMENT (Cont'd.)
Recovery of payments made due to error, mistake, erroneous adjudication, fraud, etc. 23-102
Reopening and rearrangement, claim 23-101
Requests for appeal 23-87
Right to counsel 23-93
Settlement and release 23-99
Standard of proof 23-91
Statute of limitations 23-98
Exclusive remedy. 23-56
Independent medical examination, assignment of treating physician and duty to submit to medical treatment 23-59
Policy 23-53
Purpose 23-52
Reporting obligations 23-57
Retirement/benefit compliance and advisory committee. . . . . 23-135 et seq.
Scope. 23-54
Third party administrator. 23-58
Title and effective date 23-51

LAND MANAGEMENT BOARD
Development, real property and housing . . 17-7 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING

LANDSCAPING
Development, real property and housing
Highway rights-of-way
Encroachment permit application procedures . . . . . 17-345(h)

LAW ENFORCEMENT AND LEGAL OFFICES
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Coordination with the Community police department 14-71
Animals and fowl
Law enforcement animals. 12-8
Criminal code . . . . . 6-0 et seq.
See: CRIMINAL CODE
Curfew
Law enforcement authority for transport 11-222
Department of Community Prosecutor. . . . 4.5-23 et seq.
See: DEPARTMENT OF COMMUNITY PROSECUTOR
Domestic relations
Domestic violence
Reporting domestic violence
Report to law enforcement . . . . . 10-257(b)
Juvenile court
Juvenile records
Confidentiality of law enforcement/social services records . . . . . 11-28(b)

Section

LAW ENFORCEMENT AND LEGAL OFFICES (Cont'd.)
Police department . . . . . 4.5-1 et seq.
See: POLICE DEPARTMENT
Sex offender registration and Community notification
Law enforcement notification. 6.5-12

LIABILITY
Alcoholic beverages and prohibited substances
Sovereign immunity 14-1
Animals and fowl
Rabies control
Control of behavior of vicious dogs
Liability of Community . . . . . 12-54(f)
Owners of vicious dogs, liability of 12-54(e)
Business and commerce . . . . . 24-1 et seq.
See: BUSINESS AND COMMERCE
Development, real property and housing
Encumbrance of land
Mortgages
Acknowledgements of satisfaction; recording; liability for failure to acknowledge satisfaction . 17-439
Foreclosure
Purchase money mortgage; limitation on liability. . . . . 17-440(i)
Domestic relations
Marriage, divorce, annulment, separate maintenance
Child support
Representation by Community; modification of order by Community; liability of parents to bear expense 10-54
Enacting, repealing, and amending sections within the Community Code of Ordinances
Repeal or amendment of sections of the Code of Ordinances as affecting existing liabilities . . . . . 1-5(a)
Floodplain and drainage
Warning and disclaimer of liability 17.5-6
Health and sanitation
Alcoholism
Immunity from criminal or civil liability. 13-42
Tuberculosis
Immunity from criminal and civil liability 13-77
Labor and employment
Right to work
Sovereign immunity. 23-20
Licensing and permitting
Trailer space rental business
Revocation of licenses
Revocation not to relieve liability . 15-79(c)
Minors
Child protection

Section

LIABILITY (Cont'd.)
Reporting child abuse and neglect
Immunity from liability ..... 11-156(f)
Rights of child victims or witnesses of crime
Civil liability 11-256
Salt River Fields at Talking Stick
Spectator injuries
Sovereign immunity, this division does not waive ..... 1-324(g)
Subsection (c) of this section does not limit liability ..... 1-324(d)
Salt River Financial Services Institution
Powers
Limitation of liability and financial obligations of the institution ... 1-150(d)
Traffic and motor vehicles ..... 16-39 et seq.
See: TRAFFIC AND MOTOR VEHICLES

LICENSING AND PERMITTING
Alcoholic beverages and prohibited substances..... 14-54 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Amusement licenses
Age of licensee 15-152
Appeals concerning denial, revocation and suspension of licenses 15-161
Applicant previously convicted of felony 15-153
Application form and fee 15-150
Community treasurer regulations, licensees to conform to 15-162
Display of license; replacement 15-158
Fee schedule 15-154
Finances
Application form and fee 15-150
Fee schedule 15-154
Proration of fees 15-156
Time of payment; disposition; refunds 15-155
License required 15-149
Operational regulations..... 15-163
Obedience to other ordinances ..... 15-163(c)
Sanitary facilities..... 15-163(a)
Security..... 15-163(b)
Processing of application..... 15-151
Proration of fees..... 15-156
Relation to privilege license and use tax 15-159
Suspension or revocation of license 15-160
Term and transferability of license..... 15-157
Time of payment; disposition; refunds.. 15-155
Violations..... 15-164
Amusements and entertainments
Amusement licenses. See herein that subject
Hunting and fishing licenses
Nonmembers required to obtain permits 15-52
Right of members..... 15-51

Section

LICENSING AND PERMITTING (Cont'd.)
Public dance hall
Operation or maintenance 15-212
Public dance permits. See herein that subject
Appeals
Amusement licenses
Appeals concerning denial, revocation and suspension of licenses. 15-161
Business licenses generally
Appeals; waiver of requirements 15-37
Sale of cigarettes at retail..... 15-119
Trailer space rental business
Application for licenses; authority of president; appeal to Community Council 15-75
Revocation of licenses
Appeal; hearing ..... 15-79(a)
Authority to tax and regulate..... 15-2
Business licenses generally
Age of licensee 15-32
Appeals; waiver of requirements..... 15-37
Applicant previously convicted of felony 15-33
Application form; payment of fee required 15-26
Conditions on issuance of business license 15-39
Definitions..... 15-23
Display of license..... 15-31
Fee schedule 15-28
Finances
Application form; payment of fee required 15-26
Fee schedule 15-28
When fee collected; disposition of funds 15-29
Generally, license required 15-24
Licensees to conform to Community treasurer regulations 15-34
Processing and approval of application . 15-27
Relationship to privilege tax 15-25
Standards of business operation 15-35
Land use, zoning, etc. ..... 15-35(c)
Lighting; ventilation; plumbing ..... 15-35(a)
Security..... 15-35(b)
Suspension or revocation, license 15-36
Term of license; transferability 15-30
Violations..... 15-38
When fee collected; disposition of funds 15-29
Courts
Judges
Qualifications of judges
Licensed judge ..... 4-32(4)
Criminal code ..... 6-106 et seq.
See: CRIMINAL CODE
Cultural resources
Permit; conditions 19-5
Development, real property and housing.. 17-10 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING

Section

LICENSING AND PERMITTING (Cont'd.)
Finances
Amusement licenses. See herein that subject
Business licenses generally. See herein that subject
Sale of cigarettes at retail
Financial statement 15-113
Sale of securities
Permit 20-52
Trailer space rental business
Fee, license; duty of treasurer 15-77
Fireworks and pyrotechnics
Application and permits, fireworks 15-235
Further actions 15-239
Generally 15-234
Moratorium 15-238
Other provisions 15-240
Penalty 15-237
Purpose 15-233
Supervision of display 15-236
Floodplain and drainage
Certifications and required permits, requirement for 17.5-9
Development requirements to be met for issuance of a permit 17.5-8
Food service establishments and retail food stores . . . . . 13-130 et seq.
See: FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES
Gaming
Licenses for employee 15.5-9
Health and sanitation
Pesticides
Certificates, permits and licenses . . . 13-101
Hunting and fishing licenses
Nonmembers required to obtain permits 15-52
Right of members 15-51
Minors
Child protection
Placement of children
Licensed facility . . . . . 11-158(3)
Licensed foster home . . . . . 11-158(2)
Ordinances, resolutions, etc.
Amusement licenses
Operational regulations
Obedience to other ordinances . . . . 15-163(c)
Public dance permits
Parking and safety ordinances 15-189
Regulations adopted pursuant to this division within this Community Code of Ordinances 15-193
Public dance hall
Operation or maintenance 15-212
Public dance permits
Alcoholic beverages 15-186
Attendance of children restricted 15-188
Definitions 15-183
Enforcement 15-192

Section

LICENSING AND PERMITTING (Cont'd.)
Illegal substances prohibited 15-187
Injuries at public dances on private property 15-191
Issuance of permits 15-185
For public dances on public property 15-185(b)
Private property, for public dances on 15-185(a)
Limitation of time 15-190
Parking and safety ordinances 15-189
Permit required 15-184
Policy 15-182
Property
Injuries at public dances on private property 15-191
Issuance of permits
For public dances on public property . . . . . 15-185(b)
Private property, for public dances on . . . . . 15-185(a)
Regulations adopted pursuant to this division within this Community Code of Ordinances 15-193
Violations 15-194
Sale of cigarettes at retail
Advertising 15-123
Appeal 15-119
Application form 15-112
Approval of applications 15-114
Civil penalties 15-122
Compliance with Community law 15-117
Definitions 15-106
Density control 15-111
Electronic cigarettes; sales to minors prohibited 15-124
Exempt seller 15-108
Existing retailers 15-109
Financial statement 15-113
Future retailers 15-110
License required 15-107
Policy 15-105
Retailer previously convicted of felony . 15-116
State of Arizona cigarette taxes, retailers exempt from 15-121
Suspension or revocation of license 15-118
Term of license; transferability 15-115
Violations 15-120
Sex offender registration and Community notification
Required information
Driver's licenses, identification cards, passports and immigration documents . . . . . 6.5-6(e)
Professional licensing information . . . 6.5-6(m)
Specific licenses. See herein specific subjects
Taxation. See also that title
Amusement licenses
Relation to privilege license and use tax 15-159
Authority to tax and regulate 15-2

Section

LICENSING AND PERMITTING (Cont'd.)
Business licenses generally
Relationship to privilege tax 15-25
Sale of cigarettes at retail
State of Arizona cigarette taxes, retailers exempt from 15-121
Traffic and motor vehicles ..... 16-31 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Trailer space rental business
Applicability to corporations..... 15-74
Application for licenses; authority of president; appeal to Community Council 15-75
Conduct of licensed business to be within the law 15-80
Fee, license; duty of treasurer 15-77
Form of licenses..... 15-78
Licenses required to engage in business or renting trailer spaces 15-73
Relationship of licenses to leases 15-81
Revocation of licenses..... 15-79
Appeal; hearing..... 15-79(a)
Removal of licensee ..... 15-79(b)
Revocation not to relieve liability ... 15-79(c)
Term of licenses 15-76
Treasurer
Amusement licenses
Community treasurer regulations, licensees to conform to 15-162
Business licenses generally
Licensees to conform to Community treasurer regulations..... 15-34
Trailer space rental business
Fee, license; duty of treasurer 15-77
Violation of chapter 15-1
Water and other natural resources ..... 18-1 et seq.
See: WATER AND OTHER NATURAL RESOURCES

LIENS
Development, real property and housing.. 17-438 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING

LIGHTING, LIGHTS
Bicycles and play vehicles
Lamps and other equipment on bicycles 16-306
Development, real property and housing
Outdoor advertising signs
Sign standards
Illumination ..... 17-276(a)
Licensing and permitting
Business licenses generally
Standards of business operation
Lighting; ventilation; plumbing... 15-35(a)
Traffic and motor vehicles ..... 16-62 et seq.
See: TRAFFIC AND MOTOR VEHICLES

Section

LITTER
Criminal code
Property, offenses against
Trespass
Illegal dumping, use of land for .. 6-113
Health and sanitation
Illegal dumping 13-3, 13-7
Impoundment; possible forfeiture of vehicles used in illegal dumping 13-8

LOADING, UNLOADING
Traffic and motor vehicles ..... 16-66 et seq.
See: TRAFFIC AND MOTOR VEHICLES

M

MAINTENANCE
Criminal code
Authority to maintain law and order... 6-0
Maintaining a public nuisance 6-4
Development, real property and housing.. 17-173 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Licensing and permitting
Public dance hall
Operation or maintenance 15-212
Water and other natural resources
GRUSP groundwater recharge control and quality protection
GRUSP maintenance..... 18-130

MILITARY
Development, real property and housing
Homesites
Veteran's preference 17-203

MINORS
Bicycles and play vehicles ..... 16-301 et seq.
See: BICYCLES AND PLAY VEHICLES
Child protection
Adjudication hearing generally 11-163
Admissibility ..... 11-163(c)
Advisement of rights ..... 11-163(e)
Amendment of petition ..... 11-163(f)
Burden of proof..... 11-163(d)
Formal trial on issues ..... 11-163(a)
Witnesses and evidence necessary... 11-163(b)
Adoption as permanency disposition ... 11-177
Commencement of proceedings 11-159
Contents of petition ..... 11-159(c)
Petition required..... 11-159(a)
Time limitations ..... 11-159(b)
Courts
Disposition proceedings
Court findings..... 11-165(a)
Establishment of conditions by court 11-165(f)
Guardian ad litem
Actions to be taken by the guardian ad litem
Court appearances ..... 11-160(g)(7)

Section

MINORS (Cont'd.)
Investigation of reports; removal of child
Notice to juvenile court of removal 11-157(e)
Review of transferring court's order for permanency disposition 11-172
Time for permanency disposition hearing
Time for hearing when the court accepted transfer ..... 11-171(b)
Disposition after termination 11-186
Disposition proceedings 11-165
Additional orders ..... 11-165(i)
Commitment to facility for mentally handicapped ..... 11-165(h)
Court findings ..... 11-165(a)
Establishment of conditions by court 11-165(f)
Hearing ..... 11-165(c)
Hospitalization of child ..... 11-165(g)
Investigation and predisposition report ..... 11-165(b)
Notice of hearing ..... 11-165(d)
Options ..... 11-165(e)
Effect of termination 11-185
Exceptional care requirements 11-170
Grounds for involuntary termination of parental rights 11-181
Guardian ad litem 11-160
Actions to be taken by the guardian ad litem ..... 11-160(g)
Court appearances ..... 11-160(g)(7)
Determination of individual's testimony ..... 11-160(g)(10)
File pleadings ..... 11-160(g)(3)
Individual with special needs ..... 11-160(g)(5)
Investigate ..... 11-160(g)(2)
Meet with individual ..... 11-160(g)(1)
Motions and objections ..... 11-160(g)(8)
Negotiate settlements ..... 11-160(g)(6)
Obligations after termination of dependency case ..... 11-160(g)(11)
Presentation of evidence ..... 11-160(g)(9)
Request services ..... 11-160(g)(4)
Appointment of guardian ad litem .. 11-160(e)
Established; transition ..... 11-160(b)
General authority and duties ..... 11-160(f)
Purpose ..... 11-160(a)
Qualifications ..... 11-160(d)
Scope of rules ..... 11-160(c)
Hearings
Adjudication hearing generally 11-163
Disposition proceedings
Hearing ..... 11-165(c)
Notice of hearing ..... 11-165(d)
Initial hearing for termination of parental rights 11-183
Notice, adjudication hearing 11-164
Permanency hearing 11-174
Pre-permanency hearing report 11-173
Protective custody hearing 11-161

Section

MINORS (Cont'd.)
Review hearing 11-167
Subsequent permanency review hearings 11-188
Termination of parental rights petition denied, permanency review hearing required 11-187
Time for permanency disposition hearing 11-171
Timing of hearing and service for initial hearing for termination and termination of parental rights trial 11-182
Informal adjustment of petition 11-162
Authority ..... 11-162(a)
Case closure ..... 11-162(f)
Interagency cooperation and coordination ..... 11-162(g)
Monitoring ..... 11-162(d)
Time limitation ..... 11-162(b)
Tolling ..... 11-162(e)
Written agreement ..... 11-162(c)
Initial hearing for termination of parental rights 11-183
Investigation of reports; removal of child 11-157
Authority to remove child ..... 11-157(c)
Grounds for emergency removal ..... 11-157(d)
Investigation ..... 11-157(a)
Notice to juvenile court of removal .. 11-157(e)
Parent, guardian or custodian of removal, notice to ..... 11-157(f)
Written report of findings ..... 11-157(b)
Investigations
Disposition proceedings
Investigation and predisposition report ..... 11-165(b)
Guardian ad litem
Actions to be taken by the guardian ad litem
Investigate ..... 11-160(g)(2)
Investigation of reports; removal of child 11-157
Legal guardianship or permanent legal guardianship as permanency disposition 11-176
Notice, adjudication hearing 11-164
Attachments to summons ..... 11-164(b)
Contempt warning ..... 11-164(h)
Issuance of summons ..... 11-164(a)
Mail service ..... 11-164(e)
Notice to extended family ..... 11-164(f)
Personal service ..... 11-164(d)
Publication ..... 11-164(g)
Service of summons ..... 11-164(c)
Writs, warrants and other legal processes
Attachments to summons ..... 11-164(b)
Issuance of summons ..... 11-164(a)
Service of summons ..... 11-164(c)

Section

MINORS (Cont'd.)
Notice, notification
Disposition proceedings
Notice of hearing . . . . . 11-165(d)
Investigation of reports; removal of child
Notice to juvenile court of removal 11-157(e)
Parent, guardian or custodian of removal, notice to . . . . . 11-157(f)
Notice, adjudication hearing 11-164
Protective custody hearing. . . . . 11-161(b)
Reporting child abuse and neglect. . . 11-156(d)
Permanency hearing. 11-174
Permanency policy 11-168
Petition to terminate parental rights of a dependent child 11-180
Contents of termination petition . . . . 11-180(b)
Parties filing petition to terminate . . 11-180(c)
Who may file . . . . . 11-180(a)
Placement of children. 11-158
Extended family . . . . . 11-158(1)
Licensed facility . . . . . 11-158(3)
Licensed foster home. . . . . 11-158(2)
Other suitable place . . . . . 11-158(4)
Placement preferences 11-166
Least restrictive setting . . . . . 11-166(a)
Order of preference . . . . . 11-166(b)
Possible outcomes 11-175
Pre-permanency hearing report. 11-173
Protective custody hearing 11-161
Advisement of rights . . . . . 11-161(c)
Nature. . . . . 11-161(d)
Notice. . . . . 11-161(b)
Possible outcomes. . . . . 11-161(e)
Primary consideration. . . . . 11-161(f)
Time and purpose. . . . . 11-161(a)
Records and reports
Disposition proceedings
Investigation and predisposition report . . . . . 11-165(b)
Investigation of reports; removal of child 11-157
Pre-permanency hearing report 11-173
Reporting child abuse and neglect. . . 11-156
Reporting child abuse and neglect 11-156
Immunity from liability . . . . . 11-156(f)
Notification. . . . . 11-156(d)
Penalty for not reporting . . . . . 11-156(e)
Persons mandated to report . . . . . 11-156(b)
Protection of child . . . . . 11-156(h)
Reports . . . . . 11-156(c)
Responsibility . . . . . 11-156(a)
Waiver of parental consent . . . . . 11-156(g)
Requirement for permanency disposition 11-169
Review hearing 11-167
Requirement . . . . . 11-167(a)
Return to home. . . . . 11-167(b)
Written order. . . . . 11-167(c)

Section

MINORS (Cont'd.)
Review of transferring court's order for permanency disposition 11-172
Subsequent permanency review hearings 11-188
Subsequent petition to terminate parental rights after denial of prior petition to terminate 11-189
Termination of parental rights as a permanency disposition 11-178
Termination of parental rights petition denied, permanency review hearing required 11-187
Time for permanency disposition hearing 11-171
Cases originating in the Community juvenile court, time for hearing for . . . . . 11-171(a)
Permanency hearing upon request . . 11-171(c)
Time for hearing when the court accepted transfer . . . . . 11-171(b)
Timing of hearing and service for initial hearing for termination and termination of parental rights trial 11-182
Trial, termination of parental rights . . . 11-184
Voluntary termination of parental rights 11-179
Writs, warrants and other legal processes
Adjudication hearing generally
Amendment of petition . . . . . 11-163(f)
Commencement of proceedings
Contents of petition . . . . . 11-159(c)
Petition required . . . . . 11-159(a)
Disposition proceedings
Additional orders. . . . . 11-165(i)
Guardian ad litem 11-160
Informal adjustment of petition 11-162
Notice, adjudication hearing. See within this subheading that subject
Petition to terminate parental rights of a dependent child 11-180
Review hearing
Written order . . . . . 11-167(c)
Subsequent petition to terminate parental rights after denial of prior petition to terminate 11-189
Termination of parental rights petition denied, permanency review hearing required. 11-187
Child protective services
Duties and responsibilities of the Community social services department 11-76
Provisions re. 11-77
Community membership
As a matter of right, membership
Criteria for membership of minors enrolled elsewhere 2-24

Section

MINORS (Cont'd.)
Removal from membership rolls
Petition for disenrollment of a minor or adult 2-55
Community prosecutor
Duties 11-51
Contracts and agreements
Child protection
Informal adjustment of petition
Written agreement . . . . . 11-162(c)
Juvenile justice
Informal adjustment of complaint or citation
Written agreement . . . . . 11-130(d)
Truancy
Informal agreement 11-315
Courts
Child protection. See herein that subject
Judges
Appointment and term of juvenile and associate judges; vacancy 4-34
Qualifications of judges
Associate judge (including juvenile) . . . . . 4-32(2)
Juvenile justice
Commencement of formal proceedings
Court-ordered custody and detention . . . . . 11-131(e)
Modification or revocation of court order 11-136
Truancy
Community court hearings 11-316
Criminal code . . . . . 6-7 et seq.
See: CRIMINAL CODE
Curfew . . . . . 11-217 et seq.
See: CURFEW
Definitions 11-2
Domestic relations . . . . . 10-77 et seq.
See: DOMESTIC RELATIONS
Finances
Distribution of moneys from "outer loop" highway 20-22
Gaming
Trust protection for minor and incompetent beneficiaries receiving IGRA benefits; applicable law; jurisdiction 15.5-20
Hearings
Child protection. See herein that subject
Juvenile justice. See herein that subject
Rights and responsibilities
Support of children
Notice of hearing . . . . . 11-98(b)
Truancy
Community court hearings 11-316
Investigation of persons working with children
Background information 11-279
Confidentiality 11-280

Section

MINORS (Cont'd.)
Employment application; background requirements 11-277
Policy 11-276
Responsibilities of personnel department 11-278
Investigations
Child protection. See herein that subject
Investigation of persons working with children. See herein that subject
Juvenile justice
Disposition proceedings
Investigation and predisposition report . . . . . 11-135(1)
Juvenile court . . . . . 11-23 et seq.
See: JUVENILE COURT
Juvenile justice
Adjudication hearing 11-134
Admissibility . . . . . 11-134(e)
Amendment of complaint, citation or petition to revoke probation . . . 11-134(h)
Burden of proof . . . . . 11-134(f)
Consolidation of hearing . . . . . 11-134(g)
Formal trial on issues for new offenses . . . . . 11-134(a)
Hearing for probation violations . . . . 11-134(b)
Notice of hearing . . . . . 11-134(c)
Petition for new hearing . . . . . 11-134(i)
Witnesses and evidence necessary . . . 11-134(d)
Commencement of formal proceedings . 11-131
Complaint, petition to revoke probation or citation required . . . . . 11-131(a)
Contents of complaint, petition to revoke probation or citation . . . . . 11-131(d)
Court-ordered custody and detention 11-131(e)
Issuance of citation . . . . . 11-131(b)
Subsequent immunity of the juvenile 11-131(f)
Time limitations . . . . . 11-131(c)
Writs, warrants and other legal processes
Complaint, petition to revoke probation or citation required . . 11-131(a)
Contents of complaint, petition to revoke probation or citation . 11-131(d)
Issuance of citation . . . . . 11-131(b)
Complaints
Adjudication hearing
Amendment of complaint, citation or petition to revoke probation . . . . . 11-134(h)
Commencement of formal proceedings
Complaint, petition to revoke probation or citation required . . 11-131(a)
Contents of complaint, petition to revoke probation or citation . 11-131(d)
Informal adjustment of complaint or citation 11-130

	Section
MINORS (Cont'd.)	
Procedure for arrest and detention of juveniles	
Citation or written report and complaint	11-129(i)
Disposition proceedings	11-135
Hearing	11-135(2)
Hearings	
Notice of hearing	11-135(3)
Notice of hearing	11-135(3)
Provisions re	11-135(2)
Investigation and predisposition report	11-135(1)
Mandatory review of order	11-135(5)
Notice of hearing	11-135(3)
Options	11-135(4)
Hearings	
Adjudication hearing	11-134
Disposition proceedings. See within this subheading that subject	
Procedure for arrest and detention of juveniles	
Time limitation; detention hearing	11-129(k)
Incorrigibility proceedings and procedures	11-138
Adjudicatory hearing	11-138(f)
Amendment of petition	11-138(f)(5)
Burden of proof	11-138(f)(4)
Notice of hearing	11-138(f)(1)
Petition for new hearing	11-138(f)(6)
Presentation of witnesses and evidence	11-138(f)(2)
Withdrawal of petition	11-138(f)(7)
Witnesses and evidence necessary	11-138(f)(3)
Closing the case	11-138(l)
Commencement	11-138(a)
Contempt hearing	11-138(i)
Court-ordered custody and detention	11-138(c)
By court order	11-138(c)(1)
Criteria for placing minor in detention	11-138(c)(6)
Notification of family	11-138(c)(5)
Place of detention	11-138(c)(7)
Release from custodial detention	11-138(c)(3)
Review by juvenile intake officer	11-138(c)(4)
Without court order	11-138(c)(2)
Written report	11-138(c)(8)
Detention hearing	11-138(d)
Disposition hearing	11-138(h)
Disposition options	11-138(h)(2)
Notice of hearing	11-138(h)(1)
Initial appearance	11-138(e)
Issuing court order	11-138(g)
Legal counsel	11-138(b)
Referral to child protective services	11-138(j)
Review hearing	11-138(k)
Informal adjustment of complaint or citation	11-130
Authority	11-130(a)
Case closure	11-130(g)

	Section
MINORS (Cont'd.)	
Interagency cooperation and coordination	11-130(h)
Monitoring	11-130(e)
Post-filing adjustment	11-130(c)
Tolling	11-130(f)
Voluntary participation	11-130(b)
Written agreement	11-130(d)
Initial appearance	11-133
Advising of rights	11-133(b)
Time and purpose	11-133(a)
Modification or revocation of court order	11-136
Notice, notification	
Adjudication hearing	
Notice of hearing	11-134(c)
Disposition proceedings	
Notice of hearing	11-135(3)
Notice of initial appearance	11-132
Procedure for arrest and detention of juveniles	
Notification of family	11-129(f)
Notice of initial appearance	11-132
Attachments to summons	11-132(c)
Contempt warning	11-132(h)
In custody notice	11-132(b)
Issuance of summons	11-132(a)
Mail service	11-132(f)
Personal service	11-132(e)
Publication	11-132(g)
Service of summons	11-132(d)
Warrant for arrest	11-132(i)
Writs, warrants and other legal processes	
Attachments to summons	11-132(c)
Issuance of summons	11-132(a)
Service of summons	11-132(d)
Warrant for arrest	11-132(i)
Petition for incorrigibility	11-137
Contents of incorrigibility petition	11-137(e)
Diversion services requirement	11-137(b)
Generally	11-137(a)
Time limitations	11-137(c)
Who may file a petition for incorrigibility	11-137(d)
Procedure for arrest and detention of juveniles	11-129
By warrant or court order	11-129(a)
Citation or written report and complaint	11-129(i)
Criteria for placing juvenile in detention	11-129(g)
Notification of family	11-129(f)
Place of detention	11-129(h)
Procedure for release from custody	11-129(m)
Recommendation for informal adjustment	11-129(j)
Release from custody	11-129(d)
Review by juvenile intake officer	11-129(e)
Review of detention status	11-129(l)
Time limitation; detention hearing	11-129(k)

Section

MINORS (Cont'd.)
Warning of rights prior to questioning 11-129(c)
Without warrant or court order ..... 11-129(b)
Writs, warrants and other legal processes
By warrant or court order..... 11-129(a)
Citation or written report and complaint ..... 11-129(i)
Without warrant or court order... 11-129(b)
Writs, warrants and other legal processes
Adjudication hearing
Amendment of complaint, citation or petition to revoke probation ..... 11-134(h)
Petition for new hearing ..... 11-134(i)
Commencement of formal proceedings. See within this subheading that subject
Disposition proceedings
Mandatory review of order ..... 11-135(5)
Informal adjustment of complaint or citation 11-130
Modification or revocation of court order..... 11-136
Notice of initial appearance. See within this subheading that subject
Procedure for arrest and detention of juveniles. See within this subheading that subject
Licensing and permitting
Public dance permits
Attendance of children restricted.... 15-188
Sale of cigarettes at retail
Electronic cigarettes; sales to minors prohibited..... 15-124
Notice, notification
Child protection. See herein that subject
Juvenile justice. See herein that subject
Rights and responsibilities
Support of children
Notice of hearing..... 11-98(b)
Officers and employees
Community prosecutor
Duties 11-51
Investigation of persons working with children
Employment application; background requirements..... 11-277
Responsibilities of personnel department..... 11-278
Juvenile justice
Procedure for arrest and detention of juveniles
Review by juvenile intake officer.. 11-129(e)
Truancy
Attendance officer..... 11-312
Purpose..... 11-1
Records and reports
Child protection. See herein that subject

Section

MINORS (Cont'd.)
Juvenile justice
Disposition proceedings
Investigation and predisposition report ..... 11-135(1)
Procedure for arrest and detention of juveniles
Citation or written report and complaint ..... 11-129(i)
Rights and responsibilities
Basic rights..... 11-100
Emancipation 11-99
Support of children..... 11-98
Notice of hearing ..... 11-98(b)
Responsibility of parents or legal guardians ..... 11-98(a)
Rights of child victims or witnesses of crime
Civil liability..... 11-256
Definitions..... 11-254
Intent 11-253
Rights enumerated 11-255
Traffic and motor vehicles ..... 16-39 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Truancy
Additional civil sanctions 11-318
Attendance officer 11-312
Citation 11-313
Community court hearings..... 11-316
Definitions..... 11-309
Fines..... 11-317
Informal agreement 11-315
Instruction, school..... 11-310
School attendance 11-311
Waiver of school attendance..... 11-314
Writs, warrants and other legal processes
Child protection. See herein that subject
Juvenile justice. See herein that subject
Truancy
Citation..... 11-313

MOTOR VEHICLES. See: TRAFFIC AND MOTOR VEHICLES

N

NOISE
Development, real property and housing
Outdoor advertising signs
Sign standards
Sound ..... 17-276(c)
Traffic and motor vehicles
Equipment
Horns and audible warning devices . 16-55

NONPROFIT ORGANIZATIONS
Board of trustees; duties; fiscal year..... 1-395
Contributions to the foundation..... 1-396
Established..... 1-393
Purposes of the foundation 1-394

Section

NOTICE, NOTIFICATION
Alcoholic beverages and prohibited substances . . . . . 14-58 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Animals and fowl
Rabies control
Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies
Notification of public health service . . . . . 12-49(c)
Business and commerce
Limited liability company act
Knowledge; notice. 24-4
Community membership
As a matter of right, membership
Notification. 2-30
Criminal code . . . . . 6-116 et seq.
See: CRIMINAL CODE
Development, real property and housing . . 17-10 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations . . . . . 10-52 et seq.
See: DOMESTIC RELATIONS
Finances
Distribution of moneys from "outer loop" highway 20-21
Sale of securities
Penalties and enforcement
Notice of hearing civil citation. . . . 20-56(d)
Graffiti. . . . . 21-7 et seq.
See: GRAFFITI
Health and sanitation . . . . . 13-8 et seq.
See: HEALTH AND SANITATION
Labor and employment
Workers' compensation
Dispute resolution; appeal and settlement
Notice of hearing date 23-88
Minors . . . . . 11-98 et seq.
See: MINORS
Sex offender registration and Community notification . . . . . 6.5-1 et seq.
See: SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
Traffic and motor vehicles . . . . . 16-42 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Water and other natural resources
Agriculture fugitive dust control
Administration for compliance and enforcement
Issuance of notice of violation . . . . 18-164(a)

NUISANCES
Criminal code
Maintaining a public nuisance 6-4

Section

O

OATH, AFFIRMATION, SWEAR OR SWORN
Courts
Judges
Request for change of judge; judge recusal; conflict of interest
Self disqualification; filing of affidavit . . . . . 4-36(c)
Domestic relations
Paternity
DNA testing; results; rebuttal; additional tests
Affidavit of DNA expert . . . . . 10-7(4)
Traffic and motor vehicles
Abandoned and seized vehicles
Sale of vehicles
Affidavit . . . . . 16-295(b)
Procedure in traffic cases
All traffic cases, general provisions for
Forms of citations
Affirmations . . . . . 16-262(d)

OBSTRUCTIONS
Floodplain and drainage
Obstruction of a waterway prohibited . . 17.5-10
Removal of obstructions. 17.5-11
Traffic and motor vehicles . . . . . 16-58 et seq.
See: TRAFFIC AND MOTOR VEHICLES

OFFENSES AND MISCELLANEOUS PROVISIONS
Civil offenses
Pedicabs 5.5-1
Ticket reselling. 5.5-2
Criminal code . . . . . 6-31 et seq.
See: CRIMINAL CODE
Curfew
Legal requirements
Offense by omission . . . . . 11-219(a)
Separate offenses, curfew violations to be 11-220
Domestic relations
Domestic violence 10-253
Graffiti
Prohibited, graffiti
Offenses. . . . . 21-3(a)
Persons hiring, etc., for committing offense . . . . . 21-3(b)
Minors
Juvenile justice
Adjudication hearing
Formal trial on issues for new offenses . . . . . 11-134(a)
Sentencing
Classifications, sentencing; restitution or alternative compensation; offense specific penalty or sentence . 8-3

Section

OFFENSES AND MISCELLANEOUS PROVISIONS (Cont'd.)
Sex offender registration and Community notification . . . . . 6.5-1 et seq.
See: SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
Traffic and motor vehicles . . . . . 16-220 et seq.
See: TRAFFIC AND MOTOR VEHICLES

OFFICE OF ALCOHOL BEVERAGE CONTROL
Alcoholic beverages and prohibited substances
Control, alcoholic beverage 14-24

OFFICE OF MEMBERSHIP SERVICES
Community membership 2-1

OFFICERS AND EMPLOYEES
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Office of alcohol beverage control; director 14-24
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles
Seizure of vehicles used in drug violations
Police officer to seize vehicle. . . . . 14-157(b)
Animals and fowl
Rabies control
Enforcement agency or its designated representatives, responsibility of 12-52
Committees
Retirement/benefit plan coordination of law
Coordination of federal and tribal law 1-348
Definitions 1-347
Community court . . . . . 5-59 et seq.
See: COMMUNITY COURT
Courts . . . . . 4-2 et seq.
See: COURTS
Criminal code . . . . . 6-32 et seq.
See: CRIMINAL CODE
Cultural resources
Archaeological officer 19-6
Memorial hall
Manager 19-40
Department of Community Prosecutor. . . . 4.5-23 et seq.
See: DEPARTMENT OF COMMUNITY PROSECUTOR
Development, real property and housing
Encumbrance of land
Mortgages
Foreclosure
Redemption of property by payment to officer directed under foreclosure judgment to sell the property. . . . . 17-440(f)
Extradition and exclusion
Authority of arresting officer 7-10
Floodplain and drainage
The floodplain administrator 17.5-3
Gaming . . . . . 15.5-9 et seq.
See: GAMING
Health and sanitation
Pesticides
Enforcement of article and regulations
Director designated to enforce article . . . . . 13-100(a)
Juvenile court
Personnel. 11-27
Labor and employment. . . . . 23-1 et seq.
See: LABOR AND EMPLOYMENT
Law enforcement and legal offices . . . . . 4.5-1 et seq.
See: LAW ENFORCEMENT AND LEGAL OFFICES
Minors . . . . . 11-51 et seq.
See: MINORS
Retirement/benefit compliance and advisory committee
Coordination of federal and tribal law. . 23-136
Definitions 23-135
Salt River Commercial Landfill Company. 1-265 et seq.
See: SALT RIVER COMMERCIAL LANDFILL COMPANY
Salt River Financial Services Institution. . 1-153 et seq.
See: SALT RIVER FINANCIAL SERVICES INSTITUTION
Sex offender registration and Community notification
Required information
Employment information . . . . . 6.5-6(f)
Taxation
Administrative review; petition for hearing or for redetermination; finality of order
Decision, the hearing officer's . . . . . 15.1-17(f)
The hearing officer . . . . . 15.1-17(d)
Traffic and motor vehicles . . . . . 16-4 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections. . . . . 3-82 et seq.
See: VOTING AND ELECTIONS
Water and other natural resources
Environmental protection
Enforcement of article and regulations
Director designated to enforce article . . . . . 18-52(a)
GRUSP groundwater recharge control and quality protection
Employment of consultants 18-129

OPEN BURNING
Criminal code
Property, offenses against

Section

OPEN BURNING (Cont'd.)
Real or tangible property
Negligent handling of campfire and/or negligent starting of a fire 6-108

ORDINANCES, RESOLUTIONS, ETC.
Construction of Community Code of Ordinances provisions 1-6
Domestic relations
Paternity
Petition, paternity
Satisfying requirements under enrollment ordinance . . . . . 10-4(b)
Enacting, repealing, and amending sections within the Community Code of Ordinances 1-5
Gaming
Granting of security interests
Amendment of Ordinance SRO-106-87 15.5-23.5(e)
Juvenile court
Alternative method for resolution of cases 11-31
Labor and employment . . . . . 23-83 et seq.
See: LABOR AND EMPLOYMENT
Licensing and permitting . . . . . 15-163 et seq.
See: LICENSING AND PERMITTING
Salt River Commercial Landfill Company
Repeal of prior ordinances 1-271
Voting and elections
Initiative, referendum and recall elections
Petitions
Applicability of this division within this Community Code of Ordinances 3-127

P

PARKING, PARKING LOTS
Floodplain and drainage
Development requirements to be met for issuance of a permit
Parking in flood hazard areas . . . . . 17.5-8(12)
Licensing and permitting
Public dance permits
Parking and safety ordinances 15-189
Traffic and motor vehicles . . . . . 16-83 et seq.
See: TRAFFIC AND MOTOR VEHICLES

PENSIONS AND RETIREMENT
Committees
Retirement/benefit plan coordination of law
Coordination of federal and tribal law 1-348
Definitions 1-347
Labor and employment
Workers' compensation
Benefits
No compensation after death or retirement . . . . . 23-61(j)

Section

PENSIONS AND RETIREMENT (Cont'd.)
Retirement/benefit compliance and advisory committee
Coordination of federal and tribal law. . 23-136
Definitions 23-135

PERMITS. See: LICENSING AND PERMITTING

PERSONAL PROPERTY
Finances . . . . . 20-110 et seq.
See: FINANCES

PERSONNEL DEPARTMENT
Minors
Investigation of persons working with children
Responsibilities of personnel department 11-278

PHOENIX CEMENT COMPANY
Capitalization; financial responsibility 1-212
Established. 1-211

PLANNING
Business and commerce . . . . . 24-184 et seq.
See: BUSINESS AND COMMERCE
Committees
Retirement/benefit plan coordination of law
Coordination of federal and tribal law 1-348
Definitions 1-347
Development, real property and housing
Highway rights-of-way
Encroachment permit application procedures
Plans required . . . . . 17-345(b)
Floodplain and drainage
Development requirements to be met for issuance of a permit
Information pertaining to flood protection to be placed on building plans . . . . . 17.5-8(9)
Reference to regulatory base floodwater surface elevations on development plans . . . . . 17.5-8(8)
Subdivisions
Scope and contents of development master plan. 17-376

PLATS. See: SURVEYS, MAPS AND PLATS

PLUMBING
Licensing and permitting
Business licenses generally
Standards of business operation
Lighting; ventilation; plumbing . . . 15-35(a)

POLES AND WIRES
Traffic and motor vehicles
Size, weight and load
Length of load projection
Pole trailers . . . . . 16-107(b)

Section

POLICE DEPARTMENT
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Coordination with the Community police department 14-71
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles
Seizure of vehicles used in drug violations
Police officer to seize vehicle. . . . . 14-157(b)
Animals and fowl
Law enforcement animals 12-8
Criminal code . . . . . 6-116 et seq.
See: CRIMINAL CODE
Curfew
Law enforcement authority for transport 11-222
Establishment 4.5-1

Section

POLICE DEPARTMENT (Cont'd.)
Powers and duties 4.5-2
Sex offender registration and Community notification
Registration
Duties of Community police department . . . . . 6.5-8(c)
Traffic and motor vehicles
Failure to comply with police officer . . . 16-7

POLLUTION
Health and sanitation
Pollution of domestic water 13-2
Traffic and motor vehicles
Equipment
Mufflers and air pollution control devices 16-56

PRESIDENT
Development, real property and housing
Special procedure for grants of right-of-way
Authorization by president . . . . . 17-11(c)
Extradition and exclusion . . . . . 7-2 et seq.
See: EXTRADITION AND EXCLUSION
Licensing and permitting
Trailer space rental business
Application for licenses; authority of president; appeal to Community Council 15-75

PROBATE
Approval of wills 9-3
Determination of heirs; probate 9-1
Procedure of court 9-2
Trust and restricted lands
Qualifications for receipt of interest in trust or restricted lands 9-25

PROPERTY
Criminal code . . . . . 6-92 et seq.
See: CRIMINAL CODE
Development, real property and housing . . 17-1 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations
Protection for elderly and vulnerable adults
Causing or permitting imperilment of life, health or property; criminal penalties; civil remedies 10-185
Finances . . . . . 20-110 et seq.
See: FINANCES
Licensing and permitting . . . . . 15-185 et seq.
See: LICENSING AND PERMITTING
Salt River Community Property Development and Asset Management Company
Capitalization; financial responsibility . 1-105
Established 1-104
Taxation
Transaction privilege tax

Section

PROPERTY (Cont'd.)
Imposition of tax; tax schedule
Tangible personal property . . . . . 15.1-50(6)
Traffic and motor vehicles
Chapter not to interfere with rights of owners of real property 16-6
Voting and elections
Violations of election process
Violations by actions of candidates or issue supporters
Use of Community property for election campaigning . . . . . 3-149(g)

PUBLIC PROPERTY
Criminal code
Property, offenses against
Real or tangible property
Injury to public property 6-101
Development, real property and housing
Application for development of allotted lands or public property 17-9
Authority of Community Council in matters affecting development of allotted lands and public property 17-5
Licensing and permitting
Public dance permits
Issuance of permits
For public dances on public property . . . . . 15-185(b)

R

REAL PROPERTY. See: DEVELOPMENT, REAL PROPERTY AND HOUSING

RECORDS AND REPORTS
Animals and fowl
Rabies control
Vaccination and reports 12-42
Community membership . . . . . 2-26 et seq.
See: COMMUNITY MEMBERSHIP
Courts
Records, court 4-3
Criminal code . . . . . 6-9 et seq.
See: CRIMINAL CODE
Cultural resources
Duty to report discoveries 19-9
Development, real property and housing . . 17-67 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations . . . . . 10-53 et seq.
See: DOMESTIC RELATIONS
Extradition and exclusion
Community territory, exclusion from
Removal of nonmembers who are detrimental to the Community
Report of charged person . . . . . 7-75(c)
Floodplain and drainage
Development requirements to be met for issuance of a permit
Drainage reports . . . . . 17.5-8(1)

Section

RECORDS AND REPORTS (Cont'd.)
Health and sanitation
Pesticides 13-102
Tuberculosis
Reporting existence of nonresident tuberculous person, procedure for 13-76
Juvenile court
Juvenile records 11-28
Labor and employment
Workers' compensation
Dispute resolution; appeal and settlement
Claim files and records confidentiality 23-103
Reporting obligations 23-57
Licensing and permitting
Sale of cigarettes at retail
Financial statement 15-113
Minors . . . . . 11-129 et seq.
See: MINORS
Publication required 1-2
Salt River Commercial Landfill Company
Reports to the Community Council 1-269
Salt River Financial Services Institution
Reports to the Community Council 1-156
Sex offender registration and Community notification . . . . . 6.5-2 et seq.
See: SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
Taxation . . . . . 15.1-8 et seq.
See: TAXATION
Traffic and motor vehicles . . . . . 16-236 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections . . . . . 3-4 et seq.
See: VOTING AND ELECTIONS
Water and other natural resources . . . . . 18-28 et seq.
See: WATER AND OTHER NATURAL RESOURCES

RECREATIONAL VEHICLES
Criminal code
Property, offenses against
Trespass
Use of off-the-road vehicles prohibited without license and landowner's permission 6-114
Traffic and motor vehicles . . . . . 16-94 et seq.
See: TRAFFIC AND MOTOR VEHICLES

REGISTER, REGISTRATION
Health and sanitation
Pesticides
Only registered pesticide use allowed 13-105
Use of registered pesticides to conform to federal and state requirements 13-106

Section

REGISTER, REGISTRATION (Cont'd.)
Sex offender registration and Community notification . . . . . 6.5-1 et seq.
See: SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
Traffic and motor vehicles . . . . . 16-31 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections
Voters
Qualifications of voters and certification of official list of registered voters . . . . . 3-4(a)

RESIDENCE, RESIDENTIAL
Domestic relations
Marriage, divorce, annulment, separate maintenance
Child support
Jurisdiction over nonresidents; notice; jurisdiction when modifying a child support order; modification of child support order of another jurisdiction. 10-52
Paternity
Jurisdiction; jurisdiction over nonresidents; notice 10-3
Floodplain and drainage
Development requirements to be met for issuance of a permit
Lowest floor elevations in nonresidential structures . . . . . 17.5-8(7)
Residential structures, lowest floor elevations in . . . . . 17.5-8(6)
Health and sanitation
Alcoholism
Intoxicated persons and persons incapacitated by alcohol, treatment and services for
Transportation to home or shelter 13-38(c)
Tuberculosis
Reporting existence of nonresident tuberculous person, procedure for 13-76
Salt River Community Housing Division
Capitalization; financial responsibility . 1-80
Established 1-79
Senior home repair or replacement program committee . . . . . 1-354 et seq.
See: SENIOR HOME REPAIR OR REPLACEMENT PROGRAM COMMITTEE
Sex offender registration and Community notification . . . . . 6.5-6 et seq.
See: SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
Voting and elections
Voters
Nonresident absentee voter . . . . . 3-4(b)

Section

RESIDENCE, RESIDENTIAL (Cont'd.)
Resident absentee voter . . . . . 3-4(c)

RETIREMENT/BENEFIT COMPLIANCE AND ADVISORY COMMITTEE
Coordination of federal and tribal law 23-136
Definitions 23-135

RIGHT-OF-WAY
Development, real property and housing . . 17-11 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Traffic and motor vehicles . . . . . 16-171 et seq.
See: TRAFFIC AND MOTOR VEHICLES

S

SADDLEBACK COMMUNICATIONS COMPANY
Capitalization; financial responsibility 1-186
Established. 1-185

SALES
Civil offenses
Ticket reselling. 5.5-2
Criminal code
Offenses against minors and dependents
Selling tobacco, paper or wrappers to minors 6-84
Development, real property and housing . . 17-440 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Finances . . . . . 20-50 et seq.
See: FINANCES
Health and sanitation
Impoundment; possible forfeiture of vehicles used in illegal dumping
Sale of vehicle for recovery of damages . . . . . 13-8(d)
Pesticides
Production, processing, distribution, sale, etc., prohibited. 13-103
Licensing and permitting. . . . . 15-105 et seq.
See: LICENSING AND PERMITTING
Taxation
Separate returns of proceeds of sales made in more than one class 15.1-4
Traffic and motor vehicles . . . . . 16-141 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Water and other natural resources
Environmental protection
Production, processing, distribution, sale, etc., prohibited. 18-53

SALT RIVER COMMERCIAL LANDFILL COMPANY
Board of directors. 1-266
Chief executive officer 1-265
Effective date. 1-272
Established. 1-262

Section

SALT RIVER COMMERCIAL LANDFILL COMPANY (Cont'd.)
Financial duties and responsibilities 1-264
Indian preference in employment 1-268
Miscellaneous 1-270
Officers and employees
Chief executive officer 1-265
Indian preference in employment 1-268
The officers 1-267
Powers. 1-263
Repeal of prior ordinances 1-271
Reports to the Community Council 1-269
The officers. 1-267

SALT RIVER COMMUNITY GAMING ENTERPRISES
Capitalization; financial responsibility. . . . 1-294
Established. 1-293

SALT RIVER COMMUNITY GOLF ENTERPRISES
Capitalization; financial responsibility. . . . 1-125
Established. 1-124

SALT RIVER COMMUNITY HOUSING DIVISION
Capitalization; financial responsibility. . . . 1-80
Established. 1-79

SALT RIVER COMMUNITY PROPERTY DEVELOPMENT AND ASSET MANAGEMENT COMPANY
Capitalization; financial responsibility. . . . 1-105
Established. 1-104

SALT RIVER FIELDS AT TALKING STICK
Capitalization; financial responsibility. . . . 1-323
Enterprise established 1-322
Spectator injuries. 1-324
Assumption of risk except as provided in subsection (d) of this section . . . . . 1-324(c)
Definitions. . . . . 1-324(f)
Findings. . . . . 1-324(a)
Sovereign immunity, this division does not waive . . . . . 1-324(g)
Spectators to assume the inherent risks 1-324(b)
Subsection (c) of this section does not limit liability. . . . . 1-324(d)
This division does not preclude spectator from suing. . . . . 1-324(e)

SALT RIVER FINANCIAL SERVICES INSTITUTION
Community Council
Powers
Council's consent required for certain transactions . . . . . 1-150(e)
Veto on a case-by-case basis, council retains discretion to. . . . . 1-150(f)
Reports to the Community Council 1-156
Compliance with certification requirements 1-158
Established. 1-149

Section

SALT RIVER FINANCIAL SERVICES INSTITUTION (Cont'd.)
Executive director 1-154
Financial duties and responsibilities of the institution..... 1-151
Indian preference in employment 1-155
Miscellaneous 1-157
Officers and employees
Executive director 1-154
Indian preference in employment..... 1-155
The institution's officers 1-153
Powers..... 1-150
Authorization ..... 1-150(a)
Contractual transactions..... 1-150(c)
Council's consent required for certain transactions ..... 1-150(e)
Limitation of liability and financial obligations of the institution ..... 1-150(d)
Operate its business and manage assets 1-150(b)
Veto on a case-by-case basis, council retains discretion to ..... 1-150(f)
Reports to the Community Council..... 1-156
The board of directors..... 1-152
The institution's officers..... 1-153

SALT RIVER PIMA-MARICOPA COMMUNITY SCHOOLS DIVISION
Capitalization; financial responsibility.... 1-60
Established..... 1-59

SALT RIVER SAND AND ROCK COMPANY
Established..... 1-233

SCHOOLS
Criminal code
Interference with the peaceful conduct of educational institutions 6-10
Finances
Welfare assistance
Determination of needs based programs
Infrastructure, health care, housing and education as core needs..... 20-89(e)
Minors..... 11-310 et seq.
See: MINORS
Salt River Pima-Maricopa Community Schools Division
Capitalization; financial responsibility . 1-60
Established 1-59
Sex offender registration and Community notification
Community notification
Notification to victim, neighbors, schools, Community human resources department and offender's employer ..... 6.5-11(b)
Required information ..... 6.5-6(o)
Traffic and motor vehicles ..... 16-44 et seq.
See: TRAFFIC AND MOTOR VEHICLES

Section

SCHOOLS (Cont'd.)
Voting and elections
Violations of election process
Violations by actions of candidates or issue supporters
Campaigning in and around the workplace during Community business hours, except for Community schools..... 3-149(f)
Community school buildings and campus, campaigning in and around ..... 3-149(h)

SENIOR HOME REPAIR OR REPLACEMENT PROGRAM COMMITTEE
Appeals 1-367
Application..... 1-364
Categories..... 1-359
Definitions 1-357
Eligibility and prioritization 1-358
Committee role..... 1-358(d)
General criteria ..... 1-358(a)
Needs basis..... 1-358(c)
Certification, individual ..... 1-358(c)(4)
Committee certification..... 1-358(c)(5)
Community need determinations.... 1-358(c)(1)
Facts and circumstances ..... 1-358(c)(3)
Individual need determinations ..... 1-358(c)(2)
Nonmembers..... 1-358(e)
Priority status ..... 1-358(b)
Funding..... 1-366
Purpose 1-355
Generally..... 1-355(a)
Historic needs..... 1-355(b)
Need based program..... 1-355(c)
Purpose of category "A" 1-360
Purpose of category "B" 1-361
Purpose of category "C" 1-362
Purpose of category "D" 1-363
Review, application 1-365
Senior home repair or replacement program (SHRRP) committee 1-356
Title 1-354

SENTENCING
Classifications, sentencing; restitution or alternative compensation; offense specific penalty or sentence 8-3
Offense specific penalty or sentence.... 8-3(c)
Restitution or alternative compensation 8-3(b)
Sentencing classifications and terms ... 8-3(a)
Courts
Consecutive sentencing 4-5
Criminal code
Drug-related offenses
Possession or use of narcotics and drugs
Sentencing..... 6-121(h)

Section

SENTENCING (Cont'd.)
Weapons and explosives
Discharge of a firearm at an occupied structure; definitions; sentencing. 6-139
Deposit and disposition of fine 8-5
Determining factors 8-2
Failure to complete Community service; imprisonment or fine 8-4
Fines, forfeitures and other penalties
Classifications, sentencing; restitution or alternative compensation; offense specific penalty or sentence . 8-3
Deposit and disposition of fine 8-5
Failure to complete Community service; imprisonment or fine 8-4
General conditions of sentence 8-1
Graffiti 21-8
Parole 8-8
Probation 8-6
Violation of parole 8-9
Violation of probation 8-7

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION
Community notification 6.5-11
Altering or removing a flyer . . . . . 6.5-11(g)
Dru Sjodin National Sex Offender Public Website . . . . . 6.5-11(5)
Excluded persons, notification regarding . . . . . 6.5-11(f)
Failure to register, notification upon . . . 6.5-11(d)
Information available to the public . . . . 6.5-11(c)
Instructions . . . . . 6.5-11(2)
Links . . . . . 6.5-11(1)
Notification to victim, neighbors, schools, Community human resources department and offender's employer 6.5-11(b)
Persons registered with the state . . . . . 6.5-11(e)
Search capabilities . . . . . 6.5-11(4)
Sex offender database . . . . . 6.5-11(a)
Warnings . . . . . 6.5-11(3)
Covered offenses, sex offender registration and 6.5-4
Mandatory registration . . . . . 6.5-4(a)
Registrable sexual offenses . . . . . 6.5-4(b)
Creation of registries 6.5-2
Public website . . . . . 6.5-2(b)
Sex offender registry established . . . . . 6.5-2(a)
Definitions 6.5-3
Failure to appear for registration and absconding 6.5-9
Absconded sex offenders . . . . . 6.5-9(b)
Appear, failure to . . . . . 6.5-9(a)
Failure to register . . . . . 6.5-9(c)
Failure to register 6.5-14
Aiding or abetting of failure to register as a sex offender . . . . . 6.5-14(e)
Concurrent jurisdiction . . . . . 6.5-14(d)
Hindrance of sex offender registration . 6.5-14(b)

Section

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION (Cont'd.)
In general . . . . . 6.5-14(a)
Issuance of arrest warrant . . . . . 6.5-14(c)
Frequency, duration and reduction 6.5-7
Clean record . . . . . 6.5-7(c)
Reduction of registration periods . . . . . 6.5-7(b)
Registration . . . . . 6.5-7(a)
Requirements for in person appearances 6.5-7(d)
Immunities 6.5-13
Good faith . . . . . 6.5-13(b)
No waiver of immunity . . . . . 6.5-13(a)
Law enforcement notification 6.5-12
Policy 6.5-1
Records and reports
Community notification
Sex offender database . . . . . 6.5-11(a)
Creation of registries
Sex offender registry established . . . . 6.5-2(a)
Frequency, duration and reduction
Clean record . . . . . 6.5-7(c)
Required information
Driver's licenses, identification cards, passports and immigration documents . . . . . 6.5-6(e)
Electronic database . . . . . 6.5-6(3)
Registration 6.5-8
Duties of Community police department 6.5-8(c)
Keeping registration current . . . . . 6.5-8(f)
Recapture, timing of . . . . . 6.5-8(e)
Required registration locations . . . . . 6.5-8(a)
Retroactive registration . . . . . 6.5-8(d)
Timing of registration . . . . . 6.5-8(b)
Required information 6.5-6
Criminal history . . . . . 6.5-6(b)
Date of birth . . . . . 6.5-6(c)
Digitization . . . . . 6.5-6(2)
DNA sample . . . . . 6.5-6(d)
Driver's licenses, identification cards, passports and immigration documents . . . . . 6.5-6(e)
Duties . . . . . 6.5-6(1)
Electronic database . . . . . 6.5-6(3)
Employment information . . . . . 6.5-6(f)
Fingerprints and palm prints . . . . . 6.5-6(g)
General requirements . . . . . 6.5-6(a)
Identification
Digitization . . . . . 6.5-6(2)
DNA sample . . . . . 6.5-6(d)
Driver's licenses, identification cards, passports and immigration documents . . . . . 6.5-6(e)
Fingerprints and palm prints . . . . . 6.5-6(g)
Internet identifiers . . . . . 6.5-6(h)
Social security number . . . . . 6.5-6(p)
Internet identifiers . . . . . 6.5-6(h)
Name . . . . . 6.5-6(i)
Offense information . . . . . 6.5-6(s)
Phone numbers . . . . . 6.5-6(j)
Physical description . . . . . 6.5-6(l)

Section

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION (Cont'd.)
Picture; update requirements ..... 6.5-6(k)
Professional licensing information ..... 6.5-6(m)
School ..... 6.5-6(o)
Social security number ..... 6.5-6(p)
Temporary lodging ..... 6.5-6(q)
Travel abroad ..... 6.5-6(r)
Vehicle information ..... 6.5-6(t)
Residence, residential
Community notification
Notification to victim, neighbors, schools, Community human resources department and offender's employer ..... 6.5-11(b)
Required information
Temporary lodging ..... 6.5-6(q)
Residency restrictions 6.5-10
Residency restrictions 6.5-10
Medical exception ..... 6.5-10(d)
Penalties for violation ..... 6.5-10(e)
Tiered offenses 6.5-5
Tier 1 offenses ..... 6.5-5(a)
Tier 2 offenses ..... 6.5-5(b)
Tier 3 offenses ..... 6.5-5(c)

SEXUAL CONDUCT
Animals and fowl
Sexual assault of an animal 12-11
Criminal code ..... 6-61 et seq.
See: CRIMINAL CODE
Sex offender registration and Community notification ..... 6.5-1 et seq.
See: SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION

SHRUBS. See: TREES, SHRUBS AND PLANTS

SIGNS
Development, real property and housing .. 17-270 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Traffic and motor vehicles ..... 16-102 et seq.
See: TRAFFIC AND MOTOR VEHICLES

SMOKING
Criminal code
Offenses against minors and dependents
Selling tobacco, paper or wrappers to minors 6-84

SOCIAL SERVICES DEPARTMENT
Finances ..... 20-86 et seq.
See: FINANCES
Juvenile court
Juvenile records
Confidentiality of law enforcement/social services records ..... 11-28(b)

Section

SOCIAL SERVICES DEPARTMENT (Cont'd.)
Procedures and authorizations
Social services ..... 11-24(d)
Minors
Child protective services
Duties and responsibilities of the Community social services department 11-76

SOLICITATION
Traffic and motor vehicles
Pedestrians' rights and duties
Roadways, pedestrians on
Soliciting rides ..... 16-284(c)

SOLID WASTE
Criminal code
Property, offenses against
Trespass
Illegal dumping, use of land for .. 6-113
Health and sanitation ..... 13-3 et seq.
See: HEALTH AND SANITATION
Salt River Commercial Landfill Company. 1-262 et seq.
See: SALT RIVER COMMERCIAL LANDFILL COMPANY

STORAGE
Floodplain and drainage
Development requirements to be met for issuance of a permit
Stormwater detention or retention storage facilities ..... 17.5-8(11)
Graffiti
Storage and display of graffiti implements 21-6

STORMWATER MANAGEMENT
Development, real property and housing
Fees, development
Storm drainage development fee 17-527
Floodplain and drainage
Development requirements to be met for issuance of a permit
Stormwater detention or retention storage facilities ..... 17.5-8(11)

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
Alcoholic beverages and prohibited substances ..... 14-133 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Animals and fowl
Rabies control
Control of behavior of vicious dogs
Vicious dogs not permitted at large 12-54(c)
Restricting roaming animals 12-9
Civil offenses
Pedicabs 5.5-1
Criminal code
Criminal street gangs 6-7

Section

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES (Cont'd.)
Development, real property and housing . . 17-61 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Floodplain and drainage
Development requirements to be met for issuance of a permit
Street crossings at natural or manmade drainage channels. . . 17.5-8(3)
Water carriers, streets as . . . . . 17.5-8(4)
Traffic and motor vehicles
Pedestrians' rights and duties
Roadways, pedestrians on
No sidewalks. . . . . 16-284(b)
Sidewalks. . . . . 16-284(a)

SUBDIVISIONS
Final plat, information required on. 17-380
Generally 17-375
Applicability . . . . . 17-375(c)
Article definitions . . . . . 17-375(a)
Final plat approval procedure . . . . . 17-375(b)
Information required on preliminary plat . 17-378
Policy 17-374
Preliminary plat review 17-377
Review, final plat 17-379
Scope and contents of development master plan 17-376
Surveys, maps and plats
Final plat, information required on 17-380
Generally
Final plat approval procedure. . . . . 17-375(b)
Information required on preliminary plat 17-378
Preliminary plat review. 17-377
Review, final plat. 17-379

SUITS, ACTIONS AND OTHER LEGAL PROCEEDINGS
Alcoholic beverages and prohibited substances
Control, alcoholic beverage
Licenses
Injunction 14-69
Courts
Limitation for bringing civil actions and criminal prosecutions into Community courts 4-6
Domestic relations
Protection for elderly and vulnerable adults
Elderly or vulnerable adult order of protection; petition; procedure for issuance; contents; emergency orders; violation
Immunization from criminal or civil suit . . . . . 10-190(k)
Extradition and exclusion
Immunity from service of process in certain civil actions 7-26

Section

SUITS, ACTIONS AND OTHER LEGAL PROCEEDINGS (Cont'd.)
Salt River Fields at Talking Stick
Spectator injuries
This division does not preclude spectator from suing . . . . . 1-324(e)
Taxation
Administrative review; petition for hearing or for redetermination; finality of order
Injunctions . . . . . 15.1-17(h)

SURVEYS, MAPS AND PLATS
Development, real property and housing
Homesites
Governmental access and responsibilities
Surveys and other assessments. . . 17-202(2)
Subdivisions. . . . . 17-375 et seq.
See: SUBDIVISIONS

T

TAMPERING
Criminal code
Public administration, offenses against
Tampering with a victim, witness, or informant 6-37

TAX COLLECTOR
Taxation . . . . . 15.1-8 et seq.
See: TAXATION

TAXATION
Administration of this chapter; rule making; confidentiality 15.1-7
Administrative review; petition for hearing or for redetermination; finality of order 15.1-17
Administrative review . . . . . 15.1-17(c)
Applicability . . . . . 15.1-17(a)
Decision, the hearing officer's. . . . . 15.1-17(f)
Effect of the final decision. . . . . 15.1-17(g)
Informal conference . . . . . 15.1-17(b)
Injunctions . . . . . 15.1-17(h)
The hearing. . . . . 15.1-17(e)
The hearing officer . . . . . 15.1-17(d)
Assessed taxes, collection of 15.1-20
Authority to tax and regulate 15.1-1
Closing agreements 15.1-13
Collection of delinquent possessory interest taxes 15.1-21
Deficiencies; when inaccurate return is filed; when no return is filed 15.1-12
Definitions 15.1-2
Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition. . 15.1-11
Erroneous payment of tax; credits and refunds; limitations 15.1-16

Section

TAXATION (Cont'd.)
Exemptions in accordance with constitutional prohibitions 15.1-6
Forms for making returns 15.1-3
Interest and civil penalties 15.1-10
Jeopardy assessments 15.1-18
Judicial review 15.1-19
Licensing and permitting ..... 15-2 et seq.
See: LICENSING AND PERMITTING
Limitation periods 15.1-14
Extension of limitation period ..... 15.1-14(b)
Generally ..... 15.1-14(a)
Luxury tax
Alcohol tax 15.1-143
Community members exempt 15.1-142
Tax on consumer 15.1-140
Tobacco tax 15.1-141
Manner of making remittance of tax; collector's receipt 15.1-22
Partnerships 15.1-5
Possessory interest tax
Annual tax levy; when tax due; when delinquent 15.1-84
Classification of possessory interests for taxation; assessment ratios; valuation 15.1-81
Exemptions to taxation 15.1-82
Imposition of taxes 15.1-80
Setting possessory interest tax rate 15.1-83
Privilege license
Cancellation 15.1-172
Duration 15.1-171
Reissuance 15.1-173
Required; fee 15.1-170
Separate license for each location 15.1-175
Transferability; display 15.1-174
Records and reports
Deficiencies; when inaccurate return is filed; when no return is filed 15.1-12
Reporting of tax 15.1-8
Tax collector may examine books and other records; failure to provide records 15.1-15
When tax due; when delinquent; verification of return; extensions
Jeopardy reporting ..... 15.1-9(d)
Reporting of tax 15.1-8
Method of reporting transaction privilege taxes ..... 15.1-8(b)
Returns ..... 15.1-8(a)
Tax collector, returns by the ..... 15.1-8(c)
Separate returns of proceeds of sales made in more than one class 15.1-4
Tax collector
Erroneous advice or misleading statements by the tax collector; abatement of penalties and interest; definition 15.1-11
Manner of making remittance of tax; collector's receipt 15.1-22

Section

TAXATION (Cont'd.)
Reporting of tax
Tax collector, returns by the ..... 15.1-8(c)
Tax collector may examine books and other records; failure to provide records 15.1-15
Tax collector may examine books and other records; failure to provide records 15.1-15
Transaction privilege tax
Exclusion of tax in determining gross incomes or receipts 15.1-51
Exemptions 15.1-53
Imposition of tax; tax schedule 15.1-50
1.65 percent schedule ..... 15.1-50(1)
2.15 percent schedule ..... 15.1-50(5)
Hotel occupancy tax ..... 15.1-50(8)
One percent schedule ..... 15.1-50(4)
Tangible personal property ..... 15.1-50(6)
Three percent schedule ..... 15.1-50(3)
Transaction privilege tax schedules ..... 15.1-50(2)
Utility tax ..... 15.1-50(7)
Presumption that all gross receipts are taxable 15.1-52
Utilities
Transaction privilege tax
Imposition of tax; tax schedule
Utility tax ..... 15.1-50(7)
Utilities tax
Imposition of tax; when payable 15.1-113
Location and valuation of utilities 15.1-112
Utilities tax
Imposition of tax; when payable 15.1-113
Location and valuation of utilities 15.1-112
When tax due; when delinquent; verification of return; extensions 15.1-9
Delinquency date ..... 15.1-9(c)
Extensions ..... 15.1-9(e)
Final return ..... 15.1-9(f)
Generally ..... 15.1-9(a)
Jeopardy reporting ..... 15.1-9(d)
Special requirements of taxpayers filing quarterly or annual returns ..... 15.1-9(b)

TELECOMMUNICATIONS
Criminal code
Persons, offenses against
Use of telephone or electronic device to commit offense 6-54
Saddleback Communications Company
Capitalization; financial responsibility 1-186
Established 1-185
Sex offender registration and Community notification
Required information
Phone numbers ..... 6.5-6(j)

THEFT AND STOLEN PROPERTY
Criminal code ..... 6-92 et seq.
See: CRIMINAL CODE

Section

THEFT AND STOLEN PROPERTY (Cont'd.)
Cultural resources
Excavating or exploring archeological site; taking objects 19-4
Traffic and motor vehicles
Equipment
Horns and audible warning devices
Theft alarm ..... 16-55(c)

TOBACCO AND TOBACCO PRODUCTS
Criminal code
Offenses against minors and dependents
Selling tobacco, paper or wrappers to minors 6-84
Licensing and permitting ..... 15-105 et seq.
See: LICENSING AND PERMITTING
Taxation
Luxury tax
Tobacco tax 15.1-141

TOURISM. See: TRAVEL AND TOURISM

TOWING AND WRECKERS
Traffic and motor vehicles ..... 16-109 et seq.
See: TRAFFIC AND MOTOR VEHICLES

TRAFFIC AND MOTOR VEHICLES
Abandoned and seized vehicles
Notice of sale 16-294
Claimed vehicle ..... 16-294(d)
Inquiry ..... 16-294(a)
Notice ..... 16-294(b)
Publication ..... 16-294(c)
Prohibited, abandonment; removal; presumption 16-292
Evidence ..... 16-292(d)
Presumption of responsibility ..... 16-292(c)
Removal ..... 16-292(b)
Violation ..... 16-292(a)
Required report of abandoned and seized motor vehicles; violation 16-293
Sale of vehicles 16-295
Affidavit ..... 16-295(b)
Court order ..... 16-295(c)
Sale ..... 16-295(a)
Towed vehicles, required report of; violations 16-296
Accidents
Additional penalty for failure to report 16-250
Auto repair shops to report 16-251
Death or injury to a person, accidents involving 16-241
Penalty ..... 16-241(b)
Suspension of driving privileges ..... 16-241(c)
Violation ..... 16-241(a)
Fixtures upon a highway, duty upon striking 16-244
Forms, accident report 16-249
Give information and render aid, duty to 16-240
Immediate reports of certain accidents 16-245

Section

TRAFFIC AND MOTOR VEHICLES (Cont'd.)
Records and reports
Additional penalty for failure to report 16-250
Auto repair shops to report 16-251
Forms, accident report 16-249
Immediate reports of certain accidents 16-245
Written reports of accidents 16-247
Unattended vehicle, duty upon striking 16-243
Vehicle damage only, accidents involving 16-242
Written reports of accidents 16-247
Alcoholic beverages and prohibited substances ..... 14-156 et seq.
See: ALCOHOLIC BEVERAGES AND PROHIBITED SUBSTANCES
Animals and fowl
Driver's duty when approaching horse or livestock 16-9
Equipment
Lights, lamps, reflectors and illuminating devices
Lamps on animal-drawn and other equipment or vehicles 16-84
Operation of vehicles
Following too closely
Drawn vehicles ..... 16-151(b)
Persons riding animals or driving animal-drawn vehicles, application of chapter to 16-5
Application of chapter to public employees; exceptions 16-4
Government vehicles ..... 16-4(a)
Work vehicles ..... 16-4(b)
Authorized emergency vehicles 16-8
Driver responsible ..... 16-8(d)
Exceptions enumerated ..... 16-8(b)
Exemptions to apply only under certain conditions ..... 16-8(c)
Permitted to vary from requirements .. 16-8(a)
Bicycles and play vehicles ..... 16-301 et seq.
See: BICYCLES AND PLAY VEHICLES
Business and commerce
Accidents
Auto repair shops to report 16-251
Operation of vehicles
Coasting prohibited
Commercial vehicle ..... 16-152(b)
Truck routes
Certain commercial vehicles prohibited on non-truck routes; exceptions 16-237
Size, weight and load
Council's power to restrict weight of vehicles
Commercial vehicles ..... 16-102(c)
Chapter not to interfere with rights of owners of real property 16-6

Section

TRAFFIC AND MOTOR VEHICLES (Cont'd.)
Community Council
Size, weight and load
Council's power to restrict weight of vehicles 16-102
Permit for excess size and weight
Council authorized to grant ..... 16-113(a)
Traffic-control devices
Council authorized to place signs on all Community highways 16-121
Stop signs and yield signs
Council's authority to place ..... 16-125(a)
Community court
Civil procedure
Juries
Traffic violation cases, jury trials in ..... 5-35(b)
Construction of chapter relative to operation of vehicles 16-3
Criminal code ..... 6-40 et seq.
See: CRIMINAL CODE
Crossing fire hose 16-12
Damage, defacement, destruction or injury
Accidents
Death or injury to a person, accidents involving 16-241
Vehicle damage only, accidents involving 16-242
Injuring, unlawfully starting, using or preventing use of vehicles 16-10
Operation of vehicles
Nonmembers on land other than Community roadways, operation of vehicles by
Sale of vehicle for recovery of damages ..... 16-141(d)
Placing or allowing dangerous articles on highway
Destructive or injurious material.... 16-11(b)
Size, weight and load
Liability for damage resulting from overweight load 16-103
Traffic-control devices
Injuring, defacing, traffic-control or warning signs 16-129
Definitions 16-1
Driver's duty when approaching horse or livestock 16-9
Effective date; savings clause 16-13
Effective date ..... 16-13(a)
Savings clause ..... 16-13(b)
Emergencies
Authorized emergency vehicles 16-8
Equipment
Horns and audible warning devices
Emergency vehicle requirements . 16-55(d)
Seat belt requirements
Restraint use for children who are at least nine years of age ... 16-95(f)

Section

TRAFFIC AND MOTOR VEHICLES (Cont'd.)
Operation of vehicles
Driving while under the influence; reckless driving
Liability for emergency responses in flood areas 16-235
Upon approach of authorized emergency vehicle, operation of vehicles 16-149
Placing or allowing dangerous articles on highway ..... 16-11(d)
Equipment
Brakes 16-54
Adjustment of brakes ..... 16-54(c)
Deceleration requirements..... 16-54(b)
Requirements enumerated..... 16-54(a)
Unmuffled engine retarding brakes prohibited ..... 16-54(d)
Certain vehicles to carry flares or other warning devices 16-62
Portable reflector units ..... 16-62(c)
Requirements enumerated..... 16-62(a)
Vehicles carrying flammables ..... 16-62(b)
Display of warning devices when vehicle disabled 16-63
Equipment to comply with requirements ..... 16-63(e)
Flame signals prohibited for vehicle carrying flammables ..... 16-63(c)
Portable reflector units ..... 16-63(d)
Vehicles carrying flammable liquids or gases ..... 16-63(b)
When required ..... 16-63(a)
Fines, forfeitures and other penalties
Mufflers and air pollution control devices ..... 16-56(d)
Seat belt requirements. See within this subheading that subject
Fire prevention and protection
Certain vehicles to carry flares or other warning devices
Vehicles carrying flammables..... 16-62(b)
Display of warning devices when vehicle disabled
Flame signals prohibited for vehicle carrying flammables..... 16-63(c)
Vehicles carrying flammable liquids or gases ..... 16-63(b)
Horns and audible warning devices 16-55
Emergency vehicle requirements .... 16-55(d)
Prohibited devices ..... 16-55(b)
Required ..... 16-55(a)
Theft alarm ..... 16-55(c)
Lighting, lights
Certain vehicles to carry flares or other warning devices 16-62
Lights, lamps, reflectors and illuminating devices. See within this subheading that subject

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Lights, lamps, reflectors and illuminating devices	
Additional equipment required on certain vehicles	16-77
Alternate road-lighting equipment	16-91
Application of article	16-78
Color of clearance lamps and reflectors	16-79
Front	16-79(a)
Lamps	16-79(c)
Rear	16-79(b)
Fender, running-board and backup lamps	16-87
Backup lamps	16-87(c)
Courtesy lamps	16-87(b)
Side cowl or fender lamps	16-87(a)
Head lamps	16-73
Head lamp height	16-73(c)
Motorcycles	16-73(b)
Vehicles	16-73(a)
Head lamps on motor-driven cycles and ATV	16-94
Lamps on animal-drawn and other equipment or vehicles	16-84
Lights obstructed	16-82
Mounted height of lamps, visibility distance and	16-72
Calculating lamp height	16-72(b)
Visibility	16-72(a)
Mounting of reflectors and clearance and marker lamps	16-80
Clearance lamps	16-80(d)
Height	16-80(a)
Pole trailers	16-80(b)
Tail lamp	16-80(c)
Multiple beam lighting equipment usage	16-89
Multiple lighting specifications	16-88
Number of driving lamps required, permitted	16-92
Auxiliary lamps	16-92(b)
Number	16-92(a)
Parked vehicles	16-83
Dim headlamps	16-83(c)
Insufficient light	16-83(b)
Sufficient light	16-83(a)
Reflectors on new motor vehicles	16-75
Height	16-75(b)
Number	16-75(a)
Signal lamps and devices	16-86
Single-beam lights	16-90
Special restrictions on lamps	16-93
Flashing lights	16-93(c)
Intensity of beam restricted	16-93(a)
Red and blue lights	16-93(b)
Spot and auxiliary lamps	16-85
Driving lamps	16-85(d)
Fog lamps	16-85(b)
Passing lamps	16-85(c)
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Spot lamps	16-85(a)
Tail lamps	16-74
Drawn vehicles	16-74(a)
License plate light	16-74(c)
Tail lamp height	16-74(b)
Visibility of reflectors and clearance and marker lamps	16-81
Front and rear clearance lamps	16-81(b)
Reflectors	16-81(a)
Side marker lamps	16-81(c)
Weights and measures	
Head lamps	
Head lamp height	16-73(c)
Mounted height of lamps, visibility distance and	16-72
Reflectors on new motor vehicles	
Height	16-75(b)
When lamps required to be lighted	16-71
Mirrors	16-57
Mufflers and air pollution control devices	16-56
Emission control devices	16-56(c)
Exception	16-56(e)
Fumes	16-56(b)
Mufflers	16-56(a)
Penalties	16-56(d)
Prohibition against image display device	16-61
Projecting loads	16-66
Rear fender splash guards	16-60
Exceptions	16-60(e)
Material and attachment	16-60(c)
Pickups	16-60(d)
Size	16-60(b)
Splash guards required	16-60(a)
Seat belt requirements	
Children under nine years of age, restraint use for	16-96
Age of child	16-96(b)
Passenger child restraint system	16-96(a)
Penalty	16-96(c)
Fines, forfeitures and other penalties	
Children under nine years of age, restraint use for	16-96(c)
Operator and passenger seat belt use	16-97(d)
Restraint use for children who are at least nine years of age	16-95(h)
Operator and passenger seat belt use	16-97
Exceptions to this section shall be limited to the following	16-97(c)
Operator	16-97(b)
Penalty	16-97(d)
Restraint	16-97(a)
Restraint use for children who are at least nine years of age	16-95
Air bags	16-95(e)
Determining child's age	16-95(g)
Emergencies	16-95(f)

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Lap and shoulder belt	16-95(a)
Lap belt only	16-95(b)
One child per seating position	16-95(c)
Penalty	16-95(h)
Pick up trucks	16-95(d)
Special requirements for motorcycles and motor-driven cycles	16-53
Equipment required	16-53(b)
Handlebar height	16-53(c)
Helmets	16-53(a)
Tires	16-59
Periphery	16-59(b)
Surface	16-59(a)
To be in good working order, vehicle	16-51
Vehicle to comply with article; exceptions	16-52
Aftermarket parts	16-52(b)
Exceptions	16-52(c)
Safe operation	16-52(a)
Vehicles transporting explosives	16-64
Weights and measures	
Lights, lamps, reflectors and illuminating devices. See within this subheading that subject	
Rear fender splash guards	
Size	16-60(b)
Windshields	16-58
Not to be obstructed	16-58(b)
Required	16-58(a)
To be in good order, wipers	16-58(d)
Wipers required	16-58(c)
Failure to comply with police officer	16-7
Finances	
Operation of vehicles	
Driving while under the influence; reckless driving	
Driving or actual physical control while under the influence	
Restitution	16-222(k)
Liability for emergency responses in flood areas	
Expenses	16-235(c)
Sale of securities	
Penalties and enforcement	
Retainment of vehicle	20-56(c)
Size, weight and load	
Permit for excess size and weight	
Fees	16-113(e)
Fines, forfeitures and other penalties	
Accidents	
Additional penalty for failure to report	16-250
Death or injury to a person, accidents involving	16-241(b)
Equipment. See herein that subject	
Operation of vehicles. See herein that subject	
Procedure in traffic cases. See herein that subject	

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Registration, licensing and inspection	
Driver license required; penalty	16-33
Size, weight and load	
Gross weight of vehicles and loads	
Punishment fines	16-111(d)
Single-axle load limit	
Punishment-fines	16-110(d)
Violation of chapter; penalties	16-2
Fire prevention and protection	
Crossing fire hose	16-12
Equipment. See herein that subject	
Health and sanitation	
Impoundment; possible forfeiture of vehicles used in illegal dumping	13-8
Hearings	
Operation of vehicles	
Nonmembers on land other than Community roadways, operation of vehicles by	16-141(c)
Procedure in traffic cases	
Civil traffic offenses, rules of procedure for	
Hearing	16-272
Outcomes of hearing, payment of fines	16-273
Injuring, unlawfully starting, using or preventing use of vehicles	16-10
Liability	
Operation of vehicles	
Driving while under the influence; reckless driving	
Liability for emergency responses in flood areas	16-235
Registration, licensing and inspection	
Permitting unauthorized minor to drive; liability therefore	16-39
Size, weight and load	
Liability for damage resulting from overweight load	16-103
Licensing and permitting	
Equipment	
Lights, lamps, reflectors and illuminating devices	
Tail lamps	
License plate light	16-74(c)
Registration, licensing and inspection. See herein that subject	
Size, weight and load	
Permit for excess size and weight	16-113
Single-axle load limit	
Special permits	16-110(c)
Lighting, lights	
Equipment. See herein that subject	
Traffic-control devices	
Flashing signals	16-124
Loading, unloading	
Equipment	
Projecting loads	16-66

Section

TRAFFIC AND MOTOR VEHICLES (Cont'd.)
Size, weight and load. See herein that subject
Minors
Equipment
Seat belt requirements
Children under nine years of age, restraint use for 16-96
Restraint use for children who are at least nine years of age . . . 16-95
Procedure in traffic cases. See herein that subject
Registration, licensing and inspection
Permitting unauthorized minor to drive; liability therefore 16-39
Notice, notification
Abandoned and seized vehicles
Notice of sale 16-294
Operation of vehicles
Nonmembers on land other than Community roadways, operation of vehicles by
Impoundment of vehicle; notification of owner . . . . . 16-141(b)
Procedure in traffic cases
All traffic cases, general provisions for
Forms of citations . . . . . 16-262(e)
Civil traffic offenses, rules of procedure for
Sufficiency and amendment of the complaint
Notice required . . . . . 16-269(e)
Registration, licensing and inspection
Inspection by Community officers
Form of notice . . . . . 16-42(c)
Notice . . . . . 16-42(b)
Obstructions
Equipment
Lights, lamps, reflectors and illuminating devices
Lights obstructed 16-82
Windshields
Not to be obstructed . . . . . 16-58(b)
Operation of vehicles
Obstruction of driver's view or interference with driver's control of vehicle prohibited 16-159
Officers and employees
Application of chapter to public employees; exceptions 16-4
Failure to comply with police officer . . . 16-7
Procedure in traffic cases
All traffic cases, general provisions for
Disposition of citations
Copy to chief administrative officer . . . . . 16-263(d)
Registration, licensing and inspection
Inspection by Community officers . . . 16-42

Section

TRAFFIC AND MOTOR VEHICLES (Cont'd.)
Size, weight and load
Community officers authorized to stop vehicles, weigh and require removal of excess weight 16-112
Operation of vehicles
Backing 16-158
Prohibitions . . . . . 16-158(b)
Safety . . . . . 16-158(a)
Coasting prohibited 16-152
Commercial vehicle . . . . . 16-152(b)
Motor vehicle . . . . . 16-152(a)
Curve or crest of grade, turning on prohibited 16-157
Divided highways, driving on 16-144
Drivers on controlled access roadways to use only authorized entrances and exits 16-145
Driving while under the influence; reckless driving
Driving or actual physical control while under the influence 16-231
Election of charge for violation of sections 16-231(a)-DUI and 16-231(c)-refusal . . . . . 16-222(l)
Eligibility for work release . . . . . 16-222(i)
Filing of offense . . . . . 16-222(e)
Mandatory assessment, treatment for substance abuse and probation . . . . . 16-222(j)
Penalties for violation of section 16-231(a)-DUI . . . . . 16-222(f)
Penalties for violation of section 16-231(b)-Extreme DUI . . . . . 16-222(g)
Penalties for violation of section 16-231(c)-Refusal . . . . . 16-222(h)
Prescribed drugs . . . . . 16-222(d)
Refuse to submit to a chemical test ("refusal"), unlawful to . . . . . 16-231(c)
Restitution . . . . . 16-222(k)
Unlawful to drive or be in actual physical control of the vehicle while under the extreme influence of intoxicating liquor ("extreme DUI") . . . . . 16-231(b)
While under the influence ("DUI"), unlawful to drive or be in actual physical control of the vehicle . . . . . 16-231(a)
Implied consent; tests; refusal to submit 16-232
Implied consent . . . . . 16-232(a)
Refusal to submit to test . . . . . 16-232(c)
Tests . . . . . 16-232(b)
Liability for emergency responses in flood areas 16-235
Expenses . . . . . 16-235(c)
Insurance . . . . . 16-235(d)
Liability . . . . . 16-235(b)
Water . . . . . 16-235(a)

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Reckless driving	16-234
Penalties for violation of section 16-234(a)	16-234(b)
Violation	16-234(a)
Suspension of driving privileges, reporting requirements and ignition interlock devices	16-236
Ignition interlock device	16-236(d)
Issuing jurisdiction	16-236(b)
No reporting	16-236(c)
Suspension of driving privileges	16-236(a)
Under the influence, driving while; procedure for giving test	16-233
Authorized to have own physician, etc., person tested	16-233(e)
Basis for measurements	16-233(b)
Persons qualified to administer test	16-233(d)
Preliminary breath test	16-233(g)
Presumptions regarding chemical tests in evidence	16-233(a)
Results to be made available to person tested	16-233(f)
When test is considered valid	16-233(c)
Following too closely	16-151
Caravan or motorcade	16-151(c)
Drawn vehicles	16-151(b)
Provisions re	16-151(a)
Method of giving hand and arm signals	16-155
Left turn	16-155(1)
Right turn	16-155(2)
Stop or decrease speed	16-155(3)
Motorcycle, motor-driven cycle, and ATV riders and passengers to ride only on designated seats	16-148
Mountain highways, driving on	16-146
Moving parked vehicle	16-147
Nonmembers on land other than Community roadways, operation of vehicles by	16-141
Hearing	16-141(c)
Impoundment of vehicle; notification of owner	16-141(b)
Prohibited	16-141(a)
Release of vehicle on posting of bond	16-141(e)
Sale of vehicle for recovery of damages	16-141(d)
Obstruction of driver's view or interference with driver's control of vehicle prohibited	16-159
Obstructions	16-159(a)
Passengers	16-159(b)
Offenses and miscellaneous provisions	
Driving while under the influence; reckless driving	
Driving or actual physical control while under the influence	
Filing of offense	16-222(e)

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Speed restrictions	
Racing and drag races	
First offense	16-220(b)
Second and subsequent offenses	16-220(c)
Operation of vehicle upon approach of school bus	16-150
Driver to stop when bus stops	16-150(a)
Manual stop sign required for bus	16-150(c)
School bus identification	16-150(b)
Stop not required on divided highway	16-150(d)
Parking, parking lots	
Moving parked vehicle	16-147
Stopping, standing and parking. See within this subheading that subject	
Required position and method of turning at intersections	16-156
Left turns on other than two-way roadways	16-156(3)
Right turns	16-156(1)
Two-way left turn lanes	16-156(4)
Two-way roadways, left turns on	16-156(2)
Right-of-way and passing	
Entering intersection, right-of-way of vehicle	16-173
No passing zones	16-180
On the right, overtaking	16-179
Overtaking vehicles on the left, generally	16-176
Passing vehicles proceeding in opposite directions	16-175
Prerequisites for overtaking on the left	16-177
Right-of-way of vehicles entering intersection at same time; entering freeway	16-171
Intersections	16-171(c)
Through highways	16-171(b)
Yield	16-171(a)
Turning left at intersection, right-of-way of vehicle	16-172
Vehicle entering highway from private road or driveway	16-174
When driving on the left prohibited	16-178
Right side of roadway, driving on; exceptions	16-142
Roadways laned for traffic and rotary traffic islands, driving on	16-143
Signals by hand and arm or device	16-154
Signs	
Operation of vehicle upon approach of school bus	
Manual stop sign required for bus	16-150(c)
Stopping, standing and parking	
Community authorized to place signs prohibiting or restricting parking, stopping and standing	16-195

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Truck routes	
Adopted; erection of signs	16-238
Speed restrictions	
Charge of violation to specify alleged speed of violator; speed limit not to relieve plaintiff of proving negligence	16-222
Burden of proof	16-222(b)
Citation	16-222(a)
Driving at speed which causes trailer to sway	16-221
Establishment and amendment of speed limits	16-218
Freeways, speed limits on authorized to be variable	16-219
Maximum speed limit	16-212
Four or more lanes of traffic	16-212(b)
Maximum speed	16-212(a)
Prohibition	16-212(c)
Minimum speed limit	16-213
Determining minimum speed	16-213(b)
Enforcement	16-213(c)
Impeding traffic	16-213(a)
Motor-driven cycles and ATV's, speed limits for	16-214
Racing and drag races	16-220
Community authorized races	16-220(e)
First offense	16-220(b)
Prohibited	16-220(a)
Second and subsequent offenses	16-220(c)
Suspension of driving privileges	16-220(d)
Reasonable and prudent, speeds to be	16-215
Solid-rubber-tired vehicles, speed limits for	16-217
Speed restriction on bridges and elevated structures	16-216
Evidence	16-216(c)
Investigation	16-216(b)
Maximum speed	16-216(a)
Stopping, standing and parking	
Angle parking	16-194
Community authorized to place signs prohibiting or restricting parking, stopping and standing	16-195
Parking within eighteen inches of curb	16-193
Left hand curb	16-193(b)
Right hand curb	16-193(a)
Physically disabled, parking privilege for	16-196
Prohibited in specified places, parking, stopping, standing	16-192
Removal of illegally stopped vehicles	16-197
Stop required before emerging from alley or driveway	16-198
Vehicles to be parked or stopped off pavement if possible	16-191
Truck routes	
Adopted; erection of signs	16-238

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Certain commercial vehicles prohibited on non-truck routes; exceptions	16-237
Variances	16-239
Turning movements; signals required	16-153
Distance	16-153(b)
Prohibitions	16-153(a)
Sudden stops	16-153(c)
Upon approach of authorized emergency vehicle, operation of vehicles	16-149
Weights and measures	
Driving while under the influence; reckless driving	
Under the influence, driving while; procedure for giving test	
Basis for measurements	16-233(b)
Speed restrictions. See within this subheading that subject	
Stopping, standing and parking	
Parking within eighteen inches of curb	16-193
Turning movements; signals required	
Distance	16-153(b)
Parking, parking lots	
Equipment	
Lights, lamps, reflectors and illuminating devices	
Parked vehicles	16-83
Operation of vehicles. See herein that subject	
Pedestrians' rights and duties	
Crossing at other than at crosswalks	16-282
Marked crosswalk	16-282(c)
Tunnel or overhead crossing	16-282(b)
Yield	16-282(a)
Right-of-way in crosswalks	16-281
Prohibitions	16-281(b)
Yield	16-281(a)
Roadways, pedestrians on	16-284
No sidewalks	16-284(b)
Sidewalks	16-284(a)
Soliciting rides	16-284(c)
School crossings	16-285
Additional crossings	16-285(b)
In front of school	16-285(a)
Marking and signs required	16-285(c)
Placement of signs	16-285(d)
School in session defined	16-285(f)
Signs	
Marking and signs required	16-285(c)
Placement of signs	16-285(d)
Vehicles to obey signs	16-285(g)
Speed limit	16-285(e)
Vehicles to obey signs	16-285(g)
Use of white cane	16-286
Cane required	16-286(a)
Definition	16-286(b)
Exception	16-286(d)
Yield	16-286(c)

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Persons riding animals or driving animal-drawn vehicles, application of chapter to	16-5
Placing or allowing dangerous articles on highway	16-11
Dangerous items	16-11(a)
Destructive or injurious material	16-11(b)
Emergencies	16-11(d)
Glass	16-11(c)
Procedure in traffic cases	
All traffic cases, general provisions for	
Authority to detain	16-261
Burden of proof and consolidation of cases	16-265
Consolidation	16-265(b)
Standard of proof	16-265(a)
Disposition of citations	16-263
Copy to chief administrative officer	16-263(d)
Disposition required upon filing	16-263(b)
Original delivered to the court	16-263(a)
Unlawful disposition of citation	16-263(c)
Forms of citations	16-262
Affirmations	16-262(d)
Issuing citation books and recordkeeping	16-262(b)
Juveniles	16-262(c)
Notices	16-262(e)
Uniform citation	16-262(a)
Record of traffic cases	16-264
Appeals	
Right to appeal	16-280
Civil traffic offenses, rules of procedure for	
Admissions, not evidence in other matters	16-274
Fines, forfeitures and other penalties	
Initial appearance and entry of plea	
Resolved by payment of fine	16-271(e)
Outcomes of hearing, payment of fines	16-273
Payment of fines	16-275
Hearing	16-272
Continuances	16-272(e)
Discovery	16-272(d)
Hearing	16-272(a)
Order of proceedings	16-272(b)
Witnesses	16-272(c)
Initial appearance and entry of plea	16-271
Admission of offenses	16-271(d)
Denial of offenses	16-271(c)
Entry of plea	16-271(b)
Resolved by payment of fine	16-271(e)
Time and place	16-271(a)
Outcomes of hearing, payment of fines	16-273
Admissions by cited person	16-273(a)
Cited person, default for, Community failure to prosecute	16-273(g)
Community, cited person responsible, finding for	16-273(c)
Contested offenses	16-273(b)
Default for Community, cited person's failure to appear	16-273(f)
Dismissal by Community	16-273(e)
Finding for cited person, not responsible or dismissal of offense	16-273(d)
Payment of fines	16-275
Representation of parties	16-270
Community representation	16-270(b)
Counsel	16-270(a)
Sufficiency and amendment of the complaint	16-269
Amendments	16-269(c)
Conflicts	16-269(f)
Conform to evidence	16-269(d)
Juveniles	16-269(b)
Notice required	16-269(e)
Sufficiency	16-269(a)
Juvenile traffic offenses provisions	
Provisions, juvenile	16-276
Minors	
All traffic cases, general provisions for	
Forms of citations	
Juveniles	16-262(c)
Civil traffic offenses, rules of procedure for	
Sufficiency and amendment of the complaint	
Juveniles	16-269(b)
Juvenile traffic offenses provisions	
Provisions, juvenile	16-276
Rules of procedure for criminal traffic offenses	
Applicability of rules of criminal procedure for criminal traffic cases	16-266
Issuance of citation not served in person, procedure for	16-268
Procedure for issuance of citation when officer completes personal service	16-267
Arrested persons	16-267(c)
Filing of the citation	16-267(a)
Time for appearance	16-267(b)
Writs, warrants and other legal processes	
All traffic cases, general provisions for	
Disposition of citations	16-263
Forms of citations	16-262
Civil traffic offenses, rules of procedure for	
Hearing	
Order of proceedings	16-272(b)
Rules of procedure for criminal traffic offenses	
Issuance of citation not served in person, procedure for	16-268

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Procedure for issuance of citation when officer completes personal service	16-267
Records and reports	
Abandoned and seized vehicles	
Required report of abandoned and seized motor vehicles; violation	16-293
Towed vehicles, required report of; violations	16-296
Accidents. See herein that subject	
Operation of vehicles	
Driving while under the influence; reckless driving	
Suspension of driving privileges, reporting requirements and ignition interlock devices	16-236
Procedure in traffic cases	
All traffic cases, general provisions for	
Forms of citations	
Issuing citation books and recordkeeping	16-262(b)
Record of traffic cases	16-264
Recreational vehicles	
Equipment	
Lights, lamps, reflectors and illuminating devices	
Head lamps on motor-driven cycles and ATV	16-94
Operation of vehicles	
Motorcycle, motor-driven cycle, and ATV riders and passengers to ride only on designated seats	16-148
Speed restrictions	
Motor-driven cycles and ATV's, speed limits for	16-214
Registration, licensing and inspection	
Annual inspection of school buses	16-44
Driver license required; penalty	16-33
Driving privileges	16-33(b)
Penalty	16-33(c)
Violation	16-33(a)
Driving on suspended license	16-40
Inspection by Community officers	16-42
Form of notice	16-42(c)
Notice	16-42(b)
Stops authorized	16-42(a)
License to operate motorcycle or motor-driven cycle; exception	16-34
Owner or driver to comply with inspection provisions	16-43
Certification of adjustment	16-43(b)
Inspection	16-43(a)
Prohibitions	16-43(c)
Repairs	16-43(d)
Permitting unauthorized minor to drive; liability therefore	16-39
Liability	16-39(b)
Unauthorized minor driver	16-39(a)

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Possession and display of driver license	16-36
Registration of motor vehicle required; exceptions	16-31
Exceptions	16-31(b)
Proof provided later	16-31(c)
Registration required	16-31(a)
Restricted licenses	16-35
Unauthorized person to drive, permitting	16-38
Unlawful use of license	16-37
Violations, registration	16-32
Right-of-way	
Operation of vehicles. See herein that subject	
Pedestrians' rights and duties	
Right-of-way in crosswalks	16-281
Sales	
Abandoned and seized vehicles	
Notice of sale	16-294
Sale of vehicles	16-295
Operation of vehicles	
Nonmembers on land other than Community roadways, operation of vehicles by	
Sale of vehicle for recovery of damages	16-141(d)
Schools	
Operation of vehicles	
Operation of vehicle upon approach of school bus	16-150
Pedestrians' rights and duties	
School crossings	16-285
Registration, licensing and inspection	
Annual inspection of school buses	16-44
Sex offender registration and Community notification	
Required information	
Vehicle information	6.5-6(t)
Signs	
Operation of vehicles. See herein that subject	
Pedestrians' rights and duties. See herein that subject	
Size, weight and load	
Council's power to restrict weight of vehicles	
Signs	16-102(b)
Traffic-control devices. See herein that subject	
Size, weight and load	
Community officers authorized to stop vehicles, weigh and require removal of excess weight	16-112
Load removal	16-112(b)
Refusing to stop	16-112(c)
Stops authorized	16-112(a)
Council's power to restrict weight of vehicles	16-102
Commercial vehicles	16-102(c)

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Prohibitions	16-102(a)
Signs	16-102(b)
Weight	16-102(d)
Effect and scope	16-101
Exceptions	16-101(b)
Prohibitions	16-101(a)
Gross weight of vehicles and loads	16-111
Axle weight violations	16-111(e)
How distance measured	16-111(c)
Limits set out	
Over 18 feet	16-111(b)
Up to 18 feet	16-111(a)
Punishment fines	16-111(d)
Height and length of vehicles and loads	16-106
Combination of vehicles	16-106(c)
Height	16-106(a)
Length	16-106(b)
Length of load projection	16-107
Length limit	16-107(a)
Pole trailers	16-107(b)
Liability for damage resulting from overweight load	16-103
Civil action	16-103(c)
Illegal operation	16-103(a)
Liability	16-103(b)
Loads and covers to be secured	16-108
Permit for excess size and weight	16-113
Contents of application	16-113(b)
Council authorized to grant	16-113(a)
Fees	16-113(e)
Government vehicles exempt	16-113(f)
Limitations on permit	16-113(c)
Permit to be carried, displayed	16-113(d)
Projecting loads on passenger vehicles	16-105
Single-axle load limit	16-110
Axle load	16-110(b)
Gross weight	16-110(a)
Punishment-fines	16-110(d)
Special permits	16-110(c)
Towed vehicles	16-109
Connection strength	16-109(a)
Flag displayed	16-109(b)
Width of vehicle and load	16-104
Federal regulations	16-104(c)
Outside width	16-104(a)
Pneumatic tires	16-104(b)
Towing and wreckers	
Abandoned and seized vehicles	
Towed vehicles, required report of; violations	16-296
Operation of vehicles	
Moving parked vehicle	16-147
Stopping, standing and parking	
Removal of illegally stopped vehicles	16-197
Size, weight and load	
Towed vehicles	16-109

	Section
TRAFFIC AND MOTOR VEHICLES (Cont'd.)	
Traffic-control devices	
Construction or road work site warning devices	16-128
Council authorized to place signs on all Community highways	16-121
Flashing signals	16-124
Flashing red stop signal	16-124(1)
Flashing yellow caution signal	16-124(2)
Injuring, defacing, traffic-control or warning signs	16-129
Preemption emitter	16-129(b)
Prohibition	16-129(a)
Obedience to devices required; exceptions	16-122
Gore area	16-122(b)
Signage	16-122(c)
Traffic control device	16-122(a)
Pedestrian control signals	16-127
Don't walk	16-127(2)
Walk	16-127(1)
Signal legend	16-123
Signs	
Council authorized to place signs on all Community highways	16-121
Injuring, defacing, traffic-control or warning signs	16-129
Obedience to devices required; exceptions	16-122(c)
Stop signs and yield signs	16-125
Stop signs and yield signs	16-125
Council's authority to place	16-125(a)
Obedience to yield sign	16-125(e)
Placement	16-125(c)
Specifications	16-125(b)
Stop sign, obedience to	16-125(d)
Violation of chapter; penalties	16-2
Civil violations generally	16-2(1)
Classification of offenses	16-2(a)
Criminal offenses generally	16-2(2)
Offenses and miscellaneous provisions	
Classification of offenses	16-2(a)
Criminal offenses generally	16-2(2)
Penalties when none provided in offense	16-2(b)
Penalties when none provided in offense	16-2(b)
Weights and measures	
Equipment. See herein that subject	
Operation of vehicles. See herein that subject	
Pedestrians' rights and duties	
School crossings	
Speed limit	16-285(e)
Size, weight and load. See herein that subject	
Traffic-control devices	
Stop signs and yield signs	
Specifications	16-125(b)
Writs, warrants and other legal processes	
Abandoned and seized vehicles	

Section

TRAFFIC AND MOTOR VEHICLES (Cont'd.)
Sale of vehicles
Court order . . . . . 16-295(c)
Operation of vehicles
Speed restrictions
Charge of violation to specify alleged speed of violator; speed limit not to relieve plaintiff of proving negligence
Citation . . . . . 16-222(a)
Procedure in traffic cases. See herein that subject

TRANSPORT, TRANSPORTATION
Curfew
Law enforcement authority for transport 11-222
Health and sanitation
Alcoholism
Intoxicated persons and persons incapacitated by alcohol, treatment and services for
Transportation to home or shelter 13-38(c)
Traffic and motor vehicles
Equipment
Vehicles transporting explosives 16-64

TRAVEL AND TOURISM
Sex offender registration and Community notification
Required information
Travel abroad . . . . . 6.5-6(r)

TREASURER
Licensing and permitting . . . . . 15-34 et seq.
See: LICENSING AND PERMITTING

TREES, SHRUBS AND PLANTS
Criminal code
Property, offenses against
Real or tangible property
Without permit, cutting timber . . . 6-106
Water and other natural resources
Environmental protection
Wildlife and natural plants 18-54

U

UTILITIES
Development, real property and housing . . 17-305 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Taxation . . . . . 15.1-50 et seq.
See: TAXATION

V

VEGETATION
Water and other natural resources
Environmental protection
Wildlife and natural plants 18-54

Section

VEHICLES. See: TRAFFIC AND MOTOR VEHICLES

VETERINARIANS
Animals and fowl
Rabies control
Vaccination and reports 12-42

VOLUNTEER, VOLUNTARY
Finances
Unclaimed personal property
Repossession of personal property
Voluntary surrender . . . . . 20-114(c)
Health and sanitation
Alcoholism
Intoxicated persons and persons incapacitated by alcohol, treatment and services for
Voluntary treatment . . . . . 13-38(a)
Minors
Child protection
Voluntary termination of parental rights 11-179
Juvenile justice
Informal adjustment of complaint or citation
Voluntary participation . . . . . 11-130(b)

VOTING AND ELECTIONS
Candidates 3-5
Candidate nomination process . . . . . 3-5(b)
Certification of candidates . . . . . 3-5(c)
Eligibility . . . . . 3-5(a)
Write-in candidates . . . . . 3-5(d)
Canvass 3-7
Automatic recount . . . . . 3-7(b)
Contesting the talley . . . . . 3-7(c)
Election challenge . . . . . 3-7(e)
Hearing of allegations of fraud by Community court . . . . . 3-7(f)
Method . . . . . 3-7(a)
Preliminary certification of the election and declaration of the election . . . . 3-7(d)
Certificates, certification
Candidates
Certification of candidates . . . . . 3-5(c)
Canvass
Preliminary certification of the election and declaration of the election . . . . . 3-7(d)
Initiative, referendum and recall elections
Petitions 3-121
Voters
Qualifications of voters and certification of official list of registered voters . . . . . 3-4(a)
Conduct of elections 3-6
Abstract . . . . . 3-6(l)
Ballots . . . . . 3-6(f)
General election . . . . . 3-6(b)

	Section
VOTING AND ELECTIONS (Cont'd.)	
Hours of voting	3-6(d)
Method of voting	3-6(g)
Polling places	3-6(c)
Primary elections	3-6(a)
Rejected ballots	3-6(k)
Seventy-five foot limit ("campaign free zone") and 150-foot limit ("designated campaign area")	3-6(e)
Spoiled ballots	3-6(h)
The tally	3-6(j)
Unused ballots	3-6(i)
Witnesses	3-6(m)
Courts	
Judges	
Election of chief judge	4-33
Qualifications of judges	
Chief judge (elected)	4-32(1)
Definitions	3-2
Election board	3-3
Code of ethics, temporary removal, removal and resignation	3-3(6)
Composition and qualifications	3-3(3)
Duties of individual election board members	3-3(5)
Powers of the board	3-3(1)
Responsibilities of election board members	3-3(4)
Term and compensation	3-3(2)
Initiative, referendum and recall elections	
Call for special, initiative and referendum elections	3-101
Petitions	
Appeals, recall and initiative petition	3-125
Actions subject to appeal	3-125(a)
Procedure, appeals	3-125(b)
Applicability of this division within this Community Code of Ordinances	3-127
Certification	3-121
Disposition of petitions	3-123
Insufficient number of signatures	3-123(a)
Sufficient number of signatures	3-123(b)
Initiative elections, petitions for	3-120
Application for initiative petition	3-120(a)
Filing	3-120(e)
Form of application	3-120(b)
Receipt of application	3-120(c)
Standard form of petition	3-120(d)
Penalties	3-126
Generally	3-126(a)
Unlawful acts	3-126(b)
Recall elections, petitions for	3-119
Application for recall petition	3-119(b)
Filing	3-119(f)
Form of application	3-119(c)
Limitations on recall elections	3-119(a)
Receipt of application	3-119(d)
Standard form of petition	3-119(e)

	Section
VOTING AND ELECTIONS (Cont'd.)	
Recordkeeping	3-124
Availability of petition for appeals hearings	3-124(b)
Length of recordkeeping	3-124(a)
Records and reports	
Initiative elections, petitions for	
Receipt of application	3-120(c)
Recall elections, petitions for	
Receipt of application	3-119(d)
Recordkeeping	3-124
Required use	3-118
Return	3-122
Officers and employees	
Post election	
Council members not employed by Community government or its divisions, departments and/or enterprises	3-82(a)
Violations of election process. See herein that subject	
Post election	3-82
Council members not employed by Community government or its divisions, departments and/or enterprises	3-82(a)
Election records retention	3-82(b)
Purpose and scope	3-1
Purpose	3-1(a)
Scope	3-1(b)
Records and reports	
Initiative, referendum and recall elections. See herein that subject	
Post election	
Election records retention	3-82(b)
Violations of election process	
Reported incidents	3-153
Voters	
Qualifications of voters and certification of official list of registered voters	3-4(a)
Run-off election	3-48
Salt River Financial Services Institution	
Powers	
Veto on a case-by-case basis, council retains discretion to	1-150(f)
Special election	3-65
Violations of election process	
Action of election officers, violations by	3-150
Applicability	3-145
Candidate forum responsibility	3-146
Election process, violation of	3-148
Officers and employees	
Action of election officers, violations by	3-150
Prohibited from holding office, violators	3-154

	Section
VOTING AND ELECTIONS (Cont'd.)	
Violations by actions of candidates or issue supporters	
Interference with or corruption of election official	3-149(c)
Intimidation of Community member employees by employer	3-149(e)
Penalties	3-152
Administrative penalties	3-152(3)
Civil penalties	3-152(2)
Criminal penalties	3-152(1)
Removal and exclusion from the Community by council action	3-152(4)
Permissible conduct	3-147
Prohibited from holding office, violators	3-154
Purpose	3-144
Reported incidents	3-153
Violations by actions of candidates or issue supporters	3-149
Bribery of voter	3-149(d)
Campaigning in and around the workplace during Community business hours, except for Community schools	3-149(f)
Coercion of voter/supporter	3-149(a)
Community school buildings and campus, campaigning in and around	3-149(h)
False statements/misrepresentation	3-149(b)
Interference with or corruption of election official	3-149(c)
Intimidation of Community member employees by employer	3-149(e)
Use of Community property for election campaigning	3-149(g)
Voters, violations by	3-151
Voters	3-4
Home voting by disabled Community members within a 25 mile radius	3-4(d)
Nonresident absentee voter	3-4(b)
Qualifications of voters and certification of official list of registered voters	3-4(a)
Resident absentee voter	3-4(c)

W

	Section
WATER AND OTHER NATURAL RESOURCES	
Agriculture	
Agriculture fugitive dust control. See herein that subject	
Conversion of wells from agricultural to domestic use	18-1
Surface water management	
Shortage; retired agricultural lands	18-91
Agriculture fugitive dust control	
Administration for compliance and enforcement	18-164
Appeal process	18-164(c)
Contents	18-164(b)
Issuance of notice of violation	18-164(a)
WATER AND OTHER NATURAL RESOURCES (Cont'd.)	
Judicial proceedings	18-164(d)
Applicability	18-163
Additional control measures	18-163(c)
Dust control measures and requirements	18-163(b)
Fee	18-163(e)
Purpose	18-163(a)
Records, dust control	18-163(d)
Violations	18-163(f)
Definitions	18-162
Judicial proceedings; Community court	18-165
Remedies not exclusive	18-166
Title, authority, purpose, etc.	18-161
Authority	18-161(b)
Purpose/policy	18-161(c)
Regulatory authority	18-161(e)
Scope	18-161(d)
Title	18-161(a)
Conversion of wells from agricultural to domestic use	18-1
Policy	18-1(a)
Restrictions on issuance of permits	18-1(b)
Courts	
Agriculture fugitive dust control	
Administration for compliance and enforcement	
Judicial proceedings	18-164(d)
Judicial proceedings; Community court	18-165
Environmental protection	
Judicial proceedings; Community court	18-56
Development, real property and housing	
Fees, development	
Water development fee	17-529
Environmental protection	
Compliance required generally	18-51
Amendment to section 17-6	18-51(b)
Handling of environmentally harmful substances	18-51(a)
Definitions	18-50
Enforcement of article and regulations	18-52
Authority	18-52(c)
Director designated to enforce article	18-52(a)
Functions	18-52(b)
Judicial proceedings; Community court	18-56
License suspension or revocation	18-55
Policy	18-49
Production, processing, distribution, sale, etc., prohibited	18-53
Wildlife and natural plants	18-54
Floodplain and drainage	
Development requirements to be met for issuance of a permit	
Water carriers, streets as	17.5-8(4)
Groundwater management	
Application procedure	18-27
Definitions	18-25
Permits; standards of issuance and use	18-26
Actual and potential use permits	18-26(e)

Section

WATER AND OTHER NATURAL RESOURCES (Cont'd.)
Available water, permits conditioned on ..... 18-26(f)
Establishment of presumptive right . 18-26(b)
Permits for new use..... 18-26(c)
Required ..... 18-26(a)
Use permits conditional ..... 18-26(d)
Policy 18-22
Records of application, permit and proceedings 18-28
Rule-making authority..... 18-30
Scope of regulation 18-23
Short title 18-21
Violation and penalty..... 18-24
Water usage, records of 18-29
GRUSP groundwater recharge control and quality protection
Additional regulations to ensure water integrity authorized 18-131
Declaration of policy..... 18-123
Definitions..... 18-124
Employment of consultants 18-129
Enforcement authority..... 18-128
Formulation and adoption of regulations 18-127
GRUSP maintenance 18-130
Operational management and MSL regulation 18-126
Water quality regulation 18-125
Health and sanitation
Pollution of domestic water 13-2
Licensing and permitting
Conversion of wells from agricultural to domestic use
Restrictions on issuance of permits.. 18-1(b)
Environmental protection
License suspension or revocation.... 18-55
Groundwater management
Permits; standards of issuance and use 18-26
Records of application, permit and proceedings..... 18-28
Surface water management
Permits; standards of issuance and use 18-90
Records of applications and permit.. 18-93
Records and reports
Agriculture fugitive dust control
Applicability
Records, dust control ..... 18-163(d)
Groundwater management
Records of application, permit and proceedings..... 18-28
Water usage, records of..... 18-29
Surface water management
Records of applications and permit.. 18-93
Surface water management
Water usage, records of..... 18-94

Section

WATER AND OTHER NATURAL RESOURCES (Cont'd.)
Surface water management
Application procedure 18-92
Definitions..... 18-89
Effective date 18-97
Permits; standards of issuance and use 18-90
Establishment of presumptive right . 18-90(b)
Permits for new use..... 18-90(c)
Renewal ..... 18-90(d)
Required, permit..... 18-90(a)
Policy 18-87
Records of applications and permit 18-93
Rule-making authority..... 18-96
Scope of regulation 18-88
Short title 18-86
Shortage; retired agricultural lands.... 18-91
Extended water shortage ..... 18-91(b)
Retirement of agricultural lands and other uses..... 18-91(c)
Shortage ..... 18-91(a)
Violation; penalty 18-95
Water usage, records of 18-94

WATERCOURSES AND WATERWAYS
Floodplain and drainage
Obstruction of a waterway prohibited.. 17.5-10

WATERWAYS. See: WATERCOURSES AND WATERWAYS

WEIGHTS AND MEASURES
Development, real property and housing.. 17-276 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Floodplain and drainage
Development requirements to be met for issuance of a permit
Lowest floor elevations in nonresidential structures ..... 17.5-8(7)
Residential structures, lowest floor elevations in..... 17.5-8(6)
Licensing and permitting
Sale of cigarettes at retail
Density control 15-111
Traffic and motor vehicles ..... 16-60 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections
Conduct of elections
Seventy-five foot limit ("campaign free zone") and 150-foot limit ("designated campaign area")..... 3-6(e)
Voters
Home voting by disabled Community members within a 25 mile radius..... 3-4(d)

Section

WORKERS' COMPENSATION APPEALS BOARD
Labor and employment
Workers' compensation
Dispute resolution; appeal and settlement
Appeal, final; Community's workers' compensation appeals board 23-85
Composition of the appeals board . 23-86

WRITS, WARRANTS AND OTHER LEGAL PROCESSES
Alcoholic beverages and prohibited substances
Narcotics, hallucinogens or dangerous drugs, possession and use of; seizure of vehicles
Seizure of vehicles used in drug violations
Judgment . . . . . 14-157(g)
Community membership
Removal from membership rolls
Petition for disenrollment of a minor or adult 2-55
Criminal code . . . . . 6-42 et seq.
See: CRIMINAL CODE
Development, real property and housing . . 17-38 et seq.
See: DEVELOPMENT, REAL PROPERTY AND HOUSING
Domestic relations . . . . . 10-4 et seq.
See: DOMESTIC RELATIONS
Extradition and exclusion . . . . . 7-8 et seq.
See: EXTRADITION AND EXCLUSION
Finances . . . . . 20-56 et seq.
See: FINANCES
Graffiti
Appellate review
Stay of execution of sentence . . . . . 21-10(b)
Health and sanitation
Tuberculosis
Procedure for commitment of tuberculous person
Petition for treatment . . . . . 13-75(a)
Juvenile court
Alternative method for resolution of cases
Entry of judgment; appeal . . . . . 11-31(f)
Application of the Indian Child Welfare Act
Court orders; Community interests . . 11-26(4)
Minors . . . . . 11-129 et seq.
See: MINORS
Sentencing
Parole 8-8
Probation 8-6
Sex offender registration and Community notification
Failure to register
Issuance of arrest warrant. . . . . 6.5-14(c)

Section

WRITS, WARRANTS AND OTHER LEGAL PROCESSES (Cont'd.)
Taxation
Administrative review; petition for hearing or for redetermination; finality of order 15.1-17
Traffic and motor vehicles . . . . . 16-222 et seq.
See: TRAFFIC AND MOTOR VEHICLES
Voting and elections. . . . . 3-118 et seq.
See: VOTING AND ELECTIONS

Z

ZONES
Traffic and motor vehicles
Operation of vehicles
Right-of-way and passing
No passing zones 16-180
Voting and elections
Conduct of elections
Seventy-five foot limit ("campaign free zone") and 150-foot limit ("designated campaign area"). . . . . 3-6(e)

ZONING
Licensing and permitting
Business licenses generally
Standards of business operation
Land use, zoning, etc.. . . . . 15-35(c)