

PART II - CODE OF ORDINANCES

Chapter 20 FINANCES

**Chapter 20 FINANCES**

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**ARTICLE I. IN GENERAL**

[Sec. 20-1. Nonprobate transfers of final per capita check upon death.](#)

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**Sec. 20-1. Nonprobate transfers of final per capita check upon death.**

- (a) An adult person may designate a beneficiary to receive a non-probate transfer (upon that person's death) of the person's uncashed final gaming per capita distribution check.
- (b) To be designated a valid beneficiary, the designation must be made on a "per capita beneficiary form" that meets the following requirements:
  - (1) In writing on a form provided by the Community's finance department;
  - (2) On file with the Community's finance department;
  - (3) Designate a beneficiary who is over the age of 18 years, and is the person's spouse, child, parent, sibling, grandparent, aunt/uncle, or grandchild);
  - (4) Include up-to-date and accurate contact information for the beneficiary, so that the finance department may locate the beneficiary upon the person's death;
  - (5) The per capita distribution check must be lawfully owned by an adult decedent before their death (meaning that the enrolled Community member was alive and certified in the enrollment count in the official SRPMIC enrollment certification approved by the Community Council);
  - (6) The beneficiary must pick up the per capita check within 60 days of designated per capita distribution date (after 60 days the per capita distribution becomes an asset of the decedent's probate estate).
- (c) Any court ordered debts that the finance department has record of, including child support or other court ordered payments, are required to be paid prior to any distribution of the final check to the beneficiary.
- (d) The Community is released from liability if it releases the per capita check according to the terms of decedent's "per capita beneficiary form".
- (e) This section only applies in situations when the Community distributes the person's per capita distribution via written check or the Community is informed of the death in time, and can stop direct deposit payments to a third party banking institution. However, once the Community has transferred

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the per capita distributions (normally, the Friday prior to the first day of the scheduled per capita distribution) to a banking institution via direct deposit, this section no longer applies.

- (f) If all of the above requirements are met, then the adult decedent's uncashed gaming per capita distribution check shall be deemed a non-probate asset. As such, the check may bypass probate, and a check will be issued directly in the named beneficiary. Beneficiary would be responsible for any tax liability of this check issued in their name.
- (g) This section is consistent with the Community's gaming revenue allocation plan.

(Ord. No. SRO-483-2016, 8-3-2016; Ord. No. SRO-484-2016, 8-24-2016)

**Secs. 20-2—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.](#)

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[Sec. 20-23. Mature person.](#)

[Secs. 20-24—20-49. Reserved.](#)

**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.

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*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.

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- (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.](#)

[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.](#)

**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)

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**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)

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**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.

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- (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.](#)

[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.](#)

#### **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,

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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

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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)

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#### **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

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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.

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- (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.](#)

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[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.](#)

**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

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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

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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)