

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY**
10005 East Osborn Road
Scottsdale, Arizona 85256

ORDINANCE NUMBER: SRO-579-2024

TO AMEND CHAPTER 10, ARTICLE II, DIVISION 2 OF THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY'S CODE OF ORDINANCES FOR THE PURPOSE OF UPDATING THE CHILD SUPPORT SECTION OF THE DOMESTIC RELATIONS CODE.

BE IT ENACTED THAT:

Chapter 10, Article II, Division 2 of the Salt River Pima-Maricopa Indian Community's Code of Ordinances is hereby repealed and replaced with the following language adopted as new Chapter 10, Article II, Division 2 to be effective on the date of enactment.

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 10-61.

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 eighteen (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 10-56.

Employer means all persons or entities who agree to compensate another individual for services performed.

Full faith and credit means a child support order from any lawful jurisdiction which shall have the same faith, credit, conclusive effect and obligatory force in the Community as it would in the jurisdiction from which it originated.

Guardian means a person not the parent having legal custody of a child or children.

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 or by adoption, 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, or any information that would be deemed as personal identification 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.

Sec. 10-50.1. Full faith and credit of child support orders.

The Community, and its enterprises, are required by 28 USC § 1738B, the Full Faith and Credit for Child Support Orders Act ("the Act") to enforce a child support order that complies with the Act, including orders that come from another state or jurisdiction, without requiring comity or domestication of such order. Any modification to such orders by the Community court must be consistent with (e), (f) and (i) of the Act.

Sec. 10-51. Child support guidelines.

- (a) The community manager, or their designee, may review, recommend, and adopt revisions to the Community's child support guidelines, as appropriate and necessary at least once every four years to ensure that the Community's child support guidelines remain sufficient.
- (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.

Sec. 10-52. 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) *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.
- (e) *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 (2) 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.

Sec. 10-53. General provisions

- (a) *Generally.* Except as provided in this section, court proceedings under this Division shall be open to the public. However, the court may close proceedings to the public upon a motion by the parties, filed at least two (2) days before the applicable proceeding, if it finds that one (1) of the following apply:
 - (1) There is a compelling interest in closure that outweighs the public interest in attending a hearing or proceeding;
 - (2) There are no alternatives to closure that will protect the compelling interest; or,
 - (3) The closure is no broader than necessary to protect the compelling interest.
- (b) *Instructions to the public.* The court shall inform all attendees that they are prohibited from disclosing any identifying information about any persons involved in the proceeding. Additionally, the court shall explain contempt of court to all attendees.
- (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 thirty (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 section 10-56.
- (g) *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.

Sec. 10-54. Service; notice.

- (a) *Service of subsequent documents.*

- (1) If service of the original petition and summons was effectuated by personal service at the respondent's residence, by certified mail, or if respondent files a responsive pleading or appears at the hearing, all subsequent documents shall be served by first class mail.
 - (2) If service is made by publication and there is no response, notice of the first hearing shall be published according to the Community Rules of Civil Procedure, after which time subsequent orders and hearings need not be published.
 - (3) The parties shall inform the court of their mailing address and update their address within ten (10) 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.
- (b) *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, as provided in the Community Rules of Civil Procedure.
- (c) *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.

Sec. 10-55. 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 (3) 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 (3) year period.

Sec. 10-56. Duties of support.

Except as provided in section 10-55, 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. Even if a child is over the age of majority when a petition is filed or at the time of the final decree, the court may order support to continue past the age of majority if one (1) of the following are true:

- (1) The child has a severe mental or physical disability that began before the child reached the age of majority, as demonstrated by the fact that the child is unable to live independently and be self-supporting.
- (2) 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 during the period in which the child is actually attending high school or the equivalency program but only until the child reaches nineteen (19) years of age.

Notwithstanding any other law, a parent paying support for a child over the age of majority pursuant to this section is entitled to obtain all records related to the attendance of the child in the high school or equivalency program.

Sec. 10-57. Representation by Community; modification of order by Community; liability of parents.

- (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.

Sec. 10-58. 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 or person who has legal rights to the children, and for the children subject to the action, provide: names; dates of birth; addresses and whether the address are within the exterior boundaries of the Community; tribal affiliations (if applicable); and the last four digits of their social security numbers or tribal identification. 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 of 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 of 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 (such as dependency proceedings, child custody proceedings between parents, or guardianship proceedings);
 - b. Paternity establishment or disestablishment proceeding;
 - c. Proceeding requesting a domestic violence protective order or no contact order; or
 - d. Proceeding requesting a restraining order involving the child or the parents or legal guardian;
- (10) A statement of 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 income as defined in section 10-50;
- (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, the SRPMIC Finance Department, 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; and
- (15) The petitioner may include along with the filing of a petition an agreed child support order as allowed under the Community Code and the Community child support guidelines.

Sec. 10-59. Hearings; noncontested orders; orders generally

(a) *Initial child support hearing.*

- (1) The court shall set an initial child support hearing thirty (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; and
 - 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. Based on presented evidence and arguments.
- b. Order evaluations, assessments, appraisals, appointments or other special procedures needed to properly manage the case and resolve the disputed issues.
- (4) Within two (2) business days after the initial hearing is held, the court shall issue and order regarding the actions taken.
- (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 and the guidelines, unless evidence is presented regarding deviation;
 - (3) 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; and
 - (4) 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.
- (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) An agreement under this section is presumed valid and the court shall approve the terms of the agreement without a hearing unless there is clear and convincing evidence that:
 - a. The agreement is not in the best interests of the minor child;
 - b. One (1) or both of the parties do not understand the terms of the agreement; or
 - c. Either party's consent was not truly voluntary.
 If there is clear and convincing evidence of any or all of the above circumstances listed in (a), (b), or (c), the Court shall hold an initial hearing and determine whether the agreement is in the best interests of the minor child, whether both parties understand the terms of the agreement, and whether both parties' consent was voluntary. If the Court finds that any of the above have not been satisfied, an order shall not be entered and the case shall proceed to an evidentiary child support 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. If parties mutually agree, payments under a child support order may be made directly. Otherwise, payments under a child support order shall be made by order of assignment to the custodial parent or other payee. The court shall issue a written order within five (5) business days after the hearing.
- (e) *Content.* A child support order shall include:

- (1) The child support obligation of one (1) or both parties, including:
 - a. The amount to be paid;
 - b. Who the child support will be paid to; and
 - 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 that the court ordered;
- (5) A statement that each party shall notify the court of any change of employer or change of address within ten (10) 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) *Additional hearings.* The court may order further hearings to monitor compliance with all child support orders.

Sec. 10-60. Default.

- (a) When the respondent fails to appear or otherwise defend, upon a motion of default, the court shall enter a default child support order. After ten (10) days after the motion was filed with the court, default judgment may be granted. A judgment by default shall not be different in kind from or exceed an amount that which was prayed for in the demand for judgment. The court shall make a finding as to the following:
 - (1) That service of the petition and summons is complete and respondent has failed to appear or to otherwise answer pursuant to the Community's rules of civil procedure set forth in article II of chapter 5; and
 - (2) If paternity was also at issue, a finding of paternity prior to entering a default order of child support pursuant to section 10-6.
- (b) *Setting Aside a Default or a Final Default Judgment.* The court may set aside a default for good cause.

Sec. 10-61. Modification of Child Support; Termination of Child Support; Financial Information.

- (a) *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 are effective on the first day of the month following notice of the petition for modification 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.
- (b) *Termination of child support orders.* 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 termination.
- (c) *Motion for Modification or Termination.* A motion for a modification or termination of child

- support shall be accompanied by an affidavit setting forth the factual basis for the motion and the requested modification or termination. The court shall serve the parties who may be affected by the modification or termination with a copy of the motion and notice of the hearing.
- (d) *Modification or Termination hearing.* Grounds for modification or Termination 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. For purposes of this section, substantial increase or decrease, is at least 15%;
 - (2) A change in custody of a child;
 - (3) A change in Community's child support guidelines;
 - (4) Death of child;
 - (5) Reaching age of the majority of a child; or,
 - (6) Other substantial change in circumstance that justifies a modification.
- (e) *Financial information.* Both parties shall file updated financial information forms at least ten (10) days before the modification hearing, unless the parties agree to the modified amount.
- (f) *Request for Information.* Either party to an order for child support may request the following information from the SRPMIC Finance Department, an employer, self-employed person:
- (1) Complete name;
 - (2) Social security number;
 - (3) Date and place of birth;
 - (4) Present and past employment status;
 - (5) Earnings, income, entitlements or other monies without regard to source; and
 - (6) Current or last known address.

Sec. 10-62. Enforcement.

- (a) *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.
- (b) *Enforcement hearing.* If the moving party proves by a preponderance of the evidence that the child support obligation is at least thirty (30) days overdue in an amount equal to one (1) 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.

Sec. 10-63. Order for support; methods of payment.

- (a) The SRPMIC Finance Department, an employer, or another entity, will collect and disburse monies in the following priority:
 - (1) Current child support or current court ordered payments for the support of a family when combined with the child support obligation.
 - (2) Current spousal maintenance.
 - (3) Past due child support.
 - (4) Past due spousal maintenance.
 - (5) Restitution.
 - (6) Court fines and costs.
 - (7) Civil judgments.
- (b) If a payor is obligated to pay support to more than one (1) 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 (b)(2) of this section to obtain the amount to be allocated to each payee.
- (c) If a payor cannot satisfy their child support obligation, and the SRPMIC Finance Department disburses the support amount, then the SRPMIC Finance Department shall inform the recipient of the shortfall or non-payment.
- (d) 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.
- (e) An order of support shall include the following language: *Your child support order is subject to the Salt River Pima-Maricopa Indian Community's Code of Ordinances Section 10-63.*

Sec. 10-64. Statute of limitations.

If the payee or their agents make efforts to collect a child support debt more than ten (10) 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.

Sec. 10-65. Assignment.

- (a) In a proceeding in which the court orders a person to pay support, the court shall assign to the person or agency entitled to receive the support that portion of the person's income. The order shall include per capita payments if the payor receives such payment, and/or income received from employment with any Community agency or any other employment outside the

Community, if the payor receives wages or other income, 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 amount 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 SRPMIC 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 SRPMIC Finance Department by first class mail return receipt requested, electronic 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 the SRPMIC 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. Once an order of assignment has been issued, the payor may not make any adjustments to tax or other holdings that would contravene the ability for the ordered child support payment amount to be withheld. Any employer or the SRPMIC 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 the SRPMIC Finance Department. The handling fee shall be deducted monthly and disbursed to the Community's general fund. An employer or the SRPMIC Finance Department may combine in a single payment withheld monies for more than one payee, provided, when doing so, the employer or the SRPMIC Finance Department separately identifies the portion of the remittance that is attributable to each payor and shall include the last four (4) digits of each payor's social security number. An employer or the SRPMIC 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 ninety (90) days of the last payment, the employer or the SRPMIC Finance Department reemploys the payor or becomes obligated to pay the payor, the employer or the SRPMIC 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 (10) 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 SRPMIC 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 (1) 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.
 - (4) An order of support shall include the following language: *Your child support order is subject to the Salt River Pima-Maricopa Indian Community's Code of Ordinances Section 10-63.*
- (j) The person entitled to receive support, the payee, shall notify the SRPMIC Finance Department

in writing of any change of residential address within ten (10) 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 ninety (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 twenty (20) days, or within thirty (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 (2) 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 SRPMIC Finance Department. If a hearing is requested, the court shall set the hearing within twenty (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 may order that the SRPMIC 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 SRPMIC Finance Department and parties.

Sec. 10-66. Termination.

- (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, except for good cause shown, the payor'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.
- (b) On petition of a person who has been ordered to pay child support, the court may order the child support to terminate without a hearing:
 - (1) If clear and convincing evidence is provided showing that the minor child has reached the age of majority and graduated high school,
 - (2) If clear and convincing evidence is provided showing the minor child has reached age of nineteen

- (19); or
- (3) Court has not issued continuing child support due to a child's disability.
- (c) 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.
- (d) 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.
- (e) A minor's receipt of their own per capita payments shall not prevent a parent from continuing to receive child support. The court may reduce the child support obligation upon showing that the child's per capita or trust distributions goes toward the child's support and care needs.

Sec. 10-67. Determination of controlling order.

- (a) 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.
- (b) 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 (1) of the tribunals would have continuing, exclusive jurisdiction:
- a. An order issued by a tribunal where the child has resided for the last six (6) months controls;
- b. If an order has not been issued where the child has resided for the last six (6) 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.
- (c) Sovereign immunity. Nothing in this division within this Community Code of Ordinances shall be construed as a waiver of sovereign immunity of the Community.

Sec. 10-68. Overpayments.

- (a) A payor whose obligation to pay support has terminated may file a request for reimbursement against the payee for support payments made in excess of the amount ordered if made within three (3) years of when the overpayment was issued.
- (b) The court may enter a judgment for reimbursement against the payee if the court finds that the payor's obligation to pay support has terminated and that all arrearages have been satisfied.
- (c) The payee must pay the judgment through the clerk of the court. The Court may order payments to be made pursuant to section 10-65.
- (d) A judgment entered pursuant to this section does not constitute a support judgment and is enforceable in the same manner as a civil judgment.

C E R T I F I C A T I O N

Pursuant to the authority contained in Article VII, Section 1(k) of the Constitution of the Salt River Pima-Maricopa Indian Community (as amended), ratified by the Tribe on February 28, 1990, and approved by the Secretary of the Interior on March 19, 1990, the foregoing Ordinance was adopted this 12th day of June, 2024, in a duly called meeting of the Community Council at Salt River, Arizona, at which a quorum of 7 members was present, by a vote of 6 for; 1 opposed; 0 abstaining; and 2 excused.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY COUNCIL



Martin Harvier, President

ATTEST:



Erica Harvier, Secretary

Approved as to Form by the
Office of the General Counsel
Simon Goldenberg
June 4, 2024

