

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY
10,005 East Osborn Road
Scottsdale, Arizona 85256**

ORDINANCE NUMBER: SRO-464-2015

AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE VII, TO ADD AND RESERVE SECTIONS 10-258 THROUGH 10-263 AND TO CREATE A NEW ARTICLE VIII, TO INCLUDE SECTIONS 10-264 THROUGH 10-270, FOR THE PURPOSE OF ESTABLISHING GRANDPARENTS' RIGHTS.

BE IT ENACTED:

That Chapter 10 of the Salt River Pima-Maricopa Indian Community Code of Ordinances is hereby amended by reserving Sections 10-258 through 10-263 at Article VII and by creating a new Article VIII, Grandparents' Rights, at Sections 10-264 through 10-270, to be effective upon enactment and to read as follows:

ARTICLE VIII. GRANDPARENTS' RIGHTS

Sec. 10-264. Purpose; Definitions.

(a) The purpose of this Article is to preserve the opportunity of children who are enrolled members of the Community, or eligible for membership in the Community, and who are within the jurisdiction of the Community Court, to form and maintain meaningful relationships with grandparents who play an important role in their care, development, education and nurturance. The goal is also to promote and encourage children to have ties to their grandparents, not just in their interest but in the Community's interest as well. The tie or connection is more than just a relationship with the grandparent, for some children it may be their only connection to their heritage and culture.

(b) Pursuant to this Article, a grandparent may file a petition for paternity and/or visitation.

(c) *Grandparent* means an adult family member who is recognized according to the customs and traditions of the Salt River Pima-Maricopa Indian Community as being of sufficient relation to provide the nature of care common in a grandparent-grandchild relationship for a child who is within the jurisdiction of the Community Court. These family members include, but are not limited to, a biological grandparent, aunt, uncle, cousin, or step-grandparent. A grandparent relationship may be recognized even if the child's biological father has not established paternity.

(d) *Personal jurisdiction* refers to a court's authority over the parties to a case, which allows the court to make rulings on the case and to enforce its decision upon a party to the suit.

(e) *Visitation Plan* refers to a grandparent's physical access to a child at specified days and times.

Sec. 10-265. Jurisdiction; Notice; Service.

(a) Personal jurisdiction over an individual under this ordinance may be established pursuant to Section 10-3.

(b) Notice to persons outside this Community shall be made pursuant to Section 10-3.

(c) Service of subsequent documents shall be made pursuant to Section 10-3.

(d) Service and Summons shall be made pursuant to the Community's Rules of Civil Procedure.

Sec. 10-266. General Provisions; Confidentiality.

(a) Generally. The general public shall be excluded from the proceedings under this Article. Only the parties and their counsel may attend the hearing. However, other persons determined to be appropriate by the court shall be admitted or the parties may consent to the interested person's attendance. Witnesses are to remain outside the courtroom until they are called to testify. After a witness has testified, he or she will be excluded and/or excused from the courtroom unless the parties have no objections to that person's presence in the courtroom.

(b) If the child is a dependent ward of the court, the grandparent shall provide evidence in the petition that the grandparent has attempted to resolve visitation with the Community's Social Services Department. The Court shall not proceed with the petition for grandparents' rights until such evidence has been provided.

(c) If the grandparents' rights proceeding has been joined with a dependency action, the grandparent shall be allowed to intervene in the dependency action only for the limited purpose of addressing their petition for grandparents' rights.

(d) If the grandparents' rights proceeding has been joined with a dependency action, the Court shall excuse the grandparent from the courtroom until such time as the petition for grandparents' rights is being heard or allow the grandparents to remain in the courtroom pursuant to subsection (a) above.

(e) Confidentiality. The records filed under this Article shall be confidential. Only parties to the case may obtain copies pursuant to Section 11-28.

(f) Any party may use petitions or court documents other than those that may be provided pursuant to this Article if the documents are substantially similar and contain the information required under this Article.

Sec. 10-267. Petition for Grandparents' Rights.

(a) A grandparents' rights proceeding shall be governed by the Community's Rules of Civil Procedure unless otherwise stated within this Article.

(b) A grandparent seeking to obtain visitation rights under this Article may petition for these rights in any of the following types of court cases:

- (1) The same action/case number in which the parents had their marriage dissolved or in which the court determined paternity ; or
- (2) The same action in which the Court found the child to be a dependent ward of the Community Court; or
- (3) File a separate civil case, if the child resides within the Salt River Pima-Maricopa Indian Community and no previous action has been filed or the court entering the decree of dissolution or determination of paternity no longer has authority over the matter.

(c) Contents of Petition. A petition for establishment of grandparents' rights shall contain the following, and if unknown, the petition should identify what information is unknown:

- (1) For each parent, child, legal guardian and grandparent, provide the name, date of birth, address and whether such address is within the geographical boundaries of the Community, and tribal affiliations if applicable;
- (2) The basis for the Court's authority to hear the case pursuant to Section 10-3;
- (3) The grandparents' relationship to the child and what the grandparent is requesting the court to order;
- (4) Any previous requests for visitation by the grandparent to the child's parent(s) or legal guardian and the result of those requests;
- (5) If the child is a dependent ward of the court, any efforts made by the grandparent to establish visitation through the SRPMIC Social Services Department and any visits that social services established;
- (6) The current or proposed visitation plan; and
- (7) A statement of whether any of the following types of proceedings involving the parents or the child are pending or have taken place in any court or

administrative agency and, if so, the date, case number, and name and location of the court or agency:

- a. Child custody proceeding, including those in a divorce proceeding;
- b. Paternity establishment or disestablishment of paternity proceeding, including those in a divorce proceeding;
- c. Juvenile dependency, incorrigibility, or delinquency proceeding;
- d. Proceeding requesting a domestic violence protective order or no contact order; or
- e. Proceeding requesting a restraining order involving the child or a parent or legal guardian.

Sec. 10-268. Grandparents' Rights Hearing; Standards; Order.

(a) Procedure. The Court shall schedule a hearing on the petition. The hearing shall be held within sixty (60) days of the petition being filed but may be extended for good cause shown. A copy of the petition filed under this Article shall be served on each of the child's parents, and any legal guardian(s), together with a notice of hearing that specifies that evidence and testimony will be taken at the hearing and that the court may make a visitation order at the close of the hearing.

(b) The Court may order visitation rights if it finds that visitation would be in the best interest of the child. In making this determination, the Court shall take into account the following factors:

- (1) The length and quality of the relationship between the grandparent and the child;
- (2) The length and quality of the relationship between the grandparent and each of the child's parents and/or legal guardian;
- (3) The length and quality of each of the parent's and/or legal guardian's relationship with the child, and the parent's and/or guardian's ability to provide appropriate care to the child without visitation by the grandparent;
- (4) The length and quality of relationship between the child's parents;
- (5) If the court determines the child is of sufficient age and maturity to express his or her opinions, the court may take into account the child's wishes. The

child's wishes may be reported by the social worker and/or Guardian Ad Litem if the minor child has a social worker or Guardian Ad Litem or other means such as an in camera interview with a minor child age fourteen (14) years or above. On motion of any party, the court may, in its discretion, conduct an in camera interview with a minor child who is younger than fourteen (14). An in camera interview shall be conducted pursuant to 11-176(c).

- (6) The benefit or harm to the child if the Court granted visitation rights to the grandparent, including the child's physical and mental state and his or her ability to develop a positive relationship with the grandparent.
- (7) Any safety concerns that would be harmful to the child's well-being.
- (8) The amount of visitation time requested and the potential negative impact that visitation would have on the child's regular activities.
- (9) The reason and motivation of the grandparent in seeking visitation.
- (10) The reason and motivation of the person denying visitation.
- (11) The benefit of maintaining an extended family relationship if one or both of the child's parents or legal guardian is deceased or one or both of the child's parent or legal guardian has been missing for at least three months. For the purposes of this paragraph, a parent is considered to be missing if the parent's location cannot be determined and the parent has been reported as missing to a law enforcement agency.
- (12) Any other facts the Court deems appropriate.

(c) If possible and appropriate, the Court shall order visitation by the grandparent to occur when the child is residing or spending time with the parent through whom the grandparent claims a right of access to the child. If a parent is unable to have the child reside or spend time with that parent, the Court shall order visitation by the grandparent to occur when that parent would have had that opportunity.

(d) The grandparent shall have rights of reasonable visitation unless the Court finds that the visitation would reasonably endanger the child or significantly impair his or her emotional development.

- (1) The court may order restrictions on the visitations, such as requiring that the visits to be supervised.

(e) Order. Within thirty (30) days of the hearing, the Court shall issue an order. All orders shall be in writing and shall specify to the greatest extent possible the rights, if any, that are awarded.

Sec. 10-269. Parental Rights Previously Terminated; Remarriage of Surviving Parent; Cost of Visitation.

(a) Parental Rights Previously Terminated. If the parental rights of one or both parents have been terminated, a grandparent may be given reasonable visitation rights if the Court determines it would be in the best interest of the child.

(1) If the child was born out of wedlock and the parental rights of the father have been terminated, the parents of the father shall not have a right of visitation authorized by this Article unless all of the following are true:

a. The Court determines that a previous relationship existed between the grandparent and the child, unless there is good cause for why a relationship could not have existed.

b. The Court determines that visitation rights would be in the best interest of the child.

(2) If the child is born out of wedlock and the parental rights of the mother have been terminated, the parents of the mother shall not have a right of visitation authorized by this Article unless all of the following are true:

a. The Court determines that a previous relationship existed between the grandparent and the child, unless there is good cause for why a relationship could not have existed.

b. The Court determines that visitation rights would be in the best interest of the child.

(b) Remarriage of Surviving Parent. If one natural parent is deceased and the surviving natural parent remarries, any subsequent adoption proceedings shall not terminate any court-granted grandparents' rights belonging to the parents of the deceased natural parent unless said termination of grandparents' rights is ordered by the Court after opportunity to be heard, and the Court determines termination to be in the best interest of the child.

(c) Costs of Visitation. Any transportation costs or other costs arising from visitation ordered pursuant to this Article shall be paid by the grandparent requesting the visitation.

Sec. 10-270. Establishment of Paternity; Full Faith and Credit.

(a) A grandparent may file a petition for paternity by standing in loco parentis (in the place of a parent) to the child even if the parent's rights have been terminated. The grandparent may establish paternity pursuant to Chapter 10.

(b) Full Faith and Credit. Orders of state courts and other tribal courts involving grandparent visitation rights to children over whom the Court could assume jurisdiction shall be recognized and given full faith and credit if:

- (1) The issuing court had jurisdiction over the parties and the subject matter;
- (2) The procedures specified in the Indian Child Welfare Act, if applicable, were properly followed; and
- (3) Due process and other rights provided by the Indian Civil Rights Act were accorded all interested parties.

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

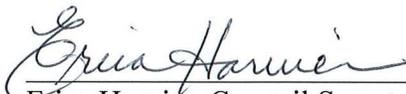
This Ordinance is hereby enacted pursuant to the authority contained in Article VII, Section 1(c)(5) of the Constitution of the Salt River Pima-Maricopa Indian Community ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, and amended by the Tribe, February 27, 1996, and approved by the Secretary April 23, 1996, the foregoing Ordinance was adopted this 27th day of May, 2015, in a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 9 members were present by a vote of 9 for; 0 opposed, 0 abstentions, and 0 excused.

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL**



Delbert W. Ray, Sr., President

ATTEST:



Erica Harvier, Council Secretary

