

**Salt River Pima-Maricopa
Indian Community**
10005 East Osborn Road
Scottsdale, Arizona 85256

ORDINANCE NUMBER: SRO-314-06

In order to protect the safety, health and welfare of the Salt River Pima-Maricopa Indian Community and to provide for the protection and welfare of children by providing certain necessary technical amendments to Chapter 11, Article VIII, Truancy SRO-307-06.

BE IT ENACTED THAT:

Chapter 11, Article I, § 11-4(a) is amended to add the following new subpart:

- (8) Over truancy matters pursuant to Article VIII of this Chapter.

BE IT FURTHER ENACTED THAT:

Chapter 11, Article VIII, §11-100 through §11-109 of the Salt River Pima-Maricopa Indian Community Code of Ordinances is amended as follows:

ARTICLE VIII.

TRUANCY

Sec. 11-100. Definitions.

As used in this section:

- (a) "Absence" means unexcused or unverified nonattendance in school. A single absence is equivalent to:

- (1) For elementary school students, unexcused or unverified nonattendance for an entire school day pursuant to school policy; or
- (2) For secondary school students (grades 7 through 12), unexcused or unverified nonattendance pursuant to school policy for either of the following:
 - (A) An entire school day; or

(B) A total of seven (7) periods (which may occur in different classes or on different days); or

(3) Tardy for:

(A) Five (5) class periods in a term for seventh through twelfth grades, pursuant to school policy; or

(B) Five (5) school days in a term for elementary school pursuant to school policy.

(b) "Fail to attend school during the hours school is in session" means that the student has one or more absences as defined in Section 11-100(a) which are referable under school policy to an attendance officer for citation.

(c) "Habitually truant" means a child who is truant for at least ten (10) school days in a term whether consecutive or not; being habitually truant may be deemed an incorrigible act by the Court.

(d) "Reasonable effort to notify" means:

(1) If a telephone number is available, attempting to contact the person by telephone at least two times a day on 3 different days; and

(2) If the residence of the person is known and within the Community, attempting to contact the person at the residence three times; and

(3) If the workplace is known and is within the Community, attempting to contact the person once at the workplace.

(e) "School" means any public school, state-approved charter school, Bureau of Indian Affairs boarding or grant school, private, secular or parochial school, whether a boarding or day school, which has been duly licensed by the United States or any state, or any school or instructional program operated by or under the jurisdiction of the Salt River Pima-Maricopa Indian Community.

(f) "School day" means any day that children are in attendance at school for instructional purposes for grades Kindergarten through sixth. For grades 7 through 12, school day means one entire class period.

(g) "Tardy" means an unexcused or unverified failure to arrive at school or for a class period on time (that is, by the time the school day or class period begins).

(h) "Truant" or "truancy" for the purposes of this Article means: One or more "absences" as defined in this section 11-100 that have been referred or are referable to an attendance officer for citation pursuant to the administrative

truancy procedures adopted by a Community school and approved by the Salt River Community Board of Education or that have been referred by a school outside the Community pursuant to procedures which have been formally deemed equivalent by the Salt River Community Board of Education.

(i) "Truant child" means a child who is at least five (5) years of age but less than eighteen (18) years of age who is truant.

Sec. 11-101. School instruction.

Every child between five (5) and eighteen (18) years of age shall be instructed in at least the subjects of reading, grammar, mathematics, language and culture, social studies and science.

Sec. 11-102. School attendance.

(a) It is unlawful for any child between five (5) and eighteen (18) years of age who resides within the Community to fail to attend school during the hours school is in session, unless:

- (1) A court of competent jurisdiction has determined that the physical or mental condition of the child makes regular school attendance inexpedient or impracticable;
- (2) The child's absence is due to verified or verifiable temporary illness, disease or injury;
- (3) The child is accompanied by a parent, guardian or custodian or person authorized by a parent, guardian or custodian and the child's absence is due to a compelling verified or verifiable reason such as death or serious illness of an immediate family member, legal proceedings, etc.;
or
- (4) The child has completed the required instructional program for graduation or its equivalent.

(b) The parent, guardian or custodian of a child between five (5) and eighteen (18) years of age shall enroll the child in and ensure that the child attends school for the full time school is in session. A parent, guardian or custodian of the child who fails to enroll a child or fails to ensure that the child attends school for the full time school is in session shall be subject to the civil penalties set forth below.

(c) A child who is habitually truant, as defined in section 11-100(c) may be:

- (1) Pursuant to Section 11-4, adjudicated an incorrigible child, as defined in section 11-1(b); and

(2) Instead of or in addition to the adjudication, subject to a civil fine and other civil sanctions set forth below in sections 11-106 and 11-108 through 11-109.

(d) In the event a child is adjudicated unable to attend school regularly pursuant to section 11-102(a)(1) above, the parent, guardian or custodian shall arrange for instruction through an approved alternative education program. The parent, guardian or custodian shall notify the Salt River Pima-Maricopa Indian Community Department of Education and/or the school officials of the district in which the child is enrolled or eligible to enroll.

Sec. 11-103. Attendance officer.

(a) The Salt River Pima-Maricopa Indian Community may employ attendance officers to enforce the law relating to school attendance of children between the ages of five (5) and eighteen (18) years to implement Article VIII of this Chapter of the SRPMIC Code.

(b) The attendance officers shall be authorized to:

- (1) Issue a civil citation for alleged violations of this section.
- (2) Refer all violations of this section to the Salt River Pima-Maricopa Indian Community Prosecutor for prosecution.
- (3) The attendance officer shall make a reasonable effort to notify the child's parent, guardian or custodian that the citation was issued and that the parent, guardian or custodian is required to appear in court with the child. The attendance officer shall provide proof of such notice, if available, to the court or shall provide a description of the attempts to provide notice.

Sec. 11-104. Citation

(a) A short form citation may be used and shall include the name of the child and the parent, guardian or custodian, and the dates alleged to be truant, and shall indicate the time for the court appearance.

(b) The citation shall require the person cited to appear before the juvenile court and shall advise the person to whom the citation is issued that failure to appear at the time and place specified in the citation may result in the issuance of a warrant for the person's arrest.

(c) A citation shall be issued to any adult and/or child over the age of 12 who is alleged to be in violation of this section.

(d) A citation may be issued to any child 12 years of age or older who is alleged to be in violation of this section, regardless of whether the parent,

guardian or custodian is also cited.

(e) A citation issued to a child under eighteen (18) years of age shall require the child's parent, guardian or custodian to appear with the child at the time and place specified in the citation; provided however, the child may be civilly sanctioned under this section even if there is no proof the parent, guardian or custodian was served but the parent, guardian or custodian does appear at the hearing.

(f) A truant child shall be referred to an attendance officer for citation when:

- (1) The student refuses to participate in the school's administrative truancy procedures; or
- (2) The truancy continues despite the school's administrative truancy procedures.

Sec. 11-105. Waiver of School Attendance.

The requirement of school attendance in section 11-102(a) may be waived under the following four (4) conditions:

(a) The minor meets one of the following:

- (1) The minor has no one to support him or her or no place to live rent free and it is not possible to arrange a normal school schedule around necessary employment or child care; or
- (2) The minor does not have sufficient credits to graduate by June of the calendar year in which he or she will turn nineteen (19) years of age even if he or she attends school full time, including summer school; or
- (3) The minor will be eighteen (18) years of age by December 31 of the next calendar year and has fewer than six (6) high school credits; and

(b) The SRPMIC Education Department or Salt River High School certifies that the minor fits within one or more of the criteria listed above in (a); and

(c) There is an alternative training/educational plan for the minor which will ensure that a GED is earned within one year, or within two (2) years if part of an on-going vocational training program; and

(d) The SRPMIC Education Board approves the waiver.

Sec. 11-106. Informal Agreement

On a first violation only, the prosecutor shall have the discretion to adjust the citation, at any time prior to the adjudication, by entering into an informal adjustment agreement with the respondent(s). The informal adjustment agreement shall be consistent with section 11-17, except that (1) only the prosecutor shall be authorized to enter into such an agreement and (2) the agreement may be entered into after the citation has been filed. If the terms of the agreement are not met, the prosecutor shall pursue the truancy matter as set forth in Sections 11-107 et seq. , including but not limited to the mandatory fine. Any tardiness or truancy subsequent to the date of the informal agreement shall constitute an automatic termination of the agreement.

Sec. 11-107 Community Court Hearings

(a) Procedures for a hearing pursuant to this Article shall be governed by Section 11-3 of this Code, and the standard of proof shall be preponderance of the evidence.

(b) A person or persons listed in the school's records for the current school year as the parent, guardian or custodian shall be presumed to be a parent, guardian or custodian for purposes of this section; provided however, this presumption may be rebutted by a preponderance of the evidence.

(c) Lack of knowledge of the child's truancy shall not be a defense to finding of a violation of this section.

(d) The time set for adjudication shall be at least five (5) and no more that ten (10) business days from the date of citation;

(e) The Salt River Pima-Maricopa Indian Community Court shall hold hearings each week for all alleged violators of this section who have been issued citations in the previous ten (10) days.

(f) A truancy citation shall not be dismissed solely because the respondent(s) was not served and did not appear.

(g) Hearings may not be continued unless the Court finds that:

(1) A serious emergency circumstance exists that prevents the respondents from attending the hearing; or

(2) The Attendance Officer who issued the citation is not at work the day of the hearing or is otherwise unable to attend the hearing; or

(3) The respondent(s) do not appear at the hearing and there is no proof of service in the record; or

(4) Other serious circumstance that requires a continuance in the interest of justice.

(h) If a child has received a citation and the attendance officer is unable to provide notice to the parent, guardian, or custodian after making a reasonable effort to give notice, the court may take one or more of the following actions:

(1) Issue an order to show cause for the parent, guardian or custodian; or

(2) Order service of process pursuant to Rule 5-13(d), (e) or (f) of the Rules of Civil Procedure for the Salt River Pima-Maricopa Indian Community Court.

(i) If the respondent(s) received proper notice, the Court may:

(1) Hold the hearing without the presence of one or more respondents; provided however witnesses must be called and evidence presented to substantiate the allegations of the citation.

(2) Instead of or in addition to holding the hearing, the Court may continue the hearing and issue a bench warrant for the respondent(s) who failed to appear. The bench warrant shall direct that the person be brought to the court at the first opportunity and if the person signs a promise to appear, the person shall be released immediately; the Court may also allow the respondent to appear in Court voluntarily and the bench warrant will be quashed.

Sec. 11-108. Fines

(a) Fines shall be assessed as follows against parents, guardians, custodians and children 12 years of age or older who are found by the Court to have violated this Article:

(b) A civil fine of one thousand dollars (\$1000.00) for the first finding of a violation; provided however the Court may order that the amount of the fine, minus court costs, be rebated to the respondent(s) only if all of the provisions of the court order have been fulfilled and there has been no further truancy citation(s) for the subsequent 5 months of school or until graduation, whichever comes first.

(c) A civil fine of two thousand five hundred dollars (\$2500.00) for the second finding of a violation.

(d) A civil fine of five thousand dollars (\$5000.00) for the third finding of a violation.

(e) Five hundred dollars for each unexcused, unverified absence after the finding of a third violation.

(f) If a Community member who receives per capita payments has not paid a fine by other means prior to the next quarterly per capita payout, all such fines shall be deducted from the per capita payment(s) of the parents, guardians, custodians and children over the age of 12 beginning with the next scheduled payment and continuing until the entire amount due is paid consistent with SRPMIC Administrative Policy 3-4 or a similar policy approved by the Salt River Pima-Maricopa Indian Community Council.

(g) For persons who do not receive Salt River Pima-Maricopa Indian Community per capita payments, fines shall be paid as directed by the Court and may be collected as any other civil fine or judgment.

(h) The fines set forth in this section are mandatory, which means that the fines must be imposed and cannot be suspended or deferred.

(i) Fines shall be assessed on a per child and per violation basis.

(j) For any truancy violation in a citation for each individual child, the court has discretion to determine whether one of or both the cited child or the cited parent, guardian or custodian shall be responsible for the mandatory fines, so long as the mandatory fine is imposed on at least one or the other.

(k) The computation of first, second, etc., violations of this chapter shall begin anew each school year.

Sec. 11-109. Additional civil sanctions

In addition to a civil fine, upon a finding of a violation of this Article the court may order one or more of the following:

(a) Community service to be performed by a parent, guardian or custodian and/or the student;

(b) Saturday school or a similar program to be attended by both a parent, guardian or custodian and the student;

(c) Participation in any other intervention or rehabilitative program;

(d) A report to the Court on school progress and attendance as described by the Court;

(e) A requirement for the student to be at his home, workplace or school during certain hours as set by the Court.

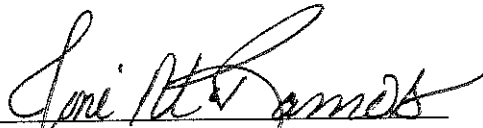
The effective date of this Ordinance amendment is August 16, 2006.

Enacted under the authority of Article VII, §§ 1(c)(1) and (4) of the Constitution of the Salt River Pima-Maricopa Indian Community.

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

Pursuant to authority contained in Article VII, , §§ 1(c)(1) and (4) of the Constitution of the Salt River Pima-Maricopa Indian Community ratified by the Tribe, February 29, 1990 and approved by the Secretary of the Interior, March 19, 1990 and amended by the Tribe, July 26, 2005, and approved by the Secretary, August 15, 2005, the foregoing ordinance was adopted this 16th day of August, 2006, in a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 7 members were present by a vote of 6 for; 0 opposed, 1 abstention, and 2 excused.

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


Jopi M. Ramos, President

ATTEST:


Erica Harvier, Community Secretary

*Approved as to Form by the
Office of the General Counsel
Jerry Derrick
August 16, 2006*

