



# GILA RIVER INDIAN COMMUNITY

## SACATON, AZ 85147

### ORDINANCE GR-07-13

**THE GILA RIVER INDIAN COMMUNITY COUNCIL HEREBY AMENDS THE 2009 GILA RIVER INDIAN COMMUNITY CODE BY AMENDING TITLE 8, CIVIL CODE TO INCLUDE A NEW CHAPTER 11, CIVIL CONTEMPT OF COURT**

- WHEREAS,** the Gila River Indian Community Council (the “Community Council”) is the governing body of the Gila River Indian Community (the “Community”), a federally recognized and sovereign Indian tribe; and
- WHEREAS,** the Community Council is authorized by Article XV, Section 1(a)(9) of the Constitution and Bylaws of the Community (March 17, 1960) (the “Constitution”) to promote and protect the health, peace, morals, education, and general welfare of the Community and its members; and
- WHEREAS,** the Community Council is authorized by Article XV, Section 1(a)(19) of the Constitution to pass ordinances necessary or incidental to the exercise of any of their powers authorized by Article XV, Section 1(a) of the Constitution; and
- WHEREAS,** the power to enact laws and ordinances is an inherent function of self-government which the Community has exercised over the years; and
- WHEREAS,** the Criminal Code currently includes a contempt of court over any person, Indian or non-Indian, including a penalty of imprisonment for a period not to exceed six months, or a fine not to exceed \$500.00, or both; and
- WHEREAS,** there are currently no civil code provisions in the Community’s Code for civil contempt of court; and
- WHEREAS,** creating separate criminal and civil offenses for contempt of court would assist in clarifying the jurisdictional authority when contempt is committed by a non-Indian; and
- WHEREAS,** criminal contempt of court would be punishable by a term of imprisonment, a fine, or both; while civil contempt of court would be punishable by a fine only; and
- WHEREAS,** civil contempt of court would be codified into the 2009 Gila River Indian Community Code at Title 8, Civil Code, Chapter 11, Civil Contempt of Court; and

**WHEREAS,** the amendment to the Civil Code has complied with pre-adoption notification procedures pursuant to Title Eight, Chapter Seven, Section 8.703 of the 2009 Gila River Indian Community Code by publication in the Gila River Indian Community News and posting at all seven district service centers. Additionally, the amendment to the Civil Code was presented at all seven district meetings during March, 2013 and April, 2013; three public hearings for Community member employees on March 21, 2013; and one public hearing for Community member employees on March 28, 2013; and

**WHEREAS,** the Legislative Standing Committee recommends the enactment and amendment of Title 8, Civil Code to include a new Chapter 11, Civil Contempt of Court.

**NOW, THEREFORE, BE IT ENACTED,** the Community Council hereby amends Title 8, Civil Code to include a new Chapter 11, Civil Contempt of Court, as attached.

**BE IT FURTHER ENACTED,** that the amendments to Title 8, Civil Code, Chapter 11, Civil Contempt of Court shall become effective January 1, 2014.

**BE IT FINALLY ENACTED,** that the Governor, or in the Governor's absence, the Lieutenant Governor, is hereby authorized to take all steps necessary to carry out the intent of this enactment.

**CERTIFICATION**

Pursuant to authority contained in Article XV, Section 1, (a) (7), (9), (17), (18), (19), (b) (8), (10), and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the tribe January 22, 1960, and approved by the Secretary of the Interior on March 17, 1960, the foregoing ordinance was adopted on the **15th** of **May 2013**, at a regular Community Council meeting held in **District 3, Sacaton, Arizona** at which a quorum of **14** Members were present by a vote of: **11** FOR; **3** OPPOSE; **0** ABSTAIN; **3** ABSENT; **0** VACANCIES.

GILA RIVER INDIAN COMMUNITY

\_\_\_\_\_  
GOVERNOR

ATTEST:

*Linda Andrews*  
\_\_\_\_\_  
COMMUNITY COUNCIL SECRETARY



2013 MAY 27 11:00 AM  
GILA RIVER INDIAN COMMUNITY

**TITLE 8.                  CIVIL CODE**  
**CHAPTER 11.          CIVIL CONTEMPT OF COURT**

**8.1101. CIVIL CONTEMPT OF COURT.**

A. A person, whether Indian or non-Indian, commits the offense of civil contempt of court if he knowingly and intentionally does any of the following:

1. While in Court, engages in conduct which is disorderly, contemptuous, or insolent conduct, tending to interrupt any criminal or civil proceeding or which lessens the respect due to the Court's authority;
2. Commits a breach of the peace, boisterous conduct, or a violent disturbance in the presence of the judge, or in the immediate vicinity of the court held by him, tending to interrupt the due course of a trial or other judicial proceeding;
3. Refuses to be sworn as a witness in any court proceeding;
4. Refuses to serve as a juror;
5. Fails without excuse to attend a trial at which he has been chosen to serve as a juror;
6. Fails to pay a fine or restitution that was ordered by the court.
  - a. The clerk of the court shall notify the Office of the Prosecutor and the sentencing court whenever a defendant defaults in the payment of a fine or restitution.
  - b. The court, on motion by the prosecutor, or on the court's own motion, may order the defendant to appear for a hearing to show cause why the defendant's default should not be treated as contempt.
  - c. At the hearing, the prosecutor, the court and any person entitled to restitution may examine the defendant under oath concerning the defendant's ability to pay the fine or restitution.
  - d. If the court finds the defendant has shown sufficient cause for not paying the fine or restitution, despite sufficient good faith efforts to obtain the monies, the court may enter any reasonable order that would assure compliance with the order to pay, including ordering garnishment of the defendant's per capita payments if applicable.
  - e. If the court finds the defendant has not show sufficient cause for not paying the fine or restitution, it will be considered contempt has been committed as provided in paragraph C of this section. If a detention

sentence is imposed, the sentence must be commuted upon satisfaction of the debt.

- f. Any penalty ordered under this section does not affect the obligation to pay any fines or restitution previously ordered, including those fines or restitution ordered in the underlying matter.
- B. When contempt is committed in the immediate view and presence of a judge, the judge must make an order reciting the facts as the facts occurred, and that the person proceeded against is guilty of contempt, and that the matter will be set for a sentencing hearing.
- C. When contempt is not committed in the immediate view and presence of the judge it may not be punished except after notice to the defendant stating the facts and setting a hearing. The defendant shall be given a reasonable time to prepare his defense and shall be entitled to be represented by counsel and to present witnesses. Any charge under this offense must be established by clear and convincing evidence. If the contempt charge is for disrespect to or criticism of a judge, that judge shall be disqualified from hearing the contempt charge.
- D. The penalty for civil contempt of court shall a fine not to exceed \$5,000.00.