

**Public Comments on Proposed Amendments to the  
Guardianship / Conservatorship Ordinance  
Comment Period: July 9, 2025 – October 10, 2025**

On Wednesday, July 9, 2025, the SRPMIC Council authorized a ninety (90) day public comment period for the proposed amendments to the Community's Guardianship / Conservatorship Ordinance. The draft ordinance does the following:

These amendments are fairly minor and the primary purpose of the amendments are to change the government department that manages the guardianship program. The specific amendments are as follows:

- Changes the "Health and Human Services Department" to the "Social Services Department" with respect to the government department that manages the Guardianship Division. The reason for this change is because the Health and Human Services Department is primarily focused on health services and public health initiatives whereas the Social Services Department is best suited to handle case management type of services. The Guardianship Division is primarily a case management function. A guardian provides for the daily needs of vulnerable adults including but limited to: food assistance, housing assistance, life skills training, scheduling medical care, and providing transportation for various needs.
- Currently the code mandates that the director of the Health and Human Services Department and the director of the Finance Department are solely responsible for managing the Guardianship Division and the Conservatorship Division. These code amendments will add language of "or his/her designee" as it relates to these directors. This change will allow those respective directors to delegate the duty to one of their employees which will allow for flexibility and better service to Community members.
- Currently the code requires that an audit be conducted every year for the Conservatorship Division. These code amendments would change that requirement to every other year which gives the government more flexibility and aligns with the current practice of the government wide external audits which occur every other year.

You can find the full text of proposed ordinance amendments and presentation materials at <https://www.srpmic-nsn.gov/government/ogc/proposed-ordinances/>

Please submit all comments in writing either to the Community's intranet "Ordinance Public Comment" page, or via standard mail or email to the following:

Salt River Pima-Maricopa Indian Community  
The Office of the General Counsel  
10,005 East Osborn Road  
Scottsdale, Arizona 85256  
OrdPublicComment@srpmic-nsn.gov  
Jeff.Harmon@srpmic-nsn.gov

# **GUARDIANSHIP & CONSERVATORSHIP**

## **PROPOSED CODE AMENDMENTS**



**Public Comment Period  
July 9, 2025 – October 10, 2025**

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# CURRENT ISSUE(S)

- The Health and Human Services Department are focused on health services and not necessarily case management therefore they aren't the best suited department to handle the guardianship Program.
- The current code doesn't allow for delegations to assist the department directors who oversee guardianship and conservatorship cases.
- Required financial audit is too frequent and not in line with the Community's current audit schedule.



# PROPOSED CHANGES

- Change the “Health and Human Services Department to the Social Services Department.
- Add the language “or his/her designee” for each department director reference.
- Change the required audit to every two years instead of on annual basis.



# Public Comment Period

- Council approved a 90-day public comment period.
- July 9, 2025 – October 10, 2025.
- Submit comments to the Office of the General Counsel:
  - [OrdPublicComment@srpmic-nsn.gov](mailto:OrdPublicComment@srpmic-nsn.gov)
  - [jeff.harmon@srpmic-nsn.gov](mailto:jeff.harmon@srpmic-nsn.gov)
  - (480) 362-7450
  - 10005 E. Osborn Road, Scottsdale, AZ 85256.





# QUESTIONS & ANSWERS



**THANK YOU**



### **Sec. 10-300. Purpose.**

(a) *Establishment of office.* The purpose of this article is to establish the office of the public fiduciary (office) to manage the financial and/or welfare of certain Community members determined by order of the Community court to be minor wards or incapacitated adults in need of a guardian or conservator.

(b) *Conservatorship division.* The office's conservatorship division will be a division of the Community's finance department and will serve as conservator upon appointment by the Community court to protect the real property and financial assets of certain Community members, and to act in these individuals' best interest when there is no other person or entity willing or able to act in that capacity.

(c) *Guardianship division.* The office's guardianship division will be a division of the Community's ~~social services department~~~~health and human services department~~ and will serve as guardian upon appointment by the Community court to protect the health, welfare, and educational needs of certain adult Community members, and to act in these individuals' best interest when there is no other person or entity willing or able to act in that capacity.

### **Sec. 10-301. Scope.**

(a) *The office.* This article establishes the office and governs its activities, including other necessary Community departments and staff that provide assistance and guidance to the office, when necessary.

(b) *Effective date.* This article shall be effective as of May 1, 2014. Nothing in this article shall nullify or affect any previous judicial or administrative actions pertaining to the appointment of a conservator or guardian.

### **Sec. 10-302. Definitions.**

*Agent* means a person or entity authorized to act on behalf of another, typically pursuant to a power of attorney or other written legal instrument.

*Community court* means the Court of the Salt River Pima-Maricopa Indian Community.

*Conservator* means an appointment of the office's conservatorship division by the Community court, assigned by the Finance director, or his/her designee, to manage financial assets, money and/or property for a ward.

*Guardian* means an appointment of the office's guardianship division by the Community court, assigned by the ~~health and human~~ social services director, or his/her designee, to manage the person's health, welfare and educational needs.

*Incapacitated* means any adult person who by order of the Community court is determined to be impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication or other cause to the extent that the adult person lacks sufficient understanding or capacity to make or communicate responsible decisions for themselves.



*Office* means the office of the public fiduciary.

*Routine health care* means any medical, dental or behavioral health care, including the prescribing of medication recommended by a licensed medical provider to improve or maintain the health, welfare, or personal comfort of an adult ward.

*Trustee* means a person who holds property in a trust.

*Ward* means a protected person for whom a guardian or conservator has been appointed.

### **Sec. 10-303. The office of the public fiduciary.**

(a) *Delegation of appointment.* The finance director, or his/her designee and the social services~~health and human services~~ director, or his/her designee may appoint employees to conduct the affairs of the office as necessary within their respective areas of responsibility. Any appointment or change in appointment made by the finance director, or his/her designee or by the ~~health and human~~ social services director, or his/her designee shall be in writing in the form of a letter of appointment, with notice to the Community court.

(b) *Conservatorship responsibilities.* The finance director, or his/her designee shall oversee and be responsible for the conservatorship division of the office, and will organize the office in a manner that allows the staff to effectively and efficiently conduct the affairs of the office while acting in the best interest of the ward.

(c) *Guardianship responsibilities.* The ~~health and human~~ social services ~~director~~director, or his/her designee shall oversee and be responsible for the guardianship division of the office, and will organize the office in a manner that allows the staff to effectively and efficiently conduct the affairs of the office while acting in the best interest of the adult ward.

(d) *Immunity.* Persons who serve in an advisory capacity to the fiduciary program and employees of the office, and employees of the Community court or other Community employees who participate in the fiduciary program are immune from civil liability for actions taken in good faith while acting within the scope of their authority.

### **Sec. 10-304. Duties and standards.**

(a) *Order of the court.* The office shall only act as a conservator or guardian upon written appointment by the Community court.

(1) *Adult wards.* In regards to an adult, the Community court must, in writing based on clear and convincing evidence, determine that an adult meets the definition of incapacitated and therefore unable to take care of themselves and/or their property before appointing the office as conservator or guardian.

(2) *Minor wards.* In regard to minors, the office shall only serve in the role of a conservator, and not as guardian for a minor. The office shall serve in the role of conservator when the Community court in writing makes a determination based upon clear and convincing evidence that the minor's best interest will be served by appointing a

conservator and that the minor's parents or guardians are not able to manage the minor's financial resources in a reasonable and prudent manner.

(b) *Standard of care.* The office shall administer as a prudent person would, and in satisfying this standard, the fiduciary shall exercise reasonable care, skill and caution to make decisions that are in the best interest of the ward.

(c) *Responsibilities of department directors.* The finance director and ~~health and human~~ social services director for their respective divisions shall ensure the following:

(1) That there is a written code of conduct to guide all staff who are employed within the office;

(2) That written information to the ward and all persons entitled to notice regarding the status of office being appointed conservator and/or guardian is provided;

(3) That all employees of the office receive annual training regarding their responsibilities and duties as conservator or guardian;

(4) That all persons employed by the office acting in the capacity of a public fiduciary or guardian are bonded or appropriately covered under the Community's insurance policy;

(5) That no employee of the office has ever been convicted of a crime that involves violence, a felony; or found civilly liable for any action that involved fraud, misrepresentation, material omission, misappropriation, theft or conversion; and

(6) That each employee is suitable to serve in the role of a conservator or guardian.

#### **Sec. 10-305. Office as conservator.**

(a) *Minor and adult wards.* The office may serve as a conservator for both minors and adults.

(b) *Trustee for property.* The appointment of the office as a conservator for a person vests in the conservator, title as trustee to all property or to the property specified in the order of appointment, presently held or thereafter acquired, including title to any property previously held for the ward by custodians or agents.

(c) *Limited conservatorship.* An order specifying that only part of the property of the ward vests in the conservator creates a limited conservatorship, and a Community court order declaring a limited conservatorship must expressly declare the specific responsibility of the conservator under a limited conservatorship.

(d) *Retention of rights.* The appointment of a conservator is not a transfer or alienation within the meaning of general provisions of any federal, Community or other statute or rule, regulation, insurance policy, pension plan, contract, will or trust instrument, imposing restrictions upon or penalties for transfer or alienation by the ward of the person's rights or interest.

(e) *Property as nontransferable.* Unless the Community court order states otherwise, the interest of the ward in property vested in a conservator is not transferable or assignable by the ward.

(f) *Not subject to garnishment.* Property vested in a conservator by this section and the interest of the ward in that property is generally not subject to levy, garnishment or similar process.

(g) *Court-appointed powers.* A conservator has all the powers conferred herein and any additional powers conferred by law or the Community court.

(h) *Authority in routine matters.* On appointment by the Community court as conservator, the conservatorship division of the office will act reasonably in efforts to accomplish the purpose of the appointment, without additional Community court authorization or confirmation for these routine matters:

- (1) Collect, hold, manage and retain assets of an estate including land, until, in the conservator's judgment, disposition of the assets should be made;
- (2) Receive additions to the estate;
- (3) Invest and reinvest estate assets;
- (4) Deposit estate funds in a federally insured financial institution;
- (5) Make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements and raze existing or erect new party walls or buildings;
- (6) Insure the assets of the estate against damage or loss, and the conservator against liability with respect to third persons;
- (7) Pay or contest any claim, settle a claim by or against the estate or the ward by compromise, arbitration, or otherwise;
- (8) Pay taxes, assessments, fees and other expenses incurred in the collection, care, administration and protection of the estate;
- (9) Pay any sum necessary to the ward or dependent of the ward;
- (10) Employ persons, including attorneys, auditors, investment advisors or agents, even though they are associated with the conservator, to advise or assist the conservator in the performance of administrative duties, act upon their recommendation without independent investigation and, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;
- (11) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of estate assets and of the conservator in the performance of fiduciary duties;
- (12) Execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the conservator;
- (13) Keep detail records of the wards assets and expenses; and

(14) Initiate and complete the probate process on behalf of a deceased ward for whom they were appointed conservator if such a proceeding has not been initiated by an heir within one year of the ward's death.

(i) *Accounting to the Community court.*

(1) *Initial accounting.* Within 90 days of being appointed conservator, the office shall prepare and file with the Community court a complete inventory of the assets of the ward. This initial accounting shall be examined and approved by the Community court.

(2) *Final accounting.* Upon resignation or removal of a conservator or the death of the ward, the office must provide a final accounting report to the Community court that includes a complete inventory of the assets of the ward, and all information that would be in the annual accounting to the Community court. This final accounting shall be examined and approved by the Community court.

(3) *Annual accounting to the Community court.* From the date of appointment, the office is required to provide an annual financial accounting to the Community court of the following: 1) a statement of assets at the beginning and ending of the reporting year, 2) income received during the year, 3) disbursements for the support of the ward, and 4) any other expenses incurred. This annual accounting shall be examined and approved by the Community court.

(j) *Establishment of trust, court approval.* When the conservatorship division of the office determines that establishment of a trust, created pursuant to Section 1917(d)(4)(A) or (B) of the Social Security Act, on behalf of a ward is in the best interests of the ward, the office may file a petition with the community court. The petition shall set forth necessary facts and shall state why establishment of the trust is in the best interests of the ward. The petition shall attach a copy of the trust to be executed. After a hearing and upon determining that the establishment of a trust is in the best interests of the ward, the court shall sign a written order authorizing the conservatorship division of the office to execute the trust on behalf of the ward.

**Sec. 10-306. Office as guardian.**

(a) *Authority in routine matters.* On appointment by the Community court as guardian, the guardianship division within the office will act reasonably in efforts to accomplish the purpose of the appointment, without additional Community court authorization or confirmation for these routine matters:

(1) Make provision for the care, comfort and maintenance of the ward, including the providing of food, clothing, shelter, education, and routine health care when needed including both medical and behavioral health care at an in-patient facility;

a. Consent to medical treatment to enable a ward to receive routine reproductive health examinations and non-permanent prescription contraceptive medication as well as dialysis treatment including invasive procedures;

b. Consent to medical or behavioral health care treatment that may be necessary in emergency situations, that is not routine, to preserve the life or well-being of the ward (in these situations, the guardian will notify the Community court as soon as possible but not later than the following business day of the action taken pursuant to this section);

(2) Take reasonable care of the ward's clothing, furniture, vehicles and other personal effects and commence protective proceedings if other property of the ward is in need of protection; and

(3) Provide notice to the court within five business days of any in-patient medical or behavioral health treatment.

(b) *Least restrictive setting.* A guardian shall find the most appropriate and least restrictive setting for the ward consistent with the ward's needs, capabilities and financial ability.

(c) *Ward's desires.* When appropriate, the office will make decisions concerning the ward based on the ward's values and wishes.

(d) *Reserved powers of the Community court.* The office is not authorized to do the following on behalf of the ward except upon order of the court:

(1) Make any end of life decision;

(2) With the exception of dialysis treatment, consent or give approval for any nonemergency invasive or surgical procedure;

(3) Consent to invasive or permanent contraception or termination of a pregnancy;

(4) Consent to a marriage; or

(5) Consent to the adoption of a child.

(e) *Court-appointed powers.* A guardian has all the powers conferred herein and any additional powers conferred by the Community court.

(f) *Extraordinary event.* The guardian will notify the Community court as soon as possible regarding any extraordinary situation or event that impacts the ward's health or welfare (for example, if the ward is incarcerated or charged with a crime).

(g) *Report to the Community court.*

(1) *Initial report.* Within 90 days of being appointed guardian, the office shall prepare and file a report informing the Community court of the physical and mental condition of the ward, the condition of the ward's physical residence, and any unmet needs that the ward may have. This initial report shall be examined and approved by the Community court.

(2) *Final report.* Upon resignation or removal of a guardian or the death of the ward, the office must provide a final report to the Community court that includes the physical and mental condition of the ward prior to death, and the conditions of the ward's physical residence. This final report shall be examined and approved by the Community court.

(3) *Annual report.* From the date of appointment, the office is required to provide an annual report informing the Community court about the following:

- a. Ward's physical and mental condition;
- b. The condition of the ward's physical residence; and
- c. Whether there is a continuing need for the ward to have a guardian.

**Sec. 10-307. Annual audit.**

Every two years~~On an annual basis~~, an independent auditor will review the office for compliance in regard to court orders, Community and other applicable laws, policies and standards. In the conservator setting, the annual audit will ensure financial accountability and responsible management of the ward's assets by the conservator. In the guardian setting, the audit will ensure that the guardian has acted reasonable and appropriate in managing the ward's health and welfare. The audit shall be provided to the court of the Community court, the Community manager and council.