

PUBLIC NOTICE

The Saint Regis Mohawk Tribal Council, with assistance from the Tribe's Governance Committee, is in the process of drafting amendments to the "Act relating to Tribal Council powers, Procedures, Initiative Referendum, Recall and Removal from Office" commonly referred to as the 1994 Procedures Act. The title of the amended Act will be, "SAINT REGIS MOHAWK TRIBE, TRIBAL PROCEDURES ACT, Tribal Council Procedures Act of 1994 Amended."

The Saint Regis Mohawk Tribal Council has made a decision that the Amendments to the 1994 Procedures Act are of such importance to the good governance of the Tribe, that any final Amendments shall be put to Referendum, in conjunction with the June, 2013 Election.

The changes to the Procedures Act makes it much less burdensome for Members to initiate petitions to enact laws, reject laws and place questions before the membership in a referendum process. It will also make Tribal Council's actions more transparent by requiring the council to conduct its business through regular meetings open to the membership. In addition, the Amendments establish a process for Members to review Tribal budgets and access to public Tribal records.

Prior to beginning of the formal Referendum Process, three (3) public meetings are scheduled for Tuesday February 12, 19 and 26 at 5:00 in the lobby of the Tribal Building for comments and feedback on the draft Amendments. Comments may also be put in writing, and provided to the Tribe's General Counsel, or to the Tribal Clerk's Office. All comments received by March 1, 2013, will be considered in the preparation of a final Amendment for approval through Referendum.

SAINT REGIS MOHAWK TRIBE

TRIBAL PROCEDURES ACT

Tribal Council Procedures Act of 1994 Amended

Draft Revision: January, 2013

SECTION I. TITLE – TRIBAL PROCEDURES ACT

This Ordinance shall pertain to the government of the Saint Regis Mohawk Tribe (hereafter referred to as “Tribe”) and shall be known as the Saint Regis Mohawk “Tribal Procedures Act”.

SECTION II. PURPOSE

This Ordinance will replace the “Act relating to Tribal Council Powers, Procedures, Initiative Referendum, Recall and Removal from Office” commonly referred to as the 1994 Procedures Act. This Ordinance significantly revises the 1994 Procedures Act by giving enrolled Tribal Members (hereafter referred to as Members) a greater voice in Tribal Government and making the Tribal Government more transparent and accountable to Members. The Ordinance allows more Member participation in the Tribal Government, makes it much less burdensome for Members to initiate petitions to enact laws, reject laws and place questions before the membership in a referendum process. The Ordinance also makes the Tribal Council’s (hereafter referred to as Council) actions more transparent and open by requiring the council to conduct its business through regular meetings open to the membership. In addition, the Ordinance establishes rules of conduct and procedures for regular Council Community Meetings, provides for a process allowing Members to review Tribal budgets and also allows Members access to public Tribal records.

SECTION III. DEFINITIONS

1. “Eligible Voters” shall have the same meaning as the term is defined in the, “Tribe’s Election and Referendum Ordinance, VII Eligibility of Voters”:
At the time of voting an eligible voter must:
 - A. Be at least eighteen (18) years of age.
 - B. Be an enrolled member of the Saint Regis Mohawk Tribe.
 - C. Reside in the United States or in the U.S. portion of Akwesasne for at least six months immediately prior to the election.
 - D. Have their name on the most current eligible voters list.
2. “Member” means a person who is duly enrolled as a member of the Tribe.
3. “Serious Crime” shall have the same meaning as the term is defined in the Tribal Ethics Ordinance which means, “a felony or misdemeanor not involving an act of civil disobedience but that which involves an act of moral turpitude. Crimes of moral turpitude are crimes involving dishonesty such as larceny, fraud and murder.
4. “Staggered Term” shall mean the system approved by tribal referendum in April 2004 whereby elections are held each year in June to fill two (2) of the six (6) elected officer positions – one Chief and one Sub-Chief.
“Tribal Clerk” is an elected position for a term of three (3) years.
5. “Tribal Laws and Ordinances” are forms of legislation intended to reflect the policies aimed at protecting the health, safety, well-being and sovereignty of the Tribal government and of tribal members. They are also intended to provide a lawful basis for the regulation and governance of the territory under the jurisdiction of the Saint Regis Mohawk Tribe. Tribal Laws and Ordinances shall be adopted pursuant to the procedures and requirements set forth in TCR 2011-48, Resolution of the Saint Regis Mohawk Tribe to Adopt the Procedure for Adopting Tribal Laws and Ordinances, and any amendments thereto, unless subject to the Tribal Referendum requirements set forth herein.

6. “Sovereign Authority of the Tribe” is the governmental authority to take any and all actions necessary to promote the health, safety, education and general welfare of the Saint Regis Mohawk Tribe and its members.
7. “Tribal Council Resolutions” are the recorded decisions of Tribal Council on matters requiring a formal expression of such decisions. Some examples include, but are not limited to, adoption and amendment of Tribal Ordinances or laws that do not require Referendum vote, approval of grant applications, appointment of Administrators of estates and conduct of day-to-day Tribal business operations requiring a written record of Tribal Council approval.

SECTION IV. COUNCIL

A. Composition

1. The Council shall consist of three (3) Chiefs, three (3) Sub-Chiefs and one (1) Tribal Clerk elected by Members.
2. Each year one (1) Chief and one (1) Sub-Chief will be elected to the Council on a staggered term basis.

B. Term of Office and Eligibility

1. Chiefs and Sub-Chiefs will be elected to three (3) year terms of office.
2. Tribal Clerk will be elected to a three (3) year term of office.
3. Eligibility to run for Council shall be determined by Section V of the Tribal Election Ordinance, as amended from time to time.

C. Powers and Duties of the Council

The three Chiefs shall exercise all legislative and executive powers of the Tribe including, but not limited to the following; subject to the restrictions set forth in Section V: (Removal) and Section VI: (Referendum Powers):

1. To promote and protect the health, safety, education and general welfare of the Tribe.
2. To enact ordinances and adopt resolutions as the Tribe, and to enforce the same.
3. To negotiate with Tribes, Federal, State and other national Governments.
4. To charter subordinate organizations, including housing, financial, economic development, health and other community boards and commissions, and to delegate to such organizations or to any subordinate boards or official of the organizations the power to manage the economic affairs and enterprises of the Tribe, reserving the right to review any action taken by virtue of such delegated power.
5. To establish a Tribal Education System exclusively for the benefit of its' members and residents.
6. To employ legal counsel and fix compensation and fees.

7. To regulate its own procedures for the management of Council business through the adoption of ordinances and resolutions.
8. To regulate the use and disposition of all land within the jurisdiction of the Tribe, including but not limited to, the enactment of ordinances providing for the manner of making, holding and revoking assignments of tribal lands or interest therein.
9. To enact ordinances providing for the removal or exclusion of any non-members who may remain within the jurisdiction of the Tribe.
10. To provide by ordinance for the establishment and regulation of organizations or entities including public and private corporations and for any lawful purpose which may be profit or non-profit making.
11. To borrow money and issue bonds and other evidences of indebtedness for the public purposes of the Tribe.
12. To negotiate and contract with the Federal, State, Local and other governments, and with the Council and governing authorities of other Indian Tribes or Indian organizations, and private organizations, corporations and other entities.
13. To levy and collect fees general and special assessments from any members or other person, firm or entity residing on or engaged in revenue generating activity on the land of the Tribe in order to raise revenue for the needs of the Tribe.
14. To request the Secretary of Interior to confer trust or reservation status on lands reserved for, granted to or purchased by the Tribe.
15. To advise the Tribe and members on all appropriation estimates and Federal and State projects for the benefit of the Tribe.
16. To provide by ordinance for the jurisdiction of the Tribe over Indian Child Welfare matters and all other domestic relations matters.
17. To administer the tribal government and conduct inquiries and hearing on the activities and performance of the administrative operations of the Tribal government.
18. To apply for or accept grants, cooperative agreements, and donations from any person, firm, corporation, foundation, foreign country, organization, state, local, government, or the United States of America and any subdivision or component thereof.

19. To take any action that may be necessary to defend the rights of Tribal members and the rights and powers of the Tribe.
20. To take any action that may be necessary to carry out the Initiatives of the Tribe.
21. To take any action that may be necessary to carry out the sovereign authority of the Tribe.

D. Powers and Duties of the Sub-Chiefs

1. The Sub-Chief shall have all the power and shall perform all the duties of the Chief with whom s/he is elected in the case of such Chiefs' inability to act due to the following:
 - a) Chief gives authority to his or her Sub Chief.
 - b) Chief dies during term of office.
 - c) Chief deemed incapacitated by a medical professional, , with authentication by the Tribal Chief Judge.
 - d) Chief is removed, (see Section V).
 - e) Chief resigns, Sub-Chief assumes the position of office.
2. The duties of the Sub-Chief are determined by their respective Chief.

E. Powers and Authority of the Tribal Court

1. As defined in the Tribe's Judiciary Act, as amended from time to time.

F. Powers and Authority of the Tribal Clerk

1. As defined in the Tribal Clerk Act, as amended from time to time.

SECTION V. REMOVAL

A. Recall of Tribal Council

1. Members of the Tribe shall have the right to recall a Council member by filing a petition signed with a minimum of ten percent (10%) of eligible voters with the Election Board.

a) The Recall Election shall be held when a petition containing 10% of eligible voters required above is verified by the election board.

b) Recall elections shall be managed according to the Tribal Election and Referendum Ordinance.

c) To Recall a Council Member, a majority of those voting must vote in favor of his/her Recall.

d) No Council member shall face a recall election by petition more than once during a term of office.

2. Council members may also be recalled pursuant to the provisions of the “Tribal Ethics Ordinance”, as amended from time to time.

SECTION VI. REFERENDUMS

A. Authority of Members to Initiate Referendums

Members shall have power to initiate referendums subject to the provisions set forth in this Section and in any regulations that are issued pursuant to this Ordinance (“Initiative”).

1. A referendum vote may be called to adopt new laws, reject or amend existing laws, or to pose questions on issues that affect the community.
2. In order for a referendum to be placed on the ballot for a vote, the Member must obtain the valid signatures of five percent (5%) of eligible voters.
3. In order for the referendum to be validly approved it must pass by a simple majority vote.
4. The Election Board shall conduct a Tribal Referendum within ninety (90) days of receipt of a valid petition, or if initiated within 6 months of a Tribal Election, may be held at the next Tribal Election, at the discretion of Tribal Council.

B. Authority of the Council to Initiate Referendums

1. The Council may place any proposed or existing law or question to the membership for a referendum vote by a majority vote of the Chiefs.
2. The Council must place the following issues to the membership through the referendum process:
 - a) Fundamental changes to the membership qualifications of the Tribe;
 - b) Fundamental changes to the rights of membership of the Tribe;
 - c) Fundamental changes in the residency rules and requirements of the Tribe;
 - d) Fundamental changes in the voting requirements of the Tribe;
 - e) Fundamental changes in the basic government structure of the Tribe; and
 - f) Non-budgeted, non-emergency expenditures by the Tribe, of Tribal General Funds, that are in excess of \$2.5 million.

C. Rules and Regulations Governing Referendum Elections or Initiative Referendums

1. The Tribal Election Board shall be responsible for administrating the Tribal Election and Referendum Ordinance.

SECTION VII. Monthly Tribal MEETINGS

A. General Provisions

1. The Council shall schedule regular meetings on the first Saturday of each month to conduct business and meet with Members. In rare instances, the Council shall have the ability to change the meeting date, but only upon adequate public notice.
 - a) Immediately after caucus, the May Tribal meeting is called to order.
 - b) The June Tribal meeting will be held on the second Saturday.
2. The meetings shall be held at the Tribal Community Building or such place as shall be established by the Council upon giving advanced notice to the community.
3. The meetings shall be chaired by one of the Chiefs.
4. The meetings shall be open to all Members.

5. If a Member wants to have an item on the Agenda s/he must call the Council's office no later than close of business on the Monday before the scheduled meeting.
6. The Chief who is chairing the meeting shall decide upon the final agenda for the meeting.

B. Rules of Procedure for Meetings

The Chair shall preside over the Meeting and shall use Roberts Rules of Order as a guide in conducting the meeting including reading and approval of the minutes of the previous meeting; hearing any reports from committees; consideration of unfinished business; consideration of new business; and adjournment.

1. Meetings will begin promptly at 10:00 a.m. and will adjourn no later than 1:00pm.
2. Roll call shall be taken to determine if a quorum (twenty-five (25) enrolled members and 2 of 3 Chiefs) is present, the chair shall then call the meeting to order.
3. If there is no quorum, there is no meeting.
4. If a quorum is present, the Chair shall call the meeting to order and shall explain the rules to be followed during the meeting.

C. Rules of Personal Conduct for Meetings

1. Conduct should be respectful in the Meetings.
2. Conduct should not be interruptive while another is speaking.
3. Comments should be constructive and directed to the topic that is being discussed.
4. There shall be a time limit of five (5) minutes for any one member to discuss an issue.
5. There will be no discussions of a personal nature.
6. There will be no discussions related to personnel issues.

7. Photographs and videos of the meetings are not permitted unless prior approval is obtained.
8. Violation of any of the above rules may result in a tribal member being removed from the meeting; or any other action being taken by the Chair of the meeting, including suspension of the meeting.

D. Motions from the Floor

1. Members may make motions at a Monthly meeting to request the Council to take any action that is within the Council's authority provided that there is a quorum present and the motion is seconded by a Member.
2. The motion must be presented in the format of a motion under Roberts Rules of Order so that the assembly can clearly understand what the motion is requesting.
3. The motion will pass upon a majority vote of Members, at the meeting.
4. If the motion passes, the Council will place that issue on its Agenda for the next scheduled work session and report back to the Community at the next Monthly meeting on what, if any action was taken.
5. In response to such motions, it is the responsibility of Tribal Council to consider each motion and make an independent decision whether acting upon the motion is in the best interests of the Saint Regis Mohawk Tribe, as a whole, and, if so, to take official action upon the motion.
6. In the event that the Tribal Council determines not to take action upon a motion from the floor, the Tribal member has the option of utilizing the Petition/Initiative process to require a referendum on the matter.

E. Meeting Minutes

The purpose is to have an accurate record of what is discussed

1. The Tribal Monthly meeting shall be electronically recorded by the Office of the Tribal Clerk.

2. The recording shall not be transcribed.
3. Should a tribal member wish to listen to the recording, the Tribal Clerk shall set forth a time and location for the recording to be available for review.
4. The minutes of the Tribal Monthly Meeting shall consist of a summary of the actions taken, or requested to be taken, as well as a summary of Tribal Council Resolutions passed by Tribal Council for the month immediately prior. (TCR 2011-44)

SECTION VIII. REGULAR COUNCIL MEETINGS

1. The Council shall designate a period of time to hold Regular Council Meetings to act upon resolutions, ordinances and conduct other official business of the Tribe. These meetings will be held at least two times a month (bi-monthly) or more frequently at the Council's discretion when the need arises and such meetings shall be recorded by the Tribal Clerk's Office.
2. All Regular Council Meetings will be held in the Tribal community building and is open to all Members.
3. The Council shall provide reasonable notice of the agenda to Members.
4. The Council may take official action on emergency matters outside of Regular Council Meetings; however, any action taken at such emergency meetings must be presented at the next Regular Council Meeting and must be publicly recorded. (TCR 2011-11, as amended by TCR 2011-49)

SECTION IX. COUNCIL RESOLUTIONS

1. All decisions of the Council on matters where a formal expression of approval is needed shall be written in a Resolution.
2. A Resolution may be proposed by any member of the Council, any Tribal member, or any Tribal program or department. .
3. The format of the proposed resolution shall follow the requirements set forth in TCR 2011-50.
4. A resolution shall be submitted as outlined by TCR 2011-50, as amended from time to time, and presented to Council for action in a Regular Council Meeting and shall be adopted when at least two out of three Chiefs vote to accept it.
5. Tribal Council Resolutions enacting Laws, Acts or Ordinances shall meet the additional requirements set forth below.

SECTION X. TRIBAL LAWS, ACTS and ORDINANCES

As summarized below, the procedure for enactment of Tribal Ordinances is as follows:

1. Formal enactment of Tribal Laws, Acts or Ordinances (together “Ordinances” shall be evidenced by the adoption of a Tribal Council Resolution.
2. An Ordinance may be proposed by the Council, any Tribal Member or any Department or Program of the Tribe. (A member may also propose an ordinance via the referendum process, refer to Section VI A).
3. The proposed ordinance and the review process, including provisions for review and comments by Members, is set forth in the following procedure:
 - a. Initial review by the Tribal Council shall be conducted within 30 days.
 - b. The Tribal Clerk shall issue a notice to the Tribal Membership that such legislation is being presented for comment. The date of this notice shall commence the

30 day comment period. Comments may be presented at public meetings, or in writing to the Tribal Clerk's Office.

c. Following the draft comment period, Tribal Council shall have 30 calendar days to consider the comments received and create a final draft of the proposed legislation and shall provide responses to the comments made in the form of a response summary.

d. Once a final draft is complete, it shall be submitted to the Tribal Clerk, who shall issue a notice to Tribal Membership that such legislation is being presented for final action.

e. Upon the conclusion of the final 30 day notice period, Tribal Council may take action to enact the Ordinance when at least two of three Chiefs vote to adopt the proposed legislation.

4. In the event that Tribal Council elects to put the pending Ordinance to a referendum vote or adoption of the Ordinance requires a referendum vote pursuant to Section VI, B. 2, or the Ordinance has been put forward through the Referendum Initiative process, the Referendum Election process shall be followed.

5. If the Referendum Initiative results in a vote to accept the Pending Ordinance:

a) The Election Board will insure the Appeal Process of the Referendum Election process, is adhered to.

b) The Election Board will certify the Referendum Election Vote and present the certified vote to Council.

c) The Pending Ordinance is enacted and Tribal Council shall take all steps necessary to implement the Ordinance.

6. If the Referendum Initiative results in a vote to not accept the Pending Ordinance:

a) The Election Board will conduct the Appeal Process of the Referendum Election process.

- b) The Election Board will certify the Referendum Election Vote and present the certified vote to Council.
- c) The process is terminated and the Pending Ordinance and a copy of the certified vote is presented to the drafters of the Pending Ordinance.

SECTION XI. OPEN RECORDS

A. Open Records: The following categories of information are “open” and available to Tribal members:

- a) The names and titles of employees of the Tribe;
- b) Job postings;
- c) Census data regarding population (not membership);
- d) Salary, bonuses and benefits received by elected or appointed officials of the Tribe;
- e) Human resource policy manuals;
- f) Court opinions or court decisions (subject to redaction of confidential or minor information);
- g) Tribal ordinances, policies and resolutions and amendments thereto;
- h) Publicly filed organizing documents of any Saint Regis Mohawk entity (i.e. charters);
- i) Annual financial audits, all financial disclosures that have been deemed open to Tribal Members;
- j) Minutes of Tribal Council open meetings, as per TCR 2011-55;
- k) List of eligible voters (can only be viewed in the clerk’s office from Caucus to election and only for purposes of verifying voter eligibility);
- l) Statistical data of Tribal members (numbers only); and
- m) Election candidate lists, voting results.

B. Public Records: The following information is deemed “Public” and is available to the general public.

- a) Laws and Policies
- b) Company and/or business names
- c) Newsletters
- d) Policies and procedures such as personnel policy and court procedures.
- e) Sex offender registry
- f) Media Releases and publications

C. Exceptions and Limitations

Tribal government business often includes matters relating to Tribal business enterprises. The purpose of these exceptions is to address the non-disclosure of certain business records, records of a sensitive nature, or situations where the Tribal members' right to access is outweighed by the Tribe's interest in keeping such records confidential.

The following shall be exempt from disclosure and inspection shall not be granted:

- a) Proposals and bids for any contract or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the Tribe, until an award or final selection is made and after deletion of the portions which are exempt from disclosure under this law. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made;
- b) Contracts or other agreements which specifically prohibit disclosure of the content of the contract or agreement to third parties;
- c) Any and all records related to: contracts containing a confidentiality or nondisclosure provision; any proposed contracts or employment related contracts;
- d) Any personally identifiable information including medical, financial, personnel records or similar files or information, including but not limited to Tribal enrollment numbers, social security numbers.
- e) Privileged attorney-client information or attorney work product and all related records.
- f) Records of law enforcement agencies, prosecution, or regulatory agencies that deal with detection and investigation of crimes.
- g) Matters specifically exempted from disclosure by applicable federal, state, or tribal statute or law.
- h) Any records containing proprietary information, trade secrets or information that would be deemed privileged in litigation;
- i) Drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated;
- j) Inter-office communications relating to proposals or matters which have not been introduced for consideration in an open meeting. This includes: Inter-office memorandums, personal notes, drafts, communications with staff and other records which relate to ongoing matters or works in progress currently being performed;
- k) Records that would reveal the exact location of archaeological sites;
- l) Records related to security and community safety;
- m) Any court records that would otherwise not be disclosed by the court, any records that have been sealed, any documents or records protected by attorney client privilege;
- n) Records or information for which disclosure would jeopardize the functioning of the Tribal government or an entity partly or wholly owned by the Tribe;
- o) Geological and geophysical information and data, including maps, concerning wells;
- p) Any information related to higher education and student records; and
- q) Value of rare books or collections

SECTION XII. FINANCIAL ACCOUNTABILITY

A. Special Council Meetings Required to Approve Tribal Budget

1. The Council shall hold at least three (3) Special meetings each year for the purpose of presenting and explaining to the Membership the Tribe's Annual Budget.
2. Notice of the Special Meetings and a copy (or summary) of the Tribe's Annual Budget shall be given to the membership at least fifteen (15) days prior to the Special Meetings.
3. The first Special meeting shall be held no later than November 15th each year and at this Special Meeting the Council shall present the Tribe's Annual Budget for the up-coming Fiscal Year for Community review.
4. Members will have a fifteen (15) day period to provide their comments to the Council on the Annual Budget.
5. A second Special meeting shall be held on or about December 15th each year at which the Council will review and approve the Tribal Budget.
6. A third Special meeting shall be held no later than August 15th each year and at this Special Meeting the Council shall present a mid-year report on the Approved Tribal Budget to show revenues and expenditures to that date.
7. Members are invited to attend the meetings at the Tribal Community Building.

B. Budget Modifications

1. The Tribe's expenditures for the up-coming fiscal year shall be limited to the approved Tribal Annual Budget subject to the following;

a) Budget modifications by Tribal Departments will be permitted with limits established by the Tribe's Finance Department and material modifications will be reported at the August Special meeting.

b) Any proposed modification that exceeds \$1,000,000 by the Tribe in the fiscal year must be presented in a Special Council meeting for approval.

2. In the event that the Tribal Council determines that an expenditure, not included in the Annual Budget is necessary, and is over \$2, 500,000, approval must be provided through a Referendum Vote.

SECTION XIII. AMMENDMENT PROVISION

This Act may be amended (see Section VI) by a duly conducted referendum.

SECTION XIV. SEVERABILITY CLAUSE

The provisions of this Ordinance are severable and if any part or provision shall be held void by Tribal court the decision of the Tribal court shall not affect or impair any of the remaining parts or provisions of this Ordinance.

SECTION XV. REPEAL OF PRIOR LAWS

This Ordinance repeals and supersedes all of the "Act relating to Council Powers, Procedures, Initiative Referendum, Recall and Removal from Office" commonly referred to as the 1994 Procedures Act, including amendments.

SECTION XVI. RULES OF COMPLIANCE

Failure to administer or comply with this Tribal Governance Ordinance will result in the implementation of Section V.