

**SAINT REGIS MOHAWK TRIBE  
MEMBERSHIP ORDINANCE**

**I. PURPOSE**

The purpose of this Ordinance is to establish the qualifications for membership in the SRMT, to establish a Tribal Membership Board and to provide standards and procedures for determining which persons meet the requirements for membership in the Saint Regis Mohawk Tribe.

**II. GENERAL PROVISIONS**

This ordinance shall supersede all prior existing ordinances or resolutions regarding membership on the official rolls of the Saint Regis Mohawk Tribe.

All persons who are qualified for enrollment as defined herein and who apply for membership shall be duly enrolled as members of the Saint Regis Mohawk Tribe.

Verification of qualifications for membership of individual Saint Regis Mohawk Indians shall be made pursuant to this Ordinance.

The strictest confidentiality shall be maintained to protect the individual privacy of all Saint Regis Mohawk Tribal members and their families.

In no circumstance will a duly enrolled Tribal member's membership status change based on marriage to a non-member or a non-native.

The Saint Regis Mohawk Tribe does not recognize Common Law Marriage.

**III. DEFINITIONS**

1. "Application" means the Application for Membership
2. "Clear and Convincing Evidence" means evidence that tends to show, on its face, more likely than not, that fact which is trying to be proven.
3. "Board" means the SRMT Membership (and Residency) Board.
4. "Cause" means
5. "Court" means the Saint Regis Mohawk Tribal Court.
6. "Disenrollment" means an official action done pursuant to the provisions of this Ordinance which removes and St. Regis Mohawk Tribal member from the SRMT Tribal Rolls.

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7. “Indian Tribe” or “Tribe” means any Tribe, Band, Nation, Rancheria, Pueblo, Colony or Community, including any Alaskan Native entity, and also including any Canadian First Nations Reserve, Band, Territory, including the Metis, which is recognized as a sovereign political entity.
8. “Legally Incompetent” means a Member who due to physical or mental condition, as determined by a Court of competent jurisdiction, is incapable of understanding the consequences of his or her actions. The pendency of a State Court guardianship, conservatorship, or receivership will be good and sufficient evidence establishing Legal Incompetence, unless the Trial Court upon the circumstances of the case determines otherwise.
9. “Member” means any person listed on the Membership Roll of the Saint Regis Mohawk Tribe.
10. “Membership Roll” means a record of each and every duly enrolled member of the Saint Regis Mohawk Tribe, which includes legal names, Tribal enrollment number and date of birth.
11. “Non-Member” means any person whose name is not listed on the Official Membership Roll of the Saint Regis Mohawk Tribe but who is a member of an Indian Tribe.
12. “Non-Native” means any person of ancestry other than Native American
13. “Other authenticating documents” shall include, but will not be limited to: a judgment by a court of competent jurisdiction, which shall include tribal, state or federal courts; a final decision of the Saint Regis Mohawk Tribal Council; Tribal, state or federally certified documents; or certified documents of religious affiliations.
14. “Relinquish” means the act of giving up one’s membership as an enrolled member of the Saint Regis Mohawk Tribe when done so in accordance with the procedure contained in this ordinance and which includes giving up all associated rights and privileges,.
15. “Saint Regis Mohawk Tribe” shall mean the duly enrolled members of the Saint Regis Mohawk Tribe, collectively.
16. Saint Regis Mohawk Membership Board - This Board shall be delegated the authority by the Saint Regis Mohawk Tribal Council to be responsible for all aspects of the Saint Regis Mohawk Tribal enrollment.

**17. Supporting Materials -**

18. Minor – For purposes of Membership in the SRMT, this shall mean anyone under the age of eighteen (18).

#### IV. QUALIFICATIONS FOR MEMBERSHIP IN THE SAINT REGIS MOHAWK TRIBE

A. The following persons shall have the right to membership in the Saint Regis Mohawk Tribe:

1. Individuals whose biological mother and father are or were members of the St. Regis Mohawk Tribe;
2. The children resulting from the union of any Tribal member who has only one enrolled parent and who also has four (4) great grandparent members are automatically eligible for membership.

B. The following persons may apply for the privilege of membership:

1. Married Native spouses of Tribal members, who are enrolled or eligible to be enrolled in another Tribe, when application is made in accordance with this Ordinance.
2. Adopted Native children of Tribal members who are enrolled or eligible to be enrolled in another Tribe when application is made in accordance with this Ordinance.

#### V. MARRIAGE

This section shall refer to application for membership of the married native spouse of an enrolled Tribal member. The native spouse of an enrolled member may apply for membership in the SRMT in accordance with the following:

- A. Applicants must sign a release of information form consenting to and authorizing a criminal background check.
- B. Applicants shall obtain and submit three character references from three reliable Tribal members.
- C. These additional factors may be considered in determining whether or not to grant membership in the SRMT to a non-member and could constitute a basis for denying membership:
  1. Committing domestic violence, child abuse, or child sexual abuse.
  2. Being convicted of drug related offenses ;
  3. Being convicted of violent crimes such as murder, rape or assault;
  4. Willingness to learn to speak the Mohawk language and to learn the Mohawk culture & customs.

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5. Individual or family ties of Members of the community
  6. Member of a Clan
  7. Reasons for wanting to be member
  8. Must be willing to transfer Membership to the St. Regis Mohawk Tribe after three (3) year probation.
  9. Members who are presently enrolled from the Mohawk Council of Akwesasne and who are Native will be exempt from the above.
- D. There shall be a three (3) year probationary period before membership may be granted to an Applicant under this section. During this probationary period the following conditions shall apply:
1. the Applicant will use benefits available from home territory or Nation until full membership in the SRMT is obtained, unless the applicant is presently enrolled with the Mohawk Council of Akwesasne.
  2. the Applicant may apply for and be granted a residency permit under the standard tribal rules and conditions for residency.
  3. the Applicant shall be required to abide by all laws of the SRMT, shall refrain from committing any criminal acts and shall endeavor to be a good and peaceful citizen of Akwsasne;
  4. an Applicant who violates any probationary conditions may be automatically denied membership and any residency permit may also be revoked.
  5. Probationary period extensions shall not be allowed for pending legal matters. (i.e. felony charges; fraud, etc.)
  6. The St. Regis Mohawk Tribal Clerk will process all of the above and the findings will be brought to the St. Regis Mohawk Tribe Membership/Residency Board
  7. A public announcement shall be published in the local papers for three (3) consecutive weeks, when the applicant's registration is complete.
- E. Common Law Marriage is not recognized by the St. Regis Mohawk Tribe.

## VI. ADOPTION

1. Children adopted by members of the Saint Regis Mohawk Tribe are eligible for membership in certain circumstances.
2. A child who is already a member or is eligible for membership in the SRMT and who is adopted by a non-member, retains membership or eligibility for membership.
3. A non-member child with at least one natural Indian parent who was enrolled or eligible to be enrolled in another Tribe, when adopted by a member of the SRMT is eligible for membership.

4. A non-native child adopted by an enrolled member shall not gain membership.
5. Children whose eligibility for enrollment is made pursuant to a paternity action or by acknowledgment of paternity may be enrolled.
6. A non-native or a non-member spouse shall be allowed to enroll their child, who is eligible for enrollment.
7. A person who has been previously adopted out of the Tribe, and who believes they may be of Saint Regis Mohawk Tribe descendency, may apply for membership in the same manner as any other person provided for in this Ordinance.

## **VII. PATERNITY**

The Membership Board may inquire into the paternity or maternity of an applicant or of anyone through whom an applicant claims eligibility for enrollment in the Tribe, where a reasonable basis exists to question the ancestry of the applicant.

When paternity or maternity is not established through an official birth certificate or when the descendent through whom the applicant is attempting to enroll does not appear on the birth certificate, then it is the responsibility of the applicant or their guardian to establish his or her descendency through a paternity order from a court of competent jurisdiction or through a DNA or paternity test prior to processing of the application. Paternity shall also be acknowledged by a signed acknowledgment by the natural father or by a judgment by a court of competent jurisdiction, which shall include tribal, state or federal court.

## **VIII. RELINQUISHMENT OF POLITICAL RIGHTS**

An enrolled individual Saint Regis Mohawk tribal member may voluntarily relinquish his or her political rights pursuant to this ordinance.

- A. Any adult member may relinquish his or her political rights by submitting to the Tribal Clerk a sworn statement indicating the clear intent to relinquish his or her rights and have their name removed from the Saint Regis Mohawk Tribe Eligible Voter's List. This statement shall be submitted in writing and shall be signed by the person intending to relinquish and it shall be notarized or witnessed by 2 adults. A relinquishment form established by the Saint Regis Mohawk Membership Board shall be provided to anyone wishing to relinquish their political rights as a Saint Regis Mohawk Tribal Member.
- B. The request for relinquishment of one's political rights shall be reviewed and approved by the **St. Regis Mohawk Tribal Council**.
- C. An adult person who relinquishes his/her political rights shall not be entitled to participate in the governance of the Tribe by attending Tribal meetings, work

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sessions, voting, running for office, or participating in any other way in the political processes of the Tribe on or after the date on which the request is approved.

- D. Once a relinquishment of political rights is approved, public notice of the relinquishment shall be made as soon as possible thereafter.
- E. Prohibition on the relinquishment of a minor. No person under the age of 18 may relinquish his/her membership in the Saint Regis Mohawk Tribe, nor may any parent or guardian relinquish their membership in the SRMT except upon a finding of the Saint Regis Mohawk Tribal Council that such relinquishment is in the best interests of the minor. A minor, whose membership in the SRMT has been relinquished by a parent or guardian and who meets the tribal membership eligibility criteria shall have the option of becoming a member of the SRMT upon reaching the age of 18.
  - 1. Membership of children cannot be relinquished by a non-Member parent.
  - 2. Membership of children may only be relinquished for purposes of enrollment into another federally recognized Tribe or Band. Such application for enrollment in another Tribe shall be verified by the Membership Board.
- F. Once an individual has relinquished their membership in the Saint Regis Mohawk Tribe:
  - 1. They shall not be permitted to participate in any political processes of the Tribe, including but not limited to, attending and participating in Tribal meetings, voting, running for or holding office or holding an appointment.
  - 2. There shall be a three (3) year waiting period before the individual can reapply for membership.
- G. Conditional Relinquishment. There may be certain circumstances when it may be in the best interests of a Tribal member to relinquish their membership in order to obtain membership in another Tribe<sup>1</sup>. A conditional relinquishment request may be submitted, if such member is applying for membership in another federally recognized Indian tribe. Upon approval, a conditional relinquishment will be effective for a period of six months, or until such time as the member is accepted for enrollment in another federally recognized tribe, whichever comes first. IF the member is not accepted for enrollment in the other tribe within 6 months, the conditional relinquishment shall expire, the individual will remain a Tribal

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<sup>1</sup> Although the SRMT does not prohibit dual enrollments, many other Tribe's do and so if it's in the best interest of the member to relinquish, it may be done conditionally as provided herein.

member and the member will be required to resubmit his/her request in order to be reconsidered for relinquishment.

- H. Relinquishment or Removal from the Saint Regis Mohawk Tribe Membership Roll shall be done on an individual basis and does not apply to that individual's descendants.

## IX. LOSS OF MEMBERSHIP

- A. Grounds for removal. A person may be removed from the rolls pursuant to a duly adopted Tribal law or ordinance, which may specify removal.
- B. Procedure. Prior to removal, a person shall be given notice in writing by the Membership Board of the right to a hearing and to hear the evidence against him or her, confront the witnesses, be represented by counsel at his or her own expense, and, to present evidence to the Membership Board, within thirty (30) days after the enrollee's receipt of notice of his proposed disenrollment.
- C. The hearing shall be a closed hearing, except at the option of the person who is the subject of the proposed disenrollment, *provided*, that interested parties may appear as witnesses at the hearing in order to testify and present evidence in favor or opposition to a proposed disenrollment.
- D. The burden of proof shall be on the party proposing or supporting disenrollment. Upon conclusion of the hearing, within ten (10) business days, the Membership Board will make a determination on disenrollment.

## X. MEMBERSHIP BOARD

- A. There is hereby established a Membership Board which shall consist of five (5) Tribal Members appointed by the Tribal Council. The term of office for each Board Member shall be four (4) years. Initially, three (3) members shall serve four (4) years terms and two (2) members shall serve two (2) years terms, then four (4) year terms unless removed earlier pursuant to the terms of this Ordinance.
- B. Each Board Member shall be an enrolled member of the Tribe who has sufficient knowledge of the history of the Tribe and its members to properly evaluate enrollment applications. In addition, the person shall be at least 30 years old.
- C. The Membership Board shall have the power to and must establish its own rules, bylaws and hearing procedures, subject to Tribal Council approval, and to select its own officers from among its members which shall include a Chairperson of the Membership Board.
- D. The Membership Board shall participate in the review and processing of enrollment applications in a manner provided by this ordinance.

- E. Each Board Member shall be paid reasonable compensation including appropriate expenses as determined by the Tribal Council.
- F. The Tribal Council may revoke the appointment of a Board Member and remove such Board Member prior to the expiration of his/her term for cause; however, the Tribal Council shall provide the Board Member who is subject to removal with notice of the charges and an opportunity to respond in writing to such charges prior to the revocation of his/her appointment.
- G. The Membership Board shall meet a minimum of once per month. Only at this time shall enrollment decisions be made, except for relinquishments, which shall be handled directly by Tribal Council.
- H. The Membership Board shall call a quorum to transact business. A quorum means a majority of the Board. When a vacancy occurs on the Board, the remaining members may exercise all the powers of the Board until the vacancy is filled, unless the number of Board Members falls under three (3). The Tribal Council shall fill the vacancy within sixty (60) days. Board Members shall serve until re-appointed or replaced.
- I. Conflict of Interest.  
A Board Member shall not participate in the application review, hearing, or in any other way participate in the determination of the membership of an applicant who is an immediate family member. The Board member shall recuse themselves as soon as they are aware the conflict exists. For the purposes of this section, immediate family member shall mean father, mother, husband, wife, son, daughter, sister or brother.
- J. The Board shall maintain confidentiality of all Membership information consistent with this Ordinance and other applicable Tribal Law.
- K. Oath and Ethics  
The Membership Board members shall take an oath to uphold the laws, customs and traditions of the Saint Regis Mohawk Tribe and may be subject to the Tribe's Ethics Ordinance.

## **XI. Enrollment Procedures**

### **A. Information Required.**

The burden shall be on the Applicant to ensure all information provided is correct and that all Supporting Materials are in proper form. Applications and supporting information shall be submitted to the Office of the Tribal Clerk. The following information must be provided in order for an application for membership to be presented to the Membership Board for consideration:

1. Completed Application for Membership form.

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2. Biological Family Tree, which must go back at least 4 generations
  3. Tribal enrollment numbers of parents and grandparents
  4. Birth Certificate
    - a. Must be the original birth certificate with the names of biological parents listed.
    - b. Canadian birth certificates must be long form Statement of Live Birth.
    - c. Blue Canadian short form is acceptable when accompanied by a Baptismal or Longhouse Certificate
  5. Proof of marital status in the form of a marriage certificate or divorce decree is required for name changes.
  6. If enrolled in another Tribe or Band, a proof of enrollment from the other Tribe or Band must be provided.
  7. Applicable Court Orders concerning marriage, divorce, adoption, guardianship, etc.
- B. Verification of Application and Supporting Materials
1. Upon receipt of a complete Application Packet, the Tribal Clerk will process the Application. Initial processing includes, but is not limited to, verification of submitted documents, verification of the Applicant's identity, and whether the Applicant has been enrolled in another Tribe. Processing is complete upon determination of the Applicant's blood quantum and family tree.
  2. The Tribal Clerk shall certify that the Application is complete, shall confirm that the information contained in the Application along with the Supporting Materials have been verified and then shall submit the completed Application and Supporting Materials to the Membership Board for review.
  3. The Tribal Clerk shall provide a public Notice of Application for Membership and shall ensure this notice is published in the local newspaper and on the Tribe's website whereupon a 30 day notice period will commence. The Notice of Application shall include the Applicant's name, date of birth and names of parents. Comments, questions or concerns regarding the eligibility of the Applicant shall be forwarded in writing within this 30 day period to the Membership Board
- B. Review by Membership Board

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1. The Membership Board shall review all enrollment applications and shall consider the information provided in such applications, together with all other available evidence concerning that applicant's eligibility for membership and make its decision as to whether the application should be approved or rejected.
2. The Membership Board shall review the application for sufficiency and accuracy to make a preliminary determination as to whether the applicant meets the criteria for membership. The preliminary determination of whether to grant the Applicant membership shall be made within thirty (30) days of receipt of the application.
3. If the Board requires additional information it may request such information from the person filing the application and may request such person to appear before the Board for a personal interview.
4. The Board may approve an application for membership based solely on the Application and Supporting Materials. If there is a question as to the eligibility, the Board may hold their determination over for a hearing in accordance with this Ordinance.

### C. Notice of Membership Determination Hearing

1. Written Notice Required. The Membership Board may require a hearing in order to make a final determination on the grant of membership. The Board must offer a hearing when a preliminary determination of denial is being considered. Written notice that a hearing may be held concerning an Application shall be forwarded to the Applicant, in the manner hereinafter provided, before a final determination of the applicant's eligibility for enrollment is made by the Membership Board.
2. Contents of Notice. The written notice required to be given under this section shall (1) indicate the tribal membership requirement or requirements which the applicant failed to establish or other reasons why the application should be rejected, and (2) indicate that if the person filing the application desires a hearing, he must respond within ten (10) days of receipt of the notice by giving notice to the Membership Board that a hearing is requested and provide the Membership Board a list of the witness(es) that will present relevant evidence on behalf of the applicant, and (3) inform the applicant that the decision of the Board is a final decision for purposes of appeal to Tribal Court. If the person filing the application fails to respond to the Notice within 10 days, the Board shall make its ruling on the record as contained in the Application and Supporting Materials.
3. Manner of Giving Written Notice. Notice of an enrollment determination hearing shall be given at least twenty (20) days prior to the hearing after

which the Membership Board will make its final recommendation of the applicant's eligibility for enrollment. The Membership Board, in its sole discretion, may grant a continuation to the applicant for good cause.

4. The Membership Determination Hearing shall be duly recorded with such minutes forming part of the formal record for the Applicant. Upon conclusion of the Hearing, the Membership Board shall proceed to issue a final determination on whether to grant membership to the Applicant.
5. Due to confidential and private matters hearings will be closed to the public. Only the Board, the Tribal Clerk or his or her designee, the Applicant, the counsel for each party, and the the court reporter, may be present at all times. Witnesses will be present only when giving testimony and shall be instructed to not discuss their testimony with any other individual during the hearing.
6. No Ex Parte Communication. The Office of Tribal Clerk, the Applicant, witnesses or any other parties related thereto will not communicate with any Member of the Board regarding any matter pertaining to the merits of the hearing.
7. Evidence
  - (a) Formal rules of evidence do not apply at the hearing but evidence which is irrelevant, cumulative or which would be unfair or prejudicial may be excluded by the Chair or admitted by the Chair under special conditions or stipulations. Basic rules of relevancy, materiality and probative force will be used by the Chair as a guide to admissibility. The Chair will rule on the admissibility of evidence.
  - (b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, opportunity will be granted to compare the copy to the original. At the discretion of the Committee, a reasonable amount of time will be provided to review the evidence.
  - (c) Greater weight will be given to the following documents: verification of enrollment in another Indian Tribe, certified birth certificate, social security card, Court Orders, and DNA analysis.
  - (d) Witnesses. The Chair of the hearing or the court reporter will administer an oath to each witness. Testimony may be presented either in the form of questions and answers or by narrative statement of the witness.

D. Membership Board Determination

1. Determination of Applicant's Eligibility. The final determination as to whether an application for enrollment is approved or denied shall be made by the Membership Board, shall be based upon the Membership Ordinance's requirements and shall be put in writing by the Membership Board.
2. Each determination shall be signed by the Board and shall set forth findings of fact indicating whether the Board recommended that the application be approved or rejected, the date of the applicant's birth, and the membership requirement or requirements which the Membership Board found to be inadequate and/or incomplete.

## **XII. Appeals to Tribal Court**

- A. An applicant may appeal a denial of enrollment by the Saint Regis Mohawk Membership Board to the Saint Regis Mohawk Tribal Court within thirty (30) days of the final determination.
- B. Scope of Judicial Review: The standard of review for the Tribal Court's review of Membership determinations shall be arbitrary and capricious, which means that the Tribal Court will only overturn a Membership Board's determination if it finds the Board had no reasonable basis for its decision. The Tribal Court shall not exercise de novo review and will not substitute its discretion for that which has been vested in the Board. The Tribal Court will determine whether the final determination of the Board:
  1. contains irregularities of procedure that resulted in a detriment to the Applicant;
  2. is arbitrary or capricious;
  3. is unsupported by clear and convincing evidence upon the whole record; or
  4. involves an abuse of discretion.
- C. In reviewing a final determination of the Board, the Tribal Court will have two (2) options. These two (2) options are to either sustain or remand the Board's findings and recommendations. The Court may not reverse a Board's determination. The Tribal Court will only remand the Board's determination if the Court determines that the Board's determination contains irregularities of procedures or is arbitrary or capricious, or is unsupported by clear and convincing evidence upon the whole record or involves an abuse of discretion. Upon remand, the Board will reconsider its determination in light of the Tribal Court's opinion and judgment.
- D. The Tribal Court must issue a decision within sixty (60) days of the filing date.

- E. Appealing parties may represented by themselves or other person of their choice.
- F. All appeals shall be designed to insure equal protection and due process of Saint Regis Mohawk Tribal law.

**XIII. Severability.**

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

**XIV. Amendment**

The initial approval of this Ordinance shall be by the Tribal membership through a referendum and thereafter this Ordinance may be amended by the Saint Regis Mohawk Tribal Council upon 30 days notice to the membership.

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