



St. Regis Mohawk Tribe

Community Building
Hogansburg, New York 13655
Tel 518-358-2272
Fax 518-358-3203

Tribal Chiefs
John S. Loran
Norman J. Tarbell
Philip H. Tarbell

Tribal Clerk
Carol Herne
Tribal Administrator
Angus N. McDonald

SAINT REGIS MOHAWK TRIBE

ADOPTING TRIBAL COUNCIL RESOLUTION

94 - D

TRIBAL COUNCIL PROCEDURES ACT OF 1994

- WHEREAS,** The Saint Regis Mohawk Tribal Council is the duly recognized governing body of the Saint Regis Mohawk Reservation, and;
- WHEREAS,** the Tribal Council is responsible for promoting the health, safety and general welfare of all tribal community members, and;
- WHEREAS,** the Tribal Council has authorized the development of a comprehensive law development program to establish revised laws needed for effective governance on the Saint Regis Mohawk Reservation, and;
- WHEREAS,** the Tribal Court Program's tribal law code development staff has prepared an ordinance known as the **TRIBAL COUNCIL PROCEDURES ACT OF 1994**. The purpose of this Tribal Council Act is to enact provisions of law that establish the general powers of the Tribal Council, define Council procedure and provide for initiative, referendum, and removal of appointed or elected officials from office under certain circumstances;

NOW THEREFORE BE IT RESOLVED THAT THE ~~TRIBAL~~ TRIBAL COUNCIL AUTHORIZES:

That an ordinance known as THE TRIBAL COUNCIL PROCEDURES ACT OF 1994 is hereby duly adopted as part of the laws of the Saint Regis Mohawk ~~Tribe~~ Tribe; and

BE IT FURTHER RESOLVED that the Saint Regis Mohawk Tribal Code Development staff is hereby authorized to codify this law in accordance with procedures provided for in the Tribe's Tribal Law Development, Interpretation, and Codification Procedures Act of 1994.



John S. Loran, HEAD CHIEF

8/23/94
Date



Norman J. Tarbell, CHIEF

8/23/94
Date

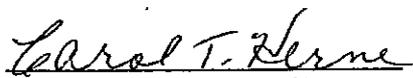


Phillip Tarbell, CHIEF

8/23/94
Date

CERTIFICATION:

This is to certify that the above Tribal Council Resolution was duly passed by the Saint Regis Mohawk Tribal Council pursuant to the authority vested therein; and further that a true copy of the adopted Tribal Council Procedures Act of 1994 is attached hereto.



Carol T. Herne, Tribal Clerk

Aug. 29, 1994
Date

Recorded in Tribal Book:

Book No. _____

Page No. _____



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Tribal Council Act 94-D

ACT RELATING TO

**TRIBAL COUNCIL POWERS, PROCEDURES, INITIATIVE
REFERENDUM, RECALL AND REMOVAL FROM OFFICE**

BE IT ENACTED BY THE SAINT REGIS MOHAWK TRIBAL COUNCIL:

SECTION 1. TITLE AND CODIFICATION

This act shall be known as the Saint Regis Mohawk Tribal Council and Council Procedures Act of 1994 and codified as Title 1 Chapter 1 of the Saint Regis Mohawk Code Annotated.

SECTION 2. PURPOSE

The purpose of this tribal council act is to enact provisions of law that establish the general powers of the Tribal Council, define Council procedure and provide for initiative, referendum, and removal from appointed or elected officials from office under certain circumstances.

SECTION 3. DEFINITIONS

There are no words or phrases that require statutory definition as part of this enactment.

SECTION 4. POWERS OF THE TRIBAL COUNCIL

The Tribal Council of the Saint Regis Mohawk Tribal shall be vested in all powers of its inherent sovereignty including, but not limited to the following:

- (a) To promote and protect the health, safety, education and general welfare of the Saint Regis Mohawk Tribe.
- (b) To enact ordinances and adopt resolutions not inconsistent with Federal law on Native American affairs or tribal status as a Federally recognized Indian Tribe, and to enforce the same;

- (c) To negotiate with Tribes, Tribal Organizations, Federal, State, and Local Governments, and other entities pursuant to this Act or the Saint Regis Mohawk Inter-Governmental Relations Act;
- (d) To charter subordinate organizations, including housing, financial, economic development and health boards, and to delegate to such organizations or to any subordinate boards or officials of the organizations, the power to manage the economic affairs and enterprises of the Saint Regis Mohawk Tribe, reserving the right to review any action taken by virtue of such delegated power;
- (e) To establish a Tribal Education System exclusively for the benefit of it's members and residents.
- (f) To employ legal counsel, and fix compensation and fees. In fixing the compensation of counsel, cost plus a percentage of cost and success fee contracts are prohibited.
- (g) To regulate its own procedures for the management of Tribal Council business through the adoption of ordinances and resolutions;
- (h) 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;
- (i) To enact ordinances providing for the removal or exclusion of any non-members who may remain within the territory of the Tribe, provided, that all actions of exclusion or removal shall be done by filing an action for removal in Tribal Court;
- (j) 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;
- (k) To borrow money and issue bonds and other evidences of indebtedness, for the public purposes of the Tribe, to issue both general obligation bonds and bonds secured by the revenues of specific income producing properties, and to qualify such bonds as tax exempt under the Internal Revenue Laws of the United States.
- (l) 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.
- (m) To levy and collect fees, general and special assessments from any member or other person, firm or entity residing on, or engaged in revenue generating activity on the land of the Saint Regis Mohawk Tribe in order to raise revenue for the needs of the Tribe.

- (n) To veto any sale disposition, lease or encumbrance of Tribal lands, interests in lands, or other tribal assets without the formal consent of the Tribe;
- (o) To request the Secretary of Interior to confer trust or reservation status on lands reserved for, granted to or purchased by the Tribe;
- (p) To advise the Secretary of the Interior or his representative on all activities that may affect the Saint Regis Mohawk Tribe, and on all appropriation estimates and Federal projects for the benefit of the Tribe before such estimates and projects are submitted to the Office of Management and Budget and to Congress;
- (q) To provide by ordinance for the jurisdiction of the Tribe over Indian Child Welfare matters and all other domestic relations matters; and
- (r) To conduct inquiries and hearing on the activities and performance of the administrative operations of the tribal government.
- (s) 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.
- (t) To take action, which shall be necessary and proper to carry out the sovereign powers of the Saint Regis Mohawk Tribe.

SECTION 5. TRIBAL COUNCIL COMMUNITY MEETINGS.

The Saint Regis Mohawk Tribal Council is authorized to establish its own procedures but shall meet in regular, special or emergency session as follows:

- (a) All meetings of the Tribal Council will be governed by Roberts Rules of Order.
- (b) **Regular Meetings:** The Tribal Council shall meet in official session at least twelve (12) times a year, at monthly intervals, at such time and place as shall be established by resolution to conduct council business and meet with the community membership.
- (c) **Special Meetings:** Special Meetings of the Tribal Council:
 1. Shall be called by the Head Chief upon a $\frac{2}{3}$ majority of Council,
 2. May be called through a motion made from the floor provided that at least 25 or more tribal members are present and a majority of the quorum present votes in favor of the motion to call a special meeting.
 3. Shall be called upon the written petition of two hundred eligible tribal voters;
- (d) **Quorum:** A quorum of the Tribal Council shall consist of at least 2 tribal chiefs. A

quorum of the mohawk community for the purposes of proposing or voting on motions in a lawfully called tribal meeting shall be at least 25 or more tribal members.

- (e) **Emergency Meetings:** An emergency meeting of the Tribal Council may be called upon less than seventy-two (72) hours' written notice, notwithstanding Section 5(b), and 5(c) of this Act, if such meeting is necessary for the preservation or protection of the health, welfare, peace, safety, or property of the Tribe. Each Tribal Council member shall be given notice. The emergency meeting notice shall state the purpose, time, and place of such a meeting. No business other than that stated in the notice shall be transacted at the emergency meeting.

- (f) **Authority of the Tribal Council to meet in executive session.** The Tribal Council may meet in executive session to discuss matters involving personnel, litigation, negotiations, or confidentiality as deemed essential to a free an open discussion. However, the Tribal Council may not take final action on matters discussed within an executive session until the results of the executive session are fully reported (with the exception of detailed and confidential personnel information) in a subsequent public session of the Tribal Council. All results of the executive session meetings must be embodied in discussion and votes at a public tribal meeting.

SECTION 6. ORDINANCES.

All final decisions on matters of permanent interest shall be embodied in ordinances. Such enactments shall be available for inspection by members of the Tribe during normal business hours.

SECTION 7. RESOLUTIONS.

All final decisions on matters of temporary interest where a formal expression is needed shall be embodied in a resolution, noted in minutes, and shall be available for inspection by members of the Tribe during normal business hours.

SECTION 8. FORM.

All ordinances and resolutions shall be dated and numbered, cite the appropriate authority, and include a certificate showing the presence of a quorum and the number of members voting for and against the proposed enactment. All ordinances and resolutions shall be in conformity with the Saint Regis Mohawk Tribal Law Development, Interpretation and Codification Act.

SECTION 9. RECORDS OF THE TRIBE.

The actions of tribal elected and appointed officials constitute public business and the records created thereby are public records that are open to public inspection according to the following access standards:

- (a) The Tribal Council shall provide access for review by any tribal member or his/her authorized representative the records of the Tribe. Review and access to records of the Tribe shall be conducted during normal office hours of the Tribe in accordance with the rules and procedures established by the Tribal Council. Records access procedures shall not be inconsistent with any other provision of this law, Federal law, or individual tribal members and tribal employees rights to privacy.
- (b) All Tribal records are the exclusive property of the Saint Regis Mohawk Tribe and shall be transferred by Tribal Officials leaving office to the Tribal Clerk's Office for the benefit of their successors in office. the Tribal Council shall implement this provision of the Act through the enactment of a Tribal Records Ordinance.
- (c) The following types of records are completely or partially exempt from disclosure to the general public:
 - 1. Investigatory and criminal records except where released to the individual affected thereby or pursuant to a lawful court order.
 - 2. Records protected pursuant to provisions of the Federal Privacy Act or other laws enacted for the privacy protection of individuals.
 - 3. Records or systems of records held by the Tribe pursuant to a Federal or New York State agreement designed to protect the privacy rights of individuals.

SECTION 10. REMOVAL OF ELECTED AND APPOINTED OFFICIALS.

An elected or appointed official of the Saint Regis Mohawk Tribe may be removed from office by a majority vote of the Tribal Council for any of the following offenses:

- (a) Final conviction by a Tribal, State or Federal Court of competent jurisdiction for the commission of a felony;
- (b) Final conviction in the Tribal Court for any offense in violation of the Tribal Ethics Code where the penalty for such violation is removal from office.

SECTION 11. DUE PROCESS CONSIDERATION.

Elected or appointed officials may not be suspended or removed from office unless the actions in question take place during the elected official's term of office. All actions to suspend or remove an appointed or elected official of the Tribe shall be in accordance with the Saint Regis Mohawk laws which shall afford due process of law.

SECTION 12. REFERENDUM.

The Tribal Council on its own motion by 2/3 vote of the Council, or upon receipt of a petition signed by 25% of the eligible voters of the Saint Regis Mohawk Tribe, may submit any enacted or proposed law, ordinance or resolution to a referendum of the registered voters of the Tribe. The Tribal Council shall by resolution call the referendum election within 90 days from the receipt of a petition unless the 90 day period falls within six (6) months of a regular election, in which case the referendum question will be presented to the eligible voters at the regular election. Referendum elections are to be conducted in accordance with the Tribal Election Code and managed by the Election Board.

SECTION 13. INITIATIVE.

The members of the Saint Regis Mohawk Tribe may exercise the authority to independently propose laws, ordinances, and resolutions affecting the Tribal community. However, any proposed initiative measure shall be presented to the Tribal Council accompanied by an initiative petition signed by twenty percent (20%) of the eligible voters of the Saint Regis Mohawk Tribe. Upon receipt of a valid petition in conformity with the Tribal Election code, the Tribal Council shall either adopt the initiative measure without alteration or call a special election allowing the tribal membership to vote on the initiative measure.

The Tribal Council shall by resolution call the Initiative Election within ninety (90) days from the receipt of a petition unless the ninety (90) day period falls within the six (6) months of a regular election, in which case the initiative measure will be presented to the eligible voters at the regular election. Initiative elections are to be conducted in accordance with the Tribal Election code and managed by the Election Board.

SECTION 14. RECALL.

The eligible voters of the Saint Regis Mohawk Tribe shall have the right to recall any elected official of the Tribe by filing a petition signed by at least 30% of the eligible voters of the Tribe with the Tribal Council. Recall Elections shall be managed according to the Tribal Election Code. No elected official may be recalled from office unless a majority of the eligible voters vote in favor of the recall and at least twenty-five percent (25%) of the eligible voters vote in the Recall Election. No elected official shall face a Recall Election more than once during a term of office. An elected official who is lawfully designated for recall shall be entitled to at least two (2) public opportunities to defend their action prior to the holding of a recall election.

SECTION 15. PROVISIONS AS CUMULATIVE

The provisions of this act shall be cumulative to existing law.

SECTION 16. REPEAL PROVISIONS AND CONFORMING AMENDMENTS

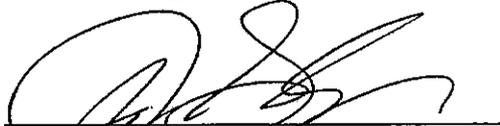
The following provisions of the Saint Regis Mohawk law are hereby expressly repealed:

The following provisions of the Saint Regis Mohawk Laws are conformed as follows because of this enactment:

SECTION 17. SEVERABILITY

The provisions of this act are severable and if any part or provision shall be held void by any court of competent jurisdiction, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

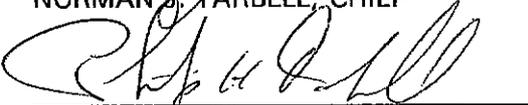
Enacted by the Saint Regis Mohawk Tribal Council on this 23 day of August, 1994.



JOHN S. LORAN, HEAD CHIEF



NORMAN J. TARBELL, CHIEF



PHILIP H. TARBELL, CHIEF

ATTEST:

Tribal Clerk: Carol T. Herne or Deputy Clerk: _____
CAROL T. HERNE

Approved and signed into law by the Tribal Chiefs this 29 of August, 1994.

ATTESTED TO AND RECORDED IN THE TRIBAL RECORDS:

Tribal Clerk: _____ or Deputy Clerk: _____
CAROL T. HERNE

DATE: _____

Recorded in Tribal Book:

Book N^o _____

Page N^o _____