



Saint Regis Mohawk Tribe

Chief Eric Thompson
Chief Beverly Cook
Chief Michael Conners
Sub-Chief Cheryl Jacobs
Sub-Chief Shelley Jacobs
Sub-Chief Agnes Jacobs

Tribal Council Resolution

2017- 67

TO AMEND THE SAINT REGIS MOHAWK TRIBAL COURT AND JUDICIARY CODE

WHEREAS, the Saint Regis Mohawk Tribal Council (the "Tribal" Council") is the duly recognized governing body of the Saint Regis Mohawk Tribe (the "Tribe") and is responsible for the health, safety, education and welfare of all community members; and

WHEREAS, pursuant to TCR 2007-01, the Tribal Council has authorized the full implementation of the Tribe's Tribal Court system and recognized the Tribal Court as an independent entity with an independent judicial decision-making authority; and

WHEREAS, in TCR 2007-42, the Tribal Council enacted the St. Regis Mohawk Tribal Judiciary Act of 2007 (the "Act") which established the general organization and powers of the tribal court system; and

WHEREAS, in TCR 2008-22, the Tribal Council repealed the Act and enacted the Saint Regis Mohawk Tribal Court and Judiciary Code in its place; and

WHEREAS, in TCR 2012-13, the Tribal Council amended the Saint Regis Tribal Court and Judiciary Code; and

WHEREAS, the Tribal Council now wishes to further amend the Saint Regis Mohawk Tribal Court and Judiciary Code to rename the Peacemakers Court, Civil Traffic Division to the Saint Regis Mohawk Tribal Court, Traffic Court Division and amend the qualifications for Traffic Court Judges.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Regis Mohawk Tribal Council hereby amends the Saint Regis Mohawk Tribal Court and Judiciary Code Section V.3 with the following language: *"The Saint Regis Mohawk Tribal Court, Traffic Court Division shall have original jurisdiction over any violation of the "Act Relating to the Regulation of Vehicle and Traffic On and Through the Saint Regis Mohawk Indian Reservation," as enacted in TCR 2000-109, and any amendments thereto;"* and

BE IT FURTHER RESOLVED, that the Saint Regis Mohawk Tribal Council hereby amends the first paragraph of the Saint Regis Mohawk Tribal Court and Judiciary Code Section VIII with the following language: *"Tribal judges shall be elected pursuant to Saint Regis Mohawk Tribe's Election and Referendum Ordinance, as amended, for three (3) year terms. Judges shall be at least twenty-five (25) years old, of good moral character and not have been convicted of a serious crime as defined by this Ordinance. The Chief Judge must be an attorney with at least five (5) years' experience and knowledge*

working with Federal Indian and Tribal law and customs. Judges who run for all other offices except for Traffic Court shall meet one or more of the following professional qualifications to be eligible to serve as a Tribal Judge:”; and

BE IT FINALLY RESOLVED, that the Saint Regis Mohawk Tribal Court and Judiciary Code, as amended, is effective upon the date of this resolution.

THE SAINT REGIS MOHAWK TRIBAL COUNCIL

_____	<i>Beverly Cook</i>	_____
Eric Thompson Tribal Chief	Beverly Cook Tribal Chief	<i>Michael Connors</i> Michael Connors Tribal Chief

CERTIFICATION: This is to certify that the Saint Regis Mohawk Tribal Council pursuant to the authority vested therein duly passed the above resolution.

Summer Bezo

Betty Roundpoint, Tribal Clerk

September 27, 2017

Date

TRIBAL COURT AND JUDICIARY CODE

Section I. Title and Codification

This Ordinance shall be known as the Saint Regis Mohawk Tribal Court and Judiciary Code (the "Code").

Section II. Purpose

The purpose of this Code is to enact provisions of law that establish the general organization and powers of the Tribal court system and define procedures for the appointment of judges.

Section III. Definitions

"Act of Civil Disobedience" means a deliberate, but nonviolent act of law breaking to call attention to a particular law or set of laws believed by the lawbreaker to be of questionable legitimacy or morality.

"Serious Crime" means a felony or misdemeanor, not involving an act of civil disobedience, which involves an act of moral turpitude. Crimes of moral turpitude are crimes involving conduct that is considered contrary to community standards of justice, honesty and good morals, such as larceny, fraud or murder, for example.

Section IV. The Judiciary

The judicial power of the Saint Regis Mohawk Tribe ("Tribe") shall be vested in the judicial branch of the Tribal government, which shall consist of a Tribal Court, a Court of Appeals, a Traffic Court and such other lower courts as deemed necessary by the Saint Regis Mohawk Tribal Council ("Tribal Council").

Section V. Jurisdiction

1. The Tribal Court shall have original jurisdiction extending to all cases, matters or controversies arising under and as may be limited by the laws, ordinances, regulations, customs and judicial decisions of the Tribe.
2. The Court of Appeals shall have both original and appellate jurisdiction. The Court of Appeals shall have jurisdiction to hear all appeals from the Tribal Court. Decisions of the Court of Appeals on all matters within its appellate jurisdiction shall be final.

3. The Saint Regis Mohawk Tribal Court, Traffic Court Division shall have original jurisdiction over any violation of the "Act Relating to the Regulation of Vehicle and Traffic On and Through the Saint Regis Mohawk Indian Reservation, as enacted in TCR 2000-109, and any amendments thereto.
4. In order to preserve the independence of the Tribal Court and to prevent the Tribal Court from being used for political purposes, hereinafter, all disputes or disagreements concerning the form of governance that is employed to govern the Tribe shall hereinafter be determined by the enrolled members of the Tribe through a ballot referendum.

Section VI. Power of the Courts

The Courts of the Tribe shall have the power to:

1. Interpret, construe and apply the laws and regulations of the Tribe;
2. Issue injunctions, attachments, writs of mandamus, quo warranto, review extradition, certiorari and prohibition, and to issue writs of habeas corpus upon petition by, or on behalf of any person held in actual custody; and
3. Establish court rules, forms and procedures for the Tribal Court except that all such rules and procedures shall be approved in the form of a law passed by the Tribal Council.

Section VII. Composition of the Judiciary

1. The Tribal Court shall consist of a Chief Judge and as many Associate Judges as deemed necessary by the Tribal Council. Each judge shall be elected by the eligible voters of the Tribe for a term of three (3) years. The Court of Appeals shall consist of a Chief Judge and two Associate Justices. The Tribal Court Judges may sit as members of the Court of Appeals. The future composition of the Tribal Court may be changed through amendments to this Code.
2. Until such time as elections are held to elect judges, all judges of the Tribal Court and the Court of Appeals shall be temporarily appointed as either contract or per diem judges. Notwithstanding the provisions for elected judges, the Tribal Council may appoint per diem Judges to hear cases from time to time as needed because of vacations, disabilities, disqualification, recusal or removal of any judge.

Section VIII. Election and Qualification of Judges

Tribal judges shall be elected pursuant to Saint Regis Mohawk Tribe's Election and Referendum Ordinance, as amended, for three (3) year terms. Judges shall be at least twenty five (25) years old, of good moral character and not have been convicted of a serious crime as defined by this Ordinance. The Chief Judge must be an attorney with at least five (5) years' experience and knowledge working with Federal Indian and Tribal law and customs. Judges who run for all other offices except for Traffic Court shall meet one or more of the following professional qualifications to be eligible to serve as a Tribal Judge:

1. Graduation from an American law school accredited by the American Bar Association;
2. Admission to practice law before any State or Federal Court;
3. Previous experience as a magistrate or lay judge in any local or tribal court; and/or
4. Possession of a Bachelor's or advanced degree with substantial law-related experience.

Section IX. Provisions Supplement Existing Law

The provisions of this Code shall supplement existing law.

Section X. Repeal Provisions and Conforming Amendments

Tribal Council Resolution 2008-22 is specifically repealed and replaced by this enactment. No current or previous provisions of law are conformed by this enactment.

Section XI. Severability

The provisions of this Code 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 Code.