

TRIBAL COURT AND JUDICIARY CODE
Tribal Council Resolution 22--2008

Section I. Title and Codification

This Ordinance shall be known as the Saint Regis Mohawk Tribal Court and Judiciary 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 dishonesty such as larceny, fraud or murder, for example.

Section IV. The Judiciary

The judicial power of the Saint Regis Mohawk Tribe shall be vested in the judicial branch of the Tribal government which shall consist of a Tribal Court, a Court of Appeals, a Peacemaker Court and such other lower courts as deemed necessary by the 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 Saint Regis Mohawk 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 Peacemaker Court shall have such original and subject matter jurisdiction as may be authorized by this Code or other substantive laws

addressing the authority of the Peacemaker Courts.

4. The Tribal Court and the Court of Appeals shall be empowered to review any laws, resolutions, regulations or other acts of the Tribal government and to declare such laws, resolutions and regulations void or inconsistent with Tribal law.

5. 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 which is employed to govern the St. Regis Mohawk 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 Saint Regis Mohawk 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 Saint Regis Mohawk 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 Saint Regis Mohawk 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 Courts shall be temporarily appointed as either contract or per diem judges. Notwithstanding the provisions for elected judges, the Chief Judge 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 Section 7(a) 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 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 or advanced degree with substantial law-related experience.

Section IX. Provisions as Cumulative

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

Section X. Repeal Provisions and Conforming Amendments

No provisions of law are expressly repealed 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.