

# KAHNAWÁ:KE EMERGENCY PREPAREDNESS LAW

K.R.L. c. E-2

[Enacted on Kentenhkó:wa/November, 11, 1997]

[amended on Enniskó:wa/March 26 2007 by MCR #1/2006-2007]

[amended on 27 Kenténha/October 2008 by MCR #1/2008-2009]

This is a Kahnawá:ke Communal Law respecting the protection, safety and security of Persons and Property in the event of a Disaster occurring within the Mohawk Territory of Kahnawá:ke. It may be cited as the Kahnawá:ke Emergency Preparedness Law.

## SECTION I

### 1. JURISDICTION

- 1.1 The Mohawk Community of Kahnawá:ke, as part of the Mohawk Nation and the Six Nations Confederacy, and acting under the authority of the Constitution of the Six Nations Confederacy, are, and have always been, sovereign people.
- 1.2 The Mohawk Community of Kahnawá:ke have consistently and historically exercised ultimate and exclusive jurisdiction over the Mohawk Territory of Kahnawá:ke.
- 1.3 The Mohawk Community of Kahnawá:ke have an existing and inherent right of self-determination which includes the power, the right and the responsibility to control institutions relating to the Mohawk Community of Kahnawá:ke, including economic, political, legal, social and health care institutions. The right of self-determination also includes the responsibility to maintain peace, order, protection and the security of Persons and Property within the Mohawk Territory of Kahnawá:ke. The Mohawk Community of Kahnawá:ke have consistently and historically exercised these rights and fulfilled these responsibilities despite the efforts and resistance of foreign entities.
- 1.4 As a Disaster could have a devastating effect on economic, political, legal, social and health care institutions within the Mohawk Territory of Kahnawá:ke, the Mohawk Community of Kahnawá:ke have the ultimate and exclusive right and jurisdiction to regulate the protection, safety and security of Persons and Property in the event of a Disaster occurring within the Mohawk Territory of Kahnawá:ke.

### 2. PURPOSE

- 2.1 The purpose of this Kahnawá:ke Communal Law is to provide a foundation for the prevention of Disaster within Mohawk Territory of Kahnawá:ke and to provide a network of emergency measures for the response and recovery of the Mohawk Community of Kahnawá:ke in the event of a Disaster.

*"Application"*

### 3. APPLICATION

- 3.1 This Kahnawá:ke Communal Law and any regulations derived from this Kahnawá:ke Communal Law apply to all Persons and Property located within the Mohawk Territory of Kahnawá:ke at the time that a Disaster occurs or in its aftermath.

*"Paramountcy"*

### 4. PARAMOUNTCY

- 4.1 This Kahnawá:ke Communal Law is paramount over any other legislative act or regulation concerning emergency preparedness as it purports to relate to the Mohawk Territory of Kahnawá:ke including any Act or Regulation of the Parliament of Canada, the legislative assembly of any province of Canada and/or any other government.

*"Definitions"*

### 5. DEFINITIONS

- 5.1 For the purpose of this Kahnawá:ke Communal Law:

*"Board Member"*

"Board Member" means a person appointed to administer a relief fund in the event of Disaster;

*"Committee"*

"Committee" means the Emergency Preparedness Committee of Kahnawá:ke;

*"Emergency Measures"*

"Emergency Measures" means the special temporary measures that may be necessary in response to a Disaster;

*"Mohawk Community of Kahnawake"*

"Mohawk Community of Kahnawá:ke" means those persons identified as Kahnawá:ke Community Members by Kahnawá:ke Communal Law;

*"Law"*

"Law" means:

- a) Kahnawá:ke Communal Laws and By-laws that have been duly enacted by the Kahnawá:ke Legislative body, with the consent of the Mohawk Community of Kahnawá:ke, which are in force within the Mohawk Territory of Kahnawá:ke;
- b) such Laws and Regulations, or portions thereof, of the Parliament of Canada or a Canada or a Canadian province that are "recognized and duly incorporated" by the Legislative body of Kahnawá:ke to be applicable within the Mohawk Territory of Kahnawá:ke;
- c) Mohawk Law;

"Mohawk Law" means such Law that may be in force under the authority of one

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| <i>“Mohawk Law”</i>                    | or more Mohawk Communities or which may be incorporated by one or more Mohawk Communities by formal declaration, and which includes Kahnawá:ke Communal Law as the case may be;   |
| <i>“Persons”</i>                       | “Persons” means all natural persons located in the Mohawk Territory of Kahnawá:ke when a Disaster occurs;   |
| <i>“Property”</i>                      | “Property” means all property both immovable and movable whether owned by individuals or the Mohawk Community of Kahnawá:ke;  |
| <i>“Relief Fund”</i>                   | “Relief Fund” means a fund established to receive donations from the public for distribution to Persons who suffer loss as a result of Disaster;  |
| <i>“Director”</i>                      | “Director” means the Director of Community Protection and for the purposes of this Law acts as the Coordinator of the Emergency Preparedness Committee of Kahnawá:ke;   |
| <i>“Grand Chief”</i>                   | “Grand Chief” means the Grand Chief of the Mohawk Council of Kahnawá:ke or a person specially designated by the Grand Chief;  |
| <i>“Surrounding Municipalities”</i>    | “Surrounding Municipalities” means those municipalities located in the Monteregie region of Quebec  |
| <i>“Disaster”</i>                      | <p>“Disaster” means an urgent and critical situation of a temporary nature within the Mohawk Territory of Kahnawá:ke that is caused by a real or imminent:</p> <ul style="list-style-type: none"> <li>a) fire, flood, drought, storm, earthquake or other natural phenomenon;</li> <li>b) disease in human beings, animals or plants, or;</li> <li>c) accident or pollution; or</li> <li>d) civil insurrection</li> </ul> <p>that results or may result in danger to life or property, economic or social disruption or a breakdown in the flow of essential goods, services or resources;</p>            |
| <i>“Mohawk Territory of Kahnawake”</i> | <p>“Mohawk Territory of Kahnawá:ke” which includes <i>Tiaweró:ton</i> (Doncaster), and means Reserve #14, the original lands designated as the Seigneurie of Sault Saint Louis, and traditional or aboriginal Mohawk Territory of Kahnawá:ke; and</p> <ul style="list-style-type: none"> <li>(a) the lands now under the control and jurisdiction of the Mohawk Community of Kahnawá:ke;</li> <li>(b) any and all lands that may be added to the lands now under the control and jurisdiction of the Mohawk Community of Kahnawá:ke through the negotiation and resolution of land grievances;</li> </ul> |

(c) any and all lands that may be added to the lands now under the control and jurisdiction of the Mohawk Community of Kahnawá:ke as the result of any other means;

## SECTION II

### 6. CREATION OF REGULATORY BOARD

6.1 The Mohawk Council of Kahnawá:ke established the Emergency Preparedness Committee of Kahnawá:ke (the Committee) by Mohawk Council of Kahnawá:ke Resolution 48/1994-95.

### 7. MANDATE

7.1 The mandate of the Committee is to:

- a) develop and test plans for the
  - (i) identification of risks of Disaster;
  - (ii) mitigation of the risks of Disaster;
  - (iii) preparation for Disaster;
  - (iv) response to Disaster; and
  - (v) recovery from Disaster.
- b) educate and advise the Mohawk Council of Kahnawá:ke and the Mohawk Community of Kahnawá:ke about the plans listed in subsection (a) above;
- c) in the event of a Disaster, coordinate the implementation of the plans listed in subsection (a) above both within the Mohawk Community of Kahnawá:ke and with the Surrounding Communities.

### 8. FUNCTIONS

8.1 In order to carry out its mandate the Committee shall:

- a) research and evaluate:
  - (i) risk of Disaster;
  - (ii) mitigation of risk of Disaster;
  - (iii) means of preventing Disaster;
  - (iv) emergency measures in the event of Disaster;
  - (v) recovery from Disaster;
- b) organize training in risk identification, risk prevention, and emergency measures in the event of Disaster for the benefit of the Mohawk Community of Kahnawá:ke;

*"Creation of  
Regulatory Board"*

*"Mandate"*

*"Functions"*

- c) recruit volunteers to assist the Mohawk Community of Kahnawá:ke in the event of Disaster;
- d) obtain and/or build, and operate the equipment necessary to carry out the plans listed above in section 10(a) above;
- e) require that any Person located within the Mohawk Territory of Kahnawá:ke whose activities or Property may pose a risk of Disaster within the Mohawk Territory of Kahnawá:ke:
  - (i) identify, in writing for the Committee's review and approval their evaluated risk of Disaster that may arise from their Property or activities;
  - (ii) submit, in writing for the Committee's review and approval their plans of Disaster prevention within the Mohawk Territory of Kahnawá:ke and Emergency Measures in the event of Disaster.

**PART III EMERGENCY MEASURES IN THE EVENT OF A DISASTER**

*"Alert"*

9. Any Person within the Mohawk Territory of Kahnawá:ke shall alert the Director of Community Protection as quickly as possible of an occurrence in the Mohawk Territory of Kahnawá:ke that could be considered a Disaster. The Director or a member of his staff will immediately investigate the occurrence and report to the Grand Chief his/her findings.

*"State of emergency"*

10. In the event of Disaster, and on advise from the Director of Community Protection, the Grand Chief, the Executive Director of the Mohawk Council of Kahnawá:ke and the Director of Justice may unanimously decree a state of emergency in part or all of the Mohawk Territory of Kahnawá:ke for such period as may be required, not to exceed thirty (30) days. At the end of the thirty (30) days the declaration of state of emergency may be renewed for successive thirty (30) day periods be a Mohawk Council Resolution.

*"Decree"*

11. A decree declaring a state of emergency must indicate:
- a) the nature of the Disaster;
  - b) the area of the Mohawk Territory of Kahnawá:ke that is declared a Disaster area;
  - c) the person in charge of Emergency Measures;
  - d) if possible, the main Emergency Measures.

*“Publication”*

12. The decree must be publicized to all Persons within the Mohawk Territory of Kahnawá:ke as quickly as possible by whatever means the Grand Chief determines are the most useful.

*“Emergency Measures”*

13. Once the state of emergency has been decreed, the Director of Community Protection shall implement the appropriate Emergency Measures and shall inform the Grand Chief of all developments concerning the Disaster and measures taken to counter the Disaster.

*“Implementation”*

14. In implementing the appropriate Emergency Measures, the Director of Community Protection may make such orders in relation to the following matters they judge necessary to deal with the effects of the Disaster:

- a) regulate or prohibit travel to, from, or within any specified area of the Mohawk Territory of Kahnawá:ke where necessary for the protection of the health or safety of Persons;
- b) evacuate Persons and remove personal property from any specified area of the Mohawk Territory of Kahnawá:ke and make arrangements for the adequate care and protection of Persons and Property;
- c) requisition, use or dispose of Property;
- d) authorize or direct a Person to render essential services as they are competent to provide;
- e) regulate the distribution and availability of essential goods, services and resources;
- f) authorize and make emergency payments;
- g) establish emergency shelters and hospitals;
- h) assess damage to any Property belonging to the Mohawk Council of Kahnawá:ke and authorize the repair or replacement of it;
- i) assess damage to the environment and take steps to alleviate or eliminate the damage.

*“Ratification”*

15. The Mohawk Council of Kahnawá:ke, at their next scheduled meeting, or, no later than three (3) days following the decree shall ratify the decree as a resolution of the Mohawk Council of Kahnawá:ke.

*“Power”*

16. During the period that the decree is in force the Mohawk Council of Kahnawá:ke shall have the power and authority to pass, repeal or amend Laws, which are related to and necessary for the management of the state of emergency in the Mohawk Territory of Kahnawá:ke by a simple majority vote of Chiefs present or

participating by telephone at a duly convened meeting of Council.

*"Quorum  
Suspended"*

17. For the purposes of convening a meeting of the Mohawk Council of Kahnawá:ke during a period where a decree is in force, the rules of quorum shall be suspended; however, the Grand Chief will ensure that a reasonable attempt is made to contact all Chiefs before the Council meeting is held.

#### **PART IV RELIEF FOR PERSONS WHO SUFFER LOSS AS THE RESULT OF DISASTER**

*"Relief Fund"*

18. A Relief Fund for Persons who suffer loss as a result of Disaster is established.
19. The Relief Fund shall have its head office at the Mohawk Council of Kahnawá:ke.
20. The Relief Fund shall be administered by a Board who shall be appointed by the Mohawk Council of Kahnawá:ke to administer the Relief Fund on an "as needed" basis.
21. The Mohawk Council of Kahnawá:ke shall by regulation, provide guidelines to the Board Members in relation to the administration of the Relief Fund.
22. The financial year-end of the Relief Fund shall be March 31st of each year.
23. On or before June 30th of each year, the Relief Fund must file audited financial statements of its activities for the preceding year with the Mohawk Council of Kahnawá:ke.
24. The Mohawk Council of Kahnawá:ke shall provide copies of the Relief Fund's audited financial statements to the Mohawk Community of Kahnawá:ke within thirty (30) days of their receipt of same.
25. The Mohawk Council of Kahnawá:ke may enact regulations:
  - a) in relation to the administration of the Relief Fund:
    - (i) prescribing the appointment of Board Members , their functions, term, remuneration (if any) rules of operation, and removal from office;
    - (ii) prescribing the form and manner of making applications for compensation for the Relief Fund, the information and evidence to be submitted in connection therewith and the procedure to be followed in the consideration of applications for compensations;
    - (iii) prescribing the period within which applications for compensation must be made;
    - (iv) prescribing the criteria to be used in determining the eligibility of an Person for compensation;

- (v) prescribing the methods and criteria to be used in assessing any deprivation of property for which compensation shall be paid;
- (vi) prescribing the maximum amount of compensation that may be paid to any person either generally or with respect to any particular deprivation of property;
- (vii) prescribing the terms and conditions for the payment of compensation;
- (viii) providing for the payment of compensation in a lump sum or in periodic payments;
- (ix) providing for *pro rata* payments of compensation;
- (x) establishing priorities among persons applying for compensation on the basis of classes of deprivation of property or otherwise;
- (xi) respecting the giving of notices to persons affected by applications for compensation; and
- (xii) generally, for carrying into effect the purposes and provisions of the Relief Fund.

b) in relation to Emergency Measures:

- (i) prescribing standards regarding the preparation, content, updating or publication of plans and programs for the prevention of Disaster and Emergency Measures;
- (ii) prescribing the minimum necessary standards of equipment and services for the implementation of a plan or program for the prevention of Disaster or Emergency Measures;
- (iii) any other necessary measure for the application of this Kahnawá:ke Communal Law.

### PART V END OF STATE OF EMERGENCY

“End of  
Emergency”

- 26. The decree mentioned in article 10 of the present Kahnawá:ke Communal Law may be revoked at anytime by the unanimous consent of the Grand Chief, the Executive Director of the Mohawk Council of Kahnawá:ke and the Director of Justice or by a three-quarter (3/4) vote of the Mohawk Council of Kahnawá:ke.
- 27. When the decree mentioned in article 10 of the present Kahnawá:ke Communal Law is revoked and the state of emergency no longer exists all Laws passed, repealed or amended during the state of emergency will be reviewed by the Mohawk Council of Kahnawá:ke at a duly convened meeting at which the rules of quorum will apply. The Chiefs will immediately decide whether to confirm or repeal the Laws so enacted repealed of amended.
- 28. If the state of emergency was called because of a civil insurrection then general elections will be called and held within one hundred and twenty (120) days of decree mentioned in article 10 of the present Kahnawá:ke Communal Law having been revoked, the whole in accordance with the *Kahnawá:ke Election Law*. After the general election the new Council will immediately fulfill the function mentioned



in article 26.

## **PART VI GENERAL PROVISIONS**

*“General Provisions”*

29. No person taking part in Emergency Measures in the event of a Disaster may be held responsible for damages caused to another Person or to Property, as a result of his participation, if caused in good faith.
30. The Mohawk Council of Kahnawá:ke may enter into agreements with other governments respecting the application of this Kahnawá:ke Communal Law.

## **PART VII PENAL PROVISIONS**

*“Penal Provisions”*

31. Every person who contravenes any provision of this Kahnawá:ke Communal Law, or who incites a person to do so, is guilty of an offence and liable to a fine of not more than \$1,000.00 in the case of a natural person, or to a fine of not more than \$10,000.00 in the case of a corporation or partnership.
32. The Peacekeepers have sole and exclusive authority and jurisdiction to enforce the provisions of this Kahnawá:ke Communal Law and the regulations.
33. Proceedings taken under this Kahnawá:ke Communal Law may be heard in the Court of Kahnawá:ke.

## **PART VIII COMING INTO FORCE**

*“Coming into Force”*

34. If any part of this Kahnawá:ke Communal Law is found by the Court to be invalid, it may be severed and it will not invalidate the Kahnawá:ke Communal Law.
35. This Kahnawá:ke Communal Law may only be amended by first obtaining the approval of the Mohawk Community of Kahnawá:ke.
36. This Kahnawá:ke Communal Law comes into force and effect on the date it is affirmed by resolution of the Mohawk Council of Kahnawá:ke.

## **PORTFOLIO CHIEF RESPONSIBLE FOR LAW**

37. The portfolio Chief for Community Protection is responsible for the application of this Kahnawá:ke Communal Law