

KAHNAWÁ:KE BUILDING USE LAW

Title

K.R.L. c. B-1

[Enacted by MCR # September 11, 1973
Amended October 31, 1983]

Preamble

WHEREAS By-Law of the Council of Kahnawá:ke Indian Band respecting the regulation of the use of the buildings on the reserve, the removal and punishment of persons trespassing upon the reserve or frequenting the reserve for prescribed purposes and the prevention of disorderly conduct and nuisances on the reserve under s81(d), (h), (p), (q) and (r) of the Indian Act; and,

SECTION I

"Application"

1. APPLICATION

- 1.2 This By-Law shall apply to all building situated on the Kahnawá:ke Indian Reserve and to all persons living or residing on the said Reserve.

"Definitions"

2. DEFINITIONS

"Building"

In this By-Law, "building" includes any structure used for shelter or accommodation of persons and without restricting the generality of the foregoing, includes houses, trailers, mobile homes, sheds, shacks, tents and boats;

"Member of the Family"

"Member of the family" means the husband or wife of an individual member of the Kahnawá:ke Band or one entitled to be a member thereof and his or her children and grand-children and his or her parents and grand-parents provided that such member of the family is himself or herself a registered member of the Kahnawá:ke Indian Band or is entitled to be registered as a member of the Kahnawá:ke Indian Band.

"Peace Officer"

"Peace Officer" includes any member of the Kahnawá:ke police force, any member of the Kahnawá:ke Peacekeepers, having jurisdiction on the Kahnawá:ke Indian Territory.

"Reserve"

"Reserve" means the Kahnawá:ke Indian Band.

"Band"

"Band" means the Kahnawá:ke Indian Band.

"Council or Band Council"

"Council or Band Council" means the Council of the Kahnawá:ke Indian Band.

SECTION II

*"Permissible
Occupation of
Building"*

3. PERMISSIBLE OCCUPATION OF BUILDING

- 3.1 Subject to Section 4.1 hereof, no building and no part of the Kahnawá:ke Reserve used or set aside to be used for residential purposes shall be occupied, resided in or used by any person who is not or is not entitled to be a member of the Kahnawá:ke Band.

*"Necessity of
Permit"*

4. NECESSITY OF PERMIT

- 4.1 Notwithstanding Section 3.1 hereof, a person may, if he possesses a permit for such purpose, allow any building owned by him or in which he has a interest to be occupied, resided in or used by a person other than a Kahnawá:ke Band member or a person entitled to be registered as a Kahnawá:ke Band member. Such permit shall be known as an "occupation permit".

*"Procedure for
Permit"*

5. PROCEDURE FOR PERMIT

- 5.1 Any person wishing to obtain the permit contemplated by Section 4.1 shall apply for such permit to the Council of the Band or to a person designated by the Council for such permit on a form which shall be supplied for such purpose. The Council or its designate may grant or refuse such permit.

*"Duration of
Permit"*

6. DURATION OF PERMIT

- 6.1 Permits shall be issued to the owner of the building or to the possessor of land in the reserve or to a person having an interest in such building or land and, subject to earlier termination as hereinafter mentioned, shall be for a period of one year and shall be issued for a named occupant only; the permit year shall begin on the 1st day of January of each year and end on the earlier of the date the named occupant or his family ceases to use the building or the 31st day of December of the same calendar year; any permits issued after January 1st of the calendar year shall be valid only to the end of the calendar year shall be valid only to the end of the calendar year in which the permit is issued.

*"Conditions of
Permit"*

7. CONDITIONS OF PERMIT

- 7.1 Every permit issued under this By-Law shall be valid only for:

- (a) the person in whose name it was issued;
- (b) for the occupation of the building and/or a part of the Kahnawá:ke Indian Reserve by the named occupant and his family exclusively;
- (c) for the place indicated on the permit; and
- (d) shall be for the period of time mentioned therein.

"Refusal of Permit"

8. **REFUSAL OF PERMIT**

- 8.1 The Council or the person designated by the Council for the issuance of the permit may refuse a permit if the proposed occupation will or might be prejudicial to the Band and may refuse a permit to any person who has at any time in the year immediately preceding his application for a permit allowed a person other than a member of the Band to occupy, use or reside in any building in which he has an interest or in any part of the Reserve without the permit of the Minister of Indian Affairs and Northern Development mentioned in Section 28 of the Indian Act or a lease contemplated by Section 58(3) of the Indian Act.

"Use of Premises without Permit"

9. **USE OF PREMISES WITHOUT PERMIT**

- 9.1 Any person who allows any building or any part of the Reserve in which he has any interest whatever to be occupied, resided in or used by any person other than members of the Kahnawá:ke Band or those entitled to be registered as members of the said Band without the permit mentioned in Section 4.1 hereof shall be guilty of a contravention of this By-Law.

"Vacation of Buildings"

10. **VACATION OF BUILDINGS**

- 10.1 In the event of a contravention of any provision of the present By-Law, the Council of the Band or the person designated by the Council for the issue of permits may cause any building or any part of the Kahnawá:ke Reserve in respect of which the contravention has occurred to be vacated immediately by the persons then residing in, occupying or using such building.

"Trespassers"

11. **TRESPASSERS**

- 10.1 Any person who is trespassing or who has trespassed upon the Reserve or is frequenting or has frequented the Reserve for prescribed purposes shall be subject to immediate expulsion from the Reserve by order of the Band Council expressed in a resolution adopted by a majority of the members of the Band Council present at a meeting of the Band Council duly convoked and at which a quorum was present.

"Expulsion of Trespassers:"

12. **EXPULSION OF TRESPASSERS**

12.1 Such a resolution shall name a person or persons to be expelled, and upon receipt of a notice of expulsion, such person and/or their family shall immediately leave the Reserve with their personal property and remain off the Reserve.

"Nuisance"

13. **NUISANCE**

13.1 Any person who causes a nuisance on the Reserve or whose conduct is disorderly is guilty of an contravention of the present by-Law.

SECTION III

"Penalties"

14. **PENALTIES**

14.1 Any person who contravenes any provision of this By-Law shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$100.00 or to imprisonment for a term not exceeding 30 days or to both such fine and imprisonment.

"Enforcement"

15. **ENFORCEMENT**

15.1 Any peace officer is hereby empowered to enforce and give effect to all provisions of the present By-Law and may cause any building in respect to which a violation of the present By-Law is committed to be vacated and may effect the expulsion from the Reserve of persons committing trespass on the Reserve and use such force as may be necessary in the circumstances to cause such expulsion to be effected.

SECTION IV

16. **HISTORY**

Origin MCR - September 11, 1973. Amended October 31, 1983. Date of revision 01 Tsothohrkó:wa/January, 2008.