

Title

KAHNAWA:KE BUSINESSES, TRADES & PROFESSIONS LAW

K.R.L. c. B-3

[Enacted by MCR # 55/1999-00 on 22 Kentenhkó:wa/November 1999]
[Amended by MCR #32/2001-02 on 09 Kentenha/October, 2001]
[Amended by MCR #59/2004-2005 on 24, Kentenhkó:wa/November, 2004]

SECTION I

“Jurisdiction”

1. **JURISDICTION**
 - 1.1 The Mohawk People of Kahnawake, as part of the Mohawk Nation and the *Haudenosaunee* or Iroquois Confederacy are, and have always been, sovereign peoples.
 - 1.2 The Mohawk People of Kahnawake have consistently and historically exercised ultimate and exclusive jurisdiction over the Mohawk Territory of Kahnawake.
 - 1.3 The Mohawk People of Kahnawake have existing and inherent rights, including the right of self-determination which includes the right and responsibility to monitor and regulate economic development within their Territory.
 - 1.4 The Mohawk People of Kahnawake, represented by the Mohawk Council of Kahnawake, have the ultimate and exclusive power, right and jurisdiction to license, control and regulate businesses, trades and professions within their Territory.

“Purpose”

2. **PURPOSE**
 - 2.1 This Law is an expression of the wishes of the Mohawk People of Kahnawake that persons who are not members of the community of Kahnawake who are carrying on, or who want to carry on, businesses, trades or professions within the Territory be regulated in a fair and responsible manner to preserve and promote peace, order and economic well-being within the Territory.

“Definitions”

3. **DEFINITIONS**
 - 3.1 For the purposes of this Law and the Regulations:

"Business"

"**Business**" means any activity involving the supply or sale of commodities or services for gain that is carried out in whole or in part within the Territory and, without limiting the generality of the foregoing, includes: utility and transportation companies and agencies, including telephone, telegraph, electrical, railway and inland waterway companies; retail or wholesale stores; golf clubs; automobile service stations; funeral parlors; restaurants; snack bars and alcohol or tobacco outlets but does not include activities operated on a not for profit basis;

"License"

"**License**" means a license issued under this Law in the form set out in Schedule "A";

"Licensee"

"**Licensee**" means a person that receives a License under this Law;

"Member of the Community of Kahnawake"

"**Member of the Community of Kahnawake**" means a person that is defined as a Mohawk and a member of the Community of Kahnawake pursuant to the present Kahnawake Membership Law or any Kahnawake Membership Laws or Codes that may be enacted from time to time;

"Person"

"**Person**" means an individual, a corporation or a partnership;

"Profession"

"**Profession**" means a member of a professional order listed in Schedule "B" to this Law;

"Territory"

"**Territory**" means the Mohawk Territory of Kahnawake, which includes:

- (a) the Kahnawake Indian Reserve No.14, including Tiowero:ton;
- b) any and all lands that may be added or returned to the lands set out in (a) through the negotiation and resolution of land grievances;
- c) any and all lands that may be added or returned to the lands set out in (a) as a result of any other means;
- d) any and all lands which Canada and the Mohawk People of Kahnawake agree are lands reserved for the Mohawk People of Kahnawake within the meaning of 91(24) of the *Constitution Act*, 1867; and,
- e) within the above definition, both common and privately held lands.

“Trade”

“Trade” means an occupation or activity requiring manual or mechanical skill or expertise and, without limiting the generality of the foregoing includes interior or exterior construction, ironwork, painting, bricklaying and operators of machinery;

“Prohibition”

4. **PROHIBITION**

4.1 No person who is not a member of the community of Kahnawake shall carry on any business, trade or profession on common or privately held lands within the Territory except in accordance with this Law and the Regulations.

“Requirements for License”

5. **REQUIREMENTS FOR LICENSE**

5.1 Every person that is not a member of the community of Kahnawake, or in the case of a corporation or partnership that is not owned by a member of the Community of Kahnawake, carrying on any business, trade or profession within the Territory - whether or not the professional operates from premises located within the Territory of Kahnawake - must hold a valid License issued under this Law.

5.2 For greater certainty, section 5.1 applies equally to all businesses, trades or professions operating within the Territory of Kahnawake at the time this Law is enacted.

5.3 For the purposes of this Law and the Regulations, a corporation or partnership will be deemed to be owned by a member of the Community of Kahnawake if it is a joint venture or partnership controlled by a member of the Community of Kahnawake.

5.4 Repealed MCR #59/2004-2005

5.5 (a) Any person who fails to provide the information requested by the Mohawk Council of Kahnawake pursuant to subsection 5.3 commits an offence under this Law and is liable on summary conviction to a fine not to exceed Two Thousand (\$2,000.00) Dollars.

(b) If, as a result of the failure to provide information referred to in section 5.3, the Mohawk Council of Kahnawake is unable to determine ownership, the business, trade or profession in question will be deemed not to be owned by a member or members of the community of Kahnawake and will be treated as such for all purposes of this Law and the Regulations.

- 5.6 Any person who is required to obtain a License under the provisions of this Law, must obtain a separate License for each business, trade or profession that person operates within the Territory.
- 5.7 Every License granted under this Law is valid and permits the Licensee to carry on the business, trade or profession in a lawful manner, according to the provisions of this Law, the Regulations and the terms and conditions of the License.
- 5.8 The Licensee must at all times keep the License prominently displayed in an area of the premises to which the public has access or in an area designated by the License Inspector.
- 5.9 The Licensee must notify the Mohawk Council of Kahnawake of any change in:
- (a) the mailing address of the business, trade or profession;
 - (b) the type of business, trade or profession carried on by the business, trade or profession;
 - (c) the area of the premises,
 - (d) any substantial physical alteration to the premises where the business, trade or profession is being operated; or
 - (e) ownership of the business, trade or profession.
- 5.10 In the event the business, trade or profession ceases its operations, the Licensee will surrender the License to the Mohawk Council of Kahnawake.

"License Application"

6. **LICENSE APPLICATION**

- 6.1 To obtain a License, a person must apply in writing to the Mohawk Council of Kahnawake and must disclose all information required.
- 6.2 Every person applying for a License to carry on a business, trade or profession that is governed or requires registration by any other Law, Regulation or self-regulating professional body, must supply proof of their qualifications and of the qualifications of their employees to carry on such a business, trade or profession and this must accompany the forms prescribed by Regulation.

- 6.3 Where the applicant is a corporation or a partnership, proof of incorporation or partnership must be provided with the completed application form. The proof of incorporation or partnership must indicate the names and addresses of all beneficial owners of the corporation or partnership and the percentage of each of their shares.
- 6.4 The Mohawk Council of Kahnawake will permit a transfer of the License from one premises to another provided:
- (a) the new Licensee has completed an application as prescribed by Regulation;
 - (b) the new Licensee has paid the fee prescribed by the License Inspector, and
 - (c) the proposed business, trade or profession premises comply with the terms of this Law and the Regulations.
- 6.5 In the event of a sale of the business, trade or profession for which a License has been issued, the Mohawk Council of Kahnawake will permit an assignment of the License to the purchaser of the business, trade or profession provided:
- (a) the proposed assignee has completed an application as prescribed by Regulation;
 - (b) the proposed assignee has paid the fee as prescribed by the License Inspector;
 - (c) the proposed assignee meets the provisions of this Law and the Regulations to carry on the business, trade or profession for which the License was issued.

"Licenses"

7. **LICENSES**

- 7.1 A License may be granted for not more than a two (2) year period. Licenses must be renewed by completing the application required by Regulation on or before the two (2) year anniversary date of the issuance of the License or the License will expire and be considered suspended. Licenses may be renewed, and reinstated from suspension for non-timely renewal in accordance with section 8.3 of this Law.

7.2 A License will specify the type and location of the business, trade or profession the Licensee is permitted to conduct, and the time period for which the License is valid.

7.3 A License may contain such other terms and conditions as the Mohawk Council of Kahnawake deems to be appropriate.

"Fees"

8. **FEES**

8.1 All Licensees shall pay the fee prescribed by the License Inspector. A License is not valid until the prescribed fee has been paid in full.

8.2 The fees payable for the issuance of a License, the transfer of a License, the assignment of a License, or the renewal of a License are prescribed by the License Inspector.

8.3 Where a former Licensee has not renewed the License on or before the expiry date as set out in section 7.1 of this Law, the License will be suspended and the former Licensee has ten (10) days after the date of expiry to renew the License and have the License reinstated by completing the required application paying the License fee and an added fee as prescribed by the License Inspector. In the event the former Licensee fails to reinstate the License within the ten (10) day period, the License will be considered void and the former Licensee will be required to reapply in accordance with the provisions of this Law and the Regulations.

8.4 The fees paid for Licenses under this Law shall be deposited in the general account of the Mohawk Council of Kahnawake or the fees for licenses under this law shall be used to defray the expenses of administering this Law. Any surplus shall be used to benefit charitable organizations within the Mohawk Territory of Kahnawake.

"No Refund"

9. **NO REFUND**

9.1 No License fee, or portion of a License fee, paid pursuant to this Law will be refunded for any reason.

"Issuance of License"

10. **ISSUANCE OF LICENSE**

The Mohawk Council of Kahnawake will, upon receiving an application for a business, trade or profession License, issue a License to the applicant

at the address shown in the License application provided:

- (a) the application complies with this Law and the Regulations;
- (b) Repealed MCR #59/2004-2005
- (bb) Repealed MCR #59/2004-2005
- (c) the Mohawk Council of Kahnawake is satisfied that the applicant's business, trade or profession complies with all provisions in any of the other Laws, By-laws or Regulations in force in the Territory;
- (d) the applicant has disclosed all required information in the application form and the Mohawk Council of Kahnawake is satisfied that the information is accurate and complete;
- (e) the applicant has not, within the preceding three (3) years, been convicted of an indictable criminal offense for which the applicant has not been pardoned;

the applicant's business, trade or profession would not be detrimental to the health, welfare, safety and environment of residents of the Territory;

the Mohawk Council of Kahnawake's investigations do not disclose any reason to believe that the carrying on of the said business, trade or profession may result in a breach of the law or in any way adverse to the public interest;

- (f) the required License fee has been paid.

10.2 Every License granted pursuant to this Law will be in triplicate: one copy will be issued to the Licensee and the other copies will be retained by the Mohawk Council of Kahnawake and the License Inspector. The License so issued will be deemed a personal License to the Licensee.

10.3 If the Mohawk Council of Kahnawake is not satisfied with information received from the applicant or Licensee under section 10.1 of this Law, the Mohawk Council of Kahnawake will forthwith serve the applicant notice as prescribed by Regulation of the refusal to issue the License and the said notice will be served personally or by registered mail to the applicant at the address shown in the License application. The notice will set out the reasons for the refusal to issue.

10.4 Within thirty (30) days of service of the notice under section 10.3 of this Law, the applicant or Licensee may request the Mohawk Council of Kahnawake to reconsider the application, providing specific reasons for the request and any additional information that may be appropriate.

10.5 Within fifteen (15) days of receiving a request for reconsideration under section 10.4, the Mohawk Council of Kahnawake will reconsider the application and will serve the applicant with notice of its decision personally or by registered mail at the address shown in the License application.

"License Inspector"

11. **LICENSE INSPECTOR**

11.1 The Mohawk Council of Kahnawake:

- (a) will appoint a License Inspector and such other officers as may be necessary, to administer and enforce the provisions of this Law and the Regulations with the assistance, if necessary, of the Kahnawake Peacekeepers;
- (b) will provide for reasonable remuneration to be paid to the License Inspector and other appointed officers;
- (c) will appoint the License Inspector for an initial term as required, after which reappointment shall be discussed by both parties; and, may dismiss the License Inspector from the appointed position, for failure to carry out duties as described in this Law or for having been convicted of a criminal offense or for contravening any other Law or By-law enacted by the Mohawk Council of Kahnawake.

"Duties of License Inspector"

12. **DUTIES OF LICENSE INSPECTOR**

12.1 The License Inspector will:

- (a) determine, with the approval of the Mohawk Council of Kahnawake, an appropriate fee scale for all health professionals;
- (aa) maintain a record of all applications and fees paid for Licenses and retain on file a copy of all Licenses issued, together with their particulars;
- (b) ascertain, as far as reasonably practical, that all information furnished by the applicant in connection with an application for a License is accurate;

- (c) make all investigations required by this Law or by the Mohawk Council of Kahnawake operations manual or other Laws, By-laws or Regulations of the Mohawk Territory of Kahnawake, relative to such an application;
- (d) in response to receipt of a written complaint, or at least once a year, with the consent of the Licensee (such consent not to be unreasonably withheld) make inquiries and inspect premises to determine whether every holder of a License issued under this Law complies with the License issued and the Laws, By-laws and Regulations of the Mohawk Territory of Kahnawake and no Licensee shall obstruct or hinder the making or completing of the inspection;
- (dd) Repealed #59/2004-2005
- (e) report monthly, in writing, to the Mohawk Council of Kahnawake concerning his or her activities for the previous month, and
- (f) perform such other duties as may be requested by the Mohawk Council of Kahnawake and that are in furtherance of the objectives of this Law.

*“Revocation or
Suspension of License”*

13. **REVOCAION OR SUSPENSION OF LICENSE**

13.1 The Mohawk Council of Kahnawake may, by Resolution, and after giving the notice as prescribed by Regulation:

- (a) suspend for a period not exceeding ninety (90) days; or
- (b) revoke any License issued under this Law where it has come to the attention of the Mohawk Council of Kahnawake that the Licensee:
 - i. has failed to comply with this Law;
 - ii. is carrying on a business, trade or profession that fails to comply with provisions in any of the other Mohawk Territory of Kahnawake Laws, By-laws or Regulations;
 - iii. within the preceding three (3) years of License issuance and since License issuance has been convicted of an indictable criminal offense for which the Licensee has not been pardoned;

- iv. has conducted the business, trade or profession in a manner that is detrimental to the health, welfare, safety and environment of the residents of the Territory;
- v. is convicted of any offense under any law of Kahnawake, Canada Quebec or any other jurisdiction in respect of the Licensed business, trade or profession or with respect to the premises named in the License; or
- vi. is carrying on a business, trade or profession, the purpose of which is to engage in or permit, allow, facilitate, encourage or assist others to engage in any criminal activity.

13.2 The License Inspector will post the notice of suspension or revocation of a License by the Mohawk Council of Kahnawake upon the premises for which the License was issued and the notice must not be removed until:

- (a) the License is reinstated;
- (b) the Licensee ceases to occupy the premises; or,
- (c) a new business, trade or profession, other than the one carried on by the former Licensee is Licensed on the premises.

“Appeal”

14. **APPEAL**

14.1 Within thirty (30) days of service of the notice under section 14 of this Law, the applicant or licensee may apply by letter for a review hearing by the Executive Committee of the Mohawk Council of Kahnawake.

14.2 The Executive Committee of the Mohawk Council of Kahnawake shall open the file on receipt of:

- a) a copy of the original license application as completed by the applicant and copies of any supporting documentation accompanying the license application.
- b) a copy of the License Inspector’s decision.

14.3 Upon receipt of the material described in section 15.2, the Executive Committee of the Mohawk Council of Kahnawake will determine the time and the date of the

14.3 review hearing, which will take place within fifteen (15) working days following the receipt of the material.

14.4 The decision of the Executive Committee of the Mohawk Council of Kahnawake will be rendered within five (5) days of the hearing.

14.5 The decision of the Executive Committee of the Mohawk Council of Kahnawake will be final.

“Regulations”

15. **REGULATIONS**

15.1 The Mohawk Council of Kahnawake will prepare and enact by Resolution all Regulations required by the Law.

SECTION III

“Penalties”

16. **PENALTIES**

16.1 Every person who contravenes this Law or the Regulations is guilty of an offense and on summary conviction is liable to a fine not to exceed Two Thousand (\$2,000.00) Dollars.

16.2 The Mohawk Council of Kahnawake may take such steps as are necessary to prevent any person from carrying on a business, trade or profession in contravention of this Law or the Regulations.

The Kahnawake Peacekeepers have authority to charge persons violating provisions of this Law or the Regulations.

“Court”

16. **COURT**

16.1 The Court of Kahnawake has exclusive jurisdiction to hear and decide any charge concerning a contravention of this Law or the Regulations.

SECTION IV

“History”

17. **HISTORY**

Origin MCR #55/1999-00 enacted on 22 Kentenhkó:wa/November 1999. Date of Revision 01 Tsothohrkó:wa/January, 2008.

Schedule "A"

LICENSE

Issued to: _____

Type of Business, Trade or Profession: _____

Location at which the Business, Trade or Profession will be carried on:

Other Terms and Conditions:

License valid from _____ until _____

This License is issued pursuant to the *Kahnawake Businesses, Trades and Professions Law* and may not be transferred or assigned except as authorized by the Mohawk Council of Kahnawake.

ISSUED the __ day of _____, _____ by an authorized representative of the Mohawk Council of Kahnawake,

Signature of Issuing Officer (seal)

THIS LICENSE MUST BE PROMINENTLY DISPLAYED IN AN AREA OF THE PREMISES TO WHICH THE PUBLIC HAS ACCESS OR IN AN AREA DESIGNATED BY THE LICENSE INSPECTOR.

Schedule "B"

LIST OF PROFESSIONAL ORDERS

1. The Professional Order of Lawyers
2. The Professional Order of Notaries
3. Repealed MCR#59/2004-2005
4. Repealed MCR#59/2004-2005
5. Repealed MCR#59/2004-2005
6. Repealed MCR#59/2004-2005
7. Repealed MCR#59/2004-2005
8. The Professional Order of Agronomists
9. The Professional Order of Architects
10. The Professional Order of Engineers
11. The Professional Order of Land Surveyors
12. The Professional Order of Forestry Engineers
13. Repealed MCR#59/2004-2005
14. The Professional Order of Chartered Accountants
15. Repealed MCR#59/2004-2005
16. Repealed MCR#59/2004-2005
17. Repealed MCR#59/2004-2005
18. Repealed MCR#59/2004-2005
19. Repealed MCR#59/2004-2005
20. Repealed MCR#59/2004-2005
21. Repealed MCR#59/2004-2005
22. Repealed MCR#59/2004-2005
23. The Professional Order of Certified Management Accountants
24. The Professional Order of Certified General Accountants
25. Repealed MCR#59/2004-2005
26. Repealed MCR#59/2004-2005
27. Repealed MCR#59/2004-2005
28. The Professional Order of Industrial Relations Consultants
29. Repealed MCR#59/2004-2005
30. The Professional Order of City Planners
31. The Professional Order of Certified Administrators
32. The Professional Order of Chartered Appraisers
33. Repealed MCR#59/2004-2005
34. Repealed MCR#59/2004-2005
35. Repealed MCR#59/2004-2005
36. Repealed MCR#59/2004-2005
37. Repealed MCR#59/2004-2005
38. Repealed MCR#59/2004-2005

List of Professional Orders Con't

39. Repealed MCR#59/2004-2005
40. Repealed MCR#59/2004-2005
41. Repealed MCR#59/2004-2005
42. The Professional Order of Certified Translators and Interpreters
43. Repealed MCR#59/2004-2005
44. Repealed MCR#59/2004-2005
45. Repealed MCR#59/2004-2005
46. Repealed MCR#59/2004-2005

Schedule "C"

Repealed MCR#59/2004-2005

KAHNAWAKE HEALTH PROFESSIONAL RELEASE AUTHORIZATION FORM

RepealedMCR#59/2004-2005

**Kahnawake Community Control Standards to Regulate
Health Professionals**

Repealed MCR#59/2004-2005



Mohawk Council Of Kahnawake
Office of the Council of Chiefs
 P.O. Box 720
 Kahnawake, QC J0L 1B0
 Phone: (450) 632-7500
 Fax: (450) 638-5958

Onkwata'karitáhtshera
Health & Social Services Agency
 P.O. Box 1440
 Kahnawake, QC J0L 1B0
 Phone: (450) 632-6880
 Fax: (450) 632-5116



**KAHNAWAKE HEALTH PROFESSIONAL
 LICENSE APPLICATION FORM**

Repealed MCR #59/2004-2005



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**KAHNAWAKE HEALTH PROFESSIONAL
 LICENSE APPLICATION FORM
 - Renewal -**

Repealed MCR #59/2004-2005



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PRIVACY WAIVER

Repealed MCR #59/2004-2005