

KAHNAWÁ:KE HAZARDOUS STRUCTURES LAW

Title

K.R.L. c. H-2

[Enacted by MCR #52/1999-2000 on 8 *Kentenhkó:wa*/November, 1999]

[Amended by MCR #31/2001-2002 on 9 *Kenténha*/October, 2001]

SECTION I

"Jurisdiction"

1. JURISDICTION

- 1.1 The Mohawk People of Kahnawá:ke, as part of the Mohawk Nation and the Iroquois Confederacy, are, and have always been sovereign peoples.
- 1.2 The Mohawk People of Kahnawá:ke have consistently and historically exercised ultimate and exclusive jurisdiction over the Mohawk Territory of Kahnawá:ke.
- 1.3 The Mohawk People of Kahnawá:ke have an existing and inherent right of self-determination, which includes the right and the responsibility to maintain peace, order and security of persons and property within the Mohawk Territory of Kahnawá:ke. The Mohawk People of Kahnawá:ke have consistently and historically exercised this right and fulfilled this responsibility.
- 1.4 In accordance with the *Kaineré:kowa* (Great Law of Peace), the Mohawk People abide by the principles of power, peace and righteousness. These principles govern the direction of the Mohawk People of Kahnawá:ke for the present and future generations.
- 1.5 The Mohawk People of Kahnawá:ke have ultimate and exclusive power, right and jurisdiction to establish and maintain a law controlling the inspection and repair or destruction of hazardous structures within the Mohawk Territory of Kahnawá:ke.

"Purpose"

2. PURPOSE

- 2.1 The purpose of this Law is to protect the people within the Mohawk Territory of Kahnawá:ke from dangers to persons and property by creating a legal obligation to remove or repair hazardous structures within the Mohawk Territory of Kahnawá:ke ; and,

"Application"

3. **APPLICATION**

3.1 This Law shall apply to all Structures within the Mohawk Territory of Kahnawá:ke whether situated on common or privately held lands.

"Definitions"

4. **DEFINITIONS**

4.1 For the purposes of this Mohawk Law:

"Community Building Inspector"

"Community Building Inspector" is an inspector appointed under this Law with jurisdiction as defined in this Law and the Regulations.

"Dangerous Goods"

"Dangerous Goods" are goods listed by schedule in the *Transportation of Dangerous Goods Act 1992* (R.S.C. 1985, ch.T-19.01) as amended and listed in the Regulations pursuant to this Law.

"Hazardous Structure"

"Hazardous Structure" is a Structure which:

- a) is in such poor condition that it may pose a hazard to people within the Mohawk Territory of Kahnawá:ke,
- b) is a Structure which houses dangerous goods in an unsafe manner so as to pose a hazard to the safety of people within the Mohawk Territory of Kahnawá:ke, or;
- c) is a Structure which houses goods, materials or animals that pose a health hazard to people within the Mohawk Territory of Kahnawá:ke.

"Mohawk People of Kahnawá:ke"

"Mohawk People of Kahnawá:ke" means a person identified as Mohawk by the Kahnawá:ke Mohawk Law concerning membership, as it may be amended from time to time.

"Mohawk Territory of Kahnawá:ke"

"Mohawk Territory of Kahnawá:ke" means:

- a) the lands now held under the mandate of the Mohawk People of Kahnawá:ke;
- b) any and all lands that may be added to the lands now held under the mandate of the Mohawk People of Kahnawá:ke through the negotiation and resolution of land grievances;
- c) any and all lands that may be added to the lands now held under the mandate of the Mohawk People of Kahnawá:ke as the result of any other means.

"Owner"

"Owner" is one or more persons or corporations who:

- a) owns or leases the Structure;
- b) has an interest in the estate of which the Structure is a part; or,
- c) owns or leases the land on which the Structure is built.

"Structure"

"Structure" is man-made construction of any type within the Mohawk Territory of Kahnawá:ke including a house, garage, Lean-to, shed or trailer, whether or not it is being used or inhabited and, also including bridges, towers, bill boards or other similar man-made constructions which are not designed for human habitation.

SECTION II

"Community Building Inspector"

5. COMMUNITY BUILDING INSPECTOR

5.1 The Mohawk Council of Kahnawá:ke shall appoint a Community Building Inspector with qualifications as prescribed by Regulation to carry out the following functions:

- a) the Community Building Inspector shall hold a public information session within the Mohawk Territory of Kahnawá:ke at least once every calendar year to raise public awareness of the dangers inherent in Hazardous Structures;
- b) the Community Building Inspector shall advise the public on the means of preventing fires and injury through repair, securing or destruction of Hazardous Structures, and on means of containing hazardous materials within Structures;
- c) the Community Building Inspector shall inspect, report on, and take the necessary action in relation to any Structure within the Mohawk Territory of Kahnawá:ke as described by this Law and the Regulations enacted pursuant to it;
- d) any other duties as prescribed by Regulation.

"Inspections"

6. INSPECTIONS

6.1 Except in cases of extreme urgency, the Community Building Inspector shall notify the Owner and occupants of the Structure in writing by registered mail thirty (30) days prior to the inspection, that an inspection of the Structure will be conducted, as provided by Regulation.

- a) The notice shall specify the location of the Structure and the date and time of the inspection.
- 6.2 The Owner of the Structure may accompany the Community Building Inspector as he performs his inspection of the Structure;
- 6.3 If the Owner of the Structure, or one of the Owners, cannot be identified or located, the Community Building Inspector shall publish the notice as described in section 6.1.a above in a local newspaper 15 days prior to the date of inspection;
- 6.4 In cases of extreme urgency, as determined by the Director of Community Protection in conjunction with the Community Building Inspector, the Community Building Inspector shall attempt to contact the Owner twenty-four (24) hours prior to an inspection by written message, in person or by telephone. In cases of extreme urgency, an inspection may proceed even if the Owner has not received notification.
- 6.5 Whether or not the Owner is present at the inspection, provided the Owner has been properly notified in sections 6.1, 6.3 and 6.4 above, the Community Building Inspector shall take all measures necessary to make a thorough assessment of whether the Structure is hazardous, as provided by Regulation.
- 6.6 Once the Community Building Inspector has inspected the Structure, the Community Building Inspector shall:
- a) prepare a detailed written report of his inspection as provided by Regulation;
 - b) The written report shall declare whether or not the Structure is a Hazardous Structure;
 - c) If the Structure is not declared to be Hazardous, the written report shall advise the Owner that the inspection was satisfactory and no action is required;
 - d) If the Structure is declared to be Hazardous, the written report shall recommend one of the following actions:
 - (i) order the Owner to do such repair work as required by the Community Building Inspector within a specific time limit as required to ensure the Structure does not pose a safety hazard;
 - (ii) order the Owner to contain or remove dangerous goods within the Structure in accordance with the Inspector's directions and within a specific time limit;

- (iii) order the Owner to take such actions as required by the Inspector to address and remedy the health hazard posed by the Structure or the contents of the Structure;
 - (iv) notify the Owner of the time and date of the follow-up inspection; or,
 - (v) make any other recommendations the Community Building Inspector determines are necessary to ensure that the Structure is not Hazardous.
 - e) Mail the written report by registered mail to the Owner with a copy to the Mohawk Council of Kahnawá:ke and to the Kahnawá:ke Safety Committee within ten (10) days of the inspection.
 - f) In cases where the Community Building Inspector concludes that the Structure is Hazardous and should be destroyed, the Community Building Inspector must present his written report and recommendations to the Mohawk Council of Kahnawá:ke at the next scheduled Council meeting and request their direction which must be given by resolution.
- 6.7 Except in cases of extreme urgency, the Community Building Inspector shall return to the Structure between thirty (30) and sixty (60) days after the written report was mailed to the Owner and occupants to establish whether the recommendations in the written report were followed. At that time the Community Building Inspector shall enter the Structure to perform a second inspection. The Owner of the Structure may attend the follow-up inspection.
- 6.8 In cases of extreme urgency as determined by the Director of Community Protection in conjunction with the Community Building Inspector, the Owner may be notified to the contents of the written report by receiving a copy or by being informed of its contents in person or by telephone within twenty-four (24) hours of the original inspection.
- a) In such cases, within twenty-four (24) hours of the original inspection, the Community Building Inspector may take action deemed necessary in relation to the Structure to protect the Mohawk People of Kahnawá:ke from danger.
- 6.9 If the Owner of the Structure does not comply with the Community Building Inspector's recommendations within the time specified in the written report, the Community Building Inspector shall follow the recommendations in the written report, and the Owner shall be responsible for all costs of the work completed, including demolition of the Structure.

"Cost"

7. **COST**

7.1 All costs of work required to ensure that the Structure or its contents are no longer hazardous, including the cost of destroying the building, are the sole responsibility of the Owner of the Structure.

7.2 All costs incurred by the Mohawk Council of Kahnawá:ke and not repaid within sixty (60) days shall be reclaimed by operation of Law.

"Liability"

8. **LIABILITY**

8.1 The Community Building Inspector and the Mohawk Council of Kahnawá:ke, its Chiefs, employees and agents shall not be held liable for injuries caused to any person from within the Mohawk Territory of Kahnawá:ke as a result of dangers resulting from Hazardous Structures unless such injuries take place as a direct result of the negligent performance of the Community Building Inspector's duties.

"Regulations"

9. **REGULATIONS**

9.1 The Mohawk Council of Kahnawá:ke shall have the authority to make Regulations in relation to this Law, including:

- a) definition of Dangerous Goods
- b) appointment of the Community Building Inspector
- c) qualifications of the Community Building Inspector
- d) procedure of inspections
- e) inspection reports

SECTION III

"Penalties"

10. **PENALTIES**

10.1 Anyone who without lawful excuse prevents the Community Building Inspector or his employees from doing anything he is authorized to do by this Law is guilty of an offense and shall be fined between One Hundred to Three Hundred (\$100.00 - \$300.00) Dollars for the first offense and Three Hundred (\$300.00) to One Thousand (\$1000.00) Dollars for the second or repeat offenses.

10.2 The names of repeat offenders shall be put on a list at the Mohawk Council of Kahnawá:ke and funding to build new structures including housing, water supply, and septic systems may be denied them as determined by the Mohawk Council of Kahnawá:ke.

"Enforcement"

11. **ENFORCEMENT**

11.1 The Kahnawá:ke Peacekeepers shall have jurisdiction to enforce the provisions of this Law.

11.2 The Court of Kahnawá:ke shall be the Court of competent jurisdiction to hear all matters relating to this Law.

"Court"

12. **COURT**

12.1 An appeal from a decision of the Community Building Inspector lies with the Court of Kahnawá:ke.

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REGULATION 1

DANGEROUS GOODS

"Dangerous Goods" described in the Kahnawá:ke Hazardous Structures Law shall mean the following:

- Class 1:** Explosives, including explosives within the meaning of the *Explosives Act*, R.S., c. E-15, s.1.
- Class 2:** Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure.
- Class 3:** Flammable and combustible liquids.
- Class 4:** Flammable solids, substances liable to spontaneous combustion; substances than on contact with water emit flammable gases.
- Class 5:** Oxidizing substances; organic peroxides.
- Class 6:** Poisonous (toxic) and infectious substances.
- Class 7:** Radioactive materials and radioactive prescribed substances within the meaning of the *Atomic Energy Control Act*, R.S., c. A-19, s.1.
- Class 8:** Corrosives.
- Class 9:** Miscellaneous products, substances or organisms considered by the Governor in Council to be dangerous to life, health, property or the environment when handled, offered for transport or transported and prescribed to be included in this class.

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REGULATION 2

COMMUNITY BUILDING INSPECTOR

- 2.1 The Director of Operations of the Kahnawá:ke Fire Brigade shall assume the position of the Community Building Inspector.
- 2.2 In the event the Director of Operations of the Kahnawá:ke Fire Brigade is unavailable or unable to act, the position of the Community Building Inspector shall be temporarily assumed by the Chairman of the Kahnawá:ke Safety Committee.