

Title

## KAHNAWÁ:KE MEMBERSHIP LAW

K.R.L. c. M-1

[Enacted by MCR # 51/2003-2004 on 10 Kentenhkó:wa/November,2003]

[Came into force through MCR #41/2004-2005 with the exception of section 7.2, on 27  
Seskehkó:wa/September, 2004]

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Preamble

We are the Kanien'kehá:ka of Kahnawá:ke. We are a community within the Kanien'kehá:ka Nation and the Rotinonhsonnión:we and as such are Indigenous Peoples who possess a fundamental and inherent right of self-determination given to us by the Creator.

As Indigenous Peoples, we have the right to maintain and promote our Kanien'kehá:ka identity including our culture, traditions, language, laws and customs.

As Indigenous Peoples, we have the collective right to determine our own membership. This right is fundamental to our survival.

Our rights as Indigenous Peoples have been affirmed in the Two Row Wampum, in other treaties we have entered into with foreign governments and in international covenants and declarations.

We have consistently and historically asserted both our rights as Indigenous Peoples and the rights set out in our treaties with foreign governments. These rights cannot be extinguished, diminished or affected without our consent.

We have consistently and historically exercised the right to determine our own membership. In recent times, we have been compelled to adopt measures that were necessary to ensure our continued survival as a Kanien'kehá:ka community.

This Law is another link in the unbroken chain of our historic struggle to survive as Kanien'kehá:ka of Kahnawá:ke. This Law is the result of a lengthy period of discussion and consultation within our community. It is an expression of the will of the Kanien'kehá:ka of Kahnawá:ke and is intended to reflect the values and principles described by the Elders of our community in their statement on membership: Entsitewahahárahne.

This Law is an affirmation of our Indigenous and Treaty rights. This Law is essential if we are to survive and to thrive as Indigenous Peoples and as Kanien'kehá:ka of Kahnawá:ke.

The rights on which this Law is based are collective rights belonging to the Kanien'kehá:ka of Kahnawá:ke. However, the application of this Law will respect the fundamental human rights of all individuals in accordance with the principles of dignity and compassion inherent in Kanien'kehá:ka culture, values and Traditional Law and in accordance with international principles of human rights and natural justice.

This Law is not intended to take away or diminish any and all rights of the People of the Kanien'kehá:ka Nation or the Rotinohsonnión:we.

This Law is a step toward the goal of completely replacing foreign laws and authorities that have been imposed upon us without our consent and toward the restoration of Traditional Law within Kahnawá:ke.

This Law is a declaration of our resolve to unite our strengths to achieve this common goal and by this measure we will strive to ensure the peace and security of future generations of our People and our Territories.

We recognize that we have been harmed by foreign governments' attempts to undermine our will and ability to survive by dividing our community. We reject the imposition of the Indian Act and of other foreign laws that have presumed to define the principles upon which the membership of our community will be determined. We reject all efforts to assimilate and extinguish our community under the guise of absolute individualism.

By enacting this Law, we are fulfilling our responsibility to defend our community and our Nation from external threat, and in doing so are securing for future generations the right to survive and to continue living – proudly – as Kanien'kehá:ka of Kahnawá:ke.

"Title"

## **TITLE**

1.1 The title of this Law is the Kahnawá:ke Membership Law.

"Purpose"

## **PURPOSE**

2.1 The general purpose of this Law is more fully described in the Preamble.

2.2 This Law is intended to provide the criteria and procedures for:

- a) identifying those persons who are members at birth of the Kanien'kehá:ka of Kahnawá:ke and establishing the entitlements and responsibilities associated with membership,
- b) determining the membership of persons who are entitled to apply for membership of the Kanien'kehá:ka of Kahnawá:ke and to establish the entitlements and responsibilities associated with membership, and

- c) determining those persons who are eligible to be non-member residents of Kahnawá:ke and establish their privileges and obligations.

*"Jurisdiction"*

## JURISDICTION

- 3.1 The jurisdiction under which this law is enacted is more fully described in the Preamble.
- 3.2 This Law is an exercise of the collective rights of the Kanien'kehá:ka of Kahnawá:ke to determine our own membership, until such time as the community addresses the issue of citizenship under the Kaianere'kó:wa. This Law is paramount to and supercedes the laws, regulations and policies of the government of Canada, or any other foreign government, concerning membership of the Kanien'kehá:ka of Kahnawá:ke, or matters related thereto.

*"Definitions"*

## DEFINITIONS

- 4.1 For the purposes of this Law and the Regulations,

*"Adoption"*

**"Adoption"** means the act or acts of accepting the child of another person as one's own child,

*"Age of Majority"*

**"Age of majority"** means eighteen (18) years of age,

*"Business Relationship"*

**"Business relationship"** means persons who have a common financial interest, direct or indirect, in a business venture or enterprise,

*"Child"*

**"Child"** means a human being who has not yet reached his or her age of majority,

*"Common-law Relationship"*

**"Common-law relationship"** means an intimate personal relationship, not solemnized by a marriage ceremony, law or custom, between two persons who have lived together for not less than one year,

*"Dependent Child"*

**"Dependent child"** means a person who has reached his or her age of majority but who, as the result of physical or mental limitations, lives with and is cared for by a member parent or parents,

*"Elder"*

**"Elder"** means an adult person who is a member of the Kanien'kehá:ka of Kahnawá:ke and who has gained and continues to hold the trust, respect and confidence of the Kanien'kehá:ka of Kahnawá:ke and who has a good knowledge of the customs and Kanien'kéha of the Kanien'kehá:ka of Kahnawá:ke,

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| "Family Relationship"                                   | "Family relationship" means the bond that exists between a person their spouse, sibling, parent or child,   |
| "Indigenous"  | "Indigenous" for the purposes of this Law means persons of an Indigenous Nation that is indigenous to what is currently known as Canada and the United States of America.   |
| "Indigenous Lineage"                                    | "Indigenous lineage" means direct descent from at least four (4) Indigenous great-grandparents, verified by proof acceptable to the Registrar, the Council of Elders or the Membership Review Council,  |
| "Instatement"   | "Instatement" means confirming, for the first time, a person to be a member of the Kanien'kehá:ka of Kahnawá:ke in accordance with this Law,  |
| "Kahnawá:ke Kanien'kehá:ka Registry"                    | "Kahnawá:ke Kanien'kehá:ka Registry" means the list of members and the list of non-member residents maintained by the Registrar after the enactment of this Law and, for greater certainty, does not mean any lists kept by the Department of Indian Affairs and Northern Development (Canada) or any other foreign government,   |
| "Kahnawá:ke Mohawk Registry"                            | "Kahnawá:ke Mohawk Registry" means the list of persons created in accordance with the 1981 Moratorium and the 1984 Kahnawá:ke Mohawk Law concerning Membership,   |
| "Kanien'kehá:ka Lineage"                                | "Kanien'kehá:ka lineage" means direct descent from a Kanien'kehá:ka ancestor, verified by proof acceptable to the Registrar, the Council of Elders or the Membership Review Council,  |
| "Kanien'kehá:ka Territory of Kahnawá:ke" or "Territory" | <p>"Kanien'kehá:ka Territory of Kahnawá:ke" or "Territory" means:</p> <ol style="list-style-type: none"> <li>a) the lands under the control and jurisdiction of the Kanien'kehá:ka 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 Kanien'kehá:ka of Kahnawá:ke through the negotiation and resolution of land grievances,</li> <li>c) any and all lands that may be added to the lands now under the control and jurisdiction of the Kanien'kehá:ka of Kahnawá:ke as a result of any other means, and</li> <li>d) lands, which are returned to, Kahnawá:ke as lands within the meaning of subsection 91(24) of the <i>Constitution Act</i>, 1867.</li> </ol> |
| "Marriage"  | "Marriage" means a binding union between two consenting persons with legal capacity that is solemnized by ceremony, law or custom and that gives rise to duties and responsibilities that are enforceable in law,   |

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| <i>"Member"</i>                         | <b>"Member"</b> means a member at birth or a person who has been confirmed as being a member of the Kanien'kehá:ka of Kahnawá:ke, according to the criteria and procedures in this Law and the Regulations, provided the person's membership has not been revoked,  |
| <i>"Member of a Liturgical Society"</i> | <b>"Member of a Liturgical Society"</b> includes leadership positions held within well recognized religious orders currently established within the Territory such as, but not limited to, priests, nuns, ministers, preachers and other similar members,   |
| <i>"Non-Indigenous Person"</i>          | <b>"Non-Indigenous person"</b> means a person who has no Kanien'kehá:ka or Indigenous lineage,  |
| <i>"Non-Member Resident"</i>            | <b>"Non-member resident"</b> means a person who has been confirmed to have permission to reside within the Territory and to receive those privileges as provided in this Law, provided the person's permission to be a non-member resident has not been suspended or revoked,   |
| <i>"Normally Resident"</i>              | <b>"Normally resident"</b> means that a person maintains their permanent home in Kahnawá:ke and includes persons who may be absent for a period of time but who return to Kahnawá:ke on a regular basis from their place of employment, training or schooling and also includes persons who do not reside in Kahnawá:ke due to housing shortages, |
| <i>"Person"</i>                         | <b>"Person"</b> means a living human being,   |
| <i>"Regulations"</i>                    | <b>"Regulations"</b> means the Regulations enacted pursuant to this Law, including Regulation No. 1 and any Regulation enacted by the Council of Elders in accordance with this Law,  |
| <i>"Reinstatement"</i>                  | <b>"Reinstatement"</b> means confirming the membership of a person who was previously removed from the Kahnawá:ke Kanien'kehá:ka Registry,  |
| <i>"Respect for Mother Earth"</i>       | <b>"Respect for Mother Earth"</b> refers to a concept, which mirrors our attachment to earth as our supreme giver of life; as giver of all our nourishment and our needs. The symbolic term Mother Earth is central to our belief and life system and plays an integral role in Kanien'kehá:ka society.   |
| <i>"Rotinonnión:we"</i>                 | <b>"Rotinonhsonnión:we"</b> means the People of the Longhouse who are of the Kanien'kehá:ka Nation, also known as "Haudenosaunee".  |

**REGISTRAR**

5.1 Upon the enactment of this Law, the Mohawk Council of Kahnawá:ke will, after an open application process, appoint a suitable person to be the Registrar for the purposes of this Law.

- 5.2 The Registrar's appointment will be effective until:
- a) it is revoked by the Mohawk Council of Kahnawá:ke,
  - b) the Registrar resigns, or
  - c) the Registrar, for any reason, is unable to perform his or her duties under this Law.
- 5.3 The Registrar must be:
- a) a mature person of good character,
  - b) a member of the Kanien'kehá:ka of Kahnawá:ke, and
  - c) a person who normally resides within the Territory.
- 5.4 The Registrar will maintain and administer the Kahnawá:ke Kanien'kehá:ka Registry and the non-member resident list, and perform any duties related thereto.
- 5.5 The Registrar will at all times:
- a) act fairly, impartially and in accordance with the provisions of this Law and the Regulations,
  - b) ensure that all information in his or her possession, including but not limited to the Kahnawá:ke Kanien'kehá:ka Registry, is held in confidence and is not divulged, discussed or released to any person or authority, except with the permission of the person to whom the information relates, as required to verify a person's eligibility for benefits and services, as may be required by access to information laws applicable within the Territory, or in accordance with this Law and the Regulations, and
  - c) ensure the information contained in the Kahnawá:ke Kanien'kehá:ka Registry and the non-member resident list is safeguarded from loss, destruction, tampering and unauthorized use.
- 5.6 The Registrar will make available for the review of the Mohawk Council of Kahnawá:ke and members of the Kanien'kehá:ka of Kahnawá:ke during normal business hours, any additions to or removals from the Kahnawá:ke Kanien'kehá:ka Registry and the non-member resident list, including the names of the persons added or removed from the Kahnawá:ke Kanien'kehá:ka Registry and the non-member resident list.

*"Kahnawá:ke  
Kanién'kehá:ka  
Registry"*

## **KAHNAWÁ:KE KANIEN'KEHÁ:KA REGISTRY**

- 6.1 The Kahnawá:ke Kanién'kehá:ka Registry is hereby established.
- 6.2 The Kahnawá:ke Mohawk Registry is hereby replaced by the Kahnawá:ke Kanién'kehá:ka Registry.
- 6.3 With the exception of any person who has no Kanién'kehá:ka or Indigenous lineage, all persons who, as of the date on which this section of the Law comes into force, were listed on the Kahnawá:ke Mohawk Registry and who reside in or maintain ties with Kahnawá:ke, will be members of the Kanién'kehá:ka and will be listed on the Kahnawá:ke Kanién'kehá:ka Registry.
- 6.4 The Registrar will add to the Kahnawá:ke Kanién'kehá:ka Registry the name of any person who is instated or reinstated as a member under this Law.
- 6.5 The Registrar will remove from the Kahnawá:ke Kanién'kehá:ka Registry the name of any person whose membership has been revoked and will make a notation in the Registry of any member who is suspended.

*"Non-Member  
Resident List"*

## **NON-MEMBER RESIDENT LIST**

- 7.1 The Registrar will also keep a list of the names, addresses and telephone numbers of those persons who have been given permission to be non-member residents and will record any conditions that are attached to that permission. This list will not be considered to be part of the Kahnawá:ke Kanién'kehá:ka Registry and will be updated by the Registrar on a regular basis, as required by this Law and the Regulations.
- 7.2 A person who has no Kanién'kehá:ka or Indigenous lineage, but whose name appears on the Mohawk Registry, immediately before coming into force of this section of the Law, as a result of having married a member prior to May 22, 1981, will automatically be placed on the non-member residency list by the Registrar provided that:
- a) they are still married and living with that spouse in the Mohawk Territory of Kahnawake;
  - b) they are widowed and they are still residing in the Mohawk Territory of Kahnawá:ke

## COUNCIL OF ELDERS

- 8.1 There is hereby established a body to be known as the Council of Elders appointed by the community of Kahnawá:ke and enacted by this Law.
- 8.2 The Council of Elders will consist of not less than nine (9) and not more than fifteen (15) Elders who are normally resident in Kahnawá:ke, selected in accordance with the procedures set out in the Regulations.
- 8.3 The Council of Elders will:
- a) review decisions made by the Registrar pursuant to this Law,
  - b) review and decide applications for instatement, reinstatement or for permission to be a non-member resident,
  - c) review and decide applications to suspend or revoke a person's membership or to suspend or revoke a person's permission to be a non-member resident,
  - d) enact Regulations as provided in this Law and
  - e) oversee the function of the Registrar
- 8.4 The Council of Elders will perform its duties in accordance with the provisions of this Law and the Regulations.
- 8.5 The Council of Elders, in performing its duties, conducting its meetings and making its decisions will respect the principles of fairness, dignity of the person, compassion and consensus that are consistent with the traditions and customs of the Kanien'kehá:ka of Kahnawá:ke.
- 8.6 The members of the Council of Elders will be remunerated for their services in an amount to be established by the Mohawk Council of Kahnawá:ke.
- 8.7 The Mohawk Council of Kahnawá:ke will provide funds to the Council of Elders for the purpose of establishing and maintaining its office and support staff as may be required for the Council of Elders to perform its duties under this Law and the Regulations. The Council of Elders will submit to the Mohawk Council of Kahnawá:ke an annual budget for its approval.
- 8.8 The Council of Elders will create and maintain a record of its proceedings, any decisions it makes and the reasons for its decisions.
- 8.9 Any person who is a member of the Membership Review Council is not eligible to be a member of the Council of Elders.



## **MEMBERSHIP REVIEW COUNCIL**

- 9.1 There is hereby established a body to be known as the Membership Review Council empowered by the Mohawk Council of Kahnawá:ke, through the enactment of this Law.
- 9.2 The Membership Review Council will consist of three (3) Elders, selected in accordance with the procedures set out in the Regulations.
- 9.3 Any person who is a member of the Council of Elders is not eligible to be a member of the Membership Review Council.
- 9.4 If requested to do so, the Membership Review Council will review a decision made by the Council of Elders, in accordance with the procedures set out in the Regulations.
- 9.5 The Membership Review Council will perform its duties in accordance with the provisions of this Law and the Regulations.
- 9.6 The Membership Review Council, in performing its duties, conducting its meetings and making its decisions will respect the principles of fairness, dignity of the person, compassion and consensus that are consistent with the traditions and customs of the Kanien'kehá:ka of Kahnawá:ke.
- 9.7 The members of the Membership Review Council will be remunerated for their services in an amount to be established by the Mohawk Council of Kahnawá:ke.
- 9.8 The Mohawk Council of Kahnawá:ke will provide funds to the Membership Review Council for the purpose of establishing and maintaining an office and support staff as may be required for the Membership Review Council to perform its duties under this Law and the Regulations. The Membership Review Council will submit to the Mohawk Council of Kahnawá:ke an annual budget for its approval.
- 9.9 The Membership Review Council will create and maintain a record of its proceedings, any decisions it makes and the reasons for its decisions.

## **MEMBERSHIP**

- 10.1 A person is a member at birth of the Kanien'kehá:ka of Kahnawá:ke if he or she is identified as a Kanien'kehá:ka of Kahnawake and if he or she satisfies the following criteria:
- a) is born of two members, and

- b) has four (4) or more Kanien'kehá:ka great-grandparents,
- c) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of affiliation in seeking a Kanien'kehá:ka clan.

10.2 A person is a member at birth of the Kanien'kehá:ka of Kahnawá:ke if he or she is identified as a Kanien'kehá:ka of Kahnawake and if he or she satisfies all of the following criteria:

- a) is born of one member,
- b) is born of the other person who is Mohawk, Oneida, Onondaga, Cayuga, Seneca or Tuscarora (verified by proof acceptable to the Registrar),
- c) has four (4) or more great-grandparents who are Mohawk, Oneida, Onondaga, Cayuga, Seneca or Tuscarora,
- d) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of seeking a Kanien'kehá:ka clan, and
- e) is not on another Indigenous community membership list.

10.3 A person whose name does not appear on the Mohawk Registry as a result of having married a non-Indigenous person prior to May 22<sup>nd</sup>, 1981, but who otherwise would qualify to be a member under section 10.1 of this Law is eligible to apply to be instated.

## APPLICATION PROCESS/ MEMBERS

11.1 Every child, through their parent or guardian, is eligible to apply to become a member at birth if he or she is identified as a Kanien'kehá:ka of Kahnawá:ke and if he or she satisfies all of the following criteria:

- a) is born of one member,
- b) is born of the other person who has Indigenous lineage,
- c) has four (4) or more Indigenous great-grandparents,
- d) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of seeking a Kanien'kehaka clan, and

e) who is not on another Indigenous community membership list.

11.2 Every child, through their parent or guardian, is entitled to apply to become a member at birth if he or she is identified as a Kanien'kehá:ka of Kahnawake and if he or she satisfies all of the following criteria:

- a) is born of two members, one of which who denies filiation with the child but whose lineage is acceptable to the Council of Elders,
- b) has four (4) or more Kanien'kehá:ka great-grandparents,
- c) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of affiliation in seeking a Kanien'kehá:ka clan, and
- d) who is not on another Indigenous community membership list.

11.3 Every child, through their parent or guardian, is entitled to apply to become a member at birth if he or she is identified as a Kanien'kehá:ka of Kahnawake and if he or she satisfies all of the following criteria:

- a) is born of one member,
- b) is born of the other person who is a non-member resident with some Kanien'kehá:ka or Indigenous lineage,
- c) has four (4) or more great-grandparents with Indigenous lineage,
- d) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of affiliation in seeking a Kanien'kehá:ka clan, and
- e) who is not on another Indigenous community membership list.

11.4 A person who is not born of two (2) members, is eligible to apply for membership of the Kanien'kehá:ka of Kahnawá:ke, at the age of eighteen (18) if he or she satisfies the following criteria:

- a) has at least four (4) Kanien'kehá:ka great-grandparents,
- b) speaks, or is committed to learning Kanien'keha,
- c) respects mother earth,

- d) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of affiliation in seeking a Kanien'kehá:ka clan,
  - e) has and maintains ties with the community of Kahnawake, and
  - f) honors the customs and traditions, and must comply with the codes, laws and regulations of the Kanien'kehá:ka of Kahnawá:ke.
- 11.5 In the event of a dispute, the Council of Elders will decide whether a person's great-grandparent(s) were, for the purposes of this Law, a Kanien'keha:ka.
- 11.6 A person who has Indigenous lineage but who has little or no Kanien'kehá:ka lineage may apply to the Council of Elders to be confirmed as a member of the Kanien'kehá:ka of Kahnawá:ke if he or she satisfies all of the following criteria:
- a) is married to or living in a common-law relationship with, a member,
  - b) speaks, or is committed to learning Kanien'kéha,
  - c) respects Mother Earth,
  - d) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of affiliation in seeking a Kanien'kehá:ka clan,
  - e) has and maintains ties with the community of Kahnawá:ke,
  - f) honors the customs and traditions, and must comply with the codes, laws and regulations of the Kanien'kehá:ka of Kahnawá:ke, and
  - g) is committed to raising their children to honor the customs, traditions, codes, laws and regulations of the Kanien'kehá:ka of Kahnawá:ke and must be committed to having their children learn Kanien'kéha.
- 11.7 The application of persons mentioned in sections 11.4 and 11.6 will be carefully reviewed by the Council of Elders. Notwithstanding section 15.1, in the event the application is approved, the Council of Elders may impose such reasonable conditions, limitations or restrictions on the member that they deem appropriate.
- 11.8 When the Council of Elders or the Membership Review Council confirms a person's membership, the Registrar will be advised to make the necessary amendments to the Kahnawá:ke Kanien'kehá:ka Registry.
- 11.9 Membership as a Kanien'kehá:ka of Kahnawá:ke, and the entitlements associated with membership, are not transferable to another person or entity.

*"Instatement & Reinstatement"*

## **INSTATEMENT AND REINSTATEMENT**

- 12.1 Subject to section 10.3, persons whose names are not listed on the Kahnawá:ke Kanien'kehá:ka Registry and who are eligible to apply for membership, may apply to the Council of Elders, with a copy to the Registrar, for instatement or reinstatement as members.
- 12.2 Applications for instatement or reinstatement must be in the form and will be subject to the procedures provided in the Regulations.

## **ADOPTED CHILDREN**

*"Adopted Children"*

- 13.1 A child who is adopted by a member or members is deemed to be a member, for all purposes of this Law, from the date on which the child is adopted until he or she reaches his or her age of majority, provided the child:
- a) has at least four (4) great-grandparents with Kanien'kehá:ka or Indigenous lineage, and
  - b) normally resides within the Territory under the care and protection of his or her adoptive member parent or guardian.
- 13.2 Upon reaching his or her age of majority, an adopted child referred to in section 13.1 will only continue to be a member, and to be entitled to the benefits and services associated with membership, if, within one year of reaching his or her age of majority, he or she reaffirms the Member's Pledge following the procedures set out in the Regulations. Failure to do so may result in the revocation of that person's membership.
- 13.3 The adopted child of a member or members who has some Kanien'kehá:ka or Indigenous lineage but who has fewer than four (4) great-grandparents with Kanien'kehá:ka or Indigenous lineage, is entitled to reside within the Territory with his or her adoptive member parent or parents and to receive educational services within the Territory until he or she reaches his or her age of majority, after which he or she may apply for instatement or reinstatement in accordance with this Law or for permission to be a non-member resident.
- 13.4 A child who has no Kanien'kehá:ka or Indigenous lineage who is adopted by a member or members is not eligible for membership. However, provided the child is adopted prior to the enactment of this Law, he or she is entitled to reside within the Territory with his or her adoptive member parent or parents and to receive educational services within the Territory until he or she reaches his or her age of majority, after which he or she may apply for permission to be a non-member resident.

*“Application  
Process/non  
Member Resident*

- 13.5 A child who has no Kanien'kehá:ka or Indigenous lineage adopted by a member or members after the enactment of this Law is not eligible to be a member or to be a non-member resident.

#### **APPLICATION PROCESS/NON MEMBER RESIDENTS**

- 14.1 The following persons are eligible to apply to the Council of Elders for permission to be a non-member resident:

- a) a person who has some Kanien'kehá:ka lineage and,
  - I) who has and maintains family ties within the community of Kahnawá:ke, and
  - II) who has made a positive contribution to the community of Kahnawá:ke,
- b) a person who has Indigenous but no Kanien'kehá:ka lineage and is:
  - I) married to, or living in a common law relationship with, a member, or
  - II) working within the Territory, or
  - III) attending an educational facility in or near the Territory,
- c) a person with no Kanien'kehá:ka or Indigenous lineage who was adopted as a child prior to the enactment of this Law by a member or members and:
  - I) has reached his or her age of majority,
  - II) has been normally resident within the community of Kahnawá:ke since the date on which he or she was adopted, and
  - III) has and maintains family ties within the community of Kahnawá:ke,
- d) a person with no Kanien'kehá:ka or Indigenous lineage who was raised in the community of Kahnawá:ke and who maintains family ties with the community,
- e) a member of a liturgical society established within the Territory.

14.2 A person who has no Kanien'kehá:ka or Indigenous lineage, and wishes to reside on the Territory of Kahnawá:ke and is married, prior to May 22, 1981, to someone who has met the qualifications required to become a member under Section 10.3 is required to apply to become a non member resident if:

- a) their spouse is a member; and ,
- b) they are still married to that spouse.

14.3 Applications for permission to be a non-member resident of Kahnawá:ke will be in the form and will be subject to the procedures provided in the Regulations.

### **ENTITLEMENTS OF MEMBERS**

*"Entitlements of Members"*

15.1 Subject to Kahnawá:ke's laws, regulations and policies, members of the Kanien'kehá:ka of Kahnawá:ke have the following, entitlements, and privileges with regards to benefits and services:

- a) to reside within the Territory,
- b) to participate in the selection of Kahnawá:ke leaders,
- c) to seek and hold a leadership position,
- d) to own and transfer to other members, interests in lands within the Territory,
- e) to receive education services,
- f) to own and operate a business,
- g) to receive housing assistance,
- h) to receive services from social, health, welfare and economic departments or programs of the Mohawk Council of Kahnawá:ke,
- i) to be buried on land within the Territory.

### **PRIVILEGES OF NON-MEMBER RESIDENTS**

*"Privileges of Non-Member Residents"*

16.1 Non-member residents may have the following privileges:

- a) reside within the Territory, and

- b) receive such services, to the extent they are available, that are necessarily associated with residency. The Council of Elders will decide any disputes that may arise as to whether a particular service is, or should be, available to a non-member resident.

16.2 Services provided to non-member residents may be subject to reasonable fees or charges.

16.3 Other than those matters for which permission has been granted, a non-member resident is not entitled to receive any other benefit or service to which a member is entitled.

### **RESPONSIBILITIES OF MEMBERS**

17.1 All members of the Kanien'kehá:ka of Kahnawá:ke have the responsibility to:

- a) honor the customs, traditions, and must comply with the codes, laws and regulations of the Kanien'kehá:ka of Kahnawá:ke including but not limited to the Kanien'kéha law ,
- b) respect Mother Earth,
- c) contribute to the preservation and advancement of the community of Kahnawá:ke, the Kanien'kehá:ka Nation and the Rotinonhsonnión:we people,
- d) is identified as having, or is willing to avail themselves of the established Kahnawá:ke process of affiliation in seeking a Kanien'kehá:ka clan.
- e) respect and protect children, persons, personal property and lands within the Territory,
- f) respect and encourage the use of Kanien'kéha and Kanien'kehá:ka culture, and
- g) maintain ties with the community of Kahnawá:ke.

### **OBLIGATIONS OF NON-MEMBER RESIDENTS**

18.1 All non-member residents have the obligation to:

*"Responsibilities  
of Members"*

*"Obligations of  
Non-Member  
Residents"*



- a) honor the customs, traditions, and must comply with the codes, laws and regulations of the Kanien'kehá:ka of Kahnawá:ke,
- b) respect Mother Earth,
- c) respect and protect children, persons, personal property and lands within the Territory, and
- d) respect and encourage Kanien'kéha and Kanien'kehá:ka culture.

## MEMBER'S PLEDGE AND OATH OF RESPECT

*"Member's Pledge  
and Oath of  
Respect"*

- 19.1 Any person who is eligible to be instated or reinstated as a member, will swear or solemnly affirm a Member's Pledge, in the form provided in the Regulations, affirming that:
- a) he or she will respect the responsibilities of a member, as set out in this Law, and
  - b) he or she will respect all conditions, limitations or restrictions, if any, associated with membership.
- 19.2 Any person who is eligible to be given permission to be a non-member resident will swear or solemnly affirm an Oath of Respect, in the form provided in the Regulations, affirming that:
- a) he or she will respect the non-member resident obligations set out in this Law, and
  - b) he or she will respect all conditions, limitations or restrictions associated with being a non-member resident.

## SUSPENSION AND REVOCATION

*"Suspension and  
Revocation"*

- 20.1 A member who:
- a) married, or marries, a non-Indigenous person after May 22, 1981, or
  - b) commenced, or commences, after May 22, 1981, a common-law relationship with a person who has no Kanien'kehá:ka or Indigenous lineage,

will have their entitlement to receive any of the benefits and services to which they would otherwise be entitled as a member of the Kanien'kehá:ka of Kahnawá:ke, suspended for so long as they remain married or in a common-law relationship with the non-Indigenous person.

20.2 Notwithstanding section 20.1, when the non-Indigenous person referred to in section 20.1 was raised in the community of Kahnawá:ke, the member's right to reside within the Territory will not be suspended.

20.3 Any person who became entitled to be a non-member resident through marriage under section 7.2 or section 14.2 of this Law will have their permission to be a non-member resident suspended pending a review by the Council of Elders in the following cases:

- a) upon divorce from a member, or
- b) when they have ceased cohabitating with their spouse due to circumstances within their control.

20.4 Any person whose membership or permission to be a non-member resident was approved based on information, documents or circumstances that are fraudulent, false or misleading may have their membership or permission to be a non-member resident revoked.

20.5 Any person may renounce their membership or non-member residency by providing written notice to the Registrar and the Council of Elders. Renunciation of the person's membership or non-member residency will be effective from the date on which it is confirmed by resolution of the Council of Elders. Copies of the Council of Elder's resolution will be sent by registered mail to the person who renounced his or her membership or non-member residency, and to the Registrar. The Registrar will, upon receipt of the resolution, remove the person's name from the Kahnawá:ke Kanien'kehá:ka Registry or from the list of non-member residents, as the case may be.

20.6 A member who commits a material breach of:

- a) any of the criteria on which his or her membership is based,
- b) any of his or her responsibilities as a member, as set out in this Law,
- c) the conditions, limitations or restrictions that are attached to his or her membership, if any, or,
- d) their Member's Pledge,

may have their membership suspended or revoked.

- 20.7 A non-member resident who breaches:
- a) any of the criteria on which his or her permission to be a non-member resident is based,
  - b) any of his or her obligations as a non-member resident, as set out in this Law,
  - c) any of the conditions, limitations or restrictions that are attached to their permission to be a non-member resident, or,
  - d) their Oath of Respect,
- may have their permission to be a non-member resident suspended or revoked.
- 20.8 The Regulations will provide a procedure for considering and deciding an application to suspend or revoke a person's membership or permission to be a non-member resident.

## REGULATIONS

*"Regulations"*

- 21.1 The Council of Elders will, by resolution, enact the Regulations necessary for the implementation of this Law, including:
- a) the form and content of Confidentiality Agreements,
  - b) the form and content of the Member's Pledge and the Oath of Respect,
  - c) the form and content of applications for instatement or reinstatement of membership,
  - d) the form and content of applications for permission to be a non-member resident,
  - e) the form and content of applications to suspend or revoke a person's membership or permission to be a non-member resident,
  - f) the rules and procedures to be followed at meetings of the Council of Elders,
  - g) the rules and procedures to be followed by the Council of Elders in conducting a review or hearing,

h) such other Regulations that may be necessary to implement the provisions of this Law.

21.2 The Council of Elders will consult with the Registrar before enacting Regulations establishing the forms required for the purposes of the Registrar's office.

21.3 All Regulations enacted by the Council of Elders must be provided to the Mohawk Council of Kahnawá:ke for approval before they come into effect.

21.4 Copies of all Regulations enacted by the Council of Elders and approved by the Mohawk Council of Kahnawá:ke will be provided to the Registrar and will be distributed to members of the Kanien'kehá:ka of Kahnawá:ke and to non-member residents.

## OFFENCES AND PENALTIES

22.1 Those persons who are not listed on the Kahnawá:ke Kanien'kehá:ka Registry and who reside within the Territory commit an offence. Upon conviction, the offender is subject to immediate removal from the Territory by the Kahnawá:ke Peacekeepers.

22.2 The removal of a person from the Territory in accordance with section 22.1 must be temporarily stayed by the Court of Kahnawá:ke if:

- a) the person is the parent or guardian of one or more children under the age of six (6) years, and
- b) the decision to remove the person is issued between October 1<sup>st</sup> and May 1<sup>st</sup>.

22.3 Any person who breaches any other provision of this Law, commits an offence and upon conviction is subject to fines up to Two Thousand (\$2,000.00) Dollars, imprisonment for up to six (6) months, or both.

## NOTICE

23.1 Any notices required by this Law or the Regulations will be sent by registered mail and, for all purposes of this Law and the Regulations, will be deemed to have been received on the date the recipient signs for it.

"Offences & Penalties"

"Notice"

- 23.2 In the event a notice cannot be sent by registered mail, or the recipient fails or refuses to sign for it within fifteen (15) days from the date on which the registered mail was sent, the Council of Elders may by resolution direct that the required notice be given by publishing a summary of the notice for two consecutive weeks in the local electronic or print media.
- 23.3 Notice given by publication in accordance with this section will be deemed to have been received on the date following the date of the second publication.
- 23.4 Notice given by publication in accordance with this section will satisfy the notice requirements of this Law or the Regulations.

### **KANIEN'KÉHA VERSION OF LAW**

*"Kanien'kéha  
Version of Law"*

- 24.1 The Kanien'kéha version of this Law will be verified by Elders of the community of Kahnawá:ke to be a true translation of the English version.
- 24.2 In the event of a conflict between the English language version and the Kanien'kéha version of this Law, the Kanien'kéha version will be the final authority.

### **GENERAL PROVISIONS**

*"General  
Provisions"*

- 25.1 The Preamble is an integral part of this Law.
- 25.2 The 1981 Moratorium and 1984 Kahnawá:ke Mohawk Law concerning membership are repealed on the date this section of the Law comes into force.
- 25.3 The funds necessary to implement this Law and the Regulations will be provided by the Mohawk Council of Kahnawá:ke after being approved in its annual budget.
- 25.4 The Council of Elders may by resolution extend any of the time periods or deadlines set out in this Law or the Regulations if the Council of Elders is convinced that it is in the interest of fairness to do so.

### **AMENDMENT PROCESS FOR THE PURPOSES OF THIS LAW**

*"Amendment  
Process for the  
Purposes of this  
law"*

- 26.1 An amendment to the present law may be proposed by either:

- a) the Council of Elders,
- b) the Mohawk Council of Kahnawá:ke or,
- c) one hundred (100) members of the Kanien'kehá:ka of Kahnawá:ke.

- 26.2 The party who proposes the amendment will make a written draft of the proposed amendment.
- 26.3 A proposed amendment submitted by one hundred (100) members of the Kanien'kehá:ka of Kahnawá:ke must be signed at the office of the Registrar within one (1) month of the first name having appeared on the proposed amendment.
- 26.4 The Registrar will verify that each person who has signed the proposed amendment is a member of the Kanien'kehá:ka of Kahnawá:ke, has signed the proposed amendment on the date indicated, is of the age of majority, has signed a sworn statement indicating the reasons why they propose the amendment and that no names appear more than once on the petition.
- 26.5 If the proposed amendment receives the required amount of signatures in the required amount of time, the Registrar will immediately forward the proposed amendment to the Council of Elders for their review.
- 26.6 If the Mohawk Council of Kahnawá:ke proposes the amendment, the draft will immediately be sent to the Council of Elders for their review.
- 26.7 If the amendment is proposed by the Council of Elders they will immediately send the proposed amendment to the Mohawk Council of Kahnawá:ke for their review.
- 26.8 All the Elders or Chiefs, as the case may be, will conduct the initial review of the proposed amendments, and they will only be permitted to change the proposed amendment for wording and grammatical inconsistencies, but may not change the spirit or intent of the proposed amendment.
- 26.9 At least seven (7) of the Elders or Chiefs, as the case may be, must accept the proposed amendment, or revision to the amendment for the draft to be sent for a second review by the other group being either the Elders or Chiefs.
- 26.10 Either the Elders or the Chiefs, as the case may be, will conduct the second review. This group will either accept the draft as written or reject the draft. Acceptance or rejection requires a minimum of seven (7) members of the group to consent.

- 26.11 If after the second review is conducted the Elders or the Mohawk Council of Kahnawá:ke, as the case may be, reject the draft then, three (3) Elders and three (3) Chiefs will form a committee to conduct a third review of the draft.
- 26.12 If after a reasonable attempt the three (3) Elders and three (3) Chiefs are unable to reach consensus on the proposed amendment then the amendment is rejected.
- 26.13 If the three (3) Elders and three (3) Chiefs do reach a consensus on the proposed amendment then the finalized draft amendment will be released to the members of the Kanien'kehá:ka of Kahnawá:ke through the electronic and print media for input and questions.
- 26.14 Not less than thirty (30) days after the release of the finalized draft amendment(s) to the Kanien'kehá:ka of Kahnawá:ke, the Mohawk Council of Kahnawá:ke and the Council of Elders shall gather jointly to review any recommended changes or modifications by the Kanien'kehá:ka of Kahnawá:ke.
- 26.15 Upon agreement between the Council of Elders and the Mohawk Council of Kahnawá:ke, the draft amendment(s) shall be officially affirmed through a Resolution of the Mohawk Council of Kahnawá:ke and shall immediately come into force, unless otherwise specified in the amendment(s).

## ENFORCEMENT

*"Enforcement"*

- 27.1 The Kahnawá:ke Peacekeepers have the sole and exclusive authority to enforce this Law.
- 27.2 The Court of Kahnawá:ke has sole and exclusive jurisdiction to hear and decide offences under this Law.
- 27.3 If the Court of Kahnawá:ke finds any section of this Law to be invalid the decision does not render this Law invalid in its entirety.

## ENACTMENT AND COMING INTO FORCE

*"Enactment and coming into force"*

- 28.1 Further to the will of the Kanien'kehá:ka of Kahnawá:ke, this Law is enacted on November 10<sup>th</sup>, 2003 by MCR No:51/2003-2004. The provisions of this Law come into force on September 27<sup>th</sup>, 2004 in MCR No:41/2004-2005.
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