

Title

MOHAWK COUNCIL OF KAHNAWÀ:KE ELECTION LAW

K.R.L. c. E-1

[Enacted by MCR # 147/1989-1990 on 21 Onerahtohkó:wa/May 1990]
 [Repealed and replaced by MCR # 02/2000-2001 on 03 Onerahtókha/April 2000]
 [Repealed and replaced by MCR # 11/2005-2006 on 06 Enniskó:wa/March 2006]
 [Repealed and replaced by MCR # 1/2006-2007 on 26 Enniskó:wa/March 2007]
 [Repealed and replaced by MCR # 2/2008-2009 on 16 Enniskó:wa/March 2009]
 [Amended by will of the people MCR # on]

SECTION I

“Short Title”

1. **SHORT TITLE**

1.1 This Law may be cited as the “the MCK Election Law”.

“Definitions”

2. **DEFINITIONS**

2.1 In this Law:

CANDIDATE : Means a person who has been duly nominated, has declared their nomination and who has been verified as eligible to hold the position of Grand Chief or Council Chief;

COMMUNITY MEMBER : Means a person who meets the membership criteria set out in the *Kahnawà:ke Membership Law*;

COUNCIL : Means the Mohawk Council of Kahnawà:ke;

CRIMINAL OFFENSE : Includes indictable and felony offenses such as homicide, attempted homicide, sexual assault, rape, burglary, robbery, theft, aggravated assault, arson, embezzlement, illegal drug related offenses, fraud, breach of trust of any legally recognized jurisdiction;

ELECTION : Means an election of the Council held pursuant to this Law, and includes the term "selection";

ELECTION DAY : Means the date set by the Electoral Officer on which the election is to be held;

ELECTOR : Means a community member who meets the eligibility criteria set out in section 26.1 of this Law to vote in a Council election;

KANIEN’KEHÁ:KA OF KAHNAWÁ:KE RESIDENT Means having lived in

Kahnawá:ke for not less than six (6) consecutive months prior to the election in question and includes persons who return to Kahnawá:ke on a regular basis from their place of employment, training or schooling provided their primary residence remains in Kahnawà:ke as well as persons who does not reside in Kahnawá:ke due to housing shortages;

JUSTICE : Means a Justice of the Peace of the Court of Kahnawà:ke;

NOMINATION DAY : Means the date set by the Electoral Officer on which nominations are received in accordance with the procedures in this Law;

NOMINEE : Means a person who has been nominated but not yet been verified as a candidate;

3.1 NOMINATOR(S): Means a community member who is an Elector, who meet the requirements of the *Kahnawà:ke Membership Law* and who is listed on the Kahnawà:ke Kanien'kehá:ka Registry.

REGISTRAR : Means the Membership Registrar appointed by the Council;

VOTERS LIST : Means the list of Electors prepared and maintained by the Registrar;

"Nominations & Appointment of Electoral Officer"

SECTION II

3. NOMINATIONS AND APPOINTMENT OF ELECTORAL OFFICER

3.2 Nominations for the position of Electoral Officer will take place not less than ninety (90) days prior to the end of the incumbent Council's term of office. The period during which nominations are received will be fourteen (14) days.

3.3 Nominations for the position of Electoral Officer must be proposed and seconded by two Nominators *Kahnawà:ke* *Kahnawà:ke*.

3.4 Nominees must sign a Privacy Waiver for the purpose of verifying that they meet the eligibility criteria provided in this Law.

3.5 Not less than sixty (60) days before the incumbent Council's term of office expires, the community, at a special community meeting, will appoint an Electoral Officer to perform all duties pertaining to the election, as set out in this Law.

"Duties of Electoral Officer"

4. DUTIES OF ELECTORAL OFFICER

- 4.1 In addition to any other duties provided in this Law, the Electoral Officer will:
- (a) establish the date of the next Council election, which will be not less than forty-five (45) days prior to the date upon which the incumbent Council's term of office expires;
 - (b) establish the date for nomination day, which will be at least thirty (30) days before the date set for Election Day;
 - (c) refuse to accept the nomination of any candidate who is not eligible to hold office or whose nomination does not comply with this Law;
 - (d) arrange for a meeting to be held at least five (5) days before Election Day, at which the Electors may hear the candidates speak;
 - (e) ensure that an adequate supply of this Law is made available for the public at Council offices during the entire Electoral process up to and including the polling date;
 - (f) conduct and supervise the election in accordance with this Law;
 - (g) make any decision and take any reasonable measure that is required to apply this Law;
 - (h) maintain and record in a log book all problematic events or issues, which occur, and decisions taken from the time he or she is appointed until the time of the official announcement of elected candidates.

4.2 An Electoral Officer is not entitled to vote in the election for which he or she has been appointed to act as Electoral Officer.

4.3 Should the Electoral Officer fail to perform any duty established by this Law, or resigns prior to the election, the Council may appoint a person to replace the Electoral Officer.

5. **ASSISTANT ELECTORAL OFFICER AND ELECTION SCRUTINEERS**

5.1 The Electoral Officer will appoint for the duration of the election, an Assistant Electoral Officer, who shall not be the Electoral Officer's spouse or an immediate family member, and one or more Election Scrutineers all of whom shall perform the duties assigned to them and as directed by the Electoral Officer.

5.2 Before they are appointed, the potential Assistant Electoral Officer and potential Election Scrutineers must sign a Privacy Waiver for the purpose of verifying that they meet the eligibility criteria provided in this Law.

5.3 An Assistant Electoral Officer and Election Scrutineers are entitled to vote in the

"Assistant Electoral Officer & Election Scrutineers"

“Eligibility Requirements”

election for which they have been appointed.

- 5.4 The Assistant Electoral Officer will assist the Electoral Officer in all aspects of the election, as directed by the Electoral Officer.
- 5.5 Election Scrutineers will perform the duties assigned to them by this Law, will assist the Electoral Officer in scrutinizing the processes and results of the vote and will perform such other duties as directed by the Electoral Officer.

6. ELIGIBILITY REQUIREMENTS

6.1 The Electoral Officer, Assistant Electoral Officer and Election Scrutineers:

- (a) must be over the age of twenty-one (21) years;
- (b) must meet the requirements of the *Kahnawà:ke Membership Law* and be listed on the Kahnawà:ke Kanien'kehá:ka Registry;
- (c) must be ordinarily resident in Kahnawà:ke; and
- (d) must not have been, within the previous six (6) years, convicted and sentenced for a criminal offense. The six (6) year ban commences only after sentence has been served in full.

“Remuneration Budget” &

6.2 No person may be appointed to act in any capacity related to the election process who was a member of the Council at any time during the year immediately preceding the election or who is, or intends to be, a candidate in the election.

7. REMUNERATION AND BUDGET

“Nomination Procedure”

- 7.1 The Electoral Officer, Assistant Electoral Officer and Scrutineers are to be remunerated for duties performed.
- 7.2 The budget to conduct Council elections will be established by Council's Executive Director. The budget must include adequate funding to conduct an election under this Law. The Electoral Officer is responsible for the management and accountability of these funds in accordance with Council's administration standards and the roles and responsibilities set forth in their contract.

8. NOMINATION PROCEDURE

8.1 The Electoral Officer will set the date of nomination day, which will be not less than thirty (30) days before the date set for Election Day.

- 8.2 Not less than seven (7) days before nomination day, the Electoral Officer will post a notice of a date, time and place for the purpose of nominating candidates for election. The notice will indicate the procedures for nominating candidates, as provided in this Law.
- 8.3 Nominations of candidates will be held between the hours of ten and twelve in the morning (10:00 a.m. to 12:00 noon) on nomination day. Nominations will not be accepted after the close of the nomination period.
- 8.4 Any two (2) Nominators may nominate and second any person eligible to hold office, as a candidate for the office of Grand Chief or Council Chief.
- 8.5 In order to be valid a nomination must be made on the Nomination Form prescribed by regulation and duly completed by the Nominators nominating and seconding the candidate and submitted to the Electoral Officer before the close of the nomination period. Upon receipt, the Electoral Officer will sign the Nomination Form acknowledging receipt and will provide copies to the persons submitting the form.
- 8.6 A second nomination, if any, must be presented by two (2) other Nominators.
- 8.7 Each Nominator can only nominate one (1) person and second one (1) person's nomination.
- 8.8 A person may be nominated for Council Chief, Grand Chief or both.
- 8.9 A candidate can only run for one (1) position and must clearly indicate for which position they intend to run in their declaration of candidacy.
- 8.10 At twelve noon (12:00 noon) on nomination day, the Electoral Officer will announce the names of all nominees and will provide a copy of this Law to each nominee.
- 8.11 The announcement of the names of nominees by the Electoral Officer at the close of the nomination period does not qualify any particular nominee as a candidate. Each nomination is subject to the verification procedure set out in this Law.

*"Verification
Procedure"*

9. VERIFICATION PROCEDURE

- 9.1 Within three (3) days of the close of the nomination period, each nominee must duly complete and submit to the Electoral Officer each of the following:
- (a) Declaration of Candidacy, in the form attached as Schedule "B" to this Law;
 - (b) Declaration of Eligibility, in the form attached as Schedule "C" to this Law;

- (c) Declaration of Criminal Offence Charge Pending in the form attached as Schedule "D" to this Law;
- (d) Declaration of Business Holdings, in the form attached as Schedule "E" to this Law
- (e) Privacy Waiver, in the form attached as Schedule "F" to this Law;

failing which the nomination becomes null and void.

- 9.2 The Privacy Waiver provided by each nominee is for the sole purpose of authorizing the Electoral Officer to conduct such inquiries and obtain such information (the "verification information") as is required to verify the nominee's eligibility to hold the office of Grand Chief or Council Chief. The Electoral Officer will hold the verification information in the strictest confidence and will not copy the information or provide it to any person other than the nominee, at his or her request.
- 9.3 Following the close of the nomination period, the Electoral Officer will review each nomination to verify whether the nomination is valid and whether the nominee meets the criteria for persons eligible to hold the office of Grand Chief or Council Chief, as set out in this Law.
- 9.4 Within seven (7) days after the close of the nomination period, the Electoral Officer will contact each nominee to advise whether their nomination has been accepted or refused.
- 9.5 The acceptance of a nomination by the Electoral Officer qualifies the nominee as a candidate in the election.
- 9.6 The Electoral Officer may refuse a nomination:
 - (a) that has been improperly filed;
 - (b) that is inaccurate, misleading or incomplete;
 - (c) that is otherwise invalid.
- 9.7 In the event a nomination is refused, the Electoral Officer will specify the reason for the rejection.
- 9.8 The Electoral Officer will, without unreasonable delay, post a public notice listing the names of the candidates for positions of Grand Chief and Council Chiefs.
- 9.9 In the event that more than one (1) Grand Chief is nominated and verified as a candidate and more than the required number of Council Chiefs are nominated and verified as candidates, the Electoral Officer will declare that an election will be held

*"Withdrawal of
Candidacy"*

for those positions on the date established for Election Day.

- 9.10 Where, immediately before the close of a nomination period, there is an insufficient number of nominees to fill all positions on Council, the Electoral Officer, will declare the first nomination period adjourned and will re-open the nomination period for a second session two (2) days later. No nomination period will consist of more than two (2) sessions.

*“Council
Composition”*

10. **WITHDRAWAL OF CANDIDACY**

- 10.1 The withdrawal of a candidate’s candidacy must be in the form of a sworn statement and signed in the presence of the Electoral Officer or a commissioner of oaths. The sworn statement must be addressed to the attention of the Electoral Officer and must contain a statement to the effect that the candidate freely and voluntarily withdraws their candidacy from the election. The sworn statement must be received by the Electoral Officer before the hour of twelve noon (12:00 p.m.) on the Wednesday immediately preceding Election Day.

*“Election of Grand
Chief & Council
Chiefs”*

- 10.2 If the ballots have already been printed at the time of the withdrawal of a candidacy, the Electoral Officer will cause the name of the withdrawing candidate to be blacked out and notices of the candidate's withdrawal will be posted in conspicuous locations within the Kahnawà:ke Territory.

*“Election by
Acclamation”*

- 10.3 If after a candidate withdraws there remains only one (1) candidate for Grand Chief or the remaining number of candidates for Council Chiefs are equal to the number to be elected, the Electoral Officer will declare those candidates elected by acclamation.

11. **COUNCIL COMPOSITION**

- 11.1 The Mohawk Council of Kahnawà:ke is a twelve (12) member Council composed of eleven (11) Council Chiefs and one (1) Grand Chief.

“Terms of Office”

12. **ELECTION OF GRAND CHIEF AND COUNCIL CHIEFS**

- 12.1 The positions of Grand Chief and Council Chiefs are filled by the candidates receiving the highest number of votes.

*“Who Can Hold
Office”*

13. **ELECTION BY ACCLAMATION**

- 13.1 Election by acclamation is declared if there is only one (1) person nominated to serve as Grand Chief. The Electoral Officer will declare the election uncontested and further declare the candidate duly elected.

- 13.2 If the number of persons nominated to serve as Council Chiefs is equal to the

number of positions required, the Electoral Officer will declare the elections uncontested and further declare the candidates duly elected.

- 13.3 The term of office of a Grand Chief or Council Chief who is elected by acclamation will begin immediately upon the end of the Incumbent Council's term of office as defined in s. 31.2 of this Law.

14. **TERMS OF OFFICE**

- 14.1 The term of office of the Grand Chief and each Council Chief will be three (3) years. [amended MCR #11/2005-2006]
- 14.2 There is no limitation on the number of terms of office a Grand Chief or Council Chief may serve.

15. **WHO CAN HOLD OFFICE**

- 15.1 To be eligible to hold the office of Grand Chief or Council Chief, a person:

(a) must meet the requirements of the *Kahnawà:ke Membership Law* and be listed as a member on the Kahnawà:ke Kanien'kehá:ka Registry; a must be fifty (50 %) percent or more Mohawk Blood quantum;

(b) must be Kanien'kehá:ka of Kahnawà:ke and not of any other Kanien'kehá:ka community;

(c) must not be married to or living common-law with a non-Native person;

(d) must be a minimum of twenty-one (21) years of age;

(e) must be a Kanien'kehá:ka of Kahnawà:ke resident of

(f) must declare all their private business holdings and cease to hold any decision making authority with respect to said business holding during the term of their office;

(g) must not have been, within the previous six (6) years, convicted and sentenced for a criminal offense. The six (6) year ban commences only after sentence has been served in full;

(h) if he or she has previously served on Council in the term immediately before the current election, he or she must not have been removed from office; and

(i) must be willing to submit to and then pass a test for illegal drugs, after being elected to the position of Grand Chief or Council Chief.

- 15.2 For greater certainty, the term "criminal offense" contained in subsection 15.(1)(g) (g) includes any conviction for an indictable offense or three (3) summary conviction offenses committed within a period of five (5) years and in this case the six (6) year

"Vacancies in Council"

"Preparation of the Poll"

ban from holding office will commence after the last of the summary conviction offense sentence has been served in full. Criminal conviction for a tobacco charge (possession, manufacture or transport) will not be considered as a criminal offense for the purpose of this Law.

16. **VACANCIES IN COUNCIL**

16.1 The vacancy of a Council position due to death, resignation or removal from office occurring more than eighteen (18) months before the date of the next selection of Council Chiefs, will be filled by calling for nominations to fill the vacancy. This should be done one (1) week following the vacancy. A by-election should be called two (2) weeks following the nomination.

SECTION III

17. **PREPARATION OF THE POLL**

17.1 The Electoral Officer will procure as many ballot boxes as are required and will prepare a sufficient number of ballots for the purpose of the election.

17.2 Every ballot box will be constructed in a manner that allows the ballots to be deposited therein, but not removed without breaking the lock.

17.3 The ballot boxes will be locked before witnesses immediately before the poll opens.

17.4 The ballots will indicate in capital letters, the names of the candidates, as provided in the candidate's nomination forms, and will be listed in alphabetical order.

17.5 A boxed space will be provided on the ballots horizontally aligned with each candidates name into which Electors may mark their vote.

17.6 Each ballot will bear the name of the community, the date of the election, the number of candidates to be elected and the phrase "Mark your ballot with an X", on the top portion thereof.

17.7 The reverse side of each ballot will have space provided for the initials of the Electoral Officer or the Assistant Electoral Officer, and the initials of an Election Scrutineer.

18. **POLLING PLACE**

18.1 The Electoral Officer will, before the poll is open, deliver to the Election Scrutineers, the ballot boxes, the ballots, materials for marking the ballots, copies of the Voters List and direction for the voting procedure.

18.2 The Electoral Officer and Assistant Electoral Officer will provide compartments at

"Polling Place"

"Election Procedures"

the polling place where Electors can mark their ballots in privacy and free from observation of any other person.

18.3 Except as specifically provided in this Law, not more than one (1) Elector will be permitted in the vicinity of a polling compartment at any one time.

18.4 The Electoral Officer may request one or more officers of the Kahnawà:ke Peacekeepers to be present at the polling place to aid in the maintenance of peace and order at the election.

"Voter List"

18.5 Any person, who by reason of intoxication or other conduct affecting peace and order of the election, will be required to leave the polling place and their right to vote in that election will be forfeited.

18.6 The Electoral Officer will ensure that no person blocks the entrance or hinders access to a polling location.

18.7 The Electoral Officer will ensure that no partisan election campaign advertising will be present at or near the polling station.

18.8 The Electoral Officer will ensure that no fundraising activities will occur at the polling station.

"Voting"

19. **ELECTION PROCEDURES**

19.1 The poll will be kept open between nine (9 a.m.) o'clock in the morning until six (6 p.m.) o'clock in the evening (local time) on Election Day.

19.2 The Electoral Officer and Assistant Electoral Officer will, immediately before the commencement of the poll:

(a) open the ballot boxes and call such persons as may be present to witness that the boxes are empty; and

(b) will then lock the ballot boxes in full view of those present.

19.3 If ballot boxes become full, they may be opened periodically during the course of the day for the purpose of transferring the contents into a larger box. This process is to be witnessed by two (2) persons, preferably by candidates.

19.4 Each person who presents himself or herself for the purpose of voting will state his or her name to the Election Scrutineer and, if satisfied as to the identity of the Elector and that the name of the Elector is entered on the Voters List at the polling place, the Election Scrutineer will initial the back of a ballot and provide it to the Elector in order to cast his or her vote.

19.5 The Election Scrutineer will verify that the person is an eligible Elector, hand the

Elector a ballot and register the Elector as having voted once the ballot is returned.

- 19.6 If the Election Scrutineer has reason to believe that a person requesting to vote is not an Elector, has already voted or is falsely representing himself or herself, the Election Scrutineer will refer the Elector to the Electoral Officer who will determine whether the person is entitled to vote.

20. **VOTERS LIST**

- 20.1 The Voters List that is to be used for the selection of Council Chiefs or Grand Chief, should be prepared by the Registrar not less than one (1) month before the date of the selection.

- 20.2 The Voters List will consist of the names of all community members who are Electors, as defined by this Law.

21. **VOTING**

- 21.1 An Elector, upon receiving a ballot, will forthwith proceed to one of the polling compartments provided for marking the ballots and then mark his ballot, by placing an "X" in the box horizontally aligned with the name of the candidate or candidates for whom he chooses to vote.

- 21.2 While an Elector is in a polling compartment, no other person will be allowed in the same compartment, or be in any position from which he can see the manner in which the Elector marks his ballot.

- 21.3 The Elector will then fold his ballot, so as to conceal the names of the candidates he has voted for, but in such a way that the initials of the Electoral Officer, Assistant Electoral Officer or Scrutineer are exposed. He will then deliver the ballot to the person who issued it to him, who will verify his initials and at once and in full view of those present, deposit the ballot in the ballot box. The Election Scrutineer will then note on the Voters List that the Elector has voted.

- 21.4 An Elector who receives a soiled or improperly printed ballot, or who has dealt with his ballot in such a manner that it cannot be conveniently used, is entitled to receive another ballot, by returning it to the person who issued it. The Electoral Officer will thereupon write the word "CANCELED" on the spoiled ballot and preserve it.

- 21.5 An Elector who makes a declaration that he is unable to mark his ballot by himself, by reason of a disability or because he cannot read, may be assisted by the Electoral Officer, Assistant Electoral Officer or Scrutineer. The name of the Elector should be recorded in a specified log.

- 21.6 Any person who has received a ballot and who leaves the polling place without returning it, or, if after receiving same, refuses to vote, will forfeit his right to vote at

"Special Poll"

"Voting at Special Poll"

that election and Electoral Officer will make a note that such person received a ballot and declined to vote, in which case, the Electoral Officer will mark upon the face of the ballot the word "DECLINED" and all ballots so marked will be preserved.

*"Criteria for Voting
in a Special Poll"*

- 21.7 In the event of an error on the Voters List on polling day, or in the event an Elector's name has been inadvertently omitted, an Elector may apply to the Electoral Officer to have the necessary corrections made.
- 21.8 Where a person's name is not included on the Voters List, the Electoral Officer, and Assistant Electoral Officer will immediately make such inquiries as are necessary to confirm whether the person is Kahnawà:ke an Elector and is eligible to vote. Only after such confirmation, will the person be given a ballot and permitted to vote.
- 21.9 Every Elector who is inside the polling place at the time fixed for closing the poll, will be entitled to vote.

22. **SPECIAL POLL**

*"Special Poll Ballots
& Special Poll Lists"*

- 22.1 The Electoral OfficerKahnawà:ke will hold a special poll not more than ten (10) days prior to Election Day. The special poll is for the purpose of receiving the votes of Electors who expect to be unable to cast their votes on Election Day.
- 22.2 Should a candidate withdraw his or her candidacy prior to Election Day but after the date of a special poll, the ballots cast in the special poll remain valid, other than any votes cast for the withdrawing candidate, which will be deemed to be null and void.
- 22.3 The special poll will be located at a convenient central location on the Mohawk Territory of Kahnawà:ke and will be open for at least two (2) consecutive hours, at the discretion of the Electoral Officer.

"Eligibility to Vote"

- 22.4 Notice of a special poll will be given at least seven (7) days in advance, and will include reference to the time and place of the special poll.

23. **VOTING AT SPECIAL POLL**

- 23.1 Voting at a special poll will be conducted in the same manner as voting on Election Day, with such modification or adaptation of this Law as the Electoral Officer deems necessary.

"Not Eligible to Vote"

24. **CRITERIA FOR VOTING IN A SPECIAL POLL**

"Polling Day Duties"

- 24.1 The Electoral Officer may, at his or her discretion, approve a request from an Elector to cast an ballot in a special poll, if:
- (a) a written request is received by the Electoral Officer at least forty-eight (48) hours before the time of a special poll; and
 - (b) the reasons for the request are deemed by the Electoral Officer to be satisfactory.
- 24.2 Without limiting the discretion of the Electoral Officer, some possible reasons for a person to cast a ballot in a special poll include: hospitalization, education, training or employment commitments or a physical handicap.

"Counting the Votes"

25. **SPECIAL POLL BALLOTS AND SPECIAL POLL LISTS**

- 25.1 All ballots cast at in a special poll will be retained in a locked ballot box and remain in a secure- location and in the legal possession of the Electoral Officer until the close of the poll on Election Day.
- 25.2 The Electoral Officer will maintain a list of Electors who vote at a special poll and the names of these Electors will be crossed off the copies of the Voters List given to the Election Scrutineers on Election Day.

26. **ELIGIBILITY TO VOTE**

- 26.1 Subject to the other provisions of this Law, to be eligible to vote in a Council election, including a special poll, an Elector:
- (a) must meet the requirements of the *Kahnawà:ke Membership Law* and be listed as a member on the Kahnawà:ke Kanién'kehá:ka Registry; and
 - (b) must be at least eighteen (18) years of age, as of the date of Election Day;
 - (c) must be listed on or entitled to be listed on the Voters List.

27. **POLLING DAY DUTIES**

- 27.1 The Election Scrutineers will record, in a specific log, any problems encountered with Electors or other persons and any decisions of the Electoral Officer.
- 27.2 The Electoral Officer, Assistant Electoral Officer or Election Scrutineer will explain the voting procedure to any Elector at his or her request.
- 27.3 The Electoral Officer will ensure that no partisan election campaign advertising can be seen from the polling location, and ensure that no person enters the polling location with such advertising displayed.

27.4 The Electoral Officer will ensure that no fundraising is done at the polling location, including the grounds surrounding the premises.

SECTION IV

28. COUNTING THE VOTES

28.1 After the closing of the poll on Election Day, the Electoral Officer or Assistant Electoral Officer will see to it that all persons vacate the polling place, with the exception of the Election Scrutineers, any Kahnawà:ke Peacekeepers appointed to keep peace and order at the polling place, candidates who wish to attend the counting of the votes and one (1) representative for each candidate.

28.2 Counting stations will be set up with two (2) Election Scrutineers and a minimum of two (2) representatives of candidates in each station. Candidates may observe counting stations as they wish.

28.3 In counting the votes, the Electoral Officer will reject any ballot:

- (a) that was not initialed by the Electoral Officer or Assistant Electoral Officer;
- (b) that is blank;
- (c) on which there appear to be more votes than there are positions to be filled;
- (d) on which there appear marks or writing identifying the Elector; or
- (e) any vote that does not clearly indicate the Elector's intention.

28.4 Where a candidate or candidate's representative object to a decision of the Electoral Officer concerning the counting of a vote in a community election, the Electoral Officer will;

- (a) decide any question arising out of the objection;
- (b) record the objection and the decision in an appropriate log; and
- (c) write on the back of a ballot the word or words "ALLOWED", "ALLOWED IN PART", or "REJECTED", as the case may be, and initial the ballot.

28.5 No ballot will be disqualified by reason only that the mark adjacent to the name of the candidate is not an "X".

29. RECOUNT OF VOTES

- 29.1 The Electoral Officer will recount the votes for a position to be filled at a Council election:
- (a) where it appears that two (2) or more candidates have an equal number of votes, and an additional vote would entitle one (1) or more of them to be elected, or;
 - (b) at the request of an affected candidate, where there are ten (10) or less votes separating a candidate who is elected and a candidate who is not so entitled.

The Electoral Officer will organize and supervise a recount of the ballots affecting the election, which may be attended by any candidate or their representative.

- 29.2 A recount should take place immediately at the polling place and if, after the recount, one or more candidates are still not satisfied, a second recount should be made or even a third, depending on the circumstances. The Electoral Officer will, in his or her sole discretion, decide when the number of recounts has been satisfactory for the purpose.

- 29.3 A candidate may request a recount if there are less than ten (10) votes separating a candidate who is elected and a candidate who is not elected, and the Electoral Officer must oblige.

- 29.4 The Electoral Officer, candidates and the candidate's representatives will have the right to request a recount of any candidate's votes. A candidate or representative cannot refuse a recount.

- 29.5 Where, after one or more recounts of votes, there exists an equal number of votes for each of the two (2) or more candidates for a position, the Electoral Officer will within seven (7) days of Election Day hold a second poll for those candidates for that position.

- 29.6 If for any reason a recount of votes is requested after the day on which the poll was held, the request must be made in writing by one or more candidates to the Electoral Officer within forty-eight (48) hours after the poll closed. A recount will take place within seven (7) days.

30. **DECLARATION OF POLL RESULTS**

- 30.1 Immediately after the completion of the counting of the votes, the Electoral Officer and the Assistant Electoral Officer will tabulate the results and will publicly declare to be elected the candidates having the highest number of votes.

- 30.2 The terms of office of the incumbent Council will end immediately after the election results are made public.

- 30.3 In the event of a recount, the unaffected candidates will be declared elected and the Electoral Officer will report to the community the results of the recount.

31. **ELECTION MATERIALS**

- 31.1 The Electoral Officer will have the legal possession and will retain and safeguard all the election materials used in an election, including the ballots, ballot boxes, Voters List, poll logs, and a report of the election results for a period of fourteen (14) days after Election Day.
- 31.2 Fourteen (14) days after Election Day, the Electoral Officer will remit to the Mohawk Council of Kahnawà:ke, all the materials used in the election, except the ballots, which will be destroyed by the Electoral Officer in the presence of two (2) witnesses, who will make a declaration that they witnessed the destruction of ballots.
- 31.3 All other documents related to the election should be retained for a period of two (2) years.
- 31.4 No Electoral Officer, Assistant Electoral Officer or Election Scrutineer, will divulge any information obtained by him or her with respect to the conduct of an election, except in the case of a legal proceeding respecting the election.

33. **POST-ELECTION APPEALS**

- 33.1 The appeal procedures set out in this section apply to any matter related to a Council election.
- 33.2 Appeals must be submitted in writing and sent by registered mail, email or facsimile transmission or by bailiff to the Court of Kahnawà:ke not more than seven (7) days after Election Day.
- 33.3 Appeals may be submitted by any community member listed on the Kahnawà:ke Kanien'kehá:ka Registry who has reasonable grounds for believing that:
- (a) there was corrupt practice in connection with the election;
 - (b) there was a violation of this Law that might have affected the result of the election; or
 - (c) a person elected to the position of Grand Chief or Council Chief does not meet the eligibility criteria set out in this Law.
- 33.4 Appeals must state the grounds on which the appeal is based and must be accompanied by copies of any documents and the names of any witnesses the appellant believes to be relevant to the appeal.
- 33.5 The Court of Kahnawà:ke will, within seven (7) days of the receipt of an election related appeal, forward a copy of the appeal together with all related materials by registered mail to the Electoral Officer and to each candidate involved in the

"Coming into Force"

"Amendments"

election.

- 33.6 The Electoral Officer or any candidate may within seven (7) days of the receipt of the copy of an appeal, forward to the Court of Kahnawà:ke, by registered mail, email, facsimile transmission, bailiff or in any other way that reasonably ensures proof of reception of a written answer to the particulars set out in the appeal, together with any supporting documents and the names of any supporting witnesses.
- 33.7 The Court of Kahnawà:ke will appoint a Justice to review the appeal and the answers, if any, submitted by the Electoral Officer and candidates.
- 33.8 The Justice appointed to hear the appeal may decide the appeal based solely on the written materials that have been submitted or, if the material that has been received is not adequate for deciding the appeal, conduct such public hearings into the matter as he or she deems necessary.
- 33.9 The Justice will after due consideration, decide the merits of the matters raised in the appeal and order any remedies that may be appropriate. The Court's decision, with reasons, will be communicated to the appellant, the Electoral Officer and the candidates either in person, if the matter proceeds to a hearing in the Court of Kahnawà:ke, or in writing sent by registered mail to each party.
- 33.10 The Justice will have fifteen (15) days to render a decision from the date an appeal is received and will have an additional thirty (30) days to render a written judgment.
- 33.11 The Justice may in his or her decision, declare that the results of the election are valid, overturn the election results in whole or in part to the extent that the violations or wrongdoing affected the results, may order that another election be conducted or may order any other appropriate relief.
- 33.12 The Justice may as part of his or her decision, order any party to an appeal to pay some or all of the legal expenses incurred by any other party in the appeal.
- 33.13 The decision will be made known to the community of Kahnawà:ke.
- 33.14 The decision is final and is not subject to further appeal.

SECTION V

34. COMING INTO FORCE

- 34.1 This Law comes into force on the day it is enacted by Resolution of the Mohawk Council of Kahnawà:ke.

35. AMENDMENTS

35.1 This Law repeals and replaces any previous Regulations Governing the Mohawk Council of Kahnawà:ke Elections.

35.2 Kahnawà:ke This Law may be amended in accordance with the procedure set forth in the Community Decision Making Process.

MOHAWK COUNCIL OF KAHNAWÀ:KE ELECTION LAW

SCHEDULE "A"

NOMINATION FORM

I, _____, affirm that I am a member of the community of Kahnawà:ke and that I am eligible to vote in elections of the Mohawk Council of Kahnawà:ke.

I hereby nominate _____ for the position of
Please print
_____ in the Council elections to be conducted in the year _____.

Signed within the Mohawk Territory of Kahnawà:ke, this ___ day of _____, 2____.

Cell number

Home number:

Signature

Witness

=====

I, _____, affirm that I am a member of the community
Please print
of Kahnawà:ke and that I am eligible to vote in elections of the Mohawk Council of Kahnawà:ke.

I hereby second the nomination set out above.

Signed within the Mohawk Territory of Kahnawà:ke, this ___ day of _____, 2____.

Cell number

Home number:

Signature

Witness

THIS NOMINATION FORM WAS RECEIVED BY THE ELECTORAL OFFICER

AT _____ **ON THE** ___ **DAY OF** _____, 2____.
(time of day)

Signature of Electoral Officer

MOHAWK COUNCIL OF KAHNAWÀ:KE ELECTION LAW

SCHEDULE "B"

DECLARATION OF CANDIDACY

I, _____ acknowledge that I have been nominated as a
Please print
candidate for the position of _____ of the Mohawk Council of
Kahnawà:ke for the Council election to be held in the year _____.

I hereby accept the nomination and declare my candidacy for this position.

I understand and agree that by accepting this nomination, I am bound by the provisions of the
Mohawk Council of Kahnawà:ke Election Law, a copy of which was provided to me by the Electoral
Officer.

Signed within the Mohawk Territory of Kahnawà:ke this ___ day of _____, 2____,

Cell number

Home number:

Signature

Witness

THIS DECLARATION OF CANDIDACY FORM WAS RECEIVED BY THE

ELECTORAL OFFICER AT _____ ON THE ___ DAY OF _____, 2____.
(time of day)

Signature of Electoral Officer

MOHAWK COUNCIL OF KAHNAWÀ:KE ELECTION LAW

SCHEDULE "C"

DECLARATION OF ELIGIBILITY

I, _____ declare that I meet the eligibility criteria set out in

Please print

the *Mohawk Council of Kahnawà:ke Election Law* to be a candidate for the office of Grand Chief or Chief of the Mohawk Council of Kahnawà:ke. More specifically, I declare that:

1. I am a member of the Kahnawà:ke community under the *Kahnawà:ke Membership Law* and I am so registered on the Kahnawà:ke Kanien'kehá:ka Registry;
2. I meet the Kahnawà:ke Membership Law;
3. I am not presently married to a non-Native person, nor do I live in a common-law relationship with a non-Native person;
4. I am at least twenty-one (21) years of age;
5. I am ordinarily resident within the Mohawk Territory of Kahnawà:ke.

By signing this Declaration, I give my consent that if elected to the position of Grand Chief or Chief of the Mohawk Council of Kahnawà:ke I will submit to a test to verify that I do not use illegal drugs. I understand and agree that if I do not pass this test, I will no longer be eligible to hold the position of Grand Chief or Chief of the Mohawk Council of Kahnawà:ke and will be removed from office.

Further, for the purpose of assessing my eligibility to hold office as Grand Chief or Chief of the Mohawk Council of Kahnawà:ke, I declare that (check one):

I have never been convicted of an indictable offence or felony within any legally recognized jurisdiction;

OR

I have been convicted of the following indictable offences or felonies (list type of offence, sentence, date, jurisdiction and whether a pardon has been granted):

I further declare that (check one):

I have never been a member of the Mohawk Council of Kahnawà:ke;

OR

I was previously a member of the Mohawk Council of Kahnawà:ke (give details of the years during which you held office, position held and whether you were ever impeached and removed from office prior to the expiry of your term):

I understand and agree that any false, incomplete or misleading information contained in this Declaration of Eligibility will result in my disqualification to run for or to hold office with the Mohawk Council of Kahnawà:ke. I further understand and agree that the information contained in this Declaration of Eligibility will be verified by the Electoral Officer to determine whether I am eligible to be a candidate in the Council election.

By signing below, I solemnly declare the foregoing to be true, knowing that such declaration has the same force and effect as a declaration under oath.

Signed within the Mohawk Territory of Kahnawà:ke, this ___ day of _____, 2___,

Signature

Witness

THIS DECLARATION OF ELIGIBILITY FORM WAS RECEIVED BY THE

ELECTORAL OFFICER AT _____ ON THE ___ DAY OF _____, 2___.
(time of day)

Signature of Electoral Officer

MOHAWK COUNCIL OF KAHNAWÀ:KE ELECTION LAW

SCHEDULE "D"

PRIVACY WAIVER

I, _____, have been nominated as a candidate for a position on

Please print
the Mohawk Council of Kahnawà:ke. In this regard I have completed and signed a Declaration of Eligibility, the content of which is to be verified by the Electoral Officer for the purpose of determining my eligibility to be candidate in the Council election.

I therefore consent to having the Electoral Officer named below request and obtain such information (the "verification information") as, in his or her discretion, may be necessary to verify the information contained in my Declaration of Eligibility. For this purpose, I hereby agree to waive all rights of privacy and confidentiality that I might otherwise claim under Kahnawà:ke, federal, state or provincial law.

I understand that the Electoral Officer will hold the verification information in the strictest confidence and will not copy the information or provide it to any person other than me, at my request.

My date of birth is: _____

My place of birth is: _____

My Social Insurance Number

(and/or Social Security Number) is/are: _____

Signed within the Mohawk Territory of Kahnawà:ke this __ day of _____, 2____,

Signature

Witness

THIS PRIVACY WAIVER FORM WAS RECEIVED BY THE ELECTORAL OFFICER

AT _____ **ON THE** ____ **DAY OF** _____, 2____.
(time of day)

Signature of Electoral Officer

