

MOHAWK COUNCIL OF KAHNAWÀ:KE

*rec'd
June 6, 2011
[Signature]*

30-Day Community Review Report

Draft Amendments to the 2000 Sanitary Conditions Law

Onerahtohkó:wa/May 2011



The 30-day community review of the draft amendments to the 2000 Sanitary Conditions Law was a requirement by the Legislative Coordinating Commission and Community Decision Making Process. The 30-day review was conducted from March 29 – April 29, 2011

Draft Amendments to the Sanitary Conditions Law 30-Day Community Review Period Feedback Analysis Report

1. INTRODUCTION

The 30-day community review process is part of the Community Decision Making Process (CDMP) for Type II legislation. This is the first Type II legislation to use the CDMP. As the originator who made a request for the Sanitary Conditions Law to undergo amendment, the Director of Lands, the Research & Policy Analyst/Developer and the Coordinator of the Environment Protection Office worked with the Legislative Coordinating Commission Coordinator to follow a CDMP for Type II legislation.

The desired outcome for the amendments to the Sanitary Conditions Law is to write regulations for demolition waste recycling operations in the community, with a legislative backing to enhance enforcement within the community. The Legislative Coordinating Commission (LCC) identified a requirement for the CDMP process for Type II legislation for the originator to conduct a 30-day community review to precede community readings and legislative sessions for the amendment to be finalized. The following pages will describe logistics for this 30-day process, present feedback data in varied table formats and will conclude with analysis and recommendations.

This report will be distributed by the Research & Policy Analyst/Developer of the Lands Unit to the Lands Unit Directorate and Environment Protection Coordinator, and the Legislative Coordinating Commission (LCC) Coordinator. The Mohawk Council Chiefs participating at the first legislative session will be provided with a copy prior to the identified date for the session.

2. 30-DAY REVIEW LOGISTICS

The Lands Unit was responsible for the 30-day community review process, and the associated planning, communications, implementation and a feedback report, functioning independently of the Legislative Coordinating Commission.

The draft amendments accepted by the Lands Unit were integrated into the current Sanitary Conditions Law and written in bold text. A 2-sided cover sheet describing rationale for the draft amendments, key points, and the purpose, scope and intent accepted by Chief and Council in Enniska/February 2011 was written and attached. This information cover sheet is attached to this report.

A communications strategy was prepared by the Research & Policy Analyst/Developer and provided to the Environment Protection Office communications liaison to implement and track. The Lands Unit was not informed of the kahnawakemakingdecision.com web site use approval time frame of up to 2 weeks. This omission of information resulted in a 2-day approval to use the web site for document posting.

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The community feedback received is summarized and presented in Table 2. It is linked to the relevant section of the draft amended Sanitary Conditions Law. As well, a brief of how concerns or questions were responded to via e-mail or directly for the people who contacted directly during the 30-day community review period is included in a table column.

Table 2: Feedback Received During the 30-day Community Review Period: March 29 – April 29, 2011

Date/Mode of Receipt	Summarized Feedback	Relation to Draft Amendments/Response
1. March 29, 2011 via e-mail	Questions for clarification of section 13.1, Scrap Prohibited. Describes being shocked regarding the implication of this section for his current business that deals with auto parts and sale of scrap. Referenced are the many garages and other businesses in the community that depend on "used parts" of whom he contacted many of the 9 named in his e-mail. State this section should be clarified to affect only the homeowner. Highlighted is that the Law does not touch on the collection of substances (e.g. batteries, tires, Freon etc) that needs to be controlled. The e-mail concludes by stating his business has proper equipment and methods for proper disposal of materials.	Feedback is not related to the draft amendments. Feedback relates to Section 13, Scrap Prohibited An e-mail response was sent on March 30 explaining this. It is clarified that Section 6 relates to hazardous material prohibition and that Section 6 was part of the draft amendments for a title change only, from <i>Dangerous Things</i> to <i>Refuse and Hazardous Material</i> . The information cover sheet was attached to the e-mail response to ensure clarity of purpose.
2. April 1 and April 5, 2011 via telephone call, with a subsequent office visit on April 6, 2011	Several questions regarding the existing Sanitary Conditions Law on how this Law protects community members from existing businesses and the harm to the environment a business can have – these comments and concerns relate an existing business located on the 207 for excavation material recycling. Much time was spent listening to the negative impacts on this community member's quality of life and environmental concerns. Expresses as well were the frustrations experienced with speaking to Chiefs, Environment Protection and the 207 business owner with little to no response to his concerns. Reported burning/smoke at the 207 business - the Associate Director of Lands was notified.	Neither the draft amendments or any other section were highlighted during these interactions. Draft amendments for permits and regulations were identified to the community member as a potential response to problems brought up. A copy of the 2000 Sanitary Conditions Law was provided for pick up.
3. April 7, 2011 via telephone call from an MCK Chief	Questions regarding the intent of Sections 13, Scrap Prohibited & 14, Signs, in response to the community member feedback in # 1 of this table – question directed to a Chief by the Legislative Coordinating Commission.	Questions not related to draft amendments but relate to Sections 13, Scrap Prohibited & 14, Signs. Response was a "best guess" – proactive control for overall sanitation of yards and general Territory to avoid environmental hazards related to animals and contaminants. Comment that regulations could be written to address and clarify these areas.

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**Table 2: Feedback Received During the 30-day Community Review
Period: March 29 – April 29, 2011**

Date/Mode of Receipt	Summarized Feedback	Relation to Draft Amendments/Response
8. April 26, 2011 via telephone	Question posed by a MCK employee if Section 14, Signs, will have impact on the Kahnawà:ke Beautification Initiative Project. This was a directive from a MCK Chief to ask this question.	Feedback question not related to draft amendments, but relates to Section 13, Signs. Read Section 13, Signs, over phone to indicate that this section references "express authorization of the MCK" for signs to be put up. It was clarified that the purpose of the Council agenda item was to in fact obtain authorization to erect signs on the Territory.
9. April 28, 2011 via telephone	Clarity question from a MCK employee related to Section 16, Operating Permits, section 16.2, erect or alter a structure, if this requires a permit be applied to a person adding onto his existing home.	Feedback related to Section 16, Operating Permits. It is identified that in the introduction to Section 16 clarifies the term structure that includes " <i>a building or other object constructed from several parts that is not used solely for residential purposes.</i> "
10. April 28, 2011 via an office visit to the Research & Policy Analyst/Developer Lands	MCK Chief seeking clarity regarding permit requirements and the term structure used in Section 16, Operating Permits. There have been several community members asking about examples of when one would need a permit. An example is an existing tobacco factory "in the woods" could be expanded and would this need a permit? As well, if one has a garage attached to a home with plans to add onto the garage, would this need a permit?	Feedback related to Section 16, Operating Permits. It is identified that in the introduction to Section 16 clarifies the term structure that includes " <i>a building or other object constructed from several parts that is not used solely for residential purposes.</i> " The discussion involved that a permit system will be developed along with regulations specifically for demolition waste recycling. Section 16 states the MCK will have <u>discretion</u> that determines permit requirements for a business that seems likely to result with contaminants released into the environment or change the quality of the environment, other than landfill or demolition waste recycling operations.

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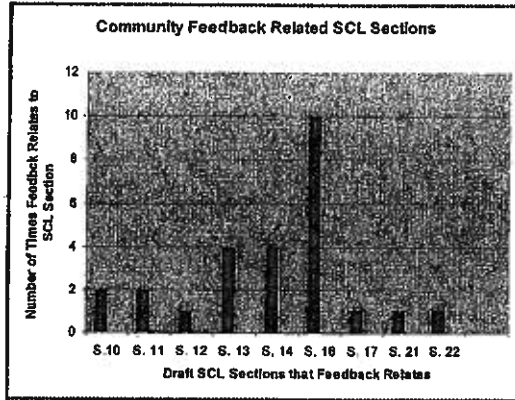
Table 2: Feedback Received During the 30-day Community Review Period: March 29 – April 29, 2011

Date/Mode of Receipt	Summarized Feedback	Relation to Draft Amendments/Response
12. April 28, 2011 via e-mail continued	Lists Section 13, Scrap Prohibited, but makes no comments. Section 16, Operating Permits, references Sections 16.2 to 16.4. Application to industrial/commercial activity is acceptable. If not, this article is far too restrictive to such backyard personal property as a chicken coop requirement for a permit – this would go too far. This section needs clarification.	Confirm that this was amended for industry/commercial activity. The ability to write regulations (section 20, Regulations) will spell out how this will be carried out. It is a way to be accountable for MCK.
13. April 29, 2011 via e-mail	Section 16, Operating Permits, is confusing, particular Sections 16.2 and 16.3. Description of structure seems out of place. Unclear if permit requirement in Section 16.3 (related to placement near water) includes land filling. Questions “who” will be the permit authority and suggests stronger fines in the Law. Questions “enforcement” ability by inspectors – suggests waiting to amend the Law until enforcement is stronger in the community.	Feedback relates to Section 16, Operating Permits. Other feedback relates to Sections 17 – 19, Inspectors and to Section 22, Coming Into Force. E-mail response addresses that Section 16 relates specific to industry/business, that the current Clean Soil Policy addresses landfill and that the terms structure was placed in the introduction of section 16 to be sure that readers would see the term before reading the content of Section 16. Confirm that permit or inspector enforcement will be developed with regulations in coming months. State that overall enforcement in the community is a political issue and falls outside of the scope for the Lands Unit.
14. April 29, 2011 via e-mail	Agreement with the content, “I fully support this document and agree with the outline.” Expresses strong concerns for a meat processing operation located on the Old Chateaugay Road describing legal, ethical, and strong concerns for the location in a residential areas and in the community in general. Uses term policy to Law as if to imply this is a policy to become Law – she is not clear that this is a Law. Sees this Law as a way to respond to her and her family’s concerns regarding the OCR operation. Identifies areas in the Law are still important for public health and safety for situations such as storage practices for rubbish, cars, old houses ready to fall down (no purpose besides the urge to “horde”), cigarette factories (an accident waiting to happen). Describes this as risky and dangerous for our youth, damaging to the environment and community appearance. Questions anonymity of the feedback.	Additional feedback relates to Sections 10, 11 and 12. E-mail response: Concerns are the concerns of many. Comments will be reflected in a feedback table and in the analysis recommendations anonymously. There is room for this Law to respond to the storage of rubbish, cars, old houses that are ready to fall down.

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4. FEEDBACK ANALYSIS

Community feedback opportunity was successful in that the desired outcome for this review was community response specific to Section 16, and Section 20, Regulations and the most frequent feedback section referenced during the community review period related to Section 16, Operating Permits. The chart below presents the number of times specific sections of the Sanitary Conditions Law (SCL) were referenced (as determined by the Policy Analyst) in the feedback received.



Sections Referenced in the chart below are:

- S. 10 Death of Animals
- S. 11 Tainted Food
- S. 12 Control of Pests
- S. 13 Scrap Prohibited
- S. 14 Signs
- S. 16 Operating Permits
- S. 17 Inspectors (includes S.18 & 19)
- S. 21 Penalties
- S. 22 Coming Into Force

It is observed by this analyst that there was the perception by the general public that this was a whole new law. Expectations of the general public related to reading and interpreting a law may have been set too high for a first time. The process of an amendment may have not been well understood. Consideration that community laws need to be written in more common language may assist with interpretation of law content with outcome of more specific feedback.

Generally there seems to be issues related to interpretation of Section 16, Operating Permits, in that it is unclear that this section relates primarily to business/industry that can change the quality of the environment. There were strongly verbalized concerns that this section applies to homeowners, personal property and payment for permits.

An area of the SCL not part of the draft amendments but an area that received feedback, was Section 13, Scrap Prohibited. There is expressed concern that this section will hinder existing business involving scrap, metal and garage services.

Table 3 presents feedback summarized points identified by the Policy Analyst and linked to identified needs. The relationship to SCL sections is identified. Feedback that relates to sections for draft amendments are in bold.

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Table 3: 30-Day Community Feedback to Draft Amendments to the 2000 Version of the Sanitary Conditions Law (SCL)

Summarized Feedback Point	Draft Amended SCL Related Section	Need to enforce	Need to clarify	Need to revise	Need to expand
Existing businesses accountability	S. 13 Scrap Prohibited S. 22 Coming Into Force	✓	✓		
Posting of signs	S. 14 Signs S. 22 Coming Into Force	✓	✓		
What is current enforcement of this law	S. 22 Coming Into Force	✓	✓		
Zoning	Not related to any section but related to the work to date by the Associate Executive Director for Operations and Community Planning		✓		

5. RECOMMENDATIONS

The scope approved by Chief & Council in Enniska/February 2011 was for amendment of the 2000 Sanitary Conditions Law to update relevant definitions, provide authority to the MCK to adopt regulations and give permits under the Law for any operation that will increase the potential for environmental contamination and risk to public health and safety, provide additional penalties for offences under this Law and to identify expanded authorities for inspectors. The following recommendations are presented within the amendment scope set by Chief & Council, with consideration to the purpose and intent of these draft amendments.

1. Community Feedback WITHIN the approved Scope for Amendment to the Sanitary Conditions Law

SECTION 16, Operating Permits:

The community feedback received for Section 16, Operating Permits:

- Section 16 of the draft amended Sanitary Conditions Law has been identified to need revision, expansion and clarification;
- *Recommend* to change introduction of this section to a new Section 16.1 and renumber as necessary the subsequent sections;
- *Recommend to clarify* with a reorganization of the content to section 16.2 and revise to omit the a, b & c; consider expanded wording for when an operating permit is required;
- Section 16.2 can consider changing the term discretion to similar term, like conduct a risk assessment for environmental change and contamination potential;

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3. Community Feedback OUTSIDE of the approved Scope for Amendment

The following sections in the draft amended Sanitary Conditions Law received feedback during the community review period. Chief and Council has the authority for these areas that fall out of the purpose, scope and intent provided to the Lands Unit for amendment to the Sanitary Conditions Law.

There are needs identified for these sections summarized in Table 3. The specific sections that received feedback are S. 10, Death of Animals; S. 11, Tainted Food; S. 12, Control of Pests; S. 13, Scrap Prohibited; S. 14, Signs; and S. 22, Coming Into Force.

Although the Sanitary Conditions Law needs updating to be aligned to this millennium, the initial request by the Lands Unit to follow through to amend and write regulations for demolition waste recycling and a permit issuance system for MCK is most desirable to ensure effective response by the Lands Unit to the actual and potential risk for environmental contamination and risk to public health and safety. Amendment at this time to the provisions in these sections that are outside of the approved scope could amount to an entire new law that compromises the initial mandate to the Lands Unit.

It is *recommended* to place this Law following an amendment in 2011 into the next legislative calendar for a more comprehensive review. The existing community feedback will be kept on file at the Lands Unit for when this Law comes into place in the next legislative calendar or can be provided to and held in the Office of the Council of Chiefs.

6. CONCLUSION

The 30-day community review provided significant feedback to the both amended and non-amended sections. It is the mandate of the Lands Unit to provide for content within the scope, purpose and intent approved by Chief & Council, therefore, the Lands Unit Policy Analyst/Developer, in collaboration with legal services, will draft new amendment content as per recommendations in this report for consideration by the legislative body.

A more long-term solution to issues we are addressing related to environmental contamination and risks to public health and safety is the development of an environment protection law. For the interim, it is recommended to uphold the Lands Unit mandate for amendment and once approved, place the Sanitary Conditions Law into the next legislative calendar for a more comprehensive review in the area of public health and safety.

Respectfully submitted by,

Heather Jacobs-Whyte BSc
Research & Policy Analyst/Developer Lands
Ohontsa'shón:'a Ronterihwatsteristha

2011 Sanitary Conditions Law Draft Amendments
Community Review for 30 days: 29 Enniskó:kwa – 29 Onerahtókha

Why a 30-day Community Review?

The Community Decision Making Process for Type 2 laws involves a 30-day community review to give Kahnawa'kehró:non opportunity to give feedback on draft amendments. Following this review period, the Legislative Coordinating Commission will organize more opportunities to discuss these amendments.

The Type 2 Community Decision Making Process requires Chief & Council to confirm the mandate for the Lands Unit to proceed with draft amendments and confirm the purpose, scope and intent of the draft amendments to the *Sanitary Conditions Law* (done on 21 Enníska/February, 2011).

PURPOSE

The purpose for the amendment of the *2000 Sanitary Conditions Law* is to enhance the authorities of the MCK to adopt regulations and eliminate as much as possible the potential of environmental contamination and any risk to public health and safety by developing regulations for demolition waste recycling operations or prohibiting these types of operations in Kahnawa:ke.

SCOPE

The scope for amendment of the *2000 Sanitary Conditions Law* is to update relevant definitions, provide authority to the MCK to adopt regulations and give permits under the Law for any operation that will increase the potential for environmental contamination and risk to public health and safety, provide additional penalties for offences under this Law and to identify expanded authorities for inspectors.

INTENT

The intent of the amendment of the *2000 Sanitary Condition Law* is to provide a Law that will protect Kahnawa:ke from any potential environmental contamination and risks to public health and safety.

Who can I talk to?

The draft amendments to this law appear in **bold text**. The current version of the *Sanitary Conditions Law* is located on www.kahnawakemakingdecisions.com under legislation. If you have feedback on these draft amendments or want to voice your concerns, please contact:

Heather Jacobs-Whyte (heather.jacobs@mck.ca or 450-638-8244) or
Eva Johnson (eva.johnson@mck.ca or 450-635-9554)

1. Introduction

As part of the process set by the Legislative Coordinating Commission (LCC) for the Community Decision Making Process (CDMP) for Type 2 legislation, the First Reading of the draft amendments to the Sanitary Conditions Law was conducted by the LCC on 9 Onerahtohkó:wa/May 2011 in the Council Lounge of the main building.

The role of the Research & Policy Analyst /Developer of Lands was to present rationale for the draft amendments and present the feedback gathered from the 30-day community review process (March 29 – April 29, 2011) that preceded the First Reading. In addition, the Research & Policy Analyst /Developer of Lands was responsible to obtain the feedback recording from the LCC Administrative Assistant, and report on the data gathered.

The scope approved by Chief & Council in Enniska/February 2011 for amendment of the 2000 Sanitary Conditions Law was to:

- update relevant definitions,
- provide authority to the MCK to adopt regulations and give permits under the Law for any operation that will increase the potential for environmental contamination and risk to public health and safety,
- provide additional penalties for offences under this Law,
- identify expanded authorities for inspectors.

2. Data Analysis

The recording of the May 9 First Reading was provided by the LCC Administrative Assistant to the Research & Policy Analyst /Developer of Lands on May 20, 2011. Minutes were read and the feedback that related to the Sanitary Conditions Law was identified and analyzed. The feedback data and recommendations are presented in Table 1.

It was observed that there were no objections voiced by community members to the rationale for the amendments, that is to avoid environmental contamination through unregulated demolition waste recycling business and reduce or eliminate any risk to public health and safety.

3. Recommendations

Most of the feedback and discussion from community members who participated, involved the process for the CDMP for type 2 laws. Feedback from the First Reading was similar to the feedback received during the 30-day community review that is reported in a separate document. Overall recommendations appear in the recommendation column in Table 1. Specific to Section 16, Operating Permits, it is recommended to re-organize content to:

- change the introduction piece to section 16 by removing the term *structure* and replacing the remaining introduction content to become a new section 16.1,
- re-organize the content of 16.2 and 16.3 to omit the current draft use of the a,b & c points,

Table 1: Feedback from the Draft amended Sanitary Conditions Law First Reading

Section in Sanitary Conditions Law that Feedback Relates	Feedback from LCC Minutes	Recommendation(s)
Section 1 - Definitions	<ul style="list-style-type: none"> - Combine definitions of <i>clean, regulated fill</i> and <i>landfill/landfill material</i>; - Add definition of Inspector; - new definition of <i>refuse</i> has similar meaning in another section of the Law – suggest that the definition of scrap could have been used throughout the document; - the terms <i>structure</i> to be a definition; - revise the definition for <i>person</i> to be less paternalistic . 	<p>Remove the definition of <i>clean, regulated fill</i>; currently undergoing review of the definition of <i>landfill/landfill material</i> by the Environment Protection Office.</p> <p>Definition of inspector can have expanded description in the regulations – must consider the capacity of MCK and current inspectors.</p> <p>No change to the definition of refuse – it is global enough to encompass many things.</p> <p>Revisions to additional definitions can be achieved if this law is submitted to undergo a comprehensive review in the next Legislative Calendar.</p>
Section 4 – Accumulation of Refuse Prohibited	Refers to refuse and scrap – similar meanings – need to make it more readable amendment.	Section only refers to refuse- no change to definition
Section 6 – Refuse and Hazardous Material	<p>If someone dumps nuclear waste here, who cleans it up? Nothing stated about that.</p> <p>Owners of gas stations and cigarette factories should be accountable for leaks. Raw sewage dumped needs to have something (in the law).</p>	<p>Currently Section 6 prohibits placement of refuse of anything liable to cause accidents or damages to any person whether by combustion, corrosion, explosion or otherwise. This section can respond to these feedback matters at this time in regards to prohibition and use of penalties.</p> <p>Recommend that this Section 6 can be expanded during a comprehensive review if this Law is submitted to the next Legislative Calendar.</p>
Section 16 – Operating Permits	<ul style="list-style-type: none"> -Every time that I have to go for a permit, that takes my freedoms away. -Permits are not the way to go; you might as well just charge us tax. -Specify each type of business you are referring to in the law. -Ensure clarification between residential and commercial is made throughout the Law. 	<p>Recommend to re-organize the draft content to reflect a simpler content more specifically outlined in Number 3, Recommendations, in this report.</p> <p>A listing of the types of businesses will not provide the flexibility a law needs to be able to respond to new situations over time – a list is not recommended.</p> <p>A permit system is the most effective way to be able to be knowledgeable to businesses in the community with potential for environmental contamination and risk to public health and safety - recommend keeping permit requirement in the Law.</p>