

2011 Sanitary Conditions Law Draft Amendments
Second 30-Day Community Review: 19 Seskehkó:wa/September to
18 Kenténha/October 2011

Why amend the Sanitary Conditions Law?

There are ongoing concerns related to demolition material recycling operations within the Territory that involve the sorting and recycling of construction & demolition waste material, selling what is recoverable and discarding the residual waste materials in a licensed facility outside of our Territory. Demolition waste recycling businesses have been operating in the community without regulation or guideline resulting in waste materials of an unknown origin that may have unknown contaminants being brought into the community.

The MCK Lands Unit chose to amend the Law so that regulations could be written to address unregulated materials entering our Territory, provide standards that protect our environment from contamination and have ability to develop a permit and monitoring process. Amendments change only specific areas in the Law and are intended to protect our Territory from any potential environmental contamination and risks to public health and safety.

Background Points:

- The *By-Law Respecting the Promotion of Sanitary Conditions, the Prevention of Nuisances and the Use of Premises on the Caughnawaga Indian Reserve* was passed by the MCK on April 20, **1968**; this Law was amended in 1977, 1993, 1999 and in 2000 and is now known as the *Sanitary Conditions Law*.
- The *Sanitary Conditions Law* amendment is a type 2 law and is being amended using the Community Decision Making Process(CDMP);
- A 30-day community review was conducted in April 2011 to gather community feedback on the proposed draft amendments and a First Reading of the *Sanitary Conditions Law* and the proposed draft amendments occurred for this community on May 9, 2011;
- Community feedback gathered was analyzed and a report with recommendations for further amendment to the *Law* was provided to Chief and Council by the Lands Unit at a Legislative Session held on June 21 and a second part on September 6, 2011;
- New amendments were done by the MCK Lands Unit and MCK Legal Services.

Section 1 (clean, regulated fill removed; new definitions for activity, landfill/landfill material & structure; title change for recycling to demolition waste recycling and changed landfilling to landfill activities), **Section 16** (re-organized with new content), **Section 19** (replaced “power” with “authority”), **Section 21** (new content, higher fines) and **Section 23** (states the law is being amended) are the changes since the April/May community review and respond to community and Legislative Body feedback received that was within the Lands Unit mandate and amendment scope. All amendments to the *Law* to date are highlighted in draft version 12.

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 **Eva Johnson** (eva.johnson@mck.ca or 450-635-9554) or **Heather Jacobs-Whyte** (heather.jacobs@mck.ca or 450-638-8244) during the 30-day community review period from September 19 – October 18, 2011.

KAHNAWÀ:KE SANITARY CONDITIONS LAW

K.R.L. c. S-1

Enacted on 20 *Onerahtókha*/ April, 1968]

[Amended by MCR # 58/1977-78 on *Ohiari:ha*/June, 1977]

[Amended on 16 *Enníska*/February, 1993]

[Amended by MCR #52/1999-00 on 8 *Kenténhkó:wa*/November 1999]

[Amended by MCR #17/2000-01 on 12 *Ohiari:ha*/June, 2000]

[Amended by MCR #XX/2011-2012 on Date, 2011]

SECTION I

"Definitions"

1. DEFINITIONS

1.1 For the purpose of the present Law:

"Activity"

"**Activity**" means the undertaking of an operation, of an industry, of an industrial process or to increase the production of any goods or services that seems likely to result in an emission, deposit, issuance or discharge of contaminants into the environment or change in the quality of the environment. For further clarity, "activity" will not include works carried out on a residence used solely for residential purposes;

"Conservation Officer"

"**Conservation Officer**" means a person appointed and sworn pursuant to the provisions of the Conservation Law, enacted 31 *Kenténha*/October, 1983;

"Contaminant"

"**Contaminant**" means a solid, liquid or gaseous matter, a microorganism, a sound, a vibration, rays, heat and odor, a radiation or a combination of any of them likely to alter the quality of the environment in any way;

"Debris"

"**Debris**" means demolition or construction waste materials resulting from construction, remodeling, repair and demolition operations on pavement, houses, commercial buildings, and includes discarded solid waste from commercial, structural or community activities. It does not include agricultural, industrial, hazardous and infectious waste materials;

"Demolition Waste Recycling"

"**Demolition Waste Recycling**" means the separation, collection and reuse of debris for transformation or remanufacture into a usable or marketable product or material;

"Landfill Activities"

"**Landfill Activities**" means the process of moving landfill material from a source site to a receptor site for remedial purposes e.g. to fill a hole in the ground to contour the land or to facilitate infrastructure needs. The landfill material may originate from within the Mohawk Territory of Kahnawà:ke or from a source site outside of the Territory, which is then moved to a receptor site within the Territory;

"Landfill/Landfill Material"

"**Landfill/Landfill Material**" means soil, rock and/or natural stone relocated from an uncontaminated site and with concentrations of substances that respect the acceptable parameters set by the Kahnawà:ke Environment Protection Department.

"Peacekeeper"

"**Peacekeeper**" means a person appointed and sworn as a Kahnawà:ke Peacekeeper pursuant to the provisions of the Kahnawà:ke Peacekeeper Law, enacted 17, Ohiarí:ha/June, 1996;

"Person"

"**Person**" means any possessor, user, occupant, owner, resident, lessee, or agent or wife or child of any of the foregoing of property or premises situated within the limits of the Mohawk Territory of Kahnawà:ke whether or not such person is a Kahnawà:ke Community Member;

"Property"

"**Property**" means all property, moveable and immovable, real and personal dwellings, buildings, residences, construction appurtenances, garages, driveways, yards, pastures, ditches, water, wharves, streams, rivers, lakes, ponds and premises situated within the Mohawk Territory of Kahnawà:ke of which a person or the Mohawk Community of Kahnawà:ke has the possession, use, occupation, lease, enjoyment or exercise of rights in respect thereto;

"Refuse"

"**Refuse**" means garbage that is thrown away as being of no value or use;

"Structure"

"**Structure**" means a building or other object constructed from several parts. For further clarity, a "structure" will not include a residence used solely for residential purposes;

SECTION II

"Responsibility for Property"

2. RESPONSIBILITY FOR PROPERTY

2.1 Every person is responsible for the permanent maintenance of his property and premises in a sanitary and proper condition and is responsible for all damages caused by the condition of, or things on, the said property and premises if he neglects or omits such maintenance.

"Duties of Persons"

3. DUTIES OF PERSONS

3.1 Without restricting the generality of article 2.1, every person shall maintain his property and premises:

- (a) In a good state of repair;
- (b) Free from anything potentially or actually dangerous to the life, health, or welfare of any person;
- (c) Free from any fire or other hazard to life, health or property; and
- (d) Properly equipped to overcome any peril, including fire.

"Accumulation of Refuse Prohibited"

4. **ACCUMULATION OF REFUSE PROHIBITED**

4.1 No person shall accumulate, allow to accumulate, store or keep on his property or premises any **refuse**, save as hereinafter provided in article 5.1

"Collection of Refuse"

5. **COLLECTION OF REFUSE**

5.1 All refuse shall, at regular intervals not more than seven days apart, be properly collected, wrapped and placed in suitable containers by a member of each household or the persons responsible for the maintenance of the property or premises on which the refuse is situated.

"Disposal of Refuse"

5.2 All containers in which refuse has been placed shall, at least once a week, be brought to and disposed of at such places on the Mohawk Territory of Kahnawá:ke designated for such purpose by the Mohawk Council of Kahnawá:ke by the persons mentioned in article 5.1

"Refuse and Hazardous Material"

6. **REFUSE AND HAZARDOUS MATERIAL**

6.1 It is prohibited to place in, with or close to refuse any thing liable to cause accidents or damages to any person whether by combustion, corrosion, explosion or otherwise.

"Conditions of Containers"

7. **CONDITION OF CONTAINERS**

7.1 All refuse containers shall be maintained in a clean, dry and proper condition by each household or person responsible for such containers and shall be properly stored by such person upon the removal or disposition of refuse.

"Refuse on the Mohawk Territory of Kahnawá:ke"

8. **REFUSE ON THE MOHAWK TERRITORY OF KAHNAWÀ:KE**

8.1 No person shall deposit, deliver, leave, throw, dispose of or destroy in whole or in part any **refuse** on property held or owned by the Kahnawà:ke Mohawk Community or on the property of another person save as herein provided or with the express written authorization of the Mohawk Council of Kahnawà:ke.

"Destruction of Refuse Prohibited"

9. **DESTRUCTION OF REFUSE PROHIBITED**

9.1 Except as provided in this Law, no person shall store, destroy or otherwise dispose of **refuse** without the express written authorization of the Mohawk Council of Kahnawà:ke.

"Death of Animals"

10. **DEATH OF ANIMALS**

10.1 The owner of any animal, including fowl, shall report the death of such animal to the Mohawk Council of Kahnawà:ke within 12 hours after such death and shall

immediately follow the directives of the Mohawk Council of Kahnawà:ke or of any inspector hereinafter mentioned in respect to the disposal of the carcass or body of such animal.

"Tainted Food"

11. **TAINED FOOD**

11.1 No person shall have in his possession tainted, or unwholesome meat, fish, fowl or food of any kind, which may in any way, be injurious to health.

"Control of Pests"

12. **CONTROL OF PESTS**

12.1 Every person shall take all reasonable precautions to control the incidence of pests, rats, rodents and other animals or things constituting a real or potential danger to health or susceptible of transmitting disease of any kind.

"Scrap Prohibited"

13. **SCRAP PROHIBITED**

13.1 No person shall store, keep, maintain, erect or allow on his property any sign, poster, wreck, scrap, junk or vehicles of any kind no longer capable of being used or driven for the purposes for which they were built, on any property, premises or place. This prohibition applies throughout the Mohawk Territory of Kahnawà:ke.

"Signs"

14. **SIGNS**

14.1 No signs, posters or advertisements of any kind shall be placed on the Mohawk Territory of Kahnawà:ke without the express written authorization of the Mohawk Council of Kahnawà:ke, which may order the removal of such objects at any time.

"Waste Products"

15. **WASTE PRODUCTS**

15.1 No person shall dispose of excrement, dirty water, chemicals or waste of any kind except through proper plumbing facilities or in sanitary privies, chemical closets or cesspools approved by an inspector appointed under the present Law and provided that such disposal will not detrimentally affect drinking water or water constituting the source of wells or impair the health of any person.

"Operating Permits"

16. **OPERATING PERMITS**

16.1 Landfill activities, demolition waste recycling activities and any activity that is likely to result in a change in the quality of the environment, will be managed by the use of operating permits.

16.2 No one may carry on any landfill or demolition waste recycling operation unless they first obtain a permit from the Mohawk Council of Kahnawà:ke.

16.3 If anyone wishes to erect or alter a structure or carry on an activity that is likely to result in an emission, deposit, issuance or discharge of contaminants into the environment or result in a change in the quality of the environment, then the

Mohawk Council of Kahnawà:ke or a body identified by the Mohawk Council of Kahnawà:ke can require that a permit be obtained.

16.4 No one may erect or alter a structure, or carry on an activity in a constant or intermittent watercourse, a lake, pond, marsh, swamp or bog, unless they first obtain a permit from the Mohawk Council of Kahnawà:ke.

16.5 All permit applications must include the plans and specifications of the structure or activity and must contain a description of the equipment or planned activity indicate its precise location and include a detailed evaluation of contaminants expected to be emitted, deposited, issued or discharged into the environment through the proposed activity.

"Supplementary Information"

16.6 The Mohawk Council of Kahnawà:ke may also require supplementary information from any permit applicant, including any research or assessment statement that may be considered necessary to understand the impact the activity will have on the environment and to decide on its acceptability.

"Conditions of Operation"

16.7 The Mohawk Council of Kahnawà:ke may establish any conditions of operation deemed necessary in any permit for the operation of any activity outlined in Sections 16.1, 16.2, 16.3 and 16.4.

"Revocation of a Permit"

16.8 In addition to any other applicable penalties or sanctions, the Mohawk Council of Kahnawà:ke or a body identified by the Mohawk Council of Kahnawà:ke is hereby authorized to revoke any permit issued pursuant to the present section for non-compliance to conditions outlined in the permit or any other applicable law or regulation or if necessary to ensure the protection of the environment.

"Inspectors"

17. INSPECTORS

17.1 The Mohawk Council of Kahnawà:ke may appoint an inspector or inspectors to carry out and enforce the provisions of the present Law.

"Authority of Inspectors"

18. AUTHORITY OF INSPECTORS

18.1 Any inspector appointed by the Mohawk Council of Kahnawà:ke pursuant to the present Law or designated by regulation, shall have the authority to enter any property, premises or place situated on the Mohawk Territory of Kahnawà:ke at all times for the purpose of inspecting such property, premises or place to determine if there has been proper compliance by any person with the present Law.

"Functions of Inspectors"

19. FUNCTIONS OF INSPECTORS

19.1 In addition to the authority mentioned in article 18.1 such inspector may:
(a) Order any person to do any work or perform any act to remedy any contravention of the present Law or regulation and such person shall, upon

receiving written notice of such order, be obliged to carry out such work within 5 working days, following such order. The Inspector shall have discretion to give a delay for an additional 5 working days, should the scope of the work to be undertaken and the work already carried out justify the extension;

- (b) Confiscate any property or thing which contravenes or assists in the contravening the provisions of the present Law or regulation;
- (c) Carry out any work necessary to remedy any infringement of the present Law or regulation at the expense of the person responsible for such infringement, which person shall be obliged to reimburse the Mohawk Council of Kahnawà:ke for such expense when same is incurred; and
- (d) Order and effect the immediate closure of any property, premises or place situated on the Mohawk Territory of Kahnawà:ke, where it has reasonable grounds to believe that there is non-compliance with the present Law or regulation. To do so, the inspector's authority shall include, but not be limited to, the authority to place locks, seals or other devices on the property, premise or place and to post persons thereon to prevent access thereto or egress therefrom, until there has been full compliance with the present Law or regulation.

SECTION III

"Regulations"

20. REGULATIONS

20.1 The Mohawk Council of Kahnawà:ke may adopt regulations with respect to any matter outlined in this Law.

"Penalties"

21. PENALTIES

21.1 Any person who contravenes any provision of the Law, or any regulation adopted pursuant to it, shall be guilty of an offense and shall be liable on summary conviction to a fine of:

(a) In the case of an individual:

(i) \$500.00 for the first offense;

(ii) \$1000.00 for the second offense; and

(iii) \$5000.00 for each subsequent offense; or

(b) In the case of a corporation, company, partnership or any other commercial entity:

(i) \$2000.00 for the first offense;

(ii) \$5000.00 for a second offense; and

(iii) \$10,000.00 for each subsequent offense;

and in addition to a fine, be subject to imprisonment for a term not exceeding six (6) months.

"Cost of Remediation"

21.2 The Court may in addition to any other penalty imposed, once a guilty plea or conviction has been entered under any of the following sections 4,6,8,9,13,15, or 16, of the Law order the person convicted pay for the cost of remediation.

SECTION IV

"Coming into Force"

22. COMING INTO FORCE

22.1 This Law shall come into force on the day that it is declared to be in force by the Mohawk Council of Kahnawá:ke.

"Former Kaianerénhsra (Law) Amended"

23. FORMER KAIANERÉNSERA (LAW) AMENDED

23.1 Upon its coming into force this Law amends the 2000 Sanitary Conditions Law.

30 Day Community Review