

The MCK Election Law Working Group (“EWG”) completed a detailed review of the MCK Election Law. The purpose was to identify proposed amendments to help manage the election process as efficiently and effectively as possible while ensuring it is legally defensible.

The EWG identified the following as key areas for amendment:

- Development of Preamble and Purpose statements;
- Setting a definite date for Election Day (recommendation for the first Saturday in July);
- Appointment of the Electoral Officer by the Kahnawà:ke Justice Commission;
- Clarification of, and if need be, removal of the eligibility requirement that a nominee must declare all their private business holdings;
- Identification of provisions suitable for transfer into a regulation;
- Establishment of a body to review decisions of the Electoral Officer in an expeditious manner.

During the last amendment process, community members articulated that election procedures need to be separated from the law and that regulations be created. The community did not discuss in detail these regulatory portions of the law but mandated the drafters to separate. Unfortunately, due to time constraints this could not be completed before the 2015 MCK Elections. The EWG closely reviewed which provisions could be separated without impacting the overall integrity of the law and has submitted several recommendations.

A variety of other proposed amendments were also made to assist with implementing the election process. These include proposed restructuring, clarificatory and clerical revisions.

Attached are all proposed amendments.

## NEW AMENDMENTS TO THE LAW:

The following amendments are being proposed:

1. It is proposed that there be a *Preamble* to this law to provide background and to set out the authority under which it is created and to be consistent with other Kahnawà:ke Laws.
2. It is proposed that there be a *Jurisdiction* section in this law to be consistent with other Kahnawà:ke Laws.
3. It is proposed that there be a *Purpose* section in this law to be consistent with other Kahnawà:ke Laws.
4. It is proposed that a standard Election Date is set within the Law for the first Saturday in the month of July, beginning in 2018.
5. It is also being proposed that the definition of Election Day be amended to reflect that the Electoral Officer would no longer be setting the date on which the election will be held.
6. It is proposed that the responsibilities of the Electoral Officer be broadened to include his/her mandate. *\*If the* proposed amendment to set the date of Election Day to be held on the first Saturday in the month of July, beginning in 2018 is agreed to, there will be no need for the Electoral Officer to set the date, and the timeframes that were listed can be removed.
7. It is proposed that Polling Place be renamed Polling Location. It is proposed to add a definition for Polling Location. The term is used several times in the law but is not defined.
8. It is proposed that the Electoral Officer will now be appointed by the Kahnawà:ke Justice Commission.
9. It is proposed adding under Eligibility Requirements and must not have had their benefits and entitlements as a member suspended; to be an Electoral Officer, Assistant Electoral Officer, Polling Clerk, Who Can Hold Office, and To Vote:  
must meet the requirements of the *Kahnawà:ke Membership Law*, and be listed as a member on the Kahnawà:ke Kanien'kehá:ka Registry and must not have had their benefits and entitlements as a member suspended;

10. It is proposed under Who Can Hold Office to also clarify the purpose of following clause which was amended in 2015.  
(g) must declare all their private business holdings the purpose of which is to verify conflicts of interest if elected and/or respond to public inquiry of Chiefs
11. It is proposed that the term “Polling Clerks” replace “Election Scrutineers” throughout Law.
12. It is proposed that the term “Advance Poll” replace the term “Special Poll”.
13. It is proposed under Nomination Procedure to amend the Law to reflect that it may not always be possible to announce the unofficial list of nominees at twelve noon exactly, therefore adding the wording “without reasonable delay”.
14. A proposal to establish an Elections Review Board (“Board”) was rejected at the CDMP session held on September 23, 2014. Consensus was reached that such a body was not required. Despite this consensus to reject the establishment of this Board, it is proposed that a body be established whereby requests for review of a decision of the Electoral Officer are made verbally and decided as expediently as possible and in such a manner as not to inhibit election proceedings. The sections setting out the (unapproved) Board are here for reconsideration and discussion.
15. The Board would review any decisions taken by the Electoral Officer prior to the closing of the polls on Election Day. Examples included decisions concerning eligibility to hold office, compliance with nomination procedures, and an elector’s eligibility to vote. Requests for review would have been made verbally and decided as expediently as possible and in such a manner as not to inhibit election proceedings.

#### **CHANGES & CLARIFICATIONS:**

The following changes & clarifications are being proposed:

1. It is proposed that there be several clarifications to Definitions:
  - 1) Candidate
  - 2) Council
  - 3) Membership Registrar replace the term “Registrar” *and be broadened to include both the role of the Registrar and that a designate may act in place of*

*the Membership Registrar (in case the Membership Registrar is unavailable then one of his/her staff can step in).*

- 4) Elector
  - 5) Nominator(s) *(the current definition does not actually define what a Nominator is, just the requirement to be one)*
  - 6) Criminal Offense (currently part of the definition is in body of the *Law*, now to be included in the definition for easy reference)
  - 7) Community Member can be deleted as it means same as Elector
2. It is proposed that certain sections be re-ordered to improve the chronology and flow of the law. Both individual provisions and headings in the MCK Election Law are termed “sections”. To avoid confusion it is proposed that this law be organized into “Parts” with individual provisions continuing to be termed “sections”.
  3. It is proposed to clarify how many times a person can nominate and/or second an individual for the office of Grand Chief or Council Chief.
  4. It is proposed that it be clarified that more than one advance (special) poll can be held and that such polls can be held at places like the KMHC and KSCS Home & Community Care Center (this has been a practice in past years).
  5. It is proposed to amend the wording to the clause no partisan election campaign advertising to be seen from the polling location; to reflect that there should be no partisan election campaign advertising at the polling location. It is unreasonable to expect the Electoral Officer to prevent someone from exhibiting partisan campaign advertising on private property.
  6. It is proposed to merge section 27.3 and section 18.7 of the current *MCK Election Law*, which are generally similar.
  7. 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.

## **REGULATIONS:**

Nominations, Polling, and Forms are now separated from the Law and draft Regulations have been developed as part of the mandate provided in 2015. This includes clauses concerning ballot boxes, the form and content of ballots, issuing ballots, casting and counting ballots be in the case that technology and/or best practices of voting are supported it would be more efficiently amended through a regulation.