

CONFIDENTIAL

INTERNAL DRAFT

March 24, 2025

Mohawk Council of Kanesatake Code of Ethics

Resolution #
Date of Resolution:

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Preamble

WHEREAS the Mohawks of Kanesatake are a community of the Mohawk Nation;

AND WHEREAS the Mohawks of Kanesatake have inherent rights and jurisdiction over their Territory;

AND WHEREAS the Mohawks of Kanesatake assert that it is one of their guiding principles to consider the consequences of actions for the next seven generations and beyond, and the Mohawks of Kanesatake intend to protect and preserve Kanesatake Mohawk Lands for the benefit of the next seven generations and beyond;

AND WHEREAS the Mohawks of Kanesatake have Aboriginal and treaty rights, and Aboriginal title, as recognized by the *Royal Proclamation of 1763*, in and to the lands which make up the Seigneury of the Lake of Two Mountains;

AND WHEREAS the rights of the Mohawks of Kanesatake are recognized and affirmed by section 35 of the *Constitution Act, 1982*;

AND WHEREAS the rights of the Mohawks of Kanesatake are included in the *United Nations Declaration on the Rights of Indigenous Peoples* (“*UNDRIP*”), and as ratified and implemented in the *United Nations Declaration on the Rights of Indigenous Peoples Act* (“*UNDRIPA*”);

AND WHEREAS the Mohawks of Kanesatake, as represented by the Mohawk Council of Kanesatake (the “MCK”), may exercise authority under the *Kanesatake Interim Land Base Governance Act*, SC 2001, c 8, passed on May 14, 2001 (“*Governance Act*”);

AND WHEREAS the MCK operates in accordance with the Mohawks of Kanesatake Custom Electoral Code (“*Electoral Code*”), ratified June 20, 2015;

AND WHEREAS the MCK may exercise its authority under the *Indian Act*.

NOW THEREFORE BE IT RESOLVED that the MCK establish this **Kanesatake Council Code of Ethics (“Ethics Code”)** in accordance with their authority of under their inherent rights, the *Constitution Act, 1982*, *UNDRIP*, *UNDRIPA*, the *Governance Act*, and the *Indian Act*.

Purpose

The purpose of this Law is to ensure a standard of ethics and professional accountability for the MCK.

Section 1 Short Title

1.1 This Law may be referred to as the **Kanesatake Council Code of Ethics (“KCCE”)**.

Section 2 Definitions

2.1 In this Law:

"Business" means a sole proprietorship, partnership, corporation, or joint venture.

"Closely Related Person" means a person who is the immediate family of a Council member of MCK or an associate in business where the Council member of MCK holds a significant financial or other personal interest.

"Conflict of interest" is defined as set out in Section 4.9.

"Council" means the elected Chiefs of the Mohawks of Kanesatake.

"Council Meeting" means a meeting convened by the MCK attended by at least four (4) elected Chiefs.

"Council Member" means an elected Chief of the Mohawks of Kanesatake.

"Grand Chief" means the person elected to MCK as Grand Chief pursuant to the *Mohawk of Kanesatake Electoral Code*.

"Immediate family" means spouse, including common-law spouse, natural or adopted child, parent or grandparent, sibling, half-sibling, and grandchild.

"Leadership" means any elected Council member of MCK.

"Member" means a person (Kanesatakehró:non) whose name appears on the Kanesatake Band List.

"Personal interest" is defined as set out in Section 4.10.

"Resolution" means a Band Council Resolution (BCR) formally adopted by a Quorum of the MCK pursuant to its governing authority.

"Significant Interest" means 25% or more ownership, shareholder, control, or other financial involvement that could reasonably be considered a significant interest in the circumstances.

"Spouse" includes:

- (a) a person considered to be a spouse according to any Kanesatake practices and laws;
- (b) a person married under the laws of the province or other government; or
- (c) a person in a common-law relationship with a Member.

“**Staff**” means any person employed by the MCK.

“**Transaction**” means an arrangement under which the MCK:

- (a) and another person agrees to exchange value or services;
- (b) confers a benefit on another person; or
- (c) receives a benefit from another person.

“**Quorum**” means four (4) elected Chiefs of the MCK.

Section 3 Application

3.1 This Code applies to elected Council Members.

Section 4 Leadership Roles and Responsibilities

Council Members shall:

- 4.1 Provide leadership on all community matters, guiding the MCK in addressing the needs and concerns of the community and improving the quality of life of members.
- 4.2 Act as an impartial spokesperson for the MCK when communicating with outside authorities, entities, and the media, ensuring that the best interests of Kanesatake are represented as the first priority.
- 4.3 Represent the MCK on regional and national issues, ensuring a unified and strategic approach to external concerns.
- 4.4 Represent Kanesatake with honour, integrity, pride, and advocate and protect the rights of Kanesatakeron:non.
- 4.5 Lead and participate in negotiating teams to advance objectives set by the MCK and Council.
- 4.6 Facilitate the development and funding of new or ongoing programs and strategies recognized by the MCK.
- 4.7 Collaborate with MCK Departments to seek funding or program delivery for objectives, administrative, or political matters as directed by the MCK.
- 4.8 Attend scheduled MCK meeting(s) and make yourself available to the MCK, subject the *Custom Electoral Code*.
- 4.9 Report to Kanesatake at minimum quarterly, using public forums such as in person and virtual meetings, newsletters, and official social media accounts.

- 4.10 Facilitate discussions within Leadership and the MCK impartially and resolve contentious issues effectively.
- 4.11 Consult with Council and the MCK, where applicable, prior to taking positions publicly on topics.
- 4.12 Support the MCK administration through regularly reviewing, amending, and implementing policies and procedures for the betterment of the organization.
- 4.13 Cast their votes in the best interest of the community. The Grand Chief shall serve solely as a tiebreaker for MCK Resolutions and may cast a vote only in this capacity.
- 4.14 By Resolution, the Council Member with relevant experience and interest will be appointed as portfolio lead to the appropriate portfolios. This ensures that each portfolio is led by individuals who possess the necessary expertise and commitment.
- 4.15 Regularly engage with the department(s) relevant to their portfolio(s) to gather information and insights relevant to their portfolios. This engagement is crucial for understanding community needs and preferences.
- 4.16 Portfolio lead shall be responsible for advising and informing the Council on matters related to the portfolio. This includes gathering insights, data, and feedback to support effective decision-making.
- 4.17 In the absence of a band manager, portfolio leads will act as a liaison with Staff, ensuring smooth communication and coordination in the administration.

Section 5 Standards of Conduct

- 5.1 Council Members shall not engage in, endorse, or permit any form of harassment or discrimination. All members are committed to fostering a respectful and inclusive environment.
- 5.2 Council Members shall:
 - a) Act honestly, in good faith, and in the best interest of Kaneshatake;
 - b) Use the necessary care, caution, and skill that would be used in similar situations by a reasonable person;
 - c) Follow all policies, procedures, Laws, and resolutions;
- 5.3 Council Members shall treat others with respect, regardless of their position or background. While internal constructive criticism and discussion of a position or initiative is always welcome, this does not include derogatory or insulting language, and all must refrain from personal attacks or criticism.

- 5.4 Council Members shall not engage in, endorse, or permit any form of harassment or discrimination. All members are committed to fostering a respectful and inclusive environment.
- 5.5 Council Members are often in the public eye with the MCK and will conduct themselves professionally at all times.
- 5.6 Council Members are prohibited from sharing content on any social media platform that could be perceived as discriminatory, offensive, divisive, or reflect poorly upon the MCK.

Section 6 Conflict of Interest

- 6.1 A "Conflict of Interest" is any situation where a Council Member has a Personal Interest that conflicts with their role or ability to carry out their duties in a fair and unbiased manner.
- 6.2 A "Personal Interest" occurs when a Council Member, their Immediate Family Member, or a related business has a Significant Interest that could prevent a Council Member from acting in the best interest of Kaneshatake. To avoid conflicts of interest or the appearance of such conflicts, Council Members must:
 - a) manage their personal and business affairs in a way that ensures they act fairly, impartially, and without bias on behalf of MCK.
- 6.3 A Council Member must arrange their affairs and conduct themselves in a manner to best avoid:
 - a) A Conflict of Interest; or,
 - b) The appearance of a Conflict of Interest

Section 7 Disclosure Duties

- 7.1 Council Members must each file with the Director of Human Resources an affidavit in the prescribed form, setting out the following:
 - a) The names of all corporations in which they have an interest as shareholder, director or officer;
 - b) The names of each proprietorship, partnership or other business entity in which they have an interest and the names of each of the other persons who have a substantial financial interest in that proprietorship, partnership, or other business entity;
 - c) The names of any Immediate Family members and the names of the business entity, whether a corporation, proprietorship, partnership, or other interest, who hold any business interest, which is within the Council Member's knowledge.

- 7.2 If any of the matters set out in the affidavit in Section 8.1 are no longer true, accurate, or complete, a Council Member must:
- a) Make a supplemental affidavit in the form set out by the Director of Human Resources and file it with them as soon as it is reasonably possible, and
 - b) Provide an additional information about such matters that the Director of Human Resources may require.

A. Responsibility to Disclose when in Conflict of Interest

- 7.3 A Council Member must not be found to be in a Conflict of Interest if they, at the first available opportunity:
- a) Discloses the particulars of a real or apparent Conflict of Interest, and
 - b) Abstains from being involved in discussion and decision-making regarding the matter and from voting on any question relating to it.

B. Quorum Where Disclosure Occurs

- 7.4 The absence of a Council Member from a meeting because of the requirements of section 8 must not be taken into account in determining whether a quorum is present for that meeting and for this purpose the Council Member will be counted as being present, even though they are absent from part or all the meeting.

Section 8 Employment

- 8.1 A Council Member may not be employed by MCK or MCK institutions or corporations unless Council:
- a) is satisfied that a full and accurate job description relating to the employment or personal services contract in question has been published before such engagement and that an open and fair competition for the employment or contract has first been carried out;
 - b) reviews and approved the salaries, benefits or fees payable and is satisfied that they are reasonable, having regard to the salaries, benefits or fees paid to other employees doing similar work and having similar qualification; and
 - c) is satisfied that those individuals are at least as well qualified as any other applicants for the position.
- 8.2 A Council Member shall refrain from engaging in any work or contractual relationships with businesses, organizations, or entities that have interests in matters previously handled by the Council. This includes taking employment with companies or organizations that received contracts or funding from the Council during their term and subsequently for a 6-month period following the end of their term as a Council Member.

Section 9 Use of MCK Property and Information

- 9.1 If the information at issue could result in or could appear to have resulted in a financial benefit to them, a Council Member may not use information that is:
- a) Supplied in confidence to the MCK;
 - b) Not generally available to all Members; and
 - c) Obtained while the Council Members serves or at anytime after they cease to serve as Council.
- 9.2 A Council Member shall not disclose or release by any means to any Member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

Section 10 Reporting

- 10.1 If a Council Member, Member, or Staff reasonably believes that a Council Member is in contravention of this Code, they must immediately report the matter to the Chair of the Ethics Commission.
- 10.2 The Chair of the Ethics Commission must make such enquires as they consider necessary and if they are of the opinion that a Council Member may be in contravention of this Code, the Chair of the Ethics Commission must immediately report the matter to the Council.
- 10.3 In a Council Meeting, the Council shall hear matters relating to alleged violations of this Code and outcomes will be decided by Resolution.
- 10.4 The Council Member, facing allegations, shall not partake in any Council Meeting related to this matter.
- 10.5 The Council Member, facing allegations shall be provided an opportunity to submit any written or oral arguments and evidence, as deemed necessary by the Council.

Section 11 Offences

- 11.1 Any person who contravenes this Code is guilty of an offence and liable for;
- (a) A fine not exceeding \$5,000; and / or
 - (b) Removal from MCK in accordance with the *Custom Electoral Code*.
- 11.2 The Ethics Commission, as defined in the *Electoral Code* has jurisdiction to hear and try offences under this Code.

Section 12 Repeals

- 12.1 In order to repeal, the *Kanesatake Law-Making Process* must be followed.

Section 13 Other Matters

- 13.1 This Code may be repealed or amended from time to time through a community approval process as outlined in the Kanesatake Law-making Process.
- 13.2 Unless otherwise provided for under this Code, the words, expressions, and rules of construction used in this Code have the same meaning as in the *Governance Code*.
- 14.1 The language of the Kanesatakehró:non may be used to clarify the meaning of any provision in this Code, if the meaning of that provision is not clear in English or French.
- 14.2 The MCK shall periodically review this Code to ensure it fulfills its Purpose.
- 14.3 The language of the Kanesatakehró:non may be used to clarify the meaning of any provision in this Code, if the meaning of that provision is not clear in English or French.
- 14.4 Nothing in this Code shall derogate or aggregate from our inherent rights or Aboriginal and Treaty rights as recognized and affirmed by s. 35 of the *Constitution Act, 1982*.

Section 14 Enactment and Coming into Force

- 14.1 This Code comes into force the day on which it is published to any public website, including but not limited to the *First Nations Gazette*.
- 14.2 This Code is enacted and signed into Law on behalf of the MCK by a Quorum of the MCK, this _____ day of the month of _____ in the year of 20 _____.

Signatures on following page

MOHAWK COUNCIL OF KANESATAKE

Quorum is: _____

Grand Chief

Chief

Chief

Chief

Chief

Chief

Chief