

CONFIDENTIAL
INTERNAL DRAFT
March 23, 2025

Mohawks of Kanesatake Land Protection Law

Resolution #
Date of Resolution:

Table of Contents

Preamble	1
Purpose	2
Section 1	Short Title	2
Section 2	Definitions.....	2
Section 3	Application.....	4
Section 4	Environment.....	4
Section 5	Cultural Heritage Resources	4
Section 6	Complaints	5
Section 7	Investigation.....	5
Section 8	Offences and Enforcement of Land Protection Laws	7
Section 9	Dispute Resolution and Appeals	8
Section 10	Community Approval Processes.....	8
Section 11	Minor Amendments to Land Protection Laws	9
Section 12	Liability	9
Section 13	General Provisions	10
Section 14	Other Matters	11
Section 15	Enactment and Coming Into Force	11

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 rights and title and treaty rights, protected by the Royal Proclamation of 1763, in and to Kanesatake 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* (hereinafter *UNDRIP*), and as ratified and implemented in the *United Nations Declaration on the Rights of Indigenous Peoples Act* (hereinafter *UNDRIPA*);

AND WHEREAS the Mohawks of Kanesatake, as represented by the Mohawk Council of Kanesatake (hereinafter MCK) may also exercise its authority under the *Kanesatake Interim Land Base Governance Act*, SC 2001, c 8, passed on May 14, 2001 (hereinafter *Governance Act*), including section 7;

AND WHEREAS the MCK may also exercise its authority to make laws concerning the protection, management, and administration of Kanesatake Mohawks Lands under the Mohawks of Kanesatake *Land Governance Code* passed on June 21, 2000 (hereinafter *Governance Code*), including section 1;

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

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

AND WHEREAS, it is considered to be necessary, to establish a law to regulate the protection of Kanesatake Land and to regulate the conduct and activities of Persons on Kanesatake Land .

NOW THEREFORE BE IT RESOLVED that the MCK enacts this **Land Protection Law** under the authority of its inherent rights, *Constitution Act*, 1982, *UNDRIP*, *UNDRIPA*, the *Governance Act*, the *Governance Code*, and the *Indian Act*.

Purpose

The purpose of this law is to protect Kanesatake Land and the Members in their territory.

By enacting this Land Protection Law, MCK reaffirms its special responsibility to care for and respect the Environment, Habitat, Natural Resources, and Ecosystem, on Kanesatake Land in accordance with the obligation of the Members and their ancestors since time immemorial.

Section 1 Short Title

1.1 This Law may be referred to as the Mohawk of Kanesatake **Land Protection Law**.

Section 2 Definitions

"Authorized Person" means a person authorized by the MCK to exercise a power or perform a limited duty under this Law;

"Canadian Environmental Protection Act" (CEPA) means the *Canadian Environmental Protection Act, 1999*, SC 1999, c 33.

"Contaminant and Pollution" means any solid, liquid, gas, odour, chemical, heat, sound, vibration, radiation, or combination of any of them resulting directly or indirectly from the activities or conduct of a Person which may:

- a) harm the environment or ecosystem;
- b) interfere with the use and enjoyment of Kanesatake Land ;
- c) cause serious injury or significant damage to the environment or ecosystem;
- d) adversely affect the health, safety, or welfare of any Person;
- e) dumping of any waste, garbage, debris, or similar material anywhere outside of a garbage can or authorized bin or garbage area; and
- f) dumping, spilling, discharging, releasing, or depositing any substance, liquid or gas, that is noxious, hazardous, polluting, deleterious or harmful to human health or the natural environment.

"Council Meeting" means a duly convened meeting of the MCK.

"Community Meeting" means a meeting convened by the MCK to communicate information and/or provide updates to Members.

"Ecosystem" means a complete and dynamic system of plant, animal, fauna, and micro-organism communities and their non-living environment interacting as a whole.

"Emergency" means a present or imminent situation or condition that requires prompt action to prevent harm or damage to Kanesatake Land , and/or loss of life, harm, or damage to the safety, health, or welfare of Persons within MCK territory.

“Governance Act” means the *Kanesatake Interim Land Base Governance Act*, SC 2001, c 8.

“Governance Code” means the MCK Land Governance Code enacted on June 21, 2000.

“Habitat” includes the area or type of site where an aquatic or wildlife species lives and directly or indirectly depends on the area to carry out its life processes.

“Kanesatake Land” means the Mohawk Territory of Kanesatake, including, but not limited to, the Interim Land Base as set aside by Canada for the use and benefit of the Mohawks of Kanesatake as lands reserved for the Indians within the meaning of Section 91(24) of the *Constitution Act, 1867*, as set out in the *Governance Act*.

“Member” means a Person (**Kanesatakehrónon**) whose name appears on the Kanesatake Membership List.

“Mohawk Council of Kanesatake” (MCK) means the elected Chiefs of the Mohawks of Kanesatake.

“Natural Resource(s)” means any soil, minerals, trees, rocks, sand, gravel, clay, coal, oil, gas and gases, substances, groundwater, water, air, plants, or animals found on or in Kanesatake Land which have cultural, traditional, economic, and other value.

“Officer” means any First Nations Safety Officer, Peace Officer, police constable, law enforcement agent, or other person charged with the duty to preserve and maintain the public peace, Sûreté du Québec, and an enforcement officer or any other person appointed by the MCK for the purpose of maintaining and enforcing Laws on Land pursuant to agreements or resolution of the MCK.

“Permit” means an instrument issued by the MCK.

“Person” includes every natural or legal person, including every company, statutory or otherwise, partnership, association, society, co-operative or other legal entity or association.

“Pollution” means the introduction directly or indirectly, of any substances, toxins or energy that results in or is likely to result in:

- hazards or risk to human health;
- harm or damage or destruction of the Environment;
- harm or damage or destruction of the Ecosystem; or
- harm or damage or destruction of the Habitat.

“Quorum” means four or more elected Members of the MCK.

“Resolution” means a Band Council Resolution (BCR) formally adopted by a quorum of the MCK.

“Water” means any surface water and underground water wherever on and near Kanesatake Lands.

Section 3 Application

- 3.1 This Law applies to Kanesatake Land and to all conduct and activities on Kanesatake Land.

Section 4 Prohibited Purposes

- 4.1 Subject to Section 5, it is an offense to engage in any and all conduct that introduces, or has the potential to introduce, Contaminant and Pollution that may or will cause, or are likely to cause, harm, damage, pollution, or other related impacts on Kanesatake Land and/or Water.

Section 5 Permits

- 5.1 The MCK may issue permits by Resolution to authorize specific activities or conduct that would otherwise be prohibited under this Law. Such permits shall be subject to terms, conditions, and restrictions as determined by the MCK.
- 5.2 The MCK may revoke or suspend a permit by Resolution at any time if the permit holder fails to comply with the terms and conditions of the permit.

Section 6 Complaints

- 6.1 Any person may submit a complaint to the MCK.
- 6.2 Complaints may be submitted anonymously to the MCK.
- 6.3 A complaint must be in writing and contain the following, as applicable:
 - a) sufficient information to identify the alleged offender, including the name and any known address;
 - b) a description of the location on Kanesatake Land where the violation is suspected to have occurred or is actually occurring;
 - c) a description of the Person’s past or current activities or conducts which the complainant suspects violates section 4; and

Section 7 Investigation

- 7.1 Where a complaint is submitted as per section 6, and/or the MCK has reason to believe an offence has been committed under section 4, an Officer may enter the

Premises where the alleged offence is or has occurred to collect evidence, including but not limited to:

- a) photographing the area;
- b) collecting Natural Resource samples; and
- c) witness statements.

7.2 Upon receipt of the evidence, the MCK must determine whether an offence under section 4 was committed.

Section 8 Offence

8.1 Each offence under this Law is a strict liability offence.

8.2 All offences created under this Law are punishable on summary conviction, and proceedings in respect of each such offence may be taken under:

- a) Part 27 of the *Criminal Code of Canada*; or
- b) the *Contraventions Act*; or
- c) any MCK law that allows for proceedings in respect of offence under MCK Law.

8.3 The Court of Québec, as defined in the *Courts of Justice Act*, has jurisdiction to hear and try offences under this Law.

8.4 For greater certainty, this Law is an enactment, for the purposes Part 27 of the *Criminal Code of Canada*.

8.5 Each calendar day an offence continues will be deemed to be a separate offence for the purpose of the proceedings in respect of that offence.

8.6 Any Person who commits an offence under this Law is liable on summary conviction to:

- a) a fine not greater than five thousand dollars (\$5,000);
- b) imprisonment for up to two (2) years less a day;
- c) restitution;
- d) community service;
- e) and any other means or combination thereof for achieving compliance.

8.7 Nothing in this Law precludes offences being heard by a justice of the peace

appointed in accordance with section 16(2) of the *Governance Act*.

- 8.8 Nothing in this Law precludes the MCK from pursuing any other enforcement action or remedy available to MCK at law or under any other enactment.

Section 9 Interpretation

- 9.1 Words in singular include the plural, and words in the plural include the singular.
- 9.2 If a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings.
- 9.3 The expression “shall” is to be understood as mandatory and the expression “may” is to be understood as discretionary.
- 9.4 Unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”.

Section 10 Other Matters

- 10.1 This Law may be repealed or amended from time to time through a community approval process as outlined in the Mohawks of Kanésatake Law-Making Process.
- 10.2 Unless otherwise provided for under this Law, the words, expressions and rules of construction used in this Law have the same meaning as in the *Governance Code*.
- 10.3 The MCK shall periodically review this Law to ensure it fulfills its Purpose.
- 10.4 The language of the Kanésatakehró:non may be used to clarify the meaning of any provision in this Law, if the meaning of that provision is not clear in English or French.
- 10.5 Nothing in this Law shall derogate or aggregate from inherent rights or Aboriginal and Treaty rights as recognized and affirmed by section 35 of the *Constitution Act, 1982*.

Section 11 Enactment and Coming into Force

- 11.1 This law comes into force the day on which it is published to any public website, including but not limited to the *First Nations Gazette*.
- 11.2 This Law 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 20_____.

MCK Signatures:

Quorum is: _____

Grand Chief _____

Chief _____

Chief _____

Chief _____

Chief _____

Chief _____

Chief _____

DRAFT