

**MOHAWKS OF KANESATAKE
LAND GOVERNANCE CODE**

AMENDED DRAFT FOR RATIFICATION

AUTHORITY

1. The power of the Mohawks of Kanesatake to govern their lands flows from the Creator to the people, and from the people to their Grand Chief and Council according to Mohawk custom and law.

PURPOSE

2. The purpose of this Land Governance Code is to provide for good governance by the Mohawk Council of Kanesatake over Kanesatake Mohawk Lands, and to set out the fundamental rules which apply to the exercise by the Council of jurisdiction over the lands.

INTERPRETATION

3. If there is inconsistency between any law adopted by the Mohawk Council of Kanesatake and this Land Governance Code, the Code will prevail to the extent of the inconsistency.
4. This Code has been drafted in English and must be translated into the Mohawk and French languages. In the event of any inconsistency between the original version and the translations, the original version will prevail.

POLITICAL ACCOUNTABILITY

5. The Chiefs in Council of the Mohawk Council of Kanesatake will exercise their jurisdiction and authority with honesty, impartiality, fairness and openness in the interests of the Community of the Mohawks of Kanesatake.

6. In the performance of their duties, members of the Mohawk Council of Kanesatake will avoid placing themselves in a situation of conflict between their personal interest, financial or otherwise, and the duties of their office.
7. Within one month of being elected to the Council, each member of the Mohawk Council of Kanesatake must disclose in writing to the Council all business interests in which they have an interest. Such disclosure must include any business interests of immediate family members, which is within their knowledge.
8. For the purposes of this Code, "immediate family member" means a spouse, including common-law spouse, natural or adopted child, parent or grand-parent, sister, brother, half-sister, half-brother, grandchild.
9. No member of the Mohawk Council of Kanesatake may take part in the debate or vote in Council regarding a resolution or law with respect to which such member has a personal interest, financial or otherwise, or in which a member of his or her immediate family has a personal interest, financial or otherwise.
10. If there is a disagreement as to whether a member of the Mohawk Council of Kanesatake has a personal interest in any matter before the Council, the Council will decide by vote whether the Council member has such an interest. The Council member in question shall not take part in the vote. If the majority of Council members decide that the Council member in question has a personal interest in the matter, then the Council member will not take part in any further deliberations or the vote on that matter.
11. Subject to any confidentiality requirements, minutes of each Council meeting will be available upon request to Community members.

12. The conflict of interest requirements outlined in sections 6 to 10 above, with such modifications as are appropriate to the circumstances, will also apply to the following persons:

- (a) all directors of programs for the Mohawks of Kanesatake;
- (b) all persons who are members of committees, boards, commissions and other bodies which exercise powers delegated to them by the Council or the Community.

13. All members of the Council and all directors of programs for the Mohawks of Kanesatake must submit written annual reports detailing their portfolio or program activities for the past year. These reports must be made available to the members of the Mohawks of Kanesatake.

FINANCIAL ACCOUNTABILITY

14. The Mohawk Council of Kanesatake will maintain one or more accounts in a financial institution and will deposit in those accounts:

- (a) any fees, fines or charges imposed by Kanesatake Mohawk laws;
- (b) any other revenues received by the Mohawk Council of Kanesatake.

15. **The revenues referred to in section 14 are not tax revenues and the Mohawk Council of Kanesatake has no power to tax Mohawk of Kanesatake.**

16. The Mohawk Council of Kanesatake may borrow money for purposes relating to governance of Kanesatake Mohawk lands.

17. Unless consented to by both the Council and the majority of members of the Mohawks of Kanesatake who are present at a community meeting called for this purpose, the total amount of

money borrowed by the Mohawk Council of Kanesatake for the governance of Kanesatake Mohawk lands shall not exceed eight percent (8%) of the operating budget of the previous fiscal year.

18. **Subject to any confidentiality requirements**, any member of the Mohawks of Kanesatake may, at any reasonable time and upon reasonable notice, examine the **audited** books of account and **audited** financial records of the Mohawk Council of Kanesatake at the offices of the Council.

19. No person shall impede or obstruct anyone from exercising his or her right under s. 17 to examine the books or the financial records of the Mohawk Council of Kanesatake.

20. At the end of each fiscal year, the Mohawk Council of Kanesatake will prepare, or have prepared, a financial statement in conformity with generally accepted accounting principles.

21. For each fiscal year, a duly-accredited auditor will be appointed for the audit of the financial records of Kanesatake.

22. The auditor will, within 90 days after the end of Kanesatake's fiscal year, prepare and submit to the Council, a report on Kanesatake's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of Kanesatake in accordance with generally-accepted accounting principles.

23. In order to prepare the report on the Mohawks of Kanesatake's financial statement the auditor may at all reasonable times inspect the financial records, accounts, books, minutes, vouchers and receipts of the band and of any person or body who administers money on behalf of the Mohawks of Kanesatake.

24. The Council will make a copy of the auditor's report available at the administrative offices of the Mohawk Council of Kanesatake and any member may examine the auditor's report during normal business hours at those offices.

DEVELOPMENT, ENACTMENT AND PUBLICATION OF KANESATAKE MOHAWK LAWS

25. All Kanesatake Mohawk laws enacted pursuant to this Code must be publicized and available to the public once they are adopted by the Mohawk Council of Kanesatake.

26. A Kanesatake Mohawk law must be tabled at a meeting of the Council at least 21 days before it is to be voted on by the Council and posted in public places on Kanesatake Mohawk Lands and/or sent to members of the Community at least 21 days before it is to be voted on by the Council.

27. In addition to fulfilling the requirements of sections 24 and 25, Kanesatake Mohawk laws in relation to the following areas of jurisdiction, and any substantive amendments thereto, must be subject to a community approval process, as described herein, before they are adopted by the Mohawk Council of Kanesatake: land use plan, residency, matter affecting membership rights, wildlife conservation, law and order, conservation, health and safety or any other matter which has a substantive impact.

28. The community approval process is instituted by notice to community members that a law or that amendments to a law are being studied for enactment. This notice must be accompanied by a draft of the law or amendment if available.

29. No earlier than one week and not later than four months after notice is given to members of the Mohawks of Kanesatake under the previous section, a community approval process will be held to determine if there is support among community members for the law or amendment. The approval process must be conducted through one of the following processes:

(a) a series of no less than three community meetings in the form of public sessions be held to review, provide information and receive comments concerning the law or amendment. At least three full days notice in writing of each meeting must be given to members of the Mohawks of Kanesatake and the meetings must be held in Kanesatake Mohawk Territory at a

place which is accessible to all community members. All members of the Mohawks of Kanesatake will be entitled to participate in the public sessions and to express their approval or disapproval of the proposed law or amendment.

(b) workshops will be held for all interested community members in order to review, provide information and receive comments concerning the law or amendment. All members of the Mohawks of Kanesatake shall be entitled to participate in a workshop and to express their approval or disapproval of the proposed law or amendment.

(c) a secret ballot vote will be held in which all eligible voters of the Mohawks of Kanesatake shall be entitled to vote on whether the law or amendment shall be adopted by the Council.

30. If it is deemed necessary by the Mohawk Council of Kanesatake, the community approval processes outlined in the previous section may be combined.

31. Any proposed law or amendment subject to section 26 will only be adopted by the Mohawk Council of Kanesatake if it is ratified by members of the Community pursuant to the community approval process set out in this Land Governance Code.

32. A public consultation process must be undertaken before the Mohawk Council of Kanesatake grants a permit or gives permission to any individual to use Kanesatake Mohawk Lands for any of the following purposes:

- (a) for any commercial or industrial use which results or which may result in environmental damage;
- (b) for storage or transportation of any dangerous or toxic materials;
- (c) for use as a waste disposal site.

33. The public consultation process must be conducted in conformity with the following criteria:

- (a) adequate notice must be given to members of the Mohawks of Kanesatake of the proposed project or use of land;
- (b) an objective assessment of the environmental impacts of the proposed project or use of land must be prepared and made available to the Community; and
- (c) all members of the Mohawks of Kanesatake must be given the opportunity to express their views on the proposed project or use of land.

APPEAL PROCEDURES

34. The Justice of the Peace appointed pursuant to section 37 of the Agreement on Governance of an Interim Land Base has exclusive original jurisdiction to determine whether there has been a violation of any provision of this Code and to make appropriate orders to remedy any such violation.

AMENDMENTS TO THE LAND GOVERNANCE CODE

35. This Code may only be amended through a community approval process which includes a secret ballot vote as set out in section 28(c).