

Title

KAHNAWÁ:KE GAMING LAW

K.R.L. c. G-1

[Enacted by MCR #26/1996-97 on 10 Ohiarí:ha/June 1996]

Preamble

WHEREAS this is a Kahnawá:ke Mohawk Law, in and for the Mohawk Territories of Kahnawá:ke, respecting the regulation of gaming and gaming related activities. It may be cited as the "Gaming Law"; and,

SECTION I

"Jurisdiction"

1. JURISDICTION

- 1.1 The Mohawk People of Kahnawá:ke, as part of the Mohawk Nation and the Six Nations Confederacy, and acting under the authority of the Constitution of the Six Nations Confederacy, are, and have always been sovereign peoples.
- 1.2 The Mohawk People of Kahnawá:ke have consistently and historically exercised ultimate and exclusive jurisdiction over the Territories of Kahnawá:ke.
- 1.3 The Mohawks have existing, inherent and inalienable rights which include the right of self-determination; the right to control economic development within the Territories; and the right to promote and preserve peace, order and good government within the Territories;
- 1.4 As gaming and gaming related activities have a significant impact on economic development and peace, order and good government within the Territories, the Mohawk People of Kahnawá:ke have the ultimate and exclusive right and jurisdiction to regulate gaming and gaming related activities within the Territories.
- 1.5 The Mohawk Council of Kahnawá:ke, as a governing body in and for the Territories, has the power and authority to enact this Mohawk Law.

"Purpose"

2. PURPOSE

- 2.1 The purposes of this Mohawk Law are:
 - (a) to provide a legal basis for the regulation of gaming and gaming related activities within the Territories as a means of promoting and preserving

economic development, self-sufficiency and peace, order and good government within the Territories;

- (b) to ensure that gaming and gaming related activities within the Territories are conducted fairly, honestly and in the best interests of the Mohawk People of Kahnawá:ke.

"Application"

3. **APPLICATION**

- 3.1 This Mohawk Law, and any regulations or rules derived from this Mohawk Law, applies to all gaming and gaming related activities within the Territories and to all persons and properties located or found within the Territories.

"Paramountcy"

4. **PARAMOUNTCY**

- 4.1 This Law is paramount over any other legislative act or regulation touching or concerning gaming and gaming related activities as it purports to relate to the Mohawk Territories of Kahnawá:ke including any act or regulation of the Parliament of Canada, the legislative assembly of any province of Canada and of any other governments.

"Definitions"

5. **DEFINITIONS**

- 5.1 For the purpose of this Mohawk Law:

"Commission"

"Commission" means the Kahnawá:ke Gaming Commission established pursuant to this Mohawk Law;

"Council"

"Council" means the Mohawk Council of Kahnawá:ke;

"Gaming"

"Gaming" means a game of chance and a game of mixed chance and skill in which money or other objects of value may be won or lost by a participant, including, but not limited to:

- a) bingo;
- b) card games;
- c) roulette and other money wheels;
- d) keno;
- e) slot machines and other gaming devices;

- f) the racing of horses, dogs or other animals, and;
- g) lotteries;

but not including social games played solely for entertainment or for prizes of minimal value or traditional forms of games engaged in by individuals as a part of, or in connection with, native culture, community ceremonies or celebrations;

"Gaming Device"

"Gaming device" means a mechanical or electronic device that is used for the purpose of gaming;

"Gaming Establishment"

"Gaming establishment" means a commercial enterprise to which a license has been issued by the Commission granting permission to engage in gaming or gaming related activities within the Territories in accordance with the provisions of this Mohawk Law, the regulations and the terms and conditions of the gaming license;

"Gaming License"

"Gaming license" means a license issued by the Commission to a commercial enterprise granting permission to engage in gaming or gaming related activities within the Territories;

"Gaming Related Activities"

"Gaming related activities" means any activity or business that the Commission considers reasonably related to gaming or to the operation of gaming, including any business that offers goods or services to persons who participate in gaming within the Territories;

Mohawk of Kahnawá:ke"

"Mohawk of Kahnawá:ke" means a person identified as a Mohawk by the Kahnawá:ke Mohawk Law concerning membership, as it may be amended from time to time;

"Territories and Territories of Kahnawá:ke"

"Territories" and "Territories of Kahnawá:ke" means

- a) the lands now held under the mandate of the Mohawk People of Kahnawá:ke;
- b) any and all lands that may be added to the lands now held under the mandate of the Mohawk People of Kahnawá:ke through the negotiation and resolution of land grievances;
- c) any and all lands that may be added to the lands now held under the mandate of the Mohawk People of Kahnawá:ke as the result of any other means.

SECTION II

*“Creation of
Regulatory Board:*

6. **CREATION OF REGULATORY BOARD**

- 6.1 There is established a body to be known as the Kahnawá:ke Gaming Commission.
- 6.2 The Commission will have the powers and duties provided in this Mohawk Law and will administer this Mohawk Law in the best interests of the Mohawks of Kahnawá:ke and in accordance with the highest principles of honesty and integrity.

“Structure”

7. **STRUCTURE**

- 7.1 The Commission will consist of nine (9) members, in the following proportions and categories:
 - a) two (2) members of either gender between the ages of eighteen (18) and twenty-nine (29);
 - b) two (2) female members between the ages of thirty (30) and fifty-five (55);
 - c) two (2) male members between the ages of thirty (30) and fifty-five (55);
 - d) three (3) elders of either gender over the age of fifty-five (55).

“Eligibility”

8. **ELIGIBILITY**

- 8.1 No person is eligible for appointment or election to, or to continue service on, the Commission or interim Commission, who:
 - a) is not a Mohawk of Kahnawá:ke, over the age of eighteen (18) years;
 - b) has any financial interest in, or management responsibility for, an establishment involved in gaming or gaming related activities within the Territories, or;
 - c) has been convicted of an indictable offence, except when a full pardon has been granted.

“Election”

9. **ELECTION**

- 9.1 Members of the Commission will be elected by the Mohawk People of Kahnawá:ke using the following procedure:
 - a) elections will be conducted on the same date and in conjunction with the

Mohawk Council of Kahnawá:ke general elections;

- b) eligible persons must have their nomination proposed and seconded by two Mohawk persons who reside in Kahnawá:ke;
- c) every nominee will be subject to an internal and external security check conducted by the Kahnawá:ke Peacekeepers;
- d) nominations must be received at the offices of the Mohawk Council of Kahnawá:ke not less than 60 days prior to an election date;
- e) the two (2) or three (3) persons in each category with the most votes in the election will be appointed to the Commission.

*“Interim
Commission”*

10. **INTERIM COMMISSION**

10.1 Until such time as a Commission is elected pursuant to the provisions of this Mohawk Law, a body of not less than three (3) and not more than nine (9) persons appointed by the Mohawk Council of Kahnawá:ke will function as an interim Commission. The interim Commission will have all of the powers and duties provided by this Mohawk Law to the Commission.

“Chairperson”

11. **CHAIRPERSON**

11.1 The Commission will, by majority vote, appoint one of its members as Chairperson. The Chairperson will preside over meetings of the Commission and will ensure the Commission follows the principles and procedures provided in this Mohawk Law and the regulations enacted pursuant to this Mohawk Law.

*“Vice –
Chairperson”*

12. **VICE-CHAIRPERSON**

12.1 The Commission will, by majority vote, appoint one of its members as Vice-Chairperson. The Vice-Chairperson will serve as Chairperson during meetings of the Commission in the absence of the Chairperson.

12.2 The Chairperson and Vice-Chairperson will be considered members of Commission for all purposes under this Mohawk Law.

“Tenure”

13. **TENURE**

13.1 Members of the Commission will serve a term of office of two (2) years.

13.2 Upon expiry of a member’s term of office, subject to the other provisions of this

Mohawk Law, the member is eligible to be re-elected for another term of office. There is no limitation on the number of consecutive terms of office a member may serve.

“Removal from Office”

14. **REMOVAL FROM OFFICE**

14.1 A member of the Commission may be removed from office prior to the expiry of his or her term of office by unanimous resolution of the other members.

“Resignation”

15. **RESIGNATION**

15.1 A member of the Commission may resign from office prior to the expiry of his or her term of office by giving a written notice to the Commission and to the Mohawk Council of Kahnawá:ke at least thirty (30) days prior to the date on which the resignation is effective.

“Vacancy”

16. **VACANCY**

16.1 In the event a member is removed, resigns or is unable to continue performing his or her duties for any reason:

- a) the member’s position will, by resolution of the Commission, be declared vacant and will be filled at the next election;
- b) a notice of the vacancy, and the reasons for the vacancy, will be published in the local print media and broadcast on the local radio station.

“Quorum”

17. **QUORUM**

17.1 Subject to the provisions of this Mohawk Law, a quorum of the Commission will consist of five (5) members, one of whom must be either the Chairperson or the Vice-Chairperson. A quorum of the interim Commission will be a simple majority of the total number of its members, one of whom must be either the Chairperson or the Vice-Chairperson.

“Meetings”

18. **MEETINGS**

18.1 The Commission will meet at the call of the Chairperson or a majority of its members, but, in any event, will meet at least once every thirty (30) days.

18.2 Notice of a meeting of the Commission, with particulars of the agenda, will be

provided to all members of the Commission, not less than ten (10) days prior to date of the meeting.

18.3 Meetings or portions of meetings of the Commission, may, at the sole discretion of the Chairperson, be open to the public or conducted *in camera*.

“Hearings”

19. **HEARINGS**

19.1 The Commission may, in its sole discretion, hold hearings before exercising the powers conferred on it under this Mohawk Law and the regulations

19.2 The Commission may, by regulation, make rules for the practice and procedure to be observed in hearings before it.

“Powers of the Commission”

20. **POWERS OF THE COMMISSION**

20.1 In addition to any other powers that may be provided to it in this Mohawk Law, the Commission will have the power:

- a) to issue, suspend or revoke the permits, licenses or authorizations as provided in this Mohawk Law and the regulations;
- b) to regulate, monitor and inspect all gaming and gaming related activities within the Territories;
- c) to take such steps as are necessary to ensure the provisions of this Mohawk Law and the regulations are observed, and;
- d) any other matters necessary to carry out the functions of the Commission.

“Remuneration”

21. **REMUNERATION**

21.1 Members of the Commission may remunerated for the time required to provide the services associated with their offices, as determined by Council.

“Administration”

22. **ADMINISTRATION**

22.1 The Commission will employ the support staff and will retain the professional assistance that it is required to fulfill its mandate.

24. **REGULATIONS**

24.1 The Commission may enact such regulations as it considers necessary to implement the provisions of this Mohawk Law, including regulations respecting:

- a) the type and number of games that may be conducted in a gaming establishment;
- b) the days and hours during which a gaming establishment may operate;
- c) the type, components, specifications and method of operation of slot machines and other gaming devices;
- d) rules of play for each game or gaming device;
- e) the maximum amount that may be wagered for each turn or play of a game or gaming device;
- f) the minimum and maximum odds of winning at each game or gaming device;
- g) the maintenance of public order, security and the safety of persons in and around gaming establishments;
- h) the form and content of applications for gaming licenses;
- i) the conditions and criteria for granting gaming licenses and the standards, restrictions or prohibitions relating to the use thereof;
- j) the fees to be charged for gaming licenses;
- k) the carrying or posting of licenses;
- l) minimal hiring standards required for gaming establishment personnel and employees, and;
- m) the identification of those activities that will, for the purposes of this Mohawk Law, be deemed to be "gaming related activities";
- n) background and security investigations and credential verifications of personnel, staff and companies contracted to conduct business with or on behalf of gaming establishments.
- o) any other regulation necessarily related to the conduct and operation of gaming or gaming related activities within the Territories;

"Eligibility"

25. **ELIGIBILITY**

25.1 The only entities eligible to apply for a gaming license are:

- a) a natural person who is a Mohawk of Kahnawá:ke, over the age of twenty-one (21) and resident within the Territories;
- b) a corporation or partnership that is wholly owned and operated by one or more Mohawks of Kahnawá:ke, all of whom are over the age of twenty-one (21) and resident within the Territories.

"Applications"

26. **APPLICATIONS**

26.1 The Commission may, upon receiving an application in the prescribed form, issue a license granting an establishment permission to conduct gaming or gaming related activities within the Territories.

"Non-Assignable"

27. **NON-ASSIGNABLE**

27.1 A gaming license may not be sold, transferred or otherwise assigned.

"Conditions"

28. **CONDITIONS**

28.1 A gaming licence will specifically identify:

- a) the premises in which gaming or gaming related activities may be conducted;
- b) the name of the person, corporation or partnership responsible for operating the gaming establishment;
- c) the number and type of games and gaming devices that may be operated within the gaming establishment;
- d) the days and hours during which the gaming establishment may operate;

and may also identify such other terms and conditions as the Commission, in its sole discretion, deems to be appropriate.

28.2 A gaming license will be for a fixed term and may be revoked, amended, suspended or extended as the Commission, in its sole discretion, deems necessary.

"Fees"

29. **FEES**

29.1 A gaming license is not valid unless and until the prescribed license fee has been paid in full.

29.2 Fees collected by the Commission for the issuance of gaming licenses will be used to fund the operations of the Commission.

"Hiring Preference"

30. **HIRING PREFERENCE**

30.1 Gaming establishments will in recruiting, training and hiring employees, give preference to qualified Mohawks of Kahnawá:ke in all job categories particularly management positions.

"Restrictions"

31. **RESTRICTIONS**

31.1 Except as specifically permitted by this Mohawk Law, gaming and gaming related activities within the Territories are prohibited.

SECTION III

"Penalties"

32. **PENALTIES**

32.1 A breach of any provision of this Mohawk Law or the regulations is an offense punishable by a fine of not more than Twenty Thousand (\$20,000.00) Dollars or imprisonment for a term up to two (2) years, or both.

"Enforcement"

33. **ENFORCEMENT**

33.1 The Kahnawá:ke Peacekeepers have sole and exclusive authority and jurisdiction to enforce the provisions of this Mohawk Law and the regulations.

"Court"

34. **COURT**

34.1 The Court of Kahnawá:ke has sole and exclusive jurisdiction to hear and decide any charges arising out of or related to a breach of any provision of this Mohawk Law.

SECTION IV

35. COMING INTO FORCE

- 35.1 If any part of this Mohawk Law is found by the court to be invalid, it may be severed and will not invalidate the law in its entirety.
- 35.2 This Mohawk Law may only be amended by first obtaining the approval of the Mohawk people of Kahnawá:ke.
- 35.3 This Mohawk Law comes into force and effect on the date it is affirmed by resolution of the Mohawk Council of Kahnawá:ke.