



KAHNAWÀ:KE LEGISLATIVE COMMISSION

P.O. Box 720 • Kahnawà:ke Mohawk Territory • Quebec • J0L1B0
Tel: (450) 632-7500 KLS@mck.ca Web: www.kahnawakemakingdecisions.com

Key Process differences between Type I Laws and Type II Laws

CDMP for TYPE I Laws

Applies to Kahnawà:ke Laws of General Application that affect the entire community (fundamental laws i.e., Kahnawà:ke Justice Act, MCK Election Law, Kanien'kehá:ka of Kahnawà:ke (Membership) Law).

Review Process (CDMRP) for Type II Laws

Applies to regulatory, financial, and/or administrative laws that affect a specific sector, special interest group, or portion of the community in Kahnawà:ke (i.e., Kahnawà:ke Sanitary Conditions, Kahnawà:ke Animal Control Law, Kahnawà:ke Alcoholic Beverages Control Board Law).

	CDMP	CDMRP
Mandate	The community approves the Purpose and the Scope of the new law, or amendment to an existing law, to move through the CDMP.	The MCK Council of Chiefs gives the Mandate, and approves the Purpose and the Scope of the new law or amendment to an existing law to move through the CDMRP (or Review Process).
Drafting	Three Community Representatives are selected by the community to sit on the Technical Drafting Committee, to ensure the Purpose and Scope is adhered to and the community's decisions are reflected in the final version of the Law.	There are no Community Representatives that sit on the Technical Drafting Committee – Type II Laws are drafted internally by MCK Staff and Legal Counsel.
Certification	Certification of the Process is signed by the Portfolio Chief, Technician(s), and CDMP Community Representatives.	Certification of the Process is signed off by the Portfolio Chief, Technician(s), and KLC Community Representative(s).
The Will of the People	Confirmation of the Will of the People is signed off by the MCK Council of Chiefs.	There is no Confirmation of the Will of the People for Type II Laws.
Enactment	The MCK Council of Chiefs also sign a Mohawk Council Resolution (MCR) to enact the Law.	The MCK Council of Chiefs sign an MCR to enact the Law.



KAHNAWÀ:KE LEGISLATIVE COMMISSION

P.O. Box 720 • Kahnawà:ke Mohawk Territory • Quebec • J0L1B0
Tel: (450) 632-7500 KLS@mck.ca Web: www.kahnawakemakingdecisions.com

CDMP and CDMRP Evaluation Survey Background Information

The Kahnawà:ke Legislative Commission (KLC) will be conducting a survey to gauge knowledge and support for the Community Decision Making Process (CDMP) for TYPE I Laws and for the Community Decision Making and Review Process (CDMRP) for Type II Laws.

The six-question survey will be administered by independent community members in a face-to-face question and answer format. Participation in the survey will assist the KLC in evaluating the two processes and may result in the recommendation of amendments to improve the process.

Results from this survey will be published on www.kahnawakemakingdecisions.com and www.kahnawake.com websites.

Background

In 1995, the Mohawk Council of Kahnawà:ke's (MCK) Chief & Council (C&C) delegated the Kahnawà:ke Justice Commission (KJC) to develop laws for the community. Although this was needed, it was also problematic due to the composition of the KJC, which was comprised of:

- Court personnel
- Justices of the Peace
- Peacekeeper representatives, and
- Community Services Representatives (KSCS).

These individuals were developing community legislation (or laws), and they also had the responsibility to enforce and interpret these laws. This was identified as a conflict.

Additionally, considerable criticism from the community in how decision-making occurs resulted in C&C mandating the Office of the Council of Chiefs (OCC) to develop a community decision-making model that could address the community's wish for more direct involvement.

The OCC responded by:

- Conducting research into various legislative models
- Holding focus group sessions
- Conducting stakeholder and community consultation sessions
- Consulting with the MCK Traditional Working Group on the possibility of developing a more "traditional" (culturally-based) model that could be used to address the need for community participation, input, and consultation.

As a result, the Community Decision-Making model was drafted. This model, which is a form of direct democracy, is not the MCK's version of "traditional government", but rather a consensus-building model that incorporates our traditional principles and meeting format so that we may educate ourselves in that area and work towards the eventual implementation of the 1979 Mandate (to move towards a more traditional form of government).

Successes

To date, five (5) new laws were enacted using the CDMP:

1. Kahnawà:ke Justice Act.
2. Kanien'kehá:ka of Kahnawà:ke (Membership) Law.
3. Kahnawà:ke Residency Law.
4. Kahnawà:ke Cannabis Control Law.
5. Kahnawà:ke Family Homes Law (currently in abeyance, meaning temporary suspension/inactive).

There are two laws on the Waiting List:

1. Kahnawà:ke Gaming Law (amendment).
2. Kahnawà:ke Right of Way Law.

There have been five amendments to existing laws, with one being amended three times (MCK Election Law). There are two new laws in the Process that has yet to be enacted – the Kahnawà:ke Tobacco Law and the Kahnawà:ke Occupational Safety & Health Law.

Challenges

- The Kahnawà:ke Family Homes Law was repealed on January 22, 2018, and immediately resubmitted into the CDMP. It is now in abeyance.
- The Proposed Kahnawà:ke Tobacco Law has not been enacted after resuming in 2022 where it left off in 2016. The Tobacco Technical Drafting Committee held two meetings to engage the community to review the draft law. At that meeting, a letter was hand-delivered by a community member from The People of the Longhouse (207) dated October 26, 2022, entitled, "Longhouse Opposed to MCK Tobacco Law".
- The Kahnawà:ke Cannabis Control Law encountered resistance from a group of community members in opposition to the Type II Process that the Law was to follow.