

Title

KAHNAWÁ:KE BURIAL LAW

K.R.L. c. B-___

[Enacted by MCR # 00/2006-2007 on ____, _____/_____, 2006]

Preamble

WHEREAS the Mohawk Council of Kahnawá:ke has the power and jurisdiction to enact a Law for the control of burials within the Territory.

SECTION I

1. JURISDICTION

Self
Determination

1.1 The Kanien'kehá:ka of Kahnawá:ke, are a community within the Kanien'kehá:ka Nation and the Rotinonhsonnion:we. The Kanien'kehá:ka of Kahnawá:ke are Indigenous Peoples who possess a fundamental and inherent right of self-determination.

Exclusive
Jurisdiction

1.2 The Kanien'kehá:ka of Kahnawá:ke have consistently and historically exercised ultimate and exclusive jurisdiction over the Mohawk Territory of Kahnawá:ke and have asserted our rights and laws with foreign governments.

Inherent Rights

1.3 The Kanien'kehá:ka of Kahnawá:ke have existing and inherent rights, including the right of self-determination which includes the right and responsibility to control burials provided within their Territory.

Right to Control

1.4 The Kanien'kehá:ka of Kahnawá:ke, represented by the Mohawk Council of Kahnawá:ke, have the ultimate power, right and jurisdiction to control burials within their Territory.

2. PURPOSE

Purpose

2.1 This Law is an expression of the wishes of the Kanien'kehá:ka of Kahnawá:ke that persons who have died within the Territory be buried in a fair and responsible manner to preserve public health within the Territory.

3. DEFINITIONS

Definitions

3.1 For the purposes of this Law and any Regulations enacted pursuant to this Law:

(a) "Burial" means the act or process of placing a deceased person in a grave or tomb, usually interred;

(b) "Cemetery" means a location designated by the ecclesiastic authorities of the Kanien'kehá:ka of Kahnawá:ke, by the Mohawk Council of Kahnawá:ke or by any of the Longhouses of Kahnawá:ke recognized by the Mohawk Council of

Kahnawá:ke, to be used either for the interment and/or cremation of deceased persons, and includes a mausoleum, columbarium or other structure intended for the interment of human remains that is situated on the Territory;

- (c) "Deceased person" means the body of a deceased person or of a stillborn child or a foetus, or remains thereof;
- (d) "Kahnawá:ke Peacekeepers" means the Kahnawá:ke Mohawk Peacekeepers and includes any member of the Kahnawá:ke Mohawk Peacekeepers;
- (e) "Mohawk Council of Kahnawá:ke" means the elected Grand Chief and Chiefs of the Mohawk Council of Kahnawá:ke collectively;
- (f) "Regulations" means the regulations enacted by the Mohawk Council of Kahnawá:ke pursuant to this Law
- (g) "Territory" means the lands to which the government of Canada refers as Indian Reserve No. 14, the Mohawk Territory of Tioweró:ton, the original lands designated as the Seigneurie of Sault Saint Louis, traditional Mohawk Territory, and includes:
 - (i) the lands now held under the mandate of the Mohawk People of Kahnawá:ke;
 - (ii) any and all lands that may be added to the lands now held by the Mohawk People of Kahnawá:ke through the negotiation and resolution of land grievances; and
 - (iii) 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;

4. **PROHIBITION**

Prohibition

- 4.1 No deceased person shall be buried on common or privately held lands within the Territory except in a Cemetery and in accordance with this Law.
- 4.2 All burials in the Territory shall be carried out by a funeral director, member of the *Corporation des thanatologues du Québec* and holding a valid permit issued by the Mohawk Council of Kahnawá:ke pursuant to the *Kahnawá:ke Health Care Professions Law*.

SECTION II

5. **PENALTIES AND ENFORCEMENT**

"Penalties"

- 5.1 Every person who contravenes sections 3.1 and/or 3.2, or aids in the commission of such contravention is liable to a fine of not more than Three Hundred Dollars (\$300.00).

5.2 In addition to the fine, every person who contravenes sections 3.1 and/or 3.2, or aids in the commission of such contravention is liable to all costs related to disinterment and burial in accordance with the present Law.

5.3 In the event that the person fails to pay all costs outlined in section 5.2, the said person is liable for all costs related to a petition to the Court of Kahnawá:ke for disinterment and burial in accordance with the present Law.

"Peacekeepers"

5.3 The Kahnawá:ke Peacekeepers have sole authority to enforce this Law.

6. COURT OF KAHNAWÁ:KE

"Court of Kahnawá:ke"

6.1 The Court of Kahnawá:ke has exclusive jurisdiction to hear and decide on any offences concerning a contravention of this Law.

7. AMENDMENTS TO THE LAW

"Amending the Law"

7.1 The Mohawk Council of Kahnawá:ke may amend this Law by Mohawk Council Resolution.

8. REGULATIONS

"Regulations"

9.1 The Mohawk Council of Kahnawá:ke may enact regulations pursuant to this Law by Mohawk Council Resolution.

9. COMING INTO FORCE

"Coming into Force"

9.1 This Law comes into force on a day to be fixed by Resolution of the Mohawk Council of Kahnawá:ke.

10. PORTFOLIO CHIEF

"Portfolio Chief"

10.1 This Law falls under the responsibility of the Health Portfolio Chief(s).

11. HISTORY

11.1 Origin MCR # ___/2006-2007. Date of Revision _____.