

**MOHAWK COUNCIL OF KAHNAWÀ:KE ELECTION LAW  
REGULATION RESPECTING FORMS AND DECLARATIONS,  
PREPARATION OF THE POLL, VOTING PROCESS, AND COUNTING OF  
VOTES**

K.R.L. c. E-1- r.2  
Enacted by MCED #\_\_/2017-2018

**SHORT TITLE**

1.1 This Regulation may be cited as the “MCK Election Regulation”.

**NOMINATION PROCEDURE**

2.1 The Nomination Form will be in the form attached as Schedule "A" to this Regulation.

**Comment [KF1]:** Adapted from section 9.1(a) of the *MCK Election Law*.

**VERIFICATION PROCEDURE**

3.1 The Declaration of Candidacy will be in the form attached as Schedule "B" to this Regulation.

**Comment [KF2]:** Adapted from section 9.1(a) of the *MCK Election Law*.

3.2 The Declaration of Eligibility will be in the form attached as Schedule "C" to this Regulation.

**Comment [KF3]:** Currently found at section 9.1(b) of the *MCK Election Law*.

3.3 The Declaration of Criminal Offence Charge Pending will be in the form attached as Schedule "D" to this Regulation.

**Comment [KF4]:** Adapted from section 9.1(c) of the *MCK Election Law*.

3.4 The Declaration of Business Holdings will be in the form attached as Schedule "E" to this Regulation.

**Comment [KF5]:** Adapted from section 9.1(d) of the *MCK Election Law*.

3.5 The Privacy Waiver will be in the form attached as Schedule "F" to this Regulation.

**Comment [KF6]:** Adapted from section 9.1(e) of the *MCK Election Law*.

**PREPARATION OF THE POLL**

4.1 The Electoral Officer will procure as many ballot boxes as are required and will prepare a sufficient number of ballots for the purpose of the election.

**Comment [KF7]:** Currently found at section 17.1 of the *MCK Election Law*.

4.2 Every ballot box will be constructed in a manner that allows the ballots to be deposited therein, but not removed without breaking the lock.

**Comment [KF8]:** Currently found at section 17.2 of the *MCK Election Law*.

4.3 The ballot boxes will be locked before witnesses immediately before the poll opens.

**Comment [KF9]:** Currently found at section 17.3 of the *MCK Election Law*.

4.4 The ballots will indicate in capital letters, the names of the candidates, as provided in the candidate's nomination forms, and will be listed in alphabetical order.

**Comment [KF10]:** Currently found at section 17.4 of the *MCK Election Law*.

4.5 A boxed space will be provided on the ballots horizontally aligned with each candidate's name into which Electors may mark their vote.

**Comment [KF11]:** Currently found at section 17.5 of the *MCK Election Law*.

4.6 Each ballot will bear the name of the community, the date of the election, the number of candidates to be elected and the phrase "Mark your ballot with an X", on the top portion thereof.

**Comment [KF12]:** Currently found at section 17.6 of the *MCK Election Law*.

4.7 The reverse side of each ballot will have space provided for the initials of the Electoral Officer or the Assistant Electoral Officer, and the initials of a Polling Clerk.

**Comment [KF13]:** Currently found at section 17.7 of the *MCK Election Law*. Note new reference to Polling Clerk as opposed to Election Scrutineer.

4.8 The Electoral Officer will, before the poll is open, deliver to the Polling Clerks, the ballot boxes, the ballots, materials for marking the ballots, copies of the Voters List and direction for the voting procedure.

**Comment [KF14]:** Currently found at section 18.1 of the *MCK Election Law*. Note new reference to Polling Clerks as opposed to Election Scrutineers.

4.9 The Electoral Officer and Assistant Electoral Officer will, immediately before the commencement of the poll:

(a) open the ballot boxes and call such persons as may be present to witness that the boxes are empty; and

(b) will then lock the ballot boxes in full view of those present.

**Comment [KF15]:** Currently found at section 19.2 of the *MCK Election Law*.

4.10 If ballot boxes become full, they may be opened periodically during the course of the day for the purpose of transferring the contents into a larger box. This process is to be witnessed by two (2) persons, preferably by candidates.

**Comment [KF16]:** Currently found at section 19.3 of the *MCK Election Law*.

## **VOTING PROCESS**

5.1 An Elector, upon receiving a ballot, will forthwith proceed to one of the polling compartments provided for marking the ballots and then mark his ballot, by placing an "X" in the box horizontally aligned with the name of the candidate or candidates for whom he chooses to vote.

**Comment [KF17]:** Currently found at section 21.1 of the *MCK Election Law*.

5.2 While an Elector is in a polling compartment, no other person will be allowed in the same compartment, or be in any position from which he can see the manner in which the Elector marks his ballot.

**Comment [KF18]:** Currently found at section 21.2 of the *MCK Election Law*.

5.3 The Elector will then fold his ballot, so as to conceal the names of the candidates he has voted for, but in such a way that the initials of the Electoral Officer, Assistant Electoral Officer or Polling Clerk are exposed. He will then deliver the ballot to the person who issued it to him, who will verify his initials and at once and in full view of those present, deposit the ballot in the ballot box. The Polling Clerk will then note on the Voters List that the Elector has voted.

**Comment [KF19]:** Currently found at section 21.3 of the *MCK Election Law*. Note new reference to Polling Clerk as opposed to Election Scrutineer.

5.4 An Elector who receives a spoiled or improperly printed ballot, or who has dealt with his ballot in such a manner that it cannot be conveniently used, is entitled to receive another ballot, by returning it to the person who issued it. The Electoral Officer will thereupon write the word "CANCELED" on the spoiled ballot and preserve it.

**Comment [KF20]:** Currently found at section 21.4 of the *MCK Election Law*.

5.5 An Elector who makes a declaration that he is unable to mark his ballot by himself, by reason of a disability or because he cannot read, may be assisted by the Electoral Officer, Assistant Electoral Officer or Polling Clerk. The name of the Elector should be recorded in a specified log.

**Comment [KF21]:** Currently found at section 21.5 of the *MCK Election Law*. Note new reference to Polling Clerk as opposed to Election Scrutineer.

5.6 Any person who has received a ballot and who leaves the polling place without returning it, or, if after receiving same, refuses to vote, will forfeit his right to vote at that election and Electoral Officer will make a note that such person received a ballot and declined to vote, in which case, the Electoral Officer will mark upon the face of the ballot the word "DECLINED" and all ballots so marked will be preserved.

**Comment [KF22]:** Currently found at section 21.6 of the *MCK Election Law*.

## **COUNTING OF VOTES**

6.1 Counting stations will be set up with two (2) Polling Clerks and a minimum of two (2) representatives of candidates in each station. Candidates may observe counting stations as they wish.

**Comment [KF23]:** It is proposed that this regulation include the core rules concerning the counting of votes. The rules found in this draft regulation are a placeholder for now. It is expected that more detail may be added to them at a later date. It is recommended that former Electoral Officers and other officials involved with past elections be consulted on this counting process.

6.2 Each counting station will be in a secure location.

**Comment [KF24]:** Currently found at section 28.2 of the *MCK Election Law*. Note new reference to Polling Clerk as opposed to Election Scrutineer.

6.3 One Polling Clerk will examine each ballot and the second Polling Clerk will keep a tally of the votes cast for each candidate.

6.4 The Electoral Officer will provide each counting station with a ballot box consisting of ballots. No ballots will be added to or removed from the location of the counting station unless authorized by the Electoral Officer.

6.5 Upon receipt of a ballot box, the first Polling Clerk will empty the contents of the ballot box onto a table and proceed with the count.

6.6 During the count, the first Polling Clerk will closely examine each ballot, read aloud the candidate(s) selected, show the ballot to each person present and ask the second Polling Clerk to tally the vote in favour of the candidate for whom the vote(s) was cast. The representatives of candidates will also keep a tally of the votes cast for each candidate.

6.7 After every 40 ballots counted, the second Polling Clerk will confirm their count with that of the representatives of candidates present. In the event of a discrepancy the ballots will be recounted until such time as the vote totals of the second Polling Clerk match the vote totals of the representatives of candidates.

**Comment [KF25]:** This process is adapted from information made available by Elections Canada. See: <http://www.elections.ca/content.aspx?section=vot&ir=bkg&document=ec90565&lang=e>

- 6.8 In counting the votes, the Electoral Officer will reject any ballot:
- (a) that was not initialed by the Electoral Officer or Assistant Electoral Officer;
  - (b) that is blank;
  - (c) on which there appear to be more votes than there are positions to be filled;
  - (d) on which there appear marks or writing identifying the Elector; or
  - (e) any vote that does not clearly indicate the Elector's intention.
- 6.9 Where a candidate or candidate's representative object to a decision of the Electoral Officer concerning the counting of a vote in a community election, the Electoral Officer will;
- (a) decide any question arising out of the objection;
  - (b) record the objection and the decision in an appropriate log; and
  - (c) write on the back of a ballot the word or words "ALLOWED", "ALLOWED IN PART", or "REJECTED", as the case may be, and initial the ballot.
- 6.10 No ballot will be disqualified by reason only that the mark adjacent to the name of the candidate is not an "X".
- 6.11 The Polling Clerks will also note the number of ballots cast and the number of rejected ballots.
- 6.12 Once all ballots have been counted and all vote totals tallied, the Polling Clerks and the representatives of candidates present will sign a statement that records the number of votes cast for each candidate, the number of ballots counted, and the number of ballots rejected. The statement will be provided to the Electoral Officer.
- 6.13 Upon receipt of the statements from each counting the station, the Electoral Officer will tabulate the final results.

**Comment [KF26]:** Currently found at section 28.3 of the *MCK Election Law*.

**Comment [KF27]:** Currently found at section 28.4 of the *MCK Election Law*.

**Comment [KF28]:** Currently found at section 28.5 of the *MCK Election Law*.

**Comment [KF29]:** It is proposed that the number of ballots cast also be counted so that the total number of ballots cast could be determined. This is for statistical and historical purposes.

**Comment [KF30]:** Note that, if there is no recount, that the next step in terms of chronology would be section 30.1 of the current *MCK Election Law*.

## **AMENDMENTS**

- 7.1 These Regulations may be amended by Mohawk Council Executive Directive (MCED).

**SCHEDULE "A"**

**NOMINATION FORM**

I, \_\_\_\_\_, affirm that I am a member of the community of Kahnawà:ke and that I am eligible to vote in elections of the Mohawk Council of Kahnawà:ke.

**I hereby nominate** \_\_\_\_\_ for the position of  
Please print  
\_\_\_\_\_ in the Council elections to be conducted in the year  
\_\_\_\_\_.

**Signed** within the Mohawk Territory of Kahnawà:ke, this \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

Cell number \_\_\_\_\_ Home number: \_\_\_\_\_  
Signature \_\_\_\_\_ Witness \_\_\_\_\_

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I, \_\_\_\_\_, affirm that I am a member of the community  
Please print  
of Kahnawà:ke and that I am eligible to vote in elections of the Mohawk Council of Kahnawà:ke.

**I hereby second the nomination** set out above.

**Signed** within the Mohawk Territory of Kahnawà:ke, this \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

Cell number \_\_\_\_\_ Home number: \_\_\_\_\_  
Signature \_\_\_\_\_ Witness \_\_\_\_\_

**THIS NOMINATION FORM WAS RECEIVED BY THE ELECTORAL OFFICER**

**AT** \_\_\_\_\_ **ON THE** \_\_\_ **DAY OF** \_\_\_\_\_, 2\_\_\_\_\_.  
(time of day)

\_\_\_\_\_  
**Signature of Electoral Officer**

**SCHEDULE "B"**

**DECLARATION OF CANDIDACY**

I, \_\_\_\_\_ acknowledge that I have been nominated as a  
Please print  
candidate for the position of \_\_\_\_\_ of the Mohawk Council of  
Kahnawà:ke for the Council election to be held in the year \_\_\_\_\_.

**I hereby accept the nomination and declare my candidacy for this position.**

I understand and agree that by accepting this nomination, I am bound by the provisions of the *Mohawk Council of Kahnawà:ke Election Law*, a copy of which was provided to me by the Electoral Officer.

**Signed** within the Mohawk Territory of Kahnawà:ke this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_,

Cell number

Home number:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

**THIS DECLARATION OF CANDIDACY FORM WAS RECEIVED BY THE  
ELECTORAL OFFICER AT \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_,  
2\_\_\_\_.**  
(time of day)

**SCHEDULE "C"**

**DECLARATION OF ELIGIBILITY**

I, \_\_\_\_\_ declare that I meet the eligibility criteria set out in

Please print

the *Mohawk Council of Kahnawà:ke Election Law* to be a candidate for the office of Grand Chief or Chief of the Mohawk Council of Kahnawà:ke. More specifically, I declare that:

1. I am a member of the Kahnawà:ke community under the *Kahnawà:ke Membership Law* and I am so registered on the Kahnawà:ke Kanien'kehá:ka Registry;
2. I meet the Kahnawà:ke Membership Law;
3. I am not presently married to a non-Native person, nor do I live in a common-law relationship with a non-Native person;
4. I am at least twenty-one (21) years of age;
5. I am ordinarily resident within the Mohawk Territory of Kahnawà:ke.

**By signing this Declaration, I give my consent that if elected to the position of Grand Chief or Chief of the Mohawk Council of Kahnawà:ke I will submit to a test to verify that I do not use illegal drugs. I understand and agree that if I do not pass this test, I will no longer be eligible to hold the position of Grand Chief or Chief of the Mohawk Council of Kahnawà:ke and will be removed from office.**

Further, for the purpose of assessing my eligibility to hold office as Grand Chief or Chief of the Mohawk Council of Kahnawà:ke, I declare that (check one):

- I have never been convicted of an indictable offence or felony within any legally recognized jurisdiction;

**OR**

- I have been convicted of the following indictable offences or felonies (list type of offence, sentence, date, jurisdiction and whether a pardon has been granted):

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I further declare that (check one):

I have never been a member of the Mohawk Council of Kahnawà:ke;

**OR**

I was previously a member of the Mohawk Council of Kahnawà:ke (give details of the years during which you held office, position held and whether you were ever impeached and removed from office prior to the expiry of your term):

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I understand and agree that any false, incomplete or misleading information contained in this Declaration of Eligibility will result in my disqualification to run for or to hold office with the Mohawk Council of Kahnawà:ke. I further understand and agree that the information contained in this Declaration of Eligibility will be verified by the Electoral Officer to determine whether I am eligible to be a candidate in the Council election.

**By signing below, I solemnly declare the foregoing to be true, knowing that such declaration has the same force and effect as a declaration under oath.**

Signed within the Mohawk Territory of Kahnawà:ke, this \_\_\_ day of \_\_\_\_\_ 2\_\_\_,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

**THIS DECLARATION OF ELIGIBILITY FORM WAS RECEIVED BY THE**

**ELECTORAL OFFICER AT \_\_\_\_\_ ON THE \_\_\_ DAY OF \_\_\_\_\_,**  
**2\_\_\_\_\_.**

(time of day)



**SCHEDULE "D"**

**DECLARATION CRIMINAL OFFENCE CHARGE(S) PENDING**

I, \_\_\_\_\_, have been nominated as a candidate for a position on the Mohawk Council of Kahnawà:ke. In this regard I affirm that as of the date mentioned herein below:

I have not been charged and do not have any criminal offence charges (indictable offence or felony) pending against me within any legally recognized jurisdiction;

**OR**

I have been charged and do have any criminal offence charges (indictable offence or felony) pending against me within any legally recognized jurisdiction and the nature of the(se) charge(s) is/are described below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I therefore consent to having the Electoral Officer named below request and obtain such information (the "verification information") as, in his or her discretion, may be necessary to verify the information contained in this Declaration. For this purpose, I hereby agree to waive all rights of privacy and confidentiality that I might otherwise claim under Kahnawà:ke, federal, state or provincial law.

I understand and agree that any false, incomplete or misleading information contained in this Declaration will result in my disqualification to run for or to hold office with the Mohawk Council of Kahnawà:ke. I further understand and agree that the information contained in this Declaration will be verified by the Electoral Officer.

**By signing below, I solemnly declare the foregoing to be true, knowing that such declaration has the same force and effect as a declaration under oath.**

Signed within the Mohawk Territory of Kahnawà:ke, this \_\_\_ day of \_\_\_\_\_, 2\_\_\_,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

**THIS DECLARATION WAS RECEIVED BY THE ELECTORAL OFFICER**

AT \_\_\_\_\_ ON THE \_\_\_ DAY OF \_\_\_\_\_, 2\_\_\_\_.  
(time of day)

\_\_\_\_\_  
Signature of Electoral Officer

**SCHEDULE "E"**

**DECLARATION OF BUSINESS HOLDING**

I, \_\_\_\_\_, have been nominated as a candidate for a position on the Mohawk Council of Kahnawà:ke. In this regard I affirm that as of the date mentioned herein below:

I have no business holdings and do not carry on any form of business in Kahnawà:ke;

**OR**

I have the following business holdings and do carry on the following business(es) in Kahnawà:ke:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I therefore consent to having the Electoral Officer named below request and obtain such information (the "verification information") as, in his or her discretion, may be necessary to verify the information contained in this Declaration. For this purpose, I hereby agree to waive all rights of privacy and confidentiality that I might otherwise claim under Kahnawà:ke, federal, state or provincial law.

I understand and agree that any false, incomplete or misleading information contained in this Declaration will result in my disqualification to run for or to hold office with the Mohawk Council of Kahnawà:ke. I further understand and agree that the information contained in this Declaration will be verified by the Electoral Officer to determine whether I am eligible to be a candidate in the Council election.

**By signing below, I solemnly declare the foregoing to be true, knowing that such declaration has the same force and effect as a declaration under oath.**

Signed within the Mohawk Territory of Kahnawà:ke, this \_\_\_ day of \_\_\_\_\_, 2\_\_\_,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

**THIS DECLARATION WAS RECEIVED BY THE ELECTORAL OFFICER**

AT \_\_\_\_\_ ON THE \_\_\_ DAY OF \_\_\_\_\_, 2\_\_\_\_.  
(time of day)

\_\_\_\_\_  
Signature of Electoral Officer

**SCHEDULE "F"**

**PRIVACY WAIVER**

I, \_\_\_\_\_, have been nominated as a candidate for a position on

Please print  
the Mohawk Council of Kahnawà:ke. In this regard I have completed and signed a Declaration of Eligibility, the content of which is to be verified by the Electoral Officer for the purpose of determining my eligibility to be candidate in the Council election.

I therefore consent to having the Electoral Officer named below request and obtain such information (the "verification information") as, in his or her discretion, may be necessary to verify the information contained in my Declaration of Eligibility. For this purpose, I hereby agree to waive all rights of privacy and confidentiality that I might otherwise claim under Kahnawà:ke, federal, state or provincial law.

I understand that the Electoral Officer will hold the verification information in the strictest confidence and will not copy the information or provide it to any person other than me, at my request.

My date of birth is: \_\_\_\_\_

My place of birth is: \_\_\_\_\_

My Social Insurance Number

(and/or Social Security Number) is/are: \_\_\_\_\_

**Signed** within the Mohawk Territory of Kahnawà:ke this \_\_ day of \_\_\_\_\_, 2\_\_\_\_,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness

**THIS PRIVACY WAIVER FORM WAS RECEIVED BY THE ELECTORAL OFFICER**

**AT** \_\_\_\_\_ **ON THE** \_\_\_\_ **DAY OF** \_\_\_\_\_, 2\_\_\_\_.  
(time of day)