



# Mohawk Council of Akwesasne

## Akwesasne Legislative Enactment Regulation

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## Purpose

The purpose of this Regulation is to ensure an open, transparent and accountable law development and ratification procedure for the Mohawks of Akwasasne. The Mohawk Council of Akwasasne strives to engage the Mohawks of Akwasasne in the lawmaking procedures.

The Mohawk Council of Akwasasne developed this regulation to ensure that Akwasasne Laws reflect the values, customs, and aspirations of the Mohawks of Akwasasne while ensuring that Akwasasne Laws are based on principles of natural justice.

This Regulation establishes standardized legislative enactment procedures for the development, ratification, enactment, amendment and repeal of Akwasasne Laws.

## 1.0 Title

This Regulation shall be known as the Akwasasne Legislative Enactment Regulation.

## 2.0 Definitions

2.1 In this Regulation:

**“Akwasasne Justice Department Director”** means the administrative position within the Akwasasne Justice Department responsible for the overall daily operations of the Akwasasne Justice Department;

**“Akwasasne Law”** means a law or code enacted by the Mohawks of Akwasasne;

**“Akwasasne Legislative Commission”** means the body established by the *Akwasasne Legislative Commission Charter* for the purposes set out in that charter;

**“Chief Electoral Officer”** means the person appointed by the Executive Director of the Mohawk Council of Akwasasne to ensure that all provisions set forth in the *Akwasasne Election Law* are adhered to;

**“Council”** means the Mohawk Council of Akwasasne duly elected pursuant to the *Akwasasne Election Law*;

**“Council Meeting”** means the weekly meeting of Council to consider administrative, business or community matters;

**“Court”** means the Akwasasne Mohawk Court;

**“Deputy Electoral Officer”** means the person appointed by the Executive Director for the purpose of assisting the Chief Electoral Officer;

**“District”** means any one of the following territorial divisions of Akwasasne:

- a) Kawehno:ke (Cornwall Island);
- b) Kana:takon (St. Regis Village); or
- c) Tsi Snaihne (Chenail/Snye);

**“Eligible Voters”** means a person who is entitled under the *Akwasasne Election Law* to vote at a General Election or By-Election;

**“General Meeting”** means a meeting held routinely between Members and Council to communicate information, consult, and/or provide updates on issues concerning Council, the Mohawk Council of Akwasasne organization, and/or the community;

**“Information Meeting”** means a meeting held in a District for the purpose of information and dialogue with community members on a specific issue and no Resolutions are passed at the meeting;

**“Justice Coordinator”** means the administrative position within the Akwasasne Justice Department responsible for providing support services and assistance in the implementation and continued legislative development and may include a designate;

**“Member”** means a person who is enrolled on Akwasasne’s Membership Roll in accordance with the *Akwasasne Membership Code* but does not include probationary Members;

**“Resolution”** means a Mohawk Council Resolution (MCR) formally adopted by the Mohawk Council of Akwasasne pursuant to its governing authority;

**“Special General Meeting”** means a meeting of Members and Council held to consider a specific issue; and

**“Technicians”** means those Council employees and other persons with the skills and ability to develop legislation pursuant to the Akwasasne Law Enactment Procedural Regulation.

### **3.0 General Provisions**

**3.1** When calculating the number of days for the purposes of establishing a deadline, the following guidelines shall be used:

- a) unless otherwise provided, Saturdays, Sundays, federal holidays, provincial holidays, MCA declared holidays or the day of an event are not included in the calculation of number of days for completing an act or meeting a deadline;
- b) in the event that inclement weather prohibits carrying out of an act under this regulation or Council administration office(s) are closed on a day when a time limit expires, the act may be done on the next day that the office is open; and
- c) if there is no deadline identified, and unless otherwise provided in an Akwasasne Law or Regulation, the deadline for completion of acts is ten (10) days.

**3.2** Wherever the singular, or masculine or the term “person” is used in this procedure, it shall be deemed to include the plural, feminine, body corporate or other entity where the context so requires.

**3.3** Wherever the term “Akwasasne Law” is used, it shall refer to the version of the law at the appropriate phase of the Akwasasne Law Enactment Procedural Regulation.

**3.4** A reasonable number of copies for an Akwasasne Law shall be made available to Members attending an Information Meeting, General Meeting or Special General Meeting.

**3.5** Council shall make reasonable efforts to have information about the Akwasasne Law explained on the radio in the Mohawk language.

**3.6 Notice** – Unless specified otherwise, notice of an Information Meeting, General Meeting, Special General Meeting, or referendum shall be provided to Members by:

- a) publication in:
  - i. a local newspaper available in the Districts; or
  - ii. separate written notice delivered or mailed to Members;
- b) posting the notice in a public area of designated public buildings;
- c) posting the notice on the Council website; and
- d) airing said notice on the local radio station.

**3.7** Unless specified otherwise, notice shall include:

- a) the date, time and place of the meeting;
- b) a summary of the Akwesasne Law;
- c) a statement where the Akwesasne Law may be obtained by Members; and
- d) the purpose of the meeting.

#### **4.0 Phase I Development of Proposed Akwesasne Law**

**4.1** Council shall enact, amend and repeal Akwesasne Laws following the process outlined in this Regulation.

**4.2** If an existing Akwesasne Law contains amendment or repeal provisions, those amendment or repeal provisions override this Regulation.

**4.3** Unless provided otherwise, repeal of an Akwesasne Law means the repeal of the entire Akwesasne Law.

**4.4 Initiating the Development Process** – The process for development of an Akwesasne Law shall be initiated by:

- a) a Resolution, setting out the specific subject matter of the Akwesasne Law;
- b) a petition setting out the request for the development of an Akwesasne Law addressing a specific subject matter or issue signed by seventy-five (75) Eligible Voters from each of the three Districts of Kana:takon, Tsi Snaihne and Kawehno:ke, for a total of at least two hundred and twenty five (225) Eligible Voters in accordance with the *Mohawk Council of Akwesasne Procedure Regulation*; or
- c) an order by the Court.

**4.5** Upon initiation of developing an Akwesasne Law, the Akwesasne Legislative Commission shall provide notice in accordance with subsection 3.6 to Members containing:

- a) the subject matter of the Akwesasne Law;
- b) the general nature of the provisions to be included in the Akwesasne Law;
- c) a call for written comments from Members on the subject matter and content of the Akwesasne Law;
- d) where Members may submit their written comments to the Akwesasne Legislative Commission; and
- e) a date at least ten (10) days from the date of the notice when the period for submitting comments shall close.

- 4.6 Law Development** – Council shall consider the comments received from the community, the needs of the community and other relevant matters to provide the Akwasasne Legislative Commission with the mandate to develop the Akwasasne Law.
- 4.7** The Akwasasne Legislative Commission shall work with Technicians to develop the Akwasasne Law in accordance with this Regulation.
- 4.8 Legal Review** – The proposed Akwasasne Law shall be sent by the Akwasasne Legislative Commission to the designated legal advisor for legal review.
- 4.9** The Akwasasne Legislative Commission may, within twenty (20) days of receipt of the legal comments from the legal review, incorporate any recommendations of the legal advisor.
- 4.10** The Akwasasne Justice Department Director may review the post-legal review Akwasasne Law and provide feedback to the Akwasasne Legislative Commission.
- 4.11 Council Review** – The Justice Coordinator and Technicians shall provide opportunity for Council to conduct a line-by-line review of the Akwasasne Law in order to identify areas requiring further revision.
- 4.12** The Akwasasne Legislative Commission and Technicians shall have twenty (20) days to incorporate changes to the Akwasasne Law.
- 4.13 Preparation for Submission for Phase II** – The Akwasasne Law that has been deemed ready for acceptance in principle shall be initialed and dated by the Akwasasne Justice Department Director after review and labeled as “Draft for Phase II”. The Justice Coordinator shall incorporate a watermark bearing this distinction throughout the document.
- 4.14** The Akwasasne Law labeled “Draft for Phase II” and a report from the Akwasasne Legislative Commission shall be resubmitted to Council for acceptance in principle in accordance with Phase II.
- 4.15** If the Akwasasne Law is a repeal of an existing Akwasasne Law, the Resolution shall also include a statement to repeal the existing Akwasasne Law.

## **5.0 Phase II Acceptance in Principle of an Akwasasne Law**

- 5.1** The Akwasasne Law shall be presented by the Justice Coordinator at a Council Meeting along with a report signed by the Akwasasne Legislative Commission recommending the Akwasasne Law be accepted in principle for community consultation.
- 5.2** Akwasasne Legislative Commission members and Technicians may attend the Council Meeting presentation under subsection 5.1.
- 5.3** By majority vote of Chiefs present, the Council shall by Resolution:
- a) accept the Akwasasne Law in principle; or
  - b) reject the Akwasasne Law.

- 5.4 Where an Akwasasne Law has been accepted in principle or rejected under subsection 5.3, the Akwasasne Legislative Commission shall provide notice as specified in subsection 3.7 to Members.
- 5.5 The Akwasasne Law that is accepted in principle by Council under subsection 5.3 shall be initialed and dated by the Akwasasne Justice Department Director and labeled as “Draft for Phase III”. The Justice Coordinator shall incorporate a watermark bearing this distinction throughout the document.
- 5.6 An update on the Akwasasne Law may be presented to the community from the Akwasasne Legislative Commission by reading a summary of it aloud to the Members present at a General Meeting.
- 5.7 Technicians shall be present to answer any technical questions asked by the community.
- 5.8 Upon the request of any Member, Council shall explain the reasons for rejecting an Akwasasne Law in subsection 5.3.

## 6.0 Phase III Community Consultation

- 6.1 Where Council has accepted an Akwasasne Law in principle, Information Meetings shall be schedule in each District for the purpose of considering the Akwasasne Law.
- 6.2 The Akwasasne Legislative Commission shall provide notice at least ten (10) days before the date of each Information Meeting to Members containing:
  - a) directions on where copies of the Akwasasne Law can be obtained;
  - b) details on where and when the Information Meetings will be held; and
  - c) the closing date of accepting written comments from Members.
- 6.3 **Community Consultation** – At the Information Meetings, the Akwasasne Legislative Commission in conjunction with Technicians shall explain the purpose and provisions of the Akwasasne Law.
- 6.4 Members may ask questions and provide comments during this time.
- 6.5 All comments received from Members shall be recorded by the Akwasasne Justice Department designate.
- 6.6 Members who are unable to attend an Information Meeting may submit their written comments to the Akwasasne Justice Department by the deadline identified in the notice.
- 6.7 **Post-Consultation** – After the Information Meetings are complete and the deadline to submit written comments has expired, the Akwasasne Legislative Commission shall consider the comments received from Members, the needs of the community and other relevant matters, and direct the Justice Coordinator and Technicians to incorporate further revisions to the Akwasasne Law as required.
- 6.8 The Akwasasne Law under subsection 6.7 shall be reviewed by the legal advisor to:
  - a) determine liability and other matters; and
  - b) identify additional proposed revisions, if required.

- 6.9** The Akwasasne Legislative Commission may, within twenty (20) days of receipt of the legal comments from the legal review, incorporate any recommendations of the legal advisor before the Akwasasne Law is submitted to Council for consideration.
- 6.10** The Akwasasne Justice Department Director may review the post-legal review Akwasasne Law and provide feedback to the Akwasasne Legislative Commission.
- 6.11** **Council Review** – The Justice Coordinator and Technicians shall provide opportunity for Council to conduct a line-by-line review of the Akwasasne Law in order to identify areas requiring further revision.
- 6.12** The Akwasasne Legislative Commission and Technicians shall have twenty (20) days to incorporate changes to the Akwasasne Law.
- 6.13** **Preparation for Submission for Phase IV** – The Akwasasne Law that has been deemed ready for enactment shall be initialed and dated by the Akwasasne Justice Department Director and labeled “Phase III-Post Consultation.” The Justice Coordinator shall incorporate a watermark bearing this distinction throughout the document.
- 6.14** The Akwasasne Law labeled “Phase III-Post Consultation” and a report from the Akwasasne Legislative Commission recommending the acceptance in principles of the Akwasasne Law for enactment shall be submitted to Council.

## **7.0 Phase IV Enactment of an Akwasasne Law**

- 7.1** At a Council Meeting, the Justice Coordinator shall read a report of changes to the Akwasasne Law.
- 7.2** After reading a report on the Akwasasne Law and discussion on the matter, Council shall, by Resolution, decide to:
- a) accept it in principle and proceed to Phase IV Enactment of An Akwasasne Law;
  - b) reject the proposed Akwasasne Law; or
  - c) send it back to the Akwasasne Legislative Commission for further revisions, giving a specific deadline for completion.
- 7.3** Where Council has accepted the Akwasasne Law in principle for *Phase IV Enactment of An Akwasasne Law*, Council shall:
- a) determine by Resolution if enactment shall be by way of:
    - i. secret ballot vote at a Special General Meeting; or
    - ii. by referendum; and
  - b) notify Members of the intent to enact an Akwasasne Law.
- 7.4** The Akwasasne Law that has been accepted in principle for enactment shall be initialed and dated by the Akwasasne Justice Department Director and labeled “Draft for Phase IV”. The Justice Coordinator shall incorporate a watermark bearing this distinction throughout the document.
- 7.5** After Council has accepted an Akwasasne Law in principle in accordance with subsection 7.2(a) and the labeling changes have been made in accordance with subsection 7.4, no



further changes shall be allowed to be made to the Akwesasne Law as this completes Council's due diligence in accordance with this Regulation.

- 7.6 Enactment by secret ballot vote at a Special General Meeting** – Where Council has called for a secret ballot vote at a Special General Meeting, Information Meetings shall be scheduled in each District for the purpose of considering the Akwesasne Law.
- 7.7** The Akwesasne Legislative Commission shall provide notice at least ten days (10) before the date of each Information Meeting and twenty (20) days before the Special General Meeting where the Akwesasne Law will be considered and voted on for enactment.
- 7.8** The notice under subsection 7.7 shall contain:
- a) directions on where copies of the Akwesasne Law can be obtained;
  - b) details on where and when Information Meetings will be held; and
  - c) details on where and when the Special General Meeting will be held.
- 7.9** At the Special General Meeting, there shall be consideration of the Phase IV – For Enactment version of the Akwesasne Law by reading a summary of it aloud to Members present.
- 7.10** In addition to the Council members present making a quorum, there must be at least twenty-five (25) Eligible Voters present at the Special General Meeting to proceed with the enactment of an Akwesasne Law.
- 7.11** If there is not twenty-five (25) Eligible Voters present in addition to Council quorum, a secret ballot vote shall not take place.
- 7.12** Where there is not twenty-five (25) Eligible Voters present, in addition to Council quorum, another Special General Meeting under Phase IV shall be convened for the purpose of conducting a secret ballot vote on the Akwesasne Law.
- 7.13** Members shall be given notice of the rescheduled meeting.
- 7.14** Failure to have the minimum of twenty-five (25) Eligible Voters at the second Special General Meeting shall render the Akwesasne Law rejected in accordance with subsection 9.7 and subsection 9.8.
- 7.15** To enact the Akwesasne Law at a Special General Meeting, Eligible Voters and Council members present shall, at the end of discussion on the Akwesasne Law, vote by secret ballot.
- 7.16** Secret ballot voting shall be overseen by the Chief Electoral Officer and/or Deputy Electoral Officer(s) as appointed to conduct elections.
- 7.17** The Phase IV-For Enactment version of the Akwesasne Law shall be deemed enacted if a majority of Eligible Voters, including Council members present, vote at the Special General Meeting to approve it.
- 7.18** The results of the vote at the Special General Meeting shall be recorded in the minutes and have the same effect as a Resolution enacting an Akwesasne Law.
- 7.19 Enactment by way of referendum** – Council shall determine by Resolution to call for a referendum in accordance with the *General Referendum Regulation*.

## **8.0 Phase V Ratification and Rejection Procedures after Enactment of an Akwasasne Law**

- 8.1** Where a proposed Akwasasne Law is enacted or rejected by secret ballot vote of Eligible Voters at a Special General Meeting, or enacted or rejected by referendum, Council shall pass a Resolution confirming the results of the secret ballot vote or referendum on the Akwasasne Law within seven (7) days.
- 8.2** The failure of a Council member to sign a Resolution confirming the results of a secret ballot vote or referendum on an Akwasasne Law does not invalidate the results of a secret ballot vote or referendum on the Akwasasne Law.
- 8.3** **Ratification of an Akwasasne Law** – Unless specified otherwise in the Akwasasne Law, an Akwasasne Law enacted by secret ballot vote of Eligible Voters at a Special General Meeting or enacted by a referendum shall come into effect on the date identified in the Resolution confirming the results.
- 8.4** Notice of the ratification of an Akwasasne Law shall be posted in accordance with subsection 3.7 within seven (7) days of its ratification.
- 8.5** A full text of a ratified Akwasasne Law shall be inserted in the local newspaper available in the Districts.
- 8.6** Where an Akwasasne Law has been ratified, the Akwasasne Law shall be forwarded to the Registrar of the law registry for processing in accordance with the *Procedural Guidelines for the Kaiahnehronsehra iehiontakwa*.
- 8.7** **Rejection of an Akwasasne Law** – Notice of the rejection of an Akwasasne Law shall be posted in accordance with subsection 3.7 within seven (7) days of its rejection.
- 8.8** No further development of another Akwasasne Law dealing with the same subject matter shall be undertaken for at least 120-days after the date of rejection of the Akwasasne Law that was rejected:
- a) at a Special General Meeting;
  - b) in a referendum called for that purpose; or
  - c) where a second Special General Meeting is called under Phase IV and less than the required Members attend the Special General Meeting.

## **9.0 Amendment to this Regulation**

- 9.1** Any member of Council may make a motion to amend this Regulation.
- 9.2** Notice of the proposed amendment shall be given to Council at least one week prior to the vote for the proposed amendment.
- 9.3** The Council shall consider the proposed amendment at a duly convened meeting and shall conduct a vote in accordance with the Mohawk Council of Akwasasne Procedure Regulations.