



Mohawk Council of Kahnawà:ke

Kahnawà:ke Land Allotment Policy

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1.0

Context:

Objective

- 1.1 The objective of the Kahnawà:ke Land Allotment Policy (the Policy) is to provide the Mohawk Council of Kahnawà:ke (MCK) with a method to allocate common land to Kanien'kehá:ka of Kahnawà:ke.
- 1.2 An additional objective is to provide guidance and support to Kanien'kehá:ka of Kahnawà:ke throughout the land allotment process.

Principles

- 1.3 MCK is responsible to properly administer land on behalf of Kanien'kehá:ka of Kahnawà:ke.
- 1.4 MCK supports maintaining the balance between development and preservation for Kanien'kehá:ka of Kahnawà:ke, and future generations.

Accountability and Transparency

- 1.5 Land allotment methods shall be accessible to Kanien'kehá:ka of Kahnawà:ke to support accountability.
- 1.6 The communication of the land allotment process and community education supports transparency.
- 1.7 Transparency builds trust between the MCK and Kanien'kehá:ka of Kahnawà:ke.

Strategy

- 1.8 **3** is the Goal to ensure the provision of high-quality services based on the Community's evolving needs and priorities, and **3.4** is the Objective to improve the internal integration between related services to improve the community's experience and to enhance efficiency. This Policy supports the above Goal and Objective from the MCK Strategic Plan (2023-2029).



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2.0 Definitions Abbreviations & Acronyms:

- 2.1 **Administrative Tribunal:** an adjudicator or panel of adjudicators established under the *Kahnawà:ke Justice Act* charged with reviewing decisions of the administrative branch of government and where appropriate to correct an error or fault.
- 2.2 **Administrator:** The Land Allotment Administrator of the Ohontsa'shòn:'a Ronterihwatsterítha (Lands Unit) responsible for administering this Policy.
- 2.3 **Applicant:** A Kanien'kehá:ka of Kahnawà:ke or a Couple (also see Co-Applicant) who has/have made an application for a Common Land Allotment.
- 2.4 **Approved for Selection:** The Applicant(s) has attained Preliminary Approval, both Communal Postings, Communal Land Allotment Request and, upon submission of requisite proof, may proceed to the Common Land Allotment selection process.
- 2.5 **Approved Kahnawà:ke Resident:** A person who has been authorized by the Registrar as meeting the criteria provided in the Kahnawà:ke Residency Law to be an 'Approved Kahnawà:ke Resident', provided the person's authorization has not been revoked.
- 2.6 **Cash on Hand:** Money (in the form of currency, coins, cheques, balances in bank accounts, money orders, bills of exchange or sums credited to an account) that is under the direct control of the Applicant and can be used immediately to build a House or place a Mobile Home.
- 2.7 **Co-Applicant:** A person who applies for a Common Land Allotment with another person using the same application form.
- 2.8 **Common Land Allotment (CLA):** The allotment of common land (meaning land belonging to the Mohawks of Kahnawà:ke as a whole and not held by any individual lot-holder) that is an approved lot by the Kahnawà:ke Tsi Ietsenhaientákhkwa and is available for selection to construct or place a House and/or Permanent Residence.
- 2.9 **Common-Law Relationship:** An intimate personal relationship, not solemnized by a legal marriage ceremony, law or custom, between two (2) people who have lived together for not less than one (1) year. Also known as Common-Law Union.
- 2.10 **Communal Land Allotment Request:** The process by which the Applicant(s) attends a community meeting to publicly request a Common Land Allotment and respond to any questions from Kahnawa'kehró:non Ratitsénhaienhs or other attendees.
- 2.11 **Communal Posting:** A notice informing Kahnawa'kehró:non of an Applicant's request for a Common Land Allotment. Postings are made by placing notices in several public locations in the Territory and through electronic and print media.



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- 2.12 **Conflict of Interest:** A situation in which a person, such as a public official, an employee, or a professional, has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties.
- 2.13 **Consensus:** A decision reached by the Land Management Committee, representing those that support the decision and those of a differing opinion but who accept the position of the LMC as a whole.
- 2.14 **Couple:** Two (2) people who are married or in a Common-Law Relationship (see definition 6.9).
- 2.15 **Divorce:** A legal dissolution of marriage witnessed by certificate of divorce and divorce judgment issued by a court of competent jurisdiction.
- 2.16 **Exceptional Circumstance:** An unexpected or unforeseen situation where an Applicant is either denied or approved for a Common Land Allotment by the Administrator based on the strict application of this Policy, which has led to some unfair, unintended, or inadvertent consequences and which may warrant further review.
- 2.17 **Foundation:** The solid base of a House which is affixed into the earth and constructed from concrete or some other appropriate material. This includes a regular concrete foundation or slab.
- 2.18 **House:** A self-contained dwelling unit with or without a Foundation, at least one (1) bedroom, basic plumbing and electricity or alternative energy source and that is considered to be a Permanent Residence. A prefabricated or modular home that is assembled on a Foundation from fabricated, new sections transported for assembly and a Mobile Home or trailer are considered a House for the purposes of this Policy.
- 2.19 **Housing Inspector:** A qualified individual identified by the Kahnawà:ke Tsi letsenhaientákhwa to review and inspect the preliminary house plan, certified construction drawings, building contract(s), and construction of a House throughout the building process, as well as Mobile Homes/trailers.
- 2.20 **Iah Onkwehón:we Té:ken:** A person who has no Kanien'kehá:ka Lineage or Onkwehón:we Ancestry.
- 2.21 **Inspection Fee:** The fee, as established by the Social Development Unit Finance Sub-Committee, that must be paid by the Applicant paying Cash on Hand to have a Kahnawà:ke Tsi letsenhaientákhwa Housing Inspector inspect Houses or Mobile Homes, oversee the placement or construction of a Permanent Residence, including administration and construction management costs (House plan and building contract review).
- 2.22 **Investigation:** The process whereby the Administrator verifies information provided in the application form and consults with appropriate department(s) of the Kahnawà:ke Tsi letsenhaientákhwa or other organization(s).
- 2.23 **Kahnawà:ke Tsi letsenhaientákhwa:** The Mohawk Council of Kahnawà:ke (MCK) which is comprised of Kahnawà:kehró:non Ratitsénhaiehns, including



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any Unit, Department, Commission, Committee, or person(s) mandated by the Mohawk Council of Kahnawà:ke.

- 2.24 **Kahnawa'kehró:nnon Ratitsénhaiehns**: The duly elected Chief & Council of the Mohawk Council of Kahnawà:ke.
- 2.25 **Kanien'kehá:ka of Kahnawà:ke**: A person verified and recognized as a Kanien'kehá:ka of Kahnawà:ke, according to the criteria and procedures in the Kanien'kehá:ka of Kahnawà:ke Law and the Regulations, provided the person's recognition has not been revoked.
- 2.26 **Land Allotment Database**: The book-keeping system maintained by the Administrator to track the issuance of Common Land Allotments to Kanien'kehá:ka of Kahnawà:ke.
- 2.27 **Land Management Committee (LMC)**: MCR No. 68/1996-97 established the Committee with the mandate to "pursue a direction of managing and protecting lands". MCED #1/2016-2017 enacted the By-Laws that "formally establish its purpose, authority, powers and responsibilities".
- 2.28 **Land Management Technician**: An employee of the Kahnawà:ke Tsi letsenhaientákhwa responsible for site inspections of the land.
- 2.29 **Mobile Home**: A structure that is transportable in one or more articles, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. Also known as a manufactured home or a trailer.
- 2.30 **Mohawk Council Executive Directive**: A directive adopted by Kahnawa'kehró:nnon Ratitsénhaiehns of the Kahnawà:ke Tsi letsenhaientákhwa to authorize a decision or mandate.
- 2.31 **Objection**: The action taken by a Kanien'kehá:ka of Kahnawà:ke to formally protest an Applicant's request for a Common Land Allotment based on the eligibility criteria and limitations to eligibility set out in this Policy.
- 2.32 **Objector**: A Kanien'kehá:ka of Kahnawà:ke who has made an Objection or protest to an Applicant's request for a Common Land Allotment.
- 2.33 **Onkwehón:we**: A person of an Indigenous Nation of what is currently known as Canada and the continental United States of America, including the Inuit;
- 2.34 **Onkwehón:we Ancestry**: means direct descent from at least two (2) great-grandparents who were or are recognized as Ahsén:nen Onkwehón:we at minimum, pursuant to the *Regulation Concerning the Custom Code Method of Calculation for Kanien'kehá:ka Lineage*, verified by proof acceptable to the Registrar and, if necessary, by the Administrative Tribunal, the Court of Kahnawà:ke or the Kahnawà:ke Court of Appeal, as the case may be;
- 2.35 **Permanent Residence**: A dwelling used by a Kanien'kehá:ka of Kahnawà:ke as their primary residence, which is occupied by a Kanien'kehá:ka of Kahnawà:ke and, where applicable, their family.



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- 2.36 **Policy:** Refers to the Kahnawà:ke Land Allotment Policy.
- 2.37 **Preliminary Approval:** A formal decision by the Administrator confirming that the Applicant meets the requisite eligibility criteria.
- 2.38 **Proxy:** A person who is designated by the Applicant to represent the Applicant at a community meeting for the purpose of making the Communal Land Allotment Request. The Proxy must be over the age of majority and be recognized on the KKR.
- 2.39 **Quit Claim:** To relinquish, renounce or release any claim to real property.
- 2.40 **Release and Waiver Form:** A form signed by the Applicant(s) that releases the Kahnawà:ke Tsi Ietsenhaienáhkhwa of any liability to any claim, loss, action, or damages related, directly or indirectly, to the pre, actual and post-construction periods of a House. Also known as Appendix "D".
- 2.41 **Request for Decision:** A request brought to the Land Management Committee, or eventually Kahnawà'kehró:non Ratitsénhaienhs, to render a decision concerning an Exceptional Circumstance or other issue.
- 2.42 **Request for Review:** An appeal made to the Land Management Committee by an Applicant who disagrees with one or more of the Administrator's written decisions.
- 2.43 **Residency Permit:** means the Permit issued by the Residency Registrar authorizing a person who meets the Residency Permit criteria to Reside on the Territory;
- 2.44 **Single:** An individual who is unmarried or is not in a Common-Law Relationship.
- 2.45 **Separation:** The dissolution of a union between two (2) people. A separation agreement, negotiated, agreed to, and signed by both parties, will be accepted in the cases of the dissolution of a traditional marriage or a Common-Law Union that may be accompanied by a Quit Claim. In all other cases, a separation judgment issued by a court of competent jurisdiction will be required.
- 2.46 **Solemn Affirmation:** A written statement of facts signed and declared to be true before a person with authority to commission or verify such statements, such as a Commissioner of Oaths.
- 2.47 **Spouse:** A husband or wife through marriage, a Common-Law partner, or the person with whom the Applicant is living in a marriage-like relationship.
- 2.48 **Suitable Land Parcel:** A piece of land (lot) in Kahnawà:ke with or without a House (or Houses) thereon. Also means a lot in Kahnawà:ke which is conducive for the construction or placement of a Permanent Residence and meets the following criteria: physical and legal access, free of undue hardship, reasonable access to appropriate infrastructure and utilities, sole possession of the lot (however, lot remains suitable if an undivided ½ interest is held by a Spouse/Co-Applicant), soil qualified for residential use,



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and size/shape/topography that can accommodate a House (or Houses). For rural locations where centralized water is unavailable, the lot must be large enough to accommodate well and septic systems. Any lot held by an Applicant's parent(s) which can only accommodate their existing Permanent Residence will not be deemed a Suitable Land Parcel. Furthermore, any lot containing buildings originally constructed for business and/or commercial purposes, shall not be deemed a Suitable Land Parcel.

2.49 Unforeseen Personal Circumstance: Unexpected change in one's state of financial, material, or physical welfare, such as the loss of a job, spouse/partner, or medical event.

2.50 Winter: Season timeframe of 1 December to 31 March, for the purposes of this Policy.

3.0

Application:

3.1 This Policy shall apply to all Kanien'kehá:ka of Kahnawà:ke who submit an application for a Common Land Allotment in the Mohawk Territory of Kahnawà:ke (the Territory).

4.0

Policy:

Land Allotment Administrator

4.1 Kahnawà'kehró:n Ratitsénhaïenhs (Council of Chiefs) delegate the following responsibilities and authority to the Land Allotment Administrator (Administrator) to administer and manage this Policy.

4.2 The Administrator shall:

4.2.1 Upon request, provide Kanien'kehá:ka of Kahnawà:ke with an application package.

4.2.2 Determine an Applicant's eligibility and provide Preliminary Approval.

4.2.3 Investigate Objections to a Common Land Allotment application.

4.2.4 Determine if an application requires review and decision by the Land Management Committee (LMC) in consultation with the General Manager of Land Management (GMLM).

4.2.5 In consultation with the General Manager of Land Management, develop or modify forms, as deemed necessary.

4.2.6 Issue written letters to Applicant(s) throughout the Common Land Allotment process.

4.3 The Administrator shall also be responsible to:

4.3.1 Receive and verify information on all applications for a Common Land Allotment.

4.3.2 Inform the GMLM of the need for additional land to be designated as Common Land Allotment(s).



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- 4.3.3 Identify and track amendments to this Policy, including the mandatory Policy review cycle.
- 4.3.4 Maintain the Land Allotment Database.
- 4.3.5 Prepare council meeting packages for Kahnawà'kehró:non Ratitsénhaiehns when the Common Land Allotment must be officially registered in the Kanien'kehá:ka of Kahnawà:ke's name.
- 4.4 If the Administrator is deemed to be in a Conflict of Interest linked to an Applicant, they must recuse themselves from the file, and the GMLM will temporarily assume the functions of the Administrator.
- 4.5 If the GMLM is also deemed to be in a Conflict of Interest linked to an Applicant, the Director of Lands will appoint an acting Administrator.

Eligibility Requirements

- 4.6 To be eligible for a Common Land Allotment, an Applicant must meet all the following requirements:
 - 4.6.1 Be eighteen (18) years of age or older;
 - 4.6.2 Be recognized on the Kahnawà:ke Kanien'kehá:ka Registry (KKR);
 - 4.6.3 Be without possession of a Suitable Land Parcel;
 - 4.6.4 Currently residing in the Mohawk Territory of Kahnawà:ke (the Territory) for a continuous period of one (1) year or more prior to the filing of the application;
 - 4.6.4.1 Where the Applicant(s) does not have continuous residency as a result of pursuing employment opportunities, attending school, or due to housing shortages, refer to statement 4.19 in "Proof of Eligibility" section.
 - 4.6.5 Sign a Solemn Affirmation that all the facts in their application are true.

Limitations to Eligibility

- 4.7 The Applicant(s) will be deemed ineligible by the Administrator for a Common Land Allotment if any of the following situations apply:
 - 4.7.1 The Applicant has a Spouse who already possesses a Common Land Allotment or a Suitable Land Parcel.
 - 4.7.1.1 If the Applicant had a Spouse, they must provide proof of a Separation agreement or Divorce judgment to support that they do not possess a Common Land Allotment or other Suitable Land Parcel.
 - 4.7.2 The Applicant's Spouse has initiated an application for a separate Common Land Allotment at the same time.



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- 4.7.3 The Applicant(s) previously applied for (and obtained) a Common Land Allotment, unless:
- 4.7.3.1 All rights to a previous Common Land Allotment were relinquished via a Quit Claim as a result of Divorce or Separation; this exception can only be used once.
- 4.7.4 The Applicant(s) has previously possessed a Suitable Land Parcel in Kahnawà:ke, unless:
- 4.7.4.1 The Applicant possessed land as a result of a land transfer while younger than eighteen (18) years of age and subsequently transferred the land to another individual as an adult.
- 4.7.5 A Suitable Land Parcel would have been registered in the Applicant's name were it not temporarily transferred to the Mohawks of Kahnawà:ke, the Kahnawà:ke Tsi Ietsenhaitáhkhwa, another Kanien'kehá:ka of Kahnawà:ke for the purposes of a personal loan/guarantee, or the board of trustees of a financial institution as security pending full payment of a loan or mortgage.
- 4.7.5.1 Equally, any Applicant possessing (or previously possessing) a lot in Kahnawà:ke with a habitable House thereon may be deemed ineligible for a Common Land Allotment.
- 4.7.6 If any Applicant's parents possess more land than required for their own residential purposes, unless:
- 4.7.6.1 The Applicant(s) demonstrates that their parent(s) refused to transfer land to them.
- 4.7.7 The Applicant is married to or in a Common-Law Relationship with an Iah Onkwehón:we Té:ken (*Non-Indigenous Person*) regardless of whether the Spouse is considered an Approved Kahnawà:ke Resident under the Kahnawà:ke Residency Law, or its successor.
- 4.7.8 The Applicant intends to use a Common Land Allotment for business and/or commercial purposes. Applicants are prohibited from using Common Land Allotments for business and/or commercial purposes.

Application for a Common Land Allotment

- 4.8 To apply for a Common Land Allotment, Applicant(s) must contact the Administrator to request an application package.
- 4.9 Applicant(s) are responsible for completing the forms with the required information.
- 4.10 Once the *Common Land Allotment Application* (Appendix A) is completed, the Applicant(s) must schedule a meeting with the Administrator to:



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- 4.10.1 Review the package.
- 4.10.2 Review the Common Land Allotment process.
- 4.10.3 Answer any questions.
- 4.10.4 Sign the *Common Land Allotment Application* (Appendix A) and have the Administrator sign as "Witness".
- 4.10.5 Sign the *Acknowledgement of the Kahnawà:ke Land Allotment Policy* (Appendix B) and have the Administrator sign as "Witness".
 - 4.10.5.1 By signing Appendix B, the Applicant(s) understands that the sole purpose of the Common Land Allotment will be for the construction or placement of their Permanent Residence.
- 4.11 Walk-ins shall be accommodated on a case-by-case basis, depending on the availability of the Administrator.
 - 4.11.1 Under this Policy, the Administrator is required to meet and communicate with Applicants (and Co-Applicants). The participation and/or involvement of immediate family members will be at the discretion of the Administrator.
- 4.12 Once Appendix A & B are signed by each required signatory, the Administrator will create a file for the Applicant(s) and begin the Common Land Allotment application process.
 - 4.12.1 There are four (4) application deadlines per calendar year. Each application deadline will close five (5) business days prior to the next scheduled Objection period. To be permitted and considered for a given Objection period's initial Communal Posting, applications must be submitted prior to the corresponding application deadline.

Application with a Co-Applicant

- 4.13 Where the Applicant has a Spouse, cohabits with a Common-Law partner, or shares a common living space with their current or previous intimate partner, the application must be filed together as Co-Applicants.
- 4.14 The following individuals are eligible Co-Applicants, and can complete applications as a Couple:
 - 4.14.1 The Applicant's Spouse is on the KKR; or,
 - 4.14.2 The Applicant's Spouse is a person with Onkwehón:we Ancestry and Approved Kahnawà:ke Resident status or a valid Residency Permit, pursuant to the Kahnawà:ke Residency Law or its successor.
- 4.15 If the Co-Applicant is an Approved Kahnawà:ke Resident or holds a valid Residency Permit, the Administrator or any other employee shall not register the Common Land Allotment in their name under any circumstance.



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- 4.15.1 For greater clarity, an Approved Kahnawà:ke Resident or Residency Permit holder cannot inherit land in the Kanien'kehá:ka Territory of Kahnawà:ke.

Proof of Eligibility

- 4.16 The Applicant must demonstrate that they meet all the relevant eligibility criteria with supporting documentation.
- 4.17 The Administrator shall determine possession of a Suitable Land Parcel by verifying whether an Applicant has or had land registered in their name and whether the land meets the definition of a Suitable Land Parcel.
- 4.18 The Administrator will accept the following supporting documents as proof of eligibility:
- 4.18.1 An invoice from an energy, telephone service, or cable supplier with a date three (3) months or less from the application date;
 - 4.18.2 A photocopy of a residential lease in its entirety;
 - 4.18.3 A signed letter from the landlord of the dwelling in which the Applicant(s) currently resides, indicating how long the Applicant(s) has lived at the dwelling and attesting that the Applicant currently lives in Kahnawà:ke; or
 - 4.18.4 Any other supporting documentation that the Administrator may specifically require to make an informed decision based on the Applicant's situation, if the previously listed documents are unavailable or insufficient.
- 4.19 If the Applicant has resided or resides outside of Kahnawà:ke for the purposes of employment, schooling, or due to housing shortages, the Administrator shall accept the following as proof of eligibility:
- 4.19.1 Pay stubs from an employer for the previous month.
 - 4.19.2 Transcripts or other proof of enrollment from a recognized college, university, or educational institution.
 - 4.19.3 Written statement(s) by the Applicant(s) detailing their current residency situation and their attempt(s) to obtain housing in the Mohawk Territory of Kahnawà:ke. Supporting documents (bearing an address from adjacent municipalities) may be requested by the Administrator: An invoice from an energy, telephone service, or cable supplier with a date three (3) months or less from the application date; A photocopy of a residential lease in its entirety; A signed letter from the landlord of the dwelling in which the Applicant(s) currently reside(s), indicating how long the Applicant(s) has/have lived at the dwelling.
- 4.20 If the parents of the Applicant(s) possess more land than they require for residential purposes (i.e. another unused Suitable Land Parcel), the



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Applicant(s) must complete and sign a *Declaration Form – Parents' Landholdings* attesting that their parents are unwilling to transfer their additional Suitable Land Parcel(s) to the Applicant(s).

Preliminary Approval of an Application

- 4.21 All Applicants must submit a completed *Common Land Allotment Application* (Appendix A) and follow the process for the Preliminary Approval of a Common Land Allotment.
- 4.22 The completed *Common Land Allotment Application* (Appendix A) will be reviewed by the Administrator to determine the Applicant's eligibility.
- 4.23 The Administrator shall issue a Preliminary Approval for a Common Land Allotment once they have confirmed that all the eligibility requirements have been met by the Applicant(s).
- 4.24 Once the Applicant is deemed eligible under this Policy, the Administrator will notify the Applicant in writing of their Preliminary Approval of their application within ten (10) business days of the decision and advise them of next steps.
- 4.25 The Administrator shall revoke the Preliminary Approval at any time prior to the selection of a Common Land Allotment for any of the following reasons:
 - 4.25.1 The Applicant or Co-Applicant has knowingly misled the Administrator or withheld pertinent information, which would otherwise affect their eligibility to receive a Common Land Allotment; or,
 - 4.25.2 A change in the circumstances or status of the Applicant or Co-Applicant, which would affect their eligibility to receive a Common Land Allotment, as outlined in the "Changes in the Application" section.

Refusal of an Application

- 4.26 The Administrator will notify the Applicant(s) in writing of the refusal of their application for a Common Land Allotment within ten (10) business days from the date of the decision, and will include:
 - 4.26.1 The reason(s) for the refusal.
 - 4.26.2 Provide an opportunity to present clarifications, rectify any errors in the information on file and/or provide additional supporting documentation to the Administrator.
 - 4.26.3 A statement explaining the appeals process as outlined in the Request for Review of a Decision section of this Policy.

Changes in the Application

- 4.27 Any change in the status of a relationship or any other information which could affect an application following Preliminary Approval, but prior to the



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Applicant's selection of a lot, will entail the complete reevaluation of the Applicant's file to ensure continued eligibility for a Common Land Allotment; if deemed ineligible at this stage, the Preliminary Approval will be rescinded by the Administrator.

4.28 If the Administrator becomes aware that the Applicant(s) has obtained land at any point prior to the construction of a House on a Common Land Allotment, the Administrator shall respond in writing within 10 business days to confirm the Applicant's ineligibility and rescind their Preliminary Approval.

4.29 Prior to the construction/placement of a House on a Common Land Allotment, Applicants can make a one-time request with the Administrator to withdraw their application.

Communal Posting

4.30 Following the Preliminary Approval of an application for a Common Land Allotment, the Administrator will make the application information public.

4.31 Kanien'kehá:ka of Kahnawà:ke will be notified by Communal Posting with a publication in local media of the following information:

- the name(s) of the Applicant(s);
- the name(s) of the Applicant's parent(s) and Co-Applicant's parent(s), including maiden names;
- identify the Co-Applicant's Nation where they are not Kanien'kehá:ka of Kahnawà:ke; and,
- the marital status of the Applicant(s).

4.32 The Communal Posting will be posted publicly for thirty (30) calendar days prior to the community meeting scheduled to include a Communal Land Allotment Request(s).

4.33 Following the Applicant's Communal Land Allotment Request at the community meeting, the Communal Posting will be publicly posted for an additional thirty (30) calendar days.

4.34 The Administrator shall accept Objections from Kanien'kehá:ka of Kahnawà:ke as soon as the initial Communal Posting is published (opening of Objection period).

Communal Land Allotment Request at a Community Meeting

4.35 Following the Preliminary Approval and the Communal Posting, Applicants must make their communal request(s) at a scheduled community meeting.

4.36 The Applicant(s) must respond to any questions from Kanien'kehá:ka of Kahnawà:ke and/or Kahnawa'kehró:non Ratitsénhaienhs attending the community meeting.



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- 4.36.1 The questions must be limited to eligibility criteria as stated in the *Objection Form to a Common Land Allotment Application* (Appendix C). Badgering or verbal abuse of any kind will not be tolerated.
- 4.37 The Administrator will notify Applicants in writing at least ten (10) business days prior to the community meeting of the time, date and location of the meeting and their required presence to make their Communal Land Allotment Request.
- 4.37.1 If an application has been made with a Co-Applicant, both Applicants must be present.
- 4.38 When an Applicant or Co-Applicant is unable to attend the community meeting, they must be represented by a Proxy.
- 4.38.1 The Applicant(s) is responsible for notifying the Administrator, in writing, of their absence and outline the reasons for the absence at least two (2) business days before the community meeting.
- 4.38.2 The Administrator must approve the use of a Proxy.
- 4.38.3 The Administrator will inform the Portfolio Chief of the use of a Proxy prior to the community meeting.
- 4.39 If an Applicant is unable to attend the community meeting and fails to identify a Proxy, the Communal Land Allotment Request must be made at the next community meeting.
- 4.39.1 For the purposes of clarity, another Communal Posting will be required.
- 4.40 If the Applicant fails to attend two (2) consecutive community meetings to make their Communal Land Allotment Request and fails to identify a Proxy, the Administrator will mail a letter to the Applicant(s) within ten (10) business days of the second missed community meeting stating that their application is now null and void.
- 4.40.1 The Applicant(s) may reapply for a Common Land Allotment after a 6-month suspension.
- 4.40.2 The date indicated in the Administrator's "null and void" letter shall be considered the start date for the 6-month suspension.

Land Allotment Objections

Verbal Objections

- 4.41 Verbal Objections must be made by a Kanien'kehá:ka of Kahnawà:ke to allow the Administrator to review the Objection.
- 4.41.1 To be valid, an Objection must be related to the eligibility of an Applicant as set forth in this Policy.



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- 4.42 Should a Kanien'kehá:ka of Kahnawà:ke phone the Administrator to make a verbal Objection, the Administrator shall take the call and subsequently arrange for the Kanien'kehá:ka of Kahnawà:ke to submit an *Objection Form to a Common Land Allotment* (Appendix C).
- 4.43 The nature of the verbal Objection shall be communicated to the Applicant(s); however, the identity of the Objector will be kept confidential, except when made during a community meeting where the Objector and nature of the Objection is made public.
- 4.44 Following a verbal Objection at a community meeting, the Portfolio Chief in attendance will obtain the Objector's name and contact information to allow the Administrator to contact the Objector to arrange for completion of an *Objection Form to a Common Land Allotment* (Appendix C).
- 4.44.1 The Portfolio Chief shall be responsible to inform Kanien'kehá:ka of Kahnawà:ke of the outcome of the Objection at the next community meeting.
- 4.45 Objectors will be verified as a Kanien'kehá:ka of Kahnawà:ke by the Office of the Kahnawà:ke Kanien'kehá:ka Registry.
- 4.46 The Administrator will investigate all Objections to ensure they are based on the eligibility requirements or the limitations to eligibility.
- 4.47 The Administrator will notify the Applicant(s) via registered mail within twenty (20) business days from receipt of a completed *Objection Form to a Common Land Allotment* (Appendix C), following a verbal Objection. The letter will include the following information:
- 4.47.1 The nature of the Objection received;
- 4.47.2 A statement that the Application will be placed on hold for review and Investigation;
- 4.47.3 A statement that the Applicant(s) has ten (10) business days from the date of the registered letter to respond in writing to the Administrator regarding the nature of the Objection; and,
- 4.47.4 The Administrator may also request additional information from the Applicant(s) as deemed necessary to complete the Investigation.
- 4.48 The Administrator will inform both the Objector and the Applicant(s) in writing of the outcome of the Investigation within the twenty (20) business days unless the Administrator requires more time to complete the process of receiving more information, as outlined in statements 4.47.3 and 4.47.4.
- 4.48.1 If the Administrator determines the substance of the Objection to be invalid, the Applicant(s) will continue in the application process.



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4.48.2 If the Administrator determines the substance of the Objection to be valid and the Applicant(s) fails to provide the necessary proof contesting the Objection, the Applicant(s) shall be deemed ineligible for a Common Land Allotment.

4.48.2.1 If the basis for the ineligibility changes, the Applicant(s) may reapply for a Common Land Allotment after a six (6) month suspension.

4.48.2.2 The date indicated in the Administrator's "Investigation outcome" letter shall be considered the start date of the six (6) month suspension.

Written Objections

4.49 A Kanien'kehá:ka of Kahnawà:ke will have the option to submit a written Objection to the Administrator as soon as the initial Communal Posting is published (opening of Objection period).

4.49.1 To be valid, an Objection must be related to the eligibility of an Applicant(s) as set forth in this Policy.

4.50 The Objector's name shall remain confidential.

4.51 For greater clarity, a written Objection must be submitted by a Kanien'kehá:ka of Kahnawà:ke to the Administrator no later than thirty (30) days following the Communal Land Allotment Request(s) at a community meeting.

4.52 Written Objections must include the Objector's name, date of birth, mailing address, e-mail address, telephone or cellular contact number, and the Objector's band number.

4.53 Objectors will be verified as a Kanien'kehá:ka of Kahnawà:ke by the Office of the Kahnawà:ke Kanien'kehá:ka Registry.

4.54 The Administrator will investigate all Objections to ensure they are based on the eligibility requirements or the limitations to eligibility.

4.55 The Administrator will notify the Applicant(s) via registered mail within twenty (20) business days from receipt of a written Objection. The letter will include the following information:

4.55.1 The nature of the Objection received;

4.55.2 A statement that the Application will be placed on hold for review and Investigation;

4.55.3 A statement that the Applicant(s) has ten (10) business days from the date of the registered letter to respond in writing to the Administrator regarding the nature of the Objection; and



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- 4.55.4 The Administrator may also request additional information from the Applicant(s) as deemed necessary to complete the Investigation.
- 4.56 The Administrator will inform both the Objector and the Applicant(s) in writing of the outcome of the Investigation within the twenty (20) business days unless the Administrator requires more time to complete the process of receiving more information, as outlined in statements 4.46.3 and 4.46.4.
- 4.56.1 If the Administrator determines the Objection to be invalid, the Applicant(s) will continue in the application process.
- 4.56.2 If the Administrator determines the Objection to be valid and the Applicant(s) fails to provide the necessary proof contesting the Objection, the Applicant(s) shall be deemed ineligible for a Common Land Allotment.
- 4.56.2.1 If the basis for the ineligibility changes, the Applicant(s) may reapply for a Common Land Allotment after a six (6) month suspension.
- 4.56.2.2 The date indicated in the Administrator's "Investigation outcome" letter shall be considered the start date for the six (6) month suspension.
- 4.57 If no Objections are received and proven valid within thirty (30) days following the second Communal Posting, the Administrator will inform the Applicant(s) in writing that they have completed the application process for a Common Land Allotment and are now Approved for Selection.

Common Land Allotment Selection Requirements **Selection of a Common Land Allotment**

- 4.58 When the Applicant(s) is prepared to construct or place a House, they must inform the Administrator, provide written proof, identify the available Common Land Allotment, then sign the *Release and Waiver Form* (Appendix D) and a *Confirmation of Land Allotment* (Appendix E).
- 4.58.1 Only one (1) Applicant (and Co-Applicant) at a time will be permitted to select their Common Land Allotment. This will be on a first-come, first-served basis.
- 4.59 The Administrator will accept the following documentation as proof that the Applicant(s) is prepared to build or buy their House:
- 4.59.1 A Kahnawà:ke Tsi Ietsenhatàhkwa housing loan approval letter from the Kanónhsa Orihwà:ke Ronterihwatsterítha (MCK Housing Unit); or
- 4.59.2 A mortgage/loan confirmation letter from the Caisse Populaire Kahnawake.



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4.60 If an Applicant(s) has Cash on Hand to build/relocate a House, the Applicant(s) shall provide the following three (3) documents to the Administrator as proof, as applicable:

4.60.1 A signed *Solemn Affirmation for Cash on Hand* (Appendix G) to confirm readiness to build or relocate a House as a Permanent Residence;

4.60.1.1 The Administrator shall rely on the advice of the Kahnawà:ke Tsi letsenhaientákhwa Housing Inspector (the Inspector) to determine whether the Applicant(s) has enough Cash on Hand to cover the cost of construction, repair and/or relocation of the House.

4.60.2 If the Applicant(s) is obtaining or purchasing a previously owned mobile home/trailer or House to be relocated and placed on the selected Common Land Allotment, they must obtain an inspection report from the Kahnawà:ke Tsi letsenhaientákhwa Housing Inspector to determine the habitability of the House.

4.60.3 Proof of payment of the Inspection Fee, as well as additional costs associated with placing an existing home (which was located outside the Territory) onto the selected Common Land Allotment.

Placement of a Permanent Residence

4.61 If the mobile home, trailer, or existing housing structure is located outside of the Territory, the costs associated with the Inspection Fee will include mileage, gas, meals, and any other related expenses.

4.61.1 There shall be no additional costs associated with the Inspection Fee if the mobile home, trailer, or existing housing structure is located within the Territory.

4.62 The Applicant(s) is responsible for paying the Inspection Fee issued by the Housing Inspector.

4.63 The Applicant(s) must provide a copy of the Inspection Fee receipt to the Administrator.

New Home Construction Using Cash on Hand

4.64 The Applicant(s) shall be responsible for ensuring the construction respects the minimum standards set out in the *Construction Standards and Other Regulatory Requirements* (Appendix H), where these standards are subject to change from time to time.

4.65 The Inspector will carry out a review of the certified construction drawings and building contracts to verify that they meet the standards outlined in the *Construction Standards and Other Regulatory Requirements* (Appendix H).



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- 4.66 If the Applicant(s) is constructing a House using Cash on Hand, the construction of the House will be inspected throughout the various construction phases by the Housing Inspector.
- 4.67 The inspection process shall include the verification of the preliminary house plan and contract review and, if applicable, the submission of material and sub-contractor quotations.
- 4.68 Any cost associated with an inspection, such as the Inspection Fee, will be paid by the Applicant(s), where applicable.

Land Allotment Site Inspection

- 4.69 To complete the selection process, the Applicant(s) must contact the Administrator to schedule a land allotment site inspection. The Applicant(s) is/are required to be present throughout the inspection.
 - 4.69.1 Land allotment site inspections are conducted by the Land Management Technician(s) who will provide the signed *Acknowledgement of Boundaries and Public Infrastructure* (Appendix F) to the Administrator.
 - 4.69.2 Applicant(s) must sign the *Acknowledgement of Boundaries and Public Infrastructure* (Appendix F) provided by the Land Management Technician(s) which acknowledges all boundary lines, property pins, and location of infrastructure and utility poles, etc.
 - 4.69.3 Land allotment site inspections are weather permitting and subject to availability during Winter.
- 4.70 By signing the *Acknowledgement of Boundaries and Public Infrastructure* (Appendix F), the Applicant(s) agree(s):
 - 4.70.1 To receive the Common Land Allotment as is.
 - 4.70.2 The MCK is thereby indemnified from any further activity on, or liability toward, the Common Land Allotment.
 - 4.70.3 Subject to any applicable laws and permit requirements, any clearing or landscaping of the Common Land Allotment is the sole responsibility of the Applicant(s), at their cost.
- 4.71 An Applicant(s) must select a Common Land Allotment in areas prepared and approved specifically for the construction or placement of a House by the Kahnawà:ke Tsi letsenhaientákhwa.
- 4.72 The Common Land Allotment selected will be listed in the Land Allotment Database under the name(s) of the person(s) listed on the application.
 - 4.72.1 Only Kanien'kehá:ka of Kahnawà:ke are entitled to have land registered in their name.



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Minimum Distance Between Residential Structures

- 4.73 The Applicant(s) shall ensure that their House is situated at a minimum distance of twenty (20) feet (6.096 meters) from any other House.
- 4.74 The Applicant(s) shall ensure a minimum distance of ten (10) feet (3.048 meters) from each boundary line in accordance with the *Acknowledgment of Boundaries and Public Infrastructure* (Appendix F).

Timeframes for Land Allotment Selection and Construction of a Permanent Residence

- 4.75 If the Applicant(s) has been approved but has not selected their lot within twelve (12) months from the date of the "Application Process Complete" letter, the Administrator will confirm the eligibility of the Applicant(s) for a Common Land Allotment under this Policy using the *Common Land Allotment Application Update Form* (Appendix I).
- 4.76 Once the Applicant(s) has selected a Common Land Allotment, they must construct or place a House on the lot and occupy the House within twelve (12) months from the date the *Confirmation of Land Allotment* (Appendix E) was signed.
- 4.77 If after twelve (12) months the selected Common Land Allotment remains vacant and intact; or there is an incomplete structure on the Common Land Allotment, the Administrator will remind the Applicant(s) via registered mail that they must submit a written request to extend the twelve (12) month construction timeframe.
- 4.77.1 The request for extension shall be reviewed by the Administrator and approval to extend the construction timeframe shall be granted by the Administrator on a case-by-case basis.
- 4.77.2 The extension must not exceed twelve (12) months from the date of the original construction timeframe deadline.
- 4.77.3 The Applicant(s) can only make use of this extension once.
- 4.78 The Administrator will inform the Applicant(s) in writing of the decision regarding the request for an extension within ten (10) business days from reception of the request. If the request for an extension is not submitted in a timely manner, the Applicant(s) will be informed via registered mail their Common Land Allotment shall be revoked.
- 4.79 If an extension is not granted, or failed to be requested as advised in statement 4.77, the Common Land Allotment shall be revoked, and the Applicant(s) will be responsible for removing any existing structure(s) at their own expense; however:
- 4.79.1 The Kahnawà:ke Tsi Ietsenhaiantákhwa could, upon formal request, agree to retain the structure and compensate the



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Applicant(s) for the incomplete structure or increase in value to the land, where applicable.

Removal of a Residential Structure After Construction When Timeframe Has Elapsed

4.80 The Applicant(s) shall be responsible for all removal costs of an incomplete structure within six (6) months from the date of the registered letter.

4.81 The Applicant(s) must remove the existing structure within six (6) months from the date of the registered letter and cover the cost of any such removal.

4.81.1 The Administrator shall extend the six (6) month timeframe during the Winter months at their discretion.

4.82 If the Applicant(s) does not remove the incomplete structure from the revoked Common Land Allotment within the established timeframe, the Kahnawà:ke Tsi letsenhaientáhkhwa shall remove the incomplete structure and invoice the Applicant(s) for all costs.

4.83 Another Applicant(s) that has completed the application process shall have the option to purchase the incomplete structure directly from the previous Applicant(s) with the approval of the Administrator at their discretion.

Revocation of a Common Land Allotment

4.84 The LMC has the authority to revoke a Common Land Allotment if:

4.84.1 The Common Land Allotment has been selected and there is no House to occupy, or an incomplete House, after twelve (12) months of receipt of the *Confirmation of Land Allotment* (Appendix E); if an extension has been granted, the additional time must have elapsed.

4.84.2 If any time before construction has begun, the Administrator learns that the Applicant(s) misled or provided false information on their application which affects the eligibility of the Applicant(s);

4.84.3 Any time before construction has begun, the Administrator learns that the Applicant's or Co-Applicant's status or permit has been suspended, revoked, expired or otherwise changed under the Kanien'kehá:ka of Kahnawà:ke Law or Kahnawà:ke Residency Law, or their respective successors; or

4.84.4 Any time before construction has begun, the Administrator learns that the Applicant(s) obtained a Suitable Land Parcel.

4.85 Prior to revocation, the Administrator shall inform the Applicant(s) in writing that they are at risk of revocation. The Applicant(s) will be provided with the opportunity to explain their situation. The Applicant(s) will have twenty (20) business days to respond.



- ## Exceptional Circumstances

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4.92 The LMC shall exercise its authority to render one (1) of the following decisions:

- 4.92.1 A one-time suspension of the applicability of one (1) or more of the eligibility requirements or limitations to eligibility in order to rectify the unfair or inadvertent denial or approval of an application; or
- 4.92.2 Release the Applicant(s) from the obligation to provide certain proof of eligibility where the Applicant(s) has demonstrated that it is impossible for them to provide the required proof; or
- 4.92.3 Determine interpretation of this Policy to expand the eligibility requirements and limitations to eligibility to rectify the unfair or inadvertent denial or approval of an application.

4.93 The Administrator will notify the Applicant(s) in writing within ten (10) business days from the date of the decision by the LMC or Kahnawa'kehró:non Ratitsénhaïenhs.

- 4.93.1 If the LMC or Kahnawa'kehró:non Ratitsénhaïenhs approves the request for the suspension of a specific section in this Policy, the Applicant(s) shall be informed they can proceed with the Common Land Allotment process.
- 4.93.2 If the request for the suspension of a specific section or process step in this Policy is denied by the LMC or Kahnawa'kehró:non Ratitsénhaïenhs, the Applicant(s) shall be informed they cannot proceed with the Common Land Allotment process.

Official Registration of a Common Land Allotment

4.94 If the Applicant's selected lot is withheld as security in exchange for a housing loan or similar program(s) offered by the Kanónhsa Orihwà:ke Ronterihwatsterítha (MCK Housing Unit), possession will only be transferred to the Applicant(s) after they have fully reimbursed their loan or mortgage, once confirmed by the Administrator with a letter from the mortgage holder.

4.95 Once confirmed by the Administrator, a Mohawk Council Executive Directive (MCED) will be adopted officially allotting the land to the Applicant(s).

4.96 If the immediate allotment of the land is required in order to transfer possession to the board of trustees of the Caisse Populaire Kahnawake as security, the Kahnawa'kehró:non Ratitsénhaïenhs will adopt an MCED officially allotting the land to the Applicant(s) for this purpose specifically.

- 4.96.1 Prior to the adoption of the MCED, the Applicant(s) must provide a copy of the house plan(s) and building contract for verification purposes.



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4.96.2 The mortgage holder is responsible for transferring possession of land back to the Applicant(s) once the mortgage is paid in full.

4.97 If a House is built or placed without a mortgage loan, the Kahnawà:kehró:non Ratitsénhaiehns will adopt an MCED officially allotting the Common Land Allotment to the Applicant(s), provided:

4.97.1 The Kahnawà:ke Tsi Ietsenhaienáhkwah Housing Inspector has deemed the house habitable; and,

4.97.2 The Applicant(s) can demonstrate they have occupied the House within twelve (12) months of receipt of the *Confirmation of Land Allotment* (Appendix E).

Requests for Review of a Decision

4.98 An Applicant(s) who disagrees with an Administrator's written decision pertaining, but not limited to applications, Preliminary Approvals, Objections or Common Land Allotment selection and/or revocation, must submit a "Request for Review" letter within thirty (30) business days from receipt of the Administrator's written decision.

4.99 The Applicant(s) must submit their "Request for Review" in the form of a letter addressed to the Land Management Committee, including the following information:

4.99.1 The date of the decision being disputed;

4.99.2 A summary of the decision rendered by the Administrator that is in dispute;

4.99.3 An explanation as to why the decision rendered by the Administrator is incorrect or should be overturned;

4.99.4 The conclusions being sought by the Applicant(s);

4.99.5 Copies of relevant supporting documents or other relevant information.

4.100 The review of the Administrator's decision by the LMC will be conducted in conformity with the procedures set out in the LMC By-Laws.

4.101 If the Applicant(s) disagrees with the decision of the LMC, they must appeal the LMC's decision within thirty (30) business days from receipt of the written decision to the Administrative Tribunal in Kahnawà:ke.

4.101.1 The Applicant(s) appealing a decision made by the LMC must notify the Administrator in writing of their intent to appeal the decision within ten (10) business days from the date indicated in the LMC decision letter.

4.102 The Administrator shall suspend the continuation of the application/selection process, pending a decision by the LMC or the Administrative Tribunal in Kahnawà:ke.



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- 4.103 The decision rendered by the Administrative Tribunal in Kahnawà:ke shall be final.

Amendments & Mandatory Review

- 4.104 The Policy shall undergo a mandatory review every five (5) years. The review cycle for this Policy has been mandated by the Council of Chiefs.
- 4.105 The Administrator will collaborate with the GMLM to conduct the mandatory review.
- 4.106 If an amendment(s) is required prior to the review period, the Administrator, in consultation with the GMLM, will submit a request to the Director of Lands to recommend an amendment, which must then be referred to the LMC for their approval.
- 4.107 Amendments to this Policy must be approved via MCED by the Kahnawa'kehró:nnon Ratitsénhaienhs.
- 4.108 Any appendices under this Policy shall be modified as necessary by the Administrator in consultation with the GMLM.

Transitional Provisions

- 4.109 Upon formal approval of this Policy by Kahnawa'kehró:nnon Ratitsénhaienhs, this Policy applies immediately to all new applications and ongoing applications under the former policy.
- 4.110 All ongoing applications under the former policy will proceed under this Policy at the equivalent stage.

5.0 Consequences:

- 5.1 If the Kahnawà:ke Land Allotment Policy is not consistently applied, Kanien'kehá:ka of Kahnawà:ke and MCK employees risk undermining the principles of proper administration of land within the Mohawk Territory of Kahnawà:ke.

6.0 Foundational Records and Documents:

- 6.1 The MCK Lands Unit mandate identifies a land management function for land allotment and land use planning. The Kahnawà:ke Land Allotment Policy supports this function.



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7.0 **Forms &** **Templates:**

- 7.1 Appendix A – Common Land Allotment Application
- 7.2 Appendix B – Acknowledgement of Kahnawà:ke Land Allotment Policy
- 7.3 Appendix C – Objection Form to a Common Land Allotment Application
- 7.4 Appendix D – Release and Waiver Form
- 7.5 Appendix E – Confirmation of Land Allotment
- 7.6 Appendix F – Acknowledgement of Boundaries and Public Infrastructure
- 7.7 Appendix G – Solemn Affirmation for Cash on Hand
- 7.8 Appendix H – Construction Standards and other Regulatory Requirements
- 7.9 Appendix I – Common Land Allotment Application Update Form
- 7.10 Appendix A – Individual Section 4 for Eligible Co-Applicants
- 7.11 Appendix I – Individual Section 4 for Eligible Co-Applicants
- 7.12 Declaration Form – Parents' Landholdings

8.0 **References:**

- 8.1 Kanien'kehá:ka of Kahnawà:ke Law
- 8.2 Kanien'kehá:ka of Kahnawà:ke Law Regulations
- 8.3 Kahnawà:ke Residency Law
- 8.4 MCK Lands Unit Mandate
- 8.5 Policy on Internal MCK Policies
- 8.6 Land Management Committee By-Laws
- 8.7 Kahnawà:ke Justice Act
- 8.8 Regulation Concerning the Custom Code Method of Calculation for Kanien'kehá:ka Lineage