

Kluane First Nation

Constitution



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at the Annual General Assembly

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KLUANE FIRST NATION CONSTITUTION

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PREAMBLE

We, the people of Kluane First Nation, have developed and maintained a system of sustainable living that has allowed for the nourishment of our land and our people since time immemorial. Our government structure ensures the survival of our culture, language, spirituality and physical well-being through laws that show great respect for the land and the water. We have inherited our right of self-governance from our elders, our medicine people, our spirits, and from our mothers and fathers. Now, with the guidance and the wisdom of our ancestors, we assert our right to determine and control our lives as Kluane First Nation people and hereby adopt this Constitution as our supreme law.

ARTICLE 1 – DEFINITIONS

1.1 In this Constitution, unless the context otherwise requires:

"**Chief**" means the Citizen who is 25 years of age or older and who receives the majority vote at an election which is called for the purpose of electing a Chief;

"**Citizen**" means a person enrolled pursuant to the Citizenship Code;

"**Citizenship Code**" means the rules respecting eligibility in Kluane First Nation appended to the Constitution as Appendix "1";

"**Constitution**" means the *Kluane First Nation Constitution*;

"**Council**" means the Council of Kluane First Nation consisting of one Chief, two Councillors-at-large, one Youth Councillor and one Elder Councillor elected in accordance with the Election Act unless the circumstance in section 10.9(c) of the *Election Act* occurs;

"**Councillor**" means a Citizen elected as Councillor, in accordance with the *Election Act*, and includes the Youth and Elder Councillors;

"**Deputy Chief**" means the Councillor appointed as Deputy Chief by the Council pursuant to article 10.4;

"**Elder**" means a Citizen who is 60 years of age or older;

"**Final Agreement**" means the *Kluane First Nation Final Agreement*;

"**General Assembly**" means the annual general meeting of the Citizens or any special assembly of the citizenship called by the Council, upon proper notice for the purpose of discussing the business or affairs of the Kluane First Nation;

"**Honorary Citizen**" means a person who is not a Citizen but has been accepted as an Honorary Citizen pursuant to section 10 of the KFN Citizenship Code;

"**Justice Official**" means any official within the Kluane First Nation justice system including prosecutors, judges, enforcement officers, and public defenders;

"**Law**" means an Act or Regulation of Kluane First Nation.

"**Self-Government Agreement**" means the *Kluane First Nation Self-Government Agreement*; and

"**Youth**" means a Citizen who is between the ages of 13 and 25 years of age inclusively.

ARTICLE 2 – OBJECTIVES

2.1 The objectives of the Kluane First Nation are as follows:

- (a) to ensure the protection of the human, civil and legal rights of Citizens;
- (b) to use, manage, administer, regulate, promote, protect, and at all times respect the lands of the Kluane First Nation, including all natural resources in perpetuity;
- (c) to promote, enhance, and protect the culture, values and traditions of the Kluane First Nation and its Citizens and to ensure that any actions for these purposes are carried out with respect and good will;
- (d) to promote and strengthen the educational, social, economic and political growth of Kluane First Nation and its Citizens;
- (e) to provide a unified voice for the Citizens of the Kluane First Nation;
- (f) to represent and support the interests of Citizens at local, regional, territorial, national and international levels;
- (g) to use, manage and administer the money and other assets of Kluane First Nation, including any and all benefits to be realized by the Kluane First Nation from the settlement of all land claims in the Yukon Territory;
- (h) to maintain strict financial accountability to Citizens;
- (i) to exercise the powers and duties that may be recognized or confirmed within the inherent right of Kluane First Nation and the Final and Self-Government Agreements;
- (j) to exercise its powers in conformity with the *Constitution*;
- (k) to establish and administer services, programs and projects for Citizens and other residents who may reside on Kluane First Nation land;

- (l) to attain and maintain the entrenchment of self-government in the Constitution of Canada premised upon the principle of the inherent right of self-government of Kluane First Nation;
- (m) to control the disposition of rights and interests in and to the traditional lands and resources of the Kluane First Nation;
- (n) to ensure that Citizens will always have adequate food, clothing and shelter; and
- (o) to do such other things related to the foregoing as may be conducive to the general welfare and good government of the Kluane First Nation.

ARTICLE 3 – CITIZENS

- 3.1 Citizenship in the Kluane First Nation shall be governed by the *Kluane First Nation Citizenship Code*, which forms part of this *Constitution* and is appended as Appendix "1".

ARTICLE 4 – RESPONSIBILITIES OF CITIZENS AND GOVERNING BODIES

- 4.1 The following are the responsibilities of all Citizens:
- (a) maintain our values and traditions, and the well-being of our people;
 - (b) learn from the teachings of our Elders;
 - (c) promote lifelong learning, sharing, honesty, healthy living, and love and respect for our fellow human beings; and
 - (d) honour and respect the *Constitution*.
- 4.2 All powers and authorities within the Kluane First Nation should be exercised:
- (a) with respect, and in a fair, non-discriminatory and non-abusive manner;
 - (b) consistent with the *Constitution*, so as to allow for the full and free expression and participation of all Citizens;
 - (c) for the protection and preservation of the land, including the conservation and enhancement of all living things;
 - (d) so as to protect, secure and enhance the spiritual, physical, mental, emotional and social well-being of all Citizens, including future generations; and
 - (e) so as to recognize and respect the needs and interests of citizens of other First Nations and our non-First Nation neighbours, and of their respective governments.

ARTICLE 5 – RIGHTS AND FREEDOMS OF CITIZENS AND INDIVIDUALS

- 5.1 This *Constitution* hereby guarantees the rights and freedoms hereinafter set out, subject only to such reasonable limits as can be justified in a free and traditional society of the Kluane First Nation.
- 5.2 All Citizens shall enjoy equal rights to life, liberty and economic opportunity, and equal rights to benefit from resource development and other activities undertaken by Kluane First Nation, subject to Kluane First Nation Laws and the Final and Self-Government Agreements.
- 5.3 Each Citizen has the following fundamental freedoms:
- (a) freedom of conscience and religion;
 - (b) freedom of thought, belief or opinion and expression;
 - (c) freedom of peaceful assembly; and
 - (d) freedom of association.
- 5.4 Every Citizen is equal before and under the Laws of the Kluane First Nation and has the right to the equal protection and equal benefit of Kluane First Nation Laws without discrimination.
- 5.5 Every individual has the right to be secure against unreasonable search and seizure.
- 5.6 Every individual has the right not to be arbitrarily detained or imprisoned.
- 5.7 Every individual has the right not to be subjected to any cruel or unusual treatment or punishment.
- 5.8 Any individual charged with an offence against a validly existing Kluane First Nation Law has the right:
- (a) to be informed without reasonable delay of the specific offence;
 - (b) to be tried within a reasonable time;
 - (c) not to be called as a witness in proceedings against that person in respect of the offence;
 - (d) to be presumed innocent until proven guilty according to Kluane First Nation Law, and to a fair and public hearing before an independent and impartial tribunal;
 - (e) not to be denied reasonable bail without just cause;

- (f) if finally acquitted of the offence, not to be tried for it again and if finally found guilty and punished for the offence, not to be tried and punished for it again; and
 - (g) if found guilty of the offence, and if the punishment of the offence has been varied from the time of the commission and the time of sentencing, to have the benefit of the lessor punishment.
- 5.9 Any party or witness to any proceedings who does not understand or speak the language in which the proceedings are conducted or who is deaf, has the right to the assistance of an interpreter.
- 5.10 When exercising its power, the Kluane First Nation governing bodies shall not:
- (a) subject any person to be twice put in jeopardy for the same offence;
 - (b) compel any person in any proceedings to provide evidence harmful to himself or herself;
 - (c) expropriate any personal, individual, or family property or interest for Kluane First Nation use without due process and fair and just compensation;
 - (d) deny any person's liberty or possession of property without due process; and
 - (e) amend any Laws of Kluane First Nation or the *Constitution* without due participation and authorization from Citizens.
- 5.11 An Honorary Citizen shall have the following rights:
- (a) participate in a General Assembly; and
 - (b) if the Honorary Citizen is 60 years of age or older, participate in an Elders Council meeting.
 - (c) If the Honorary Citizen is between 13 and 25 years of age inclusively, participate in a Youth Council meeting; and
 - (d) An Honorary Citizen may have access to benefits specified within the criteria of a Kluane First Nation program or service as determined by Council.
- 5.12 For greater certainty, an Honorary Citizen shall not have any Kluane First Nation Final Agreement rights.
- 5.13 Southern Tutchone is the official language of the Kluane First Nation with English as the working language.

- 5.14 Everyone has the right to use the Southern Tutchone language or English in any debates of the General Assembly or the Council, and in any publication of the Kluane First Nation.
- 5.15 Anyone whose rights or freedoms guaranteed by this *Constitution* have been infringed upon or denied may apply to the Kluane First Nation court to obtain such remedy as the court considers appropriate and just in the circumstances, or to any other justice tribunal that has been delegated this authority by the Kluane First Nation.

ARTICLE 6 – ORGANIZATION OF KLUANE FIRST NATION GOVERNMENT

- 6.1 The seat of government of the Kluane First Nation shall be located at Burwash Landing, Yukon Territory, or otherwise be located within the traditional territory of the Kluane First Nation as the General Assembly, in its sole discretion, deems advisable.
- 6.2 The Kluane First Nation government may consist of five branches: the General Assembly, the Council, the Elders Council, the Youth Council, and the Kluane First Nation court.
- 6.3 No branch of Kluane First Nation government shall share any power or duty allocated by the *Constitution* with another branch, except as specifically authorized by the *Constitution*.
- 6.4 The General Assembly and the Council shall be the law-making branches of the Kluane First Nation government.

ARTICLE 7 – KLUANE FIRST NATION GENERAL ASSEMBLY

- 7.1 There shall be a Kluane First Nation General Assembly, composed of all Citizens and Honorary Citizens who are 18 years of age or older.
- 7.2 A meeting of the General Assembly shall be held annually at a time designated by the Council and at any other time, as the Council deems necessary.
- 7.3 Any member of the General Assembly may speak in the official language of the Kluane First Nation and translation will be provided.
- 7.4 All eligible Citizens present shall have the right to vote at any General Assembly.
- 7.5 The quorum for a General Assembly shall be 15 eligible Citizens.
- 7.6 Notice of a General Assembly, including its date, time and place must be given at least six weeks prior to the General Assembly, and there shall be a tentative agenda sent to each member 14 days prior to the General Assembly.
- 7.7 Notice of a special assembly, including its date, time and place, must be given at least three weeks prior to the special assembly, and be accompanied by a tentative agenda specifying the limited purpose for the special assembly.

- 7.8 A special assembly may only deal with concerns pertaining to the limited purpose specified in the Notice of the special assembly.
- 7.9 Notice of a General Assembly shall be advertised through local media and individual notices to Citizens.
- 7.10 The responsibilities of the General Assembly shall be to:
- (a) review and evaluate any reports or agreements from Council, or another Kluane First Nation governing body;
 - (b) pass resolutions, set policy guidelines and provide direction to Council;
 - (c) amend the *Constitution*;
 - (d) pass or repeal Laws as permitted by the *Constitution*;
 - (e) review performance of Kluane First Nation governing bodies;
 - (f) seek and consider the advice of Elders;
 - (g) act as a guiding authority on all matters pertaining to the political, economic, social and cultural well-being of all Citizens; and
 - (h) review annual audited financial statement.
- 7.11 Subject to article 7.10, consensus shall be encouraged in the making of any decision of the General Assembly. When such consensus cannot be attained, a decision shall require the approval of a 60% majority of those present and entitled to vote.
- 7.12 Voting on any matter shall be by a show of hands, unless an eligible Citizen requests a secret ballot, whereupon a secret ballot shall be held.
- 7.13 Every Citizen 18 years of age or older present at a General Assembly shall have one vote and the right to move or second and speak to motions.
- 7.14 There shall be no right to vote by proxy at a General Assembly.
- 7.15 The General Assembly may, by consensus, allow non-Citizens to attend General Assemblies for the purposes of observing the proceedings.
- 7.16 The General Assembly may carry out the following activities:
- (a) delegate some of its powers or authorities to another governing body within the Kluane First Nation for a specified period of time;
 - (b) authorize agreements between the Kluane First Nation government and other governments, bodies, entities, or persons; and

- (c) appoint persons or another governing body to inquire into and report upon particular matters.

7.17 The General Assembly may pass, amend and repeal Laws that apply to:

- (a) the use, management, administration, control and protection of settlement land;
- (b) the allocation or disposition of rights and interests in and to settlement land, including expropriation for the benefit of Kluane First Nation;
- (c) administration of Kluane First Nation justice, including Justice Officials, courts, and other dispute resolution mechanisms;
- (d) the use, management, administration, control and protection of Kluane First Nation monies, including the compensation funds and other monies provided under settlement agreements;
- (e) the raising of revenue by levying, or collecting fees or taxes for the use or occupation of settlement land, or other types of fees or taxes from Citizens, purchasers or services on settlement land;
- (f) rules of procedures and accountability for Kluane First Nation governing bodies;
- (g) family matters of Citizens such as marriage, adoption, and guardianship, custody, care and placement of children;
- (h) the establishment, organization and maintenance of corporations or other entities owned or controlled by the Kluane First Nation; and
- (i) such other matters that are ancillary to the foregoing.

ARTICLE 8 – KLUANE FIRST NATION COUNCIL

- 8.1 The Council shall be made up of one Chief, two Councillors-at-large, one Elder and one Youth, unless the circumstance in section 10.9(c) of the *Election Act* occurs.
- 8.2 A Citizen must be between the ages of 18 to 25 years old inclusively to run as a Youth Councillor.
- 8.3 The Elders Councillor must be a Citizen who is 60 years of age or older.
- 8.4 The Councillors-at-large must be Citizens who are 22 years of age or older.
- 8.5 The Chief must be a Citizen who is 25 years of age or older.
- 8.6 The Kluane First Nation Council shall meet at least once a month, or more often if necessary.

- 8.7 All members of the Council shall have a vote on Council matters.
- 8.8 All members of the Council shall be chosen through an election where all eligible Citizens may vote in accordance with the *Election Act*.
- 8.9 The Council shall represent all Citizens and be accountable to the annual General Assembly.
- 8.10 All members of the Council shall serve for a term of three years, which commences when Council is sworn into office pursuant to section 29 of the *Uk'à Dàts'álay (Rules for the People) Act*.
- 8.11 The Chief, if not re-elected, may remain with the Council for up to six weeks after his or her term as an advisor to the Council.
- 8.12 The responsibilities of the Council shall be to:
- (a) direct activities of the Council and Kluane First Nation;
 - (b) stipulate the date for an election of the Council that is on a mail day at least nine weeks prior to the expiry of the Council's term and direct the Election Committee to issue the Notice of Election;
 - (c) be accountable to the General Assembly for any duty the General Assembly or the *Constitution* has assigned to them;
 - (d) implement the directives and resolutions of the General Assembly or Council;
 - (e) make recommendations to the General Assembly;
 - (f) represent Kluane First Nation at meetings or approve a representative to attend meetings;
 - (g) initiate, review, approve and update Kluane First Nation policies as required;
 - (h) enact, amend and repeal Laws as permitted under this *Constitution*;
 - (i) represent and protect Citizens and their rights, titles and interests;
 - (j) ensure accountability through good management and reporting on all aspects of Kluane First Nation;
 - (k) ensure that budgets are prepared in accordance with Kluane First Nation Laws and policies;
 - (l) protect, administer and manage monies, capital and other assets of Kluane First Nation as authorized by the General Assembly;

- (m) maintain up to date financial records, ensure the maintenance of strict financial accountability of all Kluane First Nation funds and approve the annual audited financial statement. The approved audited financial statement shall be presented to the General Assembly on an annual basis;
- (n) implement Kluane First Nation Laws, policies and agreements;
- (o) provide for the establishment, registration, and maintenance of registries for Kluane First Nation Laws, Citizens, Entities, Contracts and other items directed by Council or KFN law;
- (p) publicize Kluane First Nation Laws along with the policies, actions and decisions of the Kluane First Nation governing bodies;
- (q) negotiate and conclude agreements on behalf of the Kluane First Nation;
- (r) establish committees, and appoint or remove members of the committees;
- (s) encourage the resolution of internal disputes and conflicts within the Kluane First Nation community and governing bodies;
- (t) encourage and guide Kluane First Nation to respect the traditions of its ancestors;
- (u) call meetings of the General Assembly;
- (v) call meetings of the Council;
- (w) make decisions pertaining to the creation of rights or interests in Kluane First Nation renewable and non-renewable resources;
- (x) subject to article 16.0, make decisions pertaining to the creation of rights or interests in Kluane First Nation settlement land; and
- (y) such other matters that are ancillary to the foregoing or as directed by the General Assembly.

8.13 A Council member shall not be permitted to participate in any decision of Council or enter into any arrangement, agreement or contract with the Kluane First Nation that may constitute a conflict of interest.

8.14 The Council shall have authority over any administrative task of the Kluane First Nation government.

8.15 The Council may delegate some of its administrative functions for a specified period of time, but will remain ultimately accountable for the administration of those functions.

- 8.16 The quorum of the Council shall be the Chief or Deputy Chief, and two Councillors at all duly called meetings of the Council.
- 8.17 Consensus shall be encouraged in the making of any decision of the Council. When such consensus cannot be attained, a vote will occur and majority will rule. In the event of a tie vote the Chief or Deputy Chief, as the case may be, shall cast the deciding vote.
- 8.18 Upon the resignation, incapacitation, death, or removal of a Chief or Councillor, the following methods will be used to replace that Council member:
- (a) Chief:
The Deputy Chief will act as Chief, subject to Council consensus within 72 hours, until a by-election is held.
 - (b) Councillor-at-large:
Hold a by-election.
 - (c) Youth Councillor:
Hold a by-election.
 - (d) Elder Councillor:
Hold a by-election.
- 8.19 If there is no Youth or Elder Councillor position for a specific term, Council shall assign the responsibility for bringing forth the interests of the Youth Council or Elders Council, as the case may be, to one or more members of Council.

ARTICLE 9 – CHIEF

- 9.1 The responsibilities of the Chief are as follows:
- (a) be an ex officio member of all Kluane First Nation committees;
 - (b) to ensure that the directives and resolutions of the General Assembly and the Council are carried out;
 - (c) be a member of the Leadership of the Council for Yukon Indians, or any successor to the Council for Yukon Indians;
 - (d) provide general political leadership;
 - (e) represent and protect Citizen's rights, titles and interests;
 - (f) be aware of the actions of all governing bodies;

- (g) be the spokesperson for Kluane First Nation;
- (h) make recommendations to the General Assembly or the Council as the circumstances may require; and
- (i) such other matters that are ancillary to the foregoing or as directed by the General Assembly.

9.2 The Chief shall be required to reside within the Kluane First Nation Traditional Territory during his or her term of office.

ARTICLE 10 – DEPUTY CHIEF

- 10.1 The Deputy Chief, upon approval of the Chief, shall assume all powers and duties of the Chief upon his or her absence.
- 10.2 The Deputy Chief must be a Citizen who is 22 years of age or older.
- 10.3 The Deputy Chief shall be appointed by the Council after a duly called election.
- 10.4 The Deputy Chief shall be one of the elected Councillors-at-large or the Elder Councillor.

ARTICLE 11 – ELDERS COUNCIL

- 11.1 There shall be an Elders Council made up of every Citizen and Honorary Citizen who is 60 years of age and older.
- 11.2 The Elders Council shall assist and advise the Chief, Council, and Youth Council in their functions.
- 11.3 The Elders Council shall recommend programs for Elders.
- 11.4 The Elders Council may provide advice on matters respecting the heritage, culture, language, justice and citizenship of the Kluane First Nation.
- 11.5 The Elders Council shall determine its quorum.
- 11.6 The Elders Council shall determine the procedure for the conduct of its meetings.

ARTICLE 12 – YOUTH COUNCIL

- 12.1 There shall be a Youth Council consisting of all Youth Citizens who are 13 to 25 years of age inclusively.
- 12.2 The Youth Councillor shall chair the meetings of the Youth Council or delegate this responsibility, from time to time, to another Youth.
- 12.3 The Youth Council shall determine its quorum.

- 12.4 The Youth Council shall determine the procedure for the conduct of its meetings.
- 12.5 The Youth Council shall recommend programs for Youth.

ARTICLE 13 – JUSTICE SYSTEM

- 13.1 The justice system shall be established, maintained and organized so as to function independently of other governing bodies.
- 13.2 The Kluane First Nation court, following Kluane First Nation Law, shall establish its own rules and procedures and administer its own affairs.
- 13.3 The justice system shall work toward cooperating with other governments in developing legal programs and services.
- 13.4 The justice system must remain open to the incorporation of Kluane First Nation traditional beliefs and values.
- 13.5 The General Assembly shall draft the qualifications of a Justice Official.
- 13.6 Justice Officials shall be appointed by the General Assembly.
- 13.7 Kluane First Nation may establish a system of legal aid and legal counselling for persons coming before the Kluane First Nation court under Kluane First Nation Law.

ARTICLE 14 – REMOVAL FROM OFFICE

- 14.1 A Chief or Councillor shall be removed from office if he or she:
- (a) is convicted of a serious criminal offence during his or her term of office; or
 - (b) is convicted of mismanagement of money or theft of Kluane First Nation monies.
- 14.2 A Chief or Councillor may be removed from office if he or she:
- (a) fails to attend three meetings without just cause; or
 - (b) is seen as unfit to hold office according to any one or all of the following specific criteria:
 - (i) alcohol and/or drug problems that affect his or her duties;
 - (ii) misrepresenting Citizens;
 - (iii) using position for personal or family gains; or
 - (iv) any act detrimental to Kluane First Nation.

- 14.3 Any Citizen may refer the Council or a Council member, when failing to uphold its, his or her duties and responsibilities, to the Elders Council for advice and recommendation.
- 14.4 To remove a Chief or Councillor from office a special meeting of the Citizens must be called and the quorum at this meeting shall be 15 eligible Citizens and the respective Chief or Councillor.
- 14.5 It shall be the responsibility of the Council to set up this special meeting of the Citizens upon the request of the Elders Council.
- 14.6 The special meeting of Citizens shall make all attempts to resolve, through consensus, whether the Chief or Councillor should be removed from office.
- 14.7 If the issue cannot be resolved at the special meeting of Citizens then there must be a petition, which calls for the removal of the Chief or Councillor from office, signed by at least 50% of eligible Citizens ordinarily resident in the Yukon to remove the Chief or Councillor from office.

ARTICLE 15 – LEGISLATIVE AUTHORITY

- 15.1 The General Assembly shall have legislative authority over those matters under article 7.17.
- 15.2 The Council shall have legislative authority over any matter provided under the Self-Government Agreement not specifically designated to the General Assembly in the *Constitution*.
- 15.3 Any power of the Kluane First Nation to enact laws may be delegated by a Law of the Kluane First Nation to:
 - (a) a public body in Canada having powers to enact laws;
 - (b) another Yukon First Nation;
 - (c) a tribal council; or
 - (d) the Council of Yukon First Nations,to the extent that the delegation is consistent with the *Constitution* and the Self-Government Agreement.
- 15.4 Any power of the Kluane First Nation other than a power to enact laws may be delegated by a Law of the Kluane First Nation to:
 - (a) a public body in Canada having powers to enact laws;
 - (b) another Yukon First Nation;
 - (c) a tribal council;

- (d) the Council of Yukon First Nations;
- (e) an office established by a Law of the Kluane First Nation;
- (f) a department, agency or official of Government;
- (g) a public body established by a Law of the Kluane First Nation;
- (h) a municipality, school board, local body or legal entity established by Yukon law; or
- (i) any legal entity in Canada,

to the extent that the delegation is consistent with the *Constitution* and the *Self-Government Agreement*.

- 15.5 Any delegation under article 15 , other than a delegation under articles 15.4(e) or 15.4(g), shall require consent of the delegate.
- 15.6 The Kluane First Nation has the capacity to enter into agreements to receive powers, including legislative powers, by delegation.

ARTICLE 16 – SETTLEMENT LAND

- 16.1 Kluane First Nation settlement land shall not be sold or otherwise permanently disposed of.
- 16.2 Notwithstanding 16.1, any exchange of Kluane First Nation settlement land must be approved by the General Assembly with a minimum of 75% majority of those Citizens present and eligible to vote.
- 16.3 Any granting of interests in Kluane First Nation settlement land, including leases, shall be done in accordance with Kluane First Nation Law.

ARTICLE 17 – CHALLENGING AND QUASHING OF LAWS

- 17.1 For a Kluane First Nation Law, proposal or resolution to be challenged a petition must clearly describe the Law, proposal or resolution and the petition must be signed by 35% of eligible Citizens who reside within the Yukon Territory.
- 17.2 After the petition is determined to be valid according to article 17.1, a committee shall organize a referendum for the purpose of determining whether the Law, proposal or resolution shall be quashed.
- 17.3 The committee for setting up the referendum shall be made up of three eligible Citizens appointed by the Council.
- 17.4 All eligible Citizens residing within the Yukon may vote on the referendum.

- 17.5 If 50% plus one of all eligible Citizens in the Yukon vote against the Law, proposal or resolution then it shall be quashed.
- 17.6 If the Law is not quashed under article 18 then it shall not be challenged again for two years.
- 17.7 Notwithstanding article 17.6, the Kluane First Nation court has the jurisdiction to quash a Law, proposal or resolution based on generally recognized legal principles.

ARTICLE 18 – AMENDING THE CONSTITUTION¹

- 18.1 Amendments to the *Constitution* may only be made by resolution of the General Assembly.
- 18.2 The *Constitution* may be reviewed every 5 years.
- 18.3 A citizen or the Council can propose a constitutional amendment to the General Assembly by issuing a proposal to the constitutional committee, established under this *Constitution*.
- 18.4 The Council may propose a constitutional amendment to the General Assembly to address matters of good governance or a constitutional crisis that cannot be deferred to the five year cycle review pursuant to article 18.2.
- 18.5 The Council shall provide citizens with a public notice of its intention to introduce a constitutional amendment for the purposes of article 18.4. The public notice shall be issued no less than 6 weeks prior to the date of the General Assembly.
- 18.6 Proposed constitutional amendments shall include the article number and reason for the proposed amendment. All proposals are to be submitted to the constitutional committee established under this *Constitution* no less than 30 days prior to the first day of a duly scheduled General Assembly.
- 18.7 The Council shall confirm a constitutional committee composed of five citizens who are eighteen years or older and who have been nominated by the General Assembly for a term of five years.
- 18.8 The Constitutional Committee shall be responsible to:
- (a) receive and consider all proposals to amend the *Constitution*;
 - (b) draft proposed amendments to the *Constitution* and present to the General Assembly for approval; and
 - (c) have conduct over the constitutional amendment process at the General Assembly.

¹ Articles 18.1 to 18.4 amended and articles 18.5 to 18.11 added, pursuant to Constitution Resolution 2017-11.

18.9 A proposed constitutional amendment shall:

- (a) be in the form of a resolution and delivered to the citizens with the notice of the General Assembly agenda no less than 14 days prior to the first day of the General Assembly; and
- (b) identify the specific section of the *Constitution* to be amended and provide supporting reasons for the proposed amendment.

18.10 An amendment to the Constitution other than article 18 shall require the approval by 75% of no less than 30 voting citizens.

18.11 An amendment to change the amendment process under article 18 shall require the approval by consensus of no less than 30 voting citizens.

APPENDIX "1"

KLUANE FIRST NATION CITIZENSHIP CODE

This Code was Accepted in Principle

On July 16th, 1995

At the Annual General Assembly

APPENDIX "1"

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1.0 DEFINITIONS

In this Appendix, the following definitions shall apply.

"**Adopted Child**" means a person who, while a Minor, is adopted in accordance with laws relating to adoption, including KFN Law or pursuant to Kluane First Nation customary laws.

"**Affidavit**" means a statement or declaration in writing sworn to or affirmed in front of a person having the authority to administer the oath.

"**Age of Majority**" means every Citizen who attains the age of 18 years as determined from time to time by the Laws of Yukon.

"**Arbitrator**" means the Single Arbitrator appointed by the Chair of the Dispute Resolution Board pursuant to s. 3.10.2.2 of the Final Agreement.

"**Citizenship Committee**" means the Kluane First Nation Citizenship Committee established pursuant to section 10.0 of the Code.

"**Citizenship List**" means the list of persons who are Citizens of Kluane First Nation.

"**Citizenship Registry**" means the Kluane First Nation Citizenship Registry pursuant to the Code.

"**Code**" means the Kluane First Nation Citizenship Code.

"**Constitution**" means the Kluane First Nation Constitution adopted by the Kluane First Nation General Assembly on July 16, 1995, as amended from time to time.

"**Final Agreement**" means the Kluane First Nation Final Agreement, dated October 18, 2003 and which came into effect on February 2, 2004.

"**Government**" means Canada or the Yukon, or both, depending upon which government or governments have responsibility, from time to time, for the matter in question.

"**Immediate Family Member**" means the member's spouse or common law partner; and family members directly related to the member or the member's spouse or common law partner:

- Father and Mother
- Grandparents
- Children (biological or adopted)

- Grandchildren (biological)
- Brothers and Sisters

“**Common-law partner**” means a person who has been cohabitating with a person in a conjugal relationship for at least one year, or who had been so cohabiting with the person for at least one year immediately before the person’s death.

"**Minor**" means a person who has not yet reached the Age of Majority.

"**Registrar**" means the person who is assigned the responsibilities outlined in section 7.0 of the Code.

"**Terms of Reference**" means the Citizenship Committee Terms of Reference signed by Council and amended from time to time.

"**Yukon Indian Person**" means a person enrolled under one of the Yukon First Nation Final Agreements in accordance with criteria established in Chapter 3 of the *Umbrella Final Agreement*.

2.0 ELIGIBILITY

2.1 A person shall be eligible to be enrolled as a Citizen if he or she:

- (a) qualifies to be enrolled or is enrolled as a Beneficiary pursuant to section 3.2.2 of the Final Agreement; and
- (b) is of Kluane First Nation ancestry

2.2 For the purpose of 2.1(b), an applicant seeking to enroll as a Citizen of Kluane First Nation must provide evidence satisfactory to the Citizenship Committee of the applicant’s direct matrilineal or patrilineal descent from an individual who was of 25 percent or more Kluane First Nation ancestry and ordinarily resident in the Kluane First Nation traditional territory prior to January 1, 1940

2.3 Any person enrolled as a Citizen shall not be registered as a Status Indian with another First Nation or Indian Band in Canada.

2.4 Any person enrolled as a Citizen shall not be enrolled under another aboriginal land claims settlement in Canada.

2.5 Following the attainment of the Age of Majority, a person will not be allowed to transfer back into Kluane First Nation after he or she has transferred out if that transfer took place after July 21, 2013.

3.0 ADOPTION

3.1 A person who is eligible to become a Citizen under 3.2.2.3 of the Final Agreement because he or she can establish that he or she is an Adopted Child of

a Person living or deceased who is eligible under 3.2.2.1 or 3.2.2.2 of the Final Agreement is eligible to become a Citizen even if he or she is not of Kluane First Nation Ancestry.

3.2 A child of a person who became eligible for citizenship pursuant to 3.2.2.3 of the Final Agreement is not eligible to become a Citizen unless he or she can qualify for citizenship pursuant to 2.1 (a) or (b) of this Code

4.0 APPLICATIONS

4.1 Any person, including a Minor, may apply to the Registrar to be enrolled as a Citizen.

4.2 Any parent or legal guardian may apply to the Registrar to enroll a Minor under the Code.

4.3 The Kluane First Nation shall work with other Governments to ensure that adoptive parents or legal guardians of Minors eligible for enrollment as a Citizen are made aware of the Minor's eligibility.

4.4 Any person who has been vested with the authority, pursuant to an order of a court, legislation or aboriginal custom in Canada, to manage the affairs of an adult deemed incapable of managing his or her own affairs, may apply to the Registrar to enroll that adult as a Citizen.

4.5 Applicants applying for citizenship shall be required to provide the following necessary documentation to the Registrar along with their application form:

- (a) certified copy of birth or baptismal certificate indicating the name(s) of parent(s); or sworn Affidavits indicating the identification of the parent(s) if no certificate can be located;
- (b) Appendix A-Declaration
- (c) If applicable, Appendix B-Letter to other First Nation
- (d) If applicable, Appendix C-Statement of Consent for Transfer; and
- (e) any other information the Citizenship Committee deems necessary.

4.6 After considering an application under 2.1 the Citizenship Committee shall recommend to Council to

- (a) approve the application if it is satisfied the applicant meets the eligibility criteria and the requirements of 2.3 and 2.4;
- (b) conditionally approve the application if it is satisfied the applicant meets the eligibility criteria but

- (i) the applicant is enrolled under another aboriginal land claims settlement in Canada other than the Kluane First Nation settlement; and/or
- (ii) the applicant is registered as a Status Indian with another First Nation or Indian Band in Canada other than Kluane First Nation ; or
- (c) reject the application because the applicant does not meet the eligibility criteria.

4.7 Upon recommendation from the Citizenship Committee, the Council shall approve, conditionally approve or reject the application.

4.8 If the Council conditionally approves an application, the applications shall be approved pending the receipt of documentary proof that the applicant has ceased to be enrolled under the other aboriginal land claims settlement in Canada, and/or the applicant's Indian Status has been transferred to Kluane First Nation. If the required documentary proof is not received with 90 days, the application is deemed rejected.

5.0 KLUANE FIRST NATION CITIZENSHIP REGISTRY

5.1 The Kluane First Nation shall establish and maintain a Citizenship Registry of its Citizens and Honorary Citizens.

5.2 The Citizenship Registry shall contain the following information on its Citizens and Honorary Citizens:

- (a) name;
- (b) place and date of birth;
- (c) registration number;
- (d) clan/moiety identification;
- (e) address; and
- (f) any other information relevant to enrollment that may be required.

6.0 ADDITIONS OR REMOVALS FROM CITIZENSHIP REGISTRY

6.1 The following persons will have their names removed from the Citizenship Registry:

- (a) subject to right of appeal pursuant to section 11.0, a person's name shall be removed from the Citizenship Registry, upon notification to that person, and deemed to have never been a Citizen if that person was registered by mistake or fraud; or

- (b) a person over the Age of Majority may have their name removed from the Citizenship Registry upon written request to the Registrar.
- 6.2 A Citizen who has not yet reached the Age of Majority does not lose his or her own citizenship if his or her parents renounce their citizenship.
- 6.3 Any person who is enrolled as a Citizen and is also registered as a Status Indian with another First Nation or Indian Band in Canada, shall have 60 days to elect between Kluane First Nation and the other First Nation or Indian Band in Canada following written notice from the Registrar or the Citizenship Committee. If that person elects to remain enrolled under the other aboriginal land claim settlement, then that person shall cease to be enrolled as a Citizen.
- 6.4 A person enrolled under another aboriginal land claim settlement in Canada, and who is eligible for enrollment as a Citizen, is entitled to apply to be enrolled on the condition that, if accepted for enrollment, that person shall cease to be enrolled under that other aboriginal land claim settlement.
- 6.5 A Minor who is enrolled under another aboriginal land claim settlement in Canada, and who is eligible for enrollment as a Citizen, may elect to be enrolled as a Citizen provided such election takes place within two years of the Minor attaining the Age of Majority, whereupon the Minor ceases to be enrolled under the other aboriginal land claim settlement in Canada.
- 6.6 A person who ceases to be a Citizen is not entitled to any rights, titles, benefits or interests for any purposes in Kluane First Nation.

7.0 KLUANE FIRST NATION REGISTRAR

- 7.1 The Registrar shall have the following responsibilities:
 - (a) maintain the Citizenship Registry by:
 - (i) adding to or deleting from the Citizenship Registry the name of any person who is entitled or not entitled, as the case may be, to have his or her name included or excluded from the Citizenship Registry; and
 - (ii) providing reasonable written notice to the person prior to adding or deleting his or her name from the Citizenship Registry;
 - (b) create a Citizenship List of all the names on the Citizenship Registry;
 - (c) report to Council and the Citizenship Committee on enrollment issues;

- (d) supply, receive and acknowledge receipt of an application form from any person applying for Kluane First Nation citizenship;
- (e) ensure the applicant supplies all necessary documentation before forwarding any application forms to the Citizenship Committee;
- (f) notifying each applicant, in writing, of the Citizenship Committee's and/or Council's decision respecting his or her application;
- (g) enter the applicant's name on the Citizenship Registrar if the application is successful;
- (h) enter an Honorary Citizen's name on the Citizenship Registrar if the General Assembly approves their nomination;
- (i) advise the applicant in writing of appeal procedures if the application is unsuccessful;
- (j) upon appeal, provide all requested relevant information to the Arbitrator;
- (k) provide written notice to Government of Kluane First Nation's decision to enrol an applicant. The applicant's enrollment shall come into effect 30 days from the Government's receipt of the notice;
- (l) record minutes and decisions passed at Citizenship Committee meetings; and
- (m) perform such other duties as may be assigned by the Council or Citizenship Committee.

7.2 The Registrar shall swear an oath of confidentiality, and maintain all personal information in a confidential manner.

8.0 CITIZENSHIP COMMITTEE

8.1 The Council shall appoint five Citizens to the Citizenship Committee – three Citizens and two Elders. The Citizenship Registrar shall be an ex-officio member.

8.2 The appointments to the Citizenship Committee shall be for a three year period or for a lesser term as determined by Council.

8.3 If a Citizenship Committee member is removed from office, resigns, dies or becomes incapable of performing his or her duties, the Council shall appoint a new member to the Citizenship Committee for the remaining duration of the original Citizenship Committee's member's appointment.

8.4 The quorum for the Citizenship Committee shall be three members of the Citizenship Committee not including the Citizenship Registrar.

8.5 The Citizenship Committee shall:

- (a) abide by the procedures set out in the Code and the Terms of Reference;
- (b) review, update, and amend the Citizenship Registry;
- (c) provide fair and confidential processing of applications for citizenship;
- (d) seek the advice of the Elders Council on any genealogy and residency issues.
- (e) within 120 days of receipt of an application, decide upon an application and direct the Registrar to notify the applicant in writing of the Citizenship Committee's disposition of his or her application;
- (f) provide written reasons to any applicant whose application is unsuccessful; and
- (g) perform such other duties as are necessary and incidental to the mandate of the Citizenship Committee under the Code or Terms of Reference.

8.6 No member of the Citizenship Committee shall participate in citizenship proceedings regarding that member's Immediate Family.

9.0 CITIZENS RIGHTS AND RESPONSIBILITIES

9.1 Citizens have the rights and responsibilities designated under the Constitution.

9.2 A Citizen shall be responsible for the following:

- (a) ensuring that his or her name and his or her child's name is registered on the Citizenship Registry.
- (b) informing the Registrar of any changes to any information pertaining to section 5.2.

10.0 HONORARY CITIZEN

10.1 A person who does not meet the enrollment criteria may be nominated to become an Honorary Citizen and may have such rights as are permitted by the Constitution.

10.2 To nominate a candidate for Honorary Citizen, at least by 15 Citizens who have reached the Age of Majority must sign an Honorary Citizenship Nomination Form.

The Nomination Form shall be approved or disapproved by the General Assembly upon consideration of the following factors:

- (a) the person is considered a long-term community member;
- (b) the person has a special relationship with Kluane First Nation and its people;
- (c) the person has worked towards the betterment of the Kluane First Nation and its community;
- (d) the person has knowledge of and respect for the land and the traditional way of life; or
- (e) the person respects the language and the spiritual and cultural traditions of the Kluane First Nation.

10.3 Any descendant, including a Minor, of an Honorary Citizen must apply for his or her own Honorary Citizenship.

11.0 APPEALS

11.1 Where the Council rejects an application, or fails or refuses to make a decision in respect of an application for Citizenship within 120 days, then that application will be deemed to have been rejected and a right of appeal lies to the Arbitrator appointed pursuant to section 3.10.2.2 of the Final Agreement.

12.0 AMENDMENTS

12.1 The Code may be amended through the resolution process pursuant to article 18 of the Constitution.

12.2 Amendments to the Code will become effective on the day fixed by resolution of the General Assembly.

13.0 PUBLIC ACCESS

13.1 All material received for the purposes of application for citizenship shall be confidential and may not be released without the written consent of the applicant.

13.2 Any person may examine the Citizenship List containing names only during normal Kluane First Nation business hours.

APPENDIX "2"

KLUANE FIRST NATION LEGISLATIVE PROTOCOL

This Protocol was Passed

On July 27th, 2012

At the Annual General Assembly

APPENDIX "2"

KLUANE FIRST NATION LEGISLATIVE PROTOCOL

	Activities	Timeline	Responsibility
ENGAGEMENT PHASE Initiated by Council through a motion			
<p>- Notification</p> <p>Must include: topic of the legislation, date of the community meeting (30 days' notice), and contact information.</p>	<p>Post "intent to develop <u>specific</u> legislation" notice</p> <ul style="list-style-type: none"> -KFN website -Posters in prominent public locations -E-mail to Citizens, if applicable 	<p>Max 30 days from the passing of the Council Motion</p>	<p>Council</p>
<p>- Dialogue</p> <p>Conceptual discussion with Citizens May include: presentation by Council, technical experts and staff</p> <p>Key Questions:</p>	<p>1st Community meeting</p> <ul style="list-style-type: none"> - Introduce intent of the proposed legislation -Address key questions and concerns -Decide on the need for a Legislative Committee (further action includes appointing a chair, identifying terms of reference) 	<p>Note: 14 days' notice would have been provided through the notice</p>	<p>Council to call or delegate responsibility to call meeting</p>

	Activities	Timeline	Responsibility
	Compile community input and provide to Legislative Drafter and Council (and Legislative Committee, if established)	60 days maximum (clause for extension in some circumstances)	Governance Director or designate
– Cooperative development	1st Draft of the Act is created along with a Layman’s Summary of the intended legislation	30 days minimum for public input	legislative Drafter
	Post draft on website		
	Distribute to Council, Legislative Committee, any Citizen who requests it		
	Public mail-out to all Citizens – the Layman’s Summary, generic input form and the link to full version of the draft Act Provide contact information for Governance Department		
	Record comments received		
	Acknowledge input is received		

	Activities	Timeline	Responsibility
DISTRIBUTION AND CONSULTATION PHASE * Note: 2nd mail-out may not be required if the changes are not substantial	2nd Draft of the Act is created, based on the input from the community, Council, Legislative Committee, if applicable	30 days minimum	
	Public meeting is held, IF deemed appropriate by the Council or the Legislative Committee - provide notification		
	Post 2nd Draft on the website		
Comment Form to include name, feedback and desire to be contacted option.	Mail-out Layman's Summary of 2nd draft to each household (or e-mail when appropriate) * Include Comment Form, Layman's Summary and information on accessing full draft		
	Advise Citizens of date of the Special Council meeting for approval		
	Record and compile comments received		Delegate, Legislative Committee

	Activities	Timeline	Responsibility
PRESENTATION AND APPROVAL	Final Draft is created, incorporating any final comments, as appropriate	Within 30 days	Legislative Drafter
	Mail-out Legislative Summary to all Citizens		Delegate
	Call General Assembly	7.6 – General Assembly Notice → 6 weeks 7.7 – Special General Assembly Notice → 3 weeks	Council
	Present draft Act to the General Assembly and distribute summary for use by attendees		
	Provide Citizens with the opportunity to discuss		
	General Assembly Resolution to approve and enact		General Assembly votes