

YUULU?IL?ATH CONSTITUTION



This Constitution approved by Yuulu?il?ath eligible voters on May 4, 2007 with technical and grammatical amendments approved by the Legislature in accordance with section 8.8 on April 13, 2011 and December 9, 2013

Signed

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Yuulu?il?ath First Nation

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PREAMBLE

A. Declaration of Yuulu?il?ath Identity and Territorial Existence

The Yuulu?il?ath, by this Constitution, declare our unique identity as a Nation and claim our rightful place in Canadian society.

We have, throughout time, functioned on and abided by an internal order based on our Ha'wiih and our Hahoulthee.

We have existed from time immemorial and have occupied and used the lands, waters and resources of our traditional territory, as set out in Schedule 1 to this Constitution, throughout history.

We draw our identity from our relationship to our lands and from our rich heritage, culture, language and our stories, myths and oral traditions.

We honour our ancestors and our elders and commit ourselves to the values that they preserved for us, values that provide us dignity and enhance our humanity.

As self-determining peoples, we accept the responsibilities inherent in governing ourselves and seek, with the assistance of Naas (the Creator), to govern with wisdom and respect for all people.

Through the act of governing, we assume the power to preserve our natural world and enhance our identity.

B. Declaration of Yuulu?il?ath Rights and Values

From this historic foundation we, the Yuulu?il?ath, have adopted and shaped fundamental values that unite us, define us and upon which this Constitution is based.

These values include:

- (a) a belief in, and reverence for, Naas,
- (b) honouring our ancestors,
- (c) respecting our elders,
- (d) respecting our family and kinship systems,
- (e) our unique language, and
- (f) a respect for the land, air, water and environment which encompasses the Hahoulthee of our Ha'wiih.

As a distinct people, we possess certain fundamental and inalienable human rights, rights which have never been extinguished, ceded or surrendered. These include, without limitation:

- (a) the right to our traditional territory, including rights to water and beds of water,
- (b) the right to the resources within our traditional territory,
- (c) the right to govern within our traditional territory,
- (d) the right to utilize and protect our language,
- (e) the right to practice, protect and enhance our culture,
- (f) the right to the wealth of our traditional territory and a sound economic foundation,
- (g) the right to protect our sacred and spiritual sites,
- (h) the right to protect our family and kinship systems, and
- (i) the right to define ourselves and the criteria for the identification of our citizens.

CHAPTER 1 - RIGHTS AND FREEDOMS OF YUULU?IL?ATH CITIZENS

- 1.1 An individual is entitled to be a Yuulu?il?ath citizen if that individual:
- (a) is enrolled under the Maa-nulth Treaty as a Yuulu?il?ath enrollee;
 - (b) was registered on the Ucluelet First Nation band list as of the day immediately preceding the effective date of the Maa-nulth Treaty;
 - (c) has been adopted as a child by a Yuulu?il?ath citizen under Canadian law, the Maa-nulth Treaty or in accordance with Nuu-chah-nulth custom;
 - (d) is a descendent of a Yuulu?il?ath citizen; or
 - (e) meets the criteria established under Yuulu?il?ath citizenship laws.
- 1.2 Every Yuulu?il?ath citizen enjoys all of the individual rights and freedoms guaranteed under the Constitution of Canada and by the various instruments of human rights established in international law.
- 1.3 All Yuulu?il?ath citizens are equal under this Constitution and, based on this equality and in accordance with Yuulu?il?ath customary law, possess:
- (a) the right to participate in Yuulu?il?ath political activities and elections, and to run for and hold elected office in accordance with Yuulu?il?ath law;
 - (b) the right to be informed about Yuulu?il?ath affairs;
 - (c) the right to be consulted regarding Yuulu?il?ath affairs;
 - (d) the right to express opinions and views on Yuulu?il?ath affairs;
 - (e) the right to equal employment opportunities within Yuulu?il?ath;
 - (f) the right to equal access to public services provided by Yuulu?il?ath;
 - (g) the right to a healthy life, environment and equal access to health care;
 - (h) the right to utilize the Nuu-chah-nulth language;
 - (i) the right to participate in Yuulu?il?ath culture and traditions consistent with the established practices and customs;
 - (j) the right to enter upon, remain on and leave Yuulu?il?ath lands in accordance with this Constitution and Yuulu?il?ath laws;
 - (k) the freedom to pursue a livelihood within Yuulu?il?ath lands;

- (l) the freedom to contribute to the progress and development of Yuulu?il?ath; and
- (m) the freedom to achieve their fullest potential as individuals.

CHAPTER 2 - YUULU?IL?ATH GOVERNMENT STRUCTURE

- 2.1 The Yuulu?il?ath government consists of a legislative branch, an executive branch and a people's assembly known as the Hitacu Assembly.
- 2.2 Yuulu?il?ath may, in accordance with the amending provisions of this Constitution, establish a judicial branch of the Yuulu?il?ath government.
- A. The Legislative Branch**
- 2.3 All legislative powers assumed through this Constitution are vested in the Legislature.
- 2.4 The Legislature must be composed of eight members consisting of
- (a) six elected members of the Legislature,
 - (b) one elected President, and
 - (c) one Ha'wilih chosen by the Ha'wiih in accordance with custom.
- 2.5 The elected members of the Legislature hold office for a term of four years.
- 2.6 The elected members of the Legislature must be Yuulu?il?ath citizens and at least 16 years of age.
- 2.7 The times, places and manner of holding elections must be established by the Legislature in a Yuulu?il?ath election law.
- 2.8 In the event of a tie vote for the position of President or for the final elected position on the Legislature or upon an elected position on the Legislature becoming vacant, a by-election must be held within 30 days of the previous vote or the date the vacancy occurred.
- 2.9 The Legislature must, at the beginning of each term of office, select a chairperson to be responsible for chairing meetings of the Legislature and of the Hitacu Assembly and for ensuring that the decisions of the Legislature are implemented.
- 2.10 The chairperson of the Legislature must not be a member of the Legislature and may only vote in decisions of the Legislature to break a tie vote.
- 2.11 An advisory body composed of the Yuulu?il?ath Ha'wiih (the Yuulu?il?ath hereditary chiefs) is established with the name Ha'wiih Advisory Council.
- 2.12 Representation on the Ha'wiih Advisory Council must be determined in accordance with customary practices.

- 2.13 The Legislature must consult with and seek the advice of the Ha'wiih Advisory Council in relation to Yuulu?i?ath culture and traditional values, Yuulu?i?ath customary laws and matters relating to this Constitution in accordance with the rules of procedure for the Legislature.
- 2.14 No Yuulu?i?ath law has force and effect until that law has been passed by a majority of a quorum of the Legislature and certified by the President.
- 2.15 Except for Yuulu?i?ath customary laws, all Yuulu?i?ath laws will be published and made available to Yuulu?i?ath citizens within ten days of coming into effect.

B. The Executive Branch

- 2.16 The executive powers of the Yuulu?i?ath government are vested in the President and any individual member of the Legislature designated by a majority of a quorum of the Legislature to hold a specific portfolio.
- 2.17 The Legislature may establish or dissolve executive portfolios at any time.
- 2.18 Each member of the Executive is directly accountable to the Legislature and must report to the Legislature on a regular basis or as requested by the Legislature.
- 2.19 Members of the Executive have the duty and power to enforce Yuulu?i?ath laws and manage Yuulu?i?ath affairs, Yuulu?i?ath financial administration and the operation of the Yuulu?i?ath government in accordance with Yuulu?i?ath laws.
- 2.20 Subject to instructions given by the Legislature, the members of the Executive, within the areas of their respective portfolios, are responsible for representing the Yuulu?i?ath in intergovernmental relations, including relations with other First Nations.
- 2.21 The President, as chief executive of the Yuulu?i?ath government, has the duty and power, subject to direction from the Legislature, to:
- (a) represent the Yuulu?i?ath government in relations with local, provincial and federal governments, other First Nations and indigenous organizations nationally and internationally;
 - (b) ensure that Yuulu?i?ath citizens are fully informed on social, legal and political issues that affect the Yuulu?i?ath;
 - (c) develop and maintaining effective systems of communication with Yuulu?i?ath citizens, third parties and other governments;
 - (d) protect and enhance Yuulu?i?ath treaty rights;

- (e) ensur this Constitution and Yuulu?i?ath laws and policies are adhered to and enforced;
 - (f) develop and maintain a sound Yuulu?i?ath economy;
 - (g) promote and protect Yuulu?i?ath values, culture, traditions and language; and
 - (h) properly manage and administer the Yuulu?i?ath government.
- 2.22 The Legislature may designate a member of the Legislature to assume the powers and duties of the President on an interim basis in the event the President is, for whatever reason, unable to exercise the powers and perform the duties of that office.
- 2.23 The Legislature may establish any public institution or body that it deems necessary to perform the duties or exercise the powers of the Yuulu?i?ath government or to protect or advance the interests of the Yuulu?i?ath.
- C. Hitacu Assembly**
- 2.24 The Hitacu Assembly must be convened at least four times annually, with at least one meeting deemed to be the Yuulu?i?ath Annual General Assembly.
- 2.25 The Hitacu Assembly that is deemed to be the Yuulu?i?ath Annual General Assembly must include on its agenda the annual Yuulu?i?ath financial report, including remuneration paid to the Legislature.
- 2.26 The President, in consultation with the Legislature and the Ha'wiih Advisory Council, may at any time call a special Hitacu Assembly to address important Yuulu?i?ath issues.
- 2.27 The President must convene the Hitacu Assembly in accordance with procedures established by the Legislature.
- 2.28 Subject to section 2.29, every Yuulu?i?ath citizen has the right to attend and participate in the Hitacu Assembly.
- 2.29 Every Yuulu?i?ath citizen that has attained the age of 16 has the right to vote on any resolution presented at the Hitacu Assembly.
- 2.30 The Hitacu Assembly may, by a majority vote of those in attendance, pass a resolution making a recommendation to the Legislature or requiring a referendum on any issue, with that referendum to be held in accordance with a referendum law established by the Legislature.

- 2.31 Any resolution of the Hitacu Assembly calling for a referendum must be provided to the President in writing at least 45 days before the Hitacu Assembly at which the resolution is to be considered.
- 2.32 Upon receipt of the proposed resolution, the President must ensure the date of the Hitacu Assembly at which the proposed resolution is to be considered is made public and provided to all Yuulu?il?ath citizens.

D. Committees

- 2.33 The Legislature may establish standing or special committees to assist in the discharge of its powers and duties.
- 2.34 All committees may include any Yuulu?il?ath citizen over the age of 16 and will include at least one member of the Legislature.
- 2.35 All committee members who are members of the Legislature are ex officio and may not vote in committee decisions.
- 2.36 The Legislature must establish terms of reference for each committee and must appoint all committee members in accordance with the committee's terms of reference.
- 2.37 In appointing committee members, the Legislature must endeavour to ensure there is representation on the committee by Yuulu?il?ath citizens residing both on and off of Yuulu?il?ath lands.
- 2.38 Committee membership and the procedures for selecting committee members must be made public.
- 2.39 The standing committees must include:
- (a) a standing committee on finance;
 - (b) a standing committee on treaty implementation;
 - (c) a standing committee on economic development; and
 - (d) a standing committee on personnel.
- 2.40 All standing and special committees may make recommendations to the Legislature.

CHAPTER 3 - LEGISLATIVE AUTHORITY

- 3.1 The Yuulu?il?ath government has the right to assume and exercise all law-making authorities set out in the Maa-nulth Treaty and any law-making authorities set out in non-Treaty agreements with Canada or British Columbia.
- 3.2 In accordance with the respective provisions of the Maa-nulth Treaty, the Legislature has the authority to make laws for the following:
- (a) Yuulu?il?ath citizenship;
 - (b) Yuulu?il?ath government structures and procedures;
 - (c) Yuulu?il?ath lands and land management;
 - (d) Yuulu?il?ath resources on Yuulu?il?ath lands;
 - (e) Yuulu?il?ath public institutions and Yuulu?il?ath corporations;
 - (f) Yuulu?il?ath assets;
 - (g) Adoption;
 - (h) Child protection services;
 - (i) Child care services;
 - (j) Education in respect of kindergarten to grade 12;
 - (k) Post-secondary education;
 - (l) Education in respect of language and culture;
 - (m) Solemnization of marriages;
 - (n) Social development;
 - (o) Health services;
 - (p) Culture and heritage;
 - (q) Management and distribution of fish and aquatic plants for domestic purposes;
 - (r) Management and distribution of wildlife and migratory birds for domestic purposes;

- (s) Renewable resource harvesting within federal and provincial parks and protected areas;
 - (t) Water;
 - (u) Preservation and conservation of the environment;
 - (v) Taxation;
 - (w) Public works;
 - (x) Buildings and structures;
 - (y) Regulation, licensing and prohibition of business;
 - (z) Traffic, transportation, parking and highways;
 - (aa) Public order, peace and safety;
 - (bb) Emergency preparedness;
 - (cc) Conflicts of interest;
 - (dd) Conduct of public officials;
 - (ee) Access to information;
 - (ff) Enforcement of Yuulu?i?ath laws; and
 - (gg) Any other law-making authority set out in the Maa-nulth Treaty or in any non-Treaty agreement with Canada or British Columbia.
- 3.3 On the effective date of the Maa-nulth Treaty, the Yuulu?i?ath Legislature must bring into force and effect:
- (a) rules of procedure for the Legislature;
 - (b) a Yuulu?i?ath election law;
 - (c) a Yuulu?i?ath code of conduct;
 - (d) a Yuulu?i?ath conflict of interest law;
 - (e) a Yuulu?i?ath financial administration law;
 - (f) a Yuulu?i?ath citizenship law;
 - (g) a Yuulu?i?ath land law;

- (h) a Yuulu?il?ath dispute resolution law;
 - (i) a Yuulu?il?ath referendum law; and
 - (j) any other law that the Legislature deems necessary for the proper management of Yuulu?il?ath affairs as of the effective date of the Maa-nulth Treaty.
- 3.4 To the extent that the Legislature chooses not to exercise a law-making authority set out in section 3.2, federal or provincial law in relation to that authority continue to apply until such time as the authority is exercised by the Legislature.
- 3.5 The Legislature must exercise any law-making authorities set out in non-Treaty agreements with Canada or British Columbia.
- 3.6 In the event of an inconsistency or conflict between this Constitution and the provisions of any Yuulu?il?ath law, the Yuulu?il?ath law, to the extent of the inconsistency or conflict, is of no force or effect.

CHAPTER 4 - YUULU?IL?ATH LAND SYSTEM

- 4.1 As of the effective date of the Maa-nulth Treaty, the underlying title to all Yuulu?il?ath lands is vested collectively in the Yuulu?il?ath.
- 4.2 The quantity of Yuulu?il?ath lands, as set it out in the Maa-nulth Treaty, must not be reduced except as provided for in the Maa-nulth Treaty.
- 4.3 The boundaries of Yuulu?il?ath lands as set out in the Maa-nulth Treaty must not be altered except as provided for in the Maa-nulth Treaty or if approved by at least 50% plus one of Yuulu?il?ath eligible voters in a referendum held to approve the boundary alteration.
- 4.4 Prior to the effective date of the Maa-nulth Treaty, the Legislature must develop a Yuulu?il?ath land law for review by Yuulu?il?ath citizens.
- 4.5 The Yuulu?il?ath land law must address, among other things, the following:
- (a) the nature and extent of the rights of individual Yuulu?il?ath citizens in and to Yuulu?il?ath lands;
 - (b) the powers of the Yuulu?il?ath government to administer, regulate, expropriate and grant interests in Yuulu?il?ath lands;
 - (c) land transactions that will require approval of Yuulu?il?ath citizens by referendum;
 - (d) procedures for raising title to, and registering interests in, Yuulu?il?ath lands;
 - (e) procedures for addressing interests of non-Yuulu?il?ath individuals in Yuulu?il?ath lands;
 - (f) the regulation of mortgages and other forms of security in relation to Yuulu?il?ath lands;
 - (g) procedures for zoning and land use planning; and
 - (h) any other matter that the Legislature deems necessary for a comprehensive land law.
- 4.6 Despite the conveyance or alienation of any estate or interest in Yuulu?il?ath lands, all lands that are subject to that estate or interest continue to be Yuulu?il?ath lands and subject to the jurisdiction of the Yuulu?il?ath government.

CHAPTER 5 - FINANCIAL ADMINISTRATION AND ACCOUNTABILITY

- 5.1 The Legislature, in exercising its financial powers, including the power to raise and expend revenues, must make a law to establish a system of financial management and administration that is:
- (a) effective and efficient in the use of Yuulu?ih?ath financial resources;
 - (b) open and accountable; and
 - (c) includes standards comparable to those generally accepted for governments in Canada.
- 5.2 The Legislature must establish a standing committee on finance and that committee must make recommendations to the Legislature on any financial matter and in relation to any law regarding financial matters.
- 5.3 The Legislature must establish rules and terms of reference for the standing committee on finance, including such matters as:
- (a) rules of procedure;
 - (b) frequency of meetings;
 - (c) time periods for performing duties; and
 - (d) the ability to seek advice from persons with relevant expertise.
- 5.4 The Legislature must request and consider a report from the standing committee on finance prior to:
- (a) preparing the annual Yuulu?ih?ath financial report;
 - (b) entering into financial agreements or taxation agreements with Canada or British Columbia; or
 - (c) making laws that substantially affect the finances of Yuulu?ih?ath.
- 5.5 The Legislature must prepare a draft annual budget for presentation at a Hitacu Assembly each year at least 30 days prior to the fiscal year end.
- 5.6 The annual audited financial statements for Yuulu?ih?ath, including the annual audited financial statements for any corporate entity owned, in whole or in part, by Yuulu?ih?ath, must be presented at a Hitacu Assembly within 90 days of the fiscal year end.

- 5.7 The Legislature may borrow money or guarantee loans subject to a law made for such purposes and that law must be reviewed by the Hitacu Assembly prior to being brought into force and effect.

CHAPTER 6 - CODE OF CONDUCT AND CONFLICT OF INTEREST

- 6.1 The Yuulu?il?ath government must be administered in a manner that:
- (a) adheres to the highest ethical standards;
 - (b) efficiently uses Yuulu?il?ath resources;
 - (c) provides services on an equitable and impartial basis; and
 - (d) responds to the needs of Yuulu?il?ath citizens in a timely and accessible manner.
- 6.2 Members of the Legislature must conduct themselves at all times with integrity and respect for their positions and must place the interests of the Yuulu?il?ath ahead of their own as they exercise their powers and perform their duties.
- 6.3 As of the effective date of the Maa-nulth Treaty, the Legislature must bring into force and effect a code of conduct and conflict of interest law.

CHAPTER 7 - DISPUTE RESOLUTION

- 7.1 On the effective date of the Maa-nulth Treaty, the Legislature must bring into force and effect a Yuulu?il?ath dispute resolution law which provides for, among other things, a process for challenging the validity of Yuulu?il?ath laws and a process for appealing or reviewing administrative decisions of the Yuulu?il?ath government or Yuulu?il?ath public institutions.

CHAPTER 8 - CONSTITUTIONAL AMENDMENTS

- 8.1 An amendment to this Constitution may be initiated by:
- (a) a resolution passed by a majority of a quorum of the Legislature; or
 - (b) the presentation of a petition to the Legislature signed by at least 40 Yuulu?i?ath citizens 16 years of age or older identifying the specific Constitutional amendment proposed.
- 8.2 Upon passage of a resolution or receipt of a petition identified in section 9.1, the Legislature must develop wording for the proposed Constitutional amendment.
- 8.3 Prior to conducting a referendum on the proposed amendment, the Legislature must:
- (a) provide full information on the proposed amendment by way of written material and other forms of publication to all Yuulu?i?ath citizens;
 - (b) provide all Yuulu?i?ath citizens with at least 30 days' notice of a special Hitacu Assembly, including the date, time and location of the Assembly, and a summary of the proposed amendment;
 - (c) conduct the special Hitacu Assembly in order to seek the views of Yuulu?i?ath citizens on the proposed amendment;
 - (d) seek the advice of the Ha'wiih Advisory Council on the proposed amendment; and
 - (e) make any changes to the wording of the proposed amendment that the Legislature deems appropriate in light of the advice received from the Hitacu Assembly and the Ha'wiih Advisory Council.
- 8.4 Within 30 days of the special Hitacu Assembly, the Legislature must conduct a referendum on the proposed Constitutional amendment in accordance with the procedures set out in the Yuulu?i?ath referendum law.
- 8.5 This Constitution may be amended on the following basis:
- (a) in the period from the effective date of the Maa-nulth Treaty until the 10th anniversary of the effective date of the Maa-nulth Treaty, with the approval of at least 40% of Yuulu?i?ath eligible voters on the voters list at the time of the referendum,
 - (b) in the period from the 10th anniversary of the effective date of the Maa-nulth Treaty to the 20th anniversary of the effective date of the

Maa-nulth Treaty, with the approval of at least 50% of Yuulu?il?ath eligible voters a on the voters list at the time of the referendum, and

- (c) any time after the 20th anniversary of the effective date of the Maa-nulth Treaty, with the approval of at least 60% of Yuulu?il?ath eligible voters on the voters list at the time of the referendum.
- 8.6 This Constitution is deemed to be amended as of the date of certification by the President of the required level of approval by Yuulu?il?ath eligible voters.
- 8.7 The Legislature must publish a notice of the approved Constitutional amendment.
- 8.8 Despite the provisions of this Chapter, the Legislature may, by a resolution passed by a majority of a quorum of the Legislature, make technical or grammatical amendments to this Constitution.

