



Constitution of the
Kwanlin Dün First Nation



**CONSTITUTION OF THE
KWANLIN DÜN FIRST NATION**

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Preamble

We are the Citizens of the Kwanlin Dün First Nation living together in the Traditional Territory of the Kwanlin Dün First Nation. We acknowledge the Tagish Kwan as the original people who live and occupy the lands within the Traditional Territory, which lie at the headwaters of the Yukon River.

We recognise the goodness and generosity of the Creator.

We respect the land and water, and all that is on the land and in the water.

We honour the Wolf and Crow clans and celebrate their role in preserving our languages, culture and traditions, as received through our matrilineal heritage.

We respect the knowledge of our Elders.

We acknowledge the many aboriginal people from other first nations who have enriched our lives.

We have the inherent right to govern ourselves as an aboriginal people within Canada.

Together we are determined:

To maintain and preserve our relationship with the land, resources and living things on the land in the Traditional Territory of the Kwanlin Dün First Nation, now and into the future;

To preserve and promote our traditional languages, practices, and culture;

To protect our youth and children, instil in them an awareness of their aboriginal identity and values, promote their education and enhance their future;

To strive for economic, community, spiritual and personal well-being;

To express and protect our aboriginal rights and our rights under the Kwanlin Dün First Nation Final Agreement and the Kwanlin Dün First Nation Self-Government Agreement; and

To exercise effectively the powers of the Kwanlin Dün First Nation.

With pride and confidence in ourselves as a people and a Nation, we adopt this Constitution as our fundamental law.

We are the Kwanlin Dün. May the Creator preserve our land and Nation, and give us the wisdom to honour, protect and fulfil this Constitution.

Kwanlin Dün First Nation Constitution

Chapter One - Fundamental Principles

1. Kwanlin Dün First Nation and Citizens

- (1) In accordance with the inherent right of self-government and the Kwanlin Dün First Nation Self-Government Agreement, the Kwanlin Dün declare and confirm the establishment of the Kwanlin Dün First Nation to:
 - (a) promote the common interests and shared welfare of the Kwanlin Dün; and
 - (b) give effect to:
 - (i) the Kwanlin Dün First Nation Final Agreement, as recognised and protected by the Constitution of Canada, and
 - (ii) the Kwanlin Dün First Nation Self-Government Agreement.

2. Supremacy of the Constitution

- (1) This Constitution is the supreme law of the Kwanlin Dün First Nation.
- (2) If any law enacted by the Kwanlin Dün First Nation is inconsistent with this Constitution, that law is, to the extent of the inconsistency, of no force or effect.
- (3) Each Schedule attached to this Constitution is part of the Constitution, unless a provision of this Constitution expressly states that a particular Schedule has the status of ordinary Kwanlin Dün First Nation legislation.

3. Language and Culture

- (1) The Kwanlin Dün expect the Kwanlin Dün First Nation to respect the clan system and to foster Kwanlin Dün traditional languages, practices and culture.

4. Governing Principles and Goals

- (1) The Kwanlin Dün expect the Kwanlin Dün First Nation to:
 - (a) act as the steward of the land, resources, and all living things on and within our Traditional Territory;
 - (b) speak with a unified voice to promote the diversity of Citizens;
 - (c) encourage respect for all Citizens, especially the Elders and the youth and children;
 - (d) provide good, honest, open and progressive government, led by accountable and democratically elected leaders; and
 - (e) implement and uphold the Final Agreement and the Self-Government Agreement, and administer effectively and efficiently the benefits flowing from each of those agreements.
- (2) The Kwanlin Dün expect the Kwanlin Dün First Nation to pursue policies that will:
 - (a) foster a strong quality of life in our community so that we may nourish and heal the physical, mental, emotional and spiritual health of our Citizens;
 - (b) strengthen the educational, social, economic and political growth of Citizens;
 - (c) administer in an effective and efficient manner all services and programs provided to Citizens; and
 - (d) support and represent the interests of all Citizens in relation to various governments at the local, regional, territorial and national levels.

5. Responsibilities of Kwanlin Dün Citizens

- (1) The Kwanlin Dün acknowledge their desire and commitment to
 - (a) honour and carry forward their culture, languages, traditions, clan system and laws;
 - (b) care for and protect the land, resources and all living things on the land within our Traditional Territory;
 - (c) respect the Elders;

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- (d) nurture the youth and children who are the future of the Kwanlin Dün First Nation;
- (e) nurture family life and promote the value of the traditional family;
- (f) respect one other, and all of those who come into contact with the Kwanlin Dün First Nation;
- (g) create and maintain a warm and healthy community; and
- (h) respect the rights and entitlements of the Beneficiaries.

Chapter Two - Citizenship

6. Kwanlin Dün Citizenship

- (1) Eligibility for, and recognition of, Citizenship is governed by this Chapter, and the Kwanlin Dün Citizenship Code, set out in Schedule 2.
- (2) Each Citizen is:
 - (a) equally entitled to the rights, privileges and benefits of Citizenship, as set out in this Constitution and Kwanlin Dün law; and
 - (b) equally subject to the duties and responsibilities of Citizenship.

7. Entitlement to Citizenship

- (1) Subject to Section 10, a person is entitled to be a Citizen if that person:
 - (a) was registered, or was on the Department of Indian Affairs Kwanlin Dün Band List, on the Effective Date;
 - (b) is a Beneficiary; or
 - (c) is a child of a person who is entitled to Citizenship in accordance with paragraph (a) or (b).

8. Eligibility to Apply for Citizenship

- (1) A person who is not entitled to be a Citizen under Section 7 may apply to the Citizenship Committee to become a Citizen if that person:
 - (a) is the spouse of a Citizen;
 - (b) has established permanent residency in the Traditional Territory; or
 - (c) is recommended for Citizenship by the Elders Council.
- (2) The Citizenship Committee may grant Citizenship to an applicant under this section if the Committee is satisfied that the applicant meets the requirements of:
 - (a) this Constitution; and
 - (b) any applicable criteria set out in
 - (i) the Citizenship Code; and
 - (ii) Kwanlin Dün First Nation law or policies.

9. Continuation of Citizenship

- (1) A person retains Citizenship even if:
 - (a) either or both of the person's parents ceases to be a Citizen; or
 - (b) the person is adopted by a person who is not a Citizen.

10. Loss of Citizenship

- (1) The Citizenship Committee may annul the Citizenship of a person if the Committee has determined that the person:
 - (a) was incorrectly enrolled or granted Citizenship on erroneous or fraudulent grounds; and
 - (b) does not qualify as a Citizen.

11. Transfer of Citizenship

- (1) A Citizen who becomes a citizen of another Yukon First Nation is deemed to have renounced their Citizenship.

12. Citizenship Legislation

- (1) The Kwanlin Dün First Nation must maintain legislation that will provide for recognition of Citizenship, application for Citizenship, and loss and restoration of Citizenship.
- (2) The Kwanlin Dün First Nation Citizenship Code set out in Schedule 2 has the status of ordinary Kwanlin Dün First Nation legislation, as if it had been enacted in accordance with this Constitution, on the Effective Date.

Chapter Three - Rights of Beneficiaries

13. Beneficiary Policies

- (1) Within 18 months after the Effective Date, the Council must develop and present to the Beneficiaries for their review and approval the following policies:
 - (a) A policy respecting the investment and use of funds paid under the Final Agreement, but not in respect of funds paid under
 - (i) the Collateral Agreement; or
 - (ii) the Kwanlin Dün First Nation Financial Transfer Agreement.
 - (b) A policy respecting the use and disposition of Settlement Land, as defined in the Final Agreement, but not including any of the following parcels of land as identified under the Final Agreement:
 - (i) the Old Village as described in paragraph 4.1.1 of the Final Agreement, being the area commonly known as Lot 226; and
 - (ii) Parcel C-41B, commonly known as the McIntyre Subdivision.
 - (c) A policy respecting consultation with Beneficiaries concerning approval of any amendment to the Final Agreement.
- (2) In addition to the policies required by subsection (1), the Council may develop and present to the Beneficiaries for their review and approval any other policy to give better effect to the Final Agreement.
- (3) The Council may not adopt a policy under this Chapter, or amend such a policy, until a meeting of Beneficiaries has approved the policy or amendment in accordance with section 16.

14. Constitutional Protection of Beneficiary Policies

- (1) Any Kwanlin Dün First Nation legislation, regulation or policy must be consistent with any policy adopted by the Beneficiaries in accordance with this Chapter.

15. Transitional Authority over Funds Received under the Final Agreement and Settlement Land

- (1) Until a policy contemplated under Section 13(1)(a) has been adopted, the Kwanlin Dün First Nation:
 - (a) must hold the funds referred to in that section, and any income from such funds, on deposit with a Canadian chartered bank until those funds are, or that income is, to be invested, pledged or deposited in accordance with paragraph (b); and
 - (b) may invest, pledge or deposit such funds or income only in real property, personal property, or a mixture of real and personal property, and with the judgement and care that any person of prudence, discretion and intelligence would exercise as a trustee of the property of others.
- (2) Until a policy contemplated under Section 13(1)(b) has been adopted, the Kwanlin Dün First Nation may not dispose of or alienate any interest in any Settlement Land to which that section applies, except by way of a licence, or lease, with a term of no more than three years.

16. Beneficiaries Meetings and Referenda

- (1) The Council must convene at least one meeting open to every Beneficiary, whenever the Council proposes to adopt or amend a policy required under this Part.
- (2) The Council:
 - (a) may convene a meeting of Beneficiaries at any time; and
 - (b) must convene such a meeting if 40 or more Beneficiaries have signed a Beneficiaries' order calling for a meeting and submitted it to the Council.
- (3) The Council must give Beneficiaries of voting age at least 30 days written notice of each meeting convened under this section by:
 - (a) posting the notice at all Kwanlin Dün First Nation administrative offices; and
 - (b) publishing a copy of the notice in a newspaper having circulation in Yukon; and
 - (c) causing the notice to be broadcast by radio or television in Yukon.

- (4) Every meeting of Beneficiaries convened under this section must be held in the Traditional Territory.
- (5) The Council may postpone a meeting of Beneficiaries in case of death in the community or a natural disaster. In that case, the meeting will convene no later than 14 days later.
- (6) The Council is responsible to arrange and facilitate meetings of Beneficiaries.
- (7) The Chief presides at a meeting of Beneficiaries.
- (8) A meeting of Beneficiaries convened under this section:
 - (a) may review a proposed policy or proposed amendment to a policy; and
 - (b) by consensus, or by a vote supported by at least a majority of the Beneficiaries present and voting at the meeting, may approve the form of a proposed policy or amendment to a policy to be put to a referendum of Beneficiaries under subsection (9).
- (9) As soon as practicable after the form of a proposed policy or proposed amendment to a policy has been approved for submission to a referendum of Beneficiaries, the Council must conduct a referendum by providing a mail-in ballot to every Beneficiary who will have attained at least age 18 on the last date for voting in the referendum.
- (10) A proposed policy, or proposed amendment to a policy, will have been adopted by the Beneficiaries if it is supported by at least a majority of all Beneficiaries entitled to vote in that referendum.
- (11) Kwanlin Dün First Nation legislation may establish additional:
 - (a) procedures for convening and giving notice of Beneficiaries' meetings;
 - (b) rules of procedure to be followed at those meetings; and
 - (c) rules for the conduct of Beneficiaries' referenda.

Chapter Four - The Rights and Freedoms of Citizens

17. Duty of Kwanlin Dün First Nation to Promote Rights and Freedoms

- (1) The Kwanlin Dün First Nation must respect the rights and freedoms of Citizens as set out in this Chapter whenever any branch of the Kwanlin Dün First Nation:
 - (a) makes policy or enacts law;
 - (b) implements policy or legislation;
 - (c) performs any of its functions; or
 - (d) exercises any of its powers.
- (2) This Chapter does not deny or limit any other rights or freedoms of Citizens that are recognised or conferred by common law, customary law, legislation, or the Canadian Constitution.

18. Equality

- (1) Every Citizen is equal before Kwanlin Dün First Nation law and has the right to equal protection and equal benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms under this Constitution.

19. Political Rights and Freedoms

- (1) The Kwanlin Dün have the collective right to determine the nature of Citizenship in accordance with traditional customs, traditions and preferences, and this Constitution.
- (2) Every Citizen has the right to make political choices, to participate in political activities and to express a view on any public issue.
- (3) Subject to requirements set out in Kwanlin Dün First Nation law, every Citizen is eligible:
 - (a) to vote in Kwanlin Dün First Nation elections;
 - (b) to stand for office; and
 - (c) if elected, to hold office.

- (4) Every Citizen has the right to:
- (a) reasonable access to information that is held by the Kwanlin Dün First Nation, with due respect for privacy rights and the need for the Kwanlin Dün First Nation to proceed in an efficient and effective manner; and
 - (b) seek an appeal or review of any decision by Kwanlin Dün First Nation, to the extent provided for, and in accordance with the procedures established, in this Constitution or Kwanlin Dün First Nation law.

20. Protection of Rights and Freedoms

- (1) A Citizen whose rights and freedoms, as guaranteed by this Constitution, have been infringed or denied may apply to the Judicial Council for a declaration within the jurisdiction of the Judicial Council.
- (2) The guarantee of rights and freedoms in this Constitution are in addition to any other rights and freedoms that exist in Canada.
- (3) The rights and freedoms guaranteed in this Constitution are subject only to limits prescribed by law that can be demonstrated and justified in accordance with Kwanlin Dün traditions, and the free and democratic nature of Kwanlin Dün society.

Chapter Five - Kwanlin Dün Government Structure

21. Branches of Government

- (1) The Kwanlin Dün First Nation consists of the following five branches:
 - (a) the General Assembly, in which all Citizens may participate in person, to advise and direct the Kwanlin Dün First Nation;
 - (b) the Elders Council, in which Elders may participate to provide guidance and wisdom to the Kwanlin Dün First Nation;
 - (c) the Youth Council, in which representatives of young Citizens learn to carry public responsibility within the Kwanlin Dün First Nation, and through which they may provide the views of young Citizens and advice to the Kwanlin Dün First Nation;
 - (d) the Council, in which the Chief, and other elected and appointed representatives of Citizens, make and administer the Kwanlin Dün First Nation law, develop public policy, and carry out other responsibilities of the Kwanlin Dün First Nation;
 - (e) the Judicial Council, in which appointed Citizens assist the Kwanlin Dün First Nation and Citizens in resolving disputes.
- (2) A branch of the Kwanlin Dün First Nation must not exercise any power allocated by this Constitution to another branch of the Kwanlin Dün First Nation except as specifically authorized in this Constitution.
- (3) The Kwanlin Dün First Nation, each of its institutions, and each person elected or appointed to office within the Kwanlin Dün First Nation, must:
 - (a) protect the interests of the Citizens and uphold this Constitution;
 - (b) preserve and promote the peace, unity and well-being of Citizens; and
 - (c) provide good, honest, open, progressive, effective and accountable government to Citizens.

22. Elections

- (1) A Regular Election must be held on the third Wednesday of March in 2005, and every third year after that, for every elected office within a branch of the Kwanlin Dün First Nation.

- (2) At least 90 days before the date of an election, the Council must appoint a Chief Electoral Officer, who is responsible to conduct the election in accordance with the provisions of the Kwanlin Dün First Nation Electoral Code, set out in Schedule 3.
- (3) A Citizen who is at least 18 years of age may nominate or second the nomination of, and vote for a candidate for any elected office within the Kwanlin Dün First Nation.
- (4) A Citizen who is at least 18 years of age may be a candidate for any elected office within the Kwanlin Dün First Nation, unless that person has been Finally Convicted of an indictable offence under the Criminal Code of Canada within three (3) years immediately before the closing date for nominations in that election.
- (5) The Kwanlin Dün First Nation must maintain legislation that will provide for election procedures.
- (6) The Kwanlin Dün Electoral Code set out in Schedule 3 has the status of ordinary Kwanlin Dün legislation, as if it had been enacted in accordance with this Constitution, on the Effective Date.

23. Residency and Oath of Office

- (1) A person who holds any elected office in the Kwanlin Dün First Nation must be ordinarily resident within the Traditional Territory for the person's entire term of office.
- (2) Each person who is elected or appointed to any office established by this Constitution must, before assuming office:
 - (a) take and sign the Oath of Office and Oath of Allegiance, set out in Schedule 1; and
 - (b) make a further declaration in writing, sworn to or affirmed in front of a person having the authority to administer such an oath, confirming that the person taking office is eligible to hold that office in accordance with the requirements of this Constitution, and Kwanlin Dün First Nation law.

- (3) Kwanlin Dün First Nation legislation may prescribe:
 - (a) the wording of declarations for any office within the Kwanlin Dün First Nation; and
 - (b) the procedures to be followed in taking and signing an oath of office or making a declaration.

24. Conduct in Office

- (1) Each person who holds an elected or appointed office in the Kwanlin Dün First Nation must comply with the requirements of the Kwanlin Dün First Nation Code of Conduct, set out in Schedule 4.
- (2) The Kwanlin Dün First Nation must maintain legislation that will provide for rules of conduct of elected and appointed office holders.
- (3) The Kwanlin Dün First Nation Code of Conduct, set out in Schedule 4, has the status of ordinary Kwanlin Dün legislation, as if it had been enacted in accordance with this Constitution, on the Effective Date.

25. Duration of Office

- (1) A person elected or appointed to hold office in the Kwanlin Dün First Nation serves for a term that expires when the successor to that person has been elected or appointed and has complied with section 23 (2).
- (2) A vacancy occurs in an elected or appointed office in the Kwanlin Dün First Nation if the person serving in that office:
 - (a) dies or resigns;
 - (b) is removed from office in accordance with this Constitution; or
 - (c) if the person is found to have forfeited their office in accordance with this Constitution.
- (3) If a vacancy occurs in the office of Chief, the acting Chief serves in the office of Chief until a new Chief:
 - (a) has been elected in accordance with subsection (4)(b); and
 - (b) has complied with section 23 (2).

- (4) Within 90 days after a vacancy occurs:
 - (a) in an appointed office other than the Judicial Council, the Council must appoint a person to fill the vacancy until a person is appointed to a new term in accordance with the law governing that office; or
 - (b) in an elected office, the Council must set a date for, and appoint a Chief Electoral Officer to conduct, a by-election to fill that vacancy, subject to subsection (5).
- (5) Subsection (4)(b) does not apply to a vacancy in an elected office that occurs within 8 months immediately before the date on which a Regular Election is required under section 22(1).

26. Resignation from Office

- (1) A person who holds an elected or appointed office in any branch of Kwanlin Dün First Nation, other than the Chief, may resign by giving notice in writing to the Chief.
- (2) The Chief may resign by giving notice in writing to the Council.
- (3) A resignation takes effect on the later of:
 - (a) the date on which the letter of resignation is received by the Chief, or Council, as the case may be; or
 - (b) the date set out in the letter for the resignation to take effect, if any.
- (4) A letter of resignation that has been received by the Chief or the Council may not be withdrawn.

27. Loss of Office for Cause

- (1) A person who is elected or appointed to hold an office established by this Constitution forfeits their office if that person:
 - (a) ceases to ordinarily reside within the Traditional Territory;
 - (b) is discovered to have knowingly made a false statement on a declaration made under section 23(2)(b); or
 - (c) is Finally Convicted of an indictable offence under the Criminal Code of Canada.

- (2) On a written request signed by any two members of the Council, the Judicial Council may declare:
 - (a) that a person has forfeited an office under subsection (1)(c), if the Judicial Council is satisfied that the person has been Finally Convicted of an indictable offence under the Criminal Code of Canada; or
 - (b) that a person is removed from office, if the Judicial Council is satisfied that a Medical Practitioner has certified that the person suffers from a mental or physical incapacity to a degree that it is improbable that the person will be able to perform the functions of their office during the remainder of the term of office.
- (3) On a written request supported by a 2/3 majority of the Council, and signed by any two members of the Council, the Judicial Council may declare:
 - (a) that it is satisfied, on the balance of probabilities, that a person does not ordinarily reside in the Traditional Territory, and has therefore forfeited an office under subsection (1)(a);
 - (b) that it is satisfied, on the balance of probabilities, that a person knowingly made a false statement on a declaration made under section 23(2)(b), and has therefore forfeited an office under subsection (1)(b);
 - (c) that it is satisfied, on the balance of probabilities, that a person has violated their oath of office, or the Kwanlin Dün Code of Conduct, and is therefore removed from office; or
 - (d) that it is satisfied, on the balance of probabilities, that a person has otherwise behaved in a manner and to a degree that has brought the office, or the Kwanlin Dün First Nation, into disrepute, and is therefore removed from office.
- (4) When considering removing a member of the Judicial Council from office under this section, the Council must seek advice from the Elders Council.
- (5) Kwanlin Dün First Nation legislation must establish reasonable due process requirements respecting Council and Judicial Council proceedings under this section.

Chapter Six - The General Assembly, Elders Council and Youth Council

Part 1 - The General Assembly

28. Composition of the General Assembly

- (1) The General Assembly is composed of all Citizens.
- (2) Every Citizen is eligible to attend and participate in any meeting of the General Assembly.
- (3) A Citizen who is at least 18 years of age is entitled to vote at any meeting of the General Assembly at which the Citizen is present.
- (4) At a meeting of the General Assembly, each Citizen:
 - (a) has equal authority and rights, subject to subsection (3); and
 - (b) may participate in accordance with the rules of procedure adopted for that meeting.

29. Powers of the General Assembly

- (1) The General Assembly may:
 - (a) review the progress of the Kwanlin Dün First Nation in realizing the vision reflected in the Preamble and Chapter 1 of this Constitution;
 - (b) review the status of the recommendations made at previous General Assemblies;
 - (c) review, and make recommendations, regarding any report submitted by any other branch of Kwanlin Dün First Nation;
 - (d) establish general policy guidelines, or develop general mandates statements, to be considered by any other branch of the Kwanlin Dün First Nation;
 - (e) recommend the development of laws;
 - (f) recommend any changes to the current or proposed budget of the Kwanlin Dün First Nation;
 - (g) recommend changes to resolutions adopted, or actions taken, by the Council; and
 - (h) recommend to the Council the names of persons to be considered for appointment to any committee, commission or board.

30. Meetings of the General Assembly

- (1) The Council:
 - (a) must convene an Annual General Assembly before the end of October in each calendar year;
 - (b) must convene a Special General Assembly within a reasonable time, if 50 or more Citizens have signed a Citizens' order calling for a Special General Assembly and submitted it to the Council; and
 - (c) may convene a Special General Assembly at any time in accordance with this Constitution and any rules of procedure adopted for such Assemblies.
- (2) At least 14 days before the first date of a meeting of the General Assembly, the Council is responsible to give notice of that meeting, with the proposed agenda for the meeting by:
 - (a) posting the notice at all Kwanlin Dün First Nation administrative offices;
 - (b) publishing a copy of the notice in a newspaper having circulation in Yukon; and
 - (c) causing the notice to be broadcast by radio or television in Yukon.
- (3) Every meeting of the General Assembly must be held in the Traditional Territory.
- (4) The Council may postpone a scheduled meeting of a General Assembly in case of death in the community, or a natural disaster. In that case, the General Assembly will meet as soon as practicable.
- (5) A General Assembly may not be called to order, or continue, unless, in addition to the Chief and members of Council, there are at least 40 Citizens present, each of whom is at least 18 years of age.
- (6) If, at any time during a meeting of the General Assembly, the requirements of subsection (5) are not met, the Chief may continue the meeting with the Citizens present, for the purpose of information and discussion, but such a continued meeting may not conduct any business of the General Assembly until the requirements of subsection (5) are again satisfied.

- (7) The Council is responsible to:
 - (a) arrange and facilitate meetings of a General Assembly;
 - (b) prepare an information package for each General Assembly at least seven days before the first meeting of that Assembly; and
 - (c) make the information package available to Citizens:
 - (i) at the Kwanlin Dün First Nation administration offices at least seven days before the first meeting of that Assembly; and
 - (ii) at each meeting of that General Assembly.
- (8) The information package prepared for an Annual General Assembly must include copies of:
 - (a) the Kwanlin Dün First Nation budget for the current fiscal year;
 - (b) the most recent audited financial statement of the Kwanlin Dün First Nation; and
 - (c) each resolution passed by the Council since the previous Annual General Assembly.
- (9) Kwanlin Dün legislation may establish:
 - (a) procedures for convening and giving notice of a General Assembly; and
 - (b) rules of procedure to be followed at a General Assembly.

31. Business at a General Assembly

- (1) The Chief presides at a meeting of a General Assembly.
- (2) Each member of the Council must attend each meeting of the General Assembly, unless excused by the Chief for reasonable cause, and must report to the Assembly in accordance with the rules of procedure.
- (3) During a General Assembly, a period must be scheduled for an open forum, during which Citizens may ask questions of, or present proposals or recommendations to, members of the Council.
- (4) A General Assembly must attempt to decide matters by consensus. If consensus cannot be achieved, the General Assembly may pass a resolution if 60 percent of the Citizens present and voting support the resolution. Upon the request of any Kwanlin Dün Citizen, such a vote must be conducted by secret ballot.

Part 2 – The Elders Council

32. Composition of the Elders Council

- (1) Every Citizen who is at least 60 years of age is a member of the Kwanlin Dün First Nation Elders Council, and is entitled to participate in any meeting of the Elders Council in accordance with its rules of procedure.
- (2) Each member of the Elders Council has equal authority and rights within the Elders Council.

33. Powers of the Elders Council

- (1) The Kwanlin Dün First Nation Elders Council may:
 - (a) give advice and guidance to the Kwanlin Dün First Nation, in particular with regard to:
 - (i) enhancing and protecting Kwanlin Dün First Nation traditions, customs and laws;
 - (ii) programs and services to meet the needs of Elders;
 - (iii) disputes within or regarding the Kwanlin Dün First Nation; and
 - (iv) any other matters.
 - (b) appoint one Elder to sit as a non-voting member of the Council;
 - (c) recommend two Elders who satisfy the requirements set out in the Constitution to sit on the Judicial Council; and
 - (d) appoint Elders to sit on any committee within the Kwanlin Dün First Nation, in accordance with, and to the extent provided for, in the resolution or law establishing that committee.

34. Meetings of the Elders Council

- (1) The Elders Council may establish procedures regarding its meetings and work.

Part 3 – The Youth Council

35. Composition of the Youth Council

- (1) Every Citizen who is at least 14 years of age, and not yet 20 years of age, is a member of the Kwanlin Dün First Nation Youth Council, and is entitled to participate in any meeting of the Youth Council in accordance with its rules of procedure.
- (2) Each member of the Youth Council has equal authority and rights within the Youth Council.

36. Powers of the Youth Council

- (1) The Kwanlin Dün First Nation Youth Council may:
 - (a) give advice and guidance to the Kwanlin Dün First Nation, in particular with regard to:
 - (i) programs and services to meet the needs of youth;
 - (ii) assistance to young people desiring to learn about the Kwanlin Dün clan system, traditions, and culture or the operations of the Kwanlin Dün First Nation; and
 - (iii) any other matter that the Youth Council considers important;
 - (b) appoint one member of the Youth Council to sit as non-voting member of the Council; and
 - (c) appoint a person to sit as a non-voting observer at meetings or proceedings of the Judicial Council.

37. Spokesperson of the Youth Council

- (1) At its first meeting of a calendar year, the Youth Council must choose one of its members to serve as its spokesperson until the following year.
- (2) The spokesperson of the Youth Council is responsible to:
 - (a) preside over any meeting of the Youth Council if the spokesperson is present;
 - (b) perform any other function assigned to the spokesperson by this Constitution or by Kwanlin Dün First Nation law; and
 - (c) report to the Council, and to the General Assembly, on behalf of the Youth Council.

38. Meetings of the Youth Council

- (1) The spokesperson of the Youth Council:
 - (a) must convene at least one meeting of the Youth Council during each calendar year; and
 - (b) may call other meetings at any time in accordance with approved procedures.
- (2) Meetings of the Youth Council must be held within the Traditional Territory.
- (3) The Youth Council may establish procedures regarding its meetings and work.

Chapter Seven - The Council

Part 1 – Composition, Powers and Meetings

39. Composition of the Council

- (1) The Kwanlin Dün First Nation Council comprises:
 - (a) the following voting members, each of whom is to be elected by Citizens in accordance with this Constitution and Kwanlin Dün First Nation law:
 - (i) the Chief of the Kwanlin Dün First Nation;
 - (ii) six Councillors; and
 - (b) the following non-voting members:
 - (i) one elder to be appointed by the Elders Council, and
 - (ii) one member of the Youth Council to be appointed by the Youth Council.

40. Powers and Responsibilities of the Council

- (1) The Council, in accordance with this Constitution and Kwanlin Dün First Nation law, may exercise any right, power or privilege, and may carry out any duty, function or obligation of the Kwanlin Dün First Nation including those set out in the Final Agreement and the Self-Government Agreement, and in particular may:
 - (a) take any necessary steps to give effect to the Final Agreement and the Self-Government Agreement, this Constitution, and Kwanlin Dün First Nation law;
 - (b) represent the Kwanlin Dün First Nation in inter-governmental relationships;
 - (c) on behalf of the Kwanlin Dün First Nation:
 - (i) enter into agreements with Canada, Yukon, other governments, other First Nations, or any other person; and
 - (ii) ratify amendments to the Final Agreement or the Self-Government Agreement, subject to any provisions of this Constitution, or a policy contemplated in section 13 (1)(c);

- (d) enact Kwanlin Dün First Nation laws in relation to any matter within the authority of the Kwanlin Dün First Nation;
- (e) adopt a resolution:
 - (i) proposing an amendment to this Constitution; or
 - (ii) proposing a question to be put to Citizens in a referendum;
- (f) consider any matter or concern brought by people who are not Citizens but who live or work in the Traditional Territory;
- (g) develop and approve an annual budget for the Kwanlin Dün First Nation;
- (h) authorize the collection or expenditure of funds by the Kwanlin Dün First Nation;
- (i) develop and approve policies under which the Kwanlin Dün First Nation may:
 - (i) incur debt, trade accounts, deferred payment or similar liabilities in respect of expenditures provided for within an approved budget,
 - (ii) secure overdraft banking arrangements, or
 - (iii) enter into conditional sales agreements or leases for the use or acquisition of assets, land, premises, materials or equipment;
- (j) develop and approve policies under which the Kwanlin Dün First Nation may incur debt to finance or re-finance capital projects, but any such policy must require:
 - (i) Council approval for each specific financing or re-financing arrangement;
 - (ii) that the maximum duration of a financing or re-financing arrangement may not exceed the reasonably anticipated useful life of the capital assets for which the debt is incurred; and
 - (iii) that the annual debt servicing costs and amortized re-payment of capital under any such arrangement must be included as an expense within each current annual budget for the duration of that arrangement;
- (k) authorize the signing and delivery of any document on behalf of the Kwanlin Dün First Nation, and develop and approve policies with respect to the exercise of signing authority on behalf of the Kwanlin Dün First Nation;

- (l) oversee the preparation of financial and management reports, and present those reports to the General Assembly;
- (m) advise the Chief in the exercise of the powers and responsibilities of that office;
- (n) establish committees of the Council;
- (o) delegate specific powers, subject to the provisions of this Constitution, the Final Agreement and the Self-Government Agreement;
- (p) appoint persons to hold office under this Constitution or Kwanlin Dün First Nation law, and exercise any right or power of the Kwanlin Dün First Nation to select, nominate, delegate or appoint a person to any other organisation or entity;
- (q) appoint persons to inquire into and report on particular matters;
- (r) review the performance of Kwanlin Dün First Nation institutions;
- (s) establish corporations on behalf of the Kwanlin Dün First Nation; and
- (t) seek and consider the advice of the Elders Council or the Youth Council.

Part 2 – Office of the Chief

41. Powers and Responsibilities of the Chief

- (1) The Chief of the Kwanlin Dün First Nation:
 - (a) is the leader of the Kwanlin Dün First Nation; and
 - (b) is the leader of any delegation representing the Kwanlin Dün First Nation in any intergovernmental relationship.
- (2) The Chief is accountable to Citizens in accordance with this Constitution.
- (3) The Chief is responsible to:
 - (a) preside at meetings of the General Assembly, the Council, and other bodies of the Kwanlin Dün First Nation as required by this Constitution or Kwanlin Dün First Nation law;
 - (b) report to the General Assembly on the state of the Kwanlin Dün First Nation; and
 - (c) carry out any other power or perform any function required by this Constitution or Kwanlin Dün First Nation law.

42. Election and Conditions of Office

- (1) Kwanlin Dün Citizens will elect the Chief in accordance with the Constitution.
- (2) The Chief:
 - (a) must serve on a full-time basis; and
 - (b) must not hold any other office in the Kwanlin Dün First Nation, except as provided in this Constitution or Kwanlin Dün First Nation law.
- (3) During the Chief's term of office, the Chief:
 - (a) must not be employed by, or actively operate or manage, a business, trade or professional practice at any time more than 30 days after being elected Chief, but
 - (b) may have a sole or part ownership interest in such an enterprise, subject to the Kwanlin Dün First Nation Code of Conduct.

43. Acting Chief

- (1) The Council must choose one of its members to serve as the acting Chief of the Kwanlin Dün First Nation, for such period as the Council determines.
- (2) In the absence of the Chief, the acting Chief may:
 - (a) preside over meetings of the Council; and
 - (b) perform any power or function of the Chief under this Constitution or under Kwanlin Dün First Nation law.

Part 3 – Council Proceedings

44. Meetings of the Council

- (1) The Chief must convene a meeting of the Council:
 - (a) at least four times in each calendar year; and
 - (b) at other times at the written request of two or more members of the Council.

- (2) In addition to the requirements of subsection (1), the Chief may convene a meeting of the Council at any time subject to the rules of procedure adopted for such meetings.
- (3) At approximately 6 month intervals, the Chief must publish a tentative schedule of proposed meeting dates for the Council.
- (4) The Council:
 - (a) must hold its meetings in the Traditional Territory;
 - (b) must ordinarily hold its meetings in public, but may hold all or part of a meeting in-camera;
 - (c) must not enact legislation during an in-camera meeting; and
 - (d) must keep a written record of all its meetings, and a public written record of its public meetings.

45. Procedures at Council Meetings

- (1) A meeting of the Council may not begin, or continue, if fewer than 5 voting members are present.
- (2) The Council must attempt to reach a consensus decision in any matter being considered by it. When consensus cannot be attained, a matter may be put to a vote, and the matter passes if it is supported by:
 - (a) a majority of the members who are present and voting; or
 - (b) a higher percentage of the members, if so required by this Constitution or Kwanlin Dün First Nation law.
- (3) If a vote is taken on a matter, and results in a tie:
 - (a) the vote succeeds, if it concerns a Preliminary Vote on legislation, but
 - (b) the vote fails, if it concerns any other matter.
- (4) The Council may establish rules of procedure, consistent with this Constitution, regarding its meetings and work.

46. Conditions of Service

- (1) The Council may determine the compensation and benefits of the Chief and Councillors.

47. Requests to Council to Review its Decisions

- (1) A Citizen may request the Council to reconsider any of its decisions, including the enactment or amendment of any Kwanlin Dün First Nation law, on the grounds that the decision appears to:
 - (a) be outside the jurisdiction of the Kwanlin Dün First Nation;
 - (b) violate the rights and freedoms of Citizens, as described in this Constitution, or the Canadian Charter of Rights and Freedoms;
 - (c) be inconsistent with this Constitution;
 - (d) authorize or require a person to perform an act that would be inconsistent with this Constitution, or contrary to Kwanlin Dün First Nation law; or
 - (e) have been taken in a manner inconsistent with the procedures described in Part 4 of this Chapter, if the decision resulted in the enactment or amendment of Kwanlin Dün First Nation law.
- (2) The Council must consider any request under subsection (1) at its next meeting following receipt of the request.
- (3) A decision that is the subject of a request under this section remains in force unless the Council changes or repeals it, subject to a decision of the Judicial Council under Section 56(1)(d).

Part 4 – Legislative process

48. Introduction of Kwanlin Dün First Nation laws

- (1) Any member of the Council may introduce a motion to enact, amend or repeal any Kwanlin Dün First Nation law.
- (2) A proposed Kwanlin Dün First Nation law may be introduced as either:
 - (a) an Act, which may not deal with more than one broadly defined subject matter; or
 - (b) a Regulation, which may be made only under the authority of a specific Act, may deal only with a matter authorised by that specific Act, and must be consistent in all respects with that specific Act.

- (3) An Act or a Regulation, or any provision of that Act or Regulation, comes into effect as of:
 - (a) the date on which it is enacted; or
 - (b) a different date determined in accordance with that Act or Regulation.

49. Process to Enact Law

- (1) The Council will have enacted an Act or Regulation when the following events have occurred:
 - (a) at the meeting of the Council at which the motion is first made, the Council has decided by Preliminary Vote, to accept the introduction of that Act or Regulation for later consideration;
 - (b) a notice concerning the proposed Act or Regulation has been published, copies have been made available to Citizens, and those Citizens have been informed how they can submit their opinions concerning the proposed Act or Regulation;
 - (c) at a second meeting of the Council held after the period of time for public discussion, the Council has debated both the general purpose and the details of the proposed Act or Regulation, and decided by Preliminary Vote to accept the proposed Act or Regulation, with or without amendments;
 - (d) at a third meeting of the Council, held at least 14 days after the meeting referred to in paragraph (c), the Council has decided by final vote to enact the proposed Act or Regulation; and
 - (e) the Chief and a quorum of Councillors has signed the Act or Regulation.
- (2) If at least twenty-five Citizens submit a Citizens' order to the Council to hold a public hearing regarding a proposed Act or Regulation, the Council must:
 - (a) hold such a hearing before considering the proposed Act or Regulation under subsection (1)(c); and
 - (b) consider a report from the public hearing during the course of its debate under subsection (1)(c).

50. Signing Laws

- (1) The Chief, and a quorum of Councillors, must sign a law that has been passed in accordance with the Constitution.

51. Registry of Laws

- (1) The Kwanlin Dün First Nation must establish a Registry of Kwanlin Dün First Nation law, and deposit in the Registry an original copy of every law enacted by the Council.
- (2) A certified copy of a law deposited in the Registry of Kwanlin Dün First Nation law is conclusive evidence of the provisions of that law.
- (3) The Registry of Kwanlin Dün First Nation law is a public record.

52. Challenges to Legislation and other Legislative Procedures

- (1) Subject to subsection (2), the validity of a Kwanlin Dün First Nation law may be challenged in the Yukon Supreme Court.
- (2) Before a person may challenge the validity of a Kwanlin Dün First Nation law in the Yukon Supreme Court, that person must first exhaust any other procedures established by Kwanlin Dün legislation for challenging the validity of that law.
- (3) The Council may enact laws consistent with the Constitution establishing additional procedures relating to:
 - (a) the enactment of Kwanlin Dün First Nation laws;
 - (b) challenging the validity of Kwanlin Dün First Nation laws; or
 - (c) operation of the Registry of Kwanlin Dün First Nation laws.

Chapter Eight - The Judicial Council

53. Composition of the Judicial Council

- (1) The Judicial Council comprises the following five members, appointed by the Council for a five year term:
 - (a) one person selected by the Council;
 - (b) two persons appointed on the recommendation of the General Assembly; and
 - (c) two persons, appointed on the recommendation of the Elders Council.
- (2) The Youth Council may appoint a representative to sit with the Judicial Council as a non-voting observer.
- (3) At its first meeting each year, the members of the Judicial Council must appoint one of the members to be the Chair of the Judicial Council.
- (4) Subject to section 57 (3) and (6), each member of the Judicial Council has equal authority and rights on the Judicial Council.
- (5) Despite subsection (1), the term of office for the persons first appointed to the Judicial Council are as follows:
 - (a) two members will be appointed to serve for a term of 3 years;
 - (b) two members will be appointed to serve for a term of 4 years; and
 - (c) one member will be appointed to serve for a term of 5 years.
- (6) Within 90 days after a vacancy arising in the Judicial Council, the body that recommended the member whose office has been vacated must recommend to the Council another person to be appointed to fill the remainder of the term under subsection (1).

54. Qualifications for Appointment

- (1) Any Citizen who is at least 25 years of age may be appointed to the Judicial Council, except a person who:
 - (a) is a member of Council, the Kwanlin Dün First Nation Citizenship Committee, or an employee of Kwanlin Dün First Nation; or
 - (b) has been Finally Convicted of an indictable offence under the Criminal Code of Canada within seven years immediately before the term of office begins.

- (2) In considering appointing or recommending a person to the Judicial Council, the Council, General Assembly or Elders' Council, as applicable, may consider the person's:
 - (a) experience in resolving disputes;
 - (b) familiarity with Kwanlin Dün families and traditions; and
 - (c) personal suitability.
- (3) A person ceases to be a member of the Judicial Council if the person is Finally Convicted of an indictable offence under the Criminal Code of Canada.
- (4) The Council may suspend a member of the Judicial Council from office if the member has been charged with an indictable offence under the Criminal Code of Canada.

55. Conditions of Service and Conduct

- (1) The Council may determine the compensation and benefits of members of the Judicial Council.
- (2) A member of the Judicial Council must not participate in proceedings regarding an Immediate Family Member.

56. Powers and Responsibilities of the Judicial Council

- (1) The Judicial Council is responsible and has authority to perform any of the following functions:
 - (a) exercise any authority specifically assigned to it elsewhere in this Constitution, or in Kwanlin Dün First Nation law;
 - (b) consider and make a determination in accordance with Kwanlin Dün First Nation law on any appeal arising from:
 - (i) the administration of the Kwanlin Dün Citizenship Code; or
 - (ii) the administration of the Kwanlin Dün Election and Referendum Code.

- (c) consider an application by a Citizen for a review of any action by the Kwanlin Dün First Nation that may result in the violation of the rights and freedoms of the Citizens of the Kwanlin Dün First Nation, and make a declaratory order either:
 - (i) affirming the action, if it does not result in the violation of the rights and freedoms of the citizens of the Kwanlin Dün First Nation; or
 - (ii) setting aside the action to the extent required to alleviate the violation of the rights and freedoms of the Citizens of the Kwanlin Dün First Nation.
 - (d) consider an application by a Citizen challenging a decision of the Council on any ground set out in section 47(1), if that decision has been upheld by the Council under section 47, and make a declaratory order either
 - (i) affirming the decision of the Council; or
 - (ii) setting aside the decision of the Council.
 - (e) consider an application by a Citizen for a review of an administrative decision of Kwanlin Dün First Nation affecting that Citizen, and make a declaratory order either:
 - (i) affirming the administrative decision; or
 - (ii) setting aside the administrative decision.
- (2) A person may not bring an application referred to in subsection (1)(d) unless that person has first submitted a request to the Council to reconsider the matter under section 47.

57. Procedures of the Judicial Council

- (1) The Judicial Council may seek the advice of the Elders Council, Youth Council or professional advice on any matter before it.
- (2) The Judicial Council may establish rules of procedure consistent with this Constitution regarding its proceedings.
- (3) The Chair of the Judicial Council must preside at its meetings.
- (4) Every member of the Judicial Council must consider every matter before the Judicial Council, but a member of the Judicial Council may not consider a matter in which that member, or an Immediate Family Member, has a personal interest.

- (5) A decision supported by a majority of the members of the Judicial Council is the decision of the Judicial Council in that matter.
- (6) If the Judicial Council is evenly divided on a matter before it, the Chair may decide the matter.
- (7) The Judicial Council must give written reasons for its decisions.
- (8) The Judicial Council must keep a record of its activities and decisions for public review.
- (9) Kwanlin Dün First Nation law may establish additional requirements or procedures concerning the proceedings of the Judicial Council generally, or in relation to specific matters.

Chapter Nine - Finance and Administration

58. Principles of Financial Administration

- (1) The Kwanlin Dün First Nation must administer the financial affairs of the Kwanlin Dün First Nation in a manner that:
 - (a) is prudent, open and accountable; and
 - (b) provides for effective and efficient use of the financial and human resources of the Kwanlin Dün First Nation.

- (2) The Council must maintain laws to establish a system of financial administration:
 - (a) through which Kwanlin Dün First Nation will be fully accountable to Citizens;
 - (b) that is based on standards comparable to those generally accepted for governments in Canada; and
 - (c) addresses at least the following matters:
 - (i) preparation of an annual budget;
 - (ii) annual audits and financial reporting, including those of Kwanlin Dün controlled business entities;
 - (iii) rules and procedures regarding debt;
 - (iv) rules and procedures limiting the level of deficit financing and procedures for deficit management;
 - (v) rules and procedures on the provision and collection of loans to Kwanlin Dün First Nation citizens and others;
 - (vi) expenditure and budget control, including financial signing authorities;
 - (vii) internal financial controls, including financial accounting and the preparation of financial statements;
 - (viii) asset management and reporting;
 - (ix) rules and procedures on the purchasing of goods and services;
 - (x) rules and procedures regarding the remuneration of elected officials, including the payment of honoraria, if any;
 - (xi) policies on the remuneration of Kwanlin Dün First Nation employees.

59. Fiscal Year

- (1) Each fiscal year of the Kwanlin Dün First Nation begins on April 1, and ends on the following March 31.

60. Budgets and Authority to Spend

- (1) Before the beginning of each fiscal year, the Council must adopt a budget for the ensuing fiscal year.
- (2) During the course of a fiscal year, the Council may adopt a supplementary budget, amending the budget previously adopted for that fiscal year.
- (3) Kwanlin Dün First Nation may not spend money, or commit to spend money, unless that expenditure or commitment is fully provided for by an expense allocation made within the current fiscal year budget or supplementary budget as adopted by the Council.

61. Annual Audits

- (1) For each fiscal year, the Council must appoint an auditor who will audit the books, accounts and records of the Kwanlin Dün First Nation.
- (2) The Council must review the auditor's report and take appropriate steps to implement the auditor's recommendations.
- (3) The Chief must submit the auditor's report, and a report on steps taken to implement the auditor's recommendation, to the annual General Assembly.

62. Availability of Financial Information

- (1) After adopting a budget or supplementary budget, the Council must make a copy of that budget available for the information of Citizens.
- (2) The audited financial statements of Kwanlin Dün First Nation, once they have been accepted by the Council, are a public record.

Chapter Ten - Amendments and Referendums

63. Amendments to the Constitution

- (1) A proposal to amend the Constitution may be initiated by either:
 - (a) a written request submitted to the Council and signed by at least 25 percent of those Citizens who are eligible to vote; or
 - (b) a resolution adopted by the Council.
- (2) A request or resolution referred to in subsection (1) must have attached to it the wording of the proposed amendment to the Constitution.
- (3) The Council must:
 - (a) publish a copy of the proposed amendment, and a notice setting out the procedures to be followed in accordance with this section;
 - (b) schedule at least one public meeting of Citizens to discuss the proposed amendment; and
 - (c) appoint a Referendum Officer under Part 2 of Schedule 4 to conduct a referendum on the proposed amendment.
- (4) The proposed amendment passes if:
 - (a) at least a majority of the Citizens who are eligible to vote cast a ballot in the referendum;
 - (b) it is supported by at least a majority of the Citizens who vote in the referendum; and
 - (c) in the case of an amendment to Chapter 3, or an amendment that is inconsistent with Chapter 3, at least a majority of the Beneficiaries support it in a further vote held among Beneficiaries alone, after the amendment has passed under paragraph (a) and (b), above.
- (5) An amendment to the Constitution takes effect on the date that the referendum results are final, or on a later date determined in accordance with the request or resolution that initiated the proposal.

64. Referendums

- (1) A proposal to conduct a referendum on any matter other than a Constitutional amendment may be initiated by:
 - (a) a written request submitted to the Council and signed by at least 100 Kwanlin Dün citizens who are eligible to vote; or
 - (b) a resolution adopted by the Council.
- (2) A request or resolution referred to in subsection (1) must have attached to it the wording of the proposed referendum question, which must be a straightforward question to be answered either with a “yes” or a “no”.
- (3) If the Council votes to proceed with a proposed referendum, the Chief must:
 - (a) publish a copy of the question, and a notice setting out the procedures to be followed in accordance with this section;
 - (b) schedule at least one public meeting of Citizens to discuss the question; and
 - (c) appoint a Referendum Officer under Part 2 of Schedule 3 to conduct a referendum on the question.
- (4) The question passes if it is supported by at least 60% of the Kwanlin Dün First Nation Citizens who vote in the referendum.
- (5) The Council may take appropriate steps to give effect to the results of a referendum under this section, to the extent that is consistent with the Final Agreement, the Self-Government Agreement, this Constitution, and any policy adopted under Chapter 3.

Chapter Eleven - General Provisions

65. Ratification and Commencement

- (1) This Constitution is in effect as of the Effective Date of the Kwanlin Dün First Nation Final Agreement and Self-Government Agreement, if it has been approved in accordance with the ratification process set out in the Self Government Agreement.

66. Transition

- (1) Despite section 39(1)(a)(ii), until the election is held as required in March, 2005, the number of Councillors on the Council is equal to the number of persons who held the office of Councillor within the Kwanlin Dün Band Council immediately before the effective date.
- (2) As of the Effective Date:
 - (a) the person who held the office of Chief of the Kwanlin Dün Band Council immediately before the effective date, is the Chief of the Kwanlin Dün First Nation under this Constitution; and
 - (b) a person who held the office of Councillor on the Kwanlin Dün Band Council immediately before the effective date, is a Councillor and member of the Council, under this Constitution.
- (3) Within six months after the Effective Date:
 - (a) the Chief must convene an initial meeting of the Kwanlin Dün First Nation Elders Council, and of the Youth Council for the purposes of:
 - (i) selecting their chairperson, and spokesperson, respectively; and
 - (ii) selecting their respective representatives to sit on the Council, Citizenship Committee, and the Judicial Council; and
 - (b) the Council must constitute the Judicial Council and the Citizenship Committee.
- (4) Any law, ordinance, resolution or agreement enacted or entered into by the Kwanlin Dün First Nation Band Council, and in force immediately before the Effective Date, continues in force to the extent that it is consistent with this Constitution, subject to any subsequent amendment or repeal in accordance with this Constitution.

- (5) Within two years after the Effective Date, the Kwanlin Dün Citizenship Committee must review Chapter 2 and Schedule 2 of this Constitution and make appropriate recommendations for amendments to the Council.

67. Definitions

- (1) In this Constitution:
- (a) “Annual General Assembly” means a meeting of the General Assembly called under section 30(1)(a);
 - (b) “Band” has the meaning set out in section 2(1) of the *Indian Act* of Canada (RSC 1985 c. I-5, as amended);
 - (c) “Beneficiary” means a person enrolled under Chapter 3 of the Final Agreement;
 - (d) “Canada”, when used in a Constitutional sense, means Her Majesty the Queen in right of Canada;
 - (e) “Chief” means the person holding or acting in the office of Chief of the Kwanlin Dün First Nation, as constituted under section 41;
 - (f) “Chief Electoral Officer” means the person holding or acting in the office of Chief Electoral Officer, as constituted under Schedule 3;
 - (g) “Citizen” means a person who is entitled to Citizenship under Chapter 2, and who has been enrolled as a Citizen under Chapter 2 and Kwanlin Dün First Nation law;
 - (h) “Citizenship” means the status of a person who is a Citizen;
 - (i) “Citizenship Committee” means the committee constituted under section 1 of Schedule 2, or any successor body established by Kwanlin Dün legislation contemplated in section 12(1);
 - (j) “Constitution” means the Constitution of the Kwanlin Dün First Nation;
 - (k) “Council” means the branch of Kwanlin Dün First Nation constituted under Chapter 5 of this Constitution;
 - (l) “Effective Date” means the date that this Constitution, the Final Agreement and the Self-Government Agreement took effect;
 - (m) “Elder” means a Citizen who has attained at least age 60;

CONSTITUTION OF KWANLIN DÜN FIRST NATION

- (n) “Elders Council” means the branch of the Kwanlin Dün First Nation constituted under Part B of Chapter 4 of this Constitution;
- (o) “Final Agreement” means the Kwanlin Dün First Nation Final Agreement among Her Majesty the Queen in Right of Canada, the Government of the Yukon and the Kwanlin Dün First Nation brought into effect pursuant to the Settlement Legislation and includes any amendments made to it from time to time in accordance with its provisions;
- (p) “Finally Convicted” means that a conviction has been entered or upheld by a court and either:
 - (i) no appeal is allowed from that decision; or
 - (ii) the time for an appeal from that decision has expired without an appeal being commenced;
- (q) “General Assembly” means the branch of Kwanlin Dün First Nation constituted under Part 1 of Chapter 6 of this Constitution;
- (r) “Immediate Family Member”, with respect to any person, means:
 - (i) the person’s Spouse, parent, child, or grandchild;
 - (ii) the Spouse of the person’s child; or
 - (iii) a child of the person’s Spouse, if that child is treated as a child of the person;
- (s) “Judicial Council” means the branch of Kwanlin Dün First Nation constituted under Chapter 7 of this Constitution;
- (t) “Kwanlin Dün” means the collectivity of all persons who are
 - (i) entitled to be enrolled under the Kwanlin Dün Final Agreement; or
 - (ii) are entitled to be Citizens, or are granted Citizenship, under this Constitution;
- (u) “Kwanlin Dün First Nation” means the government of the Kwanlin Dün established under this Constitution and the Kwanlin Dün Self Government Agreement and constituted in accordance with the Constitution and the Kwanlin Dün Self Government Agreement;

- (v) "Kwanlin Dün Self-Government Agreement" means the agreement concluded by the Kwanlin Dün First Nation with Canada and the Yukon respecting government by and for the Kwanlin Dün First Nation and brought into effect pursuant to the Yukon First Nations Self-Government Act, S.C. 1994, c.35;
- (w) "Kwanlin Dün First Nation and Kwanlin Dün law" includes this Constitution and every Act or Regulation enacted under it;
- (x) "Medical Practitioner" means a person licensed to practice medicine in Yukon;
- (y) "Preliminary Vote" means a vote in the Council under section 49 (1)(a), or 49(1)(c);
- (z) "Registrar" means the person who holds or acts in the office of Citizenship Registrar appointed under Schedule 2, or in any successor office established by Kwanlin Dün legislation contemplated in section 12(1);
- (aa) "Regular Election" means an election to be held in accordance with section 22(1);
- (bb) "Schedule" means a part of this Constitution identified as such with a distinct number;
- (cc) "Settlement Land" has the same meaning as in the Final Agreement;
- (dd) "Special General Assembly" means a meeting of the General Assembly called under section 30(1)(b) or (c);
- (ee) "Spouse" includes a person with whom a Citizen is living in a marriage-like relationship that has continued for at least 1 year;
- (ff) "Traditional Territory" means the geographic area within the Yukon identified as the Traditional Territory of the Kwanlin Dün First Nation on the map referred to in section 2.9.0. of the Final Agreement;
- (gg) "Youth Council" means the branch of Kwanlin Dün First Nation constituted under Part 3 of Chapter 6 of this Constitution;
- (hh) "Yukon" has the same meaning as in the Yukon Act; and

- (ii) “Yukon First Nation” means any or all of the following:
- Kwanlin Dün First Nation,
 - Carcross Tagish First Nation,
 - Champagne and Aishihik First Nations,
 - Kluane First Nation,
 - Liard First Nation,
 - Little Salmon/Carmacks First Nation,
 - First Nation of Nacho Nyak Dün,
 - Ross River Dena Council,
 - Selkirk First Nation,
 - Ta'an Kwach'an Council,
 - Teslin Tlingit Council,
 - Tr'ondek Hwech'in, formerly known as Dawson First Nation,
 - Vuntut Gwitchin First Nation, or
 - White River First Nation.

68. Interpretation

- (1) When interpreting this Constitution, or any of the Schedules, the Judicial Council, a court, tribunal or forum must:
 - (a) promote the values that are set out in it, or underlie it; and
 - (b) promote the spirit, purport and objects of the Constitution.
- (2) If there is a conflict between different versions of this Constitution, the English language version will prevail.
- (3) Unless it is otherwise clear from the context, in this Constitution, or any of the Schedules:
 - (a) the use of the singular includes the plural, and vice-versa; and
 - (b) a reference by number to a Schedule, Chapter, Part, section, subsection, paragraph or subparagraph is a reference to the corresponding Schedule, Chapter, Part, section, subsection, paragraph or subparagraph of this Constitution.

- (4) Nothing in this Constitution or Schedule 1 limits or affects the jurisdiction, power or authority of the Yukon Enrolment Commission or the Kwanlin Dün Enrolment Committee established pursuant to the Yukon First Nations Land Claims Settlement.

Schedule 1 – Oaths of Office

1. Procedures for Taking Oaths of Office

- (1) Each person taking the Oath of Office and Oath of Allegiance must take the oath as set out in this Schedule, and sign a copy of it.
- (2) The oath is to be administered by the Chair of the Judicial Council, or by another member of the Judicial Council, designated by the Chair.

2. Chief

- (1) The Oath of Office and Oath of Allegiance to be taken by the Chief is as follows:

“I, _____, having been elected by Kwanlin Dün citizens to the office of Chief of the Kwanlin Dün First Nation, solemnly swear and affirm:

That I will be faithful and bear true allegiance to the ancestors, the people, and all future generations of the Kwanlin Dün, and to the Constitution of the Kwanlin Dün First Nation, and I will uphold Kwanlin Dün First Nation laws, and act in accordance with Kwanlin Dün First Nation General Assembly resolutions, policies, mission statements, culture, language and spirituality.

That I will carry out the powers entrusted to me and perform the duties of my office diligently, faithfully, and to the best of my skill and knowledge, I will at all times provide good, effective and responsible leadership to Kwanlin Dün First Nation, and will seek to bring honour to the Kwanlin Dün in all circumstances in which I am called upon to represent the Kwanlin Dün publicly;

That I will endeavour at all times to advance the best interests of the Kwanlin Dün First Nation;

That I will keep confidential all matters entrusted to me in confidence, I will not improperly disclose any matter that comes to my knowledge as a result of my office, I will not use any such knowledge for my personal advantage or gain, and I will not allow my private interests to improperly influence my conduct in public office.

That to the best of my knowledge, I am not disqualified in any way from holding the office of Chief, and I have not, by myself or any other person, knowingly employed any bribery, corruption or intimidation to gain election to the office of Chief.”

So help me, O Great Spirit / God.”

3. Councillor

- (1) The Oath of Office and Oath of Allegiance to be taken by a Councillor is as follows:

“I, _____, having been elected by Kwanlin Dün citizens to the office of Councillor for the Kwanlin Dün First Nation, solemnly swear and affirm:

That I be faithful and bear true allegiance to the ancestors, the people, and all future generations of the Kwanlin Dün, and to the Constitution of the Kwanlin Dün First Nation, and I will uphold Kwanlin Dün First Nation laws, and act in accordance with Kwanlin Dün First Nation General Assembly resolutions, policies, mission statements, culture, language and spirituality.

That I will carry out the powers entrusted to me and perform the duties of my office diligently, faithfully, and to the best of my skill and knowledge;

That I will endeavour at all times to advance the best interests of the Kwanlin Dün First Nation;

That I will keep confidential all matters entrusted to me in confidence, I will not improperly disclose any matter that comes to my knowledge as a result of my office, I will not use any such knowledge for my personal advantage or gain, and I will not allow my private interests to improperly influence my conduct in public office.

That to the best of my knowledge, I am not disqualified in any way from holding the office of Councillor, and I have not, by myself or any other person, knowingly employed any bribery, corruption or intimidation to gain election to the office of Councillor.”

So help me, O Great Spirit / God.”

4. Member of Citizenship Committee

- (1) The Oath of Office and Oath of Allegiance to be taken by a member of the Citizenship Committee is as follows:

“I, _____, having been appointed by Kwanlin Dün First Nation Council to serve as a member of the Kwanlin Dün Citizenship Committee, solemnly swear and affirm:

That that I be faithful and bear true allegiance to the ancestors, the people, and all future generations of the Kwanlin Dün, and to the Constitution of the Kwanlin Dün First Nation, and I will uphold Kwanlin Dün First Nation laws, and act in solely accordance with the Kwanlin Dün First Nation Constitution and Citizenship Code.

That I will carry out the powers entrusted to me and perform the duties of my office diligently, faithfully, and to the best of my skill and knowledge;

That I will apply the Constitution and Citizenship Code fairly and impartially;

That I will keep confidential all matters entrusted to me in confidence, I will not improperly disclose any matter that comes to my knowledge as a result of my office, I will not use any such knowledge for my personal advantage or gain, and I will not allow my private interests to improperly influence my conduct in public office.

That to the best of my knowledge, I am not disqualified in any way from holding office as a member of the Citizenship Committee, and I have not, by myself or any other person, knowingly employed any bribery, corruption or intimidation to gain appointment to that office.”

So help me, O Great Spirit / God.”

5. Member of Judicial Council

- (1) The Oath of Office and Oath of Allegiance to be taken by a member of the Judicial Council is as follows:

“I, _____, having been appointed by Kwanlin Dün First Nation Council to serve as a member of the Kwanlin Dün Judicial Council, solemnly swear and affirm:

That that I be faithful and bear true allegiance to the ancestors, the people, and all future generations of the Kwanlin Dün, and to the Constitution of the Kwanlin Dün First Nation, and I will uphold, interpret and apply the Constitution and all Kwanlin Dün First Nation laws fairly, impartially, and to the best of my ability, and will decide matters referred to me without favour, fear or prejudice, and in solely accordance with the Kwanlin Dün First Nation Constitution and Kwanlin Dün law.

That I will carry out the powers entrusted to me and perform the duties of my office diligently, faithfully, and to the best of my skill and knowledge;

That I will keep confidential all matters entrusted to me in confidence, I will not improperly disclose any matter that comes to my knowledge as a result of my office, I will not use any such knowledge for my personal advantage or gain, and I will not allow my private interests to improperly influence my conduct in public office.

That to the best of my knowledge, I am not disqualified in any way from holding office as a member of the Judicial Council, and I have not, by myself or any other person, knowingly employed any bribery, corruption or intimidation to gain appointment to that office.”

So help me, O Great Spirit / God.”

6. Elections Officer

- (1) To follow with Electoral Code.

Schedule 2 – Citizenship Code

1. Citizenship Committee

- (1) There is established a Kwanlin Dün Citizenship Committee, comprising five Kwanlin Dün Citizens appointed by the Council to serve for a three year term.
- (2) When making appointments to the Citizenship Committee, the Council:
 - (a) must ensure that at all times two members of the Citizenship Committee are Elders; and
 - (b) may consult the Elders Council before appointing the members referred to in paragraph (a).
- (3) Despite subsection (1), the first members are appointed to the Citizenship Committee, the Council must appoint:
 - (a) two members to serve for a term of three years; and
 - (b) three members to serve for a term of two years.

2. Functions of the Citizenship Committee

- (1) The Citizenship Committee is responsible to:
 - (a) approve or disapprove applications for Kwanlin Dün Citizenship; and
 - (b) determine the citizenship status of a person who renounces or loses their Citizenship.
- (2) When it has reached a decision on a matter before it, the Citizenship Committee must:
 - (a) notify the Registrar of its decisions; and
 - (b) provide written reasons to:
 - (i) the applicant, if the Committee has refused an application for Citizenship; or
 - (ii) to the former Kwanlin Dün Citizen, if the Committee has determined that the person has lost Kwanlin Dün Citizenship.

3. Rules and Proceedings of the Citizenship Committee

- (1) The Citizenship Committee may:
 - (a) make rules for the conduct of its proceedings; or
 - (b) seek the advice of the Elders Council on any matter the Citizenship Committee is considering.
- (2) The Citizenship Committee must keep written minutes of its proceedings, and record and file with the Registrar copies of those minutes, including all motions.
- (3) A member of the Citizenship Committee must not participate in any committee proceedings regarding a person who is a member of the immediate family of that Committee member.

4. Registrar of Citizenship

- (1) There is established the office of Registrar of Citizenship.
- (2) The Council must appoint, and may remove, the Registrar of Citizenship.
- (3) The Registrar of Citizenship is responsible to:
 - (a) publicize and provide information respecting entitlement, eligibility and the application procedures to potential Kwanlin Dün Citizens;
 - (b) receive, and acknowledge receipt of applications, from persons applying for Kwanlin Dün Citizenship;
 - (c) ensure that each applicant provides all necessary information and documentation before forwarding the application to the Citizenship Committee;
 - (d) notify each applicant of the decision of the Citizenship Committee, and advise the applicant in writing of appeal procedures if the application is unsuccessful;
 - (e) when an appeal has been made and considered, notify the applicant of the decision of the Judicial Council;
 - (f) maintain the Kwanlin Dün Citizenship List, including on it the name, birth date and address of each citizen; and

- (g) maintain records and files on:
 - (i) all applications; and
 - (ii) minutes of Citizenship Committee meetings.

5. Procedures to Apply for Citizenship

- (1) A person wishing to apply for Kwanlin Dün Citizenship must file, at the Office of the Registrar, an application including all necessary documentation required by the Registrar.
- (2) When the Registrar receives a application, the registrar must:
 - (a) provide the applicant with a copy of the Citizenship Code; and
 - (b) forward the application and related documents to the Citizenship Committee within thirty days.
- (3) Within three months after receiving an application from the registrar, the Citizenship Committee must:
 - (a) complete a review of the application;
 - (b) reach a decision on the application, and advise the Registrar of Citizenship and the applicant.

6. Appeals

- (1) An appeal from a decision by the Citizenship Committee may be made to the Judicial Council by:
 - (a) a person whose Citizenship has been refused or lost;
 - (b) any Kwanlin Dün Citizen; or
 - (c) any governing body of the Kwanlin Dün First Nation.
- (2) An appeal may be made only:
 - (a) within three months after the decision of the Citizenship Committee, and
 - (b) by filing a notice of appeal with Registrar of Citizenship.

- (3) When the Registrar of Citizenship receives a Notice of Appeal, the Registrar must:
 - (a) provide the applicant with a copy of the Notice, unless the applicant is the person who filed the Notice of Appeal; and
 - (b) forward the Notice of Appeal and related documents to the Judicial Council.
- (4) Within two months after receiving a Notice of Appeal from the Registrar of Citizenship, the Judicial Council must:
 - (a) complete a review of the application;
 - (b) notify the person who filed the Notice, and the applicant, in writing, of the date, time and location of the hearing of the Appeal;
 - (c) hold a hearing on the Appeal; and
 - (d) reach a decision on the Appeal, and advise the Registrar of Citizenship.
- (5) The Judicial Council may:
 - (a) uphold, vary or rescind any decision of the Citizenship Committee; or
 - (b) refer the decision back to the Citizenship Committee for further consideration.
- (6) When considering appeals under this Code, the Judicial Council must comply with the procedures and requirements set out in Chapter 8 of the Constitution.
- (7) The decision of the Judicial Council on an Appeal under this Code is final.

7. Information and Representation

- (1) All information and documentation received for the purposes of an application is confidential and must not be released without the written consent of the applicant.
- (2) An applicant, and any person who may lose Citizenship as the result of a decision of the Citizenship Committee or the Judicial Council, has the right to appear before the Citizenship Committee and before the Kwanlin Dün First Nation Judicial Council, either in person, or through a representative, or both.

Schedule 3 – Election and Referendum Code

Part A – Elections

1. Notice of Election or By-election

- (1) At least 50 days before the date of a Regular Election, as determined by section 22(1) of the Constitution, or the date of a by-election, as determined by the Council under section 25(4)(b) of the Constitution, the Council must issue a notice containing the following information:
 - (a) the date of the Regular Election or by-election;
 - (b) the title of each office to be filled by election;
 - (c) the name of the Chief Electoral Officer appointed by the Council under section 22, or section 25 of the Constitution;
 - (d) the date on which nominations will be called;
 - (e) the date on which the list of candidates will be published;
 - (f) the location of the polling places; and
 - (g) any other matter concerning the elections;
- (2) The election notice must be:
 - (a) posted in at least three conspicuous places throughout Whitehorse and at the Kwanlin Dün First Nation administrative office; and
 - (b) published in a newspaper having circulation in Yukon and broadcast on radio or television in Yukon.

2. Chief Electoral Officer

- (1) The Council must appoint as Chief Electoral Officer for an election or by-election, a person who:
 - (a) understands and appreciates the Kwanlin Dün First Nation Election Code;
 - (b) is at least 21 years of age; and

- (c) is not:
 - (i) a Chief, or councillor; or
 - (ii) an employee of the Kwanlin Dün First Nation Administration.
- (2) The Chief Electoral Officer:
 - (a) must act impartially and in accordance with the Kwanlin Dün First Nation Constitution and this Code;
 - (b) may not accept nomination as a candidate in the election; and
 - (c) must not favour, promote or be associated with the campaign of any candidate.
- (3) The Chief Electoral Officer is responsible for the following functions:
 - (a) to serve as the returning officer of the election or by-election;
 - (b) to appoint Deputy Electoral Officers, Interpreters, Scrutineers and all other persons required to conduct the election or by-election;
 - (c) to prepare the List of Eligible Voters;
 - (d) to prepare, post and announce the notice of the Kwanlin Dün First Nation election;
 - (e) to call for and accept nominations;
 - (f) to prepare a list of nominated candidates;
 - (g) to procure the necessary materials and establish polling places;
 - (h) to establish regulations and accreditation procedures for agents employed by candidates at the polling places;
 - (i) to establish and conduct the advance poll;
 - (j) to establish and conduct the poll, and be responsible for all matters during polling;
 - (k) to close the poll and gather ballots;
 - (l) to supervise the count of the vote;
 - (m) to declare the successful candidates;
 - (n) to deal with the ballots in accordance with this Code;

- (o) to collaborate with the Kwanlin Dün First Nation Justice Council with respect to all appeals; and
 - (p) generally, to oversee and supervise the conduct of the election as required by this Code.
- (4) The Chief must direct the Kwanlin Dün First Nation administration to provide sufficient support staff, space and resources to enable the Chief Electoral Officer to fulfil the duties required under the Constitution and this Code.

3. Deputy Electoral Officers

- (1) At least 21 days before an election or by-election, the Chief Electoral Officer must appoint sufficient Deputy Electoral Officers to conduct the election or by-election.
- (2) Each provision of Rule 2(1)(b) – (e) and Rule 2(2) applies equally to each person selected to be a Deputy Electoral Officer.
- (3) Each Deputy Electoral Officer is responsible to:
 - (a) assist as required in the conduct of the election, performing all duties assigned and delegated by the Chief Electoral Officer;
 - (b) act as a witness to the conduct of the election, observing significant activities at the polling place and the counting of ballots and assuming other duties as required by the Chief Electoral Officer; and
 - (c) report to the Chief Electoral Officer any violations of this Code.
- (4) Every reference in this Code to the duties of the Chief Electoral Officer applies equally to each Deputy Electoral Officer, at the discretion of the Chief Electoral Officer.

4. Interpreters

- (1) The Chief Electoral Officer may appoint interpreters to assist in an election or by-election.
- (2) An Interpreter must be able to read and write English, and be fluent in the language identified by the Chief Electoral Officer.
- (3) Each provision of Rule 2(1)(c) and (d), and Rule 2(2) applies equally to each person selected to be an interpreter.

5. Scrutineers

- (1) At least 1 day before an election or by-election, each candidate nominated in that election or by-election may appoint a scrutineer, by submitting the scrutineer's name in the prescribed form to the Chief Electoral Officer.
- (2) Each scrutineer must be:
 - (a) a Kwanlin Dün citizen;
 - (b) at least 18 years of age; and
 - (c) able to read, speak and write English.
- (3) Each scrutineer may observe the conduct of the election, and the counting of the ballots.
- (4) A Scrutineer must not:
 - (a) speak to or influence or interfere with any voter in the polling place; or
 - (b) obstruct or interfere with the Chief Electoral Officer in performing the duties of that office.
- (5) No more than one scrutineer for each candidate or the candidate may be appointed with respect to each polling place.
- (6) The non-attendance of a scrutineer during any part of an election does not invalidate any part of the election.

6. Voters List

- (1) At least 21 days before a election or by-election, the Chief Electoral Officer must:
 - (a) prepare a preliminary List of Eligible Voters from the Kwanlin Dün First Nation Citizenship List; and
 - (b) post that preliminary List of Voters:
 - (i) at the Kwanlin Dün First Nation administrative office; and
 - (ii) at conspicuous places throughout Whitehorse as determined by the Chief Electoral Officer.
- (2) At least 15 days before an election or by-election, a Kwanlin Dün Citizen who is at least 18 years of age may apply to the Chief Electoral Officer to have the name of any person added to, or deleted from, the List of Eligible Voters.

- (3) The Chief Electoral Officer:
 - (a) must investigate the eligibility of each request under sub-rule (2);
 - (b) may request any relevant information from a person who is the subject of an investigation under this section;
 - (c) as a result of the investigation, may add or delete, as appropriate, the name of the person who is the subject of the request; and
 - (d) deliver a written decision to the person who is the subject of an investigation, and to the person who requested the addition or deletion of the name.
- (4) The Chief Electoral Officer must post the final voters list for an election or by-election at least 7 days before the date on which voting will be held.

7. Nominations

- (1) At least 28 days before an election or by-election, the Chief Electoral Officer must call for nominations for any office to be filled in that election or by-election by arranging to have the notice broadcast on radio or television in Yukon, and by posting the nomination notice:
 - (a) in a newspaper circulating in Yukon;
 - (b) in conspicuous places throughout the Whitehorse.
- (2) A Kwanlin Dün Citizen who is eligible to vote may nominate any other person who is eligible for the office for which the election is being held.
- (3) A nomination will be complete when:
 - (a) at least 25 eligible voters have signed the nomination form in support of the person nominated; and
 - (b) the person nominated has given evidence to the Chief Electoral Officer, showing that, for at least 5 years before the election or by-election, the person has not been convicted of an indictable offence.
- (4) At least 15 days before an election or by-election, the Chief Electoral Officer must declare nominations closed.

- (5) When the nominations have been declared closed:
 - (a) if the number of nominated persons for a particular office is fewer than or equal to the vacancies to be filled, the Chief Electoral Officer must declare those persons elected by acclamation; or
 - (b) if the number of nominated persons for a particular office exceeds the number of vacancies, the Chief Electoral Officer must declare that a poll will be held at the time, date and place specified in the notice of the election or by-election.

8. List of Candidates

- (1) If a poll is to be conducted, at least 14 days before the election or by-election, the Chief Electoral Officer must publish a list of candidates, indicating the office for which each of them has been nominated, by arranging to have the list broadcast on radio or television in Yukon, and by posting the list:
 - (a) at the Kwanlin Dün First Nation administration office;
 - (b) in a newspaper circulating in Yukon; and
 - (c) in conspicuous places throughout the Whitehorse.
- (2) At least 8 days before the election or by-election, a candidate may withdraw from candidacy by notifying the Chief Electoral Officer in writing.

9. Establishment of the Polling Place

- (1) The Chief Electoral Officer must:
 - (a) determine the number and location of polling places for the election or by-election;
 - (b) at each polling place, provide:
 - (i) polling booths for eligible voters to mark their ballots in secret and free from observation; and
 - (ii) sufficient ballots, which must be kept secure until they are provided to voters.

10. Ballots

- (1) The candidates' names must be arranged on the ballot in alphabetical order by surname.
- (2) Each ballot must be designed so that it may be folded after the vote to conceal the name of the candidates and the marks on the ballot, while exposing the initials of the Chief Electoral Officer.

11. Ballot Boxes

- (1) At each polling place, the Chief Electoral Officer must provide as many ballot boxes as are required for the purposes of the election.
- (2) Each ballot box must:
 - (a) be made of durable material;
 - (b) be accompanied by adequate locks and seals;
 - (c) be designed so that ballots, once deposited, cannot be tampered with; and
 - (d) remain locked and sealed until the official counting of ballots begins.
- (3) Shortly before the commencement of a poll, the Electoral Officer in charge of the polling place must:
 - (a) open each ballot box to be used at that polling place;
 - (b) permit any scrutineer or person present to verify that the box is empty;
 - (c) lock and seal each box to prevent it from being opened without breaking the seal;
 - (d) place each box in public view for the reception of ballots.
- (4) The seal on a ballot box must not be broken until the poll is officially closed and the ballots are to be counted.

12. Secrecy of Voting

- (1) Every person in a polling place must respect and maintain the secrecy of the voting process.
- (2) No person may interfere or attempt to interfere with a voter when the voter is marking the ballot.

- (3) No person may ask a voter at the polling place how the voter is about to vote, or has voted.

13. Voting Procedures

- (1) During the time a polling place is open for voting, only the following people may be present in the polling place:
 - (a) Electoral Officers, Scrutineers, and Interpreters;
 - (b) Candidates and others concerned with the conduct of the election in an official capacity; and
 - (c) Voters who are present and are actually engaged in voting.
- (2) Every polling place must be kept open on the election date from 9:00 AM until 7:00 PM local time.
- (3) A voter may vote:
 - (a) for only one candidate for the office of Chief; and
 - (b) for any number of candidates for the office of Council members, up to the number of members to be elected.
- (4) When a person requests a ballot for voting purposes, the Electoral Officer must:
 - (a) make sure that the person is registered on the List of Eligible Voters;
 - (b) initial a ballot to indicate its valid issuance;
 - (c) provide the initialled ballot to the voter; and
 - (d) place a mark on the List of Eligible Voters opposite the name of the person receiving the ballot to indicate that the person has received a ballot.
- (5) If a person's name is not on the List of Eligible Voters, that person may be declared eligible to vote by the Electoral Officer if the Chief Electoral Officer is satisfied that the person's name is on the Citizenship List.
- (6) If a person is declared eligible under sub-rule (5):
 - (a) an Electoral Officer may swear-in that person; and
 - (b) the Chief Electoral Officer must add the person to the List of Eligible Voters.

- (7) An Electoral Officer must not issue a ballot to a person whose name does not appear on the List of Eligible Voters, unless the person has been sworn in for voting purposes as described in sub-rule (6).
- (8) When requested to do so, the Electoral Officer may explain any voting procedure to an eligible voter.
- (9) On receiving a ballot, each voter must:
 - (a) proceed to the compartment provided for making ballots and shall mark the ballot by placing any legible mark beside the name of each candidate for whom the voter wishes to vote;
 - (b) fold the ballot, concealing the name(s) of the candidates and the marks on the face of the ballot while exposing the initials of the Chief Electoral Officer; and
 - (c) deliver the ballot to the Electoral Officer.
- (10) On receiving a ballot, the Electoral Officer must:
 - (a) not unfold the ballot;
 - (b) verify the initials of the Chief Electoral Officer; and,
 - (c) immediately deposit the ballot in the ballot box in the presence of the voter.
- (11) While a voter is in the compartment for the purpose of making a ballot, no other person may be in the compartment, or in any position to observe the voter marking the ballot, except as allowed by sub-rule (12).
- (12) On the request of a voter who is unable to read or write English or is not capable, for whatever reason, of voting in the manner prescribed by these Rules, an Interpreter or Electoral Officer, as necessary, may:
 - (a) explain the voting procedures to the voter;
 - (b) identify the candidates;
 - (c) assist the voter in casting a ballot;
 - (d) in the case of a person who is visually impaired or physically unable to mark the ballot, an Electoral Officer may mark the ballot as instructed by the voter.
- (13) An Interpreter, Scrutineer or Electoral Officer must not in any way influence a voter to cast a vote for any particular candidate.

- (14) The Electoral Officer must place a mark on the voters list opposite the name of any elector who receives voting assistance, indicating the reasons for the assistance.
- (15) A voter who has spoiled a ballot so it cannot be used may return it to the Electoral Officer, who must:
 - (a) write the word “cancelled” on the spoiled ballot;
 - (b) keep the spoiled ballot separately from the ballot box; and
 - (c) issue another unmarked ballot to the voter.
- (16) If a voter receives a ballot and then leaves the polling booth without delivering the ballot to the Electoral Officer in the manner provided by these Rules, or refuses to vote:
 - (a) the voter forfeits the right to vote in the election;
 - (b) the Electoral Officer must:
 - (i) make an entry in the voters list indicating that the voter declined to vote;
 - (ii) mark the word “rejected” on the face of the ballot; and
 - (iii) keep the marked ballot separate from the ballot box.

14. Closing the Polls

- (1) At 7:00 PM of election day, the Chief Electoral Officer must publicly declare that each poll is closed.
- (2) Any eligible voters who is inside a polling place when the poll is declared closed, but who has not yet voted, is permitted to vote, but no other voter may be admitted to the polling place to vote.
- (3) Immediately after the close of the poll, the Electoral Officer must open each ballot box in turn, and proceed to count the votes in that box, in the presence of:
 - (a) no more than one Scrutineer or agent for each candidate; and
 - (b) and any other authorized persons who may be present.

- (4) The Electoral Officer(s) must examine every ballot, and must reject any ballot:
 - (a) that was not supplied by an Electoral Officer;
 - (b) upon which votes have been cast for more candidates than are to be elected; or
 - (c) upon which anything appears by which the voter can be identified.
- (5) On the back of each rejected ballot, an Electoral Officer must indicate the reason for the rejection, and sign the ballot.
- (6) If a scrutineer objects to the acceptance or rejection of a ballot, the Electoral Officer must:
 - (a) make a note of the objection, numbering the objection, placing the same number on the back of the ballot in question, and initialling the ballot; and
 - (b) decide any questions arising out of the objection.
- (7) After all ballots from each ballot box have been examined, and accepted or rejected as provided above, the Electoral Officer must:
 - (a) count the votes given for each candidate on the ballots not rejected, and
 - (b) prepare a written statement indicating:
 - (i) the date of the election;
 - (ii) the number of persons who voted at the polling place;
 - (iii) the number of ballots supplied to the Electoral Officer;
 - (iv) the number of rejected ballots;
 - (v) the number of unused and cancelled ballots; and
 - (vi) the number of votes for each candidate.
- (8) The written statement must then be signed by the Electoral Officer, and may be signed by any scrutineer or candidate who is present.

- (9) At the completion of the counting of the votes and in the presence of the Scrutineers or agents, the Electoral Officer must make up and seal separate packets for:
- (a) the used ballots that have not been objected to and have been counted;
 - (b) the used ballots that have been objected to but have been counted;
 - (c) the rejected ballots;
 - (d) the unused and cancelled ballots;
 - (e) the notes taken on objections made to ballots found in the ballot box;
and
 - (f) the list of electors.
- (10) The Electoral Officer must:
- (a) sign and place a description of the contents of a packet; and
 - (b) deliver each packet to the Chief Electoral Officer.
- (11) The Chief Electoral Officer must:
- (a) sign each packet;
 - (b) tabulate the votes;
 - (c) keep all packets secure until the time for the consideration of all appeals has passed; and
 - (d) destroy the packets in the presence of a scrutineer only after:
 - (i) the time for any appeals has passed; and
 - (ii) any appeal procedures have been concluded.

15. Declaration of Results

- (1) Immediately after completion of the counting of the votes, the Chief Electoral Officer must publicly declare to be elected:
- (a) as Chief, the candidate who has the highest number of votes for that office; and

- (b) as a member of the Council:
 - (i) first, the candidate who has the highest number of votes for that office;
 - (ii) second, the candidate who has the second highest number of votes for that office; and
 - (iii) continue in progression until the number of members to be elected have been declared elected.
- (2) The Chief Electoral Officer must post a notice indicating the number of votes cast for each candidate at:
 - (a) Kwanlin Dün First Nation Administrative office; and
 - (b) at least three conspicuous places in Whitehorse.
- (3) When the time for filing an appeal has passed, and any appeal proceedings have been concluded, the Chief Electoral Officer must advise the Council that election results posted under subsection (2):
 - (a) are conclusive as posted, if no appeal has been successfully made; or
 - (b) are amended only in accordance with the decision on a successful appeal.

16. Appeals

- (1) An appeal regarding the electoral process may be made to the Kwanlin Dün First Nation Judicial Council within:
 - (a) 30 days after the election decision from which the appeal is taken; or
 - (b) such shorter time prescribed by the Judicial Council Rules of Procedure in a particular case.
- (2) In its consideration of appeals, the Judicial Council must abide by the procedures outlined in this Constitution, and its rules of procedure.
- (3) A decision of the Judicial Council on an appeal is final.

17. Forms

- (1) The Council may prescribe forms to be used in respect of any appeal proceedings under this Schedule.

18. Offences

- (1) A person who knowingly violates any of the following provisions of this Code commits an offence:
 - (a) Section 2.2 Impartiality of Electoral Officers and Interpreters.
 - (b) Section 5.4 Non-interference by scrutineers.
 - (c) Section 11.4 Premature breaking of the seal on a ballot box.
 - (d) Section 12 Secrecy of voting.
 - (e) Section 13.1 Persons improperly at voting place.
 - (f) Section 13.11 Persons improperly in voting booth.
 - (g) Section 13.13 Improper influence by Electoral Officers, Interpreters or scrutineers.
- (2) A person who is guilty of an offence under this section is liable on conviction to a fine of up to \$5,000.00 and imprisonment to a maximum of six months in accordance with the power of the Kwanlin Dün to impose penalties under Section 13.6 of the Self Government Agreement.

19. Transitional Rules Governing Appeals and Appeal Forms

- (1) Until the Council amends this Act, or the Judicial Council adopts Rules of Procedure respecting electoral appeals, clauses 16.06, 16.07.01, and 16.08 through 16.17 inclusive of the Kwanlin Dün First Nation Election Bylaw in force immediately prior to the Effective Date all apply to an appeal under this Schedule, but a reference in any of those provisions to the Kwanlin Dün First Nation Election Appeals Board must be read as if it were a reference to the Judicial Council.
- (2) Until the Council prescribes forms to be used in connection with an appeal under this Schedule, the Forms prescribed under the Kwanlin Dün First Nation Election Regulation of February 7, 1999 may continue to be used, with the changes required by the context.

Part B – Referendums

1. Appointment of Referendum Committee

- (1) Whenever a referendum is required in accordance with this Constitution or Kwanlin Dün legislation, the Council must appoint a Referendum Committee:
 - (a) to be responsible for conducting the referendum; and
 - (b) comprising three members of the Council.
- (2) The Chief must ensure that the Kwanlin Dün First Nation administration provides sufficient administrative support to the Referendum Committee to carry out its functions.

2. Referendum Notice

- (1) At least 30 days before the date of a referendum vote, the Referendum Committee must issue a notice of the referendum, including the following information:
 - (a) the date and time of the Kwanlin Dün First Nation referendum;
 - (b) the names of the members of the Referendum Committee;
 - (c) the designation of the polling places; and
 - (d) any other matters with respect to the referendum.
- (2) The referendum committee must arrange for the notice to be broadcast on radio or television in Yukon, and must:
 - (a) post the notice in at least three conspicuous locations within Whitehorse; and
 - (b) publish the notice in a newspaper circulating in Yukon.
- (3) The Referendum Committee must provide copies of the referendum text:
 - (a) at the Kwanlin Dün First Nation administration building; and
 - (b) other locations, as determined by the Referendum Committee.

3. Official Voters List

- (1) At least 30 days before the referendum vote, the Referendum Committee must publish the Official Voters List that was used in the most recent Kwanlin Dün First Nation election or by-election, or an up-dated version of that list, by posting it:
 - (a) at the Kwanlin Dün First Nation Administration Office; and
 - (b) to individual citizens upon request.
- (2) The Referendum Committee may add to the Official Voters List any person, who, at any time before the date of the vote, provides proof of eligibility.
- (3) Only persons on the Official Voters List are entitled to vote in the referendum.

4. Referendum Process

- (1) The vote on a referendum must take place:
 - (a) on a single day determined and announced by the Referendum Committee at least 30 days before the voting day; and
 - (b) in Whitehorse at the Kwanlin Dün First Nation Administration Office and any other locations determined by the Referendum Committee.
- (2) The Referendum Committee may determine the means by which votes will be cast, but must generally follow the election procedure set out in Part A of this Code.
- (3) The Referendum Committee must tabulate and count all referendum ballots.
- (4) The Kwanlin Dün will have passed a referendum if:
 - (a) if at least a majority of all eligible voters vote in the referendum; and
 - (b) at least a majority of the Kwanlin Dün citizens voting in the referendum vote in favour of it.

- (5) Within 7 days after the voting day, the Referendum Committee must publish the results of the vote showing:
 - (a) the total number of persons on the Official Voters List;
 - (b) the total number of ballots cast;
 - (c) the total number of ballots approving the referendum;
 - (d) the total number not approving the referendum;
 - (e) the total number spoiled; and
 - (f) the total number rejected.
- (6) The Referendum Committee must post the referendum results at the Kwanlin Dün First Nation Administration Office and at such other places it deems appropriate.
- (7) Within 7 days after publishing the results of the referendum, the Referendum Committee must provide a report to the Council setting out the results of the referendum and the details of carrying out the Kwanlin Dün First Nation referendum process.

5. Appeals

- (1) Any appeal regarding a referendum process may be made to the Kwanlin Dün First Nation Judicial Council.
- (2) In its consideration of appeals, the Judicial Council must abide by the procedures outlined in this Constitution, and its Rules of procedure.
- (3) A decision of the Judicial Council on an appeal is final.

Schedule 4 – Code of Conduct

1. Conduct at Meetings

- (1) Each person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation must not use their office to make, participate in the making of, influence or attempt to influence a decision on a matter in respect of which the member has a conflict of interest.
- (2) If a member considers that they have a conflict of interest in respect of a matter to be discussed or voted on at a meeting, the member:
 - (a) must declare the conflict of interest and its general nature at the meeting;
 - (b) must immediately leave the meeting or that part of the meeting during which the matter is to be discussed or voted on;
 - (c) must not take part in the discussion or vote on the matter or attempt to influence the discussion or vote on the matter before, during or after the meeting; and
 - (d) must not execute any document in relation to the matter unless specifically directed to do so by the body concerned.
- (3) A person responsible for recording the proceedings of a meeting referred to in subsection (2) must record any member's declaration of a conflict of interest and the time when the member was absent from the meeting.
- (4) On request of a member at a meeting, the presiding officer may invite any member to consider whether they have a conflict of interest in respect of a matter to be discussed or voted on at the meeting.
- (5) For purposes of this section, a member:
 - (a) has a conflict of interest in respect of a matter if their direct or indirect private interest would be, or could reasonably be expected to be, affected by a decision on that matter, and if the member is in a position to use their office to make, participate in the making of, influence or attempt to influence that decision; but

- (b) does not have a conflict of interest in respect of a matter if the member's direct or indirect private interest in the matter:
 - (i) is the same interest as a broad class of Kwanlin Dün Citizens;
 - (ii) relates to the member's compensation or payment of expenses while acting in the member's official capacity;
 - (iii) is so remote or insignificant that it cannot be reasonably be regarded as likely to influence the member in relation to the matter; or
 - (iv) arises out of a gift given or received by the member during a customary celebration or similar public occasion.
- (6) For purposes of this section, a member's indirect private interest includes the private interest of:
 - (a) the member's spouse;
 - (b) a minor in respect of whom the member is a parent, acts in a parental capacity or is a guardian;
 - (c) an individual, other than an employee of the member, who is financially dependent upon the member or upon whom the member is financially dependent; and
 - (d) an entity in which the member or the member in combination with a person described in paragraph (a), (b) or (c) has a controlling interest.

2. Confidentiality and Discretion

- (1) If in the course of their official duties, a person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation acquires information about a person that is prescribed as confidential information under Kwanlin Dün First Nation law, the member must not use or disclose that information except in accordance with any applicable regulation and:
 - (a) with the consent of that person; or
 - (b) in so far as is necessary to carry out the member's official duties.

- (2) If during a meeting, an institution of the Kwanlin Dün First Nation holds an in-camera discussion of a matter, a person present at that discussion must not reveal the details of that discussion, except
 - (a) in so far as is reasonably necessary to carry out a decision arising from that discussion in accordance with a resolution of that institution; or
 - (b) as specifically authorised by a resolution of that or a later meeting.

3. Abuse of Office

- (1) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation must not directly or indirectly accept, demand, or request any personal economic favour, advantage or benefit for any person in exchange for:
 - (a) voting or deciding a matter in a particular way;
 - (b) influencing or attempting to influence a vote or decision of any branch of the Kwanlin Dün First Nation; or
 - (c) causing or attempting to cause a denial, interruption, or delay of any service provided by the Kwanlin Dün First Nation.
- (2) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation must not directly or indirectly:
 - (a) cause an improper denial, interruption, or delay of any service provided by the Kwanlin Dün First Nation;
 - (b) attempt to cause such an improper denial; or
 - (c) threaten to cause or attempt to cause such an improper denial.
- (3) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation must not engage in any conduct towards another elected or appointed person, or an employee or contractor of the Kwanlin Dün First Nation, that, under the laws of Canada and Yukon, amounts to harassment, assault, sexual harassment or sexual assault of that person.

4. Dealing with Finances and Property

- (1) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation:
 - (a) must not knowingly claim any payment or financial benefit to which the person is not entitled; and
 - (b) must promptly pay to the Kwanlin Dün First Nation any money that the person owes to the Kwanlin Dün First Nation.
- (2) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation who has in their possession or custody any property of the Kwanlin Dün First Nation must:
 - (a) handle and safeguard that property with the same degree of care as would a prudent owner;
 - (b) use that property only for purposes associated with the person's official duties, or for any personal and occasional purpose;
 - (c) not allow any other person to use that property other than for purposes associated with the person's official duties, or for any personal and occasional purpose; and
 - (d) return that property to the designated person, on demand.

5. Gifts

- (1) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation, and who is offered a fee, gift, discount or special service, must decline the offer and disclose the matter to Chief and Council.
- (2) If a gift is made to a person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation, and that gift cannot respectfully be returned, the recipient must deliver the gift to the designated person to be kept as a gift to the Kwanlin Dün First Nation.
- (3) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation and who receives a gift as a representative of, or on behalf of, the First nation must deliver the gift to the designated person.

6. Use of Inside Information for Private Purposes

- (1) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation must not, directly or indirectly:
 - (a) make use of inside information for personal economic advantage or benefit; or
 - (b) reveal inside information to any person who could make use of the information for personal economic advantage or benefit.
- (2) For the purpose of subsection (1), “inside information” is information that:
 - (a) the individual member receives in the member’s official capacity; and
 - (b) is not generally available to the public at the time the member makes use of or reveals the information to another person.

7. Conflict of Interest

- (1) A person who holds an elected office within the Kwanlin Dün First Nation may not:
 - (a) hold an additional position as an employee of the Kwanlin Dün First Nation; or
 - (b) directly supervise an employee of the Kwanlin Dün First Nation if that employee is a member of the representative’s Immediate Family.
- (2) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation or a member of their Immediate Family, may be awarded a contract to provide a good or service to the First Nation only if the award is made through an open competitive process, the successful bid is in the best interests of the Kwanlin Dün First Nation and written reasons are maintained regarding the selection process.
- (3) Each person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation who is related to a successful bidder on a contract, must not be the sole signing authority on that contract.
- (4) Each person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation, other than the Chief, may maintain other employment, business, trade or professional activities but must endeavour to arrange these in a manner that does not conflict with the person’s official duties

8. Conduct towards Employees and Contractors

- (1) A person who holds an elected or appointed office in any branch of the Kwanlin Dün First Nation, when acting in their official capacity:
 - (a) must treat each employee or contractor of the Kwanlin Dün First Nation in a respectful manner; and
 - (b) must respect the responsibility of managers and administrators to direct and instruct employees and contractors.