

CONSTITUTION
OF THE TA'AN KWÄCH'ÄN COUNCIL
2010

CONSTITUTION OF THE TA'AN KWÄCH'ÄN COUNCIL

PREAMBLE

We, the Citizens of the Ta'an Kwäch'än, by virtue of our inherent rights as provided by the Creator and acknowledged in our Final and Self-Government Agreements, and desiring to assume and exercise full responsibility for our own well-being and to safeguard the lands and resources of our traditional territory for ourselves and our children, our grandchildren and all future generations, adopt this Constitution.

VISION

Our vision for the Citizens of the Ta'an Kwäch'än is for the preservation, balance and harmony of our traditional territory. We will honour, respect, protect and care for our environment, people, economy and traditional culture as practiced by our elders. We encourage our Citizens to participate in the well-being of our nation by building a unified, healthy and self-reliant community. The Ta'an Kwäch'än Council will recognize all its Citizens as equals and will respect the free expression of their views. The leadership will be responsible and accountable to its Citizens and govern in an open and cooperative manner. Our vision is to build a diverse economy which will provide security, stability and wealth to sustain our self-governing nation.

The mission of our Citizens and its government is to provide, promote, protect and sustain a healthy and strong lifestyle for our Citizens and future generations consistent with the traditional values of the Ta'an Kwäch'än as practiced today, through governing our natural, human and financial resources effectively.

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GENERAL

1.0 **OBJECTIVES**

- 1.1 The objectives of the Citizens of the Ta'an Kwäch'än Council in adopting this Constitution are to establish a government to:
- 1.1.1 exercise our inherent right to manage and control our natural resources;
 - 1.1.2 teach and preserve traditional values based on our culture, wisdom, language and heritage;
 - 1.1.3 encourage personal healing for the unity and wellness of our community;
 - 1.1.4 establish a responsible, balanced and accountable governing body for the Ta'an Kwäch'än;
 - 1.1.5 establish and sustain a diverse and stable economy which will generate prosperity and financial independence;
 - 1.1.6 implement and exercise the land claim and self-government agreements and agreements entered into by the Ta'an Kwäch'än Council; and
 - 1.1.7 provide a unified voice for the Ta'an Kwäch'än.

2.0 **DEFINITIONS**

2.1 In this Constitution,

“Board” means the main governing body of the Ta'an Kwäch'än established pursuant to section 8.0 of this Constitution;

“Citizen” means a person enrolled as a citizen of the Ta'an Kwäch'än Council pursuant to the citizenship code attached to this Constitution;

“Chief” means a Citizen elected under section 9.0 of this Constitution;

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“Deputy-Chief” means a Citizen elected under section 9.0 of this Constitution;

“Elders Council” means the body established pursuant to section 7.0 of this Constitution;

“Family Director” means the person identified by a Traditional Family under section 8.0 of this Constitution;

“Family Spokesperson” means the individual selected by a Traditional Family, according to its own procedures, as its spokesperson;

“Judicial Council” means the judicial body of the Ta’an Kwäch’än Council established pursuant to section 11.0 of this Constitution;

“Ta’an Kwäch’än Council” means the government of the Ta’an Kwäch’än, including the administration;

“Traditional Family” means one of the following traditional families of the Ta’an Kwäch’än: the Chief Jim Boss family; the Maggie Broeren family; the Jenny Dawson family; the Susie Jim family; the Undeahel family; and the Jenny Lebarge family;

“Youth Council” means the body established pursuant to section 10.0 of this Constitution;

CITIZENSHIP

3.0 CITIZENS

3.1 Citizenship in the Ta’an Kwäch’än Council shall be determined in accordance with the citizenship code attached as Schedule I which forms part of this Constitution.

3.2 The Ta’an Kwäch’än Council shall maintain a current list of Citizens and shall keep a copy of this list available for review at the principal administrative offices of the Ta’an Kwäch’än Council.

4.0 RIGHTS OF CITIZENS

4.1 In exercising any of its authorities or responsibilities, the Ta’an Kwäch’än Council shall

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guarantee and promote the basic individual rights of its Citizens. Every Citizen has the right to equal protection and equal benefit of the laws of the Ta'an Kwäch'än Council without any discrimination, including discrimination based on status, religion, sex or disability.

- 4.2 In so far as not to impair the collective good of its Citizens, the Ta'an Kwäch'än Council shall not enact any law, regulation or policy that restricts:
- 4.2.1 the freedom of thought, belief, opinion and expression of Citizens;
 - 4.2.2 the freedom of religion of Citizens;
 - 4.2.3 the right of Citizens to be secure against unreasonable search or seizure; or
 - 4.2.4 the rights of Citizens to assemble peaceably.
- 4.3 Every Citizen of the Ta'an Kwäch'än Council has the right to bear and use firearms in order to pursue traditional activities of harvesting and gathering within the traditional territory of the Ta'an Kwäch'än Council.
- 4.4 Every Citizen of the Ta'an Kwäch'än Council shall have the right to challenge the validity of any law or regulation enacted by the Ta'an Kwäch'än Council which appears to violate any freedom or right prescribed in this Constitution. The process for challenging the validity of laws and regulations shall be made in accordance with section 14.0 of this Constitution.

GOVERNMENT OF THE TA'AN KWÄCH'ÄN COUNCIL

5.0 GOVERNING BODIES

- 5.1 The jurisdiction of the Ta'an Kwäch'än Council shall apply to all Citizens and shall extend on and over all Settlement Land and over such other lands in such manner as may be agreed upon. The powers and authorities of the Ta'an Kwäch'än Council shall be exercised by the following branches established by this Constitution:
- 5.1.1 the General Assembly;

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5.1.2 the Elders Council, Board and Youth Council; and

5.1.3 the Judicial Council.

5.2 The structure of the governing bodies of the Ta'an Kwäch'än Council shall be based upon the Traditional Families of the Ta'an Kwäch'än.

5.3 No branch of the Ta'an Kwäch'än Council shall have authority beyond the jurisdiction prescribed by this Constitution.

6.0 THE GENERAL ASSEMBLY

6.1 There shall be a General Assembly composed of six representatives of each of the Traditional Families. The Traditional Families shall, according to their own procedures, appoint six representatives who are at least sixteen years of age.

6.1.1 Each Traditional Family shall provide written notice to the General Assembly prior to the meeting, signed by the Family Head and elder, identifying its six representatives for each meeting of the General Assembly.

6.2 The General Assembly shall meet at least once each calendar year and at such other times as the General Assembly or Board may direct.

6.3 At least thirty calendar days before any meeting of the General Assembly notice of the date and place of the meeting and a copy of a tentative agenda may be mailed or delivered to all Citizens and place of the meeting shall be published in a newspaper having circulation in the Yukon and broadcast upon radio or television in the Yukon.

6.4 The Board shall be responsible for arranging the meetings of the General Assembly. The Board may appoint an impartial person to be the chair for a meeting of the General Assembly.

6.5 In the meetings of the General Assembly, any Citizen may speak Southern Tutchone language and, where feasible, translation services shall be provided.

6.6 The quorum of the General Assembly shall be eighteen people comprised of the six representatives of three Traditional Families to conduct its general business.

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- 6.7 The General Assembly shall establish its procedures based on the custom and traditions of the Ta'an Kwäch'än.
- 6.8 At any meeting of the General Assembly, a Citizen may:
- 6.8.1 participate in the discussions;
 - 6.8.2 raise issues for discussion; and
 - 6.8.3 vote in accordance with section 6.9 and 16.0 of this Constitution.
- 6.9 At any meeting of the General Assembly, if at least sixty Citizens are present, who are at least sixteen years of age, those Citizens may with a three-quarter majority vote:
- 6.9.1 nullify any law or regulation enacted by the Ta'an Kwäch'än Council in accordance with this Constitution; or
 - 6.9.2 remove:
 - 6.9.2.1 any member of the Board; or
 - 6.9.2.2 any judge of the Judicial Council.

7.0 THE ELDERS COUNCIL

- 7.1 There shall be an Elders Council composed of all Citizens who are at least sixty years of age.
- 7.1.1 If a Citizen, over the age of sixty years of age, sits on the Board as a Family Director, that Citizen shall not be a member of the Elders Council for the duration of his or her term on the Board.
- 7.2 The Elders Council shall have the responsibility to:
- 7.2.1 provide advice and guidance to Citizens, including members of the Board;

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- 7.2.2 establish a cultural and heritage committee to oversee all traditional activities in order to ensure that the values of the Ta'an Kwäch'än are respected and followed;
 - 7.2.3 recommend to the Board the enactment of laws, regulations, and policies;
 - 7.2.4 approve laws and regulations passed by the Board in accordance with section 13.0 of this Constitution;
 - 7.2.5 appoint an elder to sit on the Youth Council in order to provide guidance and direction to the members of the Youth Council;
 - 7.2.6 appoint members of the Judicial Council in accordance with section 11.0 of this Constitution;
 - 7.2.7 appoint a member of the Elders Council as an ex-officio member of the Board;
and
 - 7.2.8 establish its procedures based on custom and traditions of the Ta'an Kwäch'än.
- 7.3 The Elders Council may remove a judge of the Judicial Council if he or she is found to be compromising the repute of the Judicial Council or obstructing the duties of the Judicial Council.
- 7.3.1 Any Citizen may bring a written complaint to the Elders Council that a judge of the Judicial Council may be compromising the repute of the Judicial Council or obstructing the duties of the Judicial Council.
 - 7.3.2 The written notice shall be simultaneously delivered to the Elders Council and the Respondent Judge.
 - 7.3.3 Within 30 days of receipt of the complaint, the Elders Council shall call a meeting to consider the complaint. On considering the complaint the Elders Council may dismiss the complaint if the Elders Council finds it unnecessary, scandalous, frivolous, vexatious, unfounded, brought in bad faith or beyond its jurisdiction.
 - 7.3.4 The decision of the Elders Council shall be final.

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- 7.4 The Elders Council shall make best efforts to conduct its business by consensus. In cases where consensus cannot be reached, a three-quarter majority vote of the those present shall be required for the approval of all laws, motions and resolutions.
- 7.5 Prior to any meeting of the Elders Council, a public notice of the date, time and location of the meeting shall be posted at the principal administrative offices of the Ta'an Kwäch'än Council.
- 7.6 Members of the Elders Council shall receive fair compensation as approved by the Board.

8.0 THE BOARD

- 8.1 There shall be a Board composed of:
- 8.1.1 one Chief;
 - 8.1.2 one Deputy-Chief;
 - 8.1.3 nine Family Directors as follows:
 - 8.1.3.1 two representatives of the Chief Jim Boss family;
 - 8.1.3.2 three representatives of the Maggie Broeren family;
 - 8.1.3.3 one representative of the Jenny Dawson family;
 - 8.1.3.4 two representatives of the Jenny Lebarge family; and
 - 8.1.3.5 one representative of the Susie Jim family.
- 8.2 The composition of the Board may be altered in accordance with section 16.0 of this Constitution in order to provide for the fair representation of each of the Traditional Families, including the appointment of representatives of the Undeahel family.
- 8.3 The Elders Council and Youth Council may each appoint an ex-officio representative to the Board.

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- 8.4 Each family line shall select a Citizen of its Traditional Family, who is at least sixteen years of age, as its Family Director according to its own procedures to be a member of the Board for a four-year term.
- 8.4.1 Upon the selection of its Family Director, each family line shall provide written notice to the Chief that identifies its Family Director. Until such written notice is provided to the Chief or Deputy-Chief, that person shall not be a member of the Board.
- 8.4.2 If a Traditional Family decides to select its Family Director by way of election, that election shall be held concurrently with the elections for the Chief and Deputy-Chief.
- 8.4.3 A Family Director may be re-elected or re-appointed upon the expiry of his or her term.
- 8.5 Upon providing written notice to the Board, a Traditional Family may recall its representative to the Board and replace him or her.
- 8.6 The quorum for all meetings of the Board shall be the Chief or Deputy-Chief and any six Family Directors, excluding any ex-officio representative of the Elders Council or Youth Council, for all business.
- 8.7 The Board shall have the responsibility to:
- 8.7.1 develop laws and regulations of the Ta'an Kwäch'än Council which shall be enacted in accordance with section 13.0 of this Constitution;
- 8.7.2 approve agreements and contracts to be entered into by the Ta'an Kwäch'än Council;
- 8.7.3 borrow monies on behalf of the Ta'an Kwäch'än Council;
- 8.7.4 designate portfolios among the members of the Board;
- 8.7.5 fulfil the mandates and directions provided by the General Assembly;

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- 8.7.6 establish its procedures based on the custom and traditions of the Ta'an Kwäch'än; and
- 8.7.7 establish its procedures and guidelines to ensure effective management and reporting on all aspects of the Ta'an Kwäch'än Council.
- 8.8 The Board shall make best efforts to conduct its business by consensus. In cases where consensus cannot be reached, a three-quarter majority vote of the Board of the members of the Board present shall be required for approval of all laws, motions and resolutions.
- 8.9 The members of the Board shall receive fair compensation as approved by the Elders Council and Board.
- 8.10 A Family Director, Chief and Deputy Chief must be resident within the traditional territory or surrounding area of the Ta'an Kwäch'än Council during his or her term. A Family Director, Chief or Deputy Chief must resign his or her position if he or she relocates outside the Ta'an Kwäch'än Council traditional territory or surrounding area.
- 8.11 A Family Director, Chief or Deputy Chief may resign by tendering a written resignation to the Elders Council and Board.
- 8.12 A Family Director, Chief or Deputy Chief may be removed by the Judicial Council in accordance with section 12.2 of this Constitution if he or she is found to be compromising the repute or obstructing the duties of that office.
- 8.13 Upon resignation or removal of the Chief or Deputy-Chief, a by-election shall be held forthwith to serve for the remainder of the term.
- 8.14 Citizens are not eligible to be a Family Director, Chief or Deputy Chief if they have been convicted of an indictable offence or the offence of theft, fraud, or false pretences.
- 8.15 Where a Family Director, Chief or Deputy Chief is convicted of an indictable offence or the offence of theft, fraud, or false pretences during his or her term, he or she shall be removed from office.
- 8.16 Where a Family Director, Chief or Deputy Chief is charged with a criminal offence, he or she shall be suspended immediately and will not receive remuneration.

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8.16.1 If the Family Director, Chief or Deputy Chief be found innocent or the charges are withdrawn, he or she shall be reinstated immediately.

9.0 CHIEF AND DEPUTY-CHIEF

9.1 The Citizens, who are at least sixteen years of age, shall elect a Citizen as the Chief for a three-year term in accordance with the laws of the Ta'an Kwäch'än Council.

9.1.1 A candidate for the position of Chief shall be:

9.1.1.1 a direct descendent of a Traditional Family; or

9.1.1.2 a Citizen if he or she obtains the written consent from each of the family lines represented by a Family Director with respect to his or her candidacy.

9.1.2 If a family line represented by a Family Director does not provide written consent to a Citizen under section 9.1.1.2, that Family Director shall provide in writing the reasons for the decision of his or her family line.

9.1.3 A Citizen may appeal a decision of a family line made under section 9.1.2 to the Judicial Council and the Judicial Council may:

9.1.3.1 affirm the decision of the family line; or

9.1.3.2 order that the Citizen may be a candidate for the position of Chief.

9.1.4 The decision of the Judicial Council under section 9.1.3 shall be final.

9.2 The Citizens, who are at least sixteen years of age, shall elect a Citizen as the Deputy-Chief for a three-year term in accordance with the laws of the Ta'an Kwäch'än Council.

9.3 Only Citizens that have resided in the Yukon for a period of six months prior to the date of the election and are eighteen years of age or older shall be eligible to be elected as Chief or Deputy-Chief.

9.4 The Chief or Deputy-Chief may be re-elected upon the expiry of his or her term.

9.5 The Chief shall have the responsibility to:

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- 9.5.1 act as the spokesperson of the Ta'an Kwäch'än Council and represent the Ta'an Kwäch'än Council in the context of inter-governmental affairs;
 - 9.5.2 implement the directions of the Elders Council and the General Assembly;
 - 9.5.3 oversee the traditional activities of the Ta'an Kwäch'än Council;
 - 9.5.4 preside over meetings of the Board or General Assembly;
 - 9.5.5 oversee the departments and agencies of the Ta'an Kwäch'än Council and the administration of programs and services to Citizens;
 - 9.5.6 arrange and organize the meetings of the General Assembly;
 - 9.5.7 cast a vote in order to break a tied vote of the Board; and
 - 9.5.8 oversee the implementation of the Ta'an Kwäch'än Council Final and Self-Government Agreements; and
 - 9.5.9 sign and bring into force all laws and regulations.
- 9.6 The responsibilities of the Chief may be carried out by the Deputy-Chief in the absence of the Chief or upon the direction of the Chief.

10.0 THE YOUTH COUNCIL

- 10.1 There shall be a Youth Council composed of one representative of each of the Traditional Families. Each Traditional Family shall, according to its own procedures, appoint one representative, who is at least fourteen years of age and no older than twenty-nine years of age.
- 10.2 The quorum of the Youth Council shall be any three representatives who represent three respective Traditional Families.
- 10.3 The Youth Council shall have the responsibility to:
 - 10.3.1 advise the Board and Elders Council on any issue;

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- 10.3.2 provide assistance for the coordination and organization of the annual meeting of the General Assembly pursuant to section 9.5.5 of this Constitution;
 - 10.3.3 assist the Elders Council in relation to the cultural and heritage committee established pursuant to section 7.2.2 of this Constitution;
 - 10.3.4 appoint a youth to sit as an observer on the Judicial Council in accordance with section 11.3 of this Constitution; and
 - 10.3.5 establish its procedures based on the custom and traditions of the Ta'an Kwäch'än.
- 10.4 The Youth Council may make recommendations to the Board and Elders Council, including recommendations for the enactment of any laws or regulations.
 - 10.5 All business of the Youth Council shall be conducted by consensus by those present at that meeting.

THE JUDICIAL COUNCIL

11.0 THE JUDICIAL COUNCIL

- 11.1 There shall be a Judicial Council composed of three judges, including one elder, appointed by the Elders Council. The judges of the Judicial Council shall be at least twenty-one years of age.
- 11.2 The Board may expand the composition of the Judicial Council to five judges, including two elders.
- 11.3 The Youth Council shall appoint a representative, who is at least fourteen years of age and no older than twenty years of age, to sit on the Judicial Council as an observer.
- 11.4 Appointments to the Judicial Council shall be for a five year term, except for the initial appointments. One judge shall serve a term of three years, one for four years, and one for five years. Thereafter, the appointments shall be for five year terms.

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- 11.4.1 Upon the expiry of a judge's term, the Elders Council may reappoint that person to be a judge of the Judicial Council.
- 11.5 The judges of the Judicial Council shall receive fair compensation as approved by the Elders Council and Board.
- 11.6 In accordance with section 7.3 of this Constitution, a judge of the Judicial Council may be removed by the Elders Council if he or she is found to be compromising the dignity or effectiveness of the Judicial Council.
- 12.0 POWERS OF THE JUDICIAL COUNCIL**
- 12.1 The Judicial Council shall have the responsibility to:
- 12.1.1 adjudicate any cases of alleged violations of the laws of the Ta'an Kwäch'än Council and impose such sentences as are provided by law to ensure compliance;
 - 12.1.2 where the parties agree, mediate or arbitrate any disputes in relation to the Citizens and Ta'an Kwäch'än Council;
 - 12.1.3 appoint an investigative committee to review any financial irregularities of the Ta'an Kwäch'än Council;
 - 12.1.4 determine the validity of a law or regulation enacted by the Ta'an Kwäch'än Council which has been challenged pursuant to section 14.0 of this Constitution;
 - 12.1.5 maintain a record of its activities and decisions for public review; and
 - 12.1.6 establish its procedures based on the custom and traditions of the Ta'an Kwäch'än.
- 12.2 In accordance with this section, the Judicial Council may remove a member of the Board if he or she is found to be compromising the dignity or effectiveness of that office.
- 12.2.1 Any Citizen may charge a member of the Board of comprising the dignity and effectiveness of his or her position in a written notice.

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- 12.2.2 The written notice shall be simultaneously delivered to the Judicial Council and the member of the Board.
- 12.2.3 The member of the Board shall respond in writing to the Judicial Council within thirty days of receiving the written notice. The member shall be entitled to make a statement to the Judicial Council prior to any decision made by the Judicial Council.
- 12.2.4 The Judicial Council shall make a final determination of the matter in an expedient manner.
- 12.3 The Judicial Council shall have such additional authorities and responsibilities as are prescribed by law.

LEGISLATIVE PROCESS AND REVIEW

13.0 LEGISLATIVE PROCESS

- 13.1 Any law or regulation, or any amendment to a law or regulation, of the Ta'an Kwäch'än Council shall be enacted in accordance with this section.
- 13.2 Any proposed law or regulation shall be reviewed at two meetings of the Board. At the third meeting, the Board may approve the proposed law or regulation in accordance with section 8.9 of this Constitution.
- 13.3 The proposed law or regulation shall be submitted by the Board to the Elders Council for its review and approval. At its meeting, the Elders Council may approve the proposed law or regulation in accordance with section 7.4 of this Constitution.
- 13.4 A proposed law or regulation will be brought into legal effect in accordance with a resolution from each of the Elders Council and Board that approves that proposed law or regulation in accordance with this Constitution.

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14.0 LEGISLATIVE REVIEW

- 14.1 The validity of any existing law or regulation enacted by the Ta'an Kwäch'än Council may be challenged by a Citizen in accordance with this section.
- 14.2 The Family Spokesperson and elder of a Traditional Family may submit a written notice to the Board challenging the validity of any existing law or regulation if they believe it to be inconsistent with:
- 14.2.1 the custom and traditions of the Ta'an Kwäch'än;
 - 14.2.2 the provisions of the Ta'an Kwäch'än Council Final or Self-Government Agreement; or
 - 14.2.3 any provision of this Constitution.
- 14.3 The Board shall review the written notice in an expedient manner and shall make a decision to:
- 14.3.1 amend the law or regulation in accordance with section 13.0 of this Constitution;
 - 14.3.2 repeal the law or regulation; or
 - 14.3.3 disregard the written notice.
- 14.4 Within thirty days of the Board's decision under section 14.3 of this Constitution, the Family Spokesperson and elder, who submitted the written notice challenging the validity of a law or regulation, may then submit the written notice to the Judicial Council.
- 14.5 The Judicial Council shall declare a law or regulation of the Ta'an Kwäch'än Council to be invalid and void if it finds the law or regulation to be inconsistent with the grounds set out in sections 14.2.1, 14.2.2 or 14.2.3 of this Constitution.

FINANCIAL ACCOUNTABILITY

15.0 FINANCIAL ACCOUNTABILITY

- 15.1 The books, accounts and all other relevant financial or monetary records of each branch of the Ta'an Kwäch'än Council, and of any agent or body accountable to any of the branches, shall be audited at least once each year by a chartered accountant. The audited financial statements shall be submitted to the next meeting of the General Assembly.
- 15.2 The financial records, accounts and reports related to the activities of the Ta'an Kwäch'än Council shall be available, upon reasonable notice, to review by any Citizen at the principal administrative offices of the Ta'an Kwäch'än Council.

AMENDMENT OF THIS CONSTITUTION

16.0 AMENDING PROCEDURES

- 16.1 Subject to section 16.2, this Constitution may be amended at any meeting of the General Assembly provided that:
- 16.1.1 written notice of the amendment is provided to the Board setting out the proposed amendment at least twenty-four days prior to the meeting of the General Assembly; and
- 16.1.2 a three-quarter majority vote of at least sixty Citizens at the meeting of the General Assembly, who are at least sixteen years of age, approve the amendment.
- 16.2 If there is consensus amongst the Citizens, who are at least sixteen years of age, present at the meeting of the General Assembly, approving the proposed amendment, the requirements of section 16.1 may be waived.
- 16.3 An amendment may be proposed by any Citizen who is at least sixteen years of age.

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RATIFICATION

17.0 RATIFICATION

- 17.1 This Constitution shall become the Constitution of the Ta'an Kwäch'än Council following its ratification by way of a resolution approved in accordance with section 16.0 at a duly convened meeting of the General Assembly of the Ta'an Kwäch'än Council. The resolution shall specify the date at which the Constitution will be brought into effect.
- 17.2 We, the representatives of the Traditional Families of the Ta'an Kwäch'än have, this _____ day of _____, _____, signed this Constitution of the Ta'an Kwäch'än Council pursuant to the resolution ratifying this Constitution at the General Assembly of the Ta'an Kwäch'än Council, held at _____, Yukon, on _____, 1998.