

December 12, 2011

**2012 Proposed Amendments to the Champagne & Aishihik First Nations Constitution – for Special General Assembly**

The attached table provides Champagne & Aishihik First Nations (CAFN) Citizens with all the amendments the Constitutional Review Committee (CRC) is proposing for the 2012 Special General Assembly.

The CRC commits to being impartial, to listening carefully to your views, and to bringing back to you, as the “owners” of the Constitution, a balanced set of proposed amendments that we hope will give to Citizens a better senior Law to guide Government and your relationship to it.

The CRC is honored to work with you at the Special General Assembly so that **your** Constitution reflects the values and interests of the CAFN People!

**2012 CAFN Proposed Constitutional Amendments**

Section	Proposed Constitutional Amendment
Title	CONSTITUTION OF THE CHAMPAGNE AND AISHIHIK FIRST NATIONS <u>2012</u>
Preamble	<p><u>WE ARE THE PEOPLE of the Champagne and Aishihik First Nations with the rights and powers given to us by the Creator.</u></p> <p><u>The CAFN People have existed from time immemorial. We have owned and occupied the lands and waters within our Traditional Territory, governed these lands and waters, abided by our laws and shared our languages and cultures through strong relationships among our Peoples.</u></p> <p><u>Our Traditional Territory is vast. It stems from the borders of the Northern area of Asheyi extending to the Western area of Silver City, to the Eastern area of Takhini/Kusawa , to the Southern area of Klukshu/Shawshe extending into British Columbia to the Alaska border.</u></p> <p><u>WE choose to exercise our rights, titles and interests to ensure the protection, preservation and promotion of our culture, heritage and lands with their many resources for the Citizens of the First Nations.</u></p> <p><u>WE cherish most our values of helping, respect and sharing as these have been given to us by our Elders.</u></p> <p><u>AND WE hereby adopt this Constitution to be the supreme law of the Champagne and Aishihik First Nations for today and for future generations.</u></p>
<b>Objectives of the Champagne and Aishihik People</b>	
Objectives	<p>The objectives of this Constitution are:</p> <p>b) <u>to ensure a lifestyle of balance among spiritual, mental, emotional and physical health to support the dignity and pride of the Champagne and Aishihik people;</u></p> <p>c) <u>to ensure the protection of the human, civil, legal and cultural rights of the Champagne and Aishihik people;</u></p> <p>d) <u>to ensure proper management and control of Champagne and Aishihik First Nations natural, renewable and cultural resources;</u></p> <p>f) <u>to exercise and implement the Treaties, Land Claims, self-government and other agreements entered into by the Champagne and Aishihik First Nations;</u></p> <p>h) <u>to establish a responsible and accountable government that is operated and managed in a manner that is reflective and respectful of the culture and values of the Champagne and Aishihik People.</u></p>
<b>Definitions</b>	
1.	<p>In this Constitution, ...</p> <p><u>“Government” means the Champagne and Aishihik First Nations’ Government, including the four branches of government (General Assembly, First Nations Council, Elders Senate and Youth Council); and</u></p>
<b>PART 1</b> <b>RIGHTS OF CITIZENS</b>	
<b>Citizenship</b>	
3.	<p><u>(1) Citizenship shall be determined in accordance with the Citizenship Code set out in Schedule A of this Constitution.</u></p> <p><u>(2) Any procedures established pursuant to the Citizenship Code shall ensure timelines and processes for ensuring procedural fairness.</u></p>

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4.	<p><u>(1) This Constitution guarantees the rights and freedoms set out in it subject only to such reasonable limits that are acceptable and consistent with the traditional values and culture of the First Nations.</u></p> <p><u>(2) Subject to 4.(1), unless specifically exempted, the rights and freedoms set out in this Constitution apply to all Citizens no matter where they live in Canada or elsewhere.</u></p>
<p><b>PART 2</b></p> <p><b>GOVERNMENT</b></p>	
<p><b>Participation in Democratic Process</b></p>	
13.	<p>Every Citizen, <u>subject to the reasonable limitations set out in this Constitution</u>, shall have the right to participate in any and all democratic processes of the Government, including</p> <p>b) participation in the General Assembly, Elders Senate, and Youth Council, <del>subject to the limitations set out in this Constitution.</del></p>
<p><b>The Champagne and Aishihik General Assembly</b></p>	
23.	<p>The General Assembly shall consist of [delete "a)"] a minimum of forty Citizens who are sixteen years of age or older; and <u>shall include</u></p> <p>a) a quorum of the First Nations Council; <u>and</u></p> <p>b) <u>any delegates selected and in attendance at the General Assembly.</u></p>
24. [NEW]	<p>[NEW CLAUSE #24]</p> <p><u>(1) For the purposes of the General Assembly the following areas/communities may select and provide up to five (5) delegates each, to participate in the General Assembly:</u></p> <ul style="list-style-type: none"> <li>- <u>Whitehorse,</u></li> <li>- <u>Takhini River Subdivision,</u></li> <li>- <u>Aishihik,</u></li> <li>- <u>Alaska,</u></li> <li>- <u>Champagne,</u></li> <li>- <u>Haines Junction, and</u></li> <li>- <u>Klukshu.</u></li> </ul> <p><u>(2) Each community identified in (1) shall be responsible for the selection of its delegates.</u></p> <p><u>(3) Delegates shall be responsible for:</u></p> <ul style="list-style-type: none"> <li>- <u>attending and participating throughout the General Assembly deliberations;</u></li> <li>- <u>ensuring dialogue among community members; and</u></li> <li>- <u>ensuring the views of the community are reflected in the discussions of the General Assembly.</u></li> </ul> <p><u>(4) For greater certainty, delegate status does not confer additional rights to a Citizen at a General Assembly.</u></p>
<p><b>RENUMBERING REQUIRED - ALL SECTIONS FOLLOWING</b></p>	
24. [OLD]	<p>The General Assembly shall:</p> <p>a) provide <del>direction</del> <u>guidance and input</u> from the Citizens to the Government <u>by way of resolutions approved by the General Assembly;</u></p> <p>b) receive updates <u>on activities, updates on the status of resolutions that have been approved by the General Assembly which are intended to provide guidance and input to the Government,</u> and yearly reports from the Government on all matters concerning the Citizens and the administration of the Government;</p> <p>e) set general <del>policy and</del> mandates for the Government; <del>and</del></p> <p>f) [delete "." And add ";;"]</p> <p>g) <u>establish criteria in consultation with the First Nations Council for an independent process to allow for the review</u></p>

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	<p><u>of administrative procedures of the Government; and</u></p> <p><u>h) acts as a Consultative mechanism for entities seeking the views of CAFN Citizenship.</u></p>
25.	<p>The General Assembly shall meet annually and at such other times as the General Assembly or the First Nations Council may direct, <u>and at a location within the Traditional Territory determined by the General Assembly or the First Nations Council as the case may be, taking into consideration the following:</u></p> <ul style="list-style-type: none"> <li>- <u>accessibility;</u></li> <li>- <u>connection to the land;</u></li> <li>- <u>rotation among traditional areas; and</u></li> <li>- <u>feasibility.</u></li> </ul>
26.	<p>Notwithstanding the provisions set out in this Constitution, the General Assembly shall determine its own procedure, <u>including the selection of delegates,</u> and any failure by the General Assembly to adhere to or follow its own procedure shall not be reviewable by any court, <u>nor by another branch of Government.</u></p>
27.	<p>The First Nations Council shall be responsible for arranging meetings of the General Assembly, <u>and shall seek input from Citizens on topics for the agenda of the General Assembly.</u></p>
28.	<p><u>The First Nations Council, in consultation with the delegates, shall appoint a Chair for the General Assembly.</u></p>
29.	<p>The <del>Chief Chair</del>, <u>if he or she is a CAFN Citizen, shall vote only</u> when his or her vote is required to break a tie on any vote taken during the General Assembly.</p>
30.	<p><del>Notwithstanding section 29, no member of the First Nations Council shall vote on any matter before the General Assembly, unless</del></p> <ul style="list-style-type: none"> <li>a) <del>the vote is to amend the Constitution; or</del></li> <li>b) <del>the vote is on a matter that the participation of the Councillors in such a vote has been approved, by resolution of the General Assembly, prior to the voting on that matter at the General Assembly.</del></li> </ul> <p>[REPLACE WITH...]</p> <p><u>All Citizens have the right to participate in the proceedings of the General Assembly subject to rules of conflict, including matters where decisions may directly affect a Citizens role in another branch of the Government.</u></p>
31.	<p><del>Notwithstanding section 28, the First Nations Council</del> <u>The First Nations Council, in consultation with the delegates,</u> may appoint a person <del>other than the Chief</del> <u>who is not a Citizen of Champagne and Aishihik First Nations.</u></p> <p>[DELETE SUBSECTIONS]</p> <ul style="list-style-type: none"> <li>a) <del>the position of Chair may be filled by a person who is not a Citizen; and</del></li> <li>b) <del>where the Chair is someone other than the Chief, that person shall not be eligible to vote in any proceeding of the General Assembly.</del></li> </ul>
40.	<p>[CONCEPT MERGED WITH EARLIER CLAUSE – S. 25]</p> <p>[DELETE THIS SECTION]</p>
<b>The First Nations Council</b>	
41.	<p>There is hereby established a legislative <u>and executive</u> council to be called the First Nations Council composed of:</p> <ul style="list-style-type: none"> <li>a) one Chief;</li> <li>b) four Councillors at large <u>all of whom are to take the role of Deputy Chief on a rotational basis if they so desire;</u></li> <li>c) one Elders Councillor; and</li> </ul>

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	d) one <i>ex officio</i> Youth Councillor, all of who shall be elected through a democratic process.
42.	Notwithstanding the provisions set out in this Constitution, the First Nations Council shall determine its own procedure, and any failure by the First Nations Council to adhere to or follow its own procedure shall not be reviewable by any court, <del>nor by another branch of Government.</del>
44.	<del>Unless otherwise directed by the General Assembly,</del> The First Nations Council may convene at any location within the Traditional Territory of the First Nation.
47.	<del>(1) The quorum of the First Nations Council shall be the Chief or Deputy Chief, and three Councillors (not including the Youth Councillor).</del> <del>(2) Where a matter before Council has a direct impact on Youth, reasonable effort shall be made to have the Youth Councillor present.</del>
50.	<del>(1) The First Nations Council shall appoint a Councillor to the position of Deputy Chief.</del> <del>(2) The duties of the Deputy Chief are to be determined by the First Nations Council.</del>
52.	<del>(1) Where the Chief is unable to fulfill the duties of his or her office as Chief, due to his or her resignation, incapacity or death, the First Nations Council shall appoint the Deputy Chief to the office of Chief.</del> <del>(2) Where the Deputy Chief is not able to take on the office of Chief, the First Nations Council shall determine who among them will take on the role of Chief for the period of time leading up to a by-election for the position of Chief, which, for greater certainty, shall be within one year of the vacancy in the Office of Chief.</del>
53.	<del>[DELETE]</del> <del>Where the Deputy Chief is appointed Chief, pursuant to section 52, his or her appointment shall only be until such time as there is an election to select a new Chief.</del>
<b>First Nations Council Jurisdiction</b>	
54.	The First Nations Council shall have the exclusive jurisdiction to: b) <del>fulfill mandates and direction set out by the General Assembly;</del> [replace with] <u>give careful consideration to the guidance and input from the General Assembly in conducting the business of the First Nations Council;</u> h) <del>enter into treaties, land claim agreements, other agreements or any other contract with other governments, Corporations, persons or other organizations;</del> [replace with] <u>following Consultation with the General Assembly, enter into treaties, land claim agreements, and intergovernmental agreements that affect rights, titles and interests of Citizens;</u> i) [new "i" from contract authority in "h"] <u>enter into contracts with other governments, corporations, persons or organizations;</u> [re-letter "i" and "j"] k) <u>following criteria set by the General Assembly, establish an independent process to allow for the review of administrative procedures of the Government.</u>
<b>Elders Senate</b>	
60.	<u><i>Joint Meeting with First Nations Council</i></u> <u>(3) In its capacity as the keeper of the First Nations' values and culture, once every calendar year the Elders Senate will convene a joint meeting of the Elders Senate and First Nations Council.</u>
61.	<del>Unless otherwise directed by the General Assembly,</del> The Elders Senate may convene at any location within the Traditional Territory of the First Nation.

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62.	Notwithstanding the provisions set out in this Constitution, the Elders Senate shall determine its own procedure, and any failure by the Elders Senate to adhere to or follow its own procedure shall not be reviewable by any court, <u>nor by another branch of Government.</u>
<b>Youth Council</b>	
65.	<del>Unless otherwise directed by the General Assembly,</del> The Youth Council may convene at any location within the Traditional Territory of the First Nation.
<b>PART 3 SETTLEMENT LANDS</b>	
<b>Settlement Lands</b>	
67.	<del>There shall be no sale of any settlement lands.</del> [REPLACE WITH] <u>Settlement Land is held in trust by the First Nations Government for the use and enjoyment of Citizens, therefore Settlement Land cannot be sold or disposed of in any manner that reduces the total quantum of Settlement Land of the Champagne and Aishihik First Nations.</u>
68.	<del>Notwithstanding section 48, any transfer or exchange of Settlement Land shall be done in accordance with the following provisions:</del>  <ul style="list-style-type: none"> <li><del>a) Any proposed leasing, trade, exchange or other granting of proprietary right other than absolute conveyance of settlement land shall require the approval of all Councillors holding office;</del></li> <li><del>b) Any proposed leasing, trade, exchange or other granting of proprietary right other than absolute conveyance of settlement land shall require fourteen days notice prior to the final approval by all Councillors; and</del></li> <li><del>c) At no time shall any proposed leasing, trade, exchange or other granting of proprietary right other than absolute conveyance of settlement land set out in (a) shall reduce or diminish the total quantum of Settlement Land held by the First Nation.</del></li> </ul> [REPLACE WITH] <u>All dispositions of Settlement Land shall be done in accordance with the following provisions:</u> <u>a) Any proposed leasing, exchange or other granting of interest in Settlement Land shall require the unanimous consent of all Councillors holding office;</u> <u>b) Any proposed leasing, exchange or other granting of interest in settlement land shall require fourteen days notice prior to the final approval; and</u> <u>c) At no time shall any proposed leasing, exchange or granting of interest in settlement land set out in 68 (a), reduce or diminish the total quantum of Settlement Land.</u>
<b>PART 4 REVENUE AND FINANCIAL ADMINISTRATION</b>	
<b>Financial Accountability</b>	
	[PART UNDER REVIEW (FOR TECHNICAL ACCURACY)]
69.	All First Nation money and revenue over which the First Nations Council has the power of appropriation shall be held in a consolidated revenue fund.
70.	The books, accounts, and all other relevant financial or monetary records of each branch of the Government, and of any agent or body accountable to any of the branches, shall be examined at least once each year by a licensed accountant; the audited financial statements shall be submitted to the next annual meeting of the General Assembly

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	and shall be available for examination by any Citizen of the First Nation throughout the meeting.
71.	The principal current financial and monetary records and reports pertaining to the activities and responsibilities of the Government shall be opened, upon reasonable notice being given, to inspection by any Citizen of the First Nation at the principal administrative offices of the Government.
<b>PART 5</b> <b>AMENDMENTS AND REVIEW</b>	
<b>Amending Constitution</b>	
77 [NEW]	<u>A Constitutional Registrar shall be appointed by the First Nations Council to keep the official copy of the Constitution upon which the First Nations Seal is to be affixed, and all documentation relating to Constitutional amendments.</u>
78 [NEW]	<u>A Constitutional Committee shall be appointed by the First Nations Council 90 days in advance of a General Assembly. The Constitutional Committee shall be responsible for:</u> <ul style="list-style-type: none"> <li>- <u>having custody of all proposed amendments;</u></li> <li>- <u>ensuring that all procedures under this Constitution or from the General Assembly relating to Constitutional amendments are followed;</u></li> <li>- <u>ensuring that the amending language is presented in a manner that is clear and understandable to the General Assembly;</u></li> <li>- <u>notice of all amendments is provided to Citizens;</u></li> <li>- <u>that all Citizens have reasonable access to proposed amendments; and</u></li> <li>- <u>that all necessary legal and technical reviews are undertaken as required.</u></li> </ul>
79 [NEW]	<u>Only Citizens or bodies duly authorized by a General Assembly are eligible to propose amendments to the Constitution.</u>
80 [NEW]	<u>(1) A constitutional proposal by a Citizen is to include a statement of the purpose of the changes requested.</u> <u>(2) The constitutional proposal is to be accompanied by a Constitutional petition signed by a minimum of 25 Citizens who are eligible to vote at the General Assembly and who support the proposed amendment.</u> <u>(3) The petition and statement of the purpose shall be submitted to the Constitutional Committee to confirm eligibility for consideration by the General Assembly and for official record at least 60 calendar days in advance of a General Assembly.</u>
81 [NEW]	<u>The statement of the purpose of the Constitutional amendment proposed along with the prepared draft of Constitutional amendments are to be introduced by the Citizen proposing the amendment, or by a delegate authorized by the Citizen to introduce the amendment, but the Citizen proposing the amendment must be in attendance when the amendment is brought forward for consideration by the General Assembly.</u>
82 [NEW]	<u>(1) This Constitution shall be reviewed ordinarily every five (5) years.</u> <u>(2) The First Nations Council, in consultation with the delegates, may propose an extraordinary amendment at other times if it is determined to be a matter of good governance or other constitutional crisis that cannot await the 5 year interval.</u>
77. [OLD]	<u>A statement of the purpose of any proposed amendment shall be included in the notice of the meeting in which it is considered, and for greater certainty, this notice is to be made at a minimum of 60 days in advance of the General Assembly or shall be provided to those attending the meeting at least sixty days prior to the commencement of the General Assembly at which it is to be considered.</u>

December 12, 2011

[AMEND TO REFLECT DATE AND LOCATION WHEN PASSED]

This Constitution of the Champagne and Aishihik First Nations, as amended, was passed at a duly called General Assembly, this 23 day of July 2000, at Klukshu Village, Yukon Territory.

[SIGNATURE BLOCKS FOR

- CHAIR, GENERAL ASSEMBLY
- ALL FIRST NATIONS COUNCIL MEMBERS IN ATTENDANCE
- CHAIR, ELDERS SENATE
- CHAIR, YOUTH COUNCIL]

**CHAMPAGNE AND AISHIHIK FIRST NATIONS**

**CONSTITUTION ~~2000~~ [2012]**

**SCHEDULE A**

**CHAMPAGNE AND AISHIHIK FIRST NATIONS**

**CITIZENSHIP CODE**

[SUBSTANTIVE AMENDMENT - ADD NEW s. 3)b)]

**JURISDICTION OF THE FIRST NATIONS COUNCIL**

3. a) The First Nations Council shall have the sole jurisdiction in the determination of citizenship and any procedural and legislative matters in relation to citizenship under this Schedule.

b) The establishment of any procedural or legislative matters shall ensure that the determination of Citizenship is undertaken in a timely manner and establish processes that ensure procedural fairness.