

**KA:'YU:'K'T'H'/CHE:K'TLES7ET'H'
FIRST NATIONS GOVERNMENT**

GOVERNMENT ACT

KCFNS 2/2011



This law enacted on April 1, 2011

Signed Christina Cox
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Ka:'yu:'k't'h' First Nation

Signed Francis Gillette
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Signed Therese Smith
Therese Smith, Legislative Chief,
Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations

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PREAMBLE

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assert that we have exercised sovereign authority over our lands since time immemorial. Despite the arrival of settlers on our land, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations have preserved and protected our traditional territories and we accept the obligations and responsibilities inherent in governing.

It is the desire of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government to govern in a manner that is responsible, transparent, democratic and accountable, blending hereditary and modern-day governing institutions. In doing so, our governing structures honour our past and embrace the future ensuring the continued existence of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as strong political, social and cultural communities that aspire to grow as organized, determined, successful and self-reliant peoples.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations adopt this Act based on these values.

PART 1 - INTRODUCTORY PROVISIONS

Short title

1.1 This Act may be cited as the Government Act.

Oversight

1.2 The chairperson of the Legislature is responsible for the oversight of this Act.

Application

1.3 This Act applies to the structures and procedures of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government.

Definitions

1.4 In this Act,

“alternate chairperson” means the member of the Legislature chosen as alternate chairperson under section 2.2(c)(ii);

“chairperson” means the chairperson of the Legislature;

“chief electoral officer” means the individual chosen to perform the duties and exercise the powers of the chief electoral officer under the Elections Act;

“clerk” means the office of the clerk established under section 2.17 or the individual appointed to hold that office;

“eligible voter” means an eligible voter as defined in the Elections Act;

“facilitator” means the person chosen to facilitate meetings of the People’s Assembly under section 4.5;

“legislative chief” means the elected chief of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government referred to in section 2.5 of the Constitution;

“legislative Ha'wiih” means the Ha'wiih appointed as members of the Legislature in accordance with Schedule 2;

“legislative Ha'wilth” means an individual appointed as a member of the Legislature in accordance with Schedule 2;

“motion” means a main motion, subsidiary motion, incidental motion, privileged motion or a restorative motion as defined in the rules;

“ordinary meeting” means a meeting of the Legislature called by the chairperson under section 2.1;

“quorum” means the minimum number of members of the Legislature established under section 2.12 necessary to convene an official meeting of the Legislature or the minimum number of members of the Executive established under section 3.3 necessary to convene an official meeting of the Executive;

“resolution” means the formal expression of the will of the Legislature;

“rules” means the Legislature Rules of Order and Procedure Act;

“special meeting” means a meeting of the Legislature called by the chairperson under section 2.3;

“symbol” means the official seal or symbol of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations which includes the official seal or symbol of the Ka:'yu:'k't'h' First Nation and the Che:k'tles7et'h' First Nation as adopted by the Legislature to signify the authority to represent the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

PART 2 - KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' LEGISLATIVE BRANCH

Ordinary meetings

- 2.1 (a) The chairperson in consultation with the Legislature may call an ordinary meeting of the Legislature at any time as may be required.
- (b) The Legislature must meet no fewer than 12 times in each calendar year.

Opening ceremonies

- 2.2 (a) The legislative chief must convene the first meeting of the Legislature not more than 14 days after a regular election and which coincides with the People's Assembly for that year.
- (b) The legislative chief must preside at the first meeting of the Legislature until a chairperson has been chosen in accordance with subsection (c)(ii).
- (c) The agenda for the first meeting of the Legislature after a regular election must include
- (i) the swearing-in of the members of the Legislature,
 - (ii) the choosing of a chairperson and an alternate chairperson from the members of the Legislature by a majority vote of a quorum of members of the Legislature,
 - (iii) subject to section 2.1(b), the scheduling of ordinary meetings, and
 - (iv) any other business determined by the Legislature.
- (d) All members of the Legislature must swear or affirm the oath of office set out in Schedule 1 administered by the clerk as required by section 6.2 of the Constitution.

Special meetings

- 2.3 The chairperson may, with the informal consent of 75% of the members of the Legislature, call a special meeting of the Legislature with no less than 24 hours' notice.

Notice of meetings

- 2.4 (a) The chairperson must direct the clerk to issue a written notice of each ordinary meeting at least seven days prior to that ordinary meeting.

- (b) The clerk must provide the notice of the ordinary meeting directly to each member of the Legislature and post the notice in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law.
- (c) A notice provided under this section must include the proposed agenda for the ordinary meeting.
- (d) The chairperson must direct the clerk to provide notice of a special meeting to the members of the Legislature either in writing, electronically or verbally, which notice must indicate the purpose of the special meeting.

Agendas for meetings

- 2.5**
- (a) The chairperson must direct the clerk to prepare a proposed agenda for each ordinary meeting.
 - (b) An agenda must include
 - (i) any unfinished business tabled at the previous meeting, and
 - (ii) any matter requested by a member of the Legislature to be added to the agenda as new business at least 14 days prior to the ordinary meeting.
 - (c) At the beginning of an ordinary meeting, the chairperson must request a motion to adopt the agenda.
 - (d) During debate on a motion to adopt the agenda, a member of the Legislature may move an amendment to the motion to introduce other business or that the business be dealt with in a different order.

Business by resolution

- 2.6**
- (a) Any matter to be decided by the Legislature must be presented in the form of a motion.
 - (b) Every affirmative decision of the Legislature must be made by adopting a resolution.
 - (c) Legislation to be enacted, a budget to be approved or a contract or document to be ratified must be attached as an appendix to the resolution by which it is proposed to be enacted, approved or ratified
 - (d) A resolution to enact legislation must include a statement of the name of the legislation and the proposed effective date, or method for determining the effective date, of that legislation.

Legislation

- 2.7** (a) Legislation may only be passed after it has been reviewed and advice from the Ha'wiih Advisory Council has been considered and after the Legislature has
- (i) given it first reading by adopting a resolution to accept the legislation as introduced,
 - (ii) given it second reading by
 - (A) considering the legislation in committee, which may be a committee of the whole Legislature, and
 - (B) adopting a resolution to accept the legislation in principle, and
 - (iii) given it third reading by adopting a resolution to enact that legislation.
- (b) The chairperson must seek to achieve consensus upon third reading prior to seeking a vote on the resolution.
- (c) A resolution to accept legislation in principle under subsection (a)(ii)(B) may not be adopted on the same day that the legislation is given first reading.
- (d) A resolution to enact legislation under subsection (a)(iii) may not be adopted until at least 24 hours after the legislation has been given second reading.
- (e) The chairperson may permit legislation to proceed in any shorter time than that allowed by subsection (c) if the Legislature, by unanimous approval, resolves to permit the earlier enactment of that legislation.

Chairperson

- 2.8** (a) The chairperson must preside over each meeting of the Legislature when in attendance.
- (b) The chairperson has the authority, subject to the rules, to preserve order in the Legislature and to decide questions of order and procedure.
- (c) In deciding a question of order or procedure, the chairperson
- (i) may invite submissions from members of the Legislature,
 - (ii) must rule on the question, and

- (iii) must give reasons for the ruling based on this Act, the rules or general parliamentary procedure.

Alternate chairperson

2.9 When the chairperson is unable to perform the duties or exercise the powers of that office, the alternate chairperson must perform such duties and exercise such powers for the duration of the time the chairperson is unable to perform or exercise them.

Chairperson's term of office

2.10 The chairperson holds office at the pleasure of the Legislature until the next regular election.

Resignation of the chairperson

- 2.11** (a) The chairperson may resign as chairperson
- (i) by announcing to the members of the Legislature during a meeting of the Legislature an intention to resign on a specified date no sooner than 14 days after the announcement, or
 - (ii) by giving written notice to the clerk of the intention to resign on a specified date no sooner than 14 days after the date the written notice is given to the clerk.
- (b) If the office of chairperson becomes vacant, the members of the Legislature must appoint a new chairperson at its next meeting.

Quorum

2.12 A meeting of the Legislature requires a quorum of seven of its members present.

Participation in proceedings

- 2.13** (a) Only a member of the Legislature or other person approved by the chairperson may speak during meetings of the Legislature.
- (b) The right of a member of the Legislature to participate in proceedings of the Legislature may not be delegated to another person.
- (c) Subject to subsection (d), any member of the Legislature may introduce a motion.
- (d) A member of the Legislature must give at least 14 days written notice to the chairperson before introducing a motion that concerns:
- (i) development or approval of an annual budget,

- (ii) financial administration of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government,
- (iii) any trust of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government,
- (iv) the exercise of Ka:'yu:'k't'h'/Che:k'tles7et'h' government taxation powers, or
- (v) ratification of a fiscal agreement with another government.

Rules governing proceedings

- 2.14** (a) Members of the Legislature may only participate in a meeting of the Legislature in accordance with the Constitution, this Act and the rules.
- (b) During a meeting, a member of the Legislature may, in accordance with the rules, move that one or more of the requirements of the rules be suspended during all or part of that meeting.
- (c) If a motion made under subsection (b) is supported by two-thirds of the members of the Legislature present, the chairperson must suspend the particular requirement referred to in the motion for the period stated.
- (d) Despite the suspension of any particular requirement under subsection (c), the chairperson must conduct the balance of the meeting in accordance with the Constitution, this Act and any requirements of the rules not suspended.

Electronic attendance at meetings

- 2.15** (a) If a member of the Legislature is physically unable to attend a meeting of the Legislature, that member may attend that meeting by means of such telephonic, electronic or other communication facilities as permit all persons participating in that meeting to communicate adequately with each other.
- (b) Each member of the Legislature participating in the manner described in subsection (a) is deemed to be present at the meeting.

Voting

- 2.16** (a) In order to vote, a member of the Legislature must be present when the vote is called.
- (b) Only a member of the Legislature may vote.
- (c) The chairperson may not vote except in the case of a tie vote and, for certainty, the chairperson may not be compelled to vote in the case of a tie vote.

- (d) After a vote has been taken in accordance with the rules, the clerk must make a record of the vote.

Office of the clerk established

- 2.17** (a) The office of the clerk is established.
- (b) The chairperson must appoint an individual to hold the office of the clerk.
- (c) The clerk reports to the Legislature.
- (d) The clerk is responsible for
- (i) advising the chairperson on the rules,
 - (ii) advising the Legislature on questions of procedure or interpretation of the rules,
 - (iii) assisting members of the Legislature in drafting notices, making motions and preparing resolutions,
 - (iv) assisting in the development and drafting of legislation,
 - (v) certifying that legislation submitted to the Tyee Ha'wilt and the legislative chief for signing is a true copy of the legislation enacted by the Legislature,
 - (vi) maintaining the registry of laws,
 - (vii) certifying that a document is a true copy of a Ka:'yu:'k't'h'/Che:k'tles7et'h' law,
 - (viii) preparing agendas and notices of meetings of the Legislature and providing them in accordance with this Act and the rules,
 - (ix) providing public access to the records of meetings of the Legislature as required,
 - (x) coordinating with the chairperson to ensure that the Legislature has adequate facilities for its meetings, and
 - (xi) performing any other duty assigned by the Legislature.

Delegation authority

- 2.18** (a) Upon the approval of the legislative chief and the chief administrative officer, the clerk may delegate, in writing, the performance of any of the clerk's duties or the

exercise of any of the clerk's powers to a Ka:'yu:'k't'h'/Che:k'tles7et'h' government employee.

- (b) Despite the delegation of any duties or powers under subsection (a), the clerk remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

Registry of laws

- 2.19**
- (a) The registry of laws is established.
 - (b) The clerk must deposit in the registry of laws
 - (i) the original copy of every enactment of the Legislature as soon as it has been signed by the Tyee Ha'wilth and the legislative chief,
 - (ii) the original copy of every enactment of the Executive as soon as it has been signed by the legislative chief, and
 - (iii) the original copy of every other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, and
 - (iv) the original copy of any other document required or authorized under a Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment to be deposited in the registry of laws.
 - (c) When the clerk deposits the original copy of a Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment or document in the registry of laws, the clerk must
 - (i) make three copies of that Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment or document,
 - (ii) certify each copy to be true,
 - (iii) if the Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment is legislation or regulation, deliver in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law one of the certified copies to British Columbia and another, if requested, to Canada,
 - (iv) keep the third certified copy available for public inspection at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices, and
 - (v) archive the original in the prescribed manner and form.

- (d) The clerk
- (i) must maintain an official continuing consolidation of each Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment separate from the original of that enactment in which the clerk records the effect on that Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment of each amendment to it when that amendment comes into force, and
 - (ii) may provide a copy of the consolidated Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment to any person for any purpose.
- (e) If the clerk has certified a copy of a consolidated Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment provided under subsection (c)(ii), any person may rely on it as a correct statement of that Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment as of the date it was certified.
- (f) The clerk may, in consultation with the chairperson, establish and maintain an electronic version of the registry of laws.

PART 3 - KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' EXECUTIVE BRANCH

General

- 3.1** (a) For certainty, the Executive established by section 2.1 of the Constitution is vested with the executive powers of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government.
- (b) The Executive is responsible for the oversight of the operations of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government.

Powers and duties

- 3.2** (a) The Executive may exercise the powers and must perform the duties of the Executive set out in the Constitution, this Act or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment.
- (b) The Legislature must establish the symbol that may be affixed to a document to be signed by a member of the Executive on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations in order to signify that the signatory represents the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

Meetings of the Executive

- 3.3** (a) Members of the Executive may meet at any time and location deemed reasonably necessary by the legislative chief or any two members of the Executive.
- (b) The legislative chief or any two members of the Executive who initiate a meeting under subsection (a) must provide written notice of the meeting directly to each member of the Executive and the clerk.
- (c) A meeting of the Executive requires a quorum of two-thirds of its members present.
- (d) As soon as practicable after a meeting of the Executive, the clerk must provide the endorsed minutes of that meeting to each member of the Executive.

Suspension or removal from office

- 3.4** The Legislature may, by resolution approved by a two-thirds majority of the members of the Legislature present and voting, suspend or remove a member of the Executive from his or her executive portfolio.

PART 4 - KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' PEOPLE'S ASSEMBLY

Assembly

- 4.1 For certainty, a meeting of the People's Assembly must be convened in accordance with the Constitution.

Notice

- 4.2 At least 60 days prior to a meeting of the People's Assembly, the clerk must post notice of the meeting in accordance with Ka:'yu:'k't'h'/Che:k'tles7et'h' law, including the date, time and location of the meeting.

Agenda

- 4.3 A notice posted under section 4.2 must include a proposed agenda for the meeting of the People's Assembly.

Location

- 4.4 All meetings of the People's Assembly must be held at a location within the Nisma unless otherwise directed by a majority of eligible voters present and voting at the previous meeting of the People's Assembly.

Facilitator

- 4.5 All meeting of the People's Assembly must be chaired by a non-Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen facilitator chosen by the Legislature prior to the People's Assembly.

Procedures

- 4.6
- (a) The facilitator must call a meeting of the People's Assembly to order and open the meeting on the designated date and time.
 - (b) The first order of business at all meetings of the People's Assembly will be the adoption of the agenda, at which time Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens may propose additional agenda items.
 - (c) The adoption of the agenda, and the inclusion or exclusion of additional agenda items, will be determined by approval of a motion by a majority of the eligible voters present and voting by way of a show of hands.
 - (d) The facilitator must adhere to the agenda adopted in accordance with this section.
 - (e) The facilitator must afford a representative of the Ka:'yu:'k't'h'/Che:k'tles7et'h' government an opportunity to make a report or presentation on each agenda item.

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- (f) Following any presentation or report under subsection (e) Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens will be permitted the opportunity to raise questions or seek clarification in relation to that specific agenda item.
 - (g) All questions and discussions must be advanced in a respectful manner.
 - (h) The facilitator must maintain a speakers list.
 - (i) Each speaker must be permitted a maximum of five minutes to frame a question or make a statement after which time the facilitator must recognize an individual to respond to the question or a new speaker.
 - (j) If the original speaker wishes to continue on the topic or raise a subsequent question, the facilitator must place that speaker at the end of the speakers list.
 - (k) The facilitator must maintain order at meetings of the People's Assembly and has the authority to rule any speaker out of order.
 - (l) At the close of a meeting of the People's Assembly, the facilitator must verbally summarize the resolutions passed and seek instructions from those present on the date and location of the next meeting of the People's Assembly.
 - (m) In performing the duties and exercising the powers in accordance with this section, the facilitator may refer to the rules for guidance.

Resolutions

- 4.7**
- (a) A speaker may make a motion to obtain a resolution of the People's Assembly on the agenda item being addressed.
 - (b) In order to clarify a discussion, the facilitator may request that a speaker make a motion.
 - (c) Except for matters requiring a referendum in accordance with the Constitution, Referendum Act or other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, a resolution is passed by a majority of eligible voters present and voting at a meeting of the People's Assembly by way of a show of hands.
 - (d) Any resolution passed at a meeting of the People's Assembly constitutes a recommendation to the Ka:'yu:'k't'h'/Che:k'tles7et'h' government.
 - (e) The Legislature will advise Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens of all actions taken in regard to recommendations made at meetings of the People's Assembly by providing a written report prior to the next meeting of the People's Assembly and will put that report on the agenda for the next meeting of the People's Assembly.

Record of event

- 4.8** The facilitator is responsible for maintaining a complete record of each meeting of the People's Assembly and must make that record public within 30 days of the close of the meeting.

PART 5 - HA'WIIH ADVISORY COUNCIL

Roles and responsibilities

- 5.1** (a) For certainty, the Ha'wiih Advisory Council must assume the role and responsibilities in the Ka:'yu:'k't'h'/Che:k'tles7et'h' government set out in the Constitution.
- (b) The Ha'wiih Advisory Council must conduct its affairs in accordance with the customary practices described in the Code of Customary Practices attached as Schedule 2.

PART 6 - VACANCIES

Resignation

- 6.1** (a) Any elected member of the Legislature may resign from that office by
- (i) announcing to the members of the Legislature during a meeting of the Legislature his or her resignation, or
 - (ii) by giving written notice to the clerk of his or her resignation.
- (b) In the event of the resignation of an elected member of the Legislature under subsection (a), a by-election must be held in accordance with the Elections Act.

Deceased member of the Legislature

- 6.2** (a) If an elected member of the Legislature dies, a by-election to replace that member of the Legislature must be held in accordance with the Elections Act.
- (b) If a legislative Ha'wilth dies, the vacancy must be filled in accordance with Schedule 2.

Removal for cause

- 6.3** (a) A member of the Legislature may introduce a motion calling for the removal of another member of the Legislature
- (i) for conduct determined by the Administrative Decisions Review Board to be contrary to the Integrity Act, or
 - (ii) because the member of the Legislature is incapable of performing the duties and exercising the powers of a member of the Legislature due to mental or physical inability.
- (b) Prior to calling a vote on a motion introduced under subsection (a), the chairperson
- (i) must give to the individual identified in the motion an opportunity to address the Legislature,
 - (ii) may move to appoint a special committee to consider the matter under section 18.2 of the rules, and
 - (iii) may seek an amendment to the motion so as to, instead of removing the member of the Legislature, suspend that member of the Legislature, subject to a review of the matter by the People's Assembly or, in the case of a legislative Ha'wilth, the Ha'wiih Advisory Council, who will make

the final determination on whether or not that member of the Legislature is to be removed from office under this section.

Declaration of vacancy

- 6.4** If a motion made under section 6.3(a) is approved by at least 50% plus one of the members of the Legislature present and voting and the removal of the member of the Legislature is finally determined under section 6.3(b)(iii), or upon becoming aware of the resignation of a member of the Legislature under section 6.1(a) or upon the death of a member of the Legislature, the chairperson must declare the office vacant.

Notice of vacancy

- 6.5** (a) If the chairperson has declared an office of elected member of the Legislature vacant, he or she must call for and hold a special meeting of the Legislature to appoint a chief electoral officer and notify the chief electoral officer in writing of the vacancy and the date of the vacancy.
- (b) If the chairperson has declared an office of legislative Ha'wilth vacant, he or she must notify the Ha'wiih Advisory Council in writing of the vacancy and the date of the vacancy.

By-election

- 6.6** Upon receipt of the notice under section 6.5(a), the chief electoral officer must hold a by-election in accordance with the Elections Act to fill the vacancy.

Appointment of legislative Ha'wilth

- 6.7** Upon receipt of the notice under section 6.5(b), the Ha'wiih Advisory Council must appoint a legislative Ha'wilth in accordance with Schedule 2 to fill the vacancy.

PART 7 - CONSULTATION WITH KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' CITIZENS

Explanatory memorandum

- 7.1** (a) Legislation being introduced in the Legislature must be accompanied by an explanatory memorandum.
- (b) The explanatory memorandum must
- (i) express in plain English and, if requested by the legislative chief, in the Ka:'yu:'k't'h' or Che:k'tles7et'h' language, the purpose of the legislation,
 - (ii) identify how Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens will be informed and offered an opportunity to make comments or raise questions concerning the proposed legislation, and
 - (iii) be developed by the member of the Legislature introducing the legislation with the assistance of the clerk and in consultation with the chairperson.

PART 8 - GENERAL PROVISIONS

Commencement

8.1 This Act comes into force on the Maa-nulth Treaty effective date.

SCHEDULE 1 – OATH OF OFFICE

Each person who is elected or appointed to the Legislature to serve Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must swear or affirm to perform their responsibilities appropriately by answering the following questions, which will be asked by the clerk:

"Do you solemnly swear or affirm that you will faithfully, truly and impartially, without fear or favour and to the best of your judgment, skill and ability, perform the duties and responsibilities required as a member of the Legislature?"

"I will."

SCHEDULE 2 – HA'WIIH ADVISORY COUNCIL CODE OF CUSTOMARY PRACTICES

Composition of the Ha'wiih Advisory Council

- 1.1 Every Ka:'yu:'k't'h' and Che:k'tles7et'h' Ha'wilth who has been seated in accordance with Ka:'yu:'k't'h' and Che:k'tles7et'h' customary practices will be a member of the Ka:'yu:'k't'h'/Che:k'tles7et'h' Ha'wiih Advisory Council.

Legislative Ha'wiih

- 1.2 Four members of the Ha'wiih Advisory Council will hold office as legislative Ha'wiih in accordance with section 2.5 of the Constitution.

Selection of Legislative Ha'wiih

- 1.3 (a) The legislative Ha'wiih referred to in section 1.2 will be determined as follows:
- (i) the Tyee Ha'wilth of the Ka:'yu:'k't'h' First Nation,
 - (ii) the Tyee Ha'wilth of the Che:k'tles7et'h' First Nation,
 - (iii) one Ka:'yu:'k't'h' Ha'wilth appointed unanimously by the Ka:'yu:'k't'h' Ha'wiih, and
 - (iv) one Che:k'tles7et'h' Ha'wilth appointed unanimously by the Che:k'tles7et'h' Ha'wiih.
- (b) The Ka:'yu:'k't'h' Ha'wilth referred to in subsection (a)(iii) and the Che:k'tles7et'h' Ha'wilth referred to in subsection (a)(iv) will be deemed to have received the unanimous approval of all Ha'wiih on the Ha'wiih Advisory Council.
- (c) Upon the appointment of the four legislative Ha'wiih, the Ka:'yu:'k't'h' Tyee Ha'wilth will advise the legislative chief in writing of the identity of the Ka:'yu:'k't'h' Legislative Ha'wiih and the Che:k'tles7et'h' Tyee Ha'wilth will advise the legislative chief in writing of the identity of the Che:k'tles7et'h' Legislative Ha'wiih.

Alternative Legislative Ha'wiih

- 1.4 (a) If either the Ka:'yu:'k't'h' Tyee Ha'wilth or the Che:k'tles7et'h' Tyee Ha'wilth choose to decline to hold the office of legislative Ha'wilth, that Tyee Ha'wilth will select another Ha'wilth to hold that office.

- (b) In the event that a Tyee Ha'wiltth selects another Ha'wiltth under subsection (a), the Ha'wiltth selected by the Tyee Ha'wiltth will be deemed to have received the unanimous approval of all Ha'wiltth on the Ha'wiltth Advisory Council.

Removal of a Legislative Ha'wiltth

- 1.5 (a) The Ka:'yu:'k't'h' Ha'wiltth on the Ha'wiltth Advisory Council may, at any time, by unanimous decision remove a Ka:'yu:'k't'h' legislative Ha'wiltth from that office and must, as soon as practicable after such removal, appoint a replacement Legislative Ha'wiltth in accordance with section 1.3(a)(iii).
- (b) A decision to remove a Ka:'yu:'k't'h' legislative Ha'wiltth under subsection (a) must be communicated to the legislative chief in writing by the Ka:'yu:'k't'h' Tyee Ha'wiltth as soon as practicable.
- (c) The Che:k'tles7et'h' Ha'wiltth on the Ha'wiltth Advisory Council may, at any time, by unanimous decision remove a Che:k'tles7et'h' Legislative Ha'wiltth from that office and must, as soon as practicable after such removal, appoint a replacement Legislative Ha'wiltth in accordance with section 1.3(a)(iv).
- (d) A decision to remove a Che:k'tles7et'h' legislative Ha'wiltth under subsection (c) must be communicated to the legislative chief in writing by the Che:k'tles7et'h' Tyee Ha'wiltth as soon as practicable.
- (e) For certainty, a unanimous decision under subsections (a) and (c) does not require the approval of the Legislative Ha'wiltth being removed.

Duties and powers of Legislative Ha'wiltth

- 1.6 (a) The legislative Ha'wiltth, as members of the Legislature, have the same powers and responsibilities as the elected members of the Legislature as set out in Ka:'yu:'k't'h'/Che:k'tles7et'h' law.
- (b) In addition to those duties and powers referred to in subsection (a), the legislative Ha'wiltth will communicate the views and the advice of the Ha'wiltth Advisory Council to the Legislature as contemplated in the Constitution.

Dispute resolution

- 1.7 (a) In the event of a dispute or a failure to obtain unanimity between or among the Ka:'yu:'k't'h' Ha'wiltth on the Ha'wiltth Advisory Council, the dispute must be resolved or consensus secured through stages of the dispute resolution process set out in this section.

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- (b) Stage one of the dispute resolution process must be an informal procedure as follows:
- (i) elders must be called upon to provide informal comments with the acknowledgement that traditional ways of resolving disputes is based on consensus of the Ha'wiih,
 - (ii) the elders must make themselves available to the members of the Ha'wiih Advisory Council and provide guidance and support upon the request of the members of the Ha'wiih Advisory Council,
 - (iii) the elders must not be seen to coerce the members of the Ha'wiih Advisory Council into accepting their advice, and
 - (iv) the advice of the elders must not be construed by members of the Ha'wiih Advisory Council as formal direction to the Ha'wiih in a dispute.
- (c) The informal stage of dispute resolution terminates if the dispute is not resolved or consensus obtained.
- (d) In the event that the informal process fails to resolve the dispute or obtain consensus, the matter will proceed to stage two of the dispute resolution process and is thereby terminated.
- (e) Stage two must be a formal dispute resolution process as follows:
- (i) the elders must establish a dispute resolution panel comprised of two Ka:'yu:'k't'h' elders, two Che:k'tles7et'h' elders, one youth representative and one Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee,
 - (ii) the elders must establish the procedures that will be followed by the dispute resolution panel,
 - (iii) the youth council must determine the identity of the youth representative to the panel,
 - (iv) the elders must determine the identity of the Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollee on the panel,
 - (v) the elders must be asked to provide formal comments to the panel,
 - (vi) the elders must not be seen to coerce members of the Ha'wiih Advisory Council into accepting their advice,

- (vii) the dispute resolution panel must attempt to resolve the dispute through collaborative, non-adversarial methods utilizing a formal atmosphere.
- (f) In the event that the dispute is not resolved or consensus obtained under stage two, the formal process must terminate and the Ha'wiih Advisory Council must move to stage three.
- (g) Stage three of the dispute resolution process requires that the matter be brought to a special meeting of the People's Assembly.
- (h) At the special meeting of the People's Assembly called to address the matter:
 - (i) the dispute resolution panel must formally provide comments to the People's Assembly in relation to the issue,
 - (ii) the members of the Ha'wiih Advisory Council, representatives or parties involved in the dispute must formally provide comments to the People's Assembly on the issue,
 - (iii) all comments provided to the People's Assembly must be provided in a non-adversarial manner,
 - (iv) the families of each Ha'wiih involved in the dispute may be called upon to provide comments,
 - (v) Ka:'yu:'k't'h'/Che:k'tles7et'h' enrollees must be invited to provide comments, and
 - (vi) upon presentation of all comments, the dispute resolution panel must make a decision about the dispute.
- (i) For certainty, the decision of the dispute resolution panel under subsection (h)(vi) is final and binding.

Interim code

- 1.8 This code is intended to be an interim code only and will remain in force and effect until a permanent code has been enacted.

SCHEDULE 3 – NON-CITIZEN PARTICIPATION

Consultation

- 1.1 A person who is not a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen but who is ordinarily resident on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands must
- (a) be consulted by Ka:'yu:'k't'h'/Che:k'tles7et'h' institutions,
 - (b) be permitted to attend meetings of Ka:'yu:'k't'h'/Che:k'tles7et'h' institutions open to the public, and
 - (c) have a reasonable opportunity to make representations to Ka:'yu:'k't'h'/Che:k'tles7et'h' institutions,
- in regard to any matter that directly and significantly affects that person.

Representation

- 1.2 A person who is not a Ka:'yu:'k't'h'/Che:k'tles7et'h' citizen but who is ordinarily resident on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands must be permitted to
- (a) become a member, commissioner, director, trustee or employee of,
 - (b) seek appointment to, and
 - (c) vote in the affairs of,
- a Ka:'yu:'k't'h'/Che:k'tles7et'h' public institution to the extent permitted by the law establishing that Ka:'yu:'k't'h'/Che:k'tles7et'h' public institution.