

**CONSTITUTION OF THE TR'ONDĚK HWĚCH'IN**  
**August 22, 1998**

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APPENDICES

**APPENDIX 1**  
TR'ONDĚK HWĚCH'IN CITIZENSHIP CODE

**CONSTITUTION OF THE TR'ONDĚK HWĚCH'IN**  
**August 22, 1998**

**1.0 PREAMBLE**

1.1 We, the citizens of the Tr'ondĚk HwĚch'in, by virtue of our inherent and inalienable aboriginal rights and heritage, adopt the following Constitution:

**2.0 DEFINITIONS**

- 2.1 "*Abrogate*" means to annul, cancel, repeal, or destroy;
- 2.2 "*Adopted Child*" means a person who, while a minor, is adopted in accordance with laws relating to adoption, including Tr'ondĚk HwĚch'in laws, or in accordance with Tr'ondĚk HwĚch'in custom;
- 2.3 "*Appeal Board*" means the Tr'ondĚk HwĚch'in Appeal Board established in accordance with 8.0 of the Citizenship Code;
- 2.4 "*Citizenship Committee*" means the committee established in accordance with 7.0 of the Citizenship Code;
- 2.5 "*Council*" means the Chief and Council elected in accordance with the Constitution of the Tr'ondĚk HwĚch'in;
- 2.6 "*Immediate Family*" means a person's spouse, siblings, parents, grandparents, children, grandchildren, and first cousins;
- 2.7 "*General Assembly*" means all Tr'ondĚk HwĚch'in citizens;
- 2.8 "*Minor*" means a person who has not yet reached the age of eighteen years;
- 2.9 "*Ordinarily Resident*" means a person who is now living in the Yukon or has lived the majority of his or her life within the Yukon notwithstanding temporary absences from the Yukon for reasons such as travel, education, medical treatment, military service, or incarceration;
- 2.10 "*Pecuniary*" means monetary; relating to money; financial; consisting of money or that which can be valued in money;
- 2.11 "*Quorum*" means the number of citizens who must be present before business may be transacted or decisions made;
- 2.12 "*Reasonable*" means fair, just, moderate, suitable under the circumstances; fit and appropriate to the end in view; rational, honest, and equitable;

- 2.13 *"Registrar"* means the person appointed by the Chief and Council to be responsible for maintaining the Tr'ondëk Hwëch'in Citizenship List;
- 2.14 *"Spouse"* means a husband or wife and includes a common-law spouse in accordance with Tr'ondëk Hwëch'in custom or the laws of the Yukon;
- 2.15 *"Subset"* means group, class, clique or faction;
- 2.16 *"Tr'ondëk Hwëch'in Citizenship List"* means the list of persons who are citizens of the Tr'ondëk Hwëch'in; and
- 2.17 *"Tr'ondëk Hwëch'in Citizen"* means a person whose name is on the Tr'ondëk Hwëch'in Citizenship List.

### **3.0 OBJECTIVES**

- 3.1 The objectives of the Tr'ondëk Hwëch'in are as follows:
  - 3.2.1 to govern Tr'ondëk Hwëch'in citizens, lands, and resources in accordance with Tr'ondëk Hwëch'in culture and traditions;
  - 3.2.2 to respect our ancestral lands;
  - 3.2.3 to use, manage, and administer the lands and resources of the Tr'ondëk Hwëch'in;
  - 3.2.4 to protect for all time the culture and heritage of the Tr'ondëk Hwëch'in;
  - 3.2.5 to promote, utilize, and preserve the language, and traditions of the Tr'ondëk Hwëch'in;
  - 3.2.6 to protect the rights of Tr'ondëk Hwëch'in citizens;
  - 3.2.7 to attain physical, mental, emotional, and spiritual health;
  - 3.2.8 to provide a unified voice for Tr'ondëk Hwëch'in citizens;
  - 3.2.9 to implement and achieve maximum benefits from the Tr'ondëk Hwëch'in Land Claims Agreements;
  - 3.2.10 to represent and support the interests of Tr'ondëk Hwëch'in citizens at all Government levels, and in all areas of First Nation concern or responsibility;

- 3.2.11 to maintain accountability of all elected and appointed officials to Tr'ondëk Hwëch'in citizens;
- 3.2.12 to maintain financial accountability to Tr'ondëk Hwëch'in citizens;
- 3.2.13 to maintain a registry of the names of all Tr'ondëk Hwëch'in citizens; and
- 3.2.14 to carry out such other functions, activities, and responsibilities as may be necessary for the well being and good government of the Tr'ondëk Hwëch'in.

#### **4.0 JURISDICTION**

- 4.1 The power and jurisdiction of the Tr'ondëk Hwëch'in government shall extend over all Tr'ondëk Hwëch'in citizens, all persons on Tr'ondëk Hwëch'in lands, and shall extend to and over all Tr'ondëk Hwëch'in lands, resources, interests, and responsibilities.

#### **5.0 CITIZENSHIP**

- 5.1 Citizenship in the Tr'ondëk Hwëch'in shall extend to those persons entitled to citizenship as provided in the Tr'ondëk Hwëch'in Citizenship Code, Appendix 1.

#### **6.0 RIGHTS OF CITIZENS**

- 6.1 All Tr'ondëk Hwëch'in citizens shall enjoy equal rights, freedoms, opportunities, and benefits subject only to reasonable limits prescribed by laws or policies of the Tr'ondëk Hwëch'in.

6.1.1 All Tr'ondëk Hwëch'in citizens shall have the following freedoms:

- a) freedom of conscience and religion;
- b) freedom of thought, belief, opinion and expression;
- c) freedom of peaceful assembly; and
- d) freedom of association

6.1.2 All Tr'ondëk Hwëch'in citizens have the following fundamental rights:

- a) the right to life, liberty and security;
- b) the right to be secure against unreasonable search or seizure;

- c) the right not to be subjected to any cruel or unusual treatment or punishment;
- d) the right not to be arbitrarily detained or imprisoned; and
- e) the right to use the Han language in any Tr'ondëk Hwëch'in proceedings.

6.1.3 Any Tr'ondëk Hwëch'in citizen charged with an offence contrary to Tr'ondëk Hwëch'in law has the right:

- a) to be informed within a reasonable time of the specific offence;
- b) to be tried within a reasonable time;
- c) to be presumed innocent until proven guilty;
- d) to a fair public hearing before an impartial justice tribunal;
- e) not to be compelled to provide evidence harmful to himself or herself;
- f) not to be denied reasonable bail without just cause;
- g) if acquitted of the offence, not to be tried for it again; and
- h) if found guilty of the offence and punished, not to be tried or punished for it again.

## **7.0 ORGANIZATION OF THE TR'ONDËK HWËCH'IN**

7.1 The powers of government of the Tr'ondëk Hwëch'in shall be divided into three branches:

7.1.1 the General Assembly;

7.1.2 the Tr'ondëk Hwëch'in Council; and

7.1.3 the Tr'ondëk Hwëch'in Courts

7.2 No person or group of persons charged with the exercise of powers properly belonging to one of these branches shall exercise any powers belonging to the other, except as this Constitution may expressly permit.

- 7.3 All powers and authorities belonging to any branch of the Tr'ondëk Hwëch'in Government shall be exercised:
- 7.3.1 in a respectful, equitable, and non-discriminatory way, to provide all Tr'ondëk Hwëch'in citizens fair and equitable treatment under the law and reasonable access to Tr'ondëk Hwëch'in resources;
  - 7.3.2 to protect the land;
  - 7.3.3 to protect the well being of Tr'ondëk Hwëch'in citizens; and
  - 7.3.4 to respect the needs and interests of other peoples.

## **8.0 THE TR'ONDËK HWËCH'IN GENERAL ASSEMBLY**

- 8.1 The General Assembly shall be composed of all Tr'ondëk Hwëch'in citizens.
- 8.2 The General Assembly shall hold two (2) General Meetings annually. General Meetings shall be convened not sooner than four (4) months and not later than eight (8) months after the previous General Meeting.
- 8.3 Notwithstanding 8.2, the Tr'ondëk Hwëch'in Council shall have power to call and conduct Special Meetings of the General Assembly as required.
- 8.4 The Tr'ondëk Hwëch'in Council shall be responsible for convening the meetings of the General Assembly.
- 8.5 Notice of each General Meeting and Special Meeting, indicating the place and dates of the meeting, along with a tentative agenda, reports and draft resolutions, shall be forwarded by mail to the last known address of all Tr'ondëk Hwëch'in citizens, and advertised in local media, not less than three (3) weeks before the meeting<sup>1</sup>.
- 8.6 A secretary shall be appointed to take minutes and record resolutions of the General Assembly.
- 8.7 Only Tr'ondëk Hwëch'in citizens who are eighteen years of age or older may vote in meetings of the General Assembly.
- 8.8 A quorum of the General Assembly shall be 30 voting age Tr'ondëk Hwëch'in citizens in attendance. No decision of the General Assembly shall be valid unless at least 30 voting age Tr'ondëk Hwëch'in citizens are present at the time of the decision.

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<sup>1</sup> Section 8.5 has been revised as per the June 25-26, 2006 General Assembly

- 8.9 The General Assembly may by consensus allow non-citizens to attend the General Assembly.
- 8.10 Consensus shall be encouraged in the making of any decision by the General Assembly. When such consensus cannot be attained, a decision shall require the approval of 60% of those present and entitled to vote.
- 8.11 Duties of the General Assembly shall include:
- 8.11.1 reviewing and approving reports, including financial reports, received from the Tr'ondëk Hwëch'in Council and staff by way of resolution;
  - 8.11.2 providing direction to Chief and Council by way of resolution;
  - 8.11.3 in accordance with 16.0 of this Constitution and Tr'ondëk Hwëch'in law approving by way of resolution leases of Tr'ondëk Hwëch'in Settlement Lands that do not conform to the Tr'ondëk Hwëch'in Settlement Land Code;
  - 8.11.4 enacting and repealing Tr'ondëk Hwëch'in laws;
  - 8.11.5 enacting land use codes and guidelines pertaining to Tr'ondëk Hwëch'in Settlement Lands and other lands under the jurisdiction of the Tr'ondëk Hwëch'in;
  - 8.11.6 establishing remuneration rates for the Tr'ondëk Hwëch'in Council; and
  - 8.11.7 approving the borrowing of amounts exceeding five hundred thousand dollars (\$500,000.00).
- 8.12 The Tr'ondëk Hwëch'in Council shall have a seal which shall remain at the Tr'ondëk Hwëch'in office and shall be affixed to all laws and resolutions passed by the General Assembly and to any other documents required to be under seal.
- 8.13 All enacted General Assembly laws, resolutions, and minutes shall be kept at the Tr'ondëk Hwëch'in office and shall be available for inspection by any Tr'ondëk Hwëch'in citizen during normal office hours. Non-citizens affected by Tr'ondëk Hwëch'in laws or resolutions may during normal office hours inspect those Tr'ondëk Hwëch'in laws or resolutions directly affecting them.

## **9.0 THE TR'ONDËK HWËCH'IN COUNCIL**

- 9.1 The Tr'ondëk Hwëch'in shall have a Council composed of one (1) Chief and four (4) Councillors, plus one (1) ex-officio Elder Councillor and one (1) ex-officio



Youth Councillor.

- 9.2 The Chief and Councillors shall be elected from the general citizenship of the Tr'ondëk Hwëch'in in conformity with Tr'ondëk Hwëch'in law.
- 9.3 Citizens are not eligible to be Chief or Councillor while serving a sentence or on probation for an indictable offense or the offense of theft, fraud, or false pretences.
  - 9.3.1 Upon application, and at its discretion, the Elders Council may determine that a citizen serving a sentence or on probation for an indictable offense or the offense of theft, fraud, or false pretences is eligible to be Chief or Councillor.
- 9.4 The term of office for the Tr'ondëk Hwëch'in Council shall be three (3) years.
- 9.5 A quorum of the Tr'ondëk Hwëch'in Council shall be three (3) of the elected members of Tr'ondëk Hwëch'in Council.
- 9.6 Tr'ondëk Hwëch'in Council shall have a minimum of two regularly scheduled meetings per month.
- 9.7 Tr'ondëk Hwëch'in Council shall meet on the first available business day following a General Assembly to take care of resolutions and business directed to Council by the General Assembly.
- 9.8 The Chief and/or two elected Councillors may call special meetings of the Tr'ondëk Hwëch'in Council as required.
- 9.9 Notice of the day, hour, and place of the special meeting and, in general terms, the nature of the business to be transacted at the special meeting shall be given at least 24 hours before the time of the meeting by posting a copy of the notice at the Tr'ondëk Hwëch'in office and by leaving a copy of the notice for each member of Council at the place to which he or she has directed such notices to be sent, and no business other than that stated in the notice shall be transacted at the meeting unless all elected members of the Council are present and agree.
- 9.10 Each Councillor shall be responsible for one or more portfolios. At the start of their term of office the Tr'ondëk Hwëch'in Council shall appoint a Deputy Chief from among themselves to act in the absence of the Chief. Should the office of Deputy Chief become vacant for any reason, the remaining Council may appoint from among themselves another person to act in that capacity.
- 9.11 The Tr'ondëk Hwëch'in Council shall make decisions by consensus wherever possible. When consensus cannot be reached, decisions shall be made by a

majority vote of those present. The Chief shall not vote unless there is a tie, in which case the Chief shall have the deciding vote.

- 9.12 The ex-officio Elder Councillor shall be appointed by the Elder's Council.
- 9.13 The ex-officio Youth Councillor shall be appointed by the Youth Council.
- 9.14 The ex-officio Elder Councillor and ex-officio Youth Councillor may attend all Council meetings and may speak to all Council business. At Council's discretion, the ex-officio Youth Councillor may be suspended from a Council meeting if Council makes the meeting in-camera.
- 9.15 The ex-officio Elder Councillor and ex-officio Youth Councillor may not vote on Council matters.
- 9.16 No Tr'ondëk Hwëch'in Council member shall take part in deliberations or vote on any matter with respect to which that Council member has a pecuniary interest, or on any matter involving that Council member's Immediate Family, except for those matters that apply to the Tr'ondëk Hwëch'in as a whole and do not provide particular benefits or privileges to individuals or subsets within the Tr'ondëk Hwëch'in.
- 9.17 Procedures and Conduct of the Tr'ondëk Hwëch'in Council shall be governed by Tr'ondëk Hwëch'in law.

## **10.0 THE TR'ONDËK HWËCH'IN COUNCIL POWERS AND DUTIES**

- 10.1 The Tr'ondëk Hwëch'in Council shall implement the directives of the General Assembly. Unless otherwise provided in this Constitution, and subject to the direction of the General Assembly:
  - 10.1.1 the Tr'ondëk Hwëch'in Council shall have the power and responsibility to manage and represent the interests and affairs of the Tr'ondëk Hwëch'in, as well as all subjects, persons, property, and activities within the jurisdiction of the Tr'ondëk Hwëch'in; and, without limiting the generality of the foregoing, the Tr'ondëk Hwëch'in Council may:
    - 10.1.1.2 enter into contracts or agreements;
    - 10.1.1.3 acquire, hold or dispose of property or any interest therein;
    - 10.1.1.4 borrow money upon the credit of the Tr'ondëk Hwëch'in, provided that the total amount borrowed for any single project, or in any fiscal year, shall not exceed five hundred thousand dollars (\$500,000.00) unless approved by the

General Assembly;

- 10.1.1.5 form corporations or charitable organizations or create or become the beneficiary of trusts and constitute itself as a trustee;
- 10.1.1.6 sue or be sued or settle any cause of action or dispute on such terms as it may deem advisable;
- 10.1.1.7 call referendums in accordance with 15.0 of this Constitution;
- 10.1.1.8 levy taxes, user fees, and rent on Tr'ondëk Hwëch'in citizens and non-citizens;
- 10.1.1.9 establish Boards, Commissions, and Committees and appoint members thereto;
- 10.1.1.10 retain and fix the terms of reference and remuneration of such agents, employees, contractors, consultants and advisors as it may deem necessary for the better discharge of its powers and responsibilities pursuant to this Constitution, with the power to delegate such power, in whole or in part or on terms, to such person as in its discretion it may decide; and
- 10.1.1.11 organize the management of and conduct the affairs of the Tr'ondëk Hwëch'in in such manner as it deems most suitable from time to time, with a power to delegate such power, in part or on terms, to such employee or officer as in its discretion it may decide.

10.1.2 Unless otherwise provided in this Constitution, and subject to the direction of the General Assembly, the duties and responsibilities of the Tr'ondëk Hwëch'in Council shall include:

- 10.1.2.1 establishing policies and guidelines for the Tr'ondëk Hwëch'in;
- 10.1.2.2 managing Tr'ondëk Hwëch'in lands;
- 10.1.2.3 preparing land use codes pertaining to Tr'ondëk Hwëch'in Lands and other lands under the jurisdiction of Tr'ondëk Hwëch'in for presentation to the General Assembly;

- 10.1.2.4 approving leases of Tr'ondëk Hwëch'in Settlement Land in conformity with the Tr'ondëk Hwëch'in Settlement Land Code;
  - 10.1.2.5 managing and allocating privileges on traplines owned by Tr'ondëk Hwëch'in;
  - 10.1.2.6 preparing laws and by-laws for presentation to the General Assembly, including:
    - 10.1.2.6.1 laws and by-laws which ensure the parity of the Han language with the two official languages of Canada; and
    - 10.1.2.6.2 laws and by-laws which benefit Tr'ondëk Hwëch'in citizens exclusively.
  - 10.1.2.7 presenting written reports to the General Assembly regarding the portfolios held by that Councillor;
  - 10.1.2.8 managing Tr'ondëk Hwëch'in monies, resources, and assets;
  - 10.1.2.9 maintaining current and up to date financial records and strict financial accountability;
  - 10.1.2.10 ensuring that all valid laws passed by the General Assembly are enforced;
  - 10.1.2.11 establishing remuneration rates for Tr'ondëk Hwëch'in staff, and appointees to all Tr'ondëk Hwëch'in Boards, Committees, and Councils, and providing written reports on the same to the General Assembly;
  - 10.1.2.12 reviewing reports from Tr'ondëk Hwëch'in Staff;
  - 10.1.2.13 providing programs and services to Tr'ondëk Hwëch'in citizens; and
  - 10.1.2.14 fulfilling any other obligations required of it by Settlement Agreements or this Constitution.
- 10.2 Subject to the direction of the General Assembly, the Tr'ondëk Hwëch'in Council shall have the power to determine individual Tr'ondëk Hwëch'in citizens access to Tr'ondëk Hwëch'in programs and services.

## **11.0 DUTIES OF THE CHIEF AND DEPUTY CHIEF**

- 11.1 The Chief, and in his or her absence, the Deputy-Chief, shall:
  - 11.1.1 be the primary spokesperson for the Tr'ondëk Hwëch'in and the chief executive officer of its government;
  - 11.1.2 act as an ex-officio member on all committees, or appoint a Tr'ondëk Hwëch'in Councillor to act in his or her stead on any such committee;
  - 11.1.3 make recommendations to the General Assembly and to the Tr'ondëk Hwëch'in Council;
  - 11.1.4 report on the state of Tr'ondëk Hwëch'in at General Meetings and other such times as may be deemed necessary;
  - 11.1.5 exercise any additional powers authorized by Tr'ondëk Hwëch'in law.
- 11.2 Under the direction of the Tr'ondëk Hwëch'in Council, the Deputy Chief shall, in the absence or incapacity of the Chief, perform all the duties and exercise all the powers of the Chief.

## **12.0 ELDERS COUNCIL**

- 12.1 All Tr'ondëk Hwëch'in citizens who are fifty five (55) years old or more shall be members of the Elders Council.
- 12.2 The Elders Council shall provide advice and direction to the Tr'ondëk Hwëch'in and Tr'ondëk Hwëch'in governing bodies on all matters.
- 12.3 The Elders Council shall appoint one of its members to sit on the Tr'ondëk Hwëch'in Council as the ex-officio Elder Councillor.
- 12.4 The Elders Council shall establish their own rules and procedures.

## **13.0 YOUTH COUNCIL**

- 13.1 All Tr'ondëk Hwëch'in citizens who are between the ages of fifteen (15) and twenty-five (25) years old shall be members of the Youth Council.
- 13.2 The Youth Council shall meet a minimum of four (4) times annually.
- 13.3 The business of the Youth Council shall be conducted by consensus.

- 13.4 The Youth Council shall appoint one of its members to act as ex-officio Tr'ondëk Hwëch'in Youth Councillor.
- 13.5 The duties of the Tr'ondëk Hwëch'in Youth Council shall include:
- 13.5.1 providing information and advice to the Tr'ondëk Hwëch'in Council on all matters of interest and concern to Tr'ondëk Hwëch'in youth;
  - 13.5.2 assisting the Tr'ondëk Hwëch'in Council and the Tr'ondëk Hwëch'in Elders Council in carrying out their functions; and
  - 13.5.3 arranging programs for Tr'ondëk Hwëch'in Youth, in conjunction with the Tr'ondëk Hwëch'in Council and Tr'ondëk Hwëch'in Elders Council.

#### **14.0 VACANCIES AND REMOVAL FROM OFFICE**

- 14.1 Any member of Council or an elected or appointed officer who is convicted of an indictable offence, or the offence of theft, fraud, or false pretences, shall be removed from office. Such person shall have the right within thirty days to make submissions to the Elders Council regarding their removal from office. At its discretion, the Elders Council may accept these submissions for consideration, and may reinstate completely, reinstate for a probationary period or uphold the removal from office. If rendered, the decision of the Elders Council shall be final.
- 14.2 If a member of Tr'ondëk Hwëch'in Council fails to attend three (3) consecutive sessions of the Tr'ondëk Hwëch'in Council, he or she shall cease to be a member of the Tr'ondëk Hwëch'in Council. Such absence may be excused by the Tr'ondëk Hwëch'in Council if deemed by Council that the absence is for just cause.
- 14.3 A member of the Tr'ondëk Hwëch'in Council or elected or appointed officer may resign his or her office by tendering a written resignation to the Tr'ondëk Hwëch'in Council. Upon receipt it shall become effective.
- 14.4 Vacancies in the Tr'ondëk Hwëch'in Council shall be filled by a By-Election called by the Tr'ondëk Hwëch'in Council in conformity with Tr'ondëk Hwëch'in law. Vacancies in other elected or appointed offices of the Tr'ondëk Hwëch'in which occur in the middle of a given term shall be filled by appointment of the Tr'ondëk Hwëch'in Council.
- 14.5 All members of the Tr'ondëk Hwëch'in Council must be resident within Tr'ondëk Hwëch'in traditional territory. Any member of the Tr'ondëk Hwëch'in Council must resign his or her position if he or she relocates to a community outside the Tr'ondëk Hwëch'in traditional territory.

14.6 Council may request the Elders Council to determine whether an elected or appointed member who is charged with a criminal offence should be removed from office, or suspended from office until such time as a verdict is rendered in respect to the charge.

14.6.1 At its discretion, the Elders Council may determine this matter. Any such determination of Elders Council shall be final and conclusive.

## **15.0 REFERENDUM**

15.1 A referendum may be called by petition of voters to the Tr'ondëk Hwëch'in Council, provided that the petition clearly states the matter to be referred to referendum, and contains the valid signatures of at least twenty-five percent of Tr'ondëk Hwëch'in voters.

15.2 Within fourteen days of receiving a petition, the Tr'ondëk Hwëch'in Council shall determine whether the signatures on the petition are valid.

15.3 Within forty-five days of the Tr'ondëk Hwëch'in Council determining that the signatures on the petition are valid, the Elections Committee shall hold a referendum among voters to determine the matter in question.

15.4 Council may call a referendum by passing a resolution calling for the referendum.

15.5 Within forty-five days of receiving the Council resolution calling for the referendum, The Elections Committee shall hold a referendum among voters to determine the matter in question.

15.6 The referendum shall be binding upon Tr'ondëk Hwëch'in.

15.7 No referendum conducted pursuant to 15.1 or 15.4 shall serve to abrogate, modify, or amend this Constitution, or any properly approved contract or agreement.

## **16.0 TR'ONDËK HWËCH'IN SETTLEMENT LANDS**

16.1 Tr'ondëk Hwëch'in Settlement Lands are those lands retained by the Tr'ondëk Hwëch'in in the Tr'ondëk Hwëch'in Final Agreement, and those lands transferred to the Tr'ondëk Hwëch'in as Settlement Land in accordance with Chapter 9 of the Tr'ondëk Hwëch'in Final Agreement.

16.2 Tr'ondëk Hwëch'in Settlement Lands shall not be sold.

16.3 Tr'ondëk Hwëch'in citizens shall have first preference in the leasing of Tr'ondëk Hwëch'in Settlement Lands.

- 16.4 The Tr'ondëk Hwëch'in Council shall have the power to lease Tr'ondëk Hwëch'in Settlement lands in conformity with the Tr'ondëk Hwëch'in Settlement Land Code.
- 16.5 The Tr'ondëk Hwëch'in Council shall refer leases of Tr'ondëk Hwëch'in Settlement Lands that do not conform to the Settlement Land Code to the General Assembly for approval.
- 16.5.1 Details of the proposed non-conforming lease shall be included in the notice of the scheduled General Meeting; and
- 16.5.2 The proposed non-conforming lease shall be granted if approved by at least 60 % of eligible voters in attendance at the General Meeting.

## **17.0 TRIBAL JUSTICE SYSTEM**

- 17.1 The Tr'ondëk Hwëch'in shall establish and maintain an independent Tribal Court in accordance with Tr'ondëk Hwëch'in laws and traditions and the Tr'ondëk Hwëch'in Self-Government Agreement.

## **18.0 CHALLENGE AND QUASHING OF LAWS**

- 18.1 Any Tr'ondëk Hwëch'in law may be challenged by petition of voters to the Tr'ondëk Hwëch'in Council, provided that the petition clearly states the law to be quashed and contains the valid signatures of at least twenty-five percent of Tr'ondëk Hwëch'in voters.
- 18.2 Within fourteen days of receiving a petition, the Tr'ondëk Hwëch'in Council shall determine whether the signatures on the petition are valid.
- 18.3 Within forty-five days of the Tr'ondëk Hwëch'in Council determining that the signatures on the petition are valid, the Elections Committee shall hold a referendum among voters to determine whether the law should be quashed.
- 18.4 The law subject to challenge shall be quashed if a majority of the votes cast are opposed to the law.
- 18.5 The provisions of 18.0 shall not apply to, or affect the validity of, any properly approved contract or agreement.
- 18.6 The Tr'ondëk Hwëch'in Tribal Court shall have power to invalidate any Tr'ondëk Hwëch'in law that contravenes this Constitution, and shall have power, upon the application by the Elders Council, to quash any law that has not been enacted in good faith, provided that such application is made within ninety days of the



enactment or approval.

- 18.7 Prior to the establishment of the Tr'ondëk Hwëch'in Tribal Court, and in addition to other remedies provided in this Constitution, any Tr'ondëk Hwëch'in citizen may apply to the Yukon Supreme Court to quash any Tr'ondëk Hwëch'in law on the grounds that it exceeds the jurisdiction of the Tr'ondëk Hwëch'in.

## **19.0 AUDIT OF ACCOUNTS**

- 19.1 The books, accounts, and records of the Tr'ondëk Hwëch'in shall be audited at least once every year by a Chartered Accountant and, accompanying the proper report, shall be presented to the General Assembly by the chief financial officer.
- 19.2 The financial records of the Tr'ondëk Hwëch'in may be inspected by any Tr'ondëk Hwëch'in citizen at any reasonable time. The Tr'ondëk Hwëch'in Councillor responsible for the financial records or the chief financial officer shall be in attendance.
- 19.3 The fiscal year of the Tr'ondëk Hwëch'in shall begin on April 1 and end on March 31.

## **20.0 SAVING CLAUSE IN REPEAL OF PREVIOUS CONSTITUTIONS**

- 20.1 Any and all Constitutions previously adopted by the Tr'ondëk Hwëch'in are hereby repealed and superseded by this Constitution, which shall come into effect on the Effective Date of the Tr'ondëk Hwëch'in Final Agreement.
- 20.2 The Tr'ondëk Hwëch'in Chief and Council in office at the time this Constitution comes into effect shall remain in office until the end of the term for which they were elected, at which time a new election shall take place in accordance with this Constitution.
- 20.3 All By-Laws, Ordinances, Agreements, and Resolutions hereto enacted by the Tr'ondëk Hwëch'in shall remain in full force to the extent that they are consistent with this Constitution.
- 20.4 This Constitution shall be adopted at a Special Meeting of the General Assembly as an amending resolution to the April 1989 Dawson Indian Band Constitution provided:
- 20.4.1 the amending resolution is clearly written, and has been provided to all voting age citizens at least two weeks prior to the Special Meeting; and
- 20.4.2 at least 50% plus one of the voting age citizens present at the Special Meeting of the General Assembly vote in favour of the amending

resolution.

## **21.0 AMENDMENT PROVISIONS**

21.1 This Constitution may be amended by referendum of all voting Tr'ondëk Hwëch'in citizens provided<sup>2</sup>:

21.1.1 the amending resolution is clearly written, and has been provided to all voting age citizens at least three (3) weeks prior to the referendum; and

21.1.2 the referendum shall be approved if at least 60% of those who cast ballots vote in favour of the amending resolution

# **TR'ONDËK HWËCH'IN CITIZENSHIP CODE**

## **APPENDIX 1 – TR'ONDËK HWËCH'IN CONSTITUTION**

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<sup>2</sup> Section 21 has been revised as per the June 25-26, 2005 General Assembly

February 5, 1998

## 1.0 Definitions

- 1.1 *"Adopted Child"* means a person who, while a minor, is adopted in accordance with laws relating to adoption, including Tr'ondëk Hwëch'in laws, or in accordance with Tr'ondëk Hwëch'in custom;
- 1.2 *"Appeal Board"* means the Tr'ondëk Hwëch'in Appeal Board established in accordance with 7.0 of this Citizenship Code;
- 1.3 *"Citizenship Committee"* means the committee established in accordance with 6.1 of this Citizenship Code;
- 1.4 *"Council"* means the Chief and Council elected in accordance with the Constitution of the Tr'ondëk Hwëch'in;
- 1.5 *"Immediate Family"* means a person's spouse, siblings, parents, grandparents, children, grandchildren, and first cousins.
- 1.6 *"Minor"* means a person who has not yet reached the age of eighteen years;
- 1.7 *"Ordinarily Resident"* means a person who is now living in the Yukon or has lived the majority of his or her life within the Yukon notwithstanding temporary absences from the Yukon for reasons such as travel, education, medical treatment, military service, or incarceration;
- 1.8 *"Registrar"* means the person appointed by the Chief and Council to be responsible for maintaining the Tr'ondëk Hwëch'in Citizenship List;
- 1.9 *"Spouse"* means a husband or wife and includes a common-law spouse in accordance with Tr'ondëk Hwëch'in custom or the laws of the Yukon;
- 1.10 *"Tr'ondëk Hwëch'in Citizenship List"* means the list of persons who are citizens of the Tr'ondëk Hwëch'in; and
- 1.11 *"Tr'ondëk Hwëch'in Citizen"* means a person whose name is on the Tr'ondëk Hwëch'in Citizenship List.

## 2.0 Entitlement to be enrolled on the Tr'ondëk Hwëch'in Citizenship List

- 2.1 The following individuals are entitled to be enrolled on the Tr'ondëk Hwëch'in Citizenship List:
  - 2.1.1 any individual who has been accepted for enrolment under the Tr'ondëk Hwëch'in Final Agreement; and
  - 2.1.2 any individual who makes application and is accepted for enrolment under this Citizenship Code.

## 3.0 Eligibility to Apply for Citizenship

- 3.1 The following individuals are eligible to apply to become citizens of the Tr'ondëk Hwëch'in:
- 3.1.1 any individual who is and has been for at least five years the spouse of a Tr'ondëk Hwëch'in citizen, provided that individual meets the following criteria:
- a) he or she is of 25% or more Indian ancestry;
  - b) he or she has been Ordinarily Resident in the Yukon for at least 5 years prior to making application;
  - c) he or she is enrolled or entitled to be enrolled under another Yukon First Nation Final Agreement or the Gwich'in Agreement or is a descendant of a Han Indian; and
  - d) he or she agrees in writing to renounce citizenship in any other First Nation and enrolment under any other land claim agreement upon acceptance as a citizen of the Tr'ondëk Hwëch'in.
- 3.2 A minor may apply on his or her own behalf to the Citizenship Committee to be enrolled as a citizen.
- 3.3 Any adult person may apply to the Citizenship Committee to enroll a minor as a citizen.

#### **4.0 Procedure for Application For Citizenship**

- 4.1 The applicant shall file an application for Citizenship at the office of the Registrar which shall include:
  - 4.1.1 birth, baptism and marriage certificates; and
  - 4.1.2 a notarized statement in writing addressing the required elements under section 3.0.
- 4.2 The Registrar shall provide the applicant with a copy of the Citizenship Code at the time of application.
- 4.3 The Registrar shall forward all documentation to the Citizenship Committee immediately upon receipt.
- 4.4 Upon receipt the Citizenship Committee shall review the application and shall notify the applicant in writing at least thirty days prior to the hearing of the date, time and location of the hearing.
- 4.5 The application shall be heard within three months from the date the application was received by the Citizenship Committee.
- 4.6 An appeal from a decision of the Citizenship Committee must be in writing and filed with the Registrar within ninety days of the decision of the Citizenship Committee.
- 4.7 Applicants for Citizenship shall have the right to appear before the Citizenship Committee or the Appeal Board either personally or by agent.
- 4.8 All material received for the purposes of application for Citizenship shall be confidential and may not be released without the written consent of the applicant.

#### **5.0 Loss of Citizenship**

- 5.1 A citizen over the age of eighteen (18) years may renounce his or her citizenship by giving written notice to the Citizenship Committee. Upon receiving such notification the Citizenship Committee shall notify the Registrar to remove such person's name from the Tr'ondëk Hwëch'in Citizenship List.
- 5.2 A citizen of the Tr'ondëk Hwëch'in does not lose his or her citizenship as a result of his or her adoption by a person who is not a Tr'ondëk Hwëch'in citizen.
- 5.3 A citizen of the Tr'ondëk Hwëch'in under the age of eighteen (18) years does not lose his or her citizenship if his or her parents renounce their citizenship.
- 5.4 A Tr'ondëk Hwëch'in citizen may not be a citizen of any other First Nation in Canada.

#### **6.0 Duties and Responsibilities of the Registrar**

- 6.1 The Registrar shall maintain an up to date registry of the names and addresses of all persons who are Tr'ondëk Hwëch'in citizens.
- 6.2 The Registrar shall:
  - 6.2.1 receive and acknowledge receipt of applications from persons applying for Tr'ondëk

Hwëch'in citizenship;

- 6.2.2 ensure that each applicant at the time of filing the application provides an address for delivery of communications from the Registrar or the Citizenship Committee;
  - 6.2.3 ensure that the applicant supplies all necessary documentation before forwarding the application to the Citizenship Committee;
  - 6.2.4 notify each applicant advising them of the decision of the Citizenship Committee;
  - 6.2.5 advise the applicant in writing of appeal procedures if the application is unsuccessful; and
  - 6.2.6 place their name on the Tr'ondëk Hwëch'in Citizenship List if the applicant is successful.
- 6.3 The Registrar shall keep up to date files of all records of applicants and minutes of Citizenship Committee meetings and Appeal Board meetings.

## **7.0 Duties and Responsibilities of the Citizenship Committee**

- 7.1 The Citizenship Committee shall be comprised of four Tr'ondëk Hwëch'in citizens appointed by the Chief and Council, one of whom shall be an Elder nominated by the Elders Council. The term of appointment shall be for two years except for the initial appointments, for which there shall be two persons appointed for one year and two persons appointed for two years.
- 7.2 The Citizenship Committee shall have the following responsibilities:
- 7.2.1 providing fair and confidential hearings and processing of citizenship applications;
  - 7.2.2 publicizing and providing information respecting the eligibility process to potential Tr'ondëk Hwëch'in citizens;
  - 7.2.3 approving and certifying eligible applicants within three months of receiving the application and notifying the Registrar of the result;
  - 7.2.4 determining whether a child has been adopted in accordance with Tr'ondëk Hwëch'in custom or a person is a spouse in accordance with Tr'ondëk Hwëch'in custom;
  - 7.2.5 recording all the minutes, including motions passed at Citizenship Committee meetings and filing with the Registrar; and
  - 7.2.6 supplying written reasons to any applicant whose application is refused.
- 7.3 The Citizenship Committee shall have the power to make rules for the conduct of its proceedings.
- 7.4 The Citizenship Committee may seek the advice of the Elders Council on any issue.
- 7.5 No member of the Citizenship Committee shall participate in citizenship proceedings regarding that member=s Immediate Family.

## **8.0 Appeal Board**

- 8.1 The Appeal Board shall be comprised of four Tr'ondëk Hwëch'in citizens appointed by Council, one of whom shall be an Elder nominated by the Elders Council.

- 8.2 The term of appointment to the Appeal Board shall be three years except for the initial appointments, for which there shall be two persons appointed for one year and two persons appointed for three years.
- 8.3 The Appeal Board shall hear and consider appeals from decisions of the Citizenship Committee.
- 8.4 An appeal may be made by Council, any Tr'ondëk Hwëch'in citizen, or by the person whose membership has been refused.
- 8.5 Upon receipt of an appeal the Appeal Board shall render a decision within ninety days from the date of receipt of the appeal.
- 8.6 The Appeal Board may uphold the decision of the Citizenship Committee, or allow the appeal.
- 8.7 The decision of the Appeal Board shall be conclusive unless an applicant provides new information which was not available at the time of the original hearing.
- 8.8 No member of the Appeal Board shall participate in appeal proceedings regarding that member=s Immediate Family.

#### **9.0 Review of Citizenship Code**

- 9.1 The Citizenship Code shall be reviewed by the Citizenship Committee within two years of its adoption and the Citizenship Committee may make recommendations for amendments to the General Assembly.

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