



FORT WILLIAM FIRST NATION

CONSTITUTION

Working Document

October 11, 2016

To be presented at the Community Meeting Dated October 15, 2016

This is a working living document and will be amended accordingly. This Constitution will reflect the laws of the day in our First Nation Community

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The Information in this document is from Fort William First Nation Website and FWFN History on file.



FORT WILLIAM FIRST NATION

-Draft-

Fort William First Nation Constitution

Preamble

We, the Anishinaabe people of the Fort William First Nation have occupied and used our traditional lands for thousands of years before the arrival of the Europeans and we continue to use and occupy our traditional territory;

Our ancestors' worldview was derived from the "Great Spirit" who had entrusted the lands, air, water, lakes and rivers with us and all the animals in it for our benefit;

We are responsible for creating our own laws that promote and ensure the physical, mental, emotional, and spiritual well-being of our people and community; and,

In 2007, the United Nations General Assembly adopted the *Declaration on the Rights of Indigenous Peoples* and recognized the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources; and,

Article 3 of the Declaration on the Rights of Indigenous Peoples recognizes that indigenous peoples have the right to self-determination and by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development and in addition, *Article 4 of the Declaration on the Rights of Indigenous Peoples* provides that, Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions; and,

In April of 2016, Canada joined other countries in supporting *the Declaration on the Rights of Indigenous Peoples* and when it did, it reaffirmed its commitment to promoting and protecting the rights of Indigenous peoples at home and abroad; and,

By virtue of section 35 (1) of the *Constitution Act, 1982*, the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed; and,

| *Therefore*, through this Fort William First Nation Constitution, we are acting on our inherent right to govern ourselves and exercising our responsibilities that have been given to us by the Creator and which are recognized and affirmed in section 35 (1) of the *Constitution Act, 1982*, and which are further affirmed and strengthened in
| accordance with the *United Nations Declaration of the Rights of Indigenous Peoples* in order to, among other things, govern ourselves in a way which is reflective of our Anishinaabe culture and which will ultimately help to improve the quality of life for our people;

Part 1 – General Provisions and Definitions

1. In this Constitution:

- a) “Chief” means the person selected as Chief in accordance with any Fort William First Nation Election law in place from time to time;
- b) “Council” means the governing body of Fort William First Nation and includes the Chief and Councillors of Fort William First Nation selected in accordance with any Fort William First Nation Election Law, and all of whom must be citizens of the Fort William First Nation;
- c) “Citizen” means a person who belongs to the Fort William First Nation and whose name appears on the Fort William First Nation Citizenship list

Part 2 Supreme Law of the Fort William First Nation

- a) This Fort William First Nation Constitution shall be the supreme law of the Fort William First Nation and all other laws of the Fort William First Nation shall be consistent with this Fort William First Nation Constitution;
- b) If there is an inconsistency or conflict between this Fort William First Nation Constitution and any Fort William First Nation law, this Fort William First Nation Constitution shall prevail to the extent of any conflict or inconsistency.

Part 3 The Governing Institutions of the Fort William First Nation

The Chief and Council

1. The Fort William First Nation shall be governed by a Chief and Council elected in accordance with a Fort William First Nation election law and each representative of the Chief and Council must be a citizen of the Fort William First Nation.

Agencies, Boards and Committees

2. The Fort William First Nation may establish any committees, boards, advisory councils or agencies it deems necessary to assist with the effective governance of the Fort William First Nation and may delegate any powers and authorities to any committees, boards, advisory councils or agencies, **except the power to enact laws.**

Part 4 The Law Making Powers of the Fort William First Nation

1. The Fort William First Nation has the inherent right given to it by the Creator to enact any laws it believes are necessary in order to protect and preserve our Anishinaabe culture, to

protect our lands and waters, our language, customs, traditions and practices, and which ultimately help to improve the quality of life for the citizens of Fort William First Nation.

2. The power of the Fort William First Nation to enact any laws in accordance with this Fort William First Nation Constitution shall only be exercised by the Chief and Council.
3. Each law enacted must be demonstrably shown to be for the betterment of the people of the Fort William First Nation and in furtherance of the purpose set out in Part 4, subsection 1 above.

Part 5 Fort William First Nation Laws and Other Decisions of Chief and Council Requiring Ratification by Eligible Voters of the Fort William First Nation

1. For greater certainty, the ratification by eligible voters of the Fort William First Nation must be obtained prior to Chief and Council enacting any of the kinds of laws listed at Part 6, subsection 1 or prior to Chief and Council making the kinds of decisions listed at Part 7.

Part 6 Fort William First Nation Laws Requiring Approval by Eligible Voters of the Fort William First Nation

1. The following kinds of laws require ratification by the eligible voters of the Fort William First Nation:
 - a. Laws that set out how the Chief and the Councillors are elected, including, among other matters, their composition, qualifications and terms of office;
 - b. Laws about the privileges, rights and responsibilities associated with being a citizen of the Fort William First Nation;
 - c. Laws that provide for the regulation of land on the Fort William First Nation;
 - d. Any other laws that the Chief and Council by unanimous resolution, decides to approve the law through ratification by the eligible voters;

Part 7 Fort William First Nation Chief and Council Decisions Requiring Approval by Eligible Voters of the Fort William First Nation

- a. Any decision to issue a grant, mortgage, charge, lease, license, easement, or instrument of any kind, that grants any interest in the lands of the Fort William First Nation for a term that is twenty-five (25) years or longer to any person who is not a citizen of the Fort William First Nation;

- b. Any decision to renew any of the land related instruments listed in Part 7, subsection (a) above;
- c. Any decision by the Fort William First Nation to enter into an agreement with any corporation, government or individual for a term exceeding a ten (10) years that could potentially interfere with or infringe the aboriginal or treaty rights of the Fort William First Nation within its traditional territory;
- d. Any decision to enter into a borrowing agreement of any kind between the Fort William First Nation and a financial institution or corporation that puts the Fort William First Nation in debt excess of ten million (\$10,000,000) dollars;
- e. Any decision to enter into any kind of land claim settlement agreement; and,
- f. Any decision to enter into any self-government agreement with Canada or Ontario;
- g. Any other decision by Chief and Council where they determine through a unanimous resolution, that it would be in the best interest of the citizens of the Fort William First Nation to seek the prior ratification by the eligible voters of the Fort William First Nation prior to making such a decision;

Part 8 The Law Making Process

1. A draft law may be introduced at any meeting of Chief and Council by:
 - a. the Chief; or
 - b. a Councillor(s); or
 - c. by citizens of the Fort William First Nation who have submitted a written petition with the names of at least twenty-five (25%) percent of all eligible voters;
2. All draft laws shall be presented and read at a minimum of three (3) meetings of Chief and Council and the meetings shall be open to the citizens of the Fort William First Nation to attend. In addition, all draft laws must be presented at, at least one community meeting;
3. A law shall be considered validly enacted after:
 - a. it has met the requirements of Part 8, subsection 2 above;
 - b. it has been ratified by the eligible voters if required by Part 6;

- c. it has been passed by a majority of Council in accordance with its rules and procedures;
- d. An official copy of the law has been registered in the Fort William First Nation registry of laws; and,
- e. after any other action as may be necessary to carry out the intent of the law has been taken.

Part 9 Power to Establish Any Judicial Institutions

1. The Fort William First Nation may establish any traditional or restorative justice processes, tribunals, panels, services or courts it deems necessary to provide for the effective administration and enforcement of its laws and to provide mechanisms for the appeal of any of its decisions.
2. The Fort William First Nation may establish any rules and procedures for the effective operation and management of any of the judicial institutions set out in subsection 1. above.

Part 10 Financial Accountability of the Fort William First Nation

1. The Fort William First Nation Chief and Council shall hold at least one community meeting during the month of April of each year to allow its citizens to review the draft budget of the Fort William First Nation for that fiscal year.
2. The Fort William First Nation Chief and Council shall table and pass a draft budget each year no later than thirty (30) days after the community meeting is held in accordance with Part 10, subsection 1 above.
3. The Fort William First Nation Chief and Council shall hold at least one community meeting to present and review the audited financial statements of the Fort William First Nation each fiscal year.

Part 11 Rights and Freedoms of the Citizens of the Fort William First Nation and Application of the Canadian Charter of Rights and Freedoms

1. Every citizen of the Fort William First Nation shall be entitled to enjoy all of the rights and freedoms guaranteed in the *Canadian Charter of Rights and Freedoms*;

Part 12 All Rights and Freedoms Guaranteed Shall be Subject to Reasonable Limits

1. This Fort William First Nation Constitution guarantees the rights and freedoms set out herein subject only to such reasonable limits that are set out in Fort William First Nation law and which can be demonstrably justified to protect the **collective interests** of the Fort William First Nation.

Part 13 Concurrent Application of Federal and Provincial Laws

1. For greater certainty, all federal and provincial laws shall operate concurrently and shall continue in force until displaced by Fort William First Nation laws.

Part 14 Constitutional Amendment

Fort William First Nation Draft Constitution is a working living document and needs to be ratified by the Citizens of Fort William First Nation And that they Citizens of Fort William First Nation needs to be consulted in a reasonable timely respectful manner.

The process for passing Fort William First Nation Draft Constitution Laws will follow steps including Citizen consultation, Draft the law in writing via affidavit, signed by Commission of Oaths, Justice of Peace or Legal Authority, present to Chief and Council and to Citizens for a vote to Ratify the Fort William First Nation Constitution. The vote will prove to be the end result, and the Fort William First Nation will need 50 + 1 of the Eligible Voters to have the Constitution law amended or introduced. If the required number of voters is not achieved than a second ratification vote may be called.

The Fort William First Nation Chief and Council, Staff including contractors and the Fort William First Nation Citizens shall conduct all affairs in accordance with the laws of good governance and accountability and for the best interest of the Fort William First Nation.

Fort William First Nation Conflict of Interest Rule will need to be established to maintain accountability and to maintain good governance and good standing with its employees, and other service providers and its Citizens.

Fort William First Nation Chief and Council may amend this Constitution by unanimous resolution at any time in the following instances, Changing the name of the Fort William First Nation to a new name, as approved by the Citizens, Changing the Name of a Public Institution to reflect changes to Fort William First Nation law or Deleting a name or title of a dissolved Public Institution.

Part 14 Amendment Procedure for the Fort William First Nation Constitution

1. An amendment to this Fort William First Nation Constitution may be made by:
 - a. Chief and Council passing a resolution proposing an amendment; or,
 - b. the presentation to Chief and Council of a written petition proposing an amendment signed by at least twenty-five (25%) of the eligible voters at the time of the petition.
2. Upon receipt of the written request or passage of the resolution identified in section 1.0 (a) or (b) the Chief and Council shall ensure draft amendments are developed for a referendum on the proposed Fort William First Nation Chi-Naaknigewin amendment.
3. Prior to conducting a referendum on the proposed Fort William First Nation Chi-Naaknigewin amendment, the Chief and Council shall ensure there is a community consultation meeting on the proposed amendment within ninety (90) days after the receipt of the written request or passage of the resolution identified in Part 14, subsection 1.
4. The Chief and Council will consider any input from the community consultation meeting(s) and then determine whether to proceed with the proposed draft amendment or change the wording of the proposed amendment based on the input received.
5. The Chief and Council must, by resolution at least thirty (30) business days prior to the referendum:
 - a. set a date for the referendum;
 - b. appoint the Electoral Officer to conduct the referendum;
 - c. send notices of the referendum to the Eligible Voters.
6. The referendum must occur within thirty (30) days of the end of the community consultation period.
7. At least 25% of all eligible voters must participate in any referendum to approve and amend this Fort William First Nation Constitution to be valid.
8. If at least 60+1% of the 25% of eligible voters vote in favor of the proposed amendment, the Fort William First Nation Constitution shall be amended accordingly.
9. All amendments to this Fort William First Nation Constitution must be published by the Chief and Council.

Part 15 – Enactment Clause

This Fort William First Nation Constitution was ratified by the eligible voters of the Fort William First Nation

*this day _____ in the month of _____,
20_____.*