



Yuutu?it?ath

NOTICE IN ACCORDANCE WITH YUULU?IL?ATH LAW

REFERENDUM

1. In accordance with section 3.2 of the Referendum Act, YFNS 9/2011 (the “Referendum Act”), notice is hereby given that a referendum will be held on **May 10, 2023** to:
 - a) consider amendments to the Constitution, and
 - b) determine public opinion respecting the payment of Christmas gifts to citizens.(the “Referendum”)

A copy of the Resolution of the Yuulu?il?ath Legislature ordering the Referendum is attached to this notice.

2. In accordance with sections 8.3(c) of the Constitution and 5.1.2 of the Referendum Act, special hitacu assemblies will be held in order to seek the views of Yuulu?il?ath citizens on the proposed amendments to the Constitution as follows:

Special hitacu assembly #1	
Date:	Monday, February 27, 2023
Time:	6:00pm
Location:	Cixwatin Centre Gym, hitacu / Zoom

Special hitacu assembly #2	
Date:	Monday, April 17, 2023
Time:	6:00pm
Location:	Cixwatin Centre Gym, hitacu / Zoom

3. The questions that will be put to eligible voters in the Referendum are as follows:
 - 1) Yuulu?il?ath government has proposed amendments to the Yuulu?il?ath Constitution which are set out in the draft Constitution provided to you as part of the information package for this referendum, with text to be added to the Constitution underlined and in blue and text to be deleted crossed out and in red (the “Amendments”).

Do you approve the Amendments to the Yuulu?il?ath Constitution?

- 2) Yuulu?il?ath Government is considering changes to the way Christmas gift payments are made to citizens.

Going forward, should Yuulu?il?ath Government give citizens:

(a) an annual Christmas gift of \$250?

OR

(b) a one-time gift of \$2,500?

4. The voting package for the Referendum, including instructions for voting, will be mailed to eligible voters by March 10, 2023, in accordance with section 3.2(c)(ii) of the Referendum Act.
5. A copy of this notice and the attached documents may be inspected in advance of the Referendum at www.ufn.ca. Printed copies are also available for pick-up in advance of the Referendum at the Cix^watin Centre during regular office hours.

Kit Spence has been appointed as Chief Electoral Officer for the referendum. He can be contacted at:

- Toll Free: (877) 541-9017
- Text:(250) 881-0142
- Yfn_elections_officer@shaw.ca



January 27, 2023



RESOLUTION OF THE YUULUꞑILꞑATH LEGISLATURE

Re: Referendum to Consider Amendments to the
Yuułuꞑilꞑath Constitution

Resolution Number: 2023.01.23-04

Date of Legislature Meeting: January 23, 2023

Location of Legislature Meeting: Zoom

WHEREAS:

Constitutional amendments

- A. The Yuułuꞑilꞑath Constitution (the “**Constitution**”) was ratified on May 4, 2007 and came into force and effect on the effective date of the Maa-nulth Treaty;
- B. Under section 8.1(a) of the Constitution, the Legislature may, by resolution, initiate a referendum of Yuułuꞑilꞑath eligible voters to consider amendments to the Constitution;
- C. The Legislature wishes to hold a referendum of Yuułuꞑilꞑath eligible voters to consider amendments to the Constitution;
- D. Under section 8.2 of the Constitution, the Legislature must develop wording for proposed amendments to the Constitution;

Christmas gifts

- E. Section 2.2 of the Referendum Act, YFNS 9/2011 (“**Referendum Act**”) provides that if the Legislature considers that an expression of public opinion is desirable on any matter of public interest of concern, the Legislature may, by Order, require a referendum on that matter;
- F. The Legislature wishes to hold a referendum of Yuułuꞑilꞑath eligible voters to determine public opinion respecting the payment of Christmas gifts to citizens;

Referendum

- G. Under section 3.1 of the Referendum Act, the Legislature must state the question to be put to the eligible voters in, specify the date of and appoint the chief electoral officer for, a referendum;

- H. Under section 5.1 of the Elections Act, YFNS 42/2015, incorporated by reference under section 1.4(b) of the Referendum Act, the Legislature must determine which voting methods will be available in a referendum.

NOW THEREFORE BE IT RESOLVED AND ORDERED THAT:

1. The Legislature initiate a referendum of Yuulu?il?ath eligible voters to (a) consider amendments to the Constitution, and (b) determine public opinion respecting the payment of Christmas gifts to citizens (the “**Referendum**”);
2. The Referendum be held in the manner provided for in the Referendum Act and as required by the Constitution;
3. The questions to be put to Yuulu?il?ath eligible voters in the Referendum be as follows:
 1. Yuulu?il?ath government has proposed amendments to the Yuulu?il?ath Constitution which are set out in the draft Constitution provided to you as part of the information package for this referendum, with text to be added to the Constitution underlined and in blue and text to be deleted crossed out and in red (the “Amendments”).

Do you approve the Amendments to the Yuulu?il?ath Constitution?

2. Yuulu?il?ath Government is considering changes to the way Christmas gift payments are made to citizens.

Going forward, should Yuulu?il?ath Government give citizens:

(a) an annual Christmas gift of \$250?

OR

(b) a one-time gift of \$2,500?

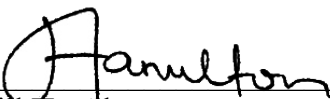
4. The wording for the proposed amendments to the Constitution considered by the Yuulu?il?ath eligible voters in the Referendum be as discussed in the briefing note from legal counsel to the Legislature entitled “Briefing Note – Proposed Constitutional Amendments” dated January 11, 2023, and set out in the version of the Constitution attached to that briefing note and dated for reference the same date, with text that is proposed to be added to the Constitution underlined and in blue while text that is proposed to be deleted crossed out and in red;
5. The Referendum be held on May 10, 2023;
6. Kit Spence be appointed as the chief electoral officer for the Referendum;

7. The voting methods for the Referendum be as follows:
- a. in person on general voting day;
 - b. in person on advance voting day;
 - c. by mail-in ballot;
 - d. by electronic voting; and
 - e. by canvassed ballot.

Moved by: Charles McCarthy

Seconded by: Jenny Touchie

Certified to be a true copy of resolutions passed at a duly convened meeting of Legislature held on January 23, 2023 by:



Jill Hamilton
Yuuhu?if?ath Law Clerk



TO: YUULU?I?ATH LEGISLATURE
FROM: R. BRENT LEHMANN AND FRANCES B. ANKENMAN
DATE: JANUARY 11, 2023
FILE: 11-0709-019

Briefing Note Constitutional Amendments

INTRODUCTION

Yuulu?i?ath Government and legal counsel recommend several amendments to the Yuulu?i?ath Constitution (the “**Constitution**”) to:

- address various administrative timelines and requirements that have proven difficult or impossible to meet or do not reflect current practice;
- better reflect Yuulu?i?ath identity and values; and
- improve drafting clarity.

These amendments are summarized below and set out in full in the version of the Constitution accompanying this briefing note, with text that is proposed to be added to the Constitution underlined and in red, and text that is proposed to be deleted crossed out and in red.

The constitutional amendment process is initiated by a resolution of the Legislature ordering a referendum of Yuulu?i?ath eligible voters. Accompanying this briefing note is a draft resolution of the Legislature for this purpose. The draft resolution also includes a referendum question to determine public opinion on options for the payment of Christmas gifts.

CONSTITUTIONAL AMENDMENTS

The recommended constitutional amendments include the following:

1. Incorporating more nuucaanu? words into the Constitution.
2. Adding language to the Preamble that speaks to the importance of supporting Yuulu?i?ath youth, who represent the Nation’s future.
3. Adding language to the Preamble to acknowledge that the Maa-nulth Treaty recognizes the Constitution as the most important law of Yuulu?i?ath.
4. Confirming the principle that constitutional rights are only subject to reasonable limits prescribed by Yuulu?i?ath law that can be demonstrably justified in a free and democratic society. This language mirrors the standard enshrined in the Canadian Charter

of Rights and Freedoms. This language protects citizens from unreasonable and unjustified infringements of their constitutional rights, while recognizing that government programs and services sometimes need to be delivered in different ways to citizens.

5. At section 2.2, recognizing the legal reality that if Yuułu?i?ath wishes to establish its own judicial branch, it must do so in accordance with the Maa-nulth Treaty.
6. Removing various timelines that have proven difficult or impossible to meet, such as:
 - a. Section 2.8, which requires a by-election to be held within 30 days of a position in the Legislature becoming vacant. Experience has shown that 30 days is not enough time to administer a by-election, particularly in circumstances where the vacancy is caused by a death. Rather than having the Constitution prescribe a timeframe, the proposed amendment requires the by-election to be held in accordance with Yuułu?i?ath law, which will set out the applicable timeframes.
 - b. Sections 5.5 and 5.6, which set out timeframes for presenting the draft annual budget (30 days) and audited annual financial statements (90 days) to the hitaçu assembly. Experience has shown that these timelines cannot be met, nor are they met by any other government in Canada. The proposed amendment requires the draft annual budget and audited financial statements to be presented to the hitaçu assembly in accordance with the timeframes set out in Yuułu?i?ath law.
 - c. Section 2.15, which requires Yuułu?i?ath laws to be published and made available to Yuułu?i?ath citizens within 10 days of coming into effect. The proposed amendment removes the 10 day requirement and instead provides laws to be published in accordance with Yuułu?i?ath law. Note that the Government Act YFNS 2/2011 currently requires the law clerk to deposit laws into the registry of laws as soon as they are signed.
 - d. Section 8.3, which requires the Legislature, when proposing amendments to the Constitution, to conduct a referendum within 30 days of a special hitaçu assembly. This does not allow enough time for the Legislature to make changes to the proposed amendment in response to advice received at the hitaçu assembly.
7. Clarifying, at sections 2.19 and 2.21(h), that the role of the Executive and the President is to *oversee* enforcement of laws, management of affairs, and government and financial administration, rather than to be directly responsible for such matters.
8. Amending section 2.32 to require the chairperson to provide notice of all hitaçu assemblies, not just hitaçu assemblies that are being called to consider resolutions calling for referendums.
9. Removing the restriction that members of the Legislature who sit on committees are *ex officio* and cannot vote (s. 2.35). Experience has shown that it is often challenging to fill vacancies on committees and to reach quorum at meetings. Removing this restriction will help address this challenge.
10. Removing the requirement to include standing committees on finance, treaty implementation, economic development and personnel. Removing this requirement will

allow greater flexibility for committee names and structures to be dealt with in Yuułu?ił?ath laws.

11. Removing section 3.5, which requires the Legislature to exercise any law-making authorities set out in non-Treaty agreements with Canada or British Columbia. The Legislature's role under non-Treaty agreements with Canada or British Columbia is already described in section 3.1, which grants the Legislature the right to assume such law-making authorities.
12. Adding a new section 3.6 to clarify that the Legislature may delegate its law-making authorities in accordance with the Maa-nulth Treaty and Yuułu?ił?ath law. 13.10.1 of the Maa-nulth Treaty recognizes the power of Yuułu?ił?ath to delegate certain law-making authorities to other public bodies. It is also a recognized constitutional principle in Canada that legislative bodies can delegate law-making and regulatory functions (such as setting forms and fees) to the executive branch of government.
13. Adding a new section 3.7 to clarify that the Legislature may make a law to define any words used in the Constitution. This will help ensure consistent interpretation of the Constitution and other Yuułu?ił?ath laws.
14. Making various minor changes to improve drafting clarity.

*Confidential Draft
for Discussion Purposes Only*
YUULU?IŁ?ATH CONSTITUTION



This Constitution approved by Yuulu?ił?ath eligible voters on May 4, 2007 with technical and grammatical amendments approved by the Legislature in accordance with section 8.8 on April 13, 2011 and December 9, 2013

Signed _____

Jill Hamilton, Law Clerk of the
Yuulu?ił?ath First Nation

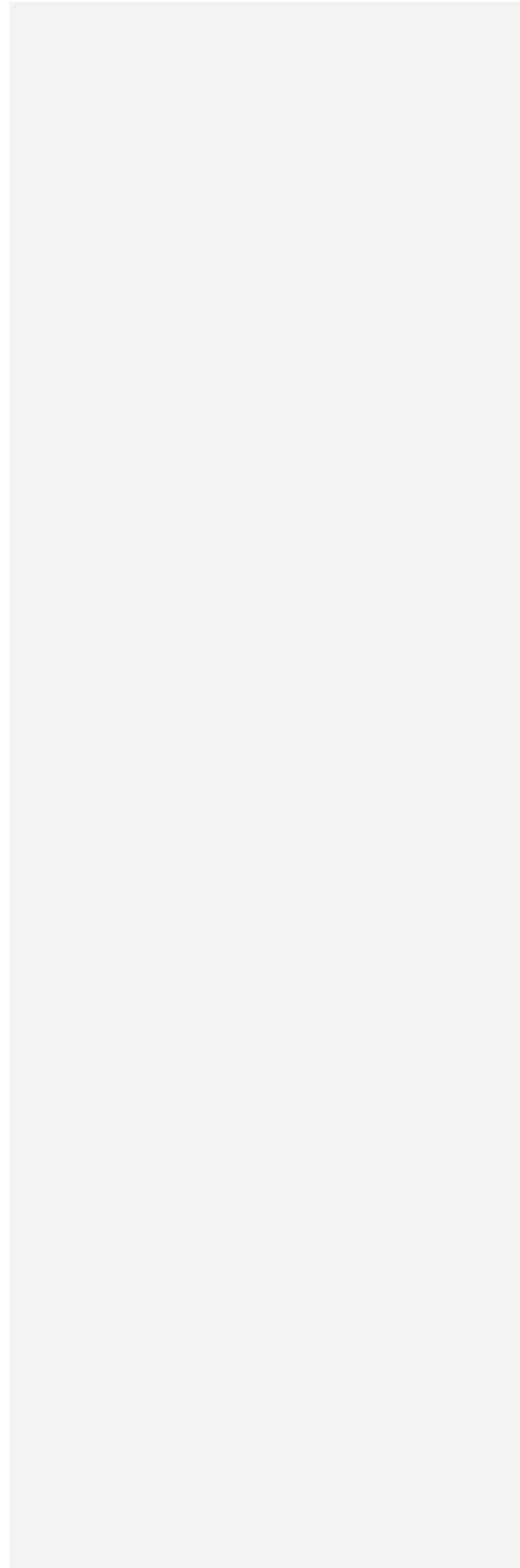


TABLE OF CONTENTS

PREAMBLE 5

CHAPTER 1 - RIGHTS AND FREEDOMS OF YUULU?IL?ATH CITIZENS 7

CHAPTER 2 - YUULU?IL?ATH GOVERNMENT STRUCTURE 9

CHAPTER 3 - LEGISLATIVE AUTHORITY 13

CHAPTER 4 - YUULU?IL?ATH LAND SYSTEM..... 17

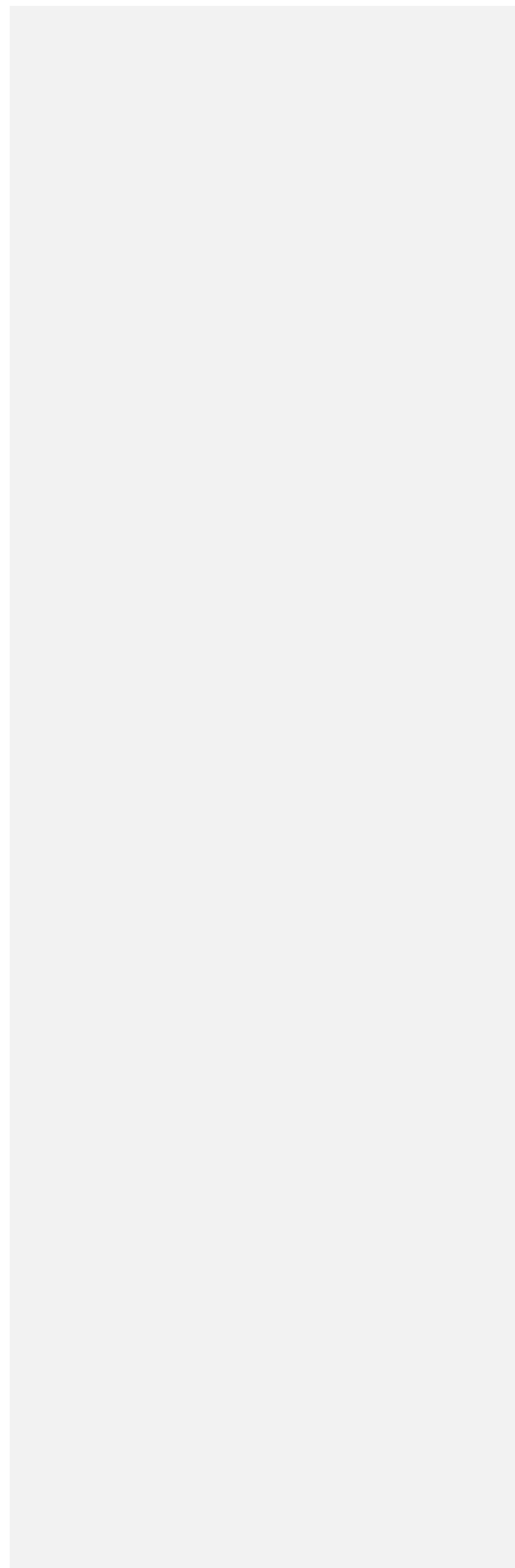
CHAPTER 5 - FINANCIAL ADMINISTRATION AND ACCOUNTABILITY 19

CHAPTER 6 - CODE OF CONDUCT AND CONFLICT OF INTEREST ~~21~~²⁰

CHAPTER 7 - DISPUTE RESOLUTION ~~23~~²²

CHAPTER 8 - CONSTITUTIONAL AMENDMENTS ~~25~~²⁴

SCHEDULE 1 – YUULU?IL?ATH TRADITIONAL TERRITORY..... ~~27~~²⁶



PREAMBLE

A. Declaration of Yuulu?i?ath identity and territorial existence

Yuulu?i?ath, by this Constitution, declare our unique identity as a Nation and claim our rightful place in Canadian society.

We have, throughout time, functioned on and abided by an internal order based on our Ha'wiih and our ~~Hahuuli~~ ~~Hahoulthee~~.

Commented [FA1]: To use nuucãanul spelling instead of English spelling

We have existed from time immemorial and have occupied and used the lands, waters and resources of our ~~traditional territory~~ ~~Hahuuli~~, as set out in Schedule 1 to this Constitution, throughout history.

Commented [FA2]: To use nuucãanul spelling instead of English spelling

We draw our identity from our relationship to our lands ~~and waters~~ and from our rich heritage, culture, language and our stories, myths and oral traditions.

Commented [FA3]: To recognize Yuulu?i?ath's coastal identity

We honour our ancestors and our elders and commit ourselves to the values that they preserved for us. ~~These~~ values ~~that~~ provide us dignity, ~~and~~ enhance our humanity ~~and~~ guide us in supporting our youth and building our future as a Nation.

Commented [FA4]: To speak to importance of supporting youth, who are the future of the Nation

As self-determining peoples, we accept the responsibilities inherent in governing ourselves and seek, with the assistance of Naas ~~(the Creator)~~, to govern with wisdom and ~~respect for all people?iisaak~~.

Commented [FA5]: nuucãanul words will be defined in the Interpretation Act, so they don't need English translations in the Constitution

Through the act of governing, we assume the power ~~and responsibility~~ to ~~preserve~~ ~~protect~~ our natural world and enhance our identity.

Commented [FA6]: To use nuucãanul word instead of English word

Commented [FA7]: Governance involves both power and responsibility

Commented [FA8]: To better reflect that Yuulu?i?ath's relationship with the environment includes harvesting

B. Declaration of Yuulu?i?ath rights and values

From this historic foundation we, Yuulu?i?ath, have adopted and shaped fundamental values that unite us and define us and upon which this Constitution is based.

These values include

- (a) a belief in, and reverence for, Naas,
- (b) honouring our ancestors,
- (c) respecting our elders,
- (d) respecting our family and kinship systems,
- (e) supporting our youth,
- (f) our unique language, and

Commented [FA9]: To recognize that supporting youth is a core Yuulu?i?ath value

- (g) respecting the land, air, water and environment which encompasses the Hahuuʻi ~~Hahouthee~~ of our Haʻwiih.

Commented [FA10]: To use nuucāanui spelling instead of English spelling

As a distinct people, we possess certain fundamental and inalienable human rights, which have never been extinguished, ceded or surrendered. These include

- (a) the right to our Hahuuʻi ~~traditional territory~~, including rights to water and beds of water,
- (b) the right to the resources within our Hahuuʻi ~~traditional territory~~,
- (c) the right to govern within our Hahuuʻi ~~traditional territory~~,
- (d) the right to utilize and protect our language,
- (e) the right to practice, protect and enhance our culture,
- (f) the right to the wealth of our Hahuuʻi ~~traditional territory~~ and a sound economic foundation,
- (g) the right to protect our sacred and spiritual sites,
- (h) the right to protect our family and kinship systems, and
- (i) the right to define ourselves and the criteria for the identification of our citizens.

Commented [FA11]: To use nuucāanui word instead of English word

Commented [FA12]: To use nuucāanui word instead of English word

Commented [FA13]: To use nuucāanui word instead of English word

Commented [FA14]: To use nuucāanui word instead of English word

C. Maa-nulth Treaty

This Constitution and all powers and jurisdictions established in it are made in accordance with the Maa-nulth Treaty. The Maa-nulth Treaty recognizes this Constitution as the highest and most important law of YuuluʻiĪʻath.

Commented [FA15]: To recognize the role of the Treaty

CHAPTER 1 - RIGHTS AND FREEDOMS OF YUULU?I?ATH CITIZENS

- 1.1 An individual is entitled to be a Yuulu?i?ath citizen if that individual
- (a) is enrolled under the Maa-nulth Treaty as a Yuulu?i?ath enrollee,
 - (b) was registered on the Ucluelet First Nation band list as of the day immediately preceding the effective date of the Maa-nulth Treaty,
 - (c) has been adopted as a child by a Yuulu?i?ath citizen under Canadian law, ~~Yuulu?i?ath law~~ ~~the Maa-nulth Treaty~~ or in accordance with ~~Nuu-chah-nulth Yuulu?i?ath~~ custom,;
 - (d) is a descendent of a Yuulu?i?ath citizen,; or
 - (e) meets any other criteria established under Yuulu?i?ath citizenship laws.
- 1.2 Every Yuulu?i?ath citizen enjoys all of the individual rights and freedoms guaranteed under the Constitution of Canada and by the various instruments of human rights established in international law.
- 1.3 All Yuulu?i?ath citizens are equal under this Constitution, subject only to such reasonable limits prescribed by Yuulu?i?ath law as can be demonstrably justified in a free and democratic society, and, based on this equality and in accordance with Yuulu?i?ath custom, possess
- (a) the right to participate in Yuulu?i?ath political activities and elections and to run for and hold elected office in accordance with Yuulu?i?ath law,
 - (b) the right to be informed about Yuulu?i?ath affairs,
 - (c) the right to be consulted regarding Yuulu?i?ath affairs,
 - (d) the right to express opinions and views on Yuulu?i?ath affairs,
 - (e) the right to equal employment opportunities within Yuulu?i?ath institutions,
 - (f) the right to equal access to public services provided by Yuulu?i?ath,
 - (g) the right to a healthy life and environment and equal access to health care,
 - (h) the right to utilize the Nuu-chah-nulth language,
 - (i) the right to participate in Yuulu?i?ath culture and traditions consistent with the established practices and customs,

Commented [FA16]: Technical change: adoption is set out in Yuulu?i?ath law, not the Treaty

Commented [FA17]: Technical change to align with language in the Treaty.

(This language reflects enrolment eligibility criteria under the Treaty. That language refers to the custom of each Maa-nulth Nation, not nuucaanul custom.)

Commented [FA18]: To include language from the Canadian Charter of Rights and Freedoms that protects the constitutional rights of citizens, while recognizing that government programs and services sometimes need to be delivered in different ways to citizens.
This language reflects a principle that already exists at law. Including this language does not affect any rights of Yuulu?i?ath citizens.

Commented [FA19]: To clarify that the right to equal employment opportunities applies to all of Yuulu?i?ath government, public institutions and public corporations. (Yuulu?i?ath institution is defined to include all of these in the Interpretation Act)

- (j) the right to enter upon, remain on and leave Yuulu?i?ath lands in accordance with Yuulu?i?ath law,
- (k) the freedom to pursue a livelihood within Yuulu?i?ath lands,
- (l) the freedom to contribute to the progress and development of Yuulu?i?ath, and
- (m) the freedom to achieve their fullest potential as individuals.

CHAPTER 2 - YUULU?I?ATH GOVERNMENT STRUCTURE

- 2.1 The Yuulu?i?ath government consists of a legislative branch, an executive branch and a people's assembly known as the hitacu assembly.
- 2.2 Yuulu?i?ath may, in accordance with the Maa-nulth Treaty [or a non-Treaty agreement with Canada or British Columbia](#) and the amending provisions of this Constitution, establish a judicial branch of the Yuulu?i?ath government.

Commented [FA20]: The Maa-nulth Treaty does not currently allow for Yuulu?i?ath to establish a Court. This change recognizes that the authority for Yuulu?i?ath to establish a Court might, in the future, be set out in a non-Treaty agreement with BC/Canada (and not through a Treaty amendment).

A. The Legislative branch

- 2.3 All legislative powers assumed through this Constitution are vested in the Legislature.
- 2.4 The Legislature must be composed of eight members, as follows:
- (a) six elected members of the Legislature;
 - (b) one elected President; and
 - (c) one Ha'wiih chosen by the Yuulu?i?ath Ha'wiih in accordance with custom.
- 2.5 The elected members of the Legislature hold office for a term of four years.
- 2.6 The elected members of the Legislature must be Yuulu?i?ath citizens and at least 16 years of age.
- 2.7 The times, places and manner of holding elections must be established by the Legislature in a Yuulu?i?ath election law.
- 2.8 In the event of a tie vote for the position of President or for the final elected position on the Legislature, or upon an elected position on the Legislature becoming vacant, a by-election must be held [in accordance with Yuulu?i?ath law within 30 days of the previous vote or the date the vacancy occurred](#).
- 2.9 The Legislature must, [as soon as practicable after each regularly held election, at the beginning of each term of office](#), select a chairperson to be responsible for chairing meetings of the Legislature and of the hitacu assembly and for ensuring that the decisions of the Legislature are implemented.
- 2.10 The chairperson of the Legislature must not be a member of the Legislature and may only vote in decisions of the Legislature to break a tie vote.
- 2.11 An advisory body composed of the Ha'wiih is established with the name Ha'wiih Advisory Council.

Commented [FA21]: Experience has shown that 30 days is not enough time to run a by-election, especially where the vacancy is caused by a death. This change requires a by-election to be held in accordance with Yuulu?i?ath law, which will set out timeframes.

Commented [FA22]: Technical change: to clarify that the Chairperson is only selected after regularly scheduled elections, not by-elections.

- 2.12 Representation on the Ha'wiih Advisory Council must be determined in accordance with custom.
- 2.13 The Legislature must consult with and seek the advice of the Ha'wiih Advisory Council in relation to Yuulu?i?ath culture and traditional values, Yuulu?i?ath custom and matters relating to this Constitution in accordance with Yuulu?i?ath law.
- 2.14 No Yuulu?i?ath law has force and effect until that law has been passed by a majority of a quorum of the Legislature and certified by the President.
- 2.15 Except for Yuulu?i?ath customary laws, all Yuulu?i?ath laws will be published and made available to Yuulu?i?ath citizens ~~within ten days of coming into effect~~ in accordance with Yuulu?i?ath law.

B. The Executive branch

- 2.16 The executive powers of the Yuulu?i?ath government are vested in the President and any individual member of the Legislature designated by a majority of a quorum of the Legislature to hold an executive portfolio.
- 2.17 The Legislature may establish or dissolve executive portfolios at any time.
- 2.18 Each member of the Executive is directly accountable to the Legislature and must report to the Legislature on a regular basis or as requested by the Legislature.
- 2.19 Members of the Executive have the duty and power to oversee the enforcement Yuulu?i?ath laws, ~~the and management of~~ Yuulu?i?ath affairs, the administration of Yuulu?i?ath finances, ~~social administration~~ and the operation of the Yuulu?i?ath government in accordance with Yuulu?i?ath laws.
- 2.20 Subject to instructions given by the Legislature, the members of the Executive, within the areas of their respective portfolios, are responsible for representing Yuulu?i?ath in intergovernmental relations, including relations with other First Nations.
- 2.21 The President, as chief executive head of the Yuulu?i?ath government, has the duty and power, subject to direction from the Legislature, to
- (a) represent the Yuulu?i?ath government in relations with local, provincial and federal governments, other First Nations and indigenous organizations nationally and internationally,
 - (b) ensure that Yuulu?i?ath citizens are fully informed on social, legal and political issues that affect Yuulu?i?ath,

Commented [FA23]: The Government Act requires the law clerk to deposit laws into the registry of laws as soon as they are signed. This is stricter than what is set out in the Constitution. Change aligns Constitution with current practice by stating that the deadlines for publishing laws will be set out by law.

Commented [FA24]: To clarify that the role of the Executive is to *oversee* government affairs, which is a more accurate description of the executive branch of government.

Commented [FA25]: "Chief executive" is often used to describe senior government officers (eg. "chief executive officer"), which is a different role than the elected President. This change makes the President's role clearer.

- (c) develop and maintain effective systems of communication with Yuuluʻiifāth citizens, third parties and other governments,
- (d) protect and enhance Yuuluʻiifāth treaty rights,
- (e) ensure this Constitution and Yuuluʻiifāth laws and policies are adhered to and enforced,
- (f) develop and maintain a sound Yuuluʻiifāth economy,
- (g) promote and protect Yuuluʻiifāth values, culture, traditions and language, and
- (h) ensure the properly management and administer administration of the Yuuluʻiifāth government.

Commented [FA26]: Like the change at section 2.19, this change clarifies that the role of the President is to *oversee* the administration of government, which is a more accurate description of this role.

2.22 The Legislature may designate a member of the Legislature to assume the powers and duties of the President on an interim basis in the event the President is, for whatever reason, unable to exercise the powers and perform the duties of that office.

2.23 The Legislature may establish any public institution or body that it deems necessary to perform the duties or exercise the powers of the Yuuluʻiifāth government or to protect or advance the interests of Yuuluʻiifāth.

C. Hitaʻu assembly

2.24 The hitaʻu assembly must be convened at least four times annually, with at least one meeting deemed to be the Yuuluʻiifāth Annual General Assembly.

2.25 The hitaʻu assembly that is deemed to be the Yuuluʻiifāth Annual General Assembly must include on its agenda the annual Yuuluʻiifāth financial report, including remuneration paid to the Legislature.

2.26 The President chairperson of the Legislature, in consultation with the Legislature and the Haʻwiith Advisory Council, may at any time call a special hitaʻu assembly to address important Yuuluʻiifāth issues.

Commented [FA27]: Technical change (at 2.26, 2.27 and 2.32: updates the Constitution to reflect current practice (in practice, it is the chairperson of the Legislature who calls and holds hitaʻu assemblies).

2.27 The President chairperson of the Legislature must hold a hitaʻu assembly in accordance with procedures established by Yuuluʻiifāth law.

2.28 Subject to section 2.29, every Yuuluʻiifāth citizen has the right to attend and participate in a hitaʻu assembly.

2.29 Every Yuuluʻiifāth citizen that has attained the age of 16 has the right to vote on any resolution presented at a hitaʻu assembly.

2.30 ~~Subject to section 8.1(b), a~~ The hitaçu assembly may, by a majority vote of those present and voting, pass a resolution making a recommendation to the Legislature or requiring a referendum on any issue, with that referendum to be held in accordance with a Yuuluʔiʔath referendum law.

2.31 Any proposed resolution of the hitaçu assembly calling for a referendum must be provided to the chairperson of the Legislature in writing at least 45 days before the hitaçu assembly at which the resolution is to be considered.

2.32 ~~Upon receipt of the proposed resolution, the President~~ The chairperson of the Legislature must ensure the date of ~~the~~ a hitaçu assembly is made public and provided to all Yuuluʔiʔath citizens.

Commented [FA28]: Change requires the chairperson to provide notice of *all* hitaçu assemblies, not just those that are being held to call referendums.

D. Committees

2.33 The Legislature may establish standing or special committees to assist in the discharge of its powers and duties.

2.34 A committee may include any Yuuluʔiʔath citizen over the age of 16 and must include at least one member of the Legislature.

2.35 ~~All committee members who are members of the Legislature are ex officio and may not vote in committee decisions.~~

Commented [FA29]: Experience has shown that it is often challenging to fill vacancies on committees and to reach quorum at meetings. Removing this restriction will help address this challenge.

2.36 The Legislature must establish rules of procedure for each committee and must appoint all committee members in accordance with the committee's rules of procedure.

2.37 In appointing committee members, the Legislature must endeavour to ensure there is representation on the committee by Yuuluʔiʔath citizens residing both on and off of Yuuluʔiʔath lands.

2.38 Committee membership and the procedures for selecting committee members must be made public.

~~2.39 — The standing committees must include:~~

~~2.40 — a standing committee on finance;~~

~~2.41 — a standing committee on treaty implementation;~~

~~2.42 — a standing committee on economic development; and~~

~~2.43~~ 2.39 a standing committee on personnel.

Commented [FA30]: Removing this language will allow greater flexibility for committee names and structures to be defined in Yuuluʔiʔath laws.

~~2.44~~ 2.40 All standing and special committees may make recommendations to the Legislature.

CHAPTER 3 - LEGISLATIVE AUTHORITY

- 3.1 The Legislature has the right to assume and exercise all law-making authorities set out in the Maa-nulth Treaty and any law-making authorities set out in non-Treaty agreements with Canada or British Columbia.
- 3.2 In accordance with the Maa-nulth Treaty, the Legislature has the authority to make laws for the following:
- (a) Yuulu?i?ath citizenship;
 - (b) Yuulu?i?ath government structures and procedures;
 - (c) Yuulu?i?ath lands and land management;
 - (d) Yuulu?i?ath resources on Yuulu?i?ath lands;
 - (e) Yuulu?i?ath public institutions and Yuulu?i?ath corporations;
 - (f) Yuulu?i?ath assets;
 - (g) adoption;
 - (h) child protection services;
 - (i) child care services;
 - (j) education in respect of kindergarten to grade 12;
 - (k) post-secondary education;
 - (l) education in respect of language and culture;
 - (m) solemnization of marriages;
 - (n) social development;
 - (o) health services;
 - (p) culture and heritage;
 - (q) management and distribution of fish and aquatic plants for domestic purposes;
 - (r) management and distribution of wildlife and migratory birds for domestic purposes;

- (s) renewable resource harvesting within federal and provincial parks and protected areas;
- (t) water;
- (u) preservation and conservation of the environment;
- (v) taxation;
- (w) public works;
- (x) buildings and structures;
- (y) regulation, licensing and prohibition of business;
- (z) traffic, transportation, parking and highways;
- (aa) public order, peace and safety;
- (bb) emergency preparedness;
- (cc) conflicts of interest;
- (dd) conduct of public officials;
- (ee) access to information;
- (ff) enforcement of Yuulu?i?ath laws; and
- (gg) any other law-making authority set out in the Maa-nulth Treaty or in any non-Treaty agreement with Canada or British Columbia.

3.3 On the effective date of the Maa-nulth Treaty, the Legislature must bring into force and effect:

- (a) rules of procedure for the Legislature,
- (b) a Yuulu?i?ath election law,
- (c) a Yuulu?i?ath code of conduct,
- (d) a Yuulu?i?ath conflict of interest law,
- (e) a Yuulu?i?ath financial administration law,
- (f) a Yuulu?i?ath citizenship law,
- (g) a Yuulu?i?ath land law,

- (h) a Yuulu?i?ath dispute resolution law,
- (i) a Yuulu?i?ath referendum law, and
- (j) any other law that the Legislature deems necessary for the proper management of Yuulu?i?ath affairs as of the effective date of the Maa-nulth Treaty.

3.4 To the extent that the Legislature chooses not to exercise a law-making authority set out in section 3.2, federal or provincial law in relation to that authority continue to apply until such time as the authority is exercised by the Legislature.

~~The Legislature must exercise any law-making authorities set out in non-Treaty agreements with Canada or British Columbia.~~

Commented [FA31]: Technical change: This is already covered by section 3.1, which better describes the role of the Legislature in non-Treaty agreements.

3.5 In the event of an inconsistency or conflict between this Constitution and any other Yuulu?i?ath law, the other Yuulu?i?ath law, to the extent of the inconsistency or conflict, is of no force or effect.

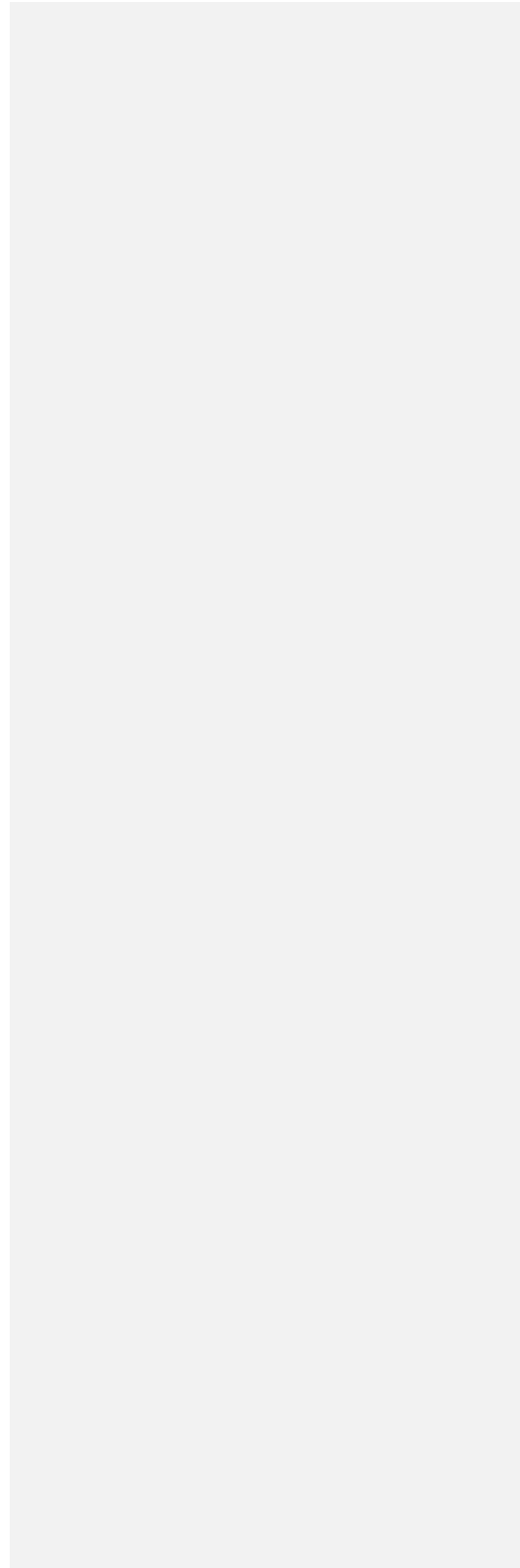
3.6 The Legislature may delegate any of its law-making authorities in accordance with the Maa-nulth Treaty and Yuulu?i?ath law.

Commented [FA32]: The Maa-nulth Treaty recognizes the power of Yuulu?i?ath to delegate certain law-making authorities to other public bodies. It is also a recognized constitutional principle in Canada that legislative bodies can delegate law-making and regulatory functions (such as setting forms and fees) to the executive branch of government.

~~3.5~~ 3.7 The Legislature may make a law to define any word used in this Constitution, as necessary or desirable.

This change reflects this legal principle.

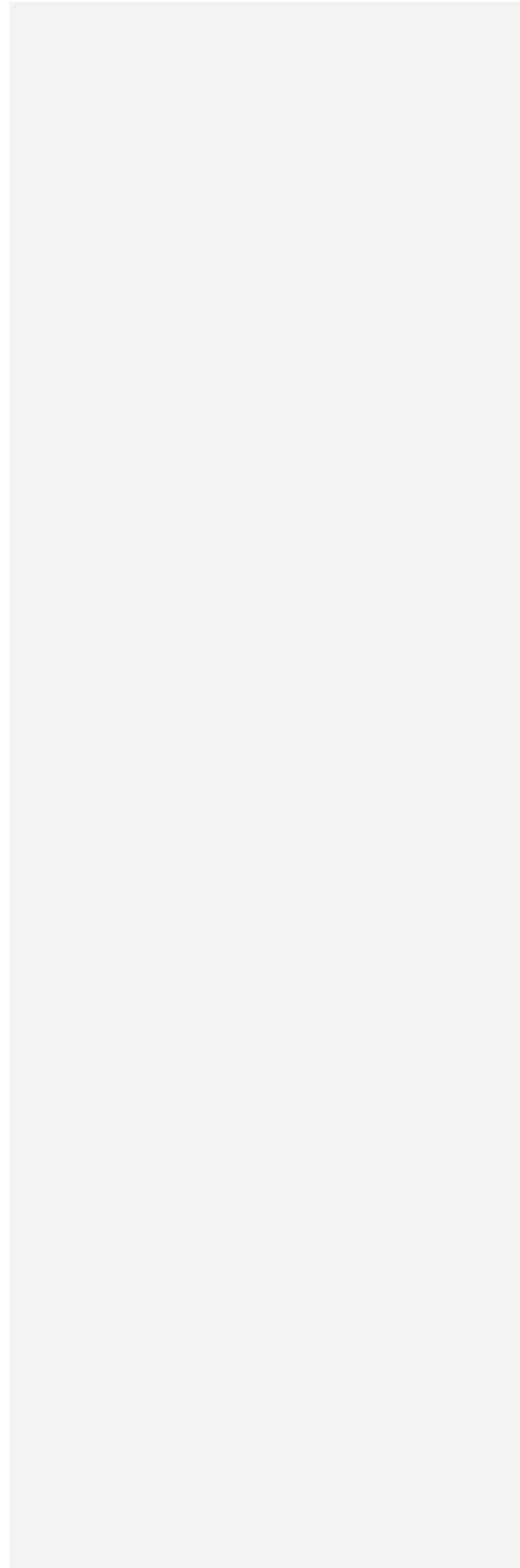
Commented [FA33]: This will make sure that the Constitution and other Yuulu?i?ath laws are all interpreted consistently.



CHAPTER 4 - YUULU?IL?ATH LAND SYSTEM

- 4.1 As of the effective date of the Maa-nulth Treaty, the underlying title to all Yuulu?il?ath lands is vested collectively in Yuulu?il?ath.
- 4.2 The quantity of Yuulu?il?ath lands, as set out in the Maa-nulth Treaty, must not be reduced except as provided for in the Maa-nulth Treaty and Yuulu?il?ath law.
- 4.3 The boundaries of Yuulu?il?ath lands as set out in the Maa-nulth Treaty must not be altered except as provided for in the Maa-nulth Treaty and Yuulu?il?ath law. ~~or if approved by at least 50% plus one of Yuulu?il?ath eligible voters in a referendum held to approve the boundary alteration.~~
- 4.4 Prior to the effective date of the Maa-nulth Treaty, the Legislature must develop Yuulu?il?ath land laws for review by Yuulu?il?ath citizens.
- 4.5 Yuulu?il?ath land laws must address, among other things, the following:
- (a) the nature and extent of the rights of individual Yuulu?il?ath citizens in and to Yuulu?il?ath lands;
 - (b) the powers of the Yuulu?il?ath government to administer, regulate, expropriate and grant interests in Yuulu?il?ath lands;
 - (c) any land transactions that require approval of Yuulu?il?ath citizens by referendum;
 - (d) procedures for raising title to, and registering interests in, Yuulu?il?ath lands;
 - (e) procedures for addressing interests of non-Yuulu?il?ath individuals in Yuulu?il?ath lands;
 - (f) the regulation of mortgages and other forms of security in relation to Yuulu?il?ath lands;
 - (g) procedures for zoning and land use planning; and
 - (h) any other matter that the Legislature deems necessary for comprehensive land laws.
- 4.6 Despite the conveyance or alienation of any estate or interest in Yuulu?il?ath lands, all lands that are subject to that estate or interest continue to be Yuulu?il?ath lands and subject to the jurisdiction of the Yuulu?il?ath government.

Commented [FA34]: Like the change before (4.2), this change acknowledges that some details about the *process* to approve a boundary alteration could be set out in law (which must comply with the Treaty).



CHAPTER 5 - FINANCIAL ADMINISTRATION AND ACCOUNTABILITY

- 5.1 The Legislature, in exercising its financial powers, including the power to raise and expend revenues, must, by law, establish a system of financial management and administration that
- is effective and efficient in the use of Yuulu?i?ath financial resources,
 - is open and accountable, and
 - includes standards comparable to those generally accepted for governments in Canada.
- 5.2 The Legislature must establish a standing committee on finance and that committee must make recommendations to the Legislature on ~~any financial matters and in relation to any law regarding financial matters~~ required under Yuulu?i?ath law.
- ~~The Legislature must establish rules and terms of reference for the standing committee on finance, including such matters as:~~
- ~~rules of procedure;~~
 - ~~frequency of meetings;~~
 - ~~time periods for performing duties; and~~
- ~~the ability to seek advice from persons with relevant expertise.~~
- 5.3 The Legislature must request and consider a report from the standing committee on finance prior to
- preparing the annual Yuulu?i?ath financial report,
 - entering into financial agreements or taxation agreements with Canada or British Columbia, or
 - making laws that substantially affect the finances of Yuulu?i?ath.
- 5.4 The Legislature must prepare a draft annual budget for presentation at a hitacu assembly each year ~~at least 30 days prior to the fiscal year end~~ in accordance with Yuulu?i?ath law.
- 5.5 The annual audited financial statements for Yuulu?i?ath, including the annual audited financial statements for any corporate entity owned, in whole or in part, by Yuulu?i?ath, must be presented at a hitacu assembly ~~within 90 days of the fiscal year end~~ each year in accordance with Yuulu?i?ath law.

Commented [FA35]: Change to recognize that the details of the Finance Committee's functions are set out in law.

Commented [FA36]: Deleted because the requirement to establish rules for committees is already addressed in s. 2.36

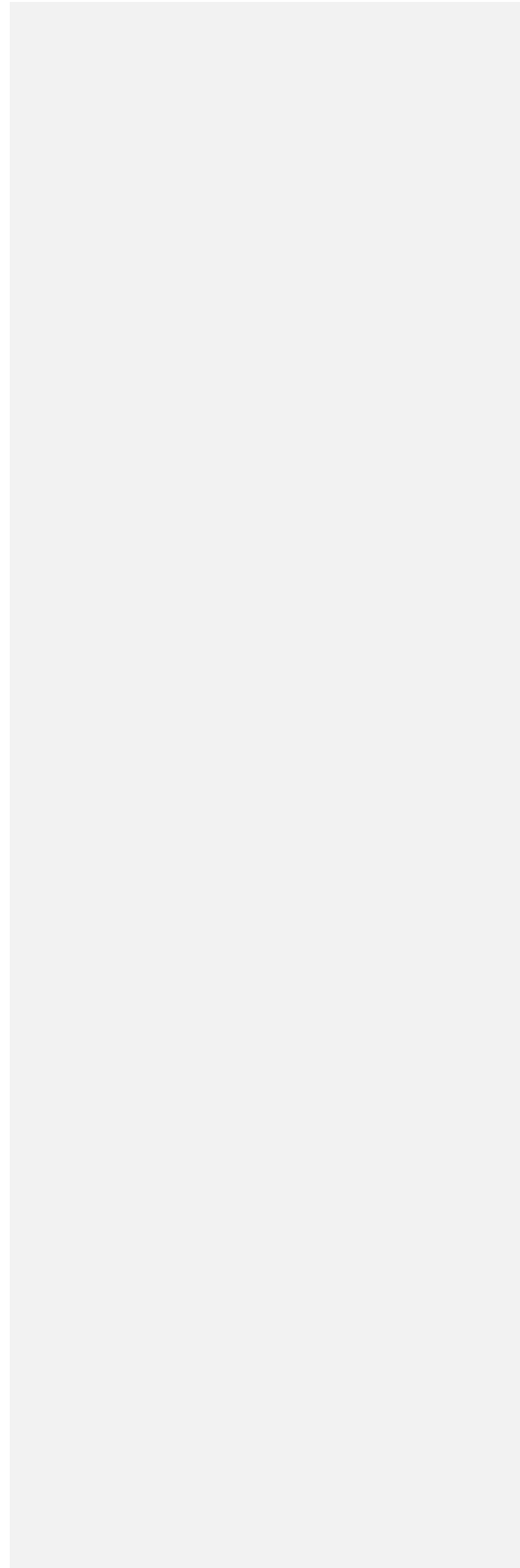
Commented [FA37]: This requirement is repeated in the Financial Administration Act. This change removes the duplication.

Commented [FA38]: The 90-day timeline has proven very challenging to meet. This change means the timeline will be defined by law, which provides more flexibility to establish a timeline that is achievable.

- 5.6 The Legislature may borrow money or guarantee loans in accordance with a Yuulu?i?ath law and that law must be reviewed by the hitacu assembly prior to being brought into force and effect.

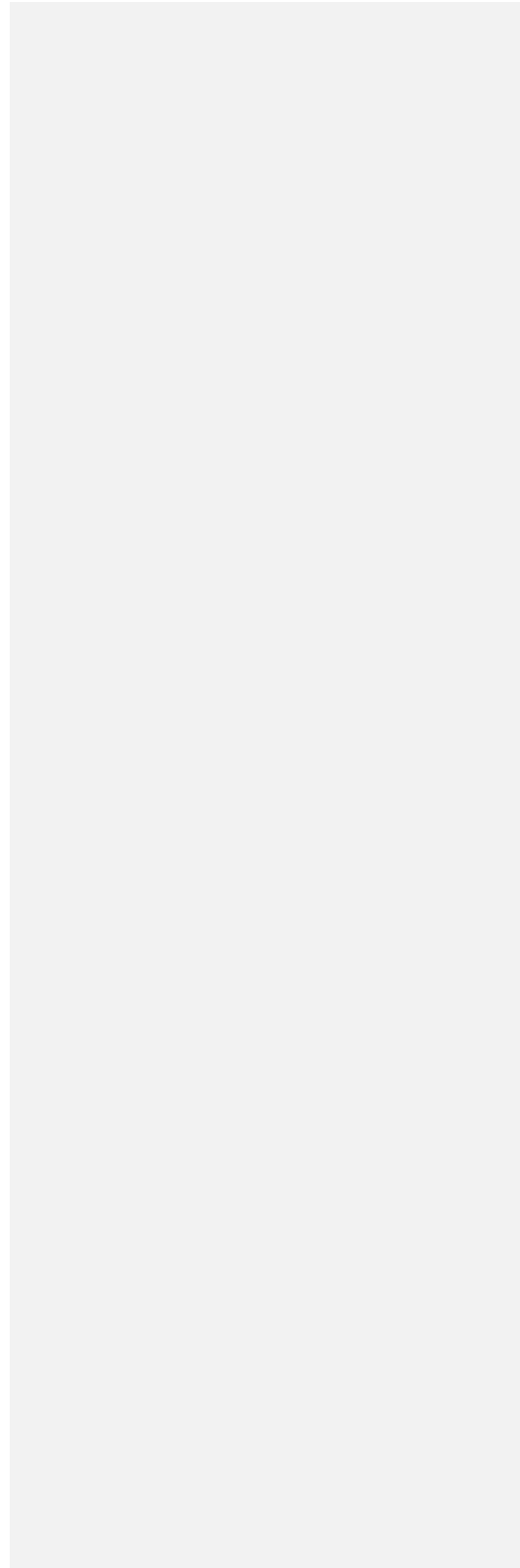
CHAPTER 6 - CODE OF CONDUCT AND CONFLICT OF INTEREST

- 6.1 The Yuulu?i?ath government must be administered in a manner that
- (a) adheres to the highest ethical standards,
 - (b) efficiently uses Yuulu?i?ath resources,
 - (c) provides services on an equitable and impartial basis, and
 - (d) responds to the needs of Yuulu?i?ath citizens in a timely and accessible manner.
- 6.2 Members of the Legislature must conduct themselves at all times with integrity and respect for their positions and must place the interests of Yuulu?i?ath ahead of their own as they exercise their powers and perform their duties.
- 6.3 As of the effective date of the Maa-nulth Treaty, the Legislature must bring into force and effect a code of conduct and conflict of interest law.



CHAPTER 7 - DISPUTE RESOLUTION

- 7.1 On the effective date of the Maa-nulth Treaty, the Legislature must bring into force and effect a Yuulu?i?ath dispute resolution law which provides for, among other things, a process for challenging the validity of Yuulu?i?ath laws and a process for appealing or reviewing administrative decisions of the Yuulu?i?ath government or Yuulu?i?ath public institutions.



CHAPTER 8 - CONSTITUTIONAL AMENDMENTS

- 8.1 An amendment to this Constitution may only be initiated by
- (a) a resolution passed by a majority of a quorum of the Legislature, or
 - (b) the presentation of a petition to the Legislature signed by at least 40 Yuulu?i?ath citizens 16 years of age or older identifying the specific Constitutional amendment proposed.
- 8.2 ~~Upon passage of a resolution or receipt of a petition identified in section 8.1, the Legislature must develop wording for the proposed Constitutional amendment.~~
- 8.3 Prior to conducting a referendum on the proposed amendment, the Legislature must
- (a) ~~develop wording for the proposed Constitutional amendment.~~
 - ~~(a)~~(b) provide full information on the proposed amendment by way of written material and other forms of publication to all Yuulu?i?ath citizens,
 - ~~(b)~~(c) provide all Yuulu?i?ath citizens with ~~at least 30 days'~~ notice, ~~in accordance with Yuulu?i?ath law,~~ of a special hitacu assembly, including the date, time and location of the Assembly, and a summary of the proposed amendment,
 - ~~(c)~~(d) conduct the special hitacu assembly in order to seek the views of Yuulu?i?ath citizens on the proposed amendment,
 - ~~(d)~~(e) seek the advice of the Ha'wiih Advisory Council on the proposed amendment, and
 - ~~(e)~~(f) make any changes to the wording of the proposed amendment that the Legislature deems appropriate in light of the advice received from the hitacu assembly and the Ha'wiih Advisory Council.
- 8.4 ~~Within 30 days of~~ ~~After~~ ~~conducting~~ the special hitacu assembly, the Legislature must conduct a referendum on the proposed Constitutional amendment in accordance with the procedures set out in a Yuulu?i?ath referendum law.
- 8.5 This Constitution may be amended on the following basis:
- (a) in the period from the effective date of the Maa-nulth Treaty until the 10th anniversary of the effective date of the Maa-nulth Treaty, with the approval of at least 40% of Yuulu?i?ath eligible voters on the voters list at the time of the referendum;

Commented [FA39]: Drafting change to improve clarity: this change moves requirement into the list under section 8.2 (no meaningful change)

Commented [FA40]: See comment above.

Commented [FA41]: The 30-day requirement is repeated in the Referendum Act. Like many other changes, this change removes timeline and states that the timeline is identified at law.

Commented [FA42]: Like many other changes, this change removes timeline and states that the timeline is identified at law.

- (b) in the period from the 10th anniversary of the effective date of the Maa-nulth Treaty to the 20th anniversary of the effective date of the Maa-nulth Treaty, with the approval of at least 50% of Yuulu?il?ath eligible voters on the voters list at the time of the referendum; and
 - (c) any time after the 20th anniversary of the effective date of the Maa-nulth Treaty, with the approval of at least 60% of Yuulu?il?ath eligible voters on the voters list at the time of the referendum.
- 8.6 This Constitution is deemed to be amended as of the date of certification by the President of the required level of approval by Yuulu?il?ath eligible voters.
- 8.7 The Legislature must publish a notice of any approved Constitutional amendment.
- 8.8 Despite the provisions of this Chapter, the Legislature may, by a resolution passed by a majority of a quorum of the Legislature, make technical or grammatical amendments to this Constitution.

SCHEDULE 1 – YUULU?IL?ATH HAHUULI ~~TRADITIONAL TERRITORY~~

