



FIRST NATION CONSTITUTION TEMPLATE

UNION OF ONTARIO INDIANS

This template document is a sample constitution based on other First Nation constitutions. There is a description for each part of this template constitution, including notes on what is optional and what is considered essential. In addition, there is a brief description of the purpose of each provision. This template is being offered to you as a sample that you can use to develop your own First Nation constitution.

DECLARATION OF THE ANISHINABEK NATION

A First Nation may choose to incorporate all or some of the provisions of the Anishinabek Nation Declaration in its First Nation constitution. If included, it is a clear statement of the acceptance of the Anishinabek Declaration by that First Nation. It reinforces the First Nation's inclusion in the Anishinabek Nation as a political organization. **OPTIONAL**

The _____ First Nation supports and affirms the Declaration of the Anishinabek Nation.

We are Nations.

We have always been Nations

We have voluntarily entered into a relationship of friendship and protection with the Crown, which we have for two centuries referred to as the Covenant Chain. In placing ourselves under the Crown's protection, we gave up none of our internal sovereignty.

We have never concluded any Treaty with the Dominion of Canada, nor have we ever expressly agreed to accept the Dominion of Canada in place of Great Britain as the party responsible under the British obligation to protect us.

We retain the right to choose our own forms of Government.

We retain the right to determine who our citizens are.

We retain the right to control our lands, water and resources.

We retain our rights to those lands which we have not surrendered.

We retain the use of our languages and to practice our religions and to maintain and defend all aspects of our culture.

We retain those rights which we have in Treaties with other Nations, until such time as those Treaties are ended.

We retain the right to choose our own future, as peoples.

The only process known to international law whereby an independent people may yield their sovereignty is either by defeat in war or by voluntary abandonment of it formally



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evidenced. Our Nations have never yielded our sovereignty by any formal abandonment of it. We have never been conquered in war by any power on earth of which there is a record or tradition.

CHAPTER 1

FOUNDING PROVISIONS

All First Nations include provisions that describe who they are as a Nation. This is a template so the provisions set out below have been drafted to allow you to complete the statements to reflect your own First Nation. **ESSENTIAL**

The First Nation

This section describes who the First Nation is and defines its traditional territory.

1. The _____ First Nation has existed from time immemorial. It is the collectivity of those aboriginal people who share the Anishinabek language, culture and laws in the [describe the geographic location of the First Nation] known as its Traditional Territory.

Fundamental Values of the First Nation

Some First Nations have included a statement on the fundamental principles or values that the First Nation believes in. You may insert this provision or draft your own provision.

OPTIONAL

2. The First Nation supports the values that have always been shared by all Citizens of the First Nation:
 - a) the Creator placed the Anishinabek as stewards of their Traditional Territory;
 - b) Anishinabek cherish and celebrate the spirituality and culture of its people; and,
 - c) Anishinabek honour the traditions of our ancestors and the wisdom of our Elders.

Language and Culture

You may choose to include other languages or delete use of one of these suggested languages.

OPTIONAL

3. The official languages of the First Nation are Anishinabemowin and English.
4. The First Nation Council must respect and encourage the use of the Anishinabemowin language and the practice of Anishinaabe culture.

CHAPTER 2



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SUPREME LAW

All constitutions contain a provision that says the Constitution is the supreme law of the First Nation. **ESSENTIAL**

The Constitution of the First Nation

5. This constitution is the supreme law of the First Nation.
6. In the event of a conflict or inconsistency between this constitution and any First Nation law or regulation, the Constitution shall prevail to the extent of the conflict.

*You might include reference to “codes”, “regulations”, “policies and procedures” or other terms used to describe the laws of the First Nation. **ESSENTIAL***

7. All other First Nation laws are subject to this constitution.

CHAPTER 3 RIGHTS

Constitutions set out the basic rights and freedoms of all citizens of the First Nation. The First Nation constitutions all include a statement on rights and freedoms. **ESSENTIAL**

The Principle of Rights in the First Nation

*This provision describes the relationship between individual and collective rights. Under this provision, each individual is respected. However, the individual is part of community where resources and responsibilities are shared. This means that individual rights cannot trump or take priority of what is good for the First Nation as a community. **OPTIONAL***

8. The rights and freedoms set out in this Chapter are an expression of the fundamental values of the First Nation, which respects the dignity, and supports the independence of each individual living in a community of shared resources and responsibilities.

Rights and Freedoms of First Nation Citizens

Most First Nation constitutions include provisions describing the rights of the First Nation citizens or members. Some refer to “citizens” and others use the term “members”. You can use



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*the term that is appropriate for your First Nation. You may add or delete items from this list to reflect your First Nation. **ESSENTIAL***

9. Every Citizen of the First Nation has the right to exercise the following freedoms:
 - a) to practice his/her aboriginal and treaty rights including the right to harvest the gifts of the Creator in a sustainable manner;
 - b) to practice his/her religion;
 - c) to learn to speak Anishinaabe;
 - d) to live in a manner that is in keeping with his/her aboriginal traditions;
 - e) to participate in the selection of First Nation leadership;
 - f) to participate in the public decision-making processes set out in the Constitution and First Nation law; and,
 - g) to fair and equal access to programs and services, subject only to the regulatory regime that may be applicable.
10. Every Citizen of the First Nation is equal before and under the laws of the First Nation, without discrimination.

Review and Appeal of Administrative Decisions

*Each First Nation constitution includes a provision that requires the First Nation to set up processes or procedures for reviewing or appealing its decisions. These are decisions made by Council and those made by the First Nation committees or boards. **ESSENTIAL***

11. The First Nation shall provide procedures for the appeal or the review of administrative decisions of First Nation and its Public Institutions.

Reasonable Limits

*All First Nation constitutions include a provision that allows for reasonable limits on the rights and freedoms of the First Nation citizens or members. Rights and freedoms are not absolute. Rights and freedoms must be exercised, protected and balanced against the collective interests of the First Nation. **ESSENTIAL***

12. This constitution guarantees the rights and freedoms set out above subject only to such reasonable limits set out in the First Nation law as can be demonstrably justified to protect the collective interests of the First Nation and justified in a free and democratic First Nation.



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CHAPTER 4 JURISDICTION

Each First Nation constitution includes a provision that sets out the jurisdiction or law-making powers of the First Nation. The law-making process is included in this part as well.
ESSENTIAL

*This is a list of jurisdictions or subjects that the First Nation can make laws in. You can amend this list to suit your First Nation. **ESSENTIAL***

13. The First Nation has the inherent right of governance and may pass laws with respect to the following matters, including:
- a) our governance structures including the selection of leadership and the delegation of jurisdiction or authority;
 - b) the preservation and maintenance of our land, water, air and other natural resources;
 - c) education;
 - d) economic development;
 - e) social services including child welfare, guardianship and adoption;
 - f) administration of justice;
 - g) health;
 - h) lands and resource management;
 - i) labour relations;
 - j) employment and training;
 - k) marriage and divorce;
 - l) public works and infrastructure;
 - m) wills and estates;
 - n) emergency preparedness;
 - o) taxation;
 - p) environment protection and assessment; and,
 - q) other areas approved by the First Nation Citizens.

Law-Making Process

*This is an example of a First Nation law-making process. You can amend this process to match the process that your First Nation uses to make laws or codes. **ESSENTIAL***

14. A draft law may be introduced at a regular meeting of the First Nation Council:
- a) by the Chief;
 - b) by a Councillor;
 - c) by a petition signed by _____ [insert a number here that reflects a large number of citizens] or more Citizens who support the proposed draft law; or,



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- d) by a duly formed and recognized Public Institution.
15. A draft law cannot be presented until three months after Chief and Council are elected into office.
16. A draft law shall be enacted through the law-making process set out below:
- a) the law is introduced and considered by the Council in accordance with its rules;
 - b) the law has been passed by at least a simple majority of the Council who vote on proposed law to vote in favour of the law; and,
 - c) the law has been signed by Council, in accordance with its rules.
17. The Council will establish rules to allow citizenship participation and consultation in its law-making process.
18. The Council shall establish rules regarding the process and timelines for the enactment, coming into force, and publication of the First Nation laws.

CHAPTER 5

FIRST NATION GOVERNMENT

First Nation constitutions all include provisions that describe the governing principles, composition of the First Nation government or Council and the conduct of its elected officials. **ESSENTIAL**

Governing Principles of the First Nation

OPTIONAL

19. The First Nation expects the Chief and Council and each elected member to:
- a) be loyal to the First Nation, and respect this constitution;
 - b) preserve and promote the peace, unity and well-being of the First Nation;
 - c) provide good, effective and accountable government;
 - d) cooperate with one another in mutual trust and good faith, consult and inform one another on matters of common interest, and coordinate their actions and laws with one another.

Composition of Council

ESSENTIAL



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20. The Council of the First Nation shall consist of one Chief and ___ Councillors, and any other officials democratically elected by the Citizens of the First Nation at elections in accordance with the laws of the First Nation.
21. The First Nation acts through its Council in exercising its rights, powers, and privileges and in carrying out its duties, functions, and obligations.

Conduct of Individuals Elected to Office

ESSENTIAL

22. The Chief and Council shall conduct all affairs of the First Nation in accordance with the First Nation laws of governance and accountability.

Delegation of Jurisdiction and Authority

*Some First Nations have included provisions that allow the First Nation to delegate its law-making power and other authority to another entity. These First Nations have put in these provisions to reflect the First Nation's relationship with the Anishinabek Nation Grand Council, which may become a law-making body for the First Nation, if the First Nation delegates such authority to the Anishinabek Nation Grand Council. **OPTIONAL***

23. The Chief and Council may delegate its jurisdiction or authority or any part of it, in writing, to a legal entity located in a manner consistent with the First Nation laws.
24. Where jurisdiction or authority, or part of it, is delegated pursuant to the First Nation laws, the First Nation will ensure in writing that the legal entity to which the delegation has been made will be accountable to the First Nation for the jurisdiction or authority which has been delegated to it.
25. The First Nation will remain accountable to its Citizens for the exercise of the jurisdiction or authority it delegates to any and all legal entities.
26. Where jurisdiction, or part of it, is delegated by the First Nation pursuant to First Nation laws, the First Nation will ensure that the jurisdiction it delegates is not sub-delegated.
27. The First Nation will ensure, in writing, that the legal entity to which a delegation of jurisdiction or authority from the First Nation has been made, may not, sub-delegate that jurisdiction or authority without the written consent of the majority of the First Nation Council.



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CHAPTER 6

RELATIONSHIP WITH THE ANISHINABEK NATION

The First Nation may choose to include reference to the Anishinabek Nation in its constitution. The Anishinabek Nation has enacted its own constitution. It is important for a First Nation to consider the relationship between the Anishinabek Nation Constitution and the First Nation constitution. **OPTIONAL**

Relationship with the Anishinabek Nation Grand Council

28. This First Nation is a member of the Anishinabek Nation Grand Council.
29. If there is any conflict between the First Nation constitution and the Anishinabek Nation Constitution, the First Nation constitution will prevail in the First Nation and over First Nation laws, to the extent of the conflict.

CHAPTER 7

OTHER INSTITUTIONS

A First Nation may include provisions that acknowledge the work of its existing institutions (boards, committees or tribunals) into the Constitution. **OPTIONAL**

A First Nation should include a provision that recognizes its authority to establish public institutions for public purposes. **ESSENTIAL**

Existing Institutions

OPTIONAL

30. The First Nation recognizes the vital role that has been played in the First Nation community by:
[these are examples only, include the appropriate titles for your First Nation board, committees or tribunals]
 - a) the First Nation School Board;
 - b) the First Nation Health Committee; and,
 - c) volunteer organizations and associations of the First Nation Citizens.



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Establishment of Public Institutions **ESSENTIAL**

31. The First Nation may establish Public Institutions, in accordance with its laws, to perform functions of its government, as determined by the Council.

CHAPTER 8 **FINANCIAL ADMINISTRATION**

All First Nation constitutions include provisions on financial accountability and reporting to the First Nation members. **ESSENTIAL**

Principles of Financial Administration

32. The First Nation expects the financial management and administration of the First Nation to:
- a) be prudent, open, and accountable; and,
 - b) provide for effective and efficient use of the financial resources of the First Nation.

Control of Financial Administration

33. The First Nation Citizens have the right to access information on matters dealing with the financial management and administration of all the First Nation's services and programs, excluding information related to personnel matters and any other confidential personal information.
34. The First Nation Council and the First Nation administration shall abide by the First Nation laws and policies governing financial management, accountability and access to information.

Control of Financial Administration



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35. The First Nation shall make laws to establish a system of financial administration, through which the Council will be financially accountable to First Nation Citizens, and that includes standards comparable to those generally accepted for governments in Canada.

CHAPTER 9 PUBLIC ADMINISTRATION

A First Nation may choose to include a provision that sets out the values and principles that will be reflected in the band administration and the policies and procedures that govern its staff and program/service delivery. **OPTIONAL**

Values and principles

36. The First Nation expects the First Nation administrative and band office services to be administered in accordance with the following values and principles:
- a) a high standard of ethics;
 - b) efficient, effective and prudent use of resources;
 - c) impartial and equitable provision of programs and services;
 - d) responsiveness to First Nation public needs; and,
 - e) provision of timely, accessible, and accurate information.

CHAPTER 10 CONSTITUTIONAL AMENDMENT

Each constitution must include a process to amend the constitution. Each First Nation should include a process that reflects their community decision-making process. **ESSENTIAL**

Constitutional Amendment

37. This constitution was ratified by the Citizens of the First Nation in accordance with the ratification process selected and approved by Chief and Council.
38. This constitution may be amended by following each of the steps in the process outlined below:



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- a) the passing of a First Nation Band Council resolution proposing an amendment or amendments to the Constitution;
 - b) presenting the proposed constitutional amendment or amendments to the First Nation citizenship at a duly organized public meeting;
 - c) obtaining the approval of thirty percent (30 %) of Eligible Voters through a vote by secret ballot shall authorize the Chief Electoral Officer to hold a referendum vote in compliance to the First Nation's referendum regulations. This vote will happen within three (3) months after the public meeting referred to in paragraph b) above;
 - d) if at least fifty one (51 %) percent of thirty (30) percent of the Eligible Voters in the referendum approve of the proposed amendment(s), the amendments become effective immediately.
39. There will be no second vote in subsection 38 c) or d) above.
40. Notwithstanding section 38, the First Nation Chief and Council may amend this constitution by unanimous resolution at any time in the following instances:
- a) changing the existing name of the First Nation to a new name as approved by the First Nation Citizens;
 - b) changing the name or title of a Public Institution to reflect changes to the First Nation law; or,
 - c) deleting a name or title of a dissolved Public Institution.

CHAPTER 11

GENERAL PROVISIONS

Each constitution must include a definitions section to define the terms used in the Constitution. As well, it is important to include an enactment clause for the Constitution.
ESSENTIAL

Definitions

40. In this constitution:
- a) "Citizen" means a person who belongs to the First Nation and whose name appears on the Citizenship List in accordance with the First Nation Constitution and First Nation law and, until the First Nation passes its Citizenship Law, it includes First Nation members as defined under the Indian Act;
 - b) "Chief" means the person selected as Chief in accordance with the First Nation law;
 - c) "Council" means the executive decision-making body made up of the Chief and Councillors of the First Nation selected in accordance with the First Nation law;



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- d) “Councillor” or “Councillors” means a member or members of Council selected in accordance with the First Nation law;
- e) “Elected Officials” means the Chief and Councillors selected in accordance with the First Nation law and other officials elected pursuant to First Nation law;
- f) “Eligible Voter” means a citizen of the First Nation who has attained the age of eighteen (18) years by or on the date of the vote;
- g) “First Nation” means the citizens for whose use and benefit in common, lands have been set apart, its predecessors or successors;
- h) “Public Institution”, means a board, commission, tribunal, committee established by the First Nation under First Nation law.

Enactment Clause

41. Ratified by the Citizens of the _____ First Nation this day _____ in the month of _____ in the year _____ .

Signed into Law on behalf of the _____ First Nation.
This _____ day of the month of _____ in the year of _____ .

Chief and Council Signatures

Chief	
Deputy Chief	
Councillor	
Councillor	
Councillor	
Councillor	
Councillor	
Councillor	



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