

“HA KUS TEYEA ~ THE TLINGIT WAY”

DECLARATION & CHARTER OF

TESLIN TLINGIT NATION

SIXTH DISCUSSION DRAFT

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Declaration of the Teslin Tlingit

We are Tlingit, people of the land, people of the water -

People of the mountains, the forests, and the Wolf;

People of the rivers, the lakes, the Frog and the Beaver;

People of the Eagle and the Raven Children, we walk below the skies of the creator
in the footsteps of our ancestors.

We are one spirit, one mind, one people -

Dakhł'awèdi, Ishkitàn, Yanyèdi, Kùkhittàn Dèshitàn

Each is equal, with an honoured history

Etched in the names and sacred places entrusted to its care, and

Told in the stories, songs, dances and symbols that are our language

We follow ancient Tlingit law -

Founded on our understanding of the spirit in all living things;

Based on our respect for the land and its resources; and

Rooted in our history, and our traditional practices and knowledge

Tlingit law is our identity -

Reflecting the unity and inclusiveness of our Clans and communities;

Demonstrating the value, uniqueness and dignity of each person; and

Enriching all aspects of Tlingit community and personal life

Under Tlingit law, each individual –

Is a valued part of the whole community

Is taught to respect the spirit living within themselves

Bears a traditional name, and is taught to value and honour the history of that name and responsible to preserve its respected place in Tlingit culture;

Is expected to value and respect the wisdom of our elders; and

Represents the Teslin Tlingit Nation to the world, and is to bring honour to the Nation by their conduct in the world.

Under Tlingit law, each person has responsibilities to the Creator –

To acknowledge and respect the spirit in all living things;

To care for the air, the land, the water and all living things in the air, on the land or in the water;

To use resources in moderation, acknowledge the resources used, and restore the land; and

To behave with dignity and integrity at all times;

To follow those in authority, and obey the laws of the Teslin Tlingit Nation

Under Tlingit law, each person has responsibilities to the community –

To share the benefits of life with the rest of the community;

To care for our children, teach and nurture our youth, and help them to learn our values, traditional knowledge and rites of passage;

To support and care for members of their extended family, Clan and Nation; and

To care for, nurture and support their parents and Elders

Under Tlingit law, each Person has responsibilities to other Individuals –

- To act with fairness and understanding in personal relationships;
- To do no harm;
- To accept personal responsibility for actions that affects others;
- To acknowledge actions that do hurt others, and take responsibility for the harm done;
- To make restitution to those harmed, and to seek forgiveness;
- To be reconciled to the community.

Under Tlingit law, each of our leaders has responsibilities to the community -

- To demonstrate responsibility to future generations
- To act at all times in accordance with Tlingit law.
- To exercise the public trust of governance to serve the community, not to rule it
- To be diligent in public responsibilities, to give sound counsel, and to exercise good judgment
- To set aside personal desires, and make decisions in the best interest of the whole Nation.
- To base decisions in a clear vision, to manage the Nation's resources prudently and efficiently, and to evaluate the effect of their actions
- To keep in confidence all matters entrusted to them.
- To never abuse the public trust by using information entrusted to them for personal gain or advantage.
- To conduct their personal lives without reproach, as an honour to our elders, a credit to the Nation, and an inspiration to our youth.

Together, our leaders are responsible to -

Enhance the general welfare of the Tlingit,

Promote respect for and use of our language and culture,

Safeguard our land, resources, and environment,

Strengthen our unity, and our educational, social, economic and political development,

Protect the spiritual, physical and emotional health of our people, and

Keep alive Tlingit traditions, preserving our heritage with dignity and pride for future generations.

We are of one spirit, one mind and one people.

This is the Declaration of the Tlingit, People of the water-- People of the land

Teslin Tlingit Nation Charter

1. The Tlingit Supreme Law

- (1) Ha Kus Teyea is the Supreme law of the Teslin Tlingit Nation and contains -
 - (a) the Declaration of the Teslin Tlingit, which sets out for all time the Tlingit way of living;
 - (b) the Teslin Tlingit Nation Charter, which recognizes the rights, freedoms and responsibilities of Tlingit Citizens, and of other persons under Teslin Tlingit law; and
 - (c) the Teslin Tlingit Constitution.
- (2) The Declaration of the Teslin Tlingit and this section cannot be amended.
- (3) The Teslin Tlingit Nation Charter may be amended only in manner that –
 - (a) reflects and is consistent with the Declaration of the Teslin Tlingit; and
 - (b) is in accordance with the provisions set out in section 19.

2. Sovereignty of the Citizenship

- (1) The sovereign authority within the Teslin Tlingit Nation belongs to us as Teslin Tlingit Citizens, as one spirit, one mind, and one people. Together, we have the right to exercise our authority through our respective Clans to
 - (a) delegate any power or function to be exercised in accordance with the Teslin Tlingit Constitution; and

- (b) amend the Teslin Tlingit Charter or Constitution in accordance with section 19.
- (2) The sovereign authority of the Teslin Tlingit Nation is to be exercised only in the spirit of ancient Tlingit law as recognised by Ha Kus Teyea, and in accordance with the Teslin Tlingit Constitution.

3. Tlingit Rights and Freedoms

- (1) This Charter is the foundation of the Teslin Tlingit Nation, and is the legal expression of Tlingit identity and values as reflected in the Declaration of the Teslin Tlingit.
- (2) The rights, freedoms and responsibilities set out in this Charter are inherent in each Tlingit Citizen.
- (3) The rights, freedoms and responsibilities set out in the Charter –
 - (a) are an expression of each Individual’s responsibility to the Creator, and are grounded in the Tlingit relationship to their lands, territories and resources; their political, economic and social institutions and their culture, spiritual life, traditions and history; and
 - (c) reflect the practice of the Dakhł’awèdi, Ishkìtàn, Yanyèdi, Kùkhhittàn and Dèshitàn Clans as the keepers of our traditions, laws and customs.
- (4) The rights and freedoms in this Charter are subject only to those limitations
 - (a) contained within the Charter; or
 - (b) those limitations pursuant to section 17 of the Charter.
- (5) The Charter applies to all Teslin Tlingit law and binds -
 - (a) Teslin Tlingit Government; and

-
- (b) to the extent applicable
 - (i) Teslin Tlingit Clans and Citizens; or
 - (ii) other Persons.
 - (6) This Charter does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law, or legislation, to the extent that they are consistent with this Charter.

4. Duty of Teslin Tlingit Government, Clans and Citizens

- (1) The Teslin Tlingit Government, Clans and Citizens must observe, respect, protect, promote and fulfil the rights, freedoms and responsibilities set out in this Charter.
- (2) It is a fundamental duty of Teslin Tlingit Government to give effect to sub-section (1) whenever it –
 - (a) makes policy or enacts law;
 - (b) implements policy or legislation;
 - (c) performs any of its functions; or
 - (d) exercises any of its powers.
- (3) Each Clan gives effect to sub-section (1) through the
 - (a) promotion, protection and use of the Teslin Tlingit culture and ensuring respect for the Clan customs, traditions and use of the Tlingit language;
 - (b) representation of Clan interests within Teslin Tlingit Government ;
and

- (c) fostering unity within and between the Clans.
- (4) Each Citizen gives effect to sub-section (1) by -
- (a) living in harmony with others, participating in the traditions and fulfilling the responsibilities of their respective Clan,
 - (b) conducting their lives in accordance with the Declaration; and
 - (c) by exercising their rights and freedoms in a manner consistent with their responsibilities as set out in this Charter.

5. Tlingit Clans and Families

- (1) The Clan is the primary unit of social organisation and authority within the Teslin Tlingit Nation. The authority, responsibilities and traditions of the Clans must not be undermined or diminished.
- (2) Elders hold a special place within Tlingit society, providing guidance and leadership to their Clans in the protection, promotion and use of the customs, culture and heritage.
- (3) Women and men have equal rights within their family, and are equally
 - (a) entitled to own, use and dispose of family property;
 - (b) responsible for the care, comfort and support of one another, while married or living together in a marriage-like relationship; and
 - (c) responsible for the care, upbringing, nurture and education of their children;
 - (d) entitled to participate in the lives of their children, whether or not they are living together.

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- (4) Children hold a special place in Tlingit society; it is the duty of their parents, extended family, and Clan to nurture, protect and educate them in a safe and stable environment, so they can develop their full potential for the benefit of themselves and society as a whole.
 - (5) A Child's best interests in accordance with Tlingit customs and culture are of paramount importance in every matter concerning the child.
 - (6) Every Individual has a responsibility to -
 - (a) promote family life and act responsibly within the context of their family and Clan;
 - (b) contribute to the welfare and advancement of their family, Clan and community.

6. Equality

- (1) Women and men have the right to be accorded equal dignity, to be treated equally, and to enjoy equal opportunities in political, economic and social activities, in accordance with the spirit and intent of the Declaration of the Teslin Tlingit.

7. Freedom from discrimination

- (1) The Teslin Tlingit Government must not unfairly discriminate directly or indirectly against any Individual on one or more grounds, including race, sex, sexual orientation, pregnancy, marital status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, language or birth.
- (2) A Person must not unfairly discriminate directly or indirectly against another person on one or more grounds in terms of subsection (1).

- (3) Discrimination on one or more of the grounds listed in sub-article (1) is unfair unless it is established that the discrimination is fair.

8. Right to dignity

- (1) Every Individual has inherent dignity and the right to have that dignity respected and protected.

9. Freedom of spiritual practice

- (1) Every Individual has the right, either individually or in community with others, in public or in private, to show respect and accountability to the Creator through worship, observance, practice or teaching of their choice.

10. Property

- (1) Teslin Tlingit Lands are held communally and are held in trust by the Teslin Tlingit Government for the benefit of the Teslin Tlingit Nation.
- (2) Every Citizen has a right to own property, which may also be affixed to the land, either individually or in association with others.
- (3) Every Citizen has a responsibility to respect and not to trespass or violate the land and property held by other Tlingit Citizens and Clans.
- (4) Each Clan –
- (a) own distinct stories, songs, dances and symbols represented through the Tlingit language;
 - (b) is responsible for particular sacred places, objects and traditional names; and

-
- (c) has the right to -
 - (i) assign any property referred to in this subsection to the care of an individual Clan Citizen; or
 - (ii) to take back that propertyin accordance with Tlingit traditions.
- (5) Each Citizen, and any other Individual living within Teslin Tlingit Traditional Territory, is responsible to –
- (a) protect and safeguard public property from waste and misuse; and
 - (b) contribute to the welfare and advancement of the Teslin Tlingit Nation by paying all lawful taxes, fees or similar impositions.

11. Freedom of movement and residence

Every Tlingit Citizen has the right to enter, to remain in and to reside anywhere in, Tlingit Traditional Territory, subject to the responsibilities of each Clan over specific areas of Tlingit Traditional Territory.

12. Social well-being

- (1) Every Citizen has the right to access cultural foods and medicines from the Land, in adequate quantities, in accordance with a Citizen's traditional responsibilities to the land, animals and resources.
- (2) Every Citizen has a right to access and use water in adequate quantities and of adequate quality, in accordance with a Citizen's traditional responsibilities to the land and resources.

- (3) Each Citizen, and each other Person living within Teslin Tlingit Traditional Territory, has a responsibility to strive for self –sufficiency and to –
 - (a) contribute to the welfare and advancement of their community; and
 - (b) conserve the environment and protect natural resources.

13. Culture and Language

- (1) Teslin Tlingit Government and Clans have a joint responsibility to protect and promote the enhancement of the Teslin Tlingit heritage, Clan system, traditions, language, culture and identity.
- (2) Every Citizen has a right to a social upbringing that is in accordance with the traditional practices of the Teslin Tlingit Nation.
- (3) Every Citizen has the right and responsibility to use the traditional language, practices and culture of the Teslin Tlingit Nation.
- (4) Every Clan and family of a deceased Citizen has the right and responsibility to bury their member in accordance with the Teslin Tlingit Traditional practices.

14. Education

- (1) Every Citizen, from child to adult, has the right to traditional teachings based on Teslin Tlingit principles and values, which is the joint responsibility of the parents or guardians of the child, supported by the family and Clan.
- (2) Every child has a right to a basic education, which is the joint responsibility of the parents or guardians of the child, supported by the family, Clan and Teslin Tlingit Government.
- (3) Each Citizen is responsible to –

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- (a) seek, learn, and understand the practice of the traditional language, culture and customs of the Teslin Tlingit Nation; and
 - (b) develop their abilities to through the continuous acquisition of knowledge and learning, to further develop their skills.

15. Upholding the Law

- (1) Each Person living within Teslin Tlingit Traditional Territory, is responsible to –
 - (a) behave in a manner consistent with all lawful authority;
 - (b) avoid and not participate in acts of corruption; and
 - (c) co-operate with law enforcement agencies for the preservation of peace and well-being of the Tlingit community and Tlingit Nation.
- (2) Every Person has the right to refuse an unlawful command, requirement, direction or instruction.

16. Justice

- (1) Every Individual, Citizen or Person has the right to bring any dispute under Tlingit law before a Court or, where appropriate, an independent tribunal or forum.
- (2) Every Individual, Citizen or Person has the right to have their matters addressed in a manner that is expeditious, efficient, lawful, reasonable and procedurally fair.
- (3) Every Individual, Citizen or Person may appeal a Court or Tribunal Decision to the Yukon Supreme Court.

- (4) Every Person who is charged or arrested under Tlingit Law has the right -
- (a) to be informed promptly, in language that person understands, of the charge or the reason for the arrest;
 - (b) to remain silent, and the right to be informed of that right;
 - (c) to be brought promptly before a court or other independent tribunal;
and
 - (d) to be treated strictly in accordance with rules of due process and natural justice.

17. Limitation of Rights

- (1) A right or freedom set out in the Charter may be limited only –
- (a) by a Teslin Tlingit law; and
 - (b) to the extent that the limitation is reasonable and justifiable taking into account the values set out in the Declaration of the Teslin Tlingit and all other relevant factors, including –
 - (i) the nature of the right;
 - (ii) the importance of the purpose of the limitation;
 - (iii) the nature and extent of the limitation;
 - (iv) the relation between the limitation and its purpose; and
 - (v) less restrictive means to achieve the purpose.
- (2) The Teslin Tlingit Government or a Person claiming that a particular limitation is acceptable is responsible to demonstrate that the requirements of this section have been satisfied.

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- (3) Except as provided in this section, no Teslin Tlingit law may limit any right or freedom set out in the Charter.

18. Application of the Charter

- (1) Any of the following Individuals may complain to a court, alleging that a right in the Charter has been denied, violated, infringed or threatened:
- (a) an Individual acting in their own interest;
 - (b) an Individual acting on behalf of another individual who cannot act in their own name;
 - (c) a Clan representative, acting on behalf of a Clan or a Citizen within the respective Clan; or
 - (d) a Citizen.
- (2) Teslin Tlingit Government must enact legislation to give original jurisdiction to a Court to hear matters under this section.
- (3) In any matter brought before a Court under this section, the Court may grant appropriate relief as it deems necessary to give effect to the right of freedom concerned, including –
- (a) a Declaration Order;
 - (b) invalidating a law that infringes or violates the Charter and is not justified under section 17;
 - (c) An order of compensation against the Teslin Tlingit Government or any Person responsible for a violation of rights; or
 - (d) an Order of judicial review ordinarily within the jurisdiction of the Yukon Supreme Court.

19. Amendment of the Charter

- (1) Subject to section 1, an amendment to this Charter can be achieved through a proposal brought to a vote -
 - (a) at the annual meeting of the General Council, if a notice of motion stating the nature of the proposed amendment is delivered to each Clan Leader, and posted in the main administration building of Teslin Tlingit Government, at least 21 days before that meeting begins; or
 - (b) at any meeting of the General Council if all members in attendance at that meeting unanimously agree to accept the introduction of the proposal.
- (2) To pass, an amendment proposal requires the consensus support of the General Council members, present at the meeting, at the time the proposal was introduced.
- (3) An amendment to this Charter takes effect on the later of –
 - (a) The date the proposal is approved at General Council; or
 - (b) A date set out in, or determined under, the proposal to amend the Charter.

20. Definitions

In this Charter, unless the context indicates otherwise -

- (a) “Child” means an individual who has not attained age 18;
- (b) “Citizen” means an individual who is a citizen of the Teslin Tlingit Nation;

- (c) “Court” means the Teslin Tlingit Peacemaker Court or the Yukon Supreme Court, either one of which the Teslin Tlingit Council has provided legislative authority and jurisdiction, in accordance with section 18(2) of this Charter.
- (d) “Individual” means a natural person;
- (e) “Person” includes a corporation, society or other body corporate; and
- (f) “Teslin Tlingit Government” means the Teslin Tlingit Council.