

Government Administration Act

An Act respecting the Administration of the Government of the *Shadhäla yè Äshèyi Kwädän* (Champagne and Aishihik First Nations or CAFN), making consequential and related amendments to certain Acts and Regulations and repealing certain other Acts

THIRD READING – NOVEMBER 12, 2020

THIS ACT WAS PASSED AT A DULY CONVENED MEETING OF THE FIRST NATIONS COUNCIL



***Dän nätthe äda* (Chief)**

3rd Reading, November 12, 2020



The *Dän nätthe dätth'i* (Council) of the Champagne and Aishihik First Nations enacts as follows:

**PART 1
GENERAL**

Short Title

1. This Act may be cited as the *Government Administration Act*.

Purpose of Act

2. The purpose of this Act is to provide for the administration and organization of Government by the *Dän nätthe dätth'i* (Council), consistent with the Constitution.

Authority to Enact

3. This Act is enacted in accordance with the Champagne and Aishihik First Nation's inherent right to self-government under section 35 of the *Constitution Act*, the Final Agreement, the Self-Government Agreement, and the Constitution.

Interpretation

4. (1) The provisions of this Act shall be interpreted and administered to promote the stability, transparency and accountability of the *Dän nätthe dätth'i* (Council) while representing and serving the cultural, social, legal and financial interests of Citizens in the exercise of its jurisdiction under the Constitution (s. 52).
- (2) Any questions that may arise in relation to the implementation of this Act and the internal governance practices of the *Dän nätthe dätth'i* (Council), or the interpretation of Champagne and Aishihik First Nations laws shall be resolved under the Constitution and the First Nations own administrative review processes, which are in place to ensure that the rights of Citizens are respected.

Definitions

5. In this Act,

- (a) **"administrative duties"** include the signing of cheques as required by the Department of Finance, preparation for meetings other than *Dän nätthe dätth'i* (Council) or any other duties that may be identified from time to time by the *Dän nätthe äda* (Chief);
- (b) **"*Dän nätthe äda* (Chief)"** means the Chief of the First Nation;
- (c) **"Citizen"** means a Citizen of the Champagne and Aishihik First Nation as determined in accordance with the provisions of the Citizenship Code in Schedule A of the Constitution;
- (d) **"Constitution"** means the *Constitution of the Champagne and Aishihik First Nations*;
- (e) **"consult"** for the purpose of this Act and in particular, where the *Dän nätthe dätth'i* (Council) is required under the terms of this Act to consult with the *Äshäw* (Elders) Senate, means provision to the *Äshäw* (Elders) Senate of:
- i. notice of a matter to be decided;
 - ii. sufficient information in respect of the matter to permit the *Äshäw* (Elders) Senate to prepare its views on the matter;
 - iii. a reasonable period of time to permit the *Äshäw* (Elders) Senate to prepare its views on the matter;
 - iv. an opportunity for the *Äshäw* (Elders) Senate to present its views on the matter before the *Dän nätthe dätth'i* (Council); and
 - v. a full and fair consideration of any views on the matter so presented by the *Äshäw* (Elders) Senate,

but the period of time the *Dän nätthe dätth'i* (Council) has to fulfil the terms of its obligation to consult with the

Āshāw (Elders) Senate may be shortened in cases of urgent matters or where the *Dän nātthe dātth'i* (Council) is under an obligation to act within a prescribed timeframe established in this Act or the Constitution and, the *Dän nātthe dātth'i* (Council) has the final decision-making power with respect to any matter that is the subject of consultation with the *Āshāw* (Elders) Senate under this Act or the Constitution, and the *Āshāw* (Elders) Senate shall not be allowed to hold-up or prevent the *Dän nātthe dātth'i* (Council) from making decisions consistent with their obligations to do so in a manner that allows the *Dän nātthe dātth'i* (Council) to adhere to the principles of good government and effective and efficient decision-making;

- (f) **“Consumer Price Index for Whitehorse”** means the Consumer Price Index for Whitehorse as established by the Government of Canada;
- (g) **“Councillor” or “Dän nātthe dātth'i”** means a member of the *Dän nātthe dātth'i* (Council) and includes the *Shāna Dän nātthe āda* (Youth Councillor) and the *Āshāw Dän nātthe āda* (Elder Councillor), but, for the purposes of this Act, does not include the *Dän nātthe āda* (Chief) unless the term *Dän nātthe dātth'i* (Council) or member of the *Dän nātthe dātth'i* (Council) is used, in which case the Chief is considered a member of the *Dän nātthe dātth'i* (Council) but he or she is not a Councillor;
- (h) **“Emergency”** means an urgent and critical situation of a temporary nature that seriously endangers the lives, health or safety of *Shadhāla yè Āshèyi Kwādān* (Champagne and Aishihik First Nations or CAFN) Citizens or Settlement Lands and including a pandemic;
- (i) **“enact”** means to issue, make or establish;
- (j) **“enactment”** means an act or a regulation or any part of an act or regulation of the Champagne and Aishihik First Nations;

- (k) **“Government”** means the Champagne and Aishihik First Nations’ Government, including the four branches of government, which are, the *CAFN Nlāshējel (We Come Together) or General Assembly (GA)*, the *Dän nātthe dātth’i (Council)*, the *Āshāw (Elders) Senate*, and the *Nātthè (Moving Forward) Youth Council*;
- (l) **“First Nations” or “CAFN”** means the *Shadhāla yè Āshèyi Kwādān (Champagne and Aishihik First Nations or CAFN)*;
- (m) **“immediate” or “lineal” in reference to “family”** means father, mother, legal guardian, spouse, grandmother, grandfather, brothers, sisters, children and grandchildren but does not include, for example, aunts and uncles;
- (n) **“member of the *Dän nātthe dātth’i (Council)*”** means either the *Dän nātthe āda (Chief)*, one of the four *Dän nātthe dātth’i (Councillors)* at large, including the *Āshāw Dän nātthe āda (Elder Councillor)* and the *Shāna Dän nātthe āda (Youth Councillor)*;
- (o) **“pecuniary interest”** is something that (a) could monetarily affect the member of the *Dän nātthe dātth’i*” (or Council), or (b) the member of the *Dän nātthe dātth’i*” (or Council) knows or should know that the matter could monetarily affect their family.”
- (p) **“resolution”** means a resolution of the *Dän nātthe dātth’i (Council)*;
- (q) **“regulation”** includes an order, regulation, form, schedule of costs or fees, or other instrument made under the authority of an enactment;
- (r) **“remuneration”** refers specifically to money that is paid to members of the *Dän nātthe dātth’i (Council)* as compensation for the duties they perform and includes base salaries, but also supplemental payments that typically take the form of per-meeting stipends or honoraria and remuneration is also used in a broader sense to include expenses and benefits packages;

- (s) “**remuneration adjustment**” refers to increases that are automatically applied, usually on an annual basis, to an elected official's base salary where the level of adjustment is determined by a pre-determined index (e.g., consumer price index), or combination of indices (COLA);
- (t) “**remuneration review**” is a formal assessment of existing remuneration provided to elected officials and includes a consideration of pay, expenses, and benefits;
- (u) “**repeal**” includes revoke or cancel, and
- (v) “**Self-Government Agreement**” means the *Champagne and Aishihik First Nations Self-Government Agreement* dated May 23, 1993 and any amendments to it, and
- (w) “**undue influence**” is an equitable doctrine that involves one person taking advantage of a position of power over another person - the inequity in power between the parties can vitiate one party's consent as they are unable to freely exercise their independent will.

PART II STRUCTURE OF GOVERNMENT

Branches of Government

6. The four branches of government are
 - (a) the elected CAFN *Dän nätthe dätth'i* or Council,
 - (b) the *Äshäw* (Elders) Senate,

(c) *Nätthè* (Moving Forward) Youth Council, and

(d) CAFN *Nläshējel* (We Come Together) or General Assembly (GA).

Composition of the *Dän nätthe dätth'i* (Council)

7. The *Dän nätthe dätth'i* (Council) consists of

(a) the *Dän nätthe äda* (Chief),

(b) four *Dän nätthe dätth'i* (Councillors),

(c) one *Äshāw Dän nätthe äda* (Elder Councillor), and

(d) one *Shāna Dän nätthe äda* (Youth Councillor).

***Dän nätthe dätth'i* (Council) Jurisdiction**

8. The *Dän nätthe dätth'i* (Council) has an inherent right to self-government and the jurisdictions set out in the Constitution (s. 52) and the Self-Government Agreement.

Office of the *Dän nätthe äda* (Chief)

9. The office of the *Dän nätthe äda* (Chief) of Champagne and Aishihik *Dän nätthe dätth'i* (Council) is established in the Constitution and under Champagne and Aishihik First Nations inherent right to self-government.

Term of Office

10. The *Dän nätthe dätth'i* (Council) shall be elected for a term not exceeding four years.

Procedures of the *Dän nätthe dätth'i* (Council)

11. (1) Consistent with s. 41 of the Constitution, the Self-Government Agreement and its inherent right to self-government, the *Dän nātthe dātth'i* (Council) shall establish its own procedure, and any failure of the *Dän nātthe dātth'i* (Council) to adhere to or follow its own procedure shall not be reviewable by any court.

(2) The *Dän nātthe dātth'i* (Council) may establish procedures and rules to govern the conduct at meetings of the *Dän nātthe dātth'i* (Council) which may, without limitation

- (a) govern the introduction, processing and discussion of proposed Acts and, if consensus cannot be reached, rules for voting on proposed Acts and amendments proposed to them as they are processed through the legislature;
- (b) provide an opportunity for public involvement in or comment on proposed Acts;
- (c) establish procedures and a process for vetting, introducing and voting on amendments to proposed Acts;
- (d) establish rules governing decorum in the *Dän nātthe dātth'i* (Council) chambers when the *Dän nātthe dātth'i* (Council) is acting in its role as a legislature and at all other times;
- (e) describe the circumstances under which the *Dän nātthe dātth'i* (Council) may call a special session of the *Dän nātthe dātth'i* (Council) to act in its legislative function, and
- (f) describe the procedure for the *Dän nātthe dātth'i* (Council) to call a special session to act in its legislative function.

Location of meetings of the *Dän nātthe dātth'i* (Council)

12. The Chief, after consultation with the Council, shall decide on the location of meetings of the *Dän nātthe dātth'i* (Council) and whenever possible, the *Dän nātthe dātth'i* (Council) will make best efforts to conduct its business and affairs at a location on Settlement Lands.

Public Meetings

13. (1) Meetings of the *Dän nātthe dātth'i* (Council) are open to the public unless they are established as *in camera*.

(2) Meetings may be established as *in camera* to discuss the following:

- (a) *Dän nātthe dātth'i* (Council) issues such as internal problems and factions;
- (b) objectives and performance of *Dän nātthe dātth'i* (Council);
- (c) *Dän nātthe dātth'i* (Council) succession planning;
- (d) reviewing the performance of a member of *Dän nātthe dātth'i* (Council);
- (e) reviewing personnel and employment/labour matters;
- (f) discussing government policies and/or procedures and their implications for the organization;
- (g) discussing matters that are private or personal in relation to individual Citizens and/or Citizen complaints in which an individual Citizen is being discussed by name;
- (h) discussing and deciding matters in relation to enrollment and enrollment applications under the *Āghàalān, Enrollment Act*;

- (i) discussing legal advice and litigation.

Oath or affirmation of Office

- 14. (1) Every member of the *Dän nätthe dätth'i* (Council) shall take the oath or affirmation of office in Schedule 1 before starting his or her duties as a member of the *Dän nätthe dätth'i* (Council).
- (2) The oath or affirmation of office shall be administered by the *Áshäw* (Elders) Senate Executive before a public gathering of Citizens called together to witness the administration of the oath or affirmation.

Conflict of Interest

- 15. (1) A member of the *Dän nätthe dätth'i* (Council) has a conflict of interest if they exercise an official power or perform an official function knowing that in so doing there is the opportunity to further their private interest.
- (2) A member of the *Dän nätthe dätth'i* (Council) must not exercise an official power or perform an official duty or function if they have a conflict of interest.
- (3) Every member of the *Dän nätthe dätth'i* (Council) shall read, understand, and agree to abide by, the conflict of interest provisions set out in this Act and by regulation or policy, before starting their duties as a member of the *Dän nätthe dätth'i* (Council).

Confidentiality

- 16. (1) A member of the *Dän nätthe dätth'i* (Council) must not use information or a record that
 - (a) was obtained in the performance of the member's office or,

(b) is not available to the general public

for the purpose of furthering their direct or indirect pecuniary interest.

(2) Even where a member of the *Dän nātthe dātth'i* (Council) has no pecuniary interest in a matter, the member must not disclose information obtained at a closed meeting of the *Dän nātthe dātth'i* (Council), unless the disclosure is with the approval of the *Dän nātthe dātth'i* (Council) or it is required by court order.

Acceptance of gifts or personal benefits

17. (1) Without limiting the generality of sections 15 and 16, a member of the *Dän nātthe dātth'i* (Council) is in a conflict of interest if they accept a gift or personal benefit that might reasonably be seen to have been given in order to influence them in the exercise of their powers or the performance of their duties or functions.

(2) Despite subsection (1), a member of the *Dän nātthe dātth'i* (Council) may accept a gift or benefit if the gift or benefit would be considered

- (a) normal protocol exchanges or social obligations associated with the person's office or duties,
- (b) normal exchanges common to ordinary business relationships, or
- (c) normal exchanges common at public cultural events of Champagne and Aishihik First Nations or other First Nations,
- (d) is of nominal value,
- (e) is given by a friend or a relative solely as an element of that relationship,
or

- (f) is of a type that is permitted under the policies or directions issued by the *Dän nātthe dātth'i* (Council).

Exceptions

18. (1) A member of the *Dän nātthe dātth'i* (Council) is not in a conflict of interest if engaged in the conduct of business with another party the party, by agreement, assumes costs which otherwise would be costs to Champagne and Aishihik First Nations or a Champagne and Aishihik First Nations Corporation as a result of the business relationship provided they seek permission from the *Dän nātthe dātth'i* (Council) in advance of the costs being incurred and make a written disclosure of the costs that were incurred to the *Dän nātthe dātth'i* (Council) afterwards.
- (2) If a gift or benefit with a value greater than \$500 is given to a member of the *Dän nātthe dātth'i* (Council), they are not in a conflict of interest provided they make a written disclosure of the gift or benefit to the *Dän nātthe dātth'i* (Council), who may require that the gift or benefit be made the property of *Shadhāla yè Āshèyi Kwädän* (Champagne and Aishihik First Nations or CAFN).
- (3) A member of the *Dän nātthe dātth'i* (Council) must not be found to be in a conflict of interest if the matter with respect to which they have an interest in the payment of an account, the introduction of a tax, or the creation or alteration of a *Shadhāla yè Āshèyi Kwädän* (Champagne and Aishihik First Nations or CAFN) benefit generally available to CAFN Citizens, in respect of which he or she as a taxpayer, a CAFN Citizen, or as a property owner, has a right to be heard.

PART III ORGANIZATION OF GOVERNMENT

Organization of Government

19. Subject to the *Constitution* and this Act, the *Dän nätthe dätth'i* (Council) may, by regulation or law, determine the organization of the Government.

Staff

20. The staff of a department or other organizational unit of government, which may include a group of departments together, consists of a director or other head as determined by the *Dän nätthe dätth'i* (Council) and any other employees that are required for the proper conduct of the department, and their duties and functions include those that are imposed by law and that are assigned to them by the director or other person who presides over the department.

Advisors, etc.

21. Subject to the Constitution, the *Dän nätthe dätth'i* (Council) may, for the purposes of exercising any of the powers or performing any of the duties or functions conferred or imposed on the *Dän nätthe dätth'i* (Council) by or under this Act or any other First Nations law, engage the services of or retain any technical, professional or other advisors, specialists or consultants that the *Dän nätthe dätth'i* (Council) considers necessary.

Advisory committees

22. Subject to the Constitution, the *Dän nätthe dätth'i* (Council) may, for the purposes of exercising any of the powers or performing any of the duties or functions conferred or imposed on the *Dän nätthe dätth'i* (Council) by or under this Act or any other First Nations law, appoint one or more advisory committees for a specific period and for a specific purpose.

PART IV***Dän nätthe dätth'i* (COUNCIL) REMUNERATION****Salary and benefits of the *Dän nätthe äda* (Chief)**

23. (1) The *Dän nätthe äda* (Chief) of the Champagne and Aishihik First Nations shall be paid, effective the date of the coming into force of this section, a base salary at a rate per annum which shall be set by regulation.
- (2) The salary payable to the *Dän nätthe äda* (Chief) is made in respect to duties fulfilled by the *Dän nätthe äda* (Chief) including those duties undertaken under
- (a) the Constitution,
 - (b) guidance and input received from a General Assembly of the Champagne and Aishihik First Nations,
 - (c) direction provided to the *Dän nätthe äda* (Chief) by the *Dän nätthe dätth'i* (Council) under section 43 of the Constitution, and
 - (d) legislation enacted by the *Dän nätthe dätth'i* (Council) under the Constitution or under the Champagne and Aishihik First Nations' inherent right to self-government.
- (3) The *Dän nätthe äda* (Chief) is deemed to be a worker within the meaning of the *Workers' Compensation Act (Yukon)* and, in that regard, the required assessments shall be paid by the Champagne and Aishihik First Nations' Government to the Yukon Workers' Compensation Health and Safety Board.

Salary of Deputy Chief

24. (1) The Deputy Chief shall be paid at the salaried rate of the *Dän nätthe äda* (Chief) prorated for each day that the Deputy Chief is acting in the capacity of the *Dän nätthe äda* (Chief).
- (2) The Deputy Chief shall not, when receiving pay under subsection (1), be eligible to claim payment of honoraria under this Act or any associated Regulations.

Salary, honoraria and benefits of *Dän nātthe dātth'i* (Councillors)

25. (1) Each *Dän nātthe dātth'i* (Councillor) shall be paid, effective the date of the coming into force of this Act, a base salary at a rate per annum established by regulation.
- (2) The base salary payable to a *Dän nātthe dātth'i* (Councillor) is made in respect to the basic duties required of a *Dän nātthe dātth'i* (Councillor) in their role as an elected official and established by regulation and at a minimum, to
- (a) prepare for and attend meetings of the *Dän nātthe dātth'i* (Council), and
 - (b) attend at meetings of the *CAFN Nlāshējel (We Come Together) or General Assembly (GA)*.
- (3) *Dän nātthe dātth'i* (Councillors), in addition to the salary provided under subsection (1) and under the *Remuneration Regulation*, shall be paid honoraria at the rates established by regulation.
- (4) Each *Dän nātthe dātth'i* (Councillor) shall be eligible to participate in any benefits plan established for *Dän nātthe dātth'i* (Councillors) with full payment of the premiums being paid by the Champagne and Aishihik First Nations' Government established by regulation.
- (5) Each *Dän nātthe dātth'i* (Councillor) shall be eligible to participate in a group retirement savings established by regulation.
- (6) Each *Dän nātthe dātth'i* (Councillor) is deemed to be a worker within the meaning of the *Workers' Compensation Act (Yukon)* and, in that regard, the required assessments shall be paid by the Champagne and Aishihik First Nations' Government to the Yukon Workers' Compensation Health and Safety Board.

- (7) Deductions shall be made from the pay of each *Dän nätthe dätth'i* (Councillor) under the law governing the Canada Pension Plan.

Annual adjustment of salaries and honoraria

26. (1) The salaries established for the *Dän nätthe äda* (Chief) and *Dän nätthe dätth'i* (Councillors) in this Act and by regulation may, at the discretion of the *Dän nätthe äda* (Chief) and *Dän nätthe dätth'i* (Councillors), taking into consideration the economic climate and whether or not staff salaries were adjusted that year, be adjusted on April 1 following the coming into force of this Act and on April 1 of each subsequent year in accordance with the percentage increase in the average annual Consumer Price Index for Whitehorse, Yukon over the previous calendar year.

- (2) The honoraria established for members of the *Dän nätthe dätth'i* (Council) by this Act and by regulation may be adjusted by an amendment to that regulation.

Deductions for absence from meetings of the *Dän nätthe dätth'i* (Council) and of the *CAFN Nlähshējel* (We Come Together) or General Assembly (GA)

27. A deduction, which shall be established by regulation, shall be made from the base salary payable to any member of the *Dän nätthe dätth'i* (Council) for each day they are absent from a meeting of the *Dän nätthe dätth'i* (Council) or a meeting of the *CAFN Nlähshējel* (We Come Together) or General Assembly (GA) without an excuse deemed reasonable by the *Dän nätthe dätth'i* (Council).

Travel expenses

28. The *Dän nätthe äda* (Chief) and *Dän nätthe dätth'i* (Councillors) shall be paid travel and living expenses incurred in the performance of their duties while away from their ordinary place of residence in accordance with regulation.

Severance allowances

29. (1) A severance allowance is payable to a person who ceases to be the *Dän nätthe äda* (Chief) on the basis of one week's salary for each year of uninterrupted completed service with the total payable not to exceed 10 weeks.

(2) A severance allowance is payable to a person who ceases to be a *Dän nätthe dätth'i* (Councillor) on the basis of two weeks salary for each year of uninterrupted completed service with the total payable not to exceed 10 weeks.

(3) The rate of the salary referred to in subsections (1) and (2) is that which was being paid to the *Dän nätthe äda* (Chief) or a *Dän nätthe dätth'i* (Councillor) at the time that they ceased to hold their position.

Annual Report on Salaries of the *Dän nätthe äda* (Chief) and members of the *Dän nätthe dätth'i* (Council)

30. (1) This section applies to

(a) those persons who were members of the *Dän nätthe dätth'i* (Council) on the date of this Act coming into force, and

(b) those persons who are elected to be members of the *Dän nätthe dätth'i* (Council) following the date of this Act coming into force.

(2) A report outlining expenditures on the pay, benefits and travel expenses of the *Dän nätthe äda* (Chief) and each member of the *Dän nätthe dätth'i* (Council) shall be prepared and made available to Citizens, beginning with the fiscal year following the coming into force of this Act.

(3) The report shall provide the following information

(a) the salary paid to the *Dän nätthe äda* (Chief),

(b) the salary paid to each *Dän nätthe dätth'i* (Councillor),

- (c) deductions made, under this Act or by regulation, from the salary of the *Dän nätthe äda* (Chief) or any *Dän nätthe dätth'i* (Councillor),
 - (d) the total honoraria paid to each *Dän nätthe dätth'i* (Councillor),
 - (e) the total salary paid to the Deputy Chief(s),
 - (f) the travel expenses incurred by the Champagne and Aishihik First Nations for the *Dän nätthe äda* (Chief) and each *Dän nätthe dätth'i* (Councillor), including the number of trips, the costs of transportation and the combined costs of meals, incidentals and accommodation,
 - (g) the cost incurred by the Champagne and Aishihik First Nations for the *Dän nätthe äda* (Chief) and each *Dän nätthe dätth'i* (Councillor) in its payment of premiums covering participation in the benefits plans available under this Act or by regulation, and
 - (h) the cost incurred by the Champagne and Aishihik First Nations for the *Dän nätthe äda* (Chief) and each *Dän nätthe dätth'i* (Councillor) in its matching payments of contributions made to the group retirement savings plan under this Act or by regulation.
- (4) The report shall be
- (a) submitted to the *Dän nätthe dätth'i* (Council) in a timely manner,
 - (b) made available for viewing by the Citizens in the business offices of the Champagne and Aishihik First Nations, and

(c) copied and provided to a Citizen upon request.

Remuneration Reviews

31. (1) The *Dän nätthe dätth'i* (Council), shall decide, whether the remuneration and benefits of the *Dän nätthe äda* (Chief) and members of the *Dän nätthe dätth'i* (Council) should be reviewed and, if it is decided that a remuneration review should take place, the *Dän nätthe dätth'i* (Council) shall establish a mandate for that review and make the appointment of a person or persons to conduct the review.

(2) Any proposed amendments to this Act or to Regulations under this Act resulting from a remuneration review shall be provided to Citizens for the purposes of good governance, including transparency.

PART V ELECTIONS AND BY-ELECTIONS

General Elections

32. A general election to elect the members of the *Dän nätthe dätth'i* (Council) shall be held at approximately the same time every four (4) years consistent with s. 17 of the Constitution and shall be governed by the *Election Regulations*.

By-Elections

33. By-elections shall be organized and run in the same manner as general elections and any references in the *Election Regulations* to General Elections shall apply to by-elections with the necessary modifications except where specific provisions have been made in the *Election Regulations* to promote efficiencies for conducting by-elections, in which case by-elections shall be conducted as directed in the *Election Regulations*.

Controverted Elections

34. The *Controverted Elections Act* (Yukon) as amended from time to time is hereby adopted by reference as a law of the First Nations with such changes as are necessary to make it applicable to and in respect of elections of members of the *Dän nätthe dätth'i* (Council), except that the time for bringing a petition against the election of a person shall be 30 days after the date on which the election is held.

Insufficient Nominations for *Dän nätthe äda* (Chief) or *Dän nätthe dätth'i* (Councillor)

35. (1) If the position of *Dän nätthe äda* (Chief) or *Dän nätthe dätth'i* (Councillor) remains vacant following the close of nominations at the second nomination day, called under the Election Rules and Regulations at either a general election or by-election, the *Dän nätthe dätth'i* (Council) shall appoint a person who would be qualified as a candidate for that position to fill the vacancy for a period of up to one year.

(2) If the position of *Dän nätthe äda* (Chief) or *Dän nätthe dätth'i* (Councillor) has been filled under subsection (1) the *Dän nätthe dätth'i* (Council) shall, with reference to that position and within one year's time, issue a Writ of Election for a by-election to be held under the Election Rules and Regulations.

Vacancies do not affect decisions of the *Dän nätthe dätth'i* (Council)

36. The proceedings and decisions of the *Dän nätthe dätth'i* (Council) are not affected by any vacancy in its membership, by any defect in the appointment of any member of the *Dän nätthe dätth'i* (Council) or by the disqualification of any member of the *Dän nätthe dätth'i* (Council) so long as quorum remains in office.

PART VI

**TEMPORARY REPLACEMENT, REMOVAL, RESIGNATION OR
DISQUALIFICATION OF MEMBER OF THE DÄN NÄTTHE DÄTTH'I
(COUNCIL)**

***Dän nätthe äda* (Chief) temporarily unable to fulfill duties**

37. (1) If the *Dän nätthe äda* (Chief) is temporarily unable to exercise their powers or fulfill their duties and responsibilities, the *Dän nätthe äda* (Chief) may, upon written notice to the *Dän nätthe dätth'i* (Council), temporarily transfer their powers, duties and responsibilities to the Deputy Chief.
- (2) If the *Dän nätthe äda* (Chief) is unable to provide written notice of his or her disability under subsection (1), but is nevertheless unable to exercise their powers or fulfill their duties temporarily, the *Dän nätthe dätth'i* (Council) shall temporarily transfer the powers, duties and responsibilities of the *Dän nätthe äda* (Chief) to the Deputy Chief.
- (3) After a period of temporary disability, the *Dän nätthe äda* (Chief) may resume the exercise of their powers and fulfill their duties and responsibilities as *Dän nätthe äda* (Chief) by providing written notice to the *Dän nätthe dätth'i* (Council) and the *Dän nätthe dätth'i* (Council) shall return the powers, duties and responsibilities of the *Dän nätthe äda* (Chief) to the *Dän nätthe äda* (Chief).
- (4) The Deputy Chief may act as *Dän nätthe äda* (Chief) under subsections (1) and (2) for a period of up to three months.
- (5) If, after three months from the date on which the powers, duties and responsibilities of the *Dän nätthe äda* (Chief) were transferred to the Deputy Chief under subsections (1) or (2) the *Dän nätthe äda* (Chief) has not resumed the exercise of their powers, duties and responsibilities as *Dän nätthe äda* (Chief), the *Dän nätthe dätth'i* (Council) shall declare the *Dän nätthe äda* (Chief) unable to fulfill his or her duties, and call a by-election under the Election Rules and Regulations.

Declaration that a member of the *Dän nätthe dätth'i* (Council) is Unable to Serve/Permanent Removal or Suspension from Office

38. (1) The *Dän nätthe dätth'i* (Council), in consultation with the *Āshāw* (Elders) Senate, may declare the *Dän nätthe äda* (Chief) or a *Dän nätthe dätth'i* (Councillor) unable to serve and may suspend them or permanently remove them from office.

(2) The decision of the *Dän nätthe dätth'i* (Council) to declare the *Dän nätthe äda* (Chief) or a *Dän nätthe dätth'i* (Councillor) unable to serve and suspend them or remove them from office permanently is a political decision and should be made by a majority of the *Dän nätthe dätth'i* (Council) in consultation with the *Āshāw* (Elders) Senate and based on their determination that it is in the best interests of the First Nations for the *Dän nätthe äda* (Chief) or *Dän nätthe dätth'i* (Councillor) to be suspended or permanently removed from the *Dän nätthe dätth'i* (Council).

(3) The *Dän nätthe äda* (Chief) or a *Dän nätthe dätth'i* (Councillor) may be temporarily suspended, or may be declared unable to serve and removed from office permanently, and prevented from running for office for up to 6 years, if, during his or her term in office, the *Dän nätthe äda* (Chief) or *Dän nätthe dätth'i* (Councillor)

- (a) is suspended twice during his or her term (the third suspension during the member of the First Nation's Council's term may result in permanent removal),
- (b) violates the *Constitution*, this Act (including Schedule 1, the oath of office, and/or Schedule 2, the oath of confidentiality),
- (c) fails to attend three consecutive meetings of the *Dän nätthe dätth'i* (Council), without being reasonably excused from attendance by a quorum of the *Dän nätthe dätth'i* (Council),
- (d) fails to maintain a standard of conduct expected of a member of the *Dän nätthe dätth'i* (Council),

- (e) accepts or offers a bribe, forges a council document or otherwise acts dishonestly in their role,
 - (f) is negligent in failing to ensure the safety and protection of the community's members and property,
 - (g) abuses their office such that the conduct negatively affects the dignity and integrity of the community or of the *Dän nätthe dätth'i* (Council),
 - (h) encourages others to commit any of the above acts or omissions,
 - (i) does not make the required oath or affirmation of office (Schedule 1) within the timeframe established in this Act,
 - (j) is charged (suspension) or convicted (permanently removed) of a indictable offence,
 - (k) engages in such other conduct as may be determined by the *Dän nätthe dätth'i* (Council) to be of such a serious nature that the suspension or removal is deemed necessary and appropriate.
- (4) The determination of whether to temporarily suspend a member of the First Nations Council (with pay) or permanently remove them, should be made taking into account the following considerations:
- (a) is a suspension or removal reasonable or justifiable in the circumstances;
 - (b) is a suspension compatible with the eventual continuation of the relationship of the member of the First Nations Council in their role taking into account whether the suspension will lead to an improved performance by the member of the First Nations Council upon their return to their role and if so what will contribute to that

improvement (ie. mandatory skills/training/treatment/restorative justice options);

(c) is the conduct unacceptable egregious personal conduct such that permanent removal is warranted (there is no chance of a successful return to the role); and

(d) there has been more than one suspension and there has been no improvement or resolution related to the member of the First Nation Council's performance deficiencies, behavior issues, or law/policy violations following a first or second suspension.

Disqualification – Permanent Removal of member of the *Dän nātthe dātth'i* (Council)

39. (1) Where a member of the *Dän nātthe dātth'i* (Council) is declared unable to serve under section 38, the position of that member shall become vacant immediately upon the declaration and that member

(a) is disqualified from entering any by-election initiated to fill the vacancy created, and

(b) may not be appointed by the *Dän nātthe dātth'i* (Council) to fill the vacancy created.

(2) Where a person is convicted of an indictable offence and a position of a member of the *Dän nātthe dātth'i* (Council) becomes vacant in connection with that conviction, that person

(a) is disqualified from entering any by-election initiated to fill the vacancy created, and

(b) may not be appointed by the *Dän nātthe dātth'i* (Council) to fill the vacancy created.

(3) A member of the Senate or House of Commons of Canada or of the Legislative Assembly of a province or territory, including Yukon, is not eligible to be a member of the *Dän nätthe dätth'i* (Council).

Appointment of Deputy Chief to position of *Dän nätthe äda* (Chief)

40. (1) If the *Dän nätthe äda* (Chief) is

- (a) temporarily unable to fulfil their duties under section 37,
- (b) suspended under s. 38,
- (c) determined to be unable to serve and removed from office under section 38, or
- (d) disqualified under section 39,

the Deputy Chief shall become *Dän nätthe äda* (Chief) by way of appointment by the *Dän nätthe dätth'i* (Council).

- (2) Consistent with section 51 of the Constitution, if the Deputy Chief is appointed to the position of *Dän nätthe äda* (Chief), their appointment shall only be until such time as there is an election to select a new *Dän nätthe äda* (Chief).
- (3) Upon appointment of the Deputy Chief to the position of *Dän nätthe äda* (Chief) under subsection (1), the *Dän nätthe dätth'i* (Council) shall determine when a by-election for the position of *Dän nätthe äda* (Chief) shall take place and issue a Writ of Election for a by-election, which will be held under the Election Rules and Regulations but the timeframe within which a Writ of Election for a by-election is held should not be more than three months from the day on which the Deputy Chief is appointed as *Dän nätthe äda* (Chief).

Deputy Chief Unable to Serve as *Dän nätthe äda* (Chief)

41. If the Deputy Chief is unable to serve as *Dän nätthe äda* (Chief), the *Dän nätthe dätth'i* (Council) shall, by way of a vote, appoint an alternate member of *Dän nätthe dätth'i* (Council) to serve as the *Dän nätthe äda* (Chief) until a by-election can be held.

Resignation of member of the *Dän nätthe dätth'i* (Council)

42. (1) To effectively resign, a member of the *Dän nätthe dätth'i* (Council) must submit a written resignation to the *Dän nätthe dätth'i* (Council) at a meeting of the *Dän nätthe dätth'i* (Council) or directly to the *Dän nätthe äda* (Chief).
- (2) The resignation of a member of the *Dän nätthe dätth'i* (Council) takes effect from the date specified in the resignation or, if no date is specified, the date of delivery of it.
- (3) Once delivered, a resignation may not be revoked, except with the consent of the *Dän nätthe dätth'i* (Council).
- (4) If a majority of the *Dän nätthe dätth'i* (Council) declares a member of the *Dän nätthe dätth'i* (Council) unable to serve, the *Dän nätthe dätth'i* (Councillor) will be deemed to have resigned.
- (5) If the position of a member of the *Dän nätthe dätth'i* (Council) becomes vacant as a result of this section, and more than one year remains in the term of office, the *Dän nätthe dätth'i* (Council) shall issue a Writ of Election for a by-election to be held under the Election Rules and Regulations.
- (6) If the position of a member of the *Dän nätthe dätth'i* (Council) becomes vacant as a result of subsection (1), and less than one year remains in their term of office, the *Dän nätthe dätth'i* (Council) shall either:
- a. issue a writ of election for a by-election to be held under the Election Rules and Regulations, or

- b. consistent with s. 58.(2) of the Constitution, if the Dän nātthe dātth'i (Council) become incapacitated or unable to exercise its duties under the Constitution due to the resignation, incapacity or death of the Councillor, identify a Citizen who possesses the qualifications for the office to fill the vacancy for an interim period, and the Āshāw Dän nātthe äda (Elder Councillor) shall make the appointment of that Citizen into the vacant position until a successor is elected or for the remainder of the unexpired term if there is not enough time to hold an election.
- (7) If a Citizen is appointed and commissioned to fill a vacancy of office until a successor is elected or until the remainder of the unexpired term under subsection (6)(b), the appointed elector shall
- (a) swear or affirm the *Oath of Office (Schedule 1)* and the *Oath of Confidentiality (Schedule 2)* before a member of the Āshāw (Elders) Senate Executive or another Āshāw (Elder) appointed by the Dän nātthe dātth'i (Council) after consultation with the Āshāw (Elders) Senate Executive, and
 - (b) review and accept (by signature) the Conflict of Interest provisions in this Act and by regulation.

PART VII ADMINISTRATIVE DISPUTE RESOLUTION

Resolution of Administrative Disputes

43. (1) The Dän nātthe dātth'i (Council) may establish, by law or regulation, some form of adjudicative body (including an ombudsperson), or utilize an existing First Nation adjudicative body (or ombudsperson), to promote sound and fair decision-making, and to ensure effective and respectful resolution of disputes involving the administrative activities of the Dän nātthe dātth'i (Council).

- (2) The form of administrative dispute resolution adopted by the *Dän nätthe dätth'i* (Council) under this Act, and under the Constitution, is in place to address any concerns that may be raised by a Citizen about fairness of administrative decision-making by the *Dän nätthe dätth'i* (Council) and to allow Citizens to resolve any concerns they may have about enactments of the *Dän nätthe dätth'i* (Council).
- (3) Under no circumstances should administrative disputes become the focus of external consideration by colonial courts before they are raised and considered for resolution under internal processes established for that purpose by the *Dän nätthe dätth'i* (Council).

PART VIII

LIABILITY OF MEMBERS OF THE DÄN NÄTTHE DÄTTH'I (COUNCIL)

Liability

44. (1) Members of the *Dän nätthe dätth'i* (Council) are not liable for anything said or done, or omitted in the performance of their duties unless
- a. the intent of the action was to damage someone's reputation (defamation), and
 - b. the member of the *Dän nätthe dätth'i* (Council) was dishonest, grossly negligent, in breach of the Oath of Office or the Oath of Confidentiality, or guilty of wilful misconduct, or
 - c. is liable to any civil action or prosecution, arrest, imprisonment or damages by reason of any matter or thing brought by him or her before the *Dän nätthe dätth'i* (Council) or any committee established by the *Dän nätthe dätth'i* (Council) by petition, bill, resolution, motion or otherwise, or anything said by him or her before the *Dän nätthe dätth'i* (Council) or any such committee.

(2) Employees are not liable for anything done or omitted to be done in good faith in the exercise or purported exercise of any powers given to that employee under an enactment or as directed by the *Dän nātthe dātth'i* (Council).

Certain other powers not affected

45. The power of a member of the *Dän nātthe dātth'i* (Council) under this Act does not limit the powers conferred on the *Dän nātthe äda* (Chief) or a member of the *Dän nātthe dātth'i* (Council) by any other Act or by the Constitution.

PART IX CHAMPAGNE AND AISHIHIK FIRST NATIONS LAWS

Authority of the *Dän nātthe dātth'i* (Council) to enact laws

46. The *Dän nātthe dātth'i* (Council) has the authority to enact laws in relation to any matters within the jurisdiction of the *Dän nātthe dātth'i* (Council) in the Constitution and consistent with the Self-Government Agreement and the inherent right of the First Nations to self-government.

Application of this Part

47. (1) Every provision of this Part extends and applies, unless a contrary intention appears, to every enactment, whether enacted before or after the commencement of this Act.
- (2) For the purposes of this Part, an enactment that has expired or lapsed or otherwise ceased to have effect shall be deemed to have been repealed.
- (3) The provisions of this Part apply to the interpretation of this Act.
- (4) Nothing in this Part shall be construed to exclude the application to any enactment a rule of construction applicable in that situation as long as it is not inconsistent with this Act.

Application of enactments to Settlement Lands

-29-

48. Every enactment applies on, to and in respect of all Settlement Lands and to every person on Settlement Lands, except to the extent that an enactment provides otherwise.

Application of enactments to citizens, employees and contractors

49. (1) Every enactment applies to and in respect of every citizen, except to the extent that an enactment provides otherwise.

(2) Every enactment applies to employees and contractors of the First Nations in the conduct of their work on behalf of the administration, management and operations of the First Nations except to the extent that an enactment provides otherwise.

Inconsistencies

50. (1) In the event of an inconsistency or conflict between the final agreement and an enactment, the final agreement prevails to the extent of the inconsistency or conflict.

Regulations

51. The *Dän nātthe dātth'i* (Council) may, without limitation, make regulations in respect of

(a) the registry, including to prescribe

- (i) normal business hours of the registry,
- (ii) standards to ensure reasonable access to Shadhāla yè Äshèyi Kwädän (Champagne and Aishihik First Nations or CAFN) enactments,
- (iii) procedures to be followed in depositing and recording the deposit of Shadhāla yè Äshèyi Kwädän (Champagne and Aishihik First Nations or

- CAFN) enactments and other documents in the registry,
- (iv) standards or procedures for archiving and protecting original documents in the registry, and
 - (v) fees for services to be provided by the registry,
- (a) the process, procedures and powers of an administrative tribunal or to empower an existing administrative or similar tribunal,
 - (b) the operations of the register of laws or the central register, including any fees that may be applicable for obtaining copies of documents stored in either register,
 - (c) the numbering and any other form of recording laws for citation and referencing purposes,
 - (d) public participation in the development of laws,
 - (e) specifying the offences against enactments in which proceedings may or may not be commenced by means of a ticket issued under this Act,
 - (f) prescribing the forms of tickets to be used,
 - (g) prescribing the procedures for the issuance of tickets,
 - (h) prescribing how an offence may be indicated on a ticket,
 - (i) authorizing the use on a ticket of any word, symbol or expression to designate an offence, and

- (j) any other matters which the *Dän nātthe dātth'i* (Council) considers necessary to bring the purposes and provisions of this Act into effect.

Extraordinary Powers in an Emergency

52. (1) When the *Dän nātthe dātth'i* (Council) believes, on reasonable grounds, that an Emergency exists and necessitates the taking of special temporary measures for dealing with the Emergency, the *Dän nātthe dātth'i* (Council), may, by proclamation, so declare.

(2) A declaration of Emergency shall specify

- (a) the state of affairs constituting the Emergency,
 - (b) the special temporary measures that the *Dän nātthe dātth'i* (Council) anticipates may be necessary for dealing with the Emergency, and
 - (c) if the declaration of Emergency does not extend to the whole of Settlement Lands, the area of Settlement Lands to which the declaration of Emergency extends.
- (8) A declaration of Emergency is effective on the day on which it is issued.
- (9) A declaration of an Emergency expires at the end of sixty (60) days unless the declaration of Emergency is previously revoked or continued in accordance with this Act.

Declaration of Emergency

53. While a declaration of Emergency is in effect, the *Dän nātthe dātth'i* (Council) may make such orders or regulations with respect to the following matters as the *Dän nātthe dātth'i* (Council) believes, on reasonable grounds, are necessary to deal with the Emergency:

- (a) the regulation or prohibition of travel to, from or within any specified area, where necessary for the protection of the health or safety of individuals,
- (b) the evacuation of persons and the removal of personal property from any specified area and the making of arrangements for the adequate care and protection of the persons and property.,
- (c) the requisition, use or disposition of property;
- (d) the authorization of or direction to any person, or any person of a class of persons, to render essential services of a type that that person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered;
- (e) the regulation of the distribution and availability of essential goods, services and resources;
- (f) the authorization and making of emergency payments;
- (g) the establishment of emergency shelters and hospitals;
- (h) the assessment of damage to any works or undertakings and the repair, replacement or restoration thereof;
- (i) the assessment of damage to the environment and the elimination or alleviation of the damage; and

- (j) the imposition on summary conviction, of a fine not exceeding five hundred dollars or imprisonment not exceeding six months or both that fine and imprisonment, or
- (k) on indictment, of a fine not exceeding five thousand dollars or imprisonment not exceeding five years or both that fine and imprisonment, for contravention of any order or regulation made under this section.

Register of Laws

54. (1) There is hereby established a register of laws, which shall contain the Constitution and all enactments made by the *Dän nätthe dätth'i* (Council).
- (2) The original copy of each enactment, signed and dated by the *Dän nätthe äda* (Chief), shall be deposited in the register of laws.
- (3) The register of laws shall be accessible to the public for the purposes of viewing and obtaining copies of laws during normal business hours.
- (4) Fees as may be prescribed by the *Dän nätthe dätth'i* (Council), may be charged for any copying or reproducing of any law distributed by the clerk of the register of laws.

Central Register

55. (1) There is hereby established a central register, which shall contain
- (a) certified copies of all enactments,
 - (b) a certified copy of the *Shadhäla Äshèyi Dän*,
 - (c) copies of all leases, licences an other dispositions or authorizations relating to the use or occupation of Settlement

Land as contained in any register of Settlement Land that may be created,

(d) any other official documents and records of the First Nations that are designated by the *Dän nätthe dätth'i* (Council) to be deposited in the central register, and

(e) recordings of the *Dän nätthe dätth'i* (Council) minutes and resolutions.

(2) A clerk of the central register shall be appointed by the *Dän nätthe äda* (Chief) who shall be responsible for maintaining the central register.

(3) The central register shall be accessible to the public for the purposes of viewing and obtaining copies of laws during normal business hours and shall be maintained online.

(4) Fees, as may be prescribed by the *Dän nätthe dätth'i* (Council), may be charged for any copying or reproducing of any law distributed by the clerk of the central register.

Yukon First Nation Register

56. If a register is established by the Council of Yukon First Nations or its successor to act as a register for all enactments made by Yukon First Nations, enactments of *Shadhäla yè Äshèyi Kwädän* (Champagne and Aishihik First Nations or CAFN) may be deposited in this register in accordance with any rules of procedure that may be established for the register.

PART X REFERENDUMS

Proclamation of referendum

57. Where the majority of the *Dän nätthe dätth'i* (Council) considers that it is in the interest of CAFN Citizens to obtain by means of a referendum the opinion of electors on any question of importance to the First Nation under the jurisdiction of

the *Dän nātthe dātth'i* (Council), the *Dän nātthe dātth'i* (Council) may, by proclamation, direct that the opinion of electors be obtained by putting the question to the electors at a referendum called for that purpose.

More than one question

58. A proclamation of referendum may direct that more than one question be put to electors.

Wording of question

59. A referendum question shall be worded so that each elector may express an opinion on the question by making a cross or other mark after the word “yes” or “no” on the ballot paper.

Restrictions

60. No proclamation of referendum may be issued

- (a) 120 days before or within the 120 days after an election of the First Nation Council, or
- (b) before, or more than forty-five days after, the text of the referendum question has been approved by the *Dän nātthe dātth'i* (Council), under section 59.

PART XII REPEAL, TRANSITIONAL, CONSEQUENTIAL AND RELATED AMENDMENTS, COMING INTO FORCE

Repeal, Transitional, Consequential and Related Amendments

61. (1) The *Government Administration Act, 2007* and the *Act to Amend the Government Administration Act, 2010*, and any other amendments that may exist in relation to the *Government Administration Act, 2007*, are repealed.

(2) The *Indemnities and Allowances Regulation* is repealed and the *Regulation Respecting Remuneration for Members of the Dän nātthe dātth'i (Council), 2020* are substituted.

Coming into force

62. This Act comes into force on proclamation.

Schedule 1**Oath of Office**

“I _____ do declare that I will bear true allegiance to the Citizens of Champagne and Aishihik First Nations and to promise govern according to the Constitution, the mission statement, laws, policies, culture, teachings of our Elders, language and spirituality of the CAFN, so help me oh Great Spirit.

Schedule 2**Oath of Confidentiality**

“I, _____ do solemnly pledge that I shall preserve and maintain the confidentiality and secrecy of all information entrusted to me during my term in office and that I shall keep secret and confidential:

- 1. all information obtained during the course of my term of office as a member of the First Nations Council;**
- 2. all business affairs, records, reports or other information made available to me as a result of my position as a member of the First Nations Council; and**
- 3. all other information of a sensitive or private nature regarding the Champagne and Aishihik First Nation and its Citizens.**

I shall maintain and be bound by this oath of confidentiality during and after my term of office as a member of the First Nations Council has expired, regardless of the reasons or means of the expiration.