

BEARDY'S AND OKEMASIS' CREE NATION

CONSTITUTION

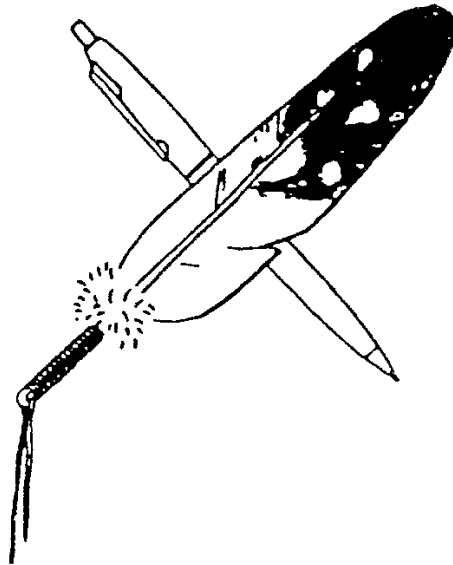


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PREAMBLE

We, the Beardy's and Okemasis' Cree Nation have the the inherent right to govern ourselves according to our customs, traditions and natural laws of the nehiyawak. We declare these are our truths;

We are a Nation of many Nations. Chief Beardy (Kamiyistowesit) and Chief Cutnose signed an adhesion to Treaty #6 on August 28, 1876 near Fort Carlton thereby entering into Treaty with the Crown, exercising all the powers of our Sovereignty and Nationhood.

With the teachings of our elders in our hearts & minds, we will conduct ourselves in a positive manner. We will maintain a good path with the next seven generations always in mind, so they carry on in such a way that our inherent rights remain protected.

Beardy's and Okemasis' Cree Nation has always had a special relationship with the Crown, a relationship that was recognized in the Royal Proclamation of 1763, Treaty 6 and in the Constitution Act, 1982; Under this special relationship, the Crown has special obligations to all of the People of the Beardys' and Okemasis' Cree Nation current and future members for as long as the sun shines, the grass grows and the rivers flow;

This Constitution does not in any way abrogate or diminish the Aboriginal and Treaty Rights of the Beardy's and Okemasis' Cree Nation and its citizens protected under Section 35 of the Constitution Act of Canada; and the fiduciary responsibility of Canada to Beardy's and Okemasis' Cree Nation and its members.

It is upon this foundation that we, the members of the Beardy's and Okemasis' Cree Nation, put into place this Constitution, which is the basis for our government authority, our jurisdiction, our laws, and our traditions for the people of Beardy's and Okemasis Cree Nation pursuant to its inherent rights existing since time immemorial including the inherent right to self-government.

This Constitution is a framework for the implementation of our inherent and treaty rights which extend to all of our people regardless of their residency.

NOW THEREFORE, by virtue of our rights and freedoms as an autonomous First Nation in an historical relationship with the Crown, we do hereby declare and institute the "Constitution of the Beardy's and Okemasis' Cree Nation."

PART I – CITATION

Article 1 - citation

1.1 This document may be cited as “Beardy’s and Okemasis’ Cree Nation Constitution”

PART II – INTERPRETATION

Article 2 – Interpretation

2.1 For the purpose of this Constitution:

- a) "BOCN" means Beardy's and Okemasis' Cree Nation.
- b) "BEARDY'S AND OKEMASIS CREE NATION" means Beardy's and Okemasis First Nation.
- c) "CHIEF" means that Member of the Beardy's and Okemasis Cree Nation who has been duly elected, under the BOCN Election Act, to fill the position of Chief and represent the Members of the First Nation.
- d) "CONFLICT OF INTEREST" means financial and/or personal gain, direct benefit and/or other benefit(s) received by the individual or for their immediate family.
- e) "CONSTITUTION" means the Beardy's and Okemasis Cree Nation Constitution.
- f) "COUNCIL" means the Chief and Councillors of the Beardy's and Okemasis' Cree Nation duly elected pursuant to the provisions contained in the *Beardy's and Okemasis' Cree Nation Election Act*.
- g) "ELECTION" refers to the election of Chief and Councillors in accordance with the *Beardy's and Okemasis' Cree Nation Election Act*.
- h) "GOVERNMENT" means the duly elected leadership of the Beardy's and Okemasis' Cree Nation.
- i) "IMMEDIATE FAMILY" means parents, children, siblings, grandparents, in-laws and spouse (including common-law).
- j) "MEMBER" means an Indigenous person registered as a member of the Beardy's and Okemasis First Nation.
- k) "OATH OF OFFICE" means and refers to the Oath of Office for the elected leadership of the Beardy's and Okemasis Cree Nation.
- l) "ELDERS ADVISORY COUNCIL" means members appointed by Chief and Council, can include members of the Senate.
- m) "EMPLOYEE" means an individual who is employed by the First Nation, its affiliates and/or subsidiaries on a permanent, part-time, seasonal basis or term appointment, for which salary, benefits and/or remuneration are paid by the Beardy's and Okemasis' Cree Nation,
- n) "NATION" shall refer to the Beardy's and Okemasis' Cree Nation.
- o) "LEGAL REPRESENTATION" means legal Counsel for the Nation.

- p) "LEGISLATION" means the laws or law-making process of the Beardy's and Okemasis Cree Nation.
- q) "PUBLIC POLICIES" means the policies of the Beardy's and Okemasis Cree Nation as approved by the Chief and Council and as implemented by Council, Portfolio Committees or management.
- r) "NATION MONIES" means those revenues or monies of the Beardy's and Okemasis Cree Nation which are held in Trust, which are obtained through permit, lease or development revenues, and which are not provided to the Beardy's and Okemasis Cree Nation by way of contribution agreements with either the federal or provincial governments it may also mean any revenue derived solely from the Beardy's and Okemasis Cree Nation.
- s) "RATIFICATION" means the official approval of Beardy's and Okemasis Cree Nation Constitution or laws by the electors of the First Nation in accordance with this Constitution, or the amendment of laws in accordance with the amendment procedure set out in respective First Nation laws.
- t) "TRIBUNAL" means the person(s) elected by the electors specifically to manage appeals and formal grievances, in accordance with this Constitution.

2.2 Words importing the singular number include the plural and vice versa and words importing gender include the masculine, feminine and neutral genders.

PART III – INHERENT RIGHTS

Article 3 – Inherent Rights

3.1 The Creator put us here as the people of the Beardy's and Okemasis' Cree Nation, he gave us laws that govern all of our relationships so that we may live in harmony with nature and mankind.

3.2 We have been autonomous and connected to our territories since time immemorial. This is confirmed by our oral history, our Elders teachings, our traditions and customary practices. It is therefore essential to declare:

- a) The foundations of our Nation are rooted in the sacred gifts from our Creator.
- b) Our inherent rights flow from the Creator and include but are not limited to:
 - i. Our spiritual beliefs, natural laws and practices;
 - ii. Our language;
 - iii. Our culture, customs and traditions;
 - iv. Our government;
 - v. Our freedom, our independence, and self-determination; and
 - vi. Our values of love, sharing, honour and respect.
- c) Our Inherent right to self-determination includes the following main elements:

- i. The right to govern ourselves and to determine our own destiny; including the right to develop and amend our own constitution, laws, citizenship, and governance procedures based upon the will of our people; and
- ii. The right to establish and maintain our own form of government in order to provide for the well-being and prosperity of our people.

3.3 We believe that each successive generation has the responsibility to maintain these inherent rights for seven generations into the future. Because of this belief, it is not possible for any generation to agree to comprise the inherent rights, including our nationhood rights, in any way, shape or form;

3.4 Our personal existence is defined by universal truths and natural laws, which guide us in honoring each individual's right to life, liberty and wellness. We accept these responsibilities that go with our rights, knowing that we are responsible for our own destiny and that our government is accountable to our people.

PART IV – MEMBERSHIP

Article 4 – Membership

4.1 Members of the Beardy's and Okemasis' Cree Nation are recorded by the Membership Department and maintained by Membership Department in conjunction with Indigenous and Northern Affairs Canada.

4.2 Beardy's and Okemasis' Cree Nation will retain control of its Membership within three (3) years of the adoption of this Constitution. A Membership Code will be developed.

DIVISION 1 – RIGHTS AND RESPONSIBILITIES

4.3 Members

- a) Our members shall respect and abide by our Constitution, laws and policies.
- b) Our members have the right to apply their privileges and obligations as set forth in our constitution, laws and governance policies.
- c) Our members have the ultimate authority in making and amending laws.
- d) Our members have the right to participate in Members Assemblies or membership meetings as duly provided for in our Constitution, laws or as called and approved by the Council
- e) Our members have the right to be included, engaged and informed.
- f) Our Election Act ensures that there shall be consultation with and input by our people, through the will of our voters, in our leadership selection processes.
- g) The rights, freedoms and socio-economic benefits flowing from our Government system shall, to the extent possible, apply equally to all of our First Nation people.
- h) All our Nation's people shall enjoy, without hindrance, freedom of worship, culture, conscience, speech, assembly, mobility and association.
- i) Rights and responsibilities extend regardless of where you reside
- j) The judicial processes of our Government system shall be open to all our members.
- k) Our membership has the right to hold our government accountable.
- l) Members are responsible for ensuring children and future generations understand treaty, language and culture of Beardy's and Okemasis' Cree Nation.

m) Our members have the right to feel safe and secure in their community.

4.4 Elders - in addition to the Members Rights and Responsibilities Elders have the following;

- a) the right to provide guidance to the Membership and Council.
- b) the right to be included, engaged and informed in a manner that best suits their needs.

4.5 Youth - in addition to Members Rights and Responsibilities Youth have the following;

- a) the right to be included, engaged and informed in a manner that best suits their needs.
- b) the right to grow up in a safe community.

PART V - GOVERNING STRUCTURE OF THE NATION

Article 5 – Governing Structure

5.1 The principle components of the Beardy's and Okemasis' Cree Nation Government shall be:

- a) A Members Assembly consisting of the electors of our Nation.
- b) A Council, which shall serve as our government body.
- c) Tribunals, boards, commissions and committees as so provided for by our Acts, Laws and policies.
- d) An Elders Advisory Council appointed by the Council.

PART VI - ROLES OF OUR GOVERNMENT

DIVISION 1 – MEMBERS ASSEMBLY

Article 6 – Members Assembly Role

6.1 The Members Assembly shall consist of all members of the Beardy's and Okemasis' Cree Nation who are 18 years of age or older. The Members Assembly shall fulfill the following roles and functions:

- a) To review, amend, ratify all laws;
- b) To review and monitor the financial management and accountability of the Nation and its governance and administrative systems.
- c) To discuss, ratify and monitor the major institutions of the First Nation;
- d) To review and monitor the development and management of the First Nation resources, territories, lands and revenues;
- e) To provide guidance to the Council and other institutions of the government; and
- f) To meet at least once each and every year to deal with all above items.

DIVISION 2 – COUNCIL

Article 7 – Council Role

7.1 Council shall fulfill the following roles and functions:

- a) To uphold the laws of the Nation and this Constitution
- b) The Chief is the representative of the government based on our culture and historic traditions. The Chief is also the spokesperson reflecting the decisions of Council. As our leader, the Chief is our voice in representing the interests, priorities and aspirations of our people, and council;
- c) The Chief & Councillors are elected and mandated in accordance with the Beardy's and Okemasis' Election Act. Their term of office is defined in the Beardy's and Okemasis' Election Act and performance standards is identified in the *Beardy's and Okemasis' Cree Nation Executive Act*;
- d) The Chief & Council shall, upon election to office, take the 'Oath of Office' in the presence of our Elders and as interpreted by our Elders. This establishes terms of reference for their activities and their performance of duties;
- e) To represent and protect our Nation's rights, culture and traditions;
- f) To promote and protect our Inherent and Treaty rights;
- g) To reflect and implement our peoples' goals, priorities & primary interests;
- h) To foster democratic processes and consensus decision-making;
- i) To promote unity, harmony, fairness and respect among our people;
- j) To establish and apply public policies for the general benefit of our people;
- k) To oversee our economy and resources;
- l) To ensure effective, efficient and accountable government in consultation with our people through the Members Assembly;
- m) To effectively manage the fiscal and financial affairs of the First Nation including full and open accountability to our people;
- n) To provide for the fair reconciliation of grievances, appeals and disputes;
- o) To manage inter-governmental relations, negotiations and agreements;
- p) To ensure that "Conflict of interest" is avoided.
- q) Other roles and responsibilities as identified in our Nation laws.

DIVISION 3 – ELDERS ADVISORY COUNCIL

Article 8 – Elders Advisory Council Role

8.1 The Elders Advisory Council:

- a) Is appointed by Chief and Council.
- b) Members of the Senate shall be appointed to the Elders Advisory Council.
- c) The role of Elders Advisory Council is to provide guidance and support to Council, Members Assembly and to Tribunals, Boards, Commissions and Committees.

DIVISION 4 – BOARDS, COMMISSIONS, COMMITTEES

Article 9 – Boards, Commissions and Committees Role

9.1 Boards, Commissions and Committees:

- a) These institutions may be authorized, from time to time, by Beardy's and Okemasis' Cree Nation law or special resolution of the Council, depending on the nature of their responsibilities, to carry out activities related to good governance in areas of importance to our First Nation.

PART VII - LAW MAKING PROCESS

Article 10 – Law Process

10.1 Subject to this Constitution the Nation may make Laws for the Nation.

10.2 Passage of Laws require the participation and ratification of a majority of all electors through a Members Assembly or Referendum and include the following matters:

- a) The ratification and amendment of the Constitution;
- b) The disposition or designation of First Nation lands;
- c) The ratification or amendment of Beardy's and Okemasis' Cree Nation Laws or Acts.

10.3 All Beardy's and Okemasis' Cree Nation laws shall be officially ratified by a majority of electors who are in attendance at a Members Assembly duly convened by the Council or as provided for in this Constitution or in our Nation laws.

10.4 A Referendum can be called in place of a Members Assembly to vote on Nation Laws. Referendum must be held in compliance with Beardy's and Okemasis' Cree Nation Referendum Policy.

10.5 The Council shall appoint a Chief Legislation Officer to support the law making process for the Nation.

Article 11 – Introducing New Legislation

11.1 The passage of new laws shall occur on the following basis:

- a) A new law of the Nation may be proposed
 - iii. by the Council,
 - iv. by the Chief or Councillor, or
 - v. by any member or members supported by a vote of at least 25% of the Electors at a Members Assembly.
- b) The Council shall appoint a committee to develop the recommended content for the new law, prior to public presentation;
 - i. The committee will develop the content of the law in consultation with the Membership.
 - ii. The committee will present draft to the Council and then it will be presented to the Members Assembly to begin the reading process.

- c) Each proposed law must go through a series of three (3) readings with the Members Assembly that is called together for the purpose of the reading and review of the proposed law. Electors may offer amendments on the proposed content from the floor during the Members Assembly. The third reading will be the date that the Electors vote on passage of the Law.
- d) At the second reading notice may be given that the third reading there will be a vote on passage of the law, or a referendum may be called at the second reading.
- e) There shall be a 30-day notice period given to the Members Assembly when calling a meeting or referendum. for the purposes of reviewing the law. Copies of the proposed Law must be made available to members.
- f) A proposed law that is passed at the third reading or at referendum becomes law of the Nation and comes in to effect the date of passage at third reading or referendum or on a date later set out in the law.
- g) Official passage of a new law is made through a Members Assembly duly convened for the purpose of ratifying the law or a referendum may be called to ratify and vote on the proposed law.
- h) 50% plus one (1) or more of all electors vote in favor of the law. In the event that the number of voters that turn out is not sufficient to meet the threshold of then a second or subsequent ratification meeting or referendum shall be called on a 30-day notification basis. At the second meeting or referendum, a law may be ratified by 50% plus one (1) or more of those electors.
- i) A referendum can be held separately or in conjunction with the electoral process as a plebiscite question accompanying the electoral ballot.
- j) Once a law has received passage it is binding upon all members, Council, officials of the Nation or anyone under their jurisdiction.

Article 12 – Amendments and Repeals

12.1 Amendments or Repeals of Laws of the Nation may be proposed

- a) by the Council,
- b) by the Chief or Councillor, or
- c) by any member or members supported by a vote of at least 25% of the Electors at a Members Assembly.

12.2 The Council will appoint a Committee to review and present the recommendations for appeal or repeal to the Members Assembly.

12.3 Once the Committee has reviewed a Members Assembly or Referendum will be called to review and ratify the Amendments or repeal.

12.4 Thirty (30) day notice will be required and a list of proposed amendments must be included in the notice. Copies of the proposed amendments must be made available to members.

12.5 The requirements for passage of the amendments are the same as section 11.1 (h)

Article 13 – Publication and Access

13.1 Upon Passage of every new Law and Amendment Public notice must be made to the members in a manner determined by the Council.

13.2 All laws upon passage must be made available to all members. A copy of the Laws shall be maintained with the Chief Legislation Officer of the Nation.

13.3 All laws passed by the Nation will be posted online and made available to the Membership. Hard copies will be made available upon written request to the Nation.

Article 14 – Policies and Procedures

14.1 Policies and procedures of the nation created, changed and repealed by Council must be consistent with Beardy's and Okemasis' Cree Nation Constitution.

PART VIII - BEARDY'S AND OKEMASIS' CREE NATION TRIBUNAL

Article 15 – Tribunal

15.1 The Beardy's and Okemasis' First Nation shall mandate the development of a Tribunal to deal with internal disputes arising from the application of this Constitution, laws, acts, and policies of the Beardy's and Okemasis' Cree First Nation.

15.2 When a dispute arises regarding the Constitution or any other Laws of the Nation, the dispute may be presented in the following manners;

- a) Presented to Annual meeting of the Members Assembly.
- b) Written letter presented the Chief Legislative Officer
- c) Presented to Council of the Nation

15.3 All complaints will be forwarded to the next meeting of the Members Assembly and if it is deemed by the majority of the members in attendance to be valid then it will go to the tribunal.

15.4 All complaints must be dealt within a year of the dispute.

15.5 Council will appoint a tribunal to hear and resolve the dispute.

15.6 The Tribunal will consist of 5 Members; which may include but are not limited to;

- a) BOCN Members of 18 years of age or older

b) Member of the Elders Advisory Council

c) Members of another First Nation

15.7 The Tribunal will hear the dispute and follow the process set out in the Tribunal Policies and Procedures.

15.8 Once decision is rendered it will be reported to the next Members Assembly.

15.9 Decision by the Tribunal is final.

PART IV – MEMBERS ASSEMBLY

Article 16 – Assembly

16.1 To ensure membership awareness and participation, along with formal accountability of our government to our people, the following membership meetings shall be held at least once a year.

16.2 Members Assembly meeting on the Nation's Constitution and laws; This Assembly will deal with the design, interpretation, communication, ratification or amendment of either the Constitution or laws of the First Nation;

16.3 Members Assembly meeting on First Nation financial affairs, budget plans, revenues and the review of the audited statements of the First Nation;

16.4 Membership meeting on policies, programs and services involving reports by the Portfolio Councilors, program managers and directors;

16.5 Other open Membership meetings as provided for in our laws and policies.

PART X - COMING INTO EFFECT

Article 17 – coming into effect

17.1 This Constitution of the Beardy's and Okemasis' Cree Nation shall come into force on the day it is ratified by a majority of the electors voting in a referendum in which the majority of the electors voted.

PART XI - AMMENDMENT OF THIS CONSTITUTION

Article 18 – amending this Constitution

18.1 This Constitution may be reviewed and amended from time to time by the Members Assembly of the Beardy's and Okemasis' Nation as set out in PART V.

Appendix 1 – Pledge of Allegiance

We Pledge Allegiance to the flag of the Cree Nation in the Treaty 6 Territory. By standing together in Unity and showing respect for one another, we promise to honor Mother Earth by keeping her clean and embracing our Language and Culture. Under the guidance of our Creator, we will continue to thrive as a strong Nation.