

## CARCROSS / TAGISH FIRST NATION ELECTIONS CODE

### PART ONE GENERAL PROVISIONS

1. This Code may be cited as the Elections Code.

#### Definitions

2. In this Code,

Terms defined in this Code have the same meaning whether capitalized or in lower case:

"Address of Record" means the mailing address of the voter maintained by the Registry Co-ordinator at time of mailing pursuant to section 68 (2) of this code;

"Advance Vote" means a vote conducted prior to the regular voting day and in accordance with section 82 of this code;

"Assistant Returning Officer" means the person holding or acting in the office of chief returning officer as set out in sections 17 to 19 of this code;

"Ballot" means a ballot paper pursuant to part eight of this Code;

"Candidate" means a person qualified to be a candidate for Haa Shaa du Hen in an election pursuant to section 13.1 of the Constitution and section 35 of this code;

"Chief Electoral Officer" means the chief electoral officer appointed pursuant to sections 11 thru 15 of this code;

"Citizen" means a person enrolled as a member in accordance with the Part II of the *Constitution* and the *Carcross/Tagish First Nation Citizenship Code*;

"Constitution" means the *Constitution of Carcross/Tagish First Nation* as amended from time to time;

"CTFN" may be used as short form for Carcross/Tagish First Nation;

"Deputy Returning Officer" means the person or office appointed pursuant to sections 20 thru 23 of this Code;

"Early Vote" means the taking of votes pursuant to sections 76 thru 78 of this Code;

"Election" means a regular election or a by-election conducted under this Code and in accordance with section 13 of the *Constitution*;

"Electoral Adjudicator" means the electoral adjudicator appointed pursuant to section 10 of this Code;

"Election" means the entire process of the administration and taking of the vote for the office of Haa Shaa du Hen;

"Executive Council" means the Council, as defined in Section 11 of the Constitution;

"General Assembly" is the main governing body according to Sections 9 and 10 of the Constitution;

"Haa Shaa du Hen" means the leader pursuant to Section 13 of the Constitution;

"Mail-in vote" means the taking of votes pursuant to sections 68 thru 75 of this Code;

"Mobile vote" means the taking of votes pursuant to sections 79 thru 81 of this Code;

"Nomination Day" means nomination day pursuant to section 35 this Code;

"Notice" means the Election Notice in accordance with section 46 of this Code;

"Oath" includes a solemn affirmation or a statutory declaration;

"Official Voters List" means the list of Voters as defined in sections 29 thru 33 of this Code;

"Poll clerk" means the person or office appointed pursuant to sections 24 thru 26 of this code;

"Registry Co-ordinator" means the person who is the "Registrar" pursuant to Schedule B CTFN Citizenship Code of the *Constitution*;

"Regular vote" means the regular vote pursuant to section 83 of this Code;

"Traditional territory" includes the geographic area within the Yukon identified in the final agreement as the CTFN traditional territory;

"Scrutineer" means a person who may monitor the vote on behalf of a candidate pursuant to Part Seven of this Code;

"Vote" means to mark a ballot pursuant to sections 91 and 92 of this code;

“Voter” means a person who is qualified to vote pursuant to section 28 of this code;

“Voting day” means the day of the regular vote pursuant to section 6(1) of this Code;

“Voting officers” means the individuals that are involved in the conduct of the vote as described in Part Three of this code;

“Voting place” means a building or location at which a voting station is established;

“Voting station” means the premises secured for the taking of the vote of all or part of the eligible voters;

“Website” means the Carcross-Tagish First Nation website.

“Writ” means a writ of election pursuant to sections 6 and 7 of this Code; and

“Yukon” means the Yukon Territory as defined in the Yukon Act (Canada).

### **Purpose**

3. The purpose of this Code is to

- (a) implement CTFN self-government powers and responsibilities in a manner that respects CTFN values and objectives as established by the Constitution, Book One and all other laws of CTFN; and,
- (b) ensure that the elections of a Haa Shaa du Hen are conducted in a fair, transparent, accountable and equitable manner.

### **Application**

4. (1) This Code, in accordance with the Constitution, applies to the election of a Haa Shaa du Hen to represent all persons enrolled as members and citizens.

(2) If there is a conflict between this Code and any other enactment enacted before or after this Code comes into force, this Code prevails unless the other enactment contains an express provision that it, or a relevant provision of it, applies notwithstanding this Code.

## **PART TWO WRIT OF ELECTION**

### **Timing of an election**

5. After the first election under this Code, elections for the office of Haa Shaa du Hen shall be held no later than 48 months after the each election pursuant to this Code.

### **Order for an election**

6. (1) Every election shall begin by a writ of election in the form of a dated resolution issued by the Executive Council that shall specify the:

- (a) date for the close of nominations; and
- (b) date of the regular vote.

(2) The close of nominations shall be 45 days before the date of the regular vote and may be referred to as nomination day. The duration to receive nominations shall be at least 15 consecutive days.

### **Notice of issue of writ**

7. The chief electoral officer shall immediately give notice of the issue of the writ in the newspapers that have public circulation in the traditional territory of CTFN and post notice at the CTFN Administration Building in Carcross.

### **Changes to the time for taking the vote**

8. (1) The chief electoral officer may extend or postpone the time for taking the vote, if satisfied that a substantial number of voters will be unable to get to the voting station within the time provided due to

- (a) extreme weather conditions; or
- (b) a tragic community event.

(2) No extension or postponement of the time for the taking of the vote, pursuant to subsection 8(1), of more than 72 consecutive hours shall be granted.

### **By-election**

9. (1) A date for a by-election shall be declared by the General Assembly within thirty days of the office for Haa Shaa du Hen becoming vacant.

(2) If the office for Haa Shaa du Hen becomes vacant within six months before the holding of a regular election, the Deputy Haa Shaa du Hen will hold office according to section 11.9 of the Constitution until the regularly held election occurs according to this Code.

(3) A by-election shall be conducted under the terms of the Constitution & this Code.

**PART THREE  
ELECTION OFFICERS AND STAFF**

**Appointment of electoral adjudicator**

10. (1) An electoral adjudicator shall be appointed by the executive council at the time the writ is issued in accordance with section 6(1) of this code, for a period to last until the end of the election process.

(2) The electoral adjudicator shall

- (a) not be a CTFN citizen or an employee of CTFN
- (b) refrain from any active or public support or criticism of any candidate or voter;
- (c) be at least 21 years of age;
- (d) understand the election procedures; and,
- (e) have experience as a Judge ,arbitrator, mediator or lawyer.

(3) The electoral adjudicator shall have the responsibility for administering a judicial recount and/or judicial appeal according to Part Fifteen and Part Sixteen of this code.

**Appointment of Chief Electoral Officer**

11. The executive council shall appoint at least 30 days before the issue of the writ a Chief Electoral Officer who shall make a declaration to:

- (a) act impartially;
- (b) not favour, oppose, promote or be associated with a campaign on any aspect of any election;
- (c) not accept nomination as a candidate in the election; and,
- (d) respect the principles associated with a secret ballot.

**Conditions for appointment of the chief electoral officer**

12. The chief electoral officer shall:

- (a) be at least 21 years of age;
- (b) not be a member of the executive council of Carcross-Tagish First Nation;
- (c) refrain from any active or public support or criticism of any voter, candidate or their campaign;
- (d) not be an employee of the executive council / administrative branch of the Carcross-Tagish First Nation at any point during the election period.
- (e) understand the election code procedures.

13. The chief electoral officer shall be appointed for a fixed term and may be re-appointed.

### **Responsibilities power and duties of the chief electoral officer**

**14. (1)** The chief electoral officer shall be responsible for all matters related to the general direction, overall supervision and conduct of the election under this Code.

**(2)** In accordance with this Code, these responsibilities shall include:

- (a) submit a budget to the executive council for approval;
- (b) appoint and train deputy returning officers, poll clerks and all other persons required for the conduct of the vote;
- (c) with the assistance of the registry coordinator, compile, distribute and publish the official voters list;
- (d) call for and accept nominations;
- (e) prepare and post a list of nominated candidates;
- (f) prepare, post and announce the notice of the vote;
- (g) procure the necessary materials, including the ballots and ballot packages;
- (h) develop and prescribe all the necessary forms for the conduct of the vote;
- (i) establish all necessary voting places;
- (j) establish regulations and accreditation procedures for all personnel involved at the voting places;
- (k) establish and conduct the mail-in vote;
- (l) establish and conduct the early vote;
- (m) establish and conduct the mobile vote;
- (n) establish and conduct the advance vote;
- (o) establish and conduct the regular vote and be responsible for all matters during the times of voting;
- (p) close the vote and receive the sealed ballot boxes;
- (q) supervise the count of the vote;
- (r) declare the results;
- (s) assign or delegate any duties required in the conduct of the vote; and
- (t) generally, oversee and supervise the conduct of the vote to ensure the effective execution of the provisions of this Code.

**(3)** Within 30 days after the validation of the election results, the chief electoral officer shall make a written report to the executive council on the conduct of the vote which the executive council will make available to the general assembly at its next meeting.

### **Intent of this Act**

**15.** The chief electoral officer may modify any procedure to execute any of his or her duties if it is deemed necessary to ensure the secrecy of the ballot or the integrity of the voting process.

### **Resources provided**

**16.** The executive council shall provide sufficient space and resources to enable the chief electoral officer to fulfill the duties required.

**Assistant electoral officer**

17. The chief electoral officer may appoint an assistant electoral officer who shall
- (a) assist the chief electoral officer; and
  - (b) exercise any specific powers delegated to him or her by the chief electoral officer.

**Assistant electoral officer—criteria for eligibility**

18. An assistant electoral officer shall:
- (a) be at least 21 years of age;
  - (b) not be a member of Council of Carcross-Tagish First Nation;
  - (c) not be a candidate in the election;
  - (d) not an employee of the Carcross-Tagish First Nation Administration,
  - (e) refrain from any active or public support or criticism of any candidate, and their campaign; and,
  - (f) understand the voting procedures

**Declaration by an assistant electoral officer**

19. If appointed, an assistant electoral officer shall make a declaration to:
- (a) act impartially;
  - (b) refrain from any active or public support or criticism of any candidate and their campaign;
  - (c) respect the principles associated with a secret ballot;
  - (d) not make public comment or release information on the conduct of the vote or voting that has not been authorized by the chief electoral officer;
  - (e) report and be accountable to the chief electoral officer; and,
  - (f) not be an employee of the Carcross-Tagish First Nation at any point during the election period.

**Appointment of deputy returning officer**

20. At least 21 days before the voting date, the chief electoral officer must appoint sufficient deputy returning officers to conduct the regular election or by-election.

**Deputy returning officer—criteria for eligibility**

21. Each deputy returning officer shall:
- (a) be at least 21 years of age;
  - (b) not be a member of executive council of Carcross-Tagish First Nation
  - (c) not be a candidate in the election;
  - (d) not an employee of the Carcross-Tagish First Nation Administration,
  - (e) refrain from any active or public support or criticism of any candidate, and their campaign; and,
  - (f) understand the voting procedures.

**Declaration by a deputy returning officer**

22. Each deputy returning officer shall make a declaration to:

- (a) act impartially;
- (b) refrain from any active or public support or criticism of any candidate, and their campaign; and,
- (c) respect the principles associated with a secret ballot;
- (d) not make public comment or release information on the conduct of the vote or voting that has not been authorized by the chief electoral officer; and
- (e) report and be accountable to the chief electoral officer.

**Responsibilities and duties of a deputy returning officer**

23. Each deputy returning officer shall be responsible to:

- (a) perform all duties assigned and delegated by the chief returning officer;
- (b) act as a witness to the conduct of the vote;
- (c) observe activities at the voting place;
- (d) assume other duties as required by the chief returning officer; and
- (e) report to the chief returning officer any violations under this Code.

**Criteria for eligibility of a poll clerk**

24. Each poll clerk shall:

- (a) be at least 18 years of age;
- (b) not be a member of executive council of Carcross-Tagish First Nation
- (c) not be a candidate in the election;
- (d) refrain from any active or public support or criticism of any candidate or their campaign; and,
- (e) understand the voting procedures.

**Declaration by a poll clerk**

25. Each poll clerk shall make a declaration to:

- (a) act impartially;
- (b) refrain from any active or public support or criticism of any candidate or their campaign;
- (c) respect the principles associated with a secret ballot;
- (d) not make public comment or release information on the conduct of the vote or voting that has not been authorized by the chief electoral officer; and
- (e) report and be accountable to the chief electoral officer.

### **Responsibilities and duties of a poll clerk**

26. Each poll clerk is responsible to:

- (a) perform all duties assigned and delegated by the chief electoral officer;
- (b) act as a witness to the conduct of the vote;
- (c) observe activities at the voting place and the counting of ballots;
- (d) assume other duties as required by the chief returning officer; and,
- (e) report to the chief returning officer any violations under this Act.

### **Indemnity**

27. At all times, the Carcross-Tagish First Nation shall indemnify and save harmless the voting officers, during good behaviour, from any liability whatsoever and howsoever incurred in performing the duties under this Code.

## **PART FOUR VOTER RIGHTS AND OFFICIAL VOTERS LIST**

### **Qualifications as a voter**

28. (1) Every person shall be qualified to vote at an election who, on the date of voting day, is

- (a) 18 years of age or older; and,
- (b) enrolled as a citizen in good standing according to the *CTFN Citizenship Code*.

(2) For an election, every citizen, 18 years of age or older as of the voting date, shall have the right to one vote for the office of the Haa Shaa du Hen.

(3) Only those citizens whose names are on the official voters list shall be entitled to vote in the election for the office of the Haa Shaa du Hen.

### **Compilation of the official voters list**

29.(1) The chief electoral officer, in association and with the assistance of the registry co-ordinator, shall compile the official voters list that sets out, in alphabetical order, the name of each citizen who has the right to vote in the election.

(2) It shall be the responsibility of the voter to ensure that his or her name appears on the official voters list.

### **Posting of the draft voters list**

30. A draft voters list shall be made available at the time of the call for nominations or at least 60 days prior to the voting date by posting it:

- (a) at the Carcross-Tagish First Nation principal administrative building,
- (b) on the Carcross-Tagish First Nation website, and
- (c) at any other place designated by the chief electoral officer.

**Posting of the preliminary voters list**

**31.** A preliminary voters list shall be made available at least 30 days before the final day of voting by posting it:

- (a) at the Carcross-Tagish First Nation administrative building,
- (b) on the Carcross-Tagish First Nation website, and
- (c) at any other place designated by the chief electoral officer.

**Posting of the official voters list**

**32.** At least 7 days before the final day of voting, an official voters list shall be made available and posted:

- (a) at the Carcross-Tagish First Nation administrative building,
- (b) on the Carcross-Tagish First Nation website,
- (c) any other place designated by the chief electoral officer.

**Revisions to the official voters list**

**33.(1)** At any time, including on the last day of voting, the Registrar of Citizenship shall advise the chief electoral officer, by way of a prescribed form, of any change to the official voters list where it is demonstrated that:

- (a) the name of a voter has been omitted from the list;
- (b) the name of a voter is incorrectly set out on the list;
- (c) the person named on the list is not a citizen; or
- (d) the person named on the list is not at least 18 years of age or older on voting day.

**(2)** The chief electoral officer shall make the necessary changes to the official voters list when direction is received from the registrar of citizen as described in section 33(1).

**34.** Only those members whose names are on the official voters list shall be entitled to vote in the election for the office of the Haa Shaa du Hen.

**PART FIVE**  
**NOMINATION & CANDIDATES**

**Eligibility for the candidacy of Haa Shaa du Hen**

**35.** An individual is eligible to be a candidate for the office of Haa Shaa du Hen if he or she

- (a) is a citizen of Carcross-Tagish First Nation;
- (b) is 21 years of age or older on the date set for the close of nomination;
- (c) has at least fifty (50) eligible voters sign a prescribed nomination form;
- (d) delivers signed and completed in full the necessary nomination forms by the close of nomination as prescribed by section 37.
- (e) has not been removed pursuant to section 13.2 of the Constitution within four years of the writ of election.

**Incumbent candidates**

**36.** An incumbent running for the office of Haa Shaa du Hen shall be bound by the same provisions set out in this Code as any other candidate.

**Nomination forms and time**

**37. (1)** To be considered for candidacy, a citizen shall meet the criteria set out in section 35 of this code and submit the necessary completed form for the office of the Haa Shaa du Hen to the chief electoral officer:

- (a) at any time after the issue of the writ pursuant to subsection 5; but,
- (b) no later than 4 pm, 45 calendar days before the voting date; and
- (c) before four o'clock in the afternoon Yukon Time on the date of the close of nomination at a predetermined location pursuant to subsection 6.

**(2)** It shall be the responsibility of a potential candidate to ensure that all criteria are met and the necessary forms are completed in full and on time for consideration.

**Notice to the prospective candidates**

**38.** Within one business day of a nomination form being filed pursuant to subsection 37(1), the chief electoral officer may:

- (a) verify to the prospective candidate that all conditions prescribed by section 35 have been fulfilled; and/or
- (b) give notice to the prospective candidate of the refusal of his or her candidacy; and
- (a) provide written notice for pickup by the prospective candidate at the elections office of the refusal or acceptance of candidacy.

**(2)** The chief electoral officer shall refuse any candidacy that fails to meet the conditions set out in section 35 this Code.

### **Order of names by the drawing of lots**

39. The chief electoral officer shall determine the order in which the names shall appear on the ballot by the drawing of lots after the close of nominations and the confirmation of eligibility of all nomination forms submitted. This shall be done at a location determined by the chief electoral officer and in the presence of a witness.

### **Acclamations**

40. If only one candidate meets the criteria established in section 35 of this code, the chief electoral officer shall immediately

- (a) declare the candidate elected to the position of Haa Shaa du Hen;
- (b) post, at the Carcross-Tagish First Nation principal administrative office, a notice that sets out the name of the person who has been acclaimed and state that an election shall not be held; and
- (c) section 41 to section 149 do not apply for the office.

### **Withdrawal of a candidate**

41. A candidate may withdraw his or her candidacy at any time up to the close of nominations by submitting to the chief electoral officer a written withdrawal of nomination signed by the candidate in the presence of the chief electoral officer, a justice of the peace, or a public notary.

### **Death of a candidate**

42. If a candidate dies before the closing of the vote, the chief electoral officer shall immediately issue a public notice and make every effort to strike the name of the candidate from the ballot.

### **Notification regarding incapacitation of a candidate**

43. If notified between the close of nomination and voting day that a candidate is incapacitated to an extent that will prevent the candidate from holding office, the chief electoral officer may take action as outlined in section 44.

### **Possible effect on an election**

44. Upon notification pursuant to section 42 or section 43, the chief electoral officer may order that

- (a) the election shall proceed;
- (b) the original election shall be cancelled and that a new election shall be held; or
- (c) if only one candidate remains, state the remaining candidate acclaimed pursuant to section 40.

**Void ballots**

**45. (1)** If for any reason set out in sections 42 or 43 a person is no longer a candidate , the chief electoral officer shall immediately issue a public notice and make every effort to strike the name of the candidate from the ballot.

**(2)** Any votes cast for a candidate who is no longer a candidate pursuant to section 42 or 43 are void and shall not affect the count or results of the final vote.

**PART SIX  
NOTICE OF A VOTE**

**Publication of notice of a vote and candidates**

**46.(1)** The chief electoral officer shall give notice of a vote, as soon as practical after the close of nominations, but at least 40 days before the voting date, by posting it:

- (a) in the Carcross-Tagish Administration building;
- (b) in a newspaper having circulation in CTFN traditional territory;
- (d) on the CTFN website; and,
- (e) at any other location as determined by the chief electoral officer.

**(2)** The Notice shall contain the:

- (a) nature and purpose of the vote;
- (b) list of candidates nominated for the election of Haa Shaa du Hen in the order as they will appear on the ballot;
- (c) Voting Date;
- (d) location, date and time of all voting options;
- (e) chief electoral officer's:
  - (i) name,
  - (ii) office mailing address,
  - (iii) office telephone number,
  - (iv) office facsimile number;
  - (v) office email; and,
- (f) any other information with respect to the vote deemed necessary.

## **PART SEVEN SCRUTINEERS**

### **Appointment of scrutineer**

47. A candidate may, by using the prescribed form, appoint one or more scrutineers to represent the candidate at a voting station.

### **Number of scrutineers in a voting place**

48. No more than one scrutineer for each candidate may be present at a voting poll at any time.

### **Access to a voting station**

49. Upon entering a voting station, each scrutineer shall:

- (a) provide the prescribed appointment form to the deputy returning officer;
- (b) make a declaration as requested by the deputy returning officer.

### **Rules for behaviour of a scrutineer**

50. A scrutineer, while in a voting station, shall obey the requests of the deputy returning officer and

- (a) not influence, harass, or interfere with any voter in the voting station;
- (b) not obstruct or interfere with the deputy returning officer in performing the duties of that office;
- (c) not delay any voter in exercising his or her duties;
- (d) respect the principles associated with a secret ballot; and,
- (e) comply with his/her written declaration.

### **Authority in a voting station**

51.(1) Any dispute as to which scrutineer may be in the room where the vote is taken shall be determined by the deputy returning officer.

(2) The chief electoral officer or deputy returning officer may order any scrutineer to leave the voting station if he or she has reason to believe the scrutineer has failed to comply with section 50 or any other section of this Code.

### **Activity by a scrutineer in a voting station**

52. A scrutineer may, only during the hours of voting,

- (a) examine the poll book or voter sign-in sheets; and
- (b) convey information obtained from the voter sign-in sheets outside the voting station.

### **Inspection of voting documents**

**53. (1)** Ten minutes before the opening of a voting station, any scrutineer present shall be entitled to inspect the ballot papers and all other papers, forms and documents related to the vote.

**(2)** The lack of a scrutineer or candidate shall not prohibit the deputy returning officer from opening a voting station or a poll or invalidate anything done in their absence.

### **Candidate as own representative**

**54.** A candidate may not serve as a scrutineer.

## **PART EIGHT BALLOTS**

### **Ballot**

**55. (1)** Unless section 40 applies, there shall be one ballot for the office of Haa Shaa du Hen.

### **Names on Ballot**

**56. (1)** The names on the ballot shall be printed in the order by which they were drawn by lot pursuant to Section 39, by last name followed by first name according to the name provided on the nomination form.

**(2)** Where two or more candidates have the same last name, such additional information shall be provided as is necessary to distinguish between those candidates on the ballot.

### **Design of ballot**

**57.** Each ballot shall:

- (a)** be designed so that on the reverse side of the ballot, it will have the words "CTFN Election Vote", the voting date, and a box for the initials of the designated returning officer;
- (b)** be designed so that it can be folded after the vote to conceal the marks on the ballot while exposing the initials of the designated returning officer;
- (c)** have a counterfoil and a stub with a line of perforation between the ballot paper, and the counterfoil and a line of perforation between the counterfoil and the stub;
- (d)** be sequentially numbered printed both on the back of the stub and on the back of the counterfoil.

### **Ballot boxes**

**58.(1)** The chief electoral officer shall provide as many ballot boxes as are required for the purposes of the vote at each voting station.

**(2)** Each ballot box shall be:

- (a) made of durable material;
- (b) accompanied by adequate seals;
- (c) designed so that ballots, once deposited, cannot be tampered with; and,
- (d) duly labelled.

### **Sealing of the ballot boxes**

**59. (1)** Within ten minutes before a voting station is to open, the deputy returning officer shall

- (a) open each ballot box to be used at that voting place;
- (b) permit any scrutineer or person present to verify that the box is empty;
- (c) seal each box to prevent it from being opened without breaking the seal; and,
- (d) place each box in public view for the reception of ballots.

**(2)** The seal on a ballot box shall not be broken until the vote is officially closed and the ballots are to be counted except for the reconciliation process at the close of the advance vote or for any reason the chief electoral officer deems necessary to ensure the integrity of the voting process and then only in the presence of a voting officer.

## **PART NINE VOTING RIGHTS**

### **Secrecy of voting**

**60.** The vote shall be by secret ballot.

**61.** Every citizen 18 years of age or older as of the date of the regular vote shall have the right to vote.

**62.** Every person in a voting station shall respect and maintain the secrecy of the voting process.

**63.** No person shall interfere or attempt to interfere with a voter when the voter is marking his or her ballot.

**64.** No person shall ask a voter in the voting station how the voter is about to vote or has voted.

65. There shall be no appointments of another person as a proxy voter.

66. Each person who is eligible to vote according to section 28 of this Code shall have the right to receive a ballot.

### **Voting options**

67. There shall be up to five (5) options available to eligible voters to exercise their vote:

- (a) mail-in voting;
- (b) early voting;
- (c) mobile voting;
- (d) advance voting; and
- (e) regular voting.

## **PART TEN VOTING PROCEDURES**

### **Mail-in voting**

68. (1) A mail-in voting package shall consist o :

- (a) the ballot;
- (b) an outer, postage-paid return envelope, pre-addressed to the chief electoral officer;
- (c) a white, inner envelope marked "ballots enclosed" for insertion of the marked ballot(s);
- (d) a voter declaration and witness security envelope;
- (e) instructions regarding procedures for voting by mail;
- (f) information on other voting options available and how to exercise them.

(2) The package defined in section 68(1) shall be mailed:

- (a) at least **34** days before the voting date to voters whose Address of Record is not within the Yukon; or,
- (b) at least **31** days before the voting date to voters whose Address of Record is within the Yukon.

69. A voter receiving a mail-in ballot may choose to vote in person at the early, advance or regular vote.

### **Criteria for the mail-in ballot to be counted**

70. To be considered for purposes of the count, a mail-in ballot shall be returned in the voter declaration envelope signed by the voter, a witness and received by:

- (a) the chief electoral officer or designate, in person or by mail, before the close of the vote on the regular voting date; or

- (b) a deputy returning officer during the hours of voting at a voting station.

### **Responsibility of the return of ballots**

71. (1) It shall be the responsibility of the voter to ensure that his or her ballot is received pursuant to section 70.

(2) Any costs to return a ballot, other than use of the postage paid return envelope included in the package referred to in section 68(1)(b), shall be the responsibility of the voter.

### **Assistance to vote by mail-in ballot**

72. A voter may seek the assistance of another person to mark a ballot and complete and sign the voter declaration envelope in accordance with this Code.

### **Declaration of witness**

73. (1) A person who signs the voter declaration envelope as a witness confirms that the person who marked the ballot and signed the voter declaration envelope is the person whose name is set out in the declaration.

(2) The failure of a person to sign as witness under subsection 73(1) shall invalidate a ballot and prevent it from being counted.

### **Lost or spoiled mail-in ballot**

74. (1) A voter who inadvertently spoils or loses his or her mail-in ballot may obtain a replacement ballot by contacting the chief electoral officer.

(2) Only one replacement of any ballot shall be allowed for each voter.

### **Extension for mail-in voting**

75. If there is an extension or postponement of the time for the taking of the vote pursuant to section 8(1), the date for receiving mail-in ballots shall be adjusted accordingly.

### **Early voting**

76.(1) Any eligible voter may vote by early ballot.

(2) Once an early ballot has been issued, the voter will be marked and considered as having voted and a line will be drawn through their name in the official voter poll book to record that they have voted.

### **Time limit for early voting**

77. An early ballot may be obtained by any voter from 30 days before the voting date

until noon three days before the voting date, during the hours as set by the chief electoral officer.

**Criteria for early ballot to be counted**

78. To be valid for purposes of the count, an early ballot shall be in a voter declaration envelope signed by the voter and the designated deputy returning officer as the witness.

**Mobile voting**

79.(1) The chief electoral officer may establish a separate, mobile vote for voters in the Carcross-Tagish- Whitehorse area who, for reasons of being housebound or institutionalized, are unable to vote in any other manner under this Code.

(2) The chief electoral officer shall determine whether a voter is eligible to vote under section 79(1).

**Time of mobile operating**

80. The mobile vote shall operate at the discretion of the chief electoral officer based on need and demand.

**Request for a mobile vote**

81. (1) A voter who is housebound or in an institution may ask to vote by mobile vote.

(2) Requests for a mobile vote shall be made directly to the chief electoral officer or the designated deputy returning officer of the mobile vote no later than 12 noon, three days before final voting day.

(3) The mobile vote shall be conducted by a designated deputy returning officer using the mail-in ballot envelopes with the deputy returning officer acting as the witness, and process established by the chief electoral officer.

(4) Once a mobile ballot has been received by the deputy returning officer, a line will be drawn through the name of the voter in the official voter poll book and the voter will be marked as having voted.

**PART ELEVEN  
ADVANCE AND REGULAR VOTING PROCEDURES**

**Advance voting**

82.(1) The chief electoral officer may establish an advance vote and shall publish the date, time and location of such a vote as required under section 46 of this Code.

(2) The same procedures that apply for regular voting shall apply to the advance voting pursuant to section 84 to section 101.

### **Regular voting**

83. Regular voting shall take place from nine o'clock in the morning to eight o'clock in the evening on the date of regular voting, following the procedures outlined in sections 84 to 101 and the instructions provided by the chief electoral officer.

### **Sealing of the ballot boxes**

84. Within ten minutes before a voting station is to open, the deputy returning officer shall complete the following procedures:

- (a) open each ballot box to be used at that voting place;
- (b) permit any scrutineer or person if present to verify that the box is empty;
- (c) seal each box according to the instructions to prevent it from being opened without breaking the seal; and
- (d) place each box in public view to receive ballots.

### **Seal on a ballot box**

85. The seals on a ballot box shall not be broken or the box moved from its location until the vote is officially closed and in accordance with the process described in Part Twelve on the count.

### **Who may be present at a voting station**

86. During the time that the voting station remains open for voting, only the following people may be present:

- (a) the deputy returning officer and the poll clerk;
- (b) one scrutineer for each candidate;
- (c) others concerned with the conduct of the vote as assigned by the chief electoral officer; and
- (d) voters who are present and are actually engaged in voting.

### **Allowing media at a voting station**

87. During the time that voting takes place, representatives of the media may be present only with written permission from the chief electoral officer.

### **Campaign information at a voting station**

88. No candidate or any person may post any campaign materials or undertake any campaign activities at or within 100 meters of the voting station.

### **Badges at voting stations**

89. The chief electoral officer shall issue on voting day to all individuals referred to in paragraphs 86(a) to (c) identification badges to wear in a prominent manner to identify their office.

#### **Procedure to provide the ballot to the voter**

90. When a person present at the advance vote or regular vote requests a ballot for voting purposes, the deputy returning officer shall:

- (a) ensure that the person is on the official voters list;
- (b) if the person is on the official voters list, ensure that the poll clerk:
  - (i) prints the voter's name and number on the voter sign-in sheet,
  - (ii) asks the voter to sign his or her name beside his or her printed name, and
  - (iii) puts a line through the voter's name in the official voters poll book;
- (c) initial the ballot to indicate its valid issuance; and
- (d) provide the initialed ballot to the voter with instructions on marking the ballot.

#### **After receiving the ballot**

91. (1) After receiving the ballot, a voter shall:

- (a) immediately proceed to the compartment provided for marking ballot;
- (b) mark the ballot by placing a cross, check or other mark to indicate clearly and unambiguously the voter's choice;
- (c) fold the ballot concealing the mark on the face of the ballot while exposing the initials of the deputy returning officer; and
- (d) deliver the ballot to the deputy returning officer.

(2) While a voter is in the compartment for the purpose of marking his or her ballot, no other person shall, except as provided for in section 93, be allowed in the same compartment or be in any such position from which he or she can see the manner in which a voter marks his or her ballot paper.

#### **Returning the ballot to the ballot box**

92. Upon receiving the returned ballot, the deputy returning officer shall

- (a) leave the ballot folded;
- (b) verify the initials of the returning officer;
- (c) remove the counterfoil;
- (d) have the voter deposit the ballot in the ballot box; and
- (e) ensure that the poll clerk marks in the official voters poll book in the designated column beside the voter's name that the ballot has been returned.

**Providing assistance to a voter -- deputy returning officer**

93. (1) When requested to do so, the deputy returning officer may explain any voting procedure to a voter.

(2) At the request of a voter who is unable to vote pursuant to section 91(1), the deputy returning officer may, in the presence of the poll clerk,

- (a) explain the voting procedures to the voter;
- (b) identify the candidates in the order as they appear on the ballots;
- (c) assist the voter in casting a ballot in the manner they have requested; and,
- (d) in the case of a person who is visually impaired or physically unable, mark the ballot as instructed by the voter.

**Recording assistance**

94. The deputy returning officer shall identify in the official voters poll book the name of any voter who requested assistance from the deputy returning officer and the reason for assistance.

**Name not on the official voters list**

95. (1) If a person's name is not on the official voters list, that person may be declared eligible to vote if that person:

- (a) has the Registry Coordinator complete and sign the prescribed form;
- (b) has the chief electoral officer complete & sign the prescribed form; and,
- (c) returns the prescribed form completed to the deputy returning officer before the close of the vote on the last day of regular voting.

(2) If a person is declared eligible pursuant to subsection 95(1), the deputy returning officer shall add that person to the official voters poll book.

(3) A deputy returning officer shall not provide a ballot to a person whose name does not appear on the official voters list.

**Voter whose name resembles another on the official voters list**

96. If a person applies for a ballot paper and it is not clear to the deputy returning officer which name on the official voters list pertains to that person, the deputy returning officer shall:

- (a) select, with the assistance of that person if needed, the entry that seems to correspond most closely to the person; and
- (b) enter in the official voters poll book a notation as to how the selection was determined, including any characteristics such as age, sex and address that may distinguish the voter from another voter with the same or a similar name.

### **Impersonated voter**

97. A voter, who on requesting a ballot, claims to be a particular voter after another voter has voted in the same name, shall be entitled to receive a ballot and to vote after making the declaration of an impersonated voter using the designated form.

### **Notation in the poll book**

98. In any case referred to section 97, the deputy returning officer shall enter in the official voters poll book, opposite the name of the voter, a notation,

- (a) that the voter voted on a second ballot paper issued under the same name;
- (b) that the declaration of impersonated voter was made; and
- (c) any objections made by any scrutineer.

### **Spoiled ballot**

99. A voter who has inadvertently dealt with his or her ballot papers in such a manner that it cannot be used may return it to the deputy returning officer who shall then:

- (a) write the word "spoiled" on the back of the spoiled ballot;
- (b) keep the spoiled ballot separate from the ballot box;
- (c) provide another ballot to the voter; and
- (d) make a note in the official voters poll book beside the voter's name.

### **Number of spoiled ballots per voter**

100. Each voter shall be allowed only one spoiled ballot.

### **Refusal of a voter to vote--cancelled ballot**

101. Any voter who receives a ballot and leaves the voting station, without delivering a ballot to the deputy returning officer in the manner pursuant to section 92, or, if after receiving the ballot, refuses to vote, shall forfeit his or her right to cast that ballot and the deputy returning officer shall:

- (a) mark the word "cancelled" on the face of the ballot, if returned;
- (b) ensure that the voter shall not be allowed another ballot;
- (c) make an entry in the official voters poll book indicating that the voter "declined" to cast a ballot; and
- (d) keep the "cancelled" ballot separate from the ballot box.

## **PART TWELVE CLOSING THE POLLS**

### **Closing the polls**

**102.** At the designated closing time, pursuant to section 83, the deputy returning officer shall publicly announce the voting is closed.

**103.** Any voters who are inside a voting place when the voting is declared closed, but who have not yet voted, shall be permitted to vote, but no other voter may be admitted to the voting place to vote.

## **PART THIRTEEN COUNTING THE BALLOTS**

### **Who is present for the count**

**104.** Immediately after the close of the regular vote, the deputy returning officer shall, in the presence and full view of the poll clerk and the scrutineer(s) that are present, proceed with the count according to instructions provided by the chief electoral officer and in the presence of :

- (a) no more than one scrutineer for each candidate for each poll; and
- (b) any other persons who have been authorized by the chief electoral officer.

### **Verifying early votes**

**105. (1)** The deputy returning officer responsible for the early votes shall:

- (a) review all early vote ballot envelopes to ensure the legitimacy of the envelope as instructed by the chief electoral officer;
- (b) open the declaration envelope and place its contents into the designated ballot box; and,
- (c) after all envelopes have been dealt with in this manner, open all the ballot enclosed envelopes and place any ballot in the designated ballot box for purposes of counting, making a note if an envelope does not include a ballot issued.

**(2)** During the course of transfer to the ballot box, any accidental disclosure of how the ballot is marked shall be kept confidential but shall not negate the validity of the ballot.

### **Verifying that mobile voters**

**106.** The deputy returning officer for the mobile votes shall deal with all mobile envelopes in the same manner as prescribed in section 105.

### **Verifying that mail-in voters only voted once**

**107. (1)** The deputy returning officer for the mail-in votes shall review all mail-in ballot envelopes to ensure the legitimacy of the envelope by checking against the official voters poll book by way of the following :

- (a) if a mail-in ballot envelope is received from a voter who appears to have voted at the advance, regular, early, or mobile vote, the envelope shall be set aside unopened and the deputy returning officer shall note on the envelope "cancelled" and the reason for setting aside the envelope and make the same notation beside the voter's name in the official voters poll book;
- (b) if the voter does not appear to have voted otherwise, the deputy returning officer shall verify there is a voter signature and a witness signature on the declaration envelope and :
  - (i) a line shall be drawn through the voter's name in the official voters poll book to indicate that he or she has voted, and
  - (ii) the deputy returning officer shall open the declaration envelope and place its contents into the designated ballot box;
- (c) if the declaration envelope does not have the voter's & witness signature, the deputy returning officer shall note on the envelope "cancelled" and the reason for setting aside the envelope and make the same notation beside the voter's name in the official voters poll book;
- (d) after all mail-in envelopes have been dealt with in this manner, the deputy returning officer shall open the ballot enclosed envelope and place any ballots in the designated ballot box for purposes of counting, making a note if an envelope does not include all ballots issued according to the instructions provided by the chief returning officer.

**(2)** During the course of transfer to the ballot box, any accidental disclosure of how the ballot is marked shall be kept confidential but shall not negate the validity of the ballot.

### **Opening the ballot boxes**

**108.** Upon direction of the chief electoral officer, each deputy returning officer shall open their respective ballot box and proceed to count the votes in the respective boxes and according to the instructions provided by the chief electoral officer.

### **Ballot reconciliation**

**109.** Each deputy returning officer shall follow the procedures set out by the chief electoral officer and record all information on the forms provided by the chief electoral officer.

**110.** The deputy returning officer shall examine each ballot, show the ballot to each person present, and determine the number of ballots clearly marked for each of the candidates.

### **Rejection of ballots**

**111.** The deputy returning officer shall reject any ballot:

- (a) upon which votes have been cast for more candidates than are to be elected;
- (b) upon which anything appears by which the voter can be identified;
- (c) that has not been marked for any candidate;
- (d) that does not indicate a clear and unambiguous preference for one candidate; or,
- (e) that is not on an official and valid ballot.

### **Recording of rejected ballots**

**112.** On the back of each rejected ballot, the deputy returning officer shall mark "rejected", indicate the reason for the rejection and initial the ballot.

### **Objections to a rejected ballot**

**113. (1)** If a scrutineer objects to the acceptance or rejection of a ballot, the deputy returning officer shall:

- (a) make a note of the objection on the form provided;
- (b) number the objection;
- (c) place the same number on the back of the ballot in question;
- (d) initial the number on the back of the ballot; and
- (e) decide any questions arising out of the objection and, if necessary, in consultation with the chief electoral officer.

**(2)** The decision of the deputy returning officer shall be final.

### **Preparing the statement of vote**

**114.(1)** After all ballots from each ballot box have been examined, and accepted or rejected pursuant to sections 109 to 113, the deputy returning officer shall

- (a) count the votes for each candidate on the ballots not rejected; and
- (b) prepare on the "statement of vote" provided the
  - (i) date of the vote,
  - (ii) total number of citizens who voted at voting station,
  - (iii) total number of ballots supplied by the chief electoral officer,
  - (iv) total number of ballots unused,
  - (v) total number of spoiled and cancelled ballots,
  - (vi) total number of ballots cast,
  - (vii) total number of ballots cast that were rejected, and

- (viii) total number of ballots cast for each candidate for Haa Shaa du Hen.

### **Signing the statement of vote**

**115. (1)** The written statement referred to in section 114(1)(b) shall be signed by:

- (a) the deputy returning officer who carried out the count;
- (b) the poll clerk.

**(2)** The written statement referred to in section 114(1)(b) may be signed by any scrutineer who is present but is not invalidated if none are present.

### **Witnessing the sealing of votes**

**116.** At the completion of the counting of the votes and in the presence of any scrutineer who may still be present, the deputy returning officer shall make up and seal in separate envelopes, as provided, the

- (a) ballots for each candidate that have been counted;
- (b) rejected ballots, including any notes taken on objections made to ballots found in the ballot box;
- (c) unused ballots;
- (d) cancelled and spoiled ballots; and
- (e) list of eligible voters and the official voters poll book.

### **Delivering all material to the chief electoral officer**

**117.** The deputy returning officer shall

- (a) sign and write a description of the contents on the packet; and
- (b) deliver all material used during the vote to the chief electoral officer as instructed.

### **Validation of votes and disposition of the ballots**

**118. (1)** The chief electoral officer shall

- (a) take possession of all voting boxes and materials;
- (b) prepare a summary Statement of the Vote for each position voted that includes:
  - (i) date of the vote,
  - (ii) total number of voters who voted per poll,
  - (iii) total number of ballots supplied,
  - (iv) total number of ballots unused,
  - (v) total number of spoiled and cancelled ballots,
  - (vi) total number of ballots cast,
  - (vii) total number of ballots cast that were rejected,
  - (viii) total number of ballots cast for each candidate for Haa Shaa du Hen
- (c) keep all packets secure until the time for consideration of all appeals has passed; and

- (d) destroy the packets only after
  - (i) the time for any appeal has passed, and
  - (ii) all appeal procedures have been concluded.

(2) The chief electoral officer shall validate the votes and provide a certificate of validation to the Executive Council within seven days after the close of the regular vote unless a judicial recount has been initiated under part fifteen of this Code.

(3) If a judicial recount under section 134 is in progress, the chief electoral officer shall provide a certificate of validation to the Executive Council within 7 days after the decision of the judicial recount.

(4) For the purposes of section 118(2) and 118(3), the Executive Council may designate a person to act on behalf of the Executive Council to receive the certificate of validation.

#### **Declaration of the candidate or candidates elected**

**119.(1)** Subject to subsection 119(2), immediately after the completion of the counting of the ballots pursuant to section 109 to section 118, the chief returning officer shall

- (a) publicly declare to be elected the candidate for whom received the greatest number of votes cast for the position of Haa Shaa du Hen ;
- (b) cause to be published the results of the vote for each candidate and the name of the person elected or acclaimed to the office of Haa Shaa du Hen
  - (i) in the Carcross-Tagish First Nation Administration building; and,
  - (ii) in a newspaper having circulation in the CTFN traditional territory; and,
  - (iii) on the Carcross-Tagish First Nation website.

(2) If the difference between the number of votes cast for the candidate receiving the greatest number of votes and the next highest candidate is three or less, including a "tie", the chief electoral officer shall declare the results as "preliminary" and to be verified by an automatic recount pursuant to Part Fourteen.

## **PART FOURTEEN AUTOMATIC RECOUNTS**

### **Automatic recount by the chief electoral officer**

**120.** An automatic recount, pursuant to subsection 119(2), shall be conducted by the chief electoral officer if the difference between the number of votes cast for the candidate receiving the greatest number of votes and the next highest candidate is three or less, including a "tie".

### **Time and place of automatic recount**

**121. (1)** The automatic recount shall take place at noon the day after the regular vote, or as soon as practical thereafter, at the office of the chief electoral officer in Carcross unless the chief electoral officer notifies the candidates otherwise.

**(2)** In any event, the automatic recount shall take place within 48 hours of the close of the regular vote.

### **Who may attend**

**122.** The following people may attend an automatic recount:

- (a) each candidate affected and one of his/her representatives; and,
- (b) the necessary poll staff as determined by the chief electoral officer.

### **No other person may attend**

**123.** Except with the permission of the chief electoral officer, only those persons referred to in section 122 may be present at an automatic recount. The chief electoral officer may delay the recount for up to two hours to ensure that there is a witness present.

### **Documents to be supplied**

**124.** The chief electoral officer shall bring all relevant voting materials to an automatic recount, including:

- (a) the ballot boxes;
- (b) the statements of the vote used to validate the results; and
- (c) all ballots cast and other material used as prescribed by section 116.

### **Documents that may be examined**

**125.** At an automatic recount, the chief electoral officer shall open the sealed envelopes that contain the used and counted ballots, unused ballots, rejected ballots, spoiled and cancelled ballots. The chief electoral officer shall not open any envelopes that appear to contain other documents or refer to any other voting materials other than the voter sheets.

**Steps to be taken by the chief electoral officer**

126. At an automatic recount, the chief electoral officer shall

- (a) count all ballots according to section 109 to section 116;
- (b) verify or correct, if necessary, each statement of the vote; and
- (c) review the decision of the deputy returning officer with respect to the number of votes cast for a candidate.

**Clerical assistance**

127. The chief electoral officer may be assisted in counting at an automatic recount by other voting officials, but shall personally make all decisions regarding the acceptance or the rejection of ballots that were subject to an objection pursuant to sections 111 to 113.

**Proceedings to be continuous**

128. As far as practicable, an automatic recount shall proceed continuously except for necessary breaks.

**Security of documents**

129. During a break referred to in section 128, the chief electoral officer or any other person who has possession of ballots and other voting documents shall keep them sealed in parcels and the seal shall be signed by the chief electoral officer and may be signed by any other person in attendance.

**Reverse of a decision of another election official**

130. The chief electoral officer may reverse the decision of another election official regarding the counting of the ballots at an automatic recount. If this is done, the chief electoral officer shall make a note of doing so.

**Procedure at completion of automatic recount**

131. At the completion of an automatic recount, the chief electoral officer shall

- (a) seal the ballots in a separate envelope for each voting station pursuant to section 116;
- (b) mark on the original statement of vote any changes made pursuant to this section or prepare a new statement of vote of the results of the counting pursuant to section 118(b);
- (c) seal the ballot boxes; and,
- (d) make public the results of the recount.

**When there is a tie**

**132. (1)** Where two or more candidates with the most votes have an equal number of votes, the chief electoral officer shall announce there will be a run off vote between the candidates who are tied with the most votes.

**(2)** Once a tie has been verified, the chief electoral officer shall provide a certificate of validation to Executive Council as required under section 118(2).

**(3)** Upon receipt of the certificate of validation, Executive Council shall immediately issue notice of a run-off election date as stated in section 6(1) b.

**(4)** There will be no nomination period for a run off vote. The two or more candidates with the most votes that are tied will be considered being nominated for purposes of administration.

**(5)** Other than stated in section 132(4), a vote to break a tie shall be administered in the same manner as for a general or by-election as outlined in this code.

**(6)** Where two or more candidates with the most votes have an equal number of votes after the run off vote, the drawing of lots by the chief electoral officer or his or her designate shall resolve the tie by the following procedure:

- (a) additional ballots will be marked for each candidate who is tied;
- (b) the ballots shall be folded in a uniform manner in such a way that the names of the candidates are not visible;
- (c) the ballots shall be placed in a container that is sufficiently large enough to allow them to be shaken for the purpose of making their distribution random and the container shall be shaken for this purpose;
- (d) the chief electoral officer shall direct a person who is not a candidate or candidate representative to withdraw one paper; and
- (e) the chief electoral officer shall declare elected the candidate whose name is on the ballot that was drawn.

**Deadline for the declaration of results**

**133. (1)** Before noon on the third day following the close of regular voting, the Chief Electoral Officer shall declare the results of an automatic recount.

**(2)** The decision of the chief electoral officer shall be final and cannot be appealed to any other body or Court

**PART FIFTEEN  
APPLICATION FOR JUDICIAL RECOUNT**

**Grounds for a judicial recount**

**134. (1)** An application to the electoral adjudicator for a judicial recount may only be made for one or more of the following reasons:

- (a) the ballots were not correctly accepted or rejected as required;
- (b) a statement of the vote does not accurately record the number of valid votes for a candidate; or
- (c) the final determination did not correctly calculate the total number of valid votes for a candidate.

**(2)** The application to the electoral adjudicator shall specifically set out the facts on how the ballots were improperly counted and shall be supported by a credible witness.

**(3)** An application may not be made if an automatic recount has already been done.

**Time for an application**

**135. (1)** An application to the electoral adjudicator may be made not later than three business days after the close of the regular vote.

**(2)** Upon receipt of the application, the electoral adjudicator shall set a time for the recount that is convenient to complete the recount within the time limit prescribed by section 138.

**Who can make an application**

**136.** Any candidate may apply to the electoral adjudicator in writing stating the grounds for an application for a recount according to the terms prescribed by section 134.

**Notification**

**137. (1)** The candidate making the application to the electoral adjudicator shall provide enough copies of their application under section 134 for the:

- (a) electoral adjudicator;
- (b) chief electoral officer; and,
- (b) affected candidates in the election.

**(2)** The electoral adjudicator shall decide the method of delivery of the notice of recount to those as outlined in section 137(1)

### **Date for a recount**

**138.** A judicial recount shall be conducted in accordance with this Part and be completed not more than five days after the close of the regular vote at the office of the chief electoral officer in Carcross.

### **Persons present at a judicial recount**

**139. (1)** The electoral adjudicator shall allow the following persons to be present and be heard at a judicial recount :

- (a) person who made the application;
- (b) chief electoral officer;
- (c) candidates in the election and up to one of his or her representatives; and,
- (d) any other person with permission of the electoral adjudicator.

(2) Except with the permission of the electoral adjudicator, no person other than those referred to in subsection 139(1) may be present at the recount.

### **Materials to be used**

**140.** The chief electoral officer shall attend the recount and bring all voting material used to determine the official voting results, including

- (a) the ballot boxes;
- (b) the statements of the vote used to validate the results; and
- (c) all ballots cast and other material used as prescribed by section 116.

### **Documents that may be examined**

**141.** If a recount of all of the ballots returned is required, the electoral adjudicator may open the sealed envelopes that contain the used, unused, rejected, spoiled and canceled ballots. The electoral adjudicator shall not open any envelopes that appear to contain other documents or refer to any other voting documents.

### **Steps to be taken by the electoral adjudicator**

**142.** At a recount, the electoral adjudicator shall

- (a) open the ballot boxes containing the ballots for which a recount is requested;
- (b) count the ballots in the manner prescribed for a deputy returning officer; as outlined in sections 109 thru 116; and,
- (c) verify or correct, if necessary, each statement of vote.

### **Additional powers of the electoral adjudicator**

**143.** For the purpose of conducting a recount, the electoral adjudicator has the power to summon any deputy returning officer or poll clerk as a witness and to require him or her to give evidence on oath.

**Clerical assistance**

144. At the recommendation of the chief returning officer, the electoral adjudicator may retain the services of support staff to assist in the performance of its duties under this Part.

**Proceedings to be continuous**

145. The electoral adjudicator shall, as far as practicable, proceed continuously with a recount except for necessary breaks.

**Security of documents**

146. (1) Unless otherwise directed by the electoral adjudicator, the ballot boxes shall remain in the custody of the chief electoral officer.

(2) During a recess or a break referred to in section 145, the electoral adjudicator or any other person who has possession of ballots and other election documents shall keep them sealed in parcels, the seal of which shall be signed by the electoral adjudicator and may be signed by any other person in attendance.

**Supervision of sealing**

147. The electoral adjudicator shall supervise the parceling and sealing of ballots and documents at a recount and take all necessary precautions for their security.

**Electoral adjudicator may terminate a recount**

148. (1) The electoral adjudicator may refuse to hear an application if it deems the application without merit.

(2) The electoral adjudicator may, at any time, terminate a recount, if requested in writing, by the person who applied for the recount.

**Procedure at completion of a recount**

149. (1) At the completion of a recount, the electoral adjudicator shall:

- (a) seal the ballots in separate envelopes for each polling station pursuant to section 116;
- (b) without delay, prepare a statement of vote that sets out the number of votes for each candidate pursuant to section 118;
- (c) deliver the original of the statement of vote to the chief electoral officer and a copy to the election committee; and
- (d) make public the results of the recount.

(2) Where two or more candidates have the most and an equal number of votes, section 132, shall resolve the tie.

(3) The decision of the electoral adjudicator shall be final.

## **PART SIXTEEN APPEAL**

### **Grounds and time limit for an appeal**

**150. (1)** Within fourteen consecutive days after the close of the vote on regular voting day, a voter may submit a written appeal to the electoral adjudicator detailing the evidence regarding:

- (a) corrupt practices in connection with the election;
- (b) a violation of this Code that might have affected the result of the election;  
or
- (c) a candidate in the election who is ineligible to be a candidate.

**(2)** At the time an application is filed, the electoral adjudicator shall set a date for it to hear the application.

**(3)** The electoral adjudicator shall hear and determine an appeal under subsection 150(1) as soon as possible and, for this purpose, shall ensure that the proceedings are conducted as expeditiously as possible.

**(3)** The electoral adjudicator may refuse to hear an application if it deems the application without merit.

### **Notice by the electoral adjudicator**

**151. (1)** Where an appeal is submitted pursuant to section 150(1), the electoral adjudicator shall forward a copy of the appeal and all supporting documents within five business days to

- (a) the chief electoral officer; and,
- (b) each candidate affected by the appeal.

**(2)** The chief electoral officer, or any candidate may, within 14 consecutive days of the receipt of the copy of the appeal, forward to the electoral adjudicator a written submission addressing the details of the appeal with any supporting documents.

### **Documents made public**

**152. (1)** All documents filed in accordance with this Part shall constitute and form the record and be available to the public.

**(2)** The electoral adjudicator may, if the material that has been filed is not adequate for deciding the validity of the election, conduct such further investigation into the matter as it deems necessary and in such manner as it deems expedient.

### **Withdrawal of an application**

**153.** If a candidate affected by an application files a written statement renouncing all claim to the office to which the candidate was elected, the electoral adjudicator may permit the petition for the application to be withdrawn.

### **Limit of finding fault**

**154.** The electoral adjudicator shall not declare an election result invalid or void by reason only of an irregularity or failure to comply with this Code if it is satisfied that

- (a) the election was conducted in good faith and substantially in accordance with the provisions of this Code, and
- (b) the irregularity or failure did not materially affect the result of the election.

### **Declaration of judgment**

**155. (1)** Upon the completion of its review of an appeal, the electoral adjudicator shall provide written reasons for its decision that orders the election result is either:

- (a) confirmed as valid;
- (b) invalid and that another election shall be held to fill the position;
- (c) invalid and that the office is vacant; or
- (d) invalid and that another candidate is duly elected.

**(2)** On the hearing of an application, pursuant to paragraph 150(1)(c), regarding the qualification of an elected candidate to take office, the electoral adjudicator shall declare that the candidate is:

- (a) confirmed as qualified to take and hold office; or,
- (b) not qualified to hold office and that the office is vacant; or
- (c) not qualified to hold office and that the candidate who received the next highest number of valid votes is elected in place of the disqualified candidate.

**(3)** All decisions by the electoral adjudicator shall be final.

## **PART SEVENTEEN MISCELLANEOUS**

### **When elected candidates may take office**

**156. (1)** A candidate declared elected pursuant to section 119, 133 or 149, shall take office within seven (7) calendar days of the vote.

**(2)** A candidate declared elected pursuant to section 119, 133 or 149 shall make the oath of office after the period for a judicial recount has been completed.

**Status of an elected candidate**

157. A person affected by an application, pursuant to section 150, who has been declared elected shall be entitled to hold office and to vote and otherwise act in the office unless and until the electoral adjudicator declares the candidate disqualified and the office vacant.

**Records of election results**

158. (1) The Executive Council administration shall maintain an archive of election results and relevant material.

**Availability of registry coordinator**

159. The registry coordinator, or his or her qualified designate, shall be available to the chief electoral officer for any matter arising with regard to the voters list referred to in subsection 29. The registry coordinator shall be available from the time of the order for an election, referred to in section 6, until voting day, pursuant to section 28(a), and for the time of an application for appeal pursuant to Part Sixteen, if applicable.

**Regulations**

160. The Executive Council may, from time to time, make regulations providing for any matter that is required by this Code to be prescribed.

**Violations of this code**

161. A person who knowingly violates any sections of this Act commits an offence.

**Code in force**

162. This Code comes into force on a day to be fixed by the Executive Council.

Date	Section	Change	Explanation
April 18 <sup>th</sup> , 2019	Section 35	Amended	e) was added: has not been removed pursuant to section 13,2 of the Constitution within 4 years of the writ of election

This Code approved in principle by resolution at the General Council meeting of December 3-4, 2011 and approved by resolution at the Executive Council meeting of January 20, 2012. Executive Council amended April 18<sup>th</sup>, 2019.



Ishkaahittan Clan

Lynda Dickson



Deisheetaan Clan

Maria Benoit



Kookhittaana Clan

Robert Wally



Gaanaxtedi Clan

Corey Edzerza



Yan Yeidi Clan

George Shepherd



Daklaweidi Clan

Charlie James

