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Proposed Final Edition



## **DÄN NATS'ÉLAW**

**(Translation in English: "People We Are Going To Pick")**

**Approved by the Assembly**

\_\_\_\_\_, 2023

# DÄN NATS'ÉLAW

## Preamble

Recognizing that we, the Little Salmon/Carmacks people, have an inherent right of self-government which is recognized and protected by the Constitution of Canada; and

Recognizing that selecting the leaders of our First Nation in a manner of our own choosing is fundamental to the exercise of our right of self-government; and

Recognizing that our Self-Government Agreement with Canada and Yukon acknowledges that our First Nation has the exclusive power to enact laws in relation to the administration of our First Nation's affairs, among other things; and

Recognizing that we wish to integrate our practices and traditions, including our traditions of respect, caring, sharing and teaching, with a contemporary form of government for our First Nation; and

Recognizing that our leaders now provide their leadership of our First Nation collectively by way of the Council established under our Constitution;

We, the Citizens of Little Salmon/Carmacks First Nation, gathered together in Assembly and in exercise of the power provided to the Assembly by our Constitution, do now provide this law for choosing the leaders of our First Nation.

## Citation

1. This law may be cited as Dän Nats'élaw, 2023 or as the Little Salmon/Carmacks First Nation Election Act, 2023 and is referred to herein as this "Act".

## Application

2. (1) The Council of the Little Salmon/Carmacks First Nation shall be chosen in accordance with this Act.
- (2) For greater certainty, nothing in this Act shall affect the Council in office at the time this Act is approved by the Assembly.

## Interpretation

3. In this Act, including the preamble hereto,

“Assembly” means an Assembly described in the Constitution;

“Chief Returning Officer” and “Deputy Returning Officer” mean the person(s) so retained under Part 2 of this Act;

“child” means a Citizen who is the natural child of a Citizen or a child adopted by a Citizen;

“Citizen” means a person whose name duly appears on the First Nation’s official list of citizens;

“Commission” means the Election Commission established under this Act;

“Constitution” means the constitution of the First Nation, as amended from time to time;

“Council” means the Council as constituted and empowered under the Constitution, which may also be known as Dän Yatthi Deth’i;

“day” means a calendar day;

“election” means a general election, a by-election or a run-off election, as the case may be;

“Election Review Board” or “Board” means the board established under Part 8 of this Act;

“elector” means a Citizen whose name appears in accordance with this Act on the Voters List for an election and who is or will be 16 years of age or more on the date of the election;

“First Nation” means the Little Salmon/Carmacks First Nation recognized under the Little Salmon/Carmacks First Nation Final Agreement signed on July 21, 1997 and constituted as set out in the Little Salmon/Carmacks First Nation Self-Government Agreement signed on July 21, 1997 and the Constitution;

“Senior Official” means the First Nation official identified by the Council to have senior administrative responsibility for the implementation of this Act;

“special ballot” means a ballot able to be cast by an elector who is unable

to attend at a polling station and includes a ballot able to be cast by mail;

“Standing Committee” means the Standing Committee on the Constitution established by the Assembly and appointed by the Assembly or the Council, as the case may be; and

“Voters List” means the initial list or the final list, as the context may require, of Citizens who are the electors in an election.

### **Computation of Time**

4. Where anything is to be done:
  - (a) before or not later than or not more than a number of days at which an event is to occur, the time to be counted shall begin on the first day after the day on which the initiating activity occurs and shall end on the last day of the period specified; and
  - (b) at least or not less than a number of days at which an event is to occur, the time to be counted shall begin on the day on which the initiating activity occurs and shall end no sooner than the last day of the period specified.

### **Paramountcy**

5. Words or phrases which are capitalized but not defined in this Act shall have the meaning assigned to them in the Constitution.
6. The provisions of this Act shall prevail in the event of an inconsistency or conflict with the *Interpretation Act* (Canada).

## **PART 1**

### **ELECTION OVERSIGHT**

#### **Election Commission**

7. The Election Commission is hereby established.

#### **Mandate**

8. The Commission shall:
  - (a) maintain and promote our traditions of respect, caring,

sharing and teaching in the discharge of its duties and the exercise of its discretion under this Act;

- (b) maintain the fairness and integrity of each election;
  - (c) oversee the activities of the Senior Official and the Chief Returning Officer and provide direction to them as the Commission may deem appropriate in the circumstances;
  - (d) respond promptly to any question or concern raised by an elector or candidate, or by the Senior Official or the Chief Returning Officer, with respect to the election process; and
  - (e) take all such actions as the foregoing may require or as otherwise may be needed to give effect to this Act.
9. If it deems helpful to the better conduct of an election, the Commission may:
- (a) modify any voting procedures under this Act, if the Commission believes the circumstances require the modification; and
  - (b) delegate the exercise of any of its authority to the Senior Official or the Chief Returning Officer on such terms as the Commission may deem appropriate.

### **Members**

10. The Commission shall consist of three individuals, one being a Citizen and member of the Wolf Clan, one being a Citizen and member of the Crow Clan and one being any person.

### **Qualifications**

11. Each member of the Commission shall:
- (a) be ordinarily resident in the Yukon Territory;
  - (b) be able to attend to their duties responsibly and to exercise their discretion on a strictly neutral basis; and
  - (c) have relevant experience.

### **Elder Advisor**

12. There shall be an Elder Advisor to the Commission. The Elder Advisor shall not be a member of the Commission but, at the Commission's request, may provide advice to the Commission on any matter arising under this Act.
13. The Elder Advisor shall have the qualifications set out in subparagraphs 11 (a) and (b).

### **Appointment**

14.
  - (1) Members of the Commission and the Elder Advisor shall be appointed by and shall serve at the pleasure of the Standing Committee.
  - (2) The Standing Committee shall endeavour to appoint the first members of the Commission and the Elder Advisor within 120 days after the date this Act comes into force.
15. Members of the Council shall not be eligible for appointment as a member of the Commission or as the Elder Advisor. Members of the Commission shall not be eligible for appointment as the Elder Advisor.
16.
  - (1) All of the members of the Commission and the Elder Advisor shall be appointed as of the same date.
  - (2) The first members of the Commission who are Citizens and a member of either the Wolf Clan or the Crow Clan shall be appointed for a term of three years.
  - (3) The first member of the Commission who may be any person, and the first Elder Advisor, shall be appointed for a term of 2 years.
  - (4) Each member of the Commission and the Elder Advisor thereafter shall be appointed for a term of three years.
17. Nothing shall prevent a person from being re-appointed by the Standing Committee to the Commission or as the Elder Advisor for a further term.

### **Oath of Office**

18. Prior to taking office, each person who is appointed as a member of the Commission or as the Elder Advisor shall solemnly swear or affirm in writing that, as applicable:  
I, \_\_\_\_\_, do hereby swear (or affirm) that I accept

office as (a member of)(the Elder Advisor to) the Election Commission and that, to the best of my ability, I will perform my duties faithfully and in accordance with Dän Nats'élaw, also known as the Little Salmon/Carmacks First Nation Election Act.

## **Vacancies**

19. The Standing Committee shall fill any vacancy in the Commission or Elder Advisor as soon as practicable by way of a new appointment for the balance of the applicable term.

## **Conflict of Interest**

20. (1) A member of the Commission or the Elder Advisor has a conflict of interest if they are a candidate in an election that has been called.
  - (2) If a member of the Commission or the Elder Advisor intends to seek nomination as a candidate in an election, that person shall endeavour to so advise the Standing Committee at the earliest practicable date.
21. When a person has a conflict of interest described in subsection 20 (1):
  - (a) their appointment as a member of the Commission or Elder Advisor, as the case may be, shall be deemed to be suspended with immediate effect; and
  - (b) the Standing Committee, as soon as practicable, shall appoint a suitably qualified person to serve as a member of the Commission or Elder Advisor, as the case may be, until the completion of all proceedings in respect of that election.
22. (1) If a member of the Commission or Elder Advisor who was a candidate in the election is elected to the Council, then that person shall be deemed to have resigned from the Commission or as the Elder Advisor as of 12.01 a.m. on the day immediately following the day of the election.
  - (2) If a member of the Commission or Elder Advisor who was a candidate in the election is not elected to the Council, then their suspension under subparagraph 21 (a) shall terminate as of 12.01 a.m. on the day immediately following the completion of all proceedings in respect of that election.

## **Procedures**

23. The quorum for a meeting of the Commission shall be all of its members.
24. The Commission shall strive to make decisions by way of unanimous agreement but, in the absence of unanimity, may make any decision by majority vote.
25. Any meeting of the Commission may be held in person or by means of telecommunication which enable all of its members to be heard.
26. The Commission may establish such further rules and procedures as it deems helpful for the better conduct of its proceedings.

## **PART 2**

### **ADMINISTRATION**

#### **Budget**

27. The Council shall ensure that the First Nation's annual budget adequately provides for the expected costs to implement this Law in that fiscal year.

#### **Election Officials**

28. In all matters concerning an election, the Senior Official, the Chief Returning Officer, any Deputy Returning Officer and poll clerk, and any First Nation official or service provider assigned to assist in the election process, shall be liable to the direction of the Commission in respect of the performance of their duties under this Act.

#### **Senior Official**

29.
  - (1) The Senior Official, with the approval of the Commission, shall retain a Chief Returning Officer for each election.
  - (2) An arrangement under subsection (1) may be for a single election period or for a longer period of time.
30. The Senior Official shall:
  - (a) ensure that the Commission, the Election Review Board and the Chief Returning Officer are provided with such resources and administrative support as the Senior Official determines they reasonably require; and



- (b) exercise any authority delegated to them by the Commission.

### **Chief Returning Officer**

- 31. The Chief Returning Officer shall have responsibility for the diligent and timely performance of the duties assigned to them by this Act and otherwise, in consultation with the Senior Official, as needed for the effective and orderly administration of an election.
- 32. For the purposes of section 31, the Chief Returning Officer:
  - (a) shall retain, with the approval of the Senior Official, and shall exercise operational and administrative responsibility for such Deputy Returning Officers and poll clerks as they reasonably may require to assist in the administration of an election;
  - (b) may provide a Deputy Returning Officer with operational responsibility, under the supervision of the Chief Returning Officer, for the conduct of the vote and the maintenance of order and decorum at any polling station not in Carmacks; and
  - (c) shall exercise any authority delegated to them by the Commission.
- 33. The Chief Returning Officer shall be accountable to the Senior Official in respect of the administration of their engagement.

### **Neutrality**

- 34. In all matters under this Act, the Commission, the Board, the Senior Official, the Chief Returning Officer, any Deputy Returning Officer and poll clerk, and any First Nation official or service provider assigned to assist in the election process, shall in the performance of their functions:
  - (a) remain strictly neutral; and
  - (b) perform their functions at arms length from the Council then in office.

Nothing in this section 34 shall prevent such a person, if an elector, from voting in the election.

- 35. No First Nation funds shall be expended or resources provided for a

purpose which benefits any candidate over another.

### **PART 3**

#### **ELECTION REQUIREMENTS**

##### **General Election**

36. Except as provided in this Part, the Council shall be chosen by way of a general election.
37. A general election shall be held on the first Wednesday of November every 4 calendar years, commencing in November, 2024.

##### **By-Election**

38. If a vacancy occurs in the Council:
  - (a) more than 6 months immediately prior to the next date for a general election;
  - (b) with the result that the Council lacks a quorum; or
  - (c) as a result of proceedings under section 112;a by-election shall held to fill the vacancy.
39. Forthwith after determining that there is a vacancy described in section 38, the Senior Official shall notify the Commission in writing of the need for a by-election.
40. A by-election shall be called within 14 days after the date the Commission receives the notice described in section 39 and shall be held on a date to be fixed by the Commission.

##### **Run-Off Election**

41. (1) If, after a recount of the vote, there is a tie in the highest number of votes cast in a general election or by-election for candidates for the office of Chief, Deputy Chief, Elder Councillor or Youth Councillor, respectively, a run-off election shall be held for that office.
- (2) A run-off election shall be called within 3 days after the date

of the recount of the vote and shall be held on a date to be fixed by the Commission.

- (3) Only those candidates who were tied as described in subsection (1) may be candidates in the run-off election.

### **No Run-off Election Required**

42. If, after a recount of the vote, there is a tie in the second highest number of votes cast for candidates for the office of Wolf Clan Councillor or Crow Clan Councillor, as the case may be, the candidate to be declared elected to that office shall be decided forthwith by the flip of a coin onto the ground administered by the Chief Returning Officer as between or among only those candidates.

## **PART 4**

### **ELECTORS**

43. In an election, each elector shall have the right to cast one vote in respect of the candidates for each office to be filled by way of that election.

### **Initial Voters List**

44.
  - (1) Within 10 days after an election is called, the Senior Official shall deliver to the Commission and the Chief Returning Officer the initial Voters List for that election.
  - (2) The initial Voters List shall include the name of each Citizen who will be 16 years of age or older as of the date of the election, according to the First Nation's official list of its Citizens as of the date the election is called.
  - (3) At a Citizen's request, the Senior Official shall redact the name of that Citizen on any edition of the Voters List which is to be posted pursuant to subparagraphs 45 (a) or (b).

### **Notice of the Voters List**

45. The Chief Returning Officer shall cause a copy of the initial Voters List to be:
  - (a) posted at the offices of the First Nation in Carmacks and Whitehorse within 10 days after the election call;

- (b) posted at each polling station, whenever that station is open to electors; and
- (c) available at the same time to each candidate in the election.

### **Amendments to the Initial Voters List**

- 46. If, after delivery of the initial Voters List and before the date of the election, the First Nation's registrar of Citizens adds to the First Nation's official list of Citizens the name of a person who will be 16 years of age or older as of the date of the election, the Senior Official shall provide timely notice of that addition to the Commission and the Chief Returning Officer and the name of that person shall be included on the final Voters List.
- 47. (1) A Citizen whose name does not appear on the initial Voters List or whose name appears incorrectly and who believes they are qualified to be an elector in the election may apply to the Chief Returning Officer (directly or via a Deputy Returning Officer) in writing and with reasons for their name to be included on the final Voters List.
- (2) If, prior to the close of the polls on the date of the election, a Citizen described in subsection (1) is determined by the Chief Returning Officer, after consultation with the First Nation's registrar of Citizens, to be an elector, then the Chief Returning Officer shall include that person's name on the final Voters List and shall so advise the Commission and the candidates.

### **Final Voters List**

- 48. The final Voters List for an election shall be the initial Voters List, as amended in accordance with section 46 or 47, as of the close of the polls on the date of that election.

### **Electors Identification**

- 49. (1) For the purposes of this Part, each Citizen has the responsibility to provide the First Nation's registrar of Citizens with his or her full name, date of birth and current postal address, and with the same information with respect to his or her minor children who will be 16 years of age or older as of the date of an election.
- (2) Neither the First Nation, the Commission, the Senior Official

nor the Chief Returning Officer shall be liable for the omission of a person from the final Voters List or the First Nation's official list of Citizens.

50. A person who seeks to vote in an election may be required by the Chief Returning Officer or Deputy Returning Officer, as the case may be, to provide proof of their identification.

## **PART 5**

### **QUALIFICATIONS FOR OFFICE**

51. Any Citizen may be a candidate in an election, provided that, as of the date of the election, they will have the qualifications required under this Part for the office they are seeking.

#### **Age**

52. A candidate for office as the Chief, Deputy Chief, or Wolf Clan Councillor or Crow Clan Councillor shall be at least 19 years of age.
53. A candidate for office as the Elder Councillor shall be at least 60 years of age.
54. A candidate for office as the Youth Councillor shall be 16 or more and less than 25 years of age.

#### **Clan**

55. A candidate for office as a Wolf Clan Councillor or Crow Clan Councillor shall be a member of that Clan, respectively.

#### **No Criminal Record**

56. A candidate shall be free of any conviction as an adult under any law of the First Nation or of general application in the Yukon Territory (or foreign equivalent) for homicide, sexual assault or an offence against a child.
57. A candidate who was convicted as an adult under any law of the First Nation or of general application in the Yukon Territory (or foreign equivalent) for:
  - (a) threatening or causing any other harm to any person;
  - (b) the illegal sale of drugs or alcohol;

- (c) damage to property;
- (d) fraud, embezzlement or other financial wrong-doing; or
- (e) breach of trust, bribery or other form of corruption in office or responsibility;

shall have completed serving their sentence (including any term of parole) or any term of probation at least 10 years prior to the date of the election.

- 58. A candidate shall be deemed to be free of any conviction described in section 57 if the record of that conviction has been suspended or expunged.
- 59. A person who files a candidate declaration is encouraged to file with the Chief Returning Officer at the same time official proof of their qualification for office under sections 56 to 58, as the case may be.

### **Residency**

- 60. A candidate shall have been ordinarily resident in the Yukon Territory for not less than 12 consecutive months immediately prior to the date of the election (temporary absences for medical or educational reasons excepted).
- 61. For the purposes of section 60:
  - (a) the place of ordinary residence is the place that is the true dwelling place of that person and to which, whenever away from it, that person intends to return; and
  - (b) a person can have only one place of ordinary residence at a time, and it cannot be lost until another is gained.

### **Familiarity**

- 62. A person who wishes to be a candidate in an election is encouraged to be familiar with the Little Salmon/Carmacks First Nation Final Agreement, the Little Salmon/Carmacks First Nation Self-Government Agreement, the Little Salmon/Carmacks First Nation traditional territory, and the history, customs and traditions of the Little Salmon/Carmacks First Nation people.

### **No Prior Election Violations**

63. A candidate shall be free of:
- (a) any determination pursuant to section 79 within the last 10 years that they, or a person acting under their direction, engaged in election misconduct; and
  - (b) any disqualification pursuant to section 79 from becoming a candidate for office that has effect at the time the election is called.

## **PART 6**

### **THE ELECTION PROCESS**

#### **Election Call**

64. No later than 60 days before the date of a general election or a by-election, the Commission shall call the election and shall announce:
- (a) the dates of the election and the advance poll;
  - (b) the offices to be filled and the call for candidates;
  - (c) the date and location for the filing of candidate declarations;
  - (d) the dates and locations for all-candidates forums;
  - (e) the location and the hours of operation of polling stations on the dates of the election and the advance poll; and
  - (f) the procedure, location and time for the receipt of special ballots and, if so authorized by the Commission, for the receipt of ballots cast by such confidential and verifiable electronic means as the Commission may approve.
65. If a run-off election is required, the Commission shall call that election likewise, provided that the run-off election date shall be not more than 30 days after the date of the call.
66. Announcements by the Commission under sections 64, 65 and 68 shall be communicated to electors by way of posting in the principal office of the First Nation, on the First Nation's website, by way of social media approved by the Commission, by advertisement in media in general circulation in the Yukon Territory, by mail to electors who reside outside

the Yukon Territory, and by any other means the Commission deems appropriate.

### **Schedule**

67. The date for:
- (a) the filing of candidate declarations shall be no more than 10 days after the date of the election call;
  - (b) any all-candidates forum shall be held within the 14 days immediately prior to the election date; and
  - (c) the advance poll shall be held after any all-candidates forum and at least 7 days and not more than 14 days immediately prior to the election date.

### **Changes to the Schedule**

68. (1) The Commission may postpone the date of an election or of any event to be held as part of the election process if so warranted, in the Commission's opinion, by weather, the passing away of a Citizen or other special circumstances beyond the Commission's control.
- (2) If such a date is postponed:
- (a) it shall be postponed to the next nearest date which the Commission considers to be the most practicable; and
  - (b) the Commission, in consequence, may also postpone the date for any subsequent event to be held as part of the election process.
- (3) The Commission shall cause notice of any postponement to be given to the electors as soon as practicable and, in any event, not more than 72 hours after its postponement decision is made.

### **Candidates**

69. A Citizen may be a candidate for only one office to be filled in an election.
70. A Citizen may become a candidate in an election by completing in writing, signing and filing their candidate declaration, in the original, with the Chief



Returning Officer no later than 4 p.m. on the date set by the Commission for the filing of candidate declarations.

71. A candidate declaration shall be provided in the form prescribed the Chief Returning Officer.
  72. (1) A candidate's declaration shall include that Citizen's assurance that they:
    - (a) will have as of the election date the qualifications for the office which they are seeking; and
    - (b) will fill that office if elected;and shall bear:
    - (c) no fewer than 30 original signatures of electors, if the Citizen is a candidate for Chief or Deputy Chief; and
    - (d) no fewer than 20 original signatures of electors, if the Citizen is a candidate for Wolf Councillor, Crow Councillor, Youth Councillor or Elder Councillor.
  - (2) An elector may sign more than one candidate declaration form.
  - (3) Despite subsection (2), a member of the Commission or the Election Review Board, and the Elder Advisor, shall not sign a candidate declaration form.
  - (4) If the Commission is not satisfied that a candidate declaration is complete and validly signed by the required number of electors and the candidate, the declaration shall be returned to the Citizen who filed it, and that Citizen may file a new declaration, as completed and validly signed by the number required and the candidate, at any time prior to the close of the time for filing candidate declarations.
73. (1) If the Commission is satisfied that a candidate declaration form is complete and validly signed by the required number of electors and the candidate and filed by the stipulated time, the declaration shall be accepted. A Citizen whose candidate declaration is accepted shall be a candidate in the

election for the office they are seeking.

- (2) A Citizen who does not file their candidate declaration by the stipulated time shall not be a candidate in the election.

### **Withdrawal**

74. A candidate in an election may terminate their candidacy at any time prior to the date of the election, or prior to any recount of the vote or any run-off election or tie-breaking procedure, by filing their written notice to that effect with the Chief Returning Officer.

75. If:

- (a) section 74 applies; or
- (b) the Commission has terminated the candidacy of a Citizen:
  - (i) because that Citizen does not have the required qualifications for the office they are seeking; or
  - (ii) as a result of proceedings under section 79, then:

the Chief Returning Officer shall:

- (c) announce that withdrawal or termination promptly to the electors;
- (d) exclude or endeavour to strike, as the case may be, the Citizen's name from the ballot; and

in any event, any vote cast in the election for that Citizen shall be a spoiled ballot.

### **Candidate Representatives**

76. A candidate may designate an elector to be their representative for the purpose of:

- (a) receiving that candidate's copy of the initial Voters List and any amendment thereto;
- (b) serving as that candidate's observer at a polling station; or

- (c) serving as that candidate's scrutineer in the count and any recount of the vote at a polling station;

provided that any such designation shall be in writing signed by the candidate and delivered to the Chief Returning Officer or the Deputy Returning Officer responsible for a polling station not in Carmacks.

## **Election Campaigns**

- 77. No one shall campaign for a candidate in any First Nation place of work.
- 78. No one shall:
  - (a) solicit, offer or accept any inducement or consideration in cash or in kind for:
    - (i) the performance of a duty under this Act; or
    - (ii) the vote of an elector;
  - (b) bully, intimidate, threaten, harass or otherwise act disrespectfully toward an elector, by way of social media or any other means, in order to influence the vote of that elector; or
  - (c) otherwise engage in any activity which corrupts the election process or violates this Act.
- 79. An allegation of misconduct under section 77 or 78 may be brought by an elector to the Commission for its determination and, if upheld, the Commission may prescribe such remedy as it may deem it appropriate, including but not limited to:
  - (a) if a candidate or a person engaging in election activity under their direction engaged in misconduct, a declaration that the candidate shall be disqualified as a candidate in that election and, if and for such period as the Commission may prescribe, in any other election; and
  - (b) if a First Nation employee or service provider engaged in misconduct, a declaration that the Commission will refer its findings to the Senior Official for such action as the First Nation may deem appropriate under its human resources policy or otherwise.

## **Election by Acclamation**

80. If, for an office to be filled in an election, there is only one candidate (or in the case of Wolf Clan or Crow Clan Councillors, only two candidates) to fill that office, then, upon the expiry of the time for the filing of candidate declarations, that candidate (or those candidates) shall be declared by the Chief Returning Officer to have been elected by acclamation to that office, as of the date of the election, and no further election process in respect of that office (or offices) shall be required.

### **All-Candidates Forums**

81. (1) There shall be at least one all-candidates forum in each of Carmacks and Whitehorse, Yukon during each election.
- (2) All-candidates forums should be convened and presided over by the Commission.
- (3) All candidates, including any candidate declared elected by acclamation, should endeavour to attend each all-candidates forum in person.
- (4) All-candidates forums should be held in person, except in case of a public health emergency, and by virtual electronic means.
82. At an all-candidates forum, each candidate shall be given equal opportunity to address the Citizens attending the meeting as the candidate may choose and to answer any questions asked by the Citizens in attendance.

### **Polling Stations**

83. There shall be one polling station in each of Carmacks and Whitehorse on the date of the election and on the date of the advance poll.
84. (1) Each polling station shall be open from 8.00 a.m. to 8.00 p.m. on the day of the election. No elector shall be admitted to a polling station after 8.00 p.m..
- (2) An elector in attendance within a polling station at the close of the polls shall be allowed to cast their vote and then must leave the polling station forthwith.

### **Ballots**

85. The Chief Returning Officer shall prepare the ballots for the election and shall ensure that there is a sufficient supply of ballots at each polling station on the date of the election and of any advance poll, and for voting by way of special ballot, including special ballots to be cast by mail.
86. (1) If an elector is incarcerated, in a hospital or long-term care facility, resides in a community in which no polling station will be established or who is otherwise, in the Chief Returning Officer's opinion, in need of delivery of a special ballot to them by mail or in person, the Chief Returning Officer shall endeavour to ensure that delivery occurs on a timely basis.
- (2) If the Chief Returning Officer is aware that an elector requires a special ballot to be cast by mail, the Chief Returning Officer shall:
- (a) endeavour to provide that special ballot to the elector forthwith after the time for the filing of candidate declarations has expired; and
- (b) provide the elector with the materials and instructions needed to maintain the secrecy of their vote, to return the special ballot to a designated location prior to the close of the polls on the date of the election, and to enable the Chief Returning Officer to confirm that the ballot was cast by that elector.
- (3) For the purposes of subsection (2), and in the absence of any other reliable information, the Chief Returning Officer shall be entitled to rely on the address of the elector as shown on the First Nation's official list of Citizens.

### **The Vote**

87. (1) The vote shall be conducted by secret ballot.
- (2) No vote may be cast by proxy or by facsimile transmission.
- (3) No vote may be cast by electronic transmission unless electronic voting is authorized by the Commission as a general procedure and the conduct of the vote will occur by way of such confidential and verifiable electronic system as the Commission may approve.
88. All persons engaged in the oversight and administration of the election process shall maintain the secrecy of the vote of any elector.

89. Except as provided in section 90, the vote of each elector shall be marked in person. Each elector shall endeavour to mark their ballot in such a way that their intended vote is clear and unambiguous.
90. Where so requested by an elector who is blind, unable to read or write, or otherwise disabled in such manner as to be unable to cast his or her vote without assistance, that elector may be accompanied in the polling booth or at their other location by the Chief Returning Officer, a Deputy Returning Officer or a person selected by the elector, and that official or person shall assist the elector to mark the ballot or mark the ballot on behalf of the elector, in either case in accordance with the direction provided by the elector.
91. A ballot marked by or on behalf of an elector pursuant to section 90 shall be returned forthwith to the custody of the Chief Returning Officer or Deputy Returning Officer, as the case may be, by such procedure as the Chief Returning Officer may prescribe.

### **Count of the Vote**

92. Forthwith after the close of the polls, the Chief Returning Officer (and, under the supervision of the Chief Returning Officer, any Deputy Returning Officer in charge of a polling station not in Carmacks) shall count the ballots cast in the election, including any ballots from the advance poll and any special ballots, and tabulate the vote.
93. If present at a polling station at the close of the polls, a candidate's designated representative may attend in person as a scrutineer during the count of the ballots at that polling station.
94. No person other than those cited in sections 92 and 93 may be present in a polling station during the count of the vote.
95. To be counted as part of the vote in an election:
  - (a) special ballots, including ballots cast by mail, must be received at a polling station or, if cast by mail, be received at the address designated by the Chief Returning Officer, prior to the close of the polls on the date of the election; and
  - (b) any special ballot which is a mail-in ballot shall enable the elector to be identified by the Chief Returning Officer without disclosing that elector's vote.
96. For the count of the vote, the Chief Returning Officer or Deputy Returning Officer, as applicable, shall have decision-making authority as to:

- (a) whether a vote shall be counted, if there is any question on the face of the ballot as to the intention of the voter;
- (b) whether a ballot shall be declared to be a spoiled ballot entirely or in part; and
- (c) whether a special ballot cast by mail is eligible to be counted.

### **Automatic Recount**

97. If the count of the vote results in a difference of 5 or fewer votes cast for the candidates who have received the two highest numbers of votes cast for candidates for a particular office, the Chief Returning Officer forthwith shall recount the ballots cast for candidates for that office, except that if there are more than 2 candidates for the office of Wolf Clan Councillor or Crow Clan Councillor, a recount shall only be required if there is a difference of 5 or fewer votes cast for the candidates who receive the second and third highest number of votes for candidates for that office.

### **Run-off Election**

98. (1) If a run-off election results in a difference of 5 or fewer votes cast for the candidates in that election, the votes cast in that election shall be recounted.
- (2) If, after a recount under subsection (1), a run-off election results in a tie, the candidate to be declared elected to that office shall be decided forthwith by the flip of a coin onto the ground administered by the Chief Returning Officer as between or among the candidates in that run-off election.

### **Election Results**

99. As soon as practicable after the completion of the count and any required recount of the vote, and any required tie-breaking procedure, in an election, the Chief Returning Officer shall certify the final vote tabulation or tie-breaking results in writing and declare the following candidates to be elected:
- (a) the candidate for Chief, Deputy Chief, Elder Councillor and Youth Councillor who received, respectively, the highest number of votes counted for each of those offices; and
  - (b) the two Crow candidates and the two Wolf candidates, who received the highest and second highest number of votes

counted for Crow Clan Councillor and Wolf Clan Councillor, respectively; or

- (c) if applicable, the candidate(s) to be declared elected pursuant to the tie-breaking procedure.

- 100. The Chief Returning Officer promptly shall deliver the certified results to the Commission and shall announce those results at the polling station in Carmacks and enable those results to be announced at the polling station in Whitehorse and by way of the First Nation's website.

### **Finality of Election Results**

- 101. The certified election results shall be final and binding upon the First Nation and all candidates and electors in the election, subject to the outcome of any challenge under this Act to those results.

### **Election Records**

- 102. Within 7 days after the close of the polls in an election, the Chief Returning Officer shall deliver to the Senior Official for safekeeping all official documents pertaining to the call and conduct of that election, including, without limitation, the initial and final Voters List, poll books and the sealed ballot boxes for that election. Neither the sealed ballot boxes nor any other official documents pertaining to the election shall be destroyed until after the time allowed for an Review against the election result has expired.

### **Election Report**

- 103. Within 21 days after the close of the polls in an election, the Chief Returning Officer shall deliver to the Commission a narrative written report of the successes and challenges experienced during the election, and any recommendations for improvements to the election process or to this Act or any regulations adopted pursuant to this Act.

## **PART 7**

### **TAKING OFFICE**

- 104. The candidates elected shall be recognized and elevated to office by way of a public ceremony that is consistent with the First Nation's traditions.
- 105. The ceremony described in section 104 shall be held on a date to be



announced by the clerk of the Council which is within 7 days after the results of the election are certified by the Chief Returning Officer.

106. The Elder Advisor shall preside over the ceremony.

### **Oath of Office**

107. At the ceremony, each candidate elected shall swear or affirm their oath of office orally and in writing before the Elder Advisor, as witnessed by the people in attendance.

108. The oath of office to be sworn or affirmed shall be as follows:

I, \_\_\_\_\_, a Citizen of Little Salmon/Carmacks First Nation, do hereby swear (or solemnly affirm) that I accept the office to which I have been elected and that, to the best of my ability, I will perform my duties as a member of the Council, fulfill my role as a leader of our First Nation and uphold the Little Salmon/Carmacks First Nation Constitution, as amended from time to time, and that in doing so I will uphold our traditional laws of caring, sharing, respect and teaching.

### **Transition**

109. (1) Each candidate elected shall assume the office to which they were elected upon providing their oath of office.

(2) The need for a run-off election for any particular office shall not delay the assumption by other candidates of the offices to which they were elected.

110. Each member of the Council in office on the day immediately prior to the date of an election shall remain in office with all attendant duties, powers and responsibilities until their office is assumed by their respective successor.

## PART 8

### DISPUTE RESOLUTION

#### Verification of Qualifications

111. If during an election there is a written submission from an elector to the Commission, by way of the Senior Official, with reasons which, in the Commission's opinion, are neither frivolous nor vexatious, or there is other good cause for the Commission to be uncertain, as to whether a candidate is qualified under this Act for the office they are seeking, the Commission shall endeavour to make a determination on that question at the earliest practicable date.
112. If so requested, by way of the Senior Official, by not less than 75 electors within 30 days after the date of an election, in writing and with reasons which, in the Commission's opinion, are neither frivolous nor vexatious, the Commission shall endeavour to determine whether a candidate who was elected in that election was qualified under this Act for the office to which they were elected.
113. In any proceedings of the Commission under section 111 or 112:
  - (a) the candidate who is the subject of the determination to be made shall provide information supporting proof of their qualifications and all consents, further information and other co-operation as the Commission, acting reasonably, may require to enable it to make a determination in the matter;
  - (b) the Commission may rely upon the records of the First Nation and any record of conviction, incarceration, probation or parole as being conclusive of the facts they contain; and
  - (c) the Commission shall not rely upon information acquired from the personal knowledge of Commission members unless that information is placed on the record of the Commission's proceedings with notice to the candidate and fair opportunity for the candidate to be heard in respect of that information.
114. If:
  - (a) a candidate fails to comply with subparagraph 113 (a) to the Commission's satisfaction, acting reasonably; or

- (b) the information before the Commission is inconclusive on the question;

the Commission shall declare that it is unable to make a determination in the matter.

- 115. Upon the Commission making a determination under section 111 or 112 or a declaration under section 114 adverse to the candidate, the Commission shall declare forthwith in writing and with immediate effect that the person who is the subject of the determination or the declaration is or was, as the case may be:
  - (a) no longer a candidate in the election; or
  - (b) not qualified under this Act for the office to which they were elected, in which case that office shall be deemed to be vacant and a by-election shall be held.
- 116. If the candidate who is the subject of the determination to be made is found by the Commission to be qualified for the office they are seeking or to which they were elected, as the case may be, the Commission shall so advise the candidate forthwith in writing and with immediate effect.

### **Election Concerns**

- 117. If during an election an elector has a concern about the conduct or process of the election, that elector may bring that concern to the Commission by way of the Senior Official for discussion. If the concern, in the Commission's opinion, is neither frivolous nor vexatious, the Commission shall endeavour to provide any mediation, decision or direction it deems advisable in the matter within 3 days.

### **Election Reviews**

- 118. (1) The Election Review Board is hereby established.
- (2) The Standing Committee shall serve as the Board until such time as another body is established by the First Nation, as part of the First Nation's system for the administration of justice, for the purposes and with the authority described in this Act.
- (3) The members of Board attending to its proceedings shall endeavour to decide matters coming before them unanimously but, failing unanimity, may do so by majority vote.

119. (1) A Citizen who is the subject of an adverse determination under section 111 or 112 or an adverse declaration under section 114 by the Commission or an elector who originated a proceeding under section 117 may petition the Board for review of the Commission's declaration, decision or direction in that matter by filing their petition in writing and with reasons with the Board by way of the Senior Official within 3 days after the day the Commission has announced its result.
- (2) A petitioner shall provide a copy of their petition to the Commission and the First Nation.
120. Any elector may challenge the validity of an election or a specific election result by filing their challenge in writing and with reasons with the Board by way of the Senior Official within 30 days after the date of the election.
121. Following receipt of a petition under section 119 or a challenge under section 120, which in either case in the Board's opinion is neither frivolous nor vexatious, the Board, with due process, shall determine whether the Commission's declaration, decision or direction was consistent with this Act and the Constitution and was reasonable in the circumstances before it.
122. In any proceeding of the Board,
- (a) the petitioner or challenger, the Commission and the First Nation shall have standing;
- (b) in the alternative to participating in the proceedings as a party, and without prejudice to its standing under section 125, the First Nation may appoint an individual to assist the Board by way of submissions concerning the interpretation of this Act; and
- (c) the Board shall endeavour to render its determination or decision in the matter at earliest practicable date.
123. If the Board upholds the petition or challenge, the Board may provide such remedy as it may deem appropriate and consistent with this Act and the Constitution, provided that the Board shall not set aside or overturn the results of the election in whole or part unless, in the Board's opinion, there was a defect in the declaration, decision or direction of the Commission which had or reasonably can be expected to have had a material impact upon that outcome.

124. Except as provided in section 125, any determination, declaration or remedy provided by the Commission which is not challenged pursuant to section 119 or 120, and any determination, decision or remedy provided by the Board, shall be final and binding on all electors and candidates, and on the First Nation.

### **Judicial Review**

125. A determination, or decision or remedy provided by the Board may be the subject of a petition for judicial review by the Supreme Court of Yukon brought by a Citizen described in section 119 or 120 or by the First Nation upon the grounds that the Board:

- (a) failed to observe a principle of natural justice;
- (b) erred in law, whether or not the error appears on the face of the record; or
- (c) based its determination, decision or remedy on an erroneous finding of fact that it made in a perverse or capricious manner or without regard to the material before it.

126. Any petition for judicial review pursuant to section 125 shall be filed with the Court within 30 days after the subject decision or determination of or remedy provided by the Board is announced.

127. On judicial review, the Court shall not set aside or overturn the results of the election in whole or part unless, in the Court's opinion, a failure of the Board for a reason enumerated in section 125 had or reasonably can be expected to have had a material impact upon that outcome.

## **PART 9**

### **REGULATIONS**

128. The Council may make regulations setting out forms and procedures for the better administration of an election.

129. Prior to making any regulation, the Council:

- (a) shall consider any recommendations on the subject which are provided by the Commission, the Senior Official, the Chief Returning Officer, the Standing Committee, and any First Nation staff responsible for providing support during the

election process; and

- (b) unless the Commission advises that the circumstances of an election otherwise require, shall provide electors with reasonable notice and opportunity to comment on the proposed regulation.

## **PART 10**

### **REVIEW**

- 130. The provisions of this Act and any regulation established under this Act may be reviewed by the Standing Committee whenever it deems that may be helpful and, in any event, within one year following each general election.
- 131. Any amendments to this Act or any regulation which may be proposed by the Standing Committee following its review shall be presented to an Assembly or to the Council, as the case may be, for its consideration for approval prior to the next general election.

## **PART 11**

### **CONSEQUENTIAL AMENDMENTS**

- 132. This Act supersedes the *LSCFN Election Policy (2011)*.

## **PART 12**

### **COMING INTO FORCE**

- 133. This Act shall come into force as of 12.01 a.m. on the day following the day this Act is approved by the Assembly.