KWANLIN DÜN FIRST NATION

Election Act

2013

This version of the Act is for convenience of reference only.
For purposes of interpreting and applying the law a person should access the *Election Act* (Kwanlin Dün First Nation) 2013, and the *Act to Amend the Election Act* (Kwanlin Dün First Nation) 2016, held in the Kwanlin Dün First Nation Registry of Laws, Executive Council Office.

Kwanlin Dün First Nation

ELECTION ACT

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Kwanlin Dün First Nation

ELECTION ACT

The Council of the Kwanlin Dün First Nation hereby enacts as follows:

PART ONE
GENERAL PROVISIONS

Short title

1. This Act may be cited as the *Election Act*.

Definitions

2. In this Act

"acclamation" means candidates who are declared elected according to section 46;

“address of record” means the mailing address of the voter maintained by the registrar of citizenship;

“advance vote” means a vote conducted before the final voting day and pursuant to section 91;

"appeal" means the process pursuant to Part 16;

"assistant returning officer" means the person holding or acting in the office of assisting returning officer pursuant to sections 20 to 22;

"automatic recount" means the process pursuant to Part 14;

“ballot” means a ballot paper pursuant to sections 61 and 62;

"ballot box" means a box to contain the ballots pursuant to section 63;

“by-election” means a vote held pursuant to section 9;

“candidate” means a person qualified to be a candidate in an election pursuant to Part Five;

“chief” has the same meaning as assigned to it by paragraph 67(1)(c) of the constitution;

”chief returning officer" means the person holding or acting in the office of chief returning officer pursuant to sections 14 to 17 and has the same meaning as the chief electoral officer pursuant to paragraph 67(1)(f) of the constitution;

“citizen” has the same meaning as assigned to it by paragraph 67(1)(g) of the constitution;

“City of Whitehorse” means the land area within the boundaries of the City of Whitehorse pursuant to the *Municipal Act*, Schedule 3;

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

“Council” has the same meaning as assigned to it by paragraph 67(1)(k) of the constitution;

“councillor” means the members elected to the Council pursuant to subparagraph 39(1)(a)(ii) of the constitution;

“deputy returning officer” means the person holding or acting in the office of deputy returning officer appointed pursuant to sections 23 to 26;

“election” means a regular election or a by-election conducted under this Act and pursuant to section 22 or paragraph 25(4)(b) of the constitution respectively;

"election committee" means the election committee appointed pursuant to sections 10 to 13;

“election period” means the time from the issue of the writ until the end of the appeal period and the publishing of the election results;

“final agreement” means the Kwanlin Dün First Nation Final Agreement among her Majesty the Queen in Right of Canada, the Government of the Yukon and the Kwanlin Dün First Nation brought into effect pursuant to Settlement Legislation and includes any amendments made to it from time to time in accordance with its provisions;

“finally convicted” has the same meaning assigned to it by paragraph 67(1)(p) of the constitution;

"incumbent" means a person who holds office at the time the writ is issued;

"interpreter" means a person designated pursuant to sections 30 to 32;

“Judicial Council” means the branch of government of the Kwanlin Dün First Nation pursuant to paragraph 21(1)(e) of the constitution;

"judicial recount" means a process pursuant to Part 15;

“Kwanlin Dün First Nation” has the same meaning as assigned to it by paragraph 67(1)(u) of the constitution;

“mail-in vote” means the taking of votes pursuant to sections 73 to 81;

"mail-in voting package" means the material provided to a voter pursuant to section 74;

"nomination" means the process pursuant to sections 41 and 44;

"notice" means the election notice pursuant to section 52;

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

"official voters list" means the list of voters pursuant to sections 35 to 40;

"official voter poll book" means the book of names provided to a deputy returning officer for recording the taking of the vote;

"poll clerk" means the person holding or acting in the office of poll clerk pursuant to sections 27 to 29;

"registrar of citizenship" means the registrar of citizenship pursuant to Schedule 2, section 4 of the constitution;

"regular election" means a regular election pursuant to subsection 22(1) of the constitution;

"regular vote" means the vote on the voting date pursuant to section 92;

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

"seals" means the material used to secure the ballot boxes pursuant to section 64;

"self-government agreement" means the Kwanlin Dun First Nation Self-Government Agreement among her Majesty the Queen in Right of Canada, the Government of the Yukon and the Kwanlin Dün First Nation brought into effect pursuant to Settlement Legislation and includes any amendments made to it from time to time in accordance with its provisions;

"special vote" means the taking of votes pursuant to sections 82 to 90;

"special ballot voting package" means the material provided to a voter pursuant to section 84;

"statement of vote" means the form used to record the results of the vote pursuant to section 122;

"traditional territory" means the geographic area within the Yukon identified as the traditional territory of the Kwanlin Dün First Nation on the map referred to in section 2.9.0. of the final agreement;

"vote" means to cast a ballot;

"voter" means a person who is eligible to vote pursuant to section 34;

"voter sign-in sheet" means the paper that voters sign to vote at the advance or regular vote;

“voting date” means the last date for voting in the election;

“voting officers” means the individuals that are involved in the conduct of the vote pursuant to Part Three;

“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 voters;

"writ" means the notice provided by the Council pursuant to section 6; and

"written report" means the document done by the chief returning officer and the election committee pursuant to subsection 13(5) and section 167.

Purpose

3. The purpose of this Act
(a) is to provide for the conduct of Kwanlin Dün First Nation elections in accordance with the constitution; and
(b) to ensure that the elections for chief and councillors are conducted in a fair, transparent, accountable and impartial manner.

Application

4. (1) This Act, in accordance with the constitution, applies to an election required pursuant to section 22 or paragraph 25(4)(b) of the constitution.

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

PART TWO
ISSUE OF WRIT

Timing of an election

5. A regular election for the offices of chief and councillors shall be held every three years on the third Wednesday of March pursuant to subsection 22(1) of the constitution.

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 Council that shall, at least 63 days before the voting date, fix the

(a) voting date; and

(b) date for the close of nominations.

(2) The duration to receive nominations shall be at least 21 consecutive days.

(3) The close of nominations shall be at four o'clock in the afternoon 42 days before the voting date and may be referred to as nomination day.

Notice of issue of writ

7. The Council shall immediately give notice of the issue of the writ by posting it

(a) in the Kwanlin Dün First Nation main administration building;

(b) in a newspaper having circulation in Whitehorse and the Yukon;

(c) on radio or television in the Yukon;

(d) on the Kwanlin Dün First Nation website; and

(e) at any other location as determined by the chief returning officer.

Changes to the time for the taking of the vote

8. (1) The election committee may, after consultation with the chief returning officer, extend or postpone the time for the regular vote if it is satisfied that a substantial number of voters will be unable to get to their 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 set by the Council within 45 days of the office of chief or a councillor becoming vacant pursuant to paragraph 25(4)(b) of the constitution.

(2) If the office of chief or a councillor becomes vacant within eight months before the date of a regular election, that office shall remain vacant until the regularly held election pursuant to subsection 25(5) of the constitution.

(3) A by-election shall be conducted in accordance with the provisions of this Act.

PART THREE
VOTING OFFICERS

Appointment of the election committee

10. (1) The election committee shall consist of three persons.

(2) The Council shall appoint the election committee at least 120 days before the voting date.

(3) The election committee may operate in the event of a vacancy on the committee.

Duration of appointment of the election committee

11. The members of the election committee shall be appointed for a fixed term and may be re-appointed.

Criteria of appointment to the election committee

12. The members of the election committee shall
(a) be at least 21 years of age;
(b) not be a member of the Council or the Judicial Council;
(c) refrain from any active or public support or criticism of any voter, candidate or his or her campaign;
(d) not be an employee of the Kwanlin Dün First Nation at any point during the election period.

Powers and responsibilities of the election committee

13. (1) Except for matters that are the specific responsibility of other voting officers under this Act, the election committee shall be responsible for the general direction and overall supervision of an election conducted under this Act.

(2) The quorum for a meeting of the election committee shall be a majority of its members.

(3) The election committee shall decide all matters by majority unless otherwise specified in this Act.

(4) In performing its responsibilities, the election committee may
(a) establish its own internal procedures for the convening and conduct of its meetings;
(b) appoint its chair from any of the appointed members;
(c) recommend to the Council an appointee for chief returning officer;
(d) seek the advice of the chief returning officer and such other advisors as it considers appropriate and may rely upon such advice;
(e) if the election committee must perform its responsibilities at a place and time

established pursuant to this Act, proceed to perform its responsibilities with the member or members who are present.

(5) Within 30 days after the results of the elections are declared, the election committee shall provide a written report to the Council or its delegate, including the report delivered by the chief returning officer, setting out the results of the election and the details of carrying out the election process under its direction and supervision.

Appointment of the chief returning officer

14. The Council shall, at least 90 days before the voting date, in accordance with subsection 22(2) of the constitution, appoint a chief returning officer who shall make a declaration to

(a) act impartially;

(b) not favour, oppose, promote or be associated with a campaign or any aspect of any election question;

(c) not accept nomination as a candidate in the election; and

(d) respect the principles associated with a secret ballot.

Eligibility criteria for appointment of the chief returning officer

15. The chief returning officer shall

(a) be at least 21 years of age;

(b) not be a member of the Council or, at any point during the election period, be an employee of the Kwanlin Dün First Nation;

(c) not be a candidate in the election;

(d) refrain from any active or public support or criticism of any voter or candidate and his or her campaign; and

(e) understand and have experience with voting procedures.

Responsibilities and duties of the chief returning officer

16. (1) The chief returning officer shall be responsible for the conduct of the election and shall

(a) appoint and train deputy returning officers, poll clerks and all other persons required to conduct the vote;

(b) with the assistance of the registrar of citizenship, compile, distribute and publish the official voters list;

(c) call for and accept nominations;

(d) prepare and post a list of nominated candidates;

(e) prepare, post and announce the notice of the vote;

(f) procure the necessary materials, including the ballots and ballot packages;

(g) develop and prescribe all the necessary forms for the conduct of the vote;

(h) establish all necessary voting places;

(i) establish regulations and accreditation procedures for all personnel involved at the voting places;

(j) establish and conduct the mail-in vote;
(k) establish and conduct the special vote;
(l) establish and conduct the advance vote;
(m) establish and conduct the regular vote;
(n) be responsible for all matters during the times of voting;
(o) close the vote and receive the sealed ballot boxes;
(p) supervise the count of the vote;
(q) declare the results;
(r) destroy the ballot packets pursuant to paragraph 126(1)(d);
(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 Act.

(2) Within 21 days after the results of the election are declared, the chief returning officer shall make a written report to the election committee on the conduct of the vote and in accordance with section 167.

Declaration by the chief returning officer

17. When appointed, the chief returning officer shall make a declaration to
(a) act impartially;
(b) refrain from any active or public support or criticism of any voter or candidate and his or her campaign;
(c) not be an employee of the Kwanlin Dün First Nation at any point during the election period; and
(d) respect the principles associated with a secret ballot.

Secrecy of the ballot and integrity of the voting process

18. The chief returning 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

19. The Council shall provide sufficient space and resources to enable the election committee and the chief returning officer to fulfill the duties required.

Appointment of the assistant returning officer

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

Eligibility criteria for appointment of the assistant returning officer

21. An assistant returning officer shall
(a) be at least 21 years of age;
(b) not be a member of the Council or, at any point during the election period, be an employee of the Kwanlin Dün First Nation;
(c) not be a candidate in the election;
(d) refrain from any active or public support or criticism of any voter or candidate and his or her campaign; and
(e) understand voting procedures.

Declaration by the assistant returning officer

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

Appointment of the deputy returning officer

23. At least 21 days before the voting date, the chief returning officer shall appoint sufficient deputy returning officers to conduct the regular election.

Eligibility criteria for appointment of the deputy returning officer

24. Each deputy returning officer shall
(a) be at least 21 years of age;
(b) not be a member of the Council or, at any point during the election period, be employed in the Executive Council Office or as a director of any department of the Kwanlin Dün First Nation;
(c) not be a candidate in the election;
(d) refrain from any active or public support or criticism of any voter or candidate and his or her campaign; and
(e) understand the voting procedures.

Declaration by the deputy returning officer

25. When appointed, the deputy returning officer shall make a declaration to
(a) act impartially;
(b) refrain from any active or public support or criticism of any voter or candidate and his or her campaign;
(c) respect the principles associated with a secret ballot;
(d) not make any public comment or release information on the conduct of the vote or voting that has not been authorized by the chief returning officer;
(e) not be employed in the Executive Council Office or as a director of any department of the Kwanlin Dün First Nation; and
(f) report and be accountable to the chief returning officer.

Responsibilities and duties of the deputy returning officer

26. The 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 Act.

Eligibility criteria for appointment of the poll clerk

27. Each poll clerk shall
(a) be at least 18 years of age;
(b) not be a member of the Council at any point during the election period;
(c) not be a candidate in the election;
(d) refrain from any active or public support or criticism of any voter or candidate and his or her campaign; and,
(e) understand the voting procedures.

Declaration by the poll clerk

28. Each poll clerk shall make a declaration to
(a) act impartially;
(b) refrain from any active or public support or criticism of any voter or candidate and his or her campaign;
(c) respect the principles associated with a secret ballot;
(d) not make any public comment or release information on the conduct of the vote or voting that has not been authorized by the chief returning officer; and
(e) report and be accountable to the chief returning officer.

Responsibilities and duties of the poll clerk

29. The poll clerk 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 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.

Availability of an interpreter

30. The chief returning officer may appoint interpreters to assist with the vote.

Eligibility criteria for appointment of the interpreter

31. Each interpreter shall
(a) be at least 18 years of age;
(b) not be a member of the Council or, at any point during the election period, be employed in the Executive Council Office or as a director of any department of the Kwanlin Dün First Nation;
(c) not be a candidate in the election;
(d) refrain from any active or public support or criticism of any voter or candidate and his or her campaign;
(e) be fluent in the language identified by the chief returning officer; and
(f) be able to read and write English.

Declaration by the interpreter

32. An interpreter shall make a declaration to
(a) act impartially;
(b) refrain from any active or public support or criticism of any voter or candidate and his or her campaign;
(c) respect the principles associated with a secret ballot;
(d) not make any public comment or release information on the conduct of the vote or voting that has not been authorized by the chief returning officer;
(e) not be a member of the Council, employed in the Executive Council Office or as a director of any department of the Kwanlin Dün First Nation at any point during the election period~~;~~ and
(f) report and be accountable to the chief returning officer.

Indemnity

33. At all times, the Kwanlin Dün First Nation shall indemnify and save harmless the voting officers, during good behaviour, from any liability whatsoever and howsoever incurred in performing their duties under this Act.

PART FOUR
VOTER RIGHTS AND OFFICIAL VOTERS LIST

Eligibility as a voter

34. (1) Every person shall be qualified to vote at an election who, on the voting date, is
(a) 18 years of age or older; and
(b) enroled as a citizen.

(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 each office being contested.

Compilation of the official voters list

35. (1) The chief returning officer, with the assistance of the registrar of citizenship, shall compile the official voters list that sets out, in alphabetical order, the name of each citizen who, pursuant to section 34, 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

36. A draft voters list shall be made available at the time of the call for nominations or at least 63 days before the voting date by posting it
(a) at the Kwanlin Dün First Nation main administrative building;
(b) on the Kwanlin Dün First Nation website; and
(c) at any other place designated by the chief returning officer.

Posting of the preliminary voters list

37. A preliminary voters list shall be made available at least 30 days before the voting date by posting it
(a) at the Kwanlin Dün First Nation main administrative building;
(b) on the Kwanlin Dün First Nation website; and
(c) at any other place designated by the chief returning officer.

Posting of the official voters list

38. At least 7 days before the voting date, an official voters list shall be made available and posted

(a) at the Kwanlin Dün First Nation main administrative building;

(b) on the Kwanlin Dün First Nation website; and

(c) any other place designated by the chief returning officer.

Revisions to the official voters list

39. (1) At anytime, including on the voting date, the registrar of citizenship shall direct the chief returning officer, by way of a prescribed form, of any changes required 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 the voting date.

(2) The chief returning officer shall make the required changes to the official voters list when direction is received from the registrar of citizenship as described in subsection (1).

Names of persons on voters list entitled to vote

40. Only those persons whose names are on the official voters list shall be entitled to vote.

PART FIVE
NOMINATION OF CANDIDATES

Eligibility for the candidacy of chief or councillor

41. A person is eligible to be a candidate for the office of either chief or councillor if he or she

(a) is enroled as a citizen;

(b) is 18 years of age or older on the voting date;

(c) declares that he or she will ordinarily reside in the traditional territory of the Kwanlin Dün First Nation for the entire term of his or her office;

(d) pursuant to subsection 22(4) of the constitution, has not been finally convicted of an indictable offense under the Criminal Code of Canada within three years immediately before the closing date for nominations;

(e) has at least 25 eligible voters sign a prescribed nomination form in support of his or her candidacy; and

(f) does not hold office as a city councillor, member of the Yukon Legislative Assembly or member of the Senate or the House of Commons of Canada or similar elected body;

(g) has not been found to have engaged in a corrupt practice in connection with an election within the last six years; and,

(h) delivers signed and completed in full the necessary nomination forms by the close of nomination as prescribed by section 44.

Exemption from a criminal record

42. Paragraph 41(d) does not apply to a citizen who has been granted a pardon for the indictable offence.

Incumbent candidates

43. An incumbent running for the office of either the chief or councillor shall be bound by the same provisions under this Act as any other candidate.

Nomination forms and time

44. (1) To be considered for candidacy, a citizen shall submit the necessary completed candidacy form for the office of either the chief or councillor to the chief returning officer at a predetermined location and

(a) at any time after the issue of the writ pursuant to section 6;

(b) no later than 42 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.

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

Notice to the prospective candidates

45. Within one business day of nomination forms being filed pursuant to subsection 44(1), the chief returning officer may

(a) verify to the prospective candidate that all conditions prescribed by section 41 have been fulfilled; or

(b) give notice to the prospective candidate of the confirmation or refusal of his or her candidacy.

Acclamation

46. (1) If, pursuant to sections 41 and 44, only one candidate has been nominated for the office of chief, the chief returning officer shall immediately

(a) declare the candidate elected to the office of chief; and

(b) post, at the Kwanlin Dün First Nation principal administrative office, a notice that states

(i) the name of the person who has been acclaimed, and

(ii) that an election shall not be held for the office of chief.

(2) If, pursuant to sections 41 and 44, no person has been nominated for the office of chief, the chief returning officer shall immediately

(a) declare that nominations remain open for 48 hours; and

(b) post notice of the extension of time and the location of receiving of forms

(i) at the Kwanlin Dün First Nation principal administrative office,

(ii) on the Kwanlin Dün First Nation website, and

(iii) any other location determined by the chief returning officer; and

(c) the receiving of forms shall be in accordance with section 41.

(3) If after the 48 hours referred to in paragraph (2)(a) there are still no persons nominated for the office of chief after subsection (2) has been fulfilled, the chief returning officer shall place a notice in accordance with subsection 52(1) stating that no person has been nominated and that a date for a by-election shall be set by the Council in accordance with section 9.

(4) If after the 48 hour extension provided for in subsection (2) there is one or more persons nominated, subsection (1) and section 52 shall then apply.

(5) If, pursuant to sections 41 and 44, only six or less candidates have been nominated for the office of councillor, the chief returning officer shall immediately

(a) declare the candidate or candidates, elected to the office of councillor; and

(b) post, at the Kwanlin Dün First Nation principal administrative office, a notice that states

(i) the name of the persons who have been acclaimed, and

(ii) that an election shall not be held for the respective office of councillor.

(6) If, pursuant to sections 41 and 44, less than six persons are nominated as candidates, the chief returning officer shall immediately

(a) declare those nominated elected as defined in subsection (5);

(b) declare that nominations remain open for the remaining positions available for 48 hours; and

(c) post a notice of the extension of time and the location of receiving of forms

(i) at the Kwanlin Dün First Nation principal administrative office,

(ii) on the Kwanlin Dün First Nation website, and

(iii) any other location determined by the chief returning officer; and

(d) the receiving of forms shall be in accordance with section 41.

(7) if subsections (2) or (6) are used, publication of a vote as defined in section 52 shall be extended by 48 hours.

(8) In the case referred to in subsection (1), sections 47 to 158 do not apply for the office of chief.

(9) In the case referred to in subsection (2), sections 47 to 158 do not apply for the respective office of councillor.

Withdrawal of a candidate

47. At any time up to the close of nominations, a candidate may withdraw his or her candidacy by submitting to the chief returning officer a written withdrawal of nomination signed by the candidate and two eligible voters.

Death of a candidate

48. If any candidate dies after the close of nominations and before the closing of the vote, the chief returning officer shall notify the election committee, 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

49. The chief returning officer shall notify the elections committee if he or she, between the close of nomination and final voting day, receives notice that a candidate is incapacitated to an extent that will prevent the candidate from holding office.

Possible effect on an election

50. (1) Upon notification pursuant to sections 48 or 49, the election committee shall

(a) direct the chief returning officer to declare the remaining candidates acclaimed pursuant to section 46 if only one candidate remains for the office of chief or only six candidates remain for the office of councillor;

(b) determine whether the election shall proceed subject to any conditions specified by the election committee; or

(c) determine the election for the position affected shall be postponed.

(2) If an election for a position is to be postponed pursuant to paragraph 50(1)(c), the election committee shall

(a) set a date for the close of nominations that is not more than 21 days after notification by the chief returning officer;

(b) set the voting day to be not more than 40 days after the close of nomination; and

(c) provide public notice that the election has been postponed and a new notice of election posted with the new dates for the close of nominations and voting day for that position.

(3) The postponement of an election pursuant to subsection (2) and the fixing of a new closing day for nominations shall not invalidate the nomination of the other candidates.

Void ballots

51. (1) If there is no postponement of the vote, any votes cast for a candidate who has withdrawn for reasons referred to in section 48 or 49 are void and shall not affect the count or results of the vote.

(2) The chief returning officer shall make every effort to ensure that any ballots reflect the change by way of blacking out the name of the person removed.

PART SIX
NOTICE OF A VOTE

Publication of notice of a vote and candidates

52. (1) The chief returning 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 Kwanlin Dün First Nation main administration building;
(b) in a newspaper having circulation in Whitehorse and Yukon;
(c) on radio or television in the Yukon;
(d) on the Kwanlin Dün First Nation website; and
(e) at any other location as determined by the chief returning officer.

(2) The notice shall contain the

(a) nature and purpose of the vote;
(b) list of candidates nominated for the election for the offices of chief and councillor in the order as they will appear on the ballot;
(c) names of those acclaimed if applicable;
(d) voting date;
(e) location, date and time of all voting options;
(f) chief returning officer's
  (i) name,
  (ii) office mailing address,
  (iii) office telephone number,
  (iv) office facsimile number,
  (v) office e-mail, and
(g) any other information with respect to the vote deemed necessary.

PART SEVEN
CANDIDATES' SCRUTINEERS

Appointment of scrutineer

53. 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

54. No more than one scrutineer for each candidate may be present at the voting station at any time.

Access to a voting station

55. Upon entering a voting station, each scrutineer shall
(a) provide the prescribed appointment form to the deputy returning officer; and
(b) make a declaration as requested by the deputy returning officer.

Rules for behaviour of a scrutineer

56. A scrutineer, while in a voting station, shall
(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 or her written declaration.

Authority in a voting station

57. (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 returning officer or deputy returning officer may order any scrutineer to leave the voting station if he or she has reason to believe that the scrutineer has failed to comply with section 56 or any other section of this Act.

(3) If a scrutineer is ordered to leave a voting station pursuant to subsection (2), the deputy returning officer shall make a note of the reasons and action in the poll book.

Activity by a scrutineer in a voting station

58. A scrutineer may, only during the hours of voting,
(a) examine the voter sign-in sheets; and
(b) convey information obtained from the voter sign-in sheets outside the voting station.

Inspection of voting document

59. (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 shall not prohibit the deputy returning officer from opening a voting station or a poll or invalidate any thing done in the scrutineer's absence.

Candidate as own representative

60. A candidate shall not act as a scrutineer under this Act.

PART EIGHT
BALLOTS

Ballots

61. (1) Unless subsections 46(1) or (2) apply, there shall be two ballots:
(a) one ballot for the office of chief; and
(b) one ballot for the office of councillor.

(2) The name on the ballot shall be that which is on the approved nomination form.

(3) The names on the ballot shall be printed in alphabetical order by last name first.

(4) 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

62. Each ballot shall
(a) be designed so that on the reverse side of the ballot it will have
(i) the words "Kwanlin Dün First Nation Election",
(ii) the voting date, and
(iii) 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; and
(d) sequentially numbered printed both on the back of the stub and on the back of the counterfoil.

Ballot boxes

63. (1) The chief returning 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 labeled.

Sealing of the ballot boxes

64. 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 station;
(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.

PART NINE
VOTING RIGHTS

Secrecy of voting

65. The vote shall be by secret ballot.

Age requirement to vote

66. Every citizen 18 years of age or older as of the voting date shall have the right to vote.

Respect the secrecy of voting

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

No attempt to interfere with a voter

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

No questioning of a voter

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

No appointments of a proxy voter

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

Right to receive ballots

71. Each voter shall have the right to receive a ballot for chief and a ballot for councillor.

Voting options

72. There shall be four options available to voters to exercise their vote:
(a) mail-in voting pursuant to sections 73 to 81;
(b) special voting pursuant to sections 82 to 90;
(c) advance voting pursuant to section 91; and
(d) regular voting pursuant to sections 92 to 110.

PART TEN
VOTING PROCEDURES

Mail-in voting

73. (1) Every voter whose mailing address of record is outside of the traditional territory of the Kwanlin Dün First Nation shall be mailed a voting package.

(2) A voter receiving a voting package pursuant to subsection (1) shall retain the right to vote in person by any one of the other voting options referred to in paragraphs 72(b) to (d).

Mail-in voting package

74. (1) The mail-in voting package shall consist of
(a) the ballot the voter is eligible to cast;
(b) an outer, postage-paid return envelope, pre-addressed to the chief returning officer;
(c) a white, inner envelope marked “ballots enclosed” for insertion of the marked ballot;
(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; and
(g) a list of the names of any candidate acclaimed.

(2) The mail-in voting package as defined in subsection (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.

(3) A voter with mailing address of record outside Canada may receive a pre-addressed return envelop without pre-paid postage.

Criteria for the mail-in ballot to be counted

75. To be considered for purposes of the count, a mail-in ballot must be received by six o'clock in the afternoon on the voting date
(a) in the voter declaration envelope signed by the voter and a witness; and
(b) by the chief returning officer or designate, in person or by mail; or,
(c) by a deputy returning officer at a voting station in Whitehorse.

Responsibility of the return of ballots

76. (1) It shall be the responsibility of the voter to ensure that his or her ballot is returned in time and in the appropriate manner for purposes of the count and pursuant to section 75.

(2) Any costs to return a ballot, other than the use of the postage paid return envelope included in the package referred to in paragraph 74(1)(b) or subsection 74(3), shall be the responsibility of the voter.

Assistance to vote by mail-in ballot

77. 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 Act.

Declaration of witness

78. (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 on the declaration envelope.

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

Lost or spoiled mail-in ballot

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

(2) Only one replacement of a mail-in ballot shall be allowed for each voter.

Extension for mail-in voting

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

Security of return mail

81. The chief returning officer shall ensure that the mailing address for the elections office is a secure address that is independent from the Kwanlin Dün First Nation and its corporations.

Special voting

82. (1) Any voter may request to vote by special ballot.

(2) A special ballot shall be issued to a voter who applies to the chief returning officer in a prescribed form.

(3) A voter issued a special ballot shall not be issued a second ballot paper and shall be marked as having voted in the official voter poll book when the special ballot package has been issued.

(4) The special ballot voting package shall be mailed to the voter or delivered to the voter at the elections office not withstanding section 89.

Time limit for special voting

83. A voter may apply for a special ballot from 30 days before the voting date until noon two days before the voting date.

Special ballot voting package

84. (1) The special ballot voting package shall consist of
(a) the ballot the voter is eligible to cast;
(b) an outer, postage-paid return envelope, pre-addressed to the chief returning officer;

(c) a white, inner envelope marked “ballots enclosed” for insertion of the marked ballot;
(d) a voter declaration and witness security envelope; and
(e) instructions regarding procedures for voting by mail.

Criteria for special ballot to be counted

85. (1) To be valid for purposes of the count, a special ballot shall be returned by six o'clock in the afternoon on the voting date
(a) in the voter declaration envelope signed by the voter and a witness; and
(b) received by the chief returning officer or designate, in person or by mail; or
(c) a deputy returning officer at a voting station in Whitehorse.

(2) The chief returning officer or assistant returning officer may act as a witness for a voter voting by special ballot.

Responsibility of the return of special ballots

86. (1) It shall be the responsibility of the voter to ensure that his or her ballot is received pursuant to section 85.

(2) Any costs to return a ballot, other than the use of the postage paid return envelope included in the voting package referred to in paragraph 84(1)(b), shall be the responsibility of the voter.

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

Assistance to vote by special ballot

87. 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 Act.

Declaration of witness for a special ballot

88. (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 on the declaration envelope.

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

Housebound or institutionalized voters

89. (1) The chief returning officer may hand deliver a special ballot voting package to voters within the traditional territory of the Kwanlin Dün First Nation who, for reasons of being housebound or institutionalized, are unable to vote in any other manner under this Act.

(2) The chief returning officer shall determine whether a voter is eligible to vote under subsection (1).

Record of special ballot

90. The chief returning officer shall keep a record of who has been provided a special ballot package.

PART ELEVEN
ADVANCE AND REGULAR VOTING PROCEDURES

Advance voting

91. (1) The chief returning officer, in consultation with the election committee, may establish an advance vote and shall publish the date, time and location of such a vote as required under section 52.

(2) The same procedures for administration of the vote that apply for regular voting shall apply to the advance voting as prescribed by sections 93 to 110 and the instructions provided by the chief returning officer.

Regular hours of voting

92. Regular voting shall take place from nine o'clock in the morning to seven o'clock in the evening on the voting date as prescribed by sections 93 to 110 and the instructions provided by the chief returning officer.

Sealing of the ballot boxes

93. 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 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

94. The seals on a ballot box shall not be broken or the box moved from its location until the vote is officially closed and the count proceeds as prescribed by Part Thirteen.

Who may be present at a voting station

95. 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 returning officer; and

(d) voters who are present and are actually engaged in voting.

Allowing media at a voting station

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

Campaign information at a voting station

97. Notwithstanding section 58, no candidate or any person may post any campaign materials or undertake any campaign activities within 100 meters of the voting station.

Badges at voting stations

98. The chief returning officer shall issue on the voting date to all individuals referred to in paragraphs 95(a) to (c) identification badges to wear in a prominent manner to identify their office.

Procedure to provide the ballot to the voter

99. When a person present at the advance 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 a ballot

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

(a) immediately proceed to the compartment provided for marking the ballot;

(b) mark the ballot by placing a cross, check or other mark to clearly indicate 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 102, 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.

Returning the ballot to the ballot box

101. 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

102. (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 subsection 100(1), the deputy returning officer may, after the declaration for assistance has been made by the voter, and 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 he or she has requested; and

(d) in the case of a person who is visually impaired or physically unable, mark the ballot as instructed by the voter.

(3) The deputy returning officer may order people to leave the voting station if he or she feels the process of assisting the voter referred to in subsection (2) could jeopardize the secrecy of the ballot.

Recording assistance

103. The deputy returning officer shall identify in the official voters poll book and on the voter sign-in sheet 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

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

(2) 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 registrar of citizenship complete the prescribed form; and

(b) returns the signed form to the deputy returning officer before the close of the vote on the voting date.

(3) If a person is declared eligible pursuant to subsection (2), the deputy returning officer shall add that person to the official voters poll book and provide a ballot as described in sections 99 to 103 above.

Voter whose name resembles another name on the official voters list

105. 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

106. 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 and sign-in sheet

107. In the case referred to in section 106, the deputy returning officer shall enter in the official voters poll book and voter sign-in sheet, 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

108. A voter who has inadvertently dealt with his or her ballot 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 and voter sign-in sheet beside the voter's name.

Number of spoiled ballots per voter

109. Each voter shall be allowed only one spoiled ballot for each office voting.

Refusal of a voter to vote

110. 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 subsection 100(1) 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 and voter sign-in sheet 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

111. At the designated closing time determined in section 91 for the advance vote and section 92 fore the regular vote, the deputy returning officer shall publicly announce that the voting is closed.

Voters in a voting place after voting is declared closed

112. 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

113. Immediately after the close of the regular vote, the deputy returning officer shall, in the presence and full view of the poll clerk that is present, proceed with the count according to the instructions provided by the chief returning 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 returning officer.

Verifying special votes

114. (1) The deputy returning officer responsible for the special votes shall review all special ballot envelopes to ensure the legitimacy of the ballots as instructed by the chief returning officer by

(a) checking each envelope against the list of special ballot voters;

(b) verifying there is a voter and witness signature on the declaration envelope;

(c) if there are the necessary signatures in accordance with section 85,

(i) open the declaration envelope and place its contents into the designated ballot box; and

(ii) after all declaration envelopes have been dealt with in this manner, open all the ballot enclosed envelopes 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;

(d) if the declaration envelope is missing either of the required signatures, setting the envelope aside unopened and noting on the envelope “cancelled” and the reason for setting aside the envelope and making the same notation beside the voter’s name in the official voters poll book.

(2) During the course of transfer to the ballot box as described in paragraph (1)(c), any accidental disclosure of how the ballot is marked shall be kept confidential but shall not negate the validity of the ballot.

Verifying that mail-in voters only voted once

115. (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 it against the official voters poll book and

(a) if a mail-in ballot envelope was received from a voter who appears to have voted at the advance, regular, or by special vote, set aside the envelope unopened and 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, verify there is a voter and witness signature on the declaration envelope and

(i) ensure a line is drawn through the voter's name in the official voters poll book to indicate that he or she has voted, and

(c) if there are the necessary signatures in accordance with section 75,

(i) open the declaration envelope and place its contents into the designated ballot box, and

(ii) after all mail-in envelopes have been dealt with in this manner, 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;

(d) if the declaration envelope is missing either of the required signatures, set aside the envelope unopened and 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.

(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

116. After the special and mail-in votes have been dealt with pursuant to sections 114 and 115 respectively, or at the close of the vote for the regular and advance votes, each deputy returning officer shall open his or her respective ballot box and proceed to count the votes in the respective boxes and according to the instructions provided by the chief returning officer.

Ballot reconciliation

117. Each deputy returning officer shall follow the procedures provided by the chief returning officer and record all information on the forms provided by the chief returning officer.

Examination of ballots

118. After separating the ballots for chief and the ballots for councillor, 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

119. 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

120. 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

121. (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 from the objection and, if necessary, in consultation with the chief returning officer.

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

Preparing the statement of vote

122. (1) After all ballots for chief from the ballot box have been examined, and accepted or rejected as prescribed by sections 117 to 121, the deputy returning officer shall

(a) count the votes for each candidate on the ballots not rejected; and
(b) prepare the statement of vote by indicating the
(i) date of the vote,
(ii) total number of citizens who voted at the voting station,
(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, and
(viii) total number of ballots cast for each candidate for chief.

(2) The same procedure outlined in subsection (1) shall be followed for the ballots for councillor.

Signing the statement of vote

123. (1) The statement of vote referred to in paragraph 122(1)(b) shall be signed by

(a) the deputy returning officer who carried out the count;
(b) the poll clerk; and
(c) may be signed by any scrutineer who is present.

(2) For greater certainty, the processes prescribed by sections 117 to 123 shall be followed, separately, for the counting of the ballots for the chief and for the counting of the ballots for the councillor.

Witnessing the sealing of votes

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

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

Delivering all material to the chief returning officer

125. The deputy returning officer shall

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

Validation of votes and disposition of the ballots

126. (1) The chief returning officer shall

(a) take possession of all voting materials;
(b) prepare a summary statement of the vote for each office 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 chief, and
    (ix) total number of ballots cast for each candidate for councillor;
(c) keep the 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 returning officer shall provide a certificate of validation in the prescribed form to

the election committee and within seven days after the completion of the count.

(3) If a judicial recount under Part Fifteen is in progress, the chief returning officer shall provide a certificate of validation to the election committee within 14 days after the close of the regular vote.

Declaration of the candidate or candidates elected

127. (1) Subject to subsections (2) or (3), immediately after the completion of the counting of the ballots as prescribed by sections 117 to 126, the chief returning officer shall

(a) publicly declare to be elected the candidate for whom the greatest number of ballots have been cast for the office of chief;

(b) publicly declare to be elected as councillors

(i) first the candidate who has the greatest number of votes for that office,

(ii) second, the candidate who has the second greatest number of votes for the office, and

(iii) continue in progression until all six candidates who have received the greatest number of votes have been declared; and

(c) cause to be published the results of the vote for each candidate and the name of the person elected or acclaimed for the offices of chief and councillor

(i) in the Kwanlin Dün First Nation main administration building,

(ii) in a newspaper having circulation in the Yukon,

(iii) on the Kwanlin Dün First Nation website, and

(iv) any other location deemed appropriate.

(2) In the case of the count for the office of chief, if the difference between the number of ballots cast for the candidate receiving the greatest number of ballots and another candidate is four ballots or less, including a tie, the chief returning officer shall declare the results as preliminary and to be verified by an automatic recount pursuant to Part Fourteen.

(3) In the case of the count for the office of councillor, if the difference between any of the six candidates who received the greatest number of votes and any other candidate is four or less, including a tie and that could affect the results of whom is to hold office, the chief returning officer shall declare the results as preliminary and to be verified by an automatic recount pursuant to Part Fourteen.

(4) In the case of a tie vote, the declaration of the candidate elected shall be determined after the automatic recount pursuant to section 140.

PART FOURTEEN
AUTOMATIC RECOUNTS

Automatic recount by the chief returning officer

128. The automatic recount pursuant to subsections 127(2) or (3) shall be conducted by the chief returning officer.

Time and place of automatic recount

129. The automatic recount shall take place at noon the day after the voting date at the Whitehorse voting place.

Who may attend

130. The following people may attend an automatic recount:
(a) each candidate affected or one of his or her representatives;
(b) the necessary poll staff as determined by the chief returning officer; and
(c) members of the election committee.

No other person may attend

131. Except with the permission of the chief returning officer, only those persons referred to in section 130 may be present at the automatic recount. The chief returning officer may delay the recount for up to two hours to ensure the presence of a witness.

Documents to be supplied

132. The chief returning officer shall bring all relevant voting materials to the 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 124.

Documents that may be examined

133. At the automatic recount, the chief returning officer shall open the sealed envelopes that contain the used and counted ballots, unused ballots, rejected ballots, spoiled and cancelled ballots for the office in question. The chief returning 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 returning officer

134. At an automatic recount, the chief returning officer shall

(a) count all ballots as prescribed by sections 117 to 126;

(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

135. At the automatic recount the chief returning officer may be assisted by other voting officials but shall personally make all decisions regarding the acceptance or the rejection of ballots that were subject to an objection as prescribed by sections 119 to 121.

Proceedings to be continuous

136. As far as practicable, the automatic recount shall proceed continuously except for necessary breaks.

Security of documents

137. During a break referred to in section 136, the chief returning 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 returning officer and may be signed by any other person in attendance.

Reverse of a decision of another election official

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

Procedure at completion of automatic recount

139. At the completion of an automatic recount, the chief returning officer shall

(a) seal the ballots in a separate envelope for each voting station pursuant to section 124;

(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 paragraph 126(1)(b);

(c) seal the ballot boxes; and
(d) make public the results of the recount.

Drawing of lots to resolve a tie

140. (1) Where two or more candidates for the office of chief have the most and an equal number of votes after an automatic recount, the drawing of lots by the chief returning officer or his or her designate shall resolve the tie by the following procedure:

(a) additional ballots shall 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 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 returning officer shall direct a person who is not a candidate or candidate representative to withdraw one ballot; and
(e) the chief returning officer shall declare elected the candidate whose name is marked on the ballot that was drawn.

(2) Where two or more candidates for the office of councillor still have an equal number of votes after the automatic recount, and where this result would still affect who is elected to Council, the same procedure as prescribed by subsection (1) shall be applied.

Deadline for the declaration of results

141. (1) When the automatic recount is complete, the chief returning officer shall provide the results of the automatic recount to the election committee who shall publicly declare the results pursuant to section 127.

(2) The decision of the chief returning officer shall be final and cannot be appealed to or reviewed by the Judicial Council.

PART FIFTEEN
APPLICATION FOR A JUDICIAL RECOUNT

Grounds for a judicial recount

142. (1) The application for a judicial recount to the Judicial Council may be made if

(a) the ballots were not correctly accepted or rejected;
(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 for a judicial recount to the Judicial Council shall specifically state the facts upon which the application for the judicial recount is based and shall be supported by the evidence of a witness under oath.

(3) The application for a judicial recount may not be made if an automatic recount has already been done for that office.

Time for the application for a judicial recount

143. (1) Notwithstanding the *Judicial Council Act* (Kwanlin Dün First Nation), the application for a judicial recount to the Judicial Council shall be made not later than noon on the Monday following the voting date.

(2) Upon receipt of the application for a judicial recount, the Judicial Council shall set a time for the recount that is convenient to complete the recount within the time limit prescribed by section 146.

Who can make the application for a judicial recount

144. Only a candidate may apply in writing to the Judicial Council for a judicial recount subject to section 142.

Notification

145. (1) A candidate applying to the Judicial Council shall provide enough copies of his or her application for a judicial recount for the members of the Judicial Council and all persons affected, including the chief returning officer.

(2) The Judicial Council shall decide the method of delivery of the notice of a judicial recount.

Date for a judicial recount

146. A judicial recount shall be conducted in accordance with this Part and be completed not more than ten days after the close of the regular vote.

Persons present at a judicial recount

147. The Judicial Council shall allow the following persons, to be present at a judicial recount:
(a) the person who made the application;
(b) the chief returning officer;
(c) the candidates affected in the election or one of his or her representatives;

(d) the election committee; and
(e) any other person with permission of the Judicial Council.

Materials to be used

148. The chief returning officer shall attend a judicial recount and bring all voting material used to determine the official voting results, including the
(a) relevant ballot boxes; and
(b) statements of the vote together with the ballots that were counted pursuant to section 122.

Documents that may be examined

149. If a judicial recount of all of the ballots returned is required, the Judicial Council may open the sealed envelopes that contain the used, unused, rejected, spoiled and canceled ballots for the office and poll in question. The Judicial Council shall not open any envelopes that appear to contain other documents or refer to any other voting documents.

Steps to be taken by the Judicial Council

150. At a judicial recount, the Judicial Council shall
(a) open the ballot boxes containing the ballots for which a judicial recount is requested;
(b) count the ballots in the manner prescribed for a deputy returning officer; and
(c) verify or correct, if necessary, each statement of vote.

Additional powers of the Judicial Council

151. For the purpose of conducting a judicial recount, the Judicial Council 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

152. At the recommendation of the chief returning officer, the Judicial Council may retain the services of support staff to assist in the performance of its duties under this Part.

Proceedings to be continuous

153. The Judicial Council shall, as far as practicable, proceed continuously with a judicial recount except for necessary breaks.

Security of documents

154. (1) Unless otherwise directed by the Judicial Council, the ballot boxes shall remain in the custody of the chief returning officer.

(2) During a break referred to in section 153, the Judicial Council 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 Judicial Council and may be signed by any other person in attendance.

Supervision of sealing

155. The Judicial Council shall supervise the parceling and sealing of ballots and documents at a judicial recount and take all necessary precautions for their security.

Judicial Council may terminate a recount

156. (1) The Judicial Council may refuse to hear the application for a judicial recount if it deems the application for the judicial recount without merit.

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

Procedure at completion of a recount

157. (1) At the completion of a judicial recount, the Judicial Council shall

(a) seal the ballots in separate envelopes for each polling station pursuant to section 124;

(b) without delay, prepare a statement of vote that sets out the number of votes for each candidate pursuant to section 122;

(c) deliver the original of the statement of vote to the chief returning officer and a copy to the election committee; and

(d) make public the results of the judicial recount.

(2) The decision of the Judicial Council shall be final.

In case of a tie vote

158. (1) Where two or more candidates have the most and an equal number of votes at the end of the judicial recount, and that could affect the results of who is to hold office, the drawing of lots shall resolve the tie by the following procedure:

(a) additional ballots shall 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 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 Judicial Council shall direct a person who is not a candidate or candidate representative to withdraw one ballot; and
(e) the chief returning officer shall declare elected the candidate whose name is marked on the ballot that was drawn.

(2) The decision of the Judicial Council shall be final.

PART SIXTEEN
APPEAL

Grounds and time limit for an appeal

159. (1) Notwithstanding the *Judicial Council Act* (Kwanlin Dün First Nation), within fourteen consecutive days after the close of the vote on the voting date, a voter may appeal the results of the election in writing to the Judicial Council detailing the evidence with respect to

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

(2) After the appeal is filed, the Judicial Council shall set a date for it to hear the appeal.

(3) The Judicial Council shall hear and determine the appeal under subsections (1) and (2) as soon as possible and, for this purpose, shall ensure that the proceedings are conducted as expeditiously as possible.

(4) The Judicial Council may refuse to hear the appeal if it deems the appeal to be without merit.

(5) A voter who makes an appeal shall pay his or her own costs.

Notice by the Judicial Council

160. (1) Where the appeal is submitted pursuant to subsection 159(1), the Judicial Council shall forward a copy of the appeal and all supporting documents within five business days to

(a) the chief returning officer;
(b) each candidate affected by the appeal; and
(b) the election committee.

(2) The chief returning officer, members of the election committee, or any affected candidate may, within 14 consecutive days of the receipt of the copy of the appeal, forward to the Judicial Council a written submission addressing the details of the appeal with any supporting documents.

Documents made public

161. (1) All documents filed in accordance with this Part shall constitute and form the record and be available to the public unless deemed otherwise by the Judicial Council.

(2) The Judicial Council may, if the material that has been filed is not adequate for deciding the appeal or to hold a hearing, conduct such further investigation into the matter as it deems necessary and in such manner as it deems expedient.

Withdrawal of the appeal

162. If a candidate affected by the appeal files a written statement renouncing all claim to the office to which the candidate was elected, the Judicial Council may permit the petition for the appeal to be withdrawn.

Limit of finding fault

163. The Judicial Council shall not declare an election result invalid or void by reason only of an irregularity or failure to comply with this Act if it is satisfied that

(a) the election was conducted in good faith and substantially in accordance with the provisions of this Act, and

(b) the irregularity or failure did not materially affect the result of the election.

Declaration of judgment

164. (1) Upon the completion of its review of the appeal, the Judicial Council 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 for the office that was to be filled in the election that was declared invalid;

(c) invalid and that the office that was to be filled in the election is vacant; or

(d) invalid and that another candidate is duly elected.

(2) On the hearing, pursuant to paragraph 159(1)(c), of the appeal regarding the qualification of an elected candidate to take office, the Judicial Council shall declare that the candidate is

(a) confirmed as qualified to take and hold office;

(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 Judicial Council shall be final.

PART SEVENTEEN
MISCELLANEOUS

When elected candidates may take office

165. The candidate declared elected pursuant to section 127 shall make the oath of office within seven days after the voting date.

Status of the elected candidate

166. A person affected, pursuant to section 127, by an appeal who has been declared elected shall be entitled to hold office and to vote and otherwise act in the office unless and until the Judicial Council declares the candidate disqualified and the office vacant.

Report of election results

167. (1) The chief returning officer, within 21 days after the declaration of the official election results, shall submit a report of the results to the election committee, including, but not limited to

(a) the number of names on the official voters list,;
(b) copies of the Summary by Poll of the Statement of Votes;
(c) the number of ballots cast for each candidate;
(d) the number of rejected ballots;
(e) the number of citizens who voted;
(f) an overview of the election preparations and proceedings consistent with this Act;
(g) any recommendations that could improve the administrative expediency, efficiency and clarity of this Act;
(h) all public notices, brochures, lists, declarations, certificates, forms and instructions; and
(i) other documents and materials pertinent to the preparations and proceedings of the election.

(2) If an appeal has been lodged under Part Sixteen, the report shall be due 21 days after the completion of the appeal.

(3) The Kwanlin Dün First Nation shall maintain an archive of election results and relevant material.

Availability of citizenship registrar

168. The Citizenship Registrar of the Kwanlin Dün First Nation shall be available to the election committee and chief returning officer for any matter arising with regard to the citizen registry referred to in section 35 to 39. The Citizenship Registrar shall be available from the time

of the order for an election, referred to in section 6, until the voting day, referred to in section 5, and for the time of an application for appeal pursuant to Part Seventeen, if applicable.

Regulations

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

Offences of this Act

170. (1) A person who knowingly violates any section of this Act commits a offence.

(2) A person who knowingly violates an order of the Judicial Council or the chief returning officer commits an offence.

(3) A person who is guilty of an offence under this section is liable on conviction to a fine up to $5,000 and imprisonment to a maximum of six months in accordance with the power of the Kwanlin Dün First Nation to impose penalties under section 13.6 of the self-government agreement.

Judicial Council may inquire into a complaint

171. (1) Any person may complain in writing to the Judicial Council that a citizen has engaged in a corrupt practice in connection with an election.

(2) Upon receipt of a complaint, the Judicial Council may inquire into the complaint and if, after giving the citizen the opportunity to be heard, it is satisfied, on balance of probabilities, that the citizen has engaged in a corrupt practice in connection with an election, the Judicial Council may make such order as is just and reasonable in the circumstances.

Act in force

172. This Act comes into legal force on a day to be fixed by the Council.

The Act repeals

173. The *Rules and Procedures for Conduct of a Vote for Chief and Council* (Kwanlin Dün First Nation) are hereby repealed. For greater certainty, Part A, Elections, in Schedule 3, Election and Referendum Code, of the constitution has also been repealed.