

TR'ONDĚK HWĚCH'IN ELECTION ACT

Tr'onděk Hwěch'in are taught to do things "in a good way" which means doing things with respect. In our way respect encompasses everything. Respect for every person and every living thing is the most important law.

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TR'ONDËK HWËCH'IN ELECTION ACT

1 Purpose:

This Act enhances Citizens' confidence in the Tr'ondëk Hwëch'in Government by providing rules and direction for respectful, fair and transparent elections.

2 Interpretation:

Advance Poll

means a poll conducted pursuant to section 17 of this Act.

By-election

means an election of a member of Council other than a general election.

Ballot

means the document(s) used to record an Elector's vote.

Candidate

means a person who files nomination forms, and whose nomination forms have been accepted by the Chief Returning Officer in accordance with section 11 of this Act.

Candidate's Representative

means a person the Candidate has appointed in writing to act on behalf of the Candidate at the Polling Station pursuant to section 23.1 of this Act.

Chief Returning Officer

means the person who is appointed by the Election Committee to run an election pursuant to this Act.

Citizen

has the same meaning as it has in the "Tr'ondëk Hwëch'in Citizenship Code" established pursuant to *Tr'ondëk Hwëch'in Constitution*.

Council

has the same meaning as it has in the *Tr'ondëk Hwëch'in Constitution*.

Deputy Returning Officer

means the person who is responsible for the supervision and operation of a Polling Station.

Election

means the general election of a Council held on the third Thursday of April every three years.

Election Arbitrator

means an independent arbitrator appointed pursuant to section 4 of this Act.

Election Committee

means the group appointed by the Council which is responsible for the conduct of an election or a by-election.

Election Officer

means the Chief Returning Officer, a Deputy Returning Officer or a Poll Clerk.

Election Year

means the calendar year in which a general election is to be held.

Elector

means a person who is a Citizen of Tr'ondëk Hwëch'in and is 18 years of age or older on Polling Day.

Executive Director

means the person who is the senior employee of the Tr'ondëk Hwëch'in Government.

Immediate Family

has the same meaning as it has in the *Tr'ondëk Hwëch'in Constitution*.

Nomination Day

means the deadline for filing completed nomination forms with the Chief Returning Officer; for general elections, Nomination Day is the first Thursday of March of an election year.

Notice of By-election

means a notice issued by the Election Committee pursuant to section 32 of this Act.

Notice of Election

means a notice issued by the Election Committee pursuant to section 7 of this Act.

Notice of Election Results

means a notice issued by the Chief Returning Officer pursuant to section 29 of this Act.

Notice of Grant of Poll

means a notice issued by the Chief Returning Officer pursuant to section 16 of this Act.

Notice of Run-off Poll

means a notice issued by the Chief Returning Officer pursuant to section 31 of this Act.

Poll Book

means the entry book recording the name, address and birth date, if required, of every person who receives a Ballot.

Poll Clerk

means a person who assists the Returning Officers at a Polling Place.

Polling Day

means the day on which the voting takes place, and does not include advance poll or Special Poll dates, but does include New Polling Dates resulting from delays, appeals or tie votes.

Polling Place

means a location where voting takes place.

Polling Station

means a place that has Election Officer(s) and a Ballot box.

Resident

means someone whose primary residence, where they normally spend at least 183 nights per year, is in the Traditional Territory of the Tr'ondëk Hwëch'in, such residency to commence at least one day prior to the first Thursday of June in an election year.

Second Nomination Day

means the day, seven calendar days after Nomination Day, pursuant to section 15 of this Act, if insufficient nominations are received for any position by Nomination Day.

Special Poll

means an opportunity for Electors who are institutionalized, or otherwise not able to leave their residences due to infirmity, to vote by Special Ballot delivered to the Elector's residence and received by the Chief Returning Officer or their designate.

Special Ballot

means a Ballot that is not completed in a Polling Station and includes mail-in Ballots.

Voters List

means the list of Electors.

3 Election Committee

3.1 The Council will:

- 3.1.1 appoint three persons to an Election Committee;
- 3.1.2 appoint one of the Election Committee members to be the chair of the committee;
- 3.1.3 make the appointments effective no later than the third Friday of January of an election year; and
- 3.1.4 approve the budget for the Election Committee.

3.2 The Council will appoint an additional alternate member who will occupy a position on the Election Committee in the event of a vacancy or disqualification.

3.3 A member of the Election Committee will not be:

- 3.3.1 a member of the Council;
- 3.3.2 a Candidate for election;
- 3.3.3 an employee of the Tr'ondëk Hwëch'in Government; or
- 3.3.4 a member of a Candidate's Immediate Family.

3.4 The Election Committee will oversee the administration of an election held under this Act and will be responsible for:

- 3.4.1 maintaining the integrity of Tr'ondëk Hwëch'in elections;
- 3.4.2 ensuring that Tr'ondëk Hwëch'in law, policies and practices are followed in the conduct of Tr'ondëk Hwëch'in elections;
- 3.4.3 maintaining election records;
- 3.4.4 undertaking the administration of the election in accordance with the budget approved by Council;
- 3.4.5 appointing the Chief Returning Officer; and

3.4.6 appointing the Election Arbitrator.

4 Election Arbitrator

4.1 An Election Arbitrator will be appointed by the Election Committee on or before the third Thursday of February in an election year, and will be seized of all protests or disputes that arise in connection with the Election Committee's exercise of responsibilities under this Act.

4.2 The Election Arbitrator will be independent and will not be:

4.2.1 a member of the Council;

4.2.2 a Candidate for election;

4.2.3 an employee of the Tr'ondëk Hwëch'in Government; or

4.2.4 a member of a Candidate's Immediate Family.

4.3 If the person appointed as the Election Arbitrator becomes disqualified under section 4.2, the Election Committee will appoint a new Election Arbitrator as soon as reasonably possible after notice of the disqualification is received.

5 Chief Returning Officer

5.1 The Election Committee will appoint a Chief Returning Officer on or before the third Thursday of February of an election year.

5.2 The Chief Returning Officer will be responsible for:

5.2.1 appointing and supervising Deputy Returning Officers and Poll Clerks;

5.2.2 determining Polling Places and the number of Polling Stations;

5.2.3 conducting any Special Polls;

5.2.4 posting announcements related to the election;

5.2.5 day-to-day administration of the election and the election office;

5.2.6 ordering and distributing Ballots, forms, and other supplies;

5.2.7 ensuring that the Polling Day results are reported and announced; and

5.2.8 conducting a count and any required recount of the Ballots cast.

5.3 The Chief Returning Officer may perform any function in the election and may delegate administrative functions pertaining to the office, the Ballots, making announcements and counting Ballots.

6 Other Election Officers

6.1 One Deputy Returning Officer will be appointed by the Chief Returning Officer for each Polling Station and will be responsible for the supervision and running of that Polling Station.

6.2 Poll clerks may be appointed by the Chief Returning Officer for each Polling Station.

- 6.3 An Election Officer will not be a member of a Candidate's Immediate Family.

CALLING AN ELECTION

7 Notice of Election

- 7.1 On the third Thursday of February of an election year, the Election Committee will issue a public Notice of Election for a general election.
- 7.2 A Notice of Election will include:
- 7.2.1 the date, place and time of Nomination Day for the nomination of Candidates;
 - 7.2.2 the number of positions to be elected;
 - 7.2.3 the date of the election and the hours during which voting will take place;
 - 7.2.4 the name of the Chief Returning Officer; and
 - 7.2.5 the date of the Notice of Election.
- 7.3 Notices of Election will be posted by the Chief Returning Officer in public places, in newspapers in Dawson City and Whitehorse, on the Tr'ondëk Hwëch'in Government web site, and at the main administrative offices of Tr'ondëk Hwëch'in.

8 Voters List

- 8.1 The Executive Director will provide the Chief Returning Officer with a Voters List which includes the names of all Electors no later than the first Friday of March of an election year.
- 8.2 The Voters List will be prepared in alphabetical order, surname first, and include each Elector's date of birth and most recent address.
- 8.3 The Chief Returning Officer will publicly post a current copy of the Voters List, excluding the Elector's date of birth and address, at the main administrative offices of the Tr'ondëk Hwëch'in and such other places as the Chief Returning Officer deems appropriate.
- 8.4 A person may request to have his or her name added to the Voters List or his or her address corrected upon written request to the Chief Returning Officer any time until five calendar days before the final poll.
- 8.5 Upon receipt of a written request by a person to be added to the Voters List, the Chief Returning Officer will seek confirmation from the Executive Director that the person is eligible to be a Elector.
- 8.6 The Chief Returning Officer will provide each Candidate with one copy of the current posted Voters List and any updated lists before the start of the Advance Poll and the Polling Day.
- 8.7 The Voters List may only be used for election purposes, including campaigning and raising

money for campaigning.

9 Candidate Eligibility

- 9.1 To be eligible for nomination as a Candidate for election, a Citizen:
- 9.1.1 must be at least 18 years of age on Polling Day and a resident of the Tr'ondëk Hwëch'in Traditional Territory;
 - 9.1.2 cannot have been convicted of a Criminal Code offence related to fraud or breach of public trust;
 - 9.1.3 cannot be serving a sentence or on probation for an indictable offense or the offense of theft, fraud, or false pretenses; and
 - 9.1.4 must have not been removed from the Council in the past 10 years preceding the date of election.
- 9.2 The Elders Council:
- 9.2.1 may waive the provisions of section 9.1.2 or 9.1.3 upon application by a Citizen; and
 - 9.2.2 will provide written notice to the Chief Returning Officer of any such waiver.
- 9.3 The Chief Returning Officer will accept nomination papers submitted by the deadline on Nomination Day, from a Citizen for whom the Elders Council has made a waiver under section 9.2.

10 Eligibility of Tr'ondëk Hwëch'in Employees for Election

- 10.1 A Citizen who is an employee of the Tr'ondëk Hwëch'in Government may be a Candidate if he or she takes a leave of absence from work from Nomination Day to Polling Day.
- 10.2 A member of the Tr'ondëk Hwëch'in management team who is declared elected will resign his or her position as an employee of the Tr'ondëk Hwëch'in Government or take a leave of absence prior to taking office.

11 Nomination of Candidates

- 11.1 A Citizen who is eligible for nomination as a Candidate may put his or her name forward for election by completing and submitting a nomination, in the prescribed form, to the Chief Returning Officer.
- 11.2 A nomination form must contain:
- 11.2.1 signatures of five or more Electors; and
 - 11.2.2 the consent of the Candidate, either by way of signature on the nomination form or by letter from the Candidate accepting the nomination.
- 11.3 Completed nomination forms must be filed with the Chief Returning Officer any time after

the Notice of Election and before 4:30 p.m. on Nomination Day.

- 11.4 The Chief Returning Officer will supply each Candidate with one Voters List, excluding Elector's dates of birth and addresses, and a list of the locations of the Polling Places.

12 Order of Names on Ballots

- 12.1 At 4:30 p.m. on Nomination Day, the Chief Returning Officer will determine the order of names on the Ballots by drawing lots in the presence of the Election Committee.

13 Withdrawal or Death of a Candidate

- 13.1 A Candidate or a nominee may withdraw a nomination at any time prior to Polling Day by advising the Chief Returning Officer in writing.
- 13.2 If as a result of a candidate's death or withdrawal there are fewer candidates than the number of positions to be filled for Chief, Deputy Chief, or Councillor, the Election Committee will follow procedures for a Second Nomination Day in section 15 of this Act.
- 13.3 In the event of the death or withdrawal of a Candidate after Nomination Day, the Chief Returning Officer will provide notice to the Electors as the Chief Returning Officer sees fit.
- 13.4 If the Ballots have been printed, the Chief Returning Officer will draw a line through the name of the deceased or withdrawn Candidate on each Ballot.

14 Acclamation

- 14.1 If at the close of nominations the number of Candidates for a position is less than or equal to the number of positions,
- 14.1.1 the Chief Returning Officer will immediately inform the Election Committee;
 - 14.1.2 the Election Committee will declare such Candidate or Candidates elected to the position or positions by acclamation; and
 - 14.1.3 the Chief Returning Officer will post a Notice of Election Results in a public place and at the mail administrative offices of the Tr'ondëk Hwëch'in pursuant to section 29 of this Act.

15 Insufficient Number of Nominations

- 15.1 If at the close of nominations the number of nominations is less than the number of positions to be filled, the Chief Returning Officer will immediately inform the Election Committee.
- 15.2 Upon receiving notice from the Chief Returning Officer pursuant to section 15.1, the Election Committee may:

- 15.2.1 declare the nominated Candidate(s) elected; or
 - 15.2.2 extend the time for nominations by seven calendar days; and
 - 15.2.3 post a revised Notice of Election for nominations for the position(s) for which there were fewer nominations than the number required for acclamation.
- 15.3 Any revised Notice of Election will include the date of the Second Nomination Day and indicate the position(s) for which there were insufficient nominations.
- 15.4 If at the close of nominations on the Second Nomination Day there are still insufficient nominations to fill the positions, the members of the Council elected by acclamation will appoint a person or persons, who would be qualified to be Candidates, to fill any vacancy in an acting capacity for a period up to one year.
- 15.5 The Council will call a by-election within one year to elect Candidates to those positions filled under section 15.4.

16 Notice of Grant of Poll

- 16.1 The Chief Returning Officer will post a Notice of Grant of Poll on the second Thursday in March of an election year, in a public place, and at the main administrative offices of the Tr'ondëk Hwëch'in immediately following the close of nominations, if an election is required. The notice will contain the names of all Candidates for each position (or the names of those acclaimed to a position) and the dates, times and locations for voting.

POLLING

17 Advance Polls

- 17.1 The Chief Returning Officer will conduct Advance Polls in both Dawson City and Whitehorse which will be open from 10:00 a.m. to 8:00 p.m., not sooner than 14 calendar days and not later than seven calendar days before Polling Day.

18 Polling Day

- 18.1 Date: Subject to a delay pursuant to section 33 of this Act, Polling Day will take place on the third Thursday in April of an election year.
- 18.2 Hours: Election polls will be open at 9:00 a.m. and close at 8:00 p.m. on Polling Day.
Polling Places: There will be at least one Polling Place in both Dawson City and Whitehorse.

19 Special Ballots

- 19.1 Special Ballots and mail-in Ballots will have the same form and follow the procedures outlined in the *Regulation*.

19.2 An Elector who:

- 19.2.1 has been issued a Special Ballot in person or by mail, and
- 19.2.2 who appears at an Advance Poll or on Polling Day,

will not be issued a second Ballot, except as provided by the *Regulation*.

19.3 Only Elections Officers may handle Special Ballots after they have been received by the Chief Returning Officer or designate.

19.4 Special Ballots received from Special Polls and by mail will remain in the secret Ballot envelope until the Ballots are counted at the end of the Polling Day.

19.5 Special Ballots will be stored in a secure location until they are deposited into a secure Ballot Box.

20 Special Poll

20.1 The Election Committee, upon recommendations from the Chief Returning Officer, will determine the need for Special Polls.

21 Voting by Mail-in Ballot

21.1 An Elector may apply to the Chief Returning Officer for a mail-in Ballot at any time after the Notice of Election is posted. The application will be in the prescribed form and an Elector may return a completed application to the Chief Returning Officer by mail, delivery or electronic transmission.

21.2 After being satisfied that the applicant for a mail-in Ballot is eligible to vote, the Chief Returning Officer will send a mail-in Ballot package to the Elector at the address provided in the mail-in Ballot application.

22 Persons present During Polling

22.1 Only the following persons may be present in a Polling Place:

- 22.1.1 the Chief Returning Officer;
- 22.1.2 the Deputy Returning Officer;
- 22.1.3 the Poll Clerk(s);
- 22.1.4 one Candidate's Representative for each Candidate;
- 22.1.5 the Electors, for the purpose of voting; and
- 22.1.6 for Electors requiring assistance, an assistant of the Elector's choosing, who may not be a Candidate or a Candidate's Representative.

23 Candidates' Representatives

- 23.1 Each Candidate may have one Candidate's Representative at a Polling Station.
- 23.2 Each Candidate's Representative will give the Deputy Returning Officer a letter of permission, in the prescribed form, from the Candidate in order to remain at the Polling Place, and such letters will be kept with the Poll Book.

24 Secrecy

- 24.1 No Election Officer, Candidate's Representative or any other person at a Polling Station may reveal how an Elector has marked his or her Ballot, and may not interfere with an Elector who is marking a Ballot, or attempt to discover for whom an Elector is marking a Ballot.
- 24.2 No Elector will declare for whom the Elector is voting or show a marked Ballot in a Polling Place.

25 Voting

- 25.1 Every person whose name is on the Voters List is entitled to cast one Ballot for each position.
- 25.2 No Elector may cast more than one Ballot for each position being contested.
- 25.3 An Elector will state his or her name, address and date of birth to the Deputy Returning Officer.
- 25.4 After each Elector has received a Ballot, his or her name will be crossed off the Voters List and his or her name, address and date of birth, if required, will be entered in the Poll Book.
- 25.5 If an Elector's name does not appear on the list, the Elector may take the prescribed Oath of Eligibility and the Poll Clerk will note "oath taken" in the Poll Book.

26 Close of Polls

- 26.1 At the close of the poll on Polling Day, the Deputy Returning Officer will permit those Electors who are present in the Polling Place to vote.

27 Counting

- 27.1 The only persons permitted in the room during the counting of Ballots are the Election Officers and at least two witnesses each of whom will be provided with a tally sheet.
- 27.2 The witnesses permitting in the room during the counting of Ballots under section 27.1 may be:
 - 27.2.1 a Candidate's Representative;
 - 27.2.2 an Elector; or

27.2.3 any combination of the above.

28 Recount

- 28.1 If fewer than ten votes separate a Candidate from the number required to achieve office, the Candidate may submit a written request for a recount of the Ballots to the Chief Returning Officer within three calendar days of Polling Day.
- 28.2 The Chief Returning Officer will conduct a recount upon receipt of a request pursuant to section 28.1.

29 Notice of Election Results

- 29.1 The Chief Returning Officer will document the results of the vote and deliver them to the Election Committee immediately following the count.
- 29.2 The Chief Returning Officer will announce the unofficial results on the Tr'ondëk Hwëch'in Government website as soon as practicable after the votes have been delivered to the Election Committee.
- 29.3 The results of the vote will remain unofficial until any required recount is completed and any dispute referred to the Election Arbitrator has been resolved.
- 29.4 The Chief Returning Officer will post a Notice of Election Results in the main administrative offices of the Tr'ondëk Hwëch'in and on the website when the Chief Returning Officer has verified that the Election Arbitrator has resolved all disputes and the three-day appeal period has passed.

30 Term of Office

- 30.1 The term of office for Council will begin on the first Thursday of June in an election year and continue for three years following.
- 30.2 The Council will be sworn in on the day before the first Thursday in June of an election year, or as soon as practicable after that date.
- 30.3 Newly elected members of Council may attend, observe and ask questions of the Council at Council meetings as soon as they are elected.
- 30.4 At the request of newly elected Council, the outgoing Council will provide briefings and guidance on files to the incoming Council during the transition.

31 Run-off Election

- 31.1 In case of a tie vote for a position, the Chief Returning Officer will post a Notice of Run-off

Poll which includes the date, time and location of the poll in a public place and at the main administrative offices of the Tr'ondëk Hwëch'in.

- 31.2 The Notice of Run-off Poll will state the names of the Candidates involved in the tie(s) and the position(s) for which they are tied.
- 31.3 The run-off election will be held on a day fixed by the Election Committee which is not less than 20 calendar days and not more than 30 calendar days after the date of the tie vote.
- 31.4 Only those Candidates who tied for the highest number of votes cast for a particular office on the date of the election may be Candidates in the run-off election.
- 31.5 The procedures for the run-off election will be as provided in this Act, except that a nomination meeting will not be required.
- 31.6 If the run-off election results in a difference of three or fewer votes cast for the Candidates in that election, section 16.1 of the *Tr'ondëk Hwëch'in Election Regulation* will apply, but no further recount may be requested.
- 31.7 If the run-off election, after the automatic recount, results in a tie, the Chief Returning Officer will call a meeting of the Election Committee and the Candidates who have tied and the office(s) for which the recount was conducted will be decided by a coin toss.
- 31.8 The Chief Returning Officer will announce the results of the run-off election in accordance with section 29 of this Act and any required coin-toss in accordance with section 31.7 of this Act.

32 By-election to Fill a Vacancy

- 32.1 A by-election will be held for a position vacated by the resignation, death or removal of a member of the Council.
- 32.2 A by-election will be called by the Council within 45 calendar days of the date of the resignation, death or removal.
- 32.3 Notwithstanding section 32.2, if the vacancy occurs within four months of the end of the Council's term of office, the Council may continue with three members for the remainder of its term.
- 32.4 If there is more than one vacancy, a by-election will be held to fill the vacant positions, even if fewer than four months remain in the Council's term of office.
- 32.5 A by-election will be conducted in the same manner as a general election under this Act

except that time frames will be as follows:

- 32.5.1 The Council will appoint the Elections Committee within 14 calendar days of determining the need for a bi-election;
- 32.5.2 The Notice of By-election will be posted, and the Chief Returning Officer hired within two weeks of the appointment of the Elections Committee;
- 32.5.3 Nominations will be closed and the Notice of Poll posted within 14 calendar days of posting of the Notice of By-election poll;
- 32.5.4 The Polling Day for a by-election will take place within 14 calendar days of the posting of the Notice grant of By-election poll.

33 Death of a Citizen

- 33.1 In the event of a death of a Citizen immediately prior to the date of election, the Chief Returning Officer may delay polling for not more than ten calendar days from the date of the funeral on the advice of the Elections Committee.
- 33.2 In the event of a delay due to a death:
 - 33.2.1 the Chief Returning Officer will provide notice to the Electors of the delay, as soon as practicable in the media of choice, on the Tr'ondëk Hwëch'in Government website and at the main administrative offices of the Tr'ondëk Hwëch'in; and
 - 33.2.2 The Chief Returning Officer will post a notice of the new polling day in a public place, on the Tr'ondëk Hwëch'in Government website and at the main administrative offices of the Tr'ondëk Hwëch'in.

34 Appeals and Review

- 34.1 A Candidate or Elector may request a review of any action or decision under this Act that is not otherwise deemed final by the Act.
- 34.2 A request for review must be in writing, include the basis of the review and any related materials, and must be provided to the Election Arbitrator within five calendar days of the action or decision.
- 34.3 The request must clearly set out the action or decision for which review is being sought, along with reasons why the action or decision should be set aside.
- 34.4 The Election Arbitrator may refuse a request for review if, in the Arbitrator's opinion, the potential infraction was not or would not be material to the outcome of the election.
- 34.5 The Election Arbitrator may accept a request for review if, in the opinion of the Arbitrator, refusing the request would undermine the integrity of the election process.
- 34.6 The decision of the Election Arbitrator to refuse a request for review under section 34.4 will

- be provided to the Candidate or Elector in writing and a copy will be provided to the Election Committee.
- 34.7 Upon accepting a request for review, the Election Arbitrator will notify the Election Committee and the Chief Returning Officer and provide a copy of the request to them.
- 34.8 The Chief Returning Officer will ensure that all Candidates are provided with a copy of the request for review.
- 34.9 If the Election Arbitrator accepts a request for review he or she will provide a written decision to the Candidate or Elector, the Election Committee and the Chief Returning Officer within seven calendar days of acceptance of the request.
- 34.10 The Election Arbitrator may extend the date of response by up to three calendar days upon notification to the Election Committee and Chief Returning Officer.
- 34.11 The Election Arbitrator will provide the Election Officers and other interested parties to make submissions with respect to the matter under review; and he or she may investigate, request further information, and interview any person he or she believes will assist in deciding the matter under review.
- 34.12 Upon completion of the review, the Election Arbitrator may do any of the following:
- 34.12.1 declare that a Candidate is qualified to hold office;
 - 34.12.2 declare that a Candidate is not qualified to hold office and that his or her nomination is void;
 - 34.12.3 declare that an elected Candidate is not qualified to hold office and that the office is vacant;
 - 34.12.4 declare that an election is confirmed as valid;
 - 34.12.5 declare that an election is invalid and that the office is vacant; and
 - 34.12.6 provide recommendations to the Election Committee for improving the elections process.
- 34.13 The Election Arbitrator will not declare an election invalid only because the election was not conducted in accordance with this Act if the Election Arbitrator is satisfied that:
- 34.13.1 the election was conducted in good faith; and
 - 34.13.2 the failure to comply with this Act did not materially affect the result of the election.
- 34.14 The Election Arbitrator will deliver a written copy of the decision to the Chief Returning Officer and the Election Committee immediately after making a decision under this section.
- 34.15 Upon receipt of a declaration under section 34.12.2 the Chief Returning Officer will declare

the Candidate's nomination withdrawn and proceed in accordance with section 13 of this Act.

34.16 Upon receipt of a declaration under section 34.12.3, the Chief Returning Officer will declare the Candidate with the next greatest number of votes elected to that position.

34.17 If an election is declared invalid under section 34.12.5, the Election Committee will, within five calendar days of the decision to invalidate the election, set a date for a new vote that is not more than fourteen calendar days from the date of the decision.

34.18 The decisions of the Election Arbitrator will be final and not subject to judicial review, provided that a Candidate shall have the right to appeal against that decision or result on the ground that it was obtained in a manner:

34.18.1 not in accordance with this Act;

34.18.2 inconsistent with the principles of natural justice or otherwise without jurisdiction;

34.18.3 an error in law; or

34.18.4 based on an erroneous finding of fact made in a perverse or capricious manner.

35 Regulation

35.1 The Council may establish any regulation it deems necessary to carry out the provisions and purposes of this Act and, without limiting the generality of the foregoing, may make regulation in respect of:

35.1.1 forms, formats, materials, records, fees and procedures pertaining to any aspect of the election;

35.1.2 management of absentee voting and Advance Polls;

35.1.3 conduct of Election Officers and Candidates, and their Representatives;

35.1.4 and penalties.

36 Indemnification

36.1 The Tr'ondëk Hwëch'in Government will indemnify and save harmless all persons engaged to work in an election, as well as the Election Committee and its members, from and against any and all actions, causes of action or proceedings of any kind whatsoever which may be threatened, prosecuted or brought against them in respect of any act, omission or decision made by them, respectively, in the conduct of their office or the performance of their duties under this Act.

37 Coming into Force

37.1 The provisions of this Act will come into force on a day to be fixed by order of the Council.

TR'ONDËK HWËCH'IN ELECTION ACT REGULATIONS

Pursuant to section 35 of the *Tr'ondëk Hwëch'in Election Act*, the Council orders as follows:

1. This *Tr'ondëk Hwëch'in Election Regulation* is hereby made.
2. This Order comes into force on 31 January 2017.

Dated at Dawson City in the Yukon Territory, this 30 day of January, 2017, Resolution 2017-01-30-01.

1 Definitions

- 1.1 In this *Regulation* the definition of the *Tr'ondëk Hwëch'in Election Act* apply.

2 Election Committee

- 2.1 The term of the Election Committee will be determined by the Council, and for general elections will extend to a minimum of 30 calendar days after the Polling Day.

3 Special Ballot

- 3.1 A Special Ballot package will contain:
 - 3.1.1 a Ballot in the prescribed form, which will be either a write-in Ballot, or an election-specific Ballot;
 - 3.1.2 a secret Ballot envelope in the prescribed form;
 - 3.1.3 an envelope, which may or may not be the statutory declaration in section 3.2.2 of this *Regulation*, in which the Ballot envelope is placed.
- 3.2 Mail-in Ballot packages will contain:
 - 3.2.1 a Special Ballot package and instructions for voting by mail;
 - 3.2.2 a statutory declaration of the Elector in the prescribed form;
 - 3.2.3 a postage paid return envelope.
- 3.3 Special Ballots will be initialled by the Chief Returning Officer and counterfoils removed prior to being issued to an Elector.
- 3.4 The Chief Returning Officer may designate Deputy Returning Officers to deliver Special Ballots to Electors and receive them back after they have been marked.

- 3.5 For mail-in Ballots the Chief Returning Officer or designate will verify statutory declarations such that,
 - 3.5.1 if the statutory declaration has not been fully completed, signed and witnessed, the Special Ballot Envelope will be marked as "rejected," placed in a envelope marked "rejected Ballots," and stored in a secure location until the close of polls;
 - 3.5.2 if the statutory declaration is fully completed, signed and witnessed, and the elector's eligibility verified, the steps in section 3.6 of this *Regulation* will be followed.
- 3.6 After Special Ballot Envelopes have been received and accepted, the Chief Returning Officer or designate will:
 - 3.6.1 cross the voter's name off a copy of the Voters List;
 - 3.6.2 make a "special Ballot" notation in the record of the vote in the Poll book pursuant to sections 13.2 and 13.4 of this *Regulation*;
 - 3.6.3 place the unopened Special Ballot Envelopes in an envelope;
 - 3.6.4 seal the envelope; and
 - 3.6.5 write the number of Ballots inside on the envelope.
- 3.7 Envelopes containing Special Ballots will be stored in a secure location until placed in the Ballot Box, pursuant to sections 7.14-7.15 of this *Regulation*.

4 Special Poll

- 4.1 Special Polls may be conducted at Copper Ridge Place, Macaulay Lodge, Whitehorse Correctional Center, Whitehorse General Hospital, Young Offenders Facility, MacDonald Lodge, the Dawson Hospital and any other location(s) or communities, including Eagle, Alaska, that the Elections Committee deems appropriate subject to funding availability.
- 4.2 The Chief Returning Officer will determine the dates and times for Special Polls.

5 Voting by Mail-in Ballot

- 5.1 The Chief Returning Officer may send a notice of grant of poll to Electors who received mail-in Ballots after Nomination Day, or Second Nomination Day if required.
- 5.2 If an Elector loses his or her mail-in Ballot, he or she may request a replacement Ballot no later than 10 calendar days before Polling Day.

6 Receipt of Mail-in Ballots

- 6.1 Mail-in Ballots must be received at the mailing address specified by the Chief Returning Officer by 4:00 p.m. on Polling Day.

- 6.2 Mail-in Ballots are Special Ballots and only Election Officers may handle them once they are received.
- 6.3 Mail-in Ballots received after the deadline will be left un-opened and will not be counted.
- 6.4 Upon receipt of a Special mail-in Ballot before the deadline, an Elections Officer will follow steps set out in sections 3.5-3.7 of this *Regulation*.

7 Advance Polls

- 7.1 At the conclusion of the Advance Poll, the Chief Returning Officer will, in front of the Deputy Returning Officer:
 - 7.1.1 open the Ballot box;
 - 7.1.2 count the number of Ballot papers without unfolding them, and place them in an envelope;
 - 7.1.3 seal the envelope and write the number of Ballots inside the envelope on the envelope;
 - 7.1.4 place the envelope inside the Ballot box along with the envelope containing any Special Ballots; and
 - 7.1.5 close, lock and seal the Ballot box.

8 Polling

- 8.1 The Polling Places will be located in places which provide accessible and convenient access for Electors.

9 Ballot Boxes and Ballots

- 9.1 Each Ballot box will be of durable material and have a narrow opening through which a Ballot can be put into the box, but cannot be removed.
- 9.2 The Chief Returning Officer will ensure that boxes are secure and tamper-proof.
- 9.3 There will be a Ballot form for each Tr'ondëk Council position that contains the following information:
 - 9.3.1 the position name and date of the election;
 - 9.3.2 the name of each Candidate for that position;
 - 9.3.3 the name of the Chief Returning Officer;
 - 9.3.4 space for the initials of the Chief Returning Officer or designate; and
 - 9.3.5 a different number from any other Ballot on the stub and the counterfoil.

- 9.4 The Chief Returning Officer will order the Ballots pursuant to section 9.3 of this *Regulation* on the first Friday of March or as soon as possible thereafter.
- 9.5 Printed Ballots will be stored in a secure location when not being distributed to Electors during Special Polls.
- 9.6 There will be a write-in Ballot form that has space or spaces for an Elector to write in the name or names of the Candidate or Candidates and contains the following information:
 - 9.6.1 the position name and date of the election;
 - 9.6.2 space for the initials of the Chief Returning Officer; and
 - 9.6.3 a different number from any other Ballot on the stub and the counterfoil.

10 Polling Materials

- 10.1 Prior to Polling Day, the Chief Returning Officer will supply to every Deputy Returning Officer:
 - 10.1.1 a sufficient number of Ballot papers for each position;
 - 10.1.2 the necessary materials for Electors to mark their Ballots;
 - 10.1.3 one or more polling booths;
 - 10.1.4 printed directions to Electors;
 - 10.1.5 the Voters List;
 - 10.1.6 a Ballot box containing the Ballots in a sealed envelope, and Special Ballots in sealed envelopes if any;
 - 10.1.7 a blank Poll Book;
 - 10.1.8 oath of eligibility forms; and
 - 10.1.9 other materials, including envelopes as required.
- 10.2 Upon receiving the Ballots from the Chief Returning Officer, the Deputy Returning Officer will count the Ballots and send a receipt for them to the Chief Returning Officer in the envelope provided.
- 10.3 The Deputy Returning Officer may pre-fold the Ballots but will not remove them from the book.

11 Proceedings on Polling Day

- 11.1 Before the polls open on Polling Day, the Chief Returning Officer will ensure that the envelopes containing Special and Advance Poll Ballots, if any, are in a Ballot box at the Polling Station where they will remain for the duration of the polling.
- 11.2 Before the polls open on Polling Day, the Deputy Returning Officer will:
 - 11.2.1 post one set of directions for the Electors in each polling booth and at the Polling

Station; and
11.2.2 initial all the Ballots in ink.

11.3 At 9 :00 a.m. on Polling Day the Deputy Returning Officer will:

- 11.3.1 open the Ballot box and show that it is empty to those present or that it contains only the Special and Advance Poll Ballots sealed in one or more envelopes;
- 11.3.2 relock the Ballot box and place it on a table in full view where it will remain in a locked condition for the duration of the polling period; and
- 11.3.3 let the voting commence.

12 Candidates' Representatives

- 12.1 A Candidate's Representative may look at the Poll Book only during the hours of polling.
- 12.2 A Candidate's Representative is an observer and may not be involved with the voting, touch Ballots or assist Electors.
- 12.3 A Candidate's Representative may not bring a copy of the Voters List into a Polling Station.

13 Voting

- 13.1 The Chief Returning Officer will ensure that a system is in place to track the names of people who have voted on a copy of the Voters List.
- 13.2 A Poll Book will be kept which will record the following information:
 - 13.2.1 the number of each Elector in order of voting;
 - 13.2.2 the number of each Elector on the Voters List;
 - 13.2.3 the name and address of the Elector;
 - 13.2.4 the number of the Polling Station; and
 - 13.2.5 "Special Ballot" or "Oath of Eligibility" notation.
- 13.3 The Deputy Returning Officer will:
 - 13.3.1 remove a folded Ballot with the counterfoil attached from the book for each position for which the Elector is entitled to vote;
 - 13.3.2 inform the Elector of how many Candidates that the Elector could vote for;
 - 13.3.3 instruct the Elector to refold both pieces of a completed Ballot and return the Ballot to the Deputy Returning Officer;
 - 13.3.4 confirm the initials on each Ballot;
 - 13.3.5 remove the counterfoils; and
 - 13.3.6 place the Ballot in the Ballot box.
- 13.4 The Election Official will enter "voted" in the Poll Book across from the Elector's name when

that Elector's Ballot is placed in the Ballot box.

- 13.5 The Deputy Returning Officer, or Poll Clerk, when requested, will assist an Elector who is unable to read, write or mark a Ballot, by marking a Ballot as directed by the Elector or by allowing a friend or relative to go to the polling booth with the Elector to mark the Ballot as directed by the Elector.

14 Spoiled Ballots

- 14.1 An Elector who has accidentally spoiled a Ballot by tearing it or marking it for the wrong Candidate may return it to the Deputy Returning Officer who will, without unfolding the Ballot:
- 14.1.1 write the word "void" across it and place it in an envelope marked "Spoiled"; and
 - 14.1.2 issue another Ballot to the Elector.
- 14.2 The Election Official will write in the Poll Book across from the Elector's name that a second Ballot paper was issued to the Elector.
- 14.3 At the close of the poll on Polling Day, all mail-in Ballots received during the Polling Day by the deadline will be opened and processed pursuant to section 3.5-3.6 of this *Regulation* and placed into the Ballot box.

15 Counting

- 15.1 The Deputy Returning Officer will:
- 15.1.1 count the number of Electors who have voted and immediately below the name of the last Elector who has voted, write, "The number of people who voted at this poll is [#]" and sign it;
 - 15.1.2 count the number of spoiled Ballots and write the number on the designated envelope containing spoiled Ballots (write "nil" if no Ballots were spoiled) and seal it;
 - 15.1.3 count the unused Ballots, place them with the stubs of the used Ballots in an envelope, write the number on the envelope, and seal it;
 - 15.1.4 unlock the Ballot box and empty the contents, including the Advance Poll and Special Ballot Envelopes onto a table;
 - 15.1.5 open the envelopes containing Special Ballots including Mail-in Ballots, open the Special Ballot envelope containing the Ballots, and put all the Ballots together;
 - 15.1.6 Count the number of write in Ballots and record the number in the poll book;
 - 15.1.7 separate the Ballots according to each position;
 - 15.1.8 unfold and call out for which Candidate(s) the Ballot is marked for each position;
 - 15.1.9 reject any Ballot that:
 - 15.1.9.1 has not been supplied by an Election Officer;
 - 15.1.9.2 has not been marked for any Candidate;

- 15.1.9.3 has been marked for more than the required number of Candidate(s);
- 15.1.9.4 identifies the voter;
- 15.1.10 reject any write-in Special Ballot that:
 - is illegible;
 - 15.1.10.1 does not identify a particular Candidate, where there are two or more Candidates with similar names; or
 - 15.1.10.2 names someone who is not a Candidate;
- 15.1.11 not reject any Ballot merely because it:
 - 15.1.11.1 is marked with anything other than a pencil or pen;
 - 15.1.11.2 is marked with anything other than a cross or a check, so long as it does not identify the voter;
 - 15.1.11.3 has a counterfoil still attached, in which case the Deputy Returning Officer will conceal the number and remove and destroy the counterfoil;
 - 15.1.11.4 has not been initialed by Deputy Returning Officer, so long as it can be determined that the Ballot was supplied by that Election Officer; or
 - 15.1.11.5 for write-in Ballots, spells the name of a Candidate incorrectly or incompletely, so long as a single Candidate can be identified.
- 15.2 place all not-rejected Ballots in sealed envelopes and label these envelopes as either "Chief", "Deputy Chief", or "Councillor."
- 15.3 count the number of rejected Ballots and write the number on the designated envelope containing rejected Ballots (write "nil" if no Ballots were rejected) and seal it;
- 15.4 make two copies of the statement of the poll as follows:
 - 15.4.1 one copy for the Deputy Return Officer; and
 - 15.4.2 one copy for the Chief Returning Officer, which will be placed in an envelope, sealed and put in the Ballot box;
- 15.5 place the Poll Book, the envelopes containing spoiled, unused, counted and rejected Ballots, letters of permission for the Candidates' Representatives, the list of Electors, the appointments of Election Officers and the Oaths of Electors in the large document envelope and seal it;
- 15.6 place any other election materials in the Ballot box and close and lock the Ballot box;
- 15.7 complete any expense claims and place in an envelope with the key for the Ballot box lock for the Chief Returning Officer;
- 15.8 report the number of votes for each Candidate to the Chief Returning Officer; and
- 15.9 deliver the locked Ballot box and key to the Chief Returning Officer.
- 15.10

16 Recount

- 16.1 If fewer than three votes separate the Candidate with the most votes from the remaining Candidate(s), the Election Committee and Chief Returning Officer will recount the Ballots as soon as all the Ballot boxes have been received.
- 16.2 A recount will follow the counting procedure pursuant to section 15 of this *Regulation*.

17 Tie Vote

- 17.1 A tie vote occurs if, after all the Ballots have been counted and recounted:
 - 17.1.1 the greater number of votes cast for the position of Chief is equal for two or more Candidates;
 - 17.1.2 the greater number of votes cast for the position of Deputy Chief is equal for two or more Candidates;
 - 17.1.3 there are an equal number of votes for the third position for Councillor.

18 Notice of Election Results

- 18.1 The Notice of Election Results will:
 - 18.1.1 name the Candidates for the position of Chief and the number of votes received by each one;
 - 18.1.2 name the Candidates for the position of Deputy Chief and the number of votes received by each one;
 - 18.1.3 name the Candidates for the position of Councillor and the number of votes received by each one.
- 18.2 If there is a tie vote for one or more positions, the Notice will indicate the Candidates and positions involved in tie(s).

GENERAL

19 Report to Elections Committee

- 19.1 The Chief Returning Officer will make a report to the Elections Committee documenting the process and results and commenting on improvements to this Act and its *Regulation* and processes.

20 Election Records

- 20.1 The Chief Returning Officer will provide archival election records to the Executive Director which will include:
 - the statements of the poll;
 - 20.1.1 the nomination papers;
 - 20.1.2 letters appointing Candidates' Representatives;

- 20.1.3 completed mail-in Ballot declarations;
- 20.1.4 appointments of Deputy Returning Officers and polling clerks;
- 20.1.5 a copy of the Notice of Election;
- 20.1.6 a copy of the Notice of Grant of Poll; and
- 20.1.7 a copy of the Notice of Election Results.

21 Fees

- 21.1 The Director of Finance will set out the schedule of payment and reimbursement of expenses for all Election Officers in accordance with Tr'ondëk Hwëch'in policy.
- 21.2 Neither the Tr'ondëk Hwëch'in Government nor the Election Committee will be responsible to pay any costs whatsoever of any person who is a nominee or Candidate, including campaign costs and any costs of such a person in connection with an appeal.

**SCHEDULE 1.
Forms**