

**YELLOWKNIVES DENE FIRST NATION**

**ELECTION POLICY/CODE**

**REWRITE: DRAFT #6**

**JULY 15, 2016**

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\*We will need to seek the advice of Council and Elders as to the name they wish to attach to this Election Code.

## **PART ONE**

### **1. Definitions**

\*The Definition and interpretation section will be completed once we have tentative approval for the Election Code and we know the words that would need to be defined.

## **PART TWO**

2. The Council of the Yellowknives Dene First Nation shall consist of one Chief for Dettah, one Chief for Ndilo, five Councillors for Dettah and 5 Councillors for Ndilo.
  
3. **Term of Office**
  - a. The term of office for all positions on the Yellowknives Dene First Nation Council shall be four (4) years, which term shall expire at midnight on the day on which an election for that position is held or if otherwise terminated by the provisions of this Election Code.
  
  - b. The elections for Chief shall be staggered. The first election for the Ndilo Chief will be during the second year following the election of the Dettah Chief. The Dettah Chief election will be held two (2) years after the date of the election for the Ndilo Chief. The election for all Councillors will be held at the same time as that for the Dettah Chief.

## **PART THREE - PRE-ELECTION PROCEDURE**

4. **Date of Election**
  - a. The first date for the election of the Dettah Chief and all Councillors, will be held no later than May 31<sup>st</sup>, 2019 with subsequent elections for the Ndilo Chief and Councillors occurring every four (4) years at a date set in May.
  
  - b. The first election for the Ndilo Chief shall be held during the month of May 2017 with subsequent elections held during the month of May at

four (4) year intervals.

- c. The date for any election, shall be set by Band Council Resolution passed on or before January 15<sup>th</sup> in any year in which an election is to be held. The date for the election must be in the month of May, however, Council may by Resolution, extend the voting day to the month of June in any year in which an election is to be held should there be a need to do so. For certainty, an election must be held no later than the 30<sup>th</sup> day of June in any year in which an election is scheduled.

## 5. **Appointment of an Electoral Officer**

- a. An electoral officer shall be appointed by Band Council Resolution no later than January 31<sup>st</sup> in the year in which an election is to be held.
- b. If an electoral officer has not been appointed within the time set out in this section, the electoral officer shall be appointed by the Chief Executive Officer of the Band as soon as possible and in any event no later than February 10 of that year.
- c. The electoral officer must be a person who;
  - i. is not a member or related by marriage or birth to a member of the band;
  - ii. is at least twenty-one (21) years of age;
  - iii. has satisfied members of council of their ability to satisfactorily conduct the election process in a fair and impartial manner.
- d. The electoral officer is responsible for managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in this Code. The electoral officer must, as a condition of his or her position, agree in writing that:
  - i. they will uphold and abide by the rules and regulations established in this Code;
  - ii. agree to refrain from providing any preferential treatment or

- expressing support for or opposition to any candidate;
- iii. not discriminate against anyone because of race, religion, sex, age or handicap;
- iv. agree to use their position and authority solely for the purpose of fulfilling the requirements of their position and not for personal or other benefit;
- v. declare at any time any personal or other interest that may appear to cause or may cause a conflict of interest.

## 6. **Duties of Electoral Officer**

- a. The electoral officer shall have the authority and the responsibility to carry out all the duties of this Election Policy in order to conduct an election in accordance with this Election Policy plus such other duties specified by Band Council Resolution appointing the electoral officer and which duties include but are not limited to:
  - i. the appointment and supervision of a deputy electoral officer, voting clerks, interpreters and other electoral assistants as required;
  - ii. advertising the election date, voting hours and voting stations;
  - iii. establish and advertise the opening and closing of nominations; the date, place and hours of advanced voting and any other important election information;
  - iv. preparing, posting and revising if necessary, an updated voters' list based on current Yellowknives Dene First Nation membership information; and, supervising the nominations, balloting and appeal processes according to the terms of this Election Code;
  - v. remain neutral and professional in the conduct of the duties of his or her office and refrain from providing any preferential treatment or expressing support for or opposition to any candidate.

## 7. **Duties of Deputy Electoral Officer**

- a. Carrying out the duties as assigned to him or her by the electoral

officer;

- b. Assuming the duties of the electoral officer, if for any reason, the electoral officer resigns or is unable to complete his or her duties;
  - c. To supervise and train, if necessary, such other electoral assistants, voting clerks or others, employed for the purposes of assisting the electoral officer and deputy electoral officer in the effective running of the election and operation of the voting stations.
8. Council, shall at the time of the appointment of the electoral officer, establish a budget for the purposes of running the election and shall further pass a resolution, directing the Human Resources Department, to hire, establish a pay grid for, and make the necessary arrangements for the payment of such other assistants as may be required by the electoral officer, to conduct the election in a proper and efficient manner.

## **PART FOUR- VOTER'S LIST AND REGISTER OF MEMBERS**

9. At least 90 days before the date set for an election, the electoral officer shall obtain and compile a list of members who are eligible to vote. The list shall consist of all members of the Yellowknives Dene First Nation who are eighteen (18) years of age or over on election day. The list shall contain at the very least the following information:
- a. A member's date of birth, or if unknown, obtain satisfactory evidence that establishes that they will be at least eighteen (18) years of age by the date set for the vote;
  - b. The band membership number for each voter;
  - c. The mailing address for each voter as shown on the records of band membership.
10. The administration of the Yellowknives Dene First Nation shall assist wherever possible the electoral officer in the completion of his or her duties in the compilation of the electors' list and will provide such information as is available for that purpose. Any personal information, provided to the electoral officer will be used solely for the purpose of providing notices, mail-in ballots or other

election documents to electors who are entitled to receive them under this election code.

11. The electoral officer shall post within eighty-five (85) days of the date set for the election, a complete copy of the voters' list, this Election Policy, a Notice of the date of the election and a Notice of the date for the close of nominations in the following locations:
  - a. The band office in Ndilo;
  - b. The band office in Dettah;
  - c. Such other locations as the electoral officer deems necessary.
  
12. The electoral officer must also cause to be published in a local newspaper, notice of the date of the election and notice of the date of the close of nominations and further, providing a notice as to where the voters' lists are posted and directing that any members who are not included on the voters' list and who wish to so be included have a period of ten (10) days after publication to notify the electoral officer of their desire to be placed on the voters' list. ”
  
13. The electoral officer shall also send, to all non-resident voters (not resident in Chief Drygeese Territory) at the address shown on the records of the band membership list confirming the date of the election, the date for the close of nominations and a nomination form, in the form prescribed by this Code along with a copy of the provisions relating to the nomination process to each non-resident voter, such that they may partake in the nomination process.
  
14. The electoral officer shall revise the voters' list upon presentation of documentary evidence which demonstrates that:
  - a. The name of an elector has been omitted from the voters' list;
  - b. The name of an elector is incorrectly set out in the voters' list; or
  - c. The name of a person not qualified to vote is included in the voters' list.
  
15. Notwithstanding paragraph 14, a person, or an elector, may no later than sixty (60) days prior to the date on which an election is to be held, demonstrate that the name of an elector has been omitted from or incorrectly set out in the voters' list by presenting in writing to the electoral officer evidence that the elector:

- a. Is entitled to have his or her name entered on or omitted from the Band List; and as a result is entitled to or not entitled to vote in Band elections;
  - b. Will be at least eighteen (18) years of age on the date on which the election is to be held; and
  - c. Is qualified to vote in band elections.
16. Where the electoral officer believes or has sufficient information that a person who is entitled to vote has been omitted from the voters' list, the electoral officer shall add the name of that person to the voters' list.
17. A person may demonstrate that the name of a person not qualified to vote has been included in the voters' list by presenting in writing to the electoral officer evidence that the person:
  - a. Is neither on the band list nor entitled to have his or her name entered on the band list;
  - b. Will not be at least eighteen (18) years of age on the date on which the election is to be held; or
  - c. Is not qualified to vote in band elections.
18. Where the electoral officer believes or has information that a person whose name is on the voters' list is not a proper elector, or where, in accordance with the previous section, an elector demonstrates to the electoral officer that the name of a person not qualified to vote appears on the voters' list, the electoral officer shall give written notice to the person whose eligibility is challenged at least fifty-five (55) days prior to the date on which the election is to be held.
19. Any such notice given under the previous section, shall include the reasons for seeking the removal of the name from the voters' list and any supporting documents, and shall provide notice that a written reply may be sent to the electoral officer, which must be received no later than forty-five (45) days prior to the date on which the election is to be held.
20. After considering all of the information, written documentation and any representations relating to changes to the voters' list, the electoral officer shall within thirty (30) days of giving the notice add or delete names from the voters' list based on whether or not in the opinion of the electoral officer that

individual qualifies as an elector and shall so advise the elector of that decision.

21. The decision of the electoral officer is final and is not subject to appeal.
22. A person whose name does not appear on the voters' list and who has not been previously advised by the electoral officer that they are not eligible to be an elector, may be entitled to vote on election day, providing that elector presents sufficient documentary proof to the electoral officer on or before voting day such that the electoral officer, in his or her sole discretion, is satisfied that person is a proper elector and should have been included on the list of eligible electors. Any documentation so provided, shall be retained by the electoral officer pending any appeals of the election process and on expiration of any appeals, or upon expiration of any time limits set for the filing of an appeal, shall then be destroyed.

## **PART FIVE-NOMINATION PROCESS**

23. **Nominations**
  - a. Only voters as defined in Part 4 are eligible to nominate candidates for any position. Any individual may nominate themselves for the position of either Chief or Councillor.
  - b. Each voter may nominate only one candidate for the position of Chief but may nominate as many candidates as there are vacant positions for Councillors.
  - c. Any voter who wishes to nominate either themselves or another individual, shall request from the electoral officer a nomination form and voters' declaration form as provided for in this Code and the electoral officer shall provide to that individual a copy of a nomination form and voters' declaration form as soon as practical following that request.
  - d. Any voter, non-resident or otherwise, may nominate a candidate for the position of Chief or Councillor as provided for in this Code. Any such nomination must be accompanied by the completed nomination form and declaration form along with the consent of the person so

nominated and must include the name and signatures of five (5) nominators who are eligible voters which nomination form must be sent to and received by the electoral officer no later than sixty (60) days prior to the date set for the election. Any nomination form received after that date, will be deemed invalid and the nomination will not be accepted. It is the responsibility of the nominating party, to ensure that their nomination form and other required material is returned to the electoral officer within that period of time. The nomination forms can be returned in any manner including by facsimile, email, regular post or in person.

- e. Following receipt of all nomination forms and immediately following the expiration of the time for the receipt of nominations, the electoral officer shall confirm that all candidates so nominated, are eligible candidates in accordance with the provisions of this Election Code. Any candidate who is nominated and who in the opinion of the electoral officer does not meet the requirements of eligibility, shall immediately be notified that they are not eligible as candidates for the position for which they were nominated and shall be given an opportunity to have the decision of the electoral officer reviewed by the Election Appeal Committee in accordance of the provisions of Sections 80 through 87 of this Election Code.
- f. Any such review requested, shall be made within five (5) days of the date of the notification of their ineligibility and shall be made in writing specifying the reasons for the requested review and submitted by either personal delivery, or certified mail or facsimile to the address and facsimile number as provided for in the notice of nominations.

\*\*\*\*Should it be necessary to hold a nomination meeting or can nominations be handled simply by either mail-in or delivery of the nomination papers within the time set by the election code?

- g. Notwithstanding Section 85, the Election Appeal Committee shall review all of the information provided to it and shall render its decision as to the eligibility of the candidate so nominated and shall so advise the candidate no later than forty-five (45) days prior to the date set for the election. The decision of the Election Appeal Committee is final.

- 24. A candidate may withdraw his or her candidacy up to the date set for the close of nominations by submitting a written withdrawal of nomination to the electoral officer.

## PART SIX-ELIGIBILITY OF CANDIDATES

### 25. Eligibility for Position of Chief

- a. To be eligible as a candidate for the position of Chief, a person must:
  - i. be a registered member of the Yellowknives Dene First Nation;
  - ii. have previously served as a Councillor for at least a period of two (2) years;
  - iii. have been a continuous resident in Chief Drygeese Territory for a minimum of two (2) years, prior to the election date;
  - iv. be able to speak Dogrib or Chipewyan or be willing to learn Dogrib or Chipewyan;
  - v. not have been convicted of an indictable offence within the five (5) years previous to the close of nominations;
  - vi. prepared, if employed by the Yellowknives Dene First Nation or any of its subsidiaries, to take a leave of absence if elected as Chief for his or her term;
  - vii. not be indebted to the Yellowknives Dene First Nation or any of its subsidiaries for any sum exceeding Two Thousand (\$2,000.00) Dollars; or if so indebted, be prepared to enter into a repayment schedule with the Yellowknives Dene First Nation Administration during his or her term of Chief;
  - viii. submit to a meeting of the elders' senate within thirty (30) days of their nomination for the position of Chief such that the elders' senate can provide the benefit of their knowledge and their experience in outlining the duties and expectations of a Chief;
  - ix. provide to the electoral officer, sufficient documentation such that their legal names can be verified.
- b. **Eligibility for Position of Councillor** - To be eligible as a candidate for the position of Councillor, a person must:
  - i. be a registered member of the Yellowknives Dene First Nation;

- ii. be eighteen (18) years of age or over on election day;
  - iii. be a continuous resident in Chief Drygeese Territory for a minimum period of six (6) months, prior to election date and to satisfy the election officer of their residency;
  - iv. be prepared, if employed by the Yellowknives Dene First Nation or any of its subsidiaries in a management role, to take a leave of absence or cease that employment for the balance of their term;  
\*\*\*(we need to define what constitutes a management role. Please note that we have deleted simple employment with the First Nation as a bar to running as a councillor. We are limiting the bar to that of a management role.
  - v. not have been convicted of an indictable offence within five (5) years from the date of the close of nominations;
  - vi. not be indebted to the Yellowknives Dene First Nation or any of its subsidiaries for any amount greater than Two Thousand (\$2,000.00) Dollars.
26. At the time of their nomination all candidates whether for Chief or Councillor, must provide to the electoral officer, their written consent to the obtaining of a criminal records check, such that electoral officer may obtain a criminal records check on any candidate, to establish their eligibility for the position they are nominated for. Should any criminal records check confirm that a candidate does not comply with the eligibility requirements regarding the conviction for an indictable offence, that candidate's name shall be removed from any ballot and their nomination shall be declined as being ineligible.
27. The electoral officer shall arrange for the holding of at least one election forum to be held at least ten (10) days, prior to the date for an election. The candidate's forum, for the election for either the Dettah Chief or the Dettah Councillors, shall be held in Dettah and for the Ndilo Chief or the Ndilo Councillors, shall be held in Ndilo. The electoral officer may determine that additional candidate forums may be held if he or she determines in their sole discretion that the same would be necessary or advisable.
28. Where only one individual is nominated for a vacant position, the electoral

officer shall declare that person as elected and shall prior to election date, show in a conspicuous place at all voting stations, notice that the individual has been so elected to that position.

## **PART SEVEN - MANNER OF VOTING**

29. A voter may vote once for the position of Chief and once for each vacant seat of Councillor for Dettah and once for each vacant seat of Councillor for Ndilo using one of the following methods:
  - a. Voting in person during the hours and at the places designated by the electoral officer on election day or on a date set for an advance poll;
  - b. By mail-in ballot as provided for in this section and by no other means.
  
30. The electoral officer shall prepare the ballots for the positions of Chief and for the vacant Councillor positions which ballots shall contain the following information:
  - a. The name of the candidates nominated for election as Chief, in alphabetical order by surname;
  - b. The names of the candidates nominated for election as Councillors, in alphabetical order by surname;
  - c. A photograph of each candidate to be placed adjacent to the candidate's name;
  - d. Such other information as the electoral officer determines is necessary to properly identify the candidate.
  
31. The electoral officer shall at least forty-five (45) days prior to the date on which the election is to be held, mail to every elector who is not a resident of Chief Drygeese Territory and to every elector who has applied pursuant to Section 32 to vote by mail-in ballot, at the address shown on the band list, a mail-in ballot package consisting of:
  - a. A ballot which has been initialled on the reverse by the electoral officer;

- b. A postage-paid return envelope pre-addressed to the electoral officer in care of the band office;
  - c. A further envelope marked "Ballot" for insertion of the completed ballot;
  - d. A voter declaration form setting out:
    - i. The name of the elector;
    - ii. The membership number and date of birth of the elector;
  - e. The notice of election;
  - f. A letter of instruction that states that the ballot may be returned by any means so long as the ballot is returned no later than the close of the polls on the date set for the election and to the location set out in the notice.
32. An elector who, while ordinarily a resident of Chief Drygeese Territory, and who is unable to vote in person on election day, may, at least forty-five (45) days prior to the date on which the election is to be held, request a mail-in ballot package from the electoral officer.
33. The electoral officer shall keep a record of the voters to whom a mail-in ballot has been mailed along with the date on which and the address to which each mail-in ballot was mailed or otherwise provided.
34. An elector shall vote by mail-in ballot in the following manner:
- a. By placing an "X" or other mark that clearly indicates the elector's choice opposite the name of the candidate or candidates for whom he or she desires to vote;
  - b. By placing the ballot in the inner envelope and sealing the envelope;
  - c. By completing and signing the voter declaration form in the presence of a witness who is at least eighteen (18) years of age;
  - d. By placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and
  - e. By delivering, mailing or otherwise ensuring receipt by the electoral officer of the envelope before the close of the polls on the date set for

the election. Any ballot returned to the address specified in the notice will be deemed to have been received by the electoral officer.

35. Mail-in ballots that are not received by the electoral officer before the close of polls on the day of the election shall not be counted nor opened. The ballot shall be kept and retained by the electoral officer until all appeal periods have expired at which time they may be destroyed.
36. **Voting Stations**
  - a. The electoral officer will establish at least one voting station in Dettah, at least one voting station in Ndilo and at least one voting station in the City of Yellowknife. The electoral officer may also establish a mobile voting station and shall, when requested by an elder, an ill or infirm voter, make arrangements for the mobile voting station, to attend upon that voter for the purpose of voting.
  - b. The electoral officer shall provide a place at a voting station where an elector can mark their ballots free from observation and the electoral officer may appoint such security or take such other steps as may be necessary in order to preserve both order in the voting station and the secrecy of the voting process.
37. A candidate shall be entitled to only one agent/scrutineer in the voting station at any one time. A candidate shall also be entitled to an agent/scrutineer to accompany the mobile voting station should they so desire.
38. At no time, other than for the purposes of casting their vote, shall a candidate, be present within a voting station.
39. A candidate's agent/scrutineer shall provide to the electoral officer, a written letter of authorization, signed by the candidate in order to be permitted to remain in the voting station or with the mobile voting station.
40. A voting station shall remain open between the hours of 9:00 a.m. and 8:00 p.m., (Yellowknife time) on the day set for the election.
41. The electoral officer, shall, immediately before the commencement of the vote, arrange to attend each voting station and in the presence of at least one witness, confirm that each ballot box is empty and thereafter lock and properly seal the ballot box in a manner, which prevents it from being opened without breaking or removing the seal and to arrange to have the ballot box, placed in a public place within the voting station, such that it may be observed by all those present within the voting station.

42. Voting shall be by way of secret ballot.
43. No person shall authorize any other individual to vote on their behalf or to represent them for the purposes of casting their vote. No proxy votes will be allowed.
44. No person, shall, on the day the election is held:
  - a. distribute any election-related printed material except such materials as may be distributed by the electoral officer for the purpose of conducting the election;
  - b. attempt to interfere with or influence any elector in marking his or her ballot; or
  - c. attempt to obtain information as to how an elector is about to vote or has voted.
45. The electoral officer shall maintain order at all times in the voting station and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll or is in violation of this election code.
46. Each person, on arriving at the voting station, shall give his or her name to the electoral officer or deputy electoral officer.
47. The electoral officer or deputy electoral officer shall, if the person's name is set out in the voters list, place his initials on both the ballot for Chief and the ballot for Councillor and provide them to the elector.
48. The electoral officer or deputy electoral officer shall cause to be placed in the proper column of the voters list a mark opposite the name of every person receiving a ballot paper.
49. An elector to whom a mail-in ballot was mailed or provided under Sections 31 or 32 may obtain a ballot and vote in person at a voting place if:
  - a. the elector returns the mail-in ballot to the electoral officer or deputy electoral officer; or
  - b. where the elector has lost the mail-in ballot, the elector provides the electoral officer or deputy electoral officer with a written affirmation that the elector has lost the mail-in ballot, signed by the elector in the presence of the electoral officer, deputy electoral officer.

50. The electoral officer or deputy electoral officer shall, when requested to do so, explain the method of voting to the elector.
51. After receiving a ballot, an elector shall:
  - a. immediately proceed to the compartment providing for marking ballots;
  - b. mark the ballot by placing an "X" or other mark that clearly indicates the elector's choice but does not identify the elector opposite the name of the candidate or candidates for whom he or she desires to vote;
  - c. fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
  - d. deliver the ballot to the electoral officer or deputy electoral officer.
52. On receipt of a completed ballot, the electoral officer or deputy electoral officer shall, without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the elector and any other persons entitled to be present at the voting station.
53. Every elector who is inside the voting station at the time fixed for closing of the poll, shall be entitled to vote before the poll is closed. Once the electoral officer declares the poll as closed, no further votes shall be taken. If in the opinion of the electoral officer, there are sufficient voters present at the voting station who are desirous of voting, the electoral officer may extend the date for the closing of the polls for an additional thirty (30) minutes to allow for such voting. The decision of the electoral officer in that regard is final and is not subject to appeal.

## **PART EIGHT - CALCULATION OF VOTES**

### **Opening mail-in Ballots**

54. Immediately following the close of the voting stations, the electoral officer or deputy electoral officer shall in the presence of any candidates or their agents who are present, open each envelope containing a mail-in ballot that was received before the close of the voting stations and without unfolding the ballot,
  - a. reject the ballot if:

- i. it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed;
  - ii. the voter declaration form does not contain a date of birth or a band number that matches the information contained for that elector on the voters' list;
  - iii. the name of the elector set out in the voter declaration form is not on the voters list; or
  - iv. the voters' list shows that the elector has already voted.
- b. in any other case, place a mark on the voters' list opposite the name of the elector set out in the voter declaration form and deposit the ballot in a ballot box.

### **Counting the Ballots**

55. The electoral officer or deputy electoral officer shall supply other deputy electoral officers and all persons present and who so request with a tally sheet to keep their own tally of the votes.
56. Immediately after the mail-in ballots have been deposited in the ballot box under section 53 (b), the electoral officer or deputy electoral officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and examine each ballot.
57. The electoral officer or deputy electoral officer shall call out the names of the candidates for whom the votes were cast on all valid ballots.
58. A deputy electoral officer shall mark a tally sheet in accordance with the names being called out under section 57, for the purpose of arriving at the total number of votes cast for each candidate.

### **Ballots not Counted**

59. In examining the ballots, the electoral officer or deputy electoral officer must reject any ballots that:
  - a. do not contain the initials of the electoral officer or deputy electoral officer;
  - b. do not give a clear indication of the elector's intention;

- c. contain more votes than there are candidates to be elected; or
  - d. contain a mark by which the voter can be identified.
60. The electoral officer or deputy electoral officer shall attach a note to each ballot rejected which outlines the reason for rejection.
  61. Subject to review on recount or on an election appeal, the electoral officer or deputy electoral officer shall take a note of any objections made by any candidate or his agent to any of the ballots found in the ballot box and decide any questions arising out of the objection.
  62. The electoral officer or deputy electoral officer shall number objections to ballots raised pursuant to section 61 and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, with his or her initials.
  63. Immediately upon completion of the counting of the ballots pursuant to sections 55 through 58 at a voting station other than that considered the principal voting station managed by the electoral officer, the deputy electoral officer shall transmit the results to the electoral officer.
  64. After all the ballots for the Chief's position have been counted, the electoral officer shall have the votes recorded and declared that the candidate with the most votes has been elected as Chief.
  65. After all the ballots for the Councillors' have been counted, the electoral officer shall have the votes recorded and declare the five (5) candidates with most votes for Dettah and the five (5) candidates with most votes for Ndilo as elected as Councillors.

\*\*A question arises as to how it is determined that a Councillor is from Dettah or a Councillor is from Ndilo. Is residency in one of those communities a requirement for the running of Councillor on behalf of that community? If that is the case, how do we take into account an individual who resides in Yellowknife? The alternative, is to allow a candidate to declare whether they are running for Dettah or Ndilo and allow the electors to decide if that candidate has a sufficient connection to the community. The second option is the writer's preference.\*\*

## **Tie**

66. If it is not possible to determine the successful candidate for either a Chief or Councillor position due to an equal number of votes being cast, the electoral officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the voting station. A

recount by the electoral officer must take place within 24 hours of that announcement by the electoral officer and be made in the presence of the candidates who wish to attend. At the time established, the electoral officer shall conduct a recount of the valid ballots.

67. Should, after a recount, a tie still exist, then the following procedure shall be used to establish the person elected to that position:

\*\*\*There are a number of ways in which a tie can be resolved. They include:

1. A coin toss
2. A by-election.

As this is a likely possibility given the small number of voters, it needs further consideration. The writer's preference is a coin toss as a by-election is an expensive and time-consuming process.\*\*

68. If a candidate is not satisfied with the results of a recount, as provided for in section 66 , that candidate can, within 48 hours of the close of the polls, ask the Appeals Committee for a final administrative recount. The Appeals Committee, shall convene, for that purpose and shall within 72 hours of the request, conduct a further recount in the presence of the electoral officer, and any candidates who may wish to attend a recount. The decision of the Appeals Committee, following that recount, shall be final and shall not be subject to any further appeal.
69. Should any changes result from a recount, the electoral officer shall cause to be published at the band offices in both Dettah and Ndilo, the results of that recount.

## **PART NINE- POST-ELECTION PROCESS**

70. After completing the counting of the votes and establishing the successful candidates, the electoral officer shall declare to be elected the candidate for Chief with the highest number of votes and the five candidates for the position of Councillor for Dettah with the highest number of votes and the five candidates for the position of Councillor for Ndilo with the highest number of votes.
71. Following the declaration of the elected candidates, the electoral officer shall complete an election report which shall contain at a minimum the following information:

- a. the names and number of votes cast for each candidate for each position;
  - b. the number of ballots that were rejected.
72. Within ten (10) days after the completion of the counting of the votes and the declaration of the elected candidates, the electoral officer shall:
- a. sign and place in a conspicuous location at the band office in Dettah and the band office in Ndilo the election report prepared in accordance with paragraph 71;
  - b. forward a copy of the election report to the Chief Executive Officer;
  - c. make available sufficient copies of her report such that a copy be made available to any elector who desires a copy by picking up the same at the band office in Dettah or the band office in Ndilo.
73. The electoral officer shall cause all nomination papers, ballots, whether rejected or otherwise to be retained for a period of no less than forty-five (45) days from the date on which the election was held, or if an election is appealed for a period no less than forty-five (45) days from the date on which the appeal decision was rendered, after which time the electoral officer shall, unless otherwise directed by Band Council Resolution, destroy them in the presence of at least two (2) witnesses who shall then certify in writing such destruction has taken place and which certification shall be provided to the Chief Executive Officer of the Yellowknives Dene First Nation.

### **Oath of Office**

74. A Chief or Councillor who has been elected, shall within ten (10) days of their declaration being so elected, swear an oath of office as attached to and forming part of this Election Policy/Code.
75. Should by reason of illness or absence, a candidate be unable to swear the oath within the time provided in the previous section, an extension may be granted for a further period of ten (10) days in order to swear the oath of office. Should the person elected as Chief or Councillor fail or be unable to swear the oath within such time provided for or such extension thereof, then the office to which that person was elected, shall be declared as vacant and shall remain vacant until a by-election is called by the Council as provided for in this Election Policy/Code.

## **Election Appeal and Complaint Process**

76. A complaint and appeal committee shall be established by Band Council Resolution, at the same time as the appointment of a Chief Electoral Officer, which committee shall consist of three (3) persons as follows:
- a. an Elder who is also a member of the Elder's Senate;
  - b. a band member who is at least eighteen (18) years of age, is eligible to be a voter and has not run as a candidate in the current or previous election;
  - c. one of the following:
    - i. A previous Chief of the band or if not available, a non-member of the band who has no apparent interest in the results of the election.
    - iii. A band member, who is at least eighteen (18) years of age and is eligible to be a voter and has not run as a candidate in the current or previous election as an alternate committee member and can, if necessary, stand in for an existing committee member who by reason of a conflict is unable to take part in the committee's deliberations and decision.

## **Complaints and Appeal Committee**

77. Should for any reason, a vacancy occur by reason of the withdrawal of a member of the Complaint and Appeal Committee, then the council shall appoint an alternate member to take the place of the member so withdrawing and shall wherever possible, appoint a member who has similar qualifications to that of the member withdrawing.
78. The Complaints and Appeal Committee shall supervise and administer, in accordance with the provisions of this Election Code, all election complaints and appeals.

## **Election Appeals and Complaints**

79. A candidate or an elector, may within five (5) days from the date on which the election was held, submit an appeal or complaint to the Complaints and Appeal Committee.
80. An appeal shall only be heard by the Appeal and Complaints Committee for the following reasons:

- a. that a person declared elected for any office was not qualified to be a candidate;
- b. there was a violation of this Election Code in the conduct of the election that effected or could have effected the result of the election; or
- c. Blank.

\*\*\*\*The grounds for appeal needs to be discussed with Council.

- 81. An appeal or complaint submitted to the Committee must be in writing and set out sufficient facts and material to substantiate the grounds for the appeal, be accompanied by any supporting documentation substantiating the reasons for the appeal.
- 82. Upon receipt of an election appeal, the Appeal and Complaints Committee shall do the following:
  - a. forward a copy of the appeal and all substantiating documentation to the electoral officer and to each candidate who is the subject matter of the appeal.
- 83. The candidate who is the subject matter of the appeal or the electoral officer may, within seven (7) days of the receipt of the appeal forward to the Appeal and Complaints Committee, a written response to the appeal allegations together with any supporting documentation.
- 84. The Appeal and Complaints Committee may, if they consider it necessary, conduct such further investigations into the matter as they deem necessary.
- 85. Within seven (7) days after the receipt of any responses received pursuant to paragraph 83, or if no responses have been received within seven (7) days of forwarding the material to the electoral officer and any affected candidate, and after a review of all the evidence, the Appeal and Complaints Committee shall make its ruling which ruling shall, wherever possible, be by consensus or if no consensus is possible, by majority vote and may do one or all of the following:
  - a. decide that the evidence presented was not sufficient to determine that either a violation of the Election Policy/Code had taken place or alternately, that the person declared elected was not qualified to be a candidate and dismiss the appeal accordingly or;
  - b. that the evidence and information gathered allows for a reasonable

conclusion that, either a violation of the Election Policy/Code had taken place that might have affected the result of the election or that the person declared elected was not qualified to be a candidate and as a result uphold the appeal by setting aside the election of the candidate who was the subject matter of the appeal.

86. The decision of the Appeal and Complaints Committee made pursuant to this previous section shall be:
- a. forwarded to the person or persons filing the appeal at the address provided by them in the original appeal document;
  - b. posted in the band offices, a record of their decision and the reasons for their decision.
87. The decision of the Appeal and Complaints Committee is final and is not subject to appeal.

### **Process for Adoption of the Election Policy/Code**

88. The process for the passage and acceptance of this Election Policy/Code shall be by way of mail-in referendum to be conducted in the following manner.

\*\*\*\*Council needs to decide how the Election Code will be ratified.

### **Amendments to Election Policy/Code**

89. This Election Policy/Code may be amended from time to time, by a resolution of the band council. Any band council resolution which amends this Election Policy/Code, shall in order to pass, have the approval of at least seventy-five (75%) per cent of the band council including the elected Chiefs.
90. Notice of any proposed amendments to the Election Policy/Code, shall only be considered by council at a special meeting held specifically for that purpose and notification of that special meeting, for the purposes of considering amendments to this Election Policy/Code, shall be posted in the band office in both Dettah and Ndilo in a conspicuous place at least fourteen (14) days prior to the date of such special council meeting to be held for the purpose of the amendments to this Election Policy/Code. Any band council meeting held for that purpose, shall be open to the band membership, such that they may attend any meeting of council convened for that purpose.

## By-Election

91. In the event that the office of Chief or Councillor becomes vacant, a by-election shall be held within one hundred and twenty (120) days after the date on which the position becomes vacant.
92. No by-election shall be held if there are less than twelve (12) months remaining in the term of the council member whose office has become vacant excepting where a by-election is necessary to have sufficient council members to maintain a quorum.
93. No sitting council member is eligible to be a candidate in a by-election. If a council member wishes to be a candidate in a by-election, he must resign his council position prior to the date for the close of nominations for the by-election.
94. Except as expressly provided otherwise in this Election Policy/Code, the rules and procedures in this Code that apply to elections shall also apply to by-elections.

**\*\*\*\*\*I will need Council to determine the following:**

- 1. if there is a vacancy in the position of one of the Chiefs, is it necessary to hold a by-election or should we simply proceed with one Chief only?;**
- 2. Rather than having a by-election process for councillor, would it be simply better to approach the unsuccessful candidate from the last election who had the most votes of the unsuccessful candidates and determine if they wish to sit as a councillor. If they do not wish to sit, should we then go to the next individual with the highest number of votes and so on. This process would be considerably cheaper and easier than would a by-election process.**

## PART TEN - REMOVAL OF CHIEFS AND BAND COUNCILLORS FROM ELECTED OFFICE

95. A Chief or Councillor may be removed from office and if so removed, be rendered ineligible to run for office for a period of no less than four (4) years if he or she;
  - a. breaches his or her oath of office;
  - b. fails to attend three (3) consecutive regular meetings of Council without being reasonably excused from attendance by a quorum of the Council;

- c. convicted of an indictable offence subsequent to his or her election;
- d. convicted of a summary conviction offence or other offence that results in a period of incarceration;
- e. acts in such a manner or engages in a course of conduct that negatively affects the dignity, integrity of the community or of council or in the case of a Chief, fails to follow the directives of the majority of Council;
- f. engages in such other conduct as may be determined by Council to be of such a serious nature that the removal is necessary and appropriate.

### **Process for Removal**

- 96. Proceedings to remove a Chief or Councillor from the office held by them, may be initiated by:
  - a. a petition, signed by at least twenty-five (25%) per cent of all eligible electors of the band who support the removal of that person from the office held by them;
  - b. a majority of Council members passing a band council resolution requesting the removal of that person from the office held by them.
  
- 97. On receipt of a Petition or on receipt of the band council resolution referred to in paragraphs 96(a) or 96(b), the Appeal and Complaints Committee previously appointed for the last election shall reconvene and shall:
  - a. review any Petition present to verify whether or not the Petition complies with section 96(a), such that it contains the signatures of at least twenty-five (25%) per cent of the eligible electors of the band. If, after its review, the Committee determines that the Petition does not contain at least twenty-five (25%) per cent of the signatures of all eligible electors of the band, the Appeal and Complaints Committee shall dismiss the Petition and shall post in a conspicuous place in the band office for both Dettah and Ndilo notice of that fact or;
  - b. if satisfied that the Petition contains the signatures of at least twenty-five (25%) per cent of all eligible electors of the band; do the following:
    - i. schedule the review hearing, which will take place within twenty (20) days from the date on which the Petition was submitted to the

## Appeal and Complaints Committee;

- c. in a case where the Appeal and Complaints Committee schedules a hearing under the previous section; the Appeal and Complaints Committee shall deliver a written notice of the date of the hearing to band council, the petitioner initiating the petition, any effected council member or Chief and the administration. The written notice described in this section shall set out:
  - i. the reason for the hearing;
  - ii. the date, time and location of the hearing;
  - iii. a statement outlining that the petitioner, any member of council or the council member who is the subject of the Petition for removal may, at the hearing, make a presentation at the hearing which may include the presentation of documents and any testimony of any witnesses;
- d. five (5) days following the date on which the hearing is held, the Appeal and Complaints Committee shall rule either:
  - i. that the Petition shall be allowed to stand and declare the council position of the member of council who was the subject matter of the Petition to be vacant; or
  - ii. that the Petition is dismissed;
- e. the Appeal and Complaints Committee shall send or deliver a written notice of the ruling made under this section to council, the petitioner, the administration and the council member who is the subject matter of the Petition for removal.
- f. the decision of the Appeal and Complaints Committee made under subsection (d) is final and binding upon all the parties.
- g. if the council position is declared vacant under subsection (d) , the Chief or councillor removed from office shall be disqualified from being a candidate for four (4) years commencing on the date of the Appeal and Complaints Committee ruling.

## Validity of Election

- 98. If it is shown to the satisfaction of the Chief Electoral Officer that the election was conducted substantially in accordance with this Election Code and that an irregularity, failure, non-compliance or mistake did not materially affect the result of the election, then the election is not void by reason of:

- a. the late distribution or not receipt of the election announcement by one or more electors;
- b. an irregularity on the part of an election officer during the election;
- c. an irregularity or omission in the preparation of the Elector's List;
- d. any mistake in the procedure or use of the prescribed forms in an election;  
or
- e. any consistency between sections in this Election Code.

**DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.**



