



## **SELKIRK FIRST NATION**

### **ELECTION ACT**

**Adopted by the Special Assembly  
October 29, 2016**

A handwritten signature in black ink, appearing to read "Kevin McGinty", is positioned above a horizontal line.

Kevin McGinty, Chief Selkirk First Nation  
Printed November 2016

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# SELKIRK FIRST NATION

## ELECTION ACT

### Application

1. The Council of Selkirk First Nation shall be chosen by way of election in accordance with this Act.

### Interpretation

2. In this Act,
  - (a) *"Assembly"* means a General Assembly or a Special Assembly;
  - (b) *"Chief Returning Officer"* means the person so appointed under section 17;
  - (c) *"day"* means a calendar day;
  - (d) *"election"* means a general election, by-election or run-off election, as the case may be;
  - (e) *"elector"* means a person (including any inmate of a correctional institution, hospital patient or resident of a long-term care facility):
    - (i) who is a Selkirk Citizen according to Selkirk's records;
    - (ii) who is or will be at least 18 years of age as of the date of the election; and
    - (iii) whose name appears in accordance with this Act on the official voting list for that election;
  - (f) *"Senior Official"* means the senior official of Selkirk First Nation who is responsible for the administration of this Act and includes any Selkirk official who is acting in that capacity for the time being;
  - (g) *"Selkirk"* means Selkirk First Nation;

- (h) *“special ballot”* means a ballot cast or able to be cast by a person who is unable to attend at a polling station and includes a ballot cast or able to be cast by mail; and
  - (i) *“umpire”* means the person so retained under subsection 85 (3).
3. Any office or governing body of Selkirk First Nation referred to in this Act shall be as constituted under the Selkirk Constitution, as amended from time to time.
  4. Where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.
  5. Where there is a reference to *“at least”* a number of days between two events, the days on which the events are to happen are excluded.
  6. Words and phrases which are capitalized in this Act shall have the meaning assigned to them in the Selkirk Constitution.

## **PART 1 ELECTION OVERSIGHT**

7. There shall be an Election Committee.

### **Mandate**

8. The Election Committee shall have the mandate and responsibility to, in accordance with this Act:
  - (a) oversee the process and maintain the fairness and integrity of each election;
  - (b) oversee the activities of the Senior Official, the Chief Returning Officer and any deputy returning officer and poll clerk under this Act;
  - (c) respond promptly to any question raised by an elector or candidate;
  - (d) certify the voters list and approve any change to the voters list;
  - (e) establish rules for its proceedings; and

- (f) do or ensure there is done all such other acts and things as are required by or are needed to be done to give effect to this Act.

## **Members**

- 9. The Election Committee shall consist of the Principal Elder and 2 persons chosen by the Assembly.
  - (1) At least a majority of the members of the Election Committee shall be Selkirk Citizens.
  - (2) The 2 persons to be chosen by the Assembly shall be chosen at the same Assembly.
  - (3) The Assembly which chooses the 2 members of the Election Committee also shall endeavour to choose 4 persons who shall be, respectively, the first, second, third and fourth alternate members of the Election Committee.

## **Principal Elder**

- 10.
  - (1) As soon as practicable after this Act comes into force, the Elders Council shall appoint two Elders who shall be, respectively, the first and second alternate members of the Election Committee in place of the Principal Elder for a term which shall expire on that day which is four years after the date of their appointment.
  - (2) If the Principal Elder is unable due to health or conflict of interest to serve as a member of the Election Committee, then the first alternate for the Principal Elder shall serve as a member of Election Committee until the Principal Elder is no longer disabled from serving or until all of the election proceedings in respect of which the Principal Elder is unable to serve have come to an end, whichever comes first. The second alternate likewise shall serve if the first alternate is unable to serve due to health or conflict of interest.
  - (3) If:
    - (a) the term of office of the person who is the Principal Elder expires or, while in that office, that person resigns or passes away; or
    - (b) an Elder who was appointed as the first or second alternate for the Principal Elder resigns from that appointment or passes away;

then the Elders Council shall endeavour to choose the successor to the office of Principal Elder or to the alternate in a timely way. Until the successor is chosen, the appropriate alternate shall serve in their place.

### **Other Members**

11. The term of office of the members (and alternate members) of the Election Committee who are chosen by the Assembly shall expire on that day which is 4 years after the date on which they were appointed, except that:
  - (a) as a transitional matter, the term of office of the initial members (and alternate members) of the Election Committee who are chosen by the Assembly under this Act shall expire at the end of the first General Assembly held after the 2017 general election; and
  - (b) if for any reason the Assembly does not choose the members (and alternate members) of the Committee to take office upon the expiry of the term of the members (and alternate members) in office at the commencement of the Assembly, the term of the members (and alternate members) then in office shall continue until the end of the next Assembly.

Nothing shall prevent a person from being chosen by the Assembly as a member (or an alternate member) of the Election Committee for a further term.

### **Alternate Members**

12. A person who is chosen by the Assembly to be an alternate member of the Election Committee shall take office as a member of the Committee as follows:
  - (1) If a member of the Election Committee resigns from the Committee, passes away or without excuse approved by the Committee misses 3 consecutive meetings of the Election Committee, then the Election Committee shall notify the first alternate and, as needed, the second, third and fourth alternate, in succession, that they are needed to serve and, upon receipt of that notice, that person shall become a member of the Election Committee for the balance of the Committee's term.
  - (2) If a member of the Election Committee is unable to serve due to health, conflict of interest or other reason acceptable to the Election Committee, then the Election Committee shall notify the first, second, third and fourth alternate, in succession, that they are needed to serve and, upon receipt of that notice, that

alternate shall become a member of the Election Committee until the member first unable to serve is no longer disabled from serving or until all of the election proceedings in respect of which the member is unable to serve have come to an end, whichever comes first.

- (3) If for an election there is no person remaining as a member or an alternate member of the Committee who was chosen by the Assembly after the procedures set out in subsections (1) and (2) are exhausted, then:
  - (a) the Senior Official, with the consent of the Principal Elder, shall retain such person or persons as the Senior Official deems suitable to serve as a member of the Election Committee for a term that shall expire upon the completion of all processes for that election; and
  - (b) the next Assembly shall choose the persons who shall fill the vacancies in the Committee for the balance of the Committee's term.

### **Conflict of Interest**

13. A member of the Election Committee will be in a conflict of interest if they are:

- (a) nominated to be a candidate;
- (b) a candidate;
- (c) a parent, spouse, sibling or child of a nominee or candidate; or
- (d) elected;

in an election. If a member is in a conflict of interest, then the appropriate alternate, if themselves not in a conflict of interest, shall serve in place of that member for so long as that member is disabled by the conflict from serving as a member of the Election Committee.

### **Procedures**

14. The quorum for a meeting of the Election Committee shall be all 3 of its members in office.

15. The Election Committee shall strive to make decisions by consensus but, in the absence of consensus, may make any decision by majority vote.



16. Any meeting of the Election Committee may be held in person or by means of telecommunication which enable all of its members to be heard in person.

### **Support**

17. The Senior Official shall:
  - (a) after consultation with the Election Committee, appoint the Chief Returning Officer, arrange for that person's services and administer those arrangements;
  - (b) ensure there is adequate provision in the Selkirk First Nation budget to support the election process, the Election Committee and the umpire in any fiscal year; and
  - (c) provide the Election Committee and the umpire with such other resources and support the Senior Official determines they reasonably require.
18. As soon as practicable after being appointed for an election, the Chief Returning Officer shall appoint such deputy returning officers and poll clerks as the Chief Returning Officer reasonably may require for that election, provided that:
  - (a) the Election Committee has approved each proposed appointment; and
  - (b) the Senior Official has approved the arrangements for each proposed appointee's services, which arrangements shall be administered by the Senior Official.

### **Neutrality**

19. In all matters under this Act, the Election Committee, the Chief Returning Officer, any deputy returning officer and poll clerk, the Senior Official and any Selkirk First Nation staff or service provider assigned to assist in the election process shall:
  - (a) remain strictly neutral;
  - (b) perform their functions at arms length from the Council then in office; and
  - (c) not be liable to the direction of the Council then in office in any matter concerning the election.

20. Except as provided in section 45, no Selkirk funds shall be expended for the benefit of any nominee or candidate in an election or for a purpose which benefits any nominee or candidate over another.
21. No person shall campaign for a nominee or candidate in any Selkirk place of work or use Selkirk's resources for the benefit of a nominee or candidate or to facilitate the election campaign of a nominee or candidate.
22. No person shall:
  - (a) solicit, offer or accept any inducement or consideration in cash or in kind for the performance of a duty under this Act or for the vote of an elector; or
  - (b) otherwise engage in any activity which corrupts the election process or violates this Act.
23. An allegation of misconduct under section 21 or 22 shall be brought to the Election Committee under Part 6 of this Act for its determination and, if upheld, for such remedy as the Election Committee may deem it appropriate to prescribe, including:
  - (a) if a nominee or candidate or a person engaging in election activity on their behalf engaged in misconduct, a declaration that the nominee or candidate shall be disqualified as a nominee or candidate, as the case may be, in that election and, if and for such period as the Committee may prescribe, in any other election; and
  - (b) if an employee or contractor engaged in misconduct, a declaration that the Committee will refer its findings to the Senior Official for such action as Selkirk First Nation may deem appropriate under its human resources policy or otherwise.

## **PART 2**

### **ELECTION PROCESS**

#### **Electors**

24. Each elector shall have the right to cast one vote for each office to be filled by way of an election.

## **Election Requirement**

25. (1) The Council shall be chosen by way of a general election to be held, except as provided in subsection (2) and section 30, on the first Wednesday in April every 3 calendar years, commencing and including April 2, 2014.
  - (2) If the first Wednesday in April falls on a day that the post office in Pelly Crossing is not regularly scheduled to be open, then the general election shall be held on the first day thereafter on which the post office in Pelly Crossing is regularly scheduled to be open. The same proviso shall apply to selection of the date for any by-election or run-off election.
26. If a vacancy occurs in the Council before October 1 of the calendar year immediately prior to the next general election date, the Senior Official, within 14 days after determining that a vacancy exists, shall notify the Election Committee in writing of the need for a by-election to be held.

## **Election Call**

27. Except as provided in section 75, no later than 60 days before the date of an election, the Election Committee shall call the election and shall announce:
  - (a) the date of the election and advance poll;
  - (b) the call for candidates and offices to be filled;
  - (c) the date and location for the close of nominations; and
  - (d) the date and location for one or more all-candidates meetings.
28. The Election Committee's announcement shall be made by way of posting in the principal office of Selkirk First Nation, by advertisement in media in general circulation in the Yukon Territory and by any other means the Committee deems appropriate.

## **Schedule**

29. Subject to section 30, the date for:
  - (a) the close of nominations shall be no more than 10 days after the date of the election call;

- (b) any all-candidates meeting shall be within the 21 days immediately prior to the election date; and
  - (c) the advance poll shall be at least 7 and no more than 14 days immediately prior to the election date.
30. The Election Committee may postpone the date of the election, the close of nominations or an all-candidates meeting where a postponement is warranted by weather, the passing away of a Citizen, an extension of time under subsection 43 (1) or other special circumstances beyond the Election Committee's control. If the Election Committee determines that the such a date should be postponed, it shall be postponed to the next date which the Election Committee considers to be the most practicable, provided that the Election Committee shall give not less than 72 hours notice of that new date by the means set out in section 28.

### **Nominations**

31. A person may be nominated to be a candidate by the filing of a nomination form which complies with sections 32 and 33 by or on behalf of that person with the Chief Returning Officer no later than 4 p.m. on the date set by the Election Committee for the close of nominations.
32. A nomination form shall bear:
- (a) no fewer than 30 original signatures of Selkirk Citizens entitled to vote in the election, if a person is being nominated for Chief; and
  - (b) no fewer than 20 original signatures of Selkirk Citizens entitled to vote in the election, if a person is being nominated for Wolf Councillor, Crow Councillor, Elder Councillor or Youth Councillor.
33. A Citizen may nominate only one person for each seat of office to be filled (each of the 2 Wolf Clan Councillor and the 2 Crow Clan Councillor seats being a distinct seat of office).
34. The Election Committee may verify any signature appearing on a nomination form and may defer its acceptance of the nomination involved until the Committee is satisfied the nomination is in compliance with section 32.

### **Affirmation of Candidacy**

35. A person may be nominated for more than one office but must affirm their wish to be a candidate under section 36 for only one office.
36. A person who wishes to be a candidate for the office for which they were nominated shall file with the Chief Returning Officer at Selkirk's principal office by or before 4.00 p.m. on the third day which immediately follows the close of nominations, whether by hand, facsimile or PDF electronic transmission, their signed affirmation that they:
  - (a) accept that nomination,
  - (b) will fill the office if elected, and
  - (c) have or will have as of the election date the applicable qualifications for that office.
37. A person who is nominated for office who does not file the affirmation described in section 36 by the stipulated time shall not be a candidate in the election.

### **All-Candidates Meeting**

38. There shall be one or more all-candidates meetings called and presided over by the Election Committee in each of Pelly Crossing and Whitehorse. All candidates should endeavour to attend each all-candidates meeting.
39. At an all-candidates meeting, each candidate shall be given equal time to address the Citizens attending the meeting and to answer any questions asked by the Citizens. The intention of an all-candidates meeting is to allow each candidate an equal opportunity to address relevant topics as the candidate may choose and to give an opportunity to the Citizens to hear all candidates in one place and to ask fair questions of the candidates.

## **PART 3**

### **QUALIFICATIONS FOR OFFICE**

40. Any person who is a candidate for office as a member of the Council shall be a Citizen according to Selkirk's records as of the date the election is called who is or will be as of the date of the election:

- (a) if a candidate for Chief, at least 25 years old and ordinarily resident in the Selkirk First Nation Traditional Territory for at least twelve consecutive months prior to the date of the election;
- (b) if a candidate for Wolf Clan Councillor or Crow Clan Councillor, at least 19 years old;
- (c) if a candidate for Elder Councillor, at least 55 years old;
- (d) if a candidate for Youth Councillor, at least 19 years old and not more than 25 years old; and
- (e) free from any conviction as an adult within the 10 years immediately prior to the date of the election for an offence against a minor, for causing physical harm to a person or property, for the illegal sale of alcohol or drugs or for fraud, bribery or breach of trust or the beneficiary of a continuing suspension under the *Criminal Records Act* (Canada) of a record for such a conviction.

41. For the purposes of section 40:

- (a) the place of ordinary residence is the place that is the true dwelling place of that person and to which, whenever away from it, that person intends to return;
- (b) a person can have only one place of ordinary residence at a time, and it cannot be lost until another is gained; and
- (c) if the provisions of subparagraphs (a) and (b) are not sufficient to determine the place of ordinary residence, it shall be determined by the Election Committee by reference to all of the facts of the case.

42. A person who is elected to office as a member of the Council shall continue to comply with section 40 while in office, except that a person who is elected as Youth Councillor may become more than 25 years old after the date of the election.

### **Verification**

43. (1) Within 7 Selkirk business days after the day the procedure set out in section 36 is completed (or within such additional time not to exceed 7 Selkirk business days as the Election Committee may stipulate, if it deems it appropriate in the circumstances), the Election Committee shall determine whether each person who has affirmed their wish to be candidate has or is reasonably expected by the

Committee to have the qualifications described in subparagraphs 40 (a) to (d) as of the date of the election.

- (2) Each person who affirms their wish to be a candidate shall provide information supporting their qualifications under subparagraphs 40 (a) to (d) at the time they file their affirmation or, in any event, within the time provided under subsection (1), and shall provide all consents, further information and other co-operation as the Committee, acting reasonably, may require to enable it to make the determination required under subsection (1).
- (3) In making its determination, the Committee shall refer to the records of Selkirk First Nation and to the information provided by the person involved, as verified by the Committee. The Committee shall not rely upon information acquired from hearsay or the personal knowledge of Committee members unless that information is placed on the record of the Committee's proceedings and verified by reference to the records of the First Nation or through discussion with the person involved.
- (4) If a person who has affirmed their wish to be a candidate in the election fails to provide the information, consents or co-operation described in subsection (2) to the Committee's satisfaction, acting reasonably, the Committee shall determine that it is unable to verify that the person is qualified for the office for which they have affirmed their wish to be a candidate.
- (5) Upon making its determination under subsection (1) or (4) with respect to each person who has affirmed their wish to be a candidate, the Committee forthwith shall so inform the Chief Returning Officer and that person. Any such person who is determined by the Committee not to be qualified under subsection (1) or who is the subject of a determination under subsection (4) shall not be a candidate in the election.
- (6) A determination made by the Committee under this section 43 shall be without prejudice to any subsequent determination made by the Committee under section 46 or 47 on the basis of information not considered by the Committee at the time its determination under this section 43 was made.
- (7) The election process, including the printing of ballots, shall not proceed further until the procedure set out in subsection (5) and any process under section 85 has been completed in respect of all of the persons who have affirmed their wish to be a candidate in the election and all timelines set out for subsequent steps in the election process shall be calculated as commencing on the day after the date that procedure or process is completed.

44. If there is only one person who has affirmed their wish to be candidate for an office and that person has been determined by the Election Committee under section 43 to be qualified for that office, then that person shall be declared by the Chief Electoral Officer to have been elected to that office, as of the date of the election, by acclamation.

### **Criminal Record**

45. If a person is elected to office the Election Committee shall cause an exhaustive criminal record check to be made, at Selkirk's expense, with respect to that person. The person who is the subject of the application:
- (a) shall provide all consents and other co-operation necessary for such a check to be completed and for the results to be delivered directly to the Election Committee at the earliest practicable date; or
  - (b) may provide the Election Committee with proof of their criminal record (or the absence thereof), and the Committee may accept that proof as conclusive if the Committee is satisfied that it is the result of an exhaustive search that has been certified by the records authority to have been completed as of a date that is not more than 60 days prior to the date of the election.

The Election Committee shall keep confidential the detail of those results. A person who fails to consent or otherwise co-operate with the Committee under this provision shall be liable to an adverse declaration by the Committee under section 47.

### **Other Determinations**

46. (1) Any elector may apply to the Election Committee for a determination by the Committee as to whether:
- (a) a candidate in an election has the qualifications for office applicable under subparagraphs 40 (a) to (d); or
  - (b) a person who was elected to the Council is in compliance with subparagraph 40 (e).
- (2) An application under subsection (1) shall be made in writing and shall specify the reasons why the applicant believes the person who is the subject of the application is not in compliance with section and the information relied upon by the applicant for that belief.



- (3) Upon receipt of an application under subsections (1) and (2) the Election Committee, if satisfied that the application is not frivolous or vexatious, shall initiate relevant inquiries, provide to the affected candidate or person elected a reasonable opportunity to be heard, and seek to reach its determination in the matter at the earliest practicable date.

## **Outcomes**

47. If the Election Committee determines on evidence satisfactory to the Election Committee and after due process that:
  - (a) a person who is a candidate in an ongoing election is not in compliance with subparagraphs 40 (a) to (d):
    - (i) the Election Committee shall declare that person ineligible to be a candidate and inform the person of that determination and the reason(s) for which it was made; and
    - (ii) the Chief Returning Officer shall remove the name of that person from the ballot and any special ballot for that election; or
  - (b) a person who was elected is or was not in compliance with section 40 or the Election Committee is unable to make such a determination due to the failure, in the Election Committee's opinion, of the person involved to consent or otherwise co-operate with the Committee under section 45, the Committee shall declare that person ineligible to hold the office to which they were elected, inform the person of that determination and the reason(s) for which it was made, and shall cause a by-election to be held.

A declaration made by the Committee under subparagraph (b) shall not affect the validity of any decision of the Council made prior to the date of that declaration.

## PART 4

### ELECTION PROCEDURES

#### The Voters List

48. The Senior Official, with reference to the Selkirk Citizenship list, shall cause a list of the Citizens eligible to vote in the election to be prepared and delivered to the Election Committee.
- (1) The Election Committee shall certify the list provided by the Senior Official as the official voters list and shall cause the list to be posted, within 10 days after the election call, in the principal office of Selkirk First Nation.
  - (2) The Chief Returning Officer shall:
    - (a) ensure that a copy of the official voters list, and any addition or deletion to the list, is posted at each polling place; and
    - (b) shall provide a copy of the list, and any addition or deletion to the list, to each candidate (or their designated representative) in the election and shall endeavour to effect delivery to each candidate (or their designated representative) at substantially the same time.
49. At any time prior to the close of the polls on the date of the election:
- (a) any person whose name does not appear on the official voting list may apply in writing to the Election Committee at a polling place to be added to the list; and
  - (b) any candidate may apply in writing to the Election Committee at a polling place for a determination whether the name of a person on the official voters list should be deleted.
50. Upon receipt of an application under section 49 and before the close of the polls, the Election Committee shall determine, on evidence satisfactory to the Election Committee, whether the person who is the subject of the application is eligible to be an elector.
- (1) If the Election Committee determines that person is eligible to be an elector, the Election Committee shall, as the case may be, direct that the name of that person shall be added to or kept upon the official voters list, whereupon the list shall be deemed to be certified to accord and that person may then cast a vote in the election.

- (2) If the Election Committee determines that person is not eligible to be an elector, the Election Committee shall decline to add the name of that person to the official voters list or delete the name of that person from the list, whereupon the list shall be deemed to be certified to accord and that person shall not cast a vote in the election.
51. Where an application under section 49 is made at a polling place on the date of the election, if the Election Committee is not present the Chief Returning Officer shall have the authority of the Election Committee as its agent for the purposes of section 50 in relation to that application and the official voters list shall be deemed to be certified to accord with the Chief Returning Officer's determination.

### **Election Procedures**

52. If it deems needed for the better conduct of an election, the Election Committee may apply or direct the Chief Returning Officer to apply the procedural provisions of the *Elections Act* (Yukon) not in conflict or inconsistent with this Act, with such modifications, other than as to voting procedures, as the Election Committee may deem the circumstances require.
53. The Chief Returning Officer shall have the authority to modify any voting procedures under this Act, if the Chief Returning Officer believes the circumstances require the modification.
54. A candidate may designate an elector to be his or representative for the purpose of receiving that candidate's copy of the official voters list, serving as that candidate's observer at a polling station or serving as that candidate's scrutineer in the count and any recount of the vote, provided that any such designation shall be in writing signed by the candidate and delivered to the Chief Returning Officer or, if the designation relates to a polling station not in Pelly Crossing, the deputy returning officer for that polling station.
55. Following the completion of each election, the Chief Returning Officer shall provide to the Election Committee a sealed record of all official documents pertaining to the call and conduct of that election, including, without limitation, the voters list, poll books and the sealed ballot box envelopes for that election. The sealed envelopes of ballots cast shall not be destroyed before one year after the date of the election.

### **Polling Places**

56. The Chief Returning Officer shall establish one polling place in each of Pelly Crossing and Whitehorse, arrange for advance polls in those communities and, forthwith after

receiving notice of the determination(s) made under subsection 43 (5) or section 85, as the case may be, shall prepare the ballots for the election and attend to the delivery of special ballots to those electors who are incarcerated, in a hospital or long-term care facility or who reside in a community in which no polling station will be established.

57. The Chief Returning Officer shall be the person in charge of the polling station in Pelly Crossing and, subject to the authority and oversight of the Chief Returning Officer, the deputy returning officer shall be the person in charge of the polling station in respect of which they are appointed.
58. The Chief Returning Officer shall, with the help of any deputy returning officer and poll clerk, be responsible for the conduct of voting and for the maintenance of order and decorum at any polling place.

### **Voting**

59. Voting shall be by secret ballot. There shall be no voting by proxy or by facsimile or electronic transmission.
60. The Chief Returning Officer and any deputy returning officer shall maintain the secrecy of the vote.
61.
  - (1) The voting procedure at each polling station shall be as set out under section 89 from time to time.
  - (2) Where so requested by an elector who is blind, unable to read or write, or otherwise disabled in such manner as to be unable to cast his or her vote without assistance, the Chief Returning Officer or an deputy returning officer may permit that elector to be accompanied at the polling station and in the polling booth by a person chosen by the elector. A person who marks a ballot under this provision shall mark the ballot provided to the elector as the elector shall direct.
62. Where an elector is unable to attend at a poll, that person may cast his or her vote by special ballot in accordance with the procedures established by the Chief Returning Officer, provided the secrecy of the ballot is maintained.

### **Count of the Vote**

63. Forthwith after the close of the polls, the Chief Returning Officer (and, under the direction of the Chief Returning Officer, any deputy returning officer in charge of a polling station not in Pelly Crossing), in the presence of any candidate or candidate's designated

representative present when the polls close, shall count the ballots, including any ballots from the advance poll and any special ballots, and tabulate the vote.

64. To be eligible to be counted as part of the vote in an election, a special ballot which is a mail-in ballot shall:
  - (a) be addressed to the Chief Returning Officer at Selkirk's principal office;
  - (b) enable the voter to be identified to the Chief Returning Officer, without disclosing that person's vote; and
  - (c) be received by the Chief Returning Officer in Pelly Crossing no later than the close of the polls on the date of the election.
  
65. For the count (and any recount) of the vote, the Chief Returning Officer shall have the final decision-making authority:
  - (a) as to whether that ballot shall be counted, if there is any question on the face of the ballot as to the intention of the voter;
  - (b) as to whether a ballot shall be declared to be a spoiled ballot; and
  - (c) as to whether a ballot described in section 62 is eligible to be counted.

#### **Automatic Recount**

66. If the count under section 63 results in a difference of 5 or fewer votes cast for the candidates who have received the two highest numbers of votes cast for candidates for a particular office, the Chief Returning Officer forthwith shall recount the ballots cast for candidates for that office; provided that:
  - (a) if there are only 2 candidates for the office of Wolf Clan Councillor or Crow Clan Councillor, a recount shall be not required; and
  - (b) if there are more than 2 candidates for the office of Wolf Clan Councillor or Crow Clan Councillor, a recount shall only be required if there is a difference of 5 or fewer votes cast for the candidates who receive any two of the three highest number of votes for candidates for that office.

## **Election Results**

67. The Chief Returning Officer shall promptly certify in writing the results of the vote tabulations and deliver the certified results to the Election Committee.
68. The results of the vote tabulations as certified by the Chief Returning Officer shall remain unofficial until the completion of the proceedings described in section 70, including any recount requested at that time.
69. The Election Committee will announce in Pelly Crossing and on the Selkirk First Nation website as soon as practicable after those close of the polls the unofficial results of the election and the unofficial vote total for each candidate for each office.
70. Commencing at noon on the day following the election, the Election Committee, with the Chief Returning Officer in attendance, shall hold a public meeting in Pelly Crossing at which time any question about the election will be received and any candidate may request a recount of the vote for the candidates for the office for which he or she was a candidate by delivering in writing to the Election Committee at that meeting his or her signed request for a recount.
71. If no recount of the vote for the office is requested at the meeting described in section 70, the Election Committee shall declare the following candidates to be elected:
  - (a) The candidate for Chief who received the highest number of votes counted for Chief.
  - (b) The 2 Crow candidates and the 2 Wolf candidates, who, respectively, received the highest and second highest number of votes counted for Crow Clan Councillor and Wolf Clan Councillor, respectively.
  - (c) The Elder who received the highest number of votes counted for Elder Councillor.
  - (d) The Youth who received the highest number of votes counted for Youth Councillor.

The Election Committee shall then announce the date at which the candidates elected will provide their respective oaths of office.

### **Requested Recount**

72. If a recount is requested at the meeting described in section 70, the Election Committee forthwith shall direct the Chief Returning Officer to conduct a recount of the vote for that office to be completed in Pelly Crossing that day.
73. Any recount of ballots must be carried out in the presence of the Election Committee and may be attended by any candidate (or their designated representative) for the office for which the recount is made.
74. The recount shall be conducted and certified as provided in sections 64 to 71.

### **Run-off Election**

75. If, following completion of the procedures described in sections 72 to 74, there is a tie in the highest number of votes cast for candidates for the office for which the recount was conducted:
  - (1) The Election Committee shall call a run-off election for that office. The run-off election shall be held on a day fixed by the Election Committee which is not less than 20 days and not more than 30 days after the date on which the procedures described in sections 72 to 74 are completed and on which the post office in Pelly Crossing is regularly scheduled to be open.
  - (2) Only those candidates who tied in the highest number of votes cast for a particular office on the date of the election may be candidates in the run-off election.
  - (3) The procedures for the run-off election shall be as provided in this Act, except that a nomination meeting and an all-candidates meeting shall not be required.
  - (4) If the run-off election results in a difference of 5 or fewer votes cast for the candidates in that election, section 66 shall apply, but no further recount may be requested.
  - (5) If, after the procedure described in subsection (4) is completed, the run-off election results in a tie, the election for the office for which the recount was conducted shall be decided by a coin toss over which the Election Committee shall preside.

## **Recount or Run-off Results**

76. Upon the completion of the process described in this section 73 or 74, as applicable, the Election Committee shall declare the certified results of that recount or run-off election to be the official results and shall announce the date at which the candidate or candidates elected by virtue of that recount or run-off election will provide their oath of office.
77. The need for a recount or run-off election for a particular office shall not delay the swearing in of the candidates declared elected under section 71.

## **PART 5**

### **TAKING OFFICE**

#### **Oath of Office**

78. The oath of office shall be as follows:

I, \_\_\_\_\_, a Citizen of Selkirk First Nation, do hereby swear (or affirm) that I will at all times honour the ancient traditions of our people and that I will uphold, support and protect the Constitution of Selkirk First Nation and will faithfully and fully carry out my duties and responsibilities as \_\_\_\_\_ (office) to the best of my ability.

#### **Assumption of Office**

79. Each candidate who is elected shall swear or affirm their oath of office in writing signed before a person competent to receive their oath in a public Northern Tutchone ceremony called and presided over by the Election Committee. The ceremony shall be held within 7 days after the date their election is declared.
80. Each elected candidate shall assume the office to which they were elected upon providing their respective oath of office. The outgoing Council and the incoming Council shall endeavour to co-operate in the transition and to conduct a debrief from the outgoing Council to the incoming Council.



81. Each member of the Council in office on the day immediately prior to the date of an election shall remain in office with all attendant duties, powers and responsibilities until their respective successor assumes their office under section 80.
82. The term of office of a person elected by way of a by-election shall expire when the term of office of the Council otherwise expires.

## **PART 6**

### **DISPUTE RESOLUTION**

83. If during an election an elector who has a concern about the conduct or process of the election, and the concern is not a matter described in section 45, that elector may bring that concern to the Election Committee for discussion and, as the Committee may deem advisable, a decision or direction to be given by the Committee.
84. Any dispute under this Act raised by a candidate or arising between or among candidates during an election may be brought by any candidate to the Election Committee for discussion, mediation, decision or direction to be given by the Committee, as the Committee may deem advisable.
85.
  - (1) Any challenge by the person who is the subject of a determination made by the Election Committee under section 43, 44, 45, 46 or 47 or a decision made or direction given by the Election Committee under section 83 or 84 shall be filed in writing, with reasons, with the Election Committee within 3 days after the day the Committee has given notice of its determination or decision, unless the Committee extends the time for filing by an additional 3 days.
  - (2) Any challenge to the validity of an election by an elector shall be filed in writing, with reasons, with the Election Committee within 30 days after the date of the election.
  - (3) Upon receipt of a challenge under subsection (1) or (2), the Election Committee shall refer the matter to the independent umpire identified and retained for the purpose by the Senior Official prior to the election call. The umpire shall hear from the party raising the challenge and from the Election Committee and shall render a decision and provide such remedy as the umpire may deem appropriate in the matter at the earliest practicable date.

- (4) Any remedy provided by the umpire under subsection (3) shall not affect the ongoing process or outcome of the election, as the case may be, unless, in the umpire's opinion, there was a defect in the determination or decision of the Election Committee which has or is reasonably expected to have a material impact upon the ongoing process or outcome of the election, if that decision or determination is left undisturbed.

### **Judicial Review**

86. Any decision of the Election Committee under section 84 or, if appealed, by the umpire under section 85 shall be final and binding on all parties and shall not be subject to further appeal or judicial review by Selkirk or any elector, nominee, candidate or other person except that, within 30 days after the date of the election, an application for judicial review by a candidate in that election or Selkirk may be made to the Selkirk Justice Council, if readily available or, if not, to the Supreme Court of Yukon upon the grounds that the Committee or umpire:
  - (a) failed to observe a principle of natural justice;
  - (b) erred in law in making its finding or declaration, whether or not the error appears on the face of the record; or
  - (c) based its finding or declaration on an erroneous finding of fact that it made in a perverse or capricious manner or without regard to the material before it.

The Committee shall be entitled to be a party in any judicial review. The reviewing Court shall not set aside the election results in whole or part unless a defect described in subparagraphs (a) to (c) had a material impact on those results.

### **Selkirk Standing**

87. Where, in any proceedings under this Act, there is a challenge to the validity of this Act or any provision of this Act or to the conduct or results of an election, the party raising the challenge shall provide written notice of the issue to Selkirk, Selkirk shall have standing in those proceedings, and the proceedings may be adjourned so as to permit reasonable opportunity for Selkirk to prepare for and participate in the proceedings.
88. In any proceeding described in section 87, Selkirk may appoint an individual who shall have the right to appear before the court as a friend of the court to assist in the

interpretation of this Act, separate from any role Selkirk may have as a party to the proceeding.

## **PART 7**

### **REGULATIONS**

89. The Election Committee may make regulations setting out forms and other means for the better implementation of the election and dispute resolution procedures contemplated by this Act, but may do so only after first considering the recommendation of the Senior Official and, unless the Election Committee determines that the circumstances of an election otherwise require, after providing electors with notice and opportunity to comment in the matter.

## **PART 8**

### **CONSEQUENTIAL AMENDMENTS**

#### **Repeal**

90. The *Election Act* (2013) is hereby repealed.

## **PART 9**

### **COMING INTO FORCE**

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