



WHITE RIVER FIRST NATION CUSTOM ELECTION CODE, 2025

July 5, 2025

WHITE RIVER FIRST NATION CUSTOM ELECTION CODE

Article 1 – Interpretation and Application

- 1.1. This law shall be cited as the *White River First Nation Custom Election Code, 2025* or the “Election Code”.
- 1.2. This Election Code repeals and replaces the *White River First Nation Consolidated Custom Election Code* certified by the Referendum Officer following the July/August 2011 White River First Nation Referendum.
- 1.3. This Election Code comes into force on the day after it is approved by a majority vote in a referendum in which at least 60% of all Eligible Voters vote, including at least ten (10) Eligible Voters from each linguistic group.
- 1.4. In this Election Code:

“**Chief**” means the Member who is elected to the office of Chief in an election conducted in accordance with this Election Code;

“**Conflict of Interest**” means any situation where a Chief or Councillor is, or could reasonably be perceived to be, influenced by a personal interest when carrying out the duties of their elected office. For greater certainty, a conflict of interest may arise where a Chief or Councillor, or a member of their Immediate Family:

- (a) has a direct or indirect financial interest in a matter before Council;
- (b) has personal, professional or business interests or considerations that may affect the Council member’s objectivity or judgment in a matter before Council; or
- (c) is engaged in external activities that interfere with or compete with the Council member’s duty to make decisions in the best interests of the First Nation.

“**Constitution**” means the White River First Nation Constitution adopted at the General Assembly of September 28 and 29, 1996, as amended;

“**Council**” means the Council of the First Nation, consisting of one Chief, two Resident Councillors, and two Non-Resident Councillors elected in accordance with this Election Code;

“**Councillor**” means a Member elected to the office of Councillor in accordance with this Election Code, and includes a Resident Councillor or a Non-Resident Councillor;

“Elder” means a Member who is 65 years of age or older, except that all Members who the First Nation recognized as Elders on or before July 31, 2025 are also considered Elders under this Election Code regardless of age;

“Election Code” means this White River First Nation Custom Election Code;

“Electoral Officer” means the electoral officer appointed by Council to conduct an election;

“Electronic Voting” means casting an electronic ballot via an internet-based platform where electronic ballots are cast and stored;

“Eligible Voter” means a person 16 years of age or older as of the date of an election, who is either:

(a) a Status Member; or

(b) a Non-Status Member holding Canadian citizenship;

“First Nation” means the White River First Nation;

“Immediate Family” means a person’s parent, sibling, child, current spouse, or current parent-in-law or sibling-in-law;

“Member” means a person who is a Status Member or a Non-Status Member;

“Non-Status Member” means a person with a recognized ancestral connection to the linguistic peoples of the White River First Nation, the Upper Tanana and Northern Tutchone, and who is listed on the Non-Status Member List maintained by the First Nation in accordance with the Constitution;

“Northern Tutchone Eligible Voter” means an Eligible Voter who belongs to the Northern Tutchone linguistic group;

“Petition” means a petition for removal of a person from the office of Chief or Councillor submitted pursuant to Article 8.

“Respondent Council Member” means a Chief or Councillor who is the subject of a Petition under Article 8.

“Status Member” means a status member of the First Nation registered on the First Nation band membership list maintained under the *Indian Act*, R.S.C., 1985, c. I-5;

“Traditional Territory” means White River First Nation’s traditional territory as identified in Schedule A, as amended from time to time;

“Upper Tanana Eligible Voter” means an Eligible Voter who belongs to the Upper Tanana linguistic group.

Article 2 - The First Nation’s Council

2.1. The First Nation’s Council shall be composed of:

- (a) one Chief;
- (b) one Northern Tutchone Resident Councillor;
- (c) one Northern Tutchone Non-Resident Councillor;
- (d) one Upper Tanana Resident Councillor; and
- (e) one Upper Tanana Non-Resident Councillor.

elected in accordance with this Election Code to serve for a term of four (4) years each.

2.2. Northern Tutchone Eligible Voters shall elect:

- (a) one Northern Tutchone Resident Councillor; and
- (b) one Northern Tutchone Non-Resident Councillor.

2.3. Upper Tanana Eligible Voters shall elect:

- (a) one Upper Tanana Resident Councillor; and
- (b) one Upper Tanana Non-Resident Councillor.

2.4. The Chief shall be elected by all Eligible Voters, in accordance with this Election Code.

Article 3 – Eligibility for Council

3.1. A person may be eligible for election as Chief or a Councillor if they:

- (a) are an Eligible Voter who is at least 18 years of age or older on the election day;
- (b) have not been convicted of an indictable offence within ten (10) years before the date of the nomination, unless they have been granted a pardon in relation to that conviction;

- (c) have not been convicted of any criminal offence within three (3) years before the date of the nomination, unless they have been granted a pardon in relation to that conviction; and
- (d) have not been removed from office under this Election Code within three (3) years before the nomination.

Residency of Chief

- 3.2. If an eligible candidate is elected as Chief and they do not already live in Beaver Creek on election day, then they must move to Beaver Creek within six (6) months after election day and reside in Beaver Creek for the remainder of their term of office.

Residency of Councillors

- 3.3. If an eligible candidate is elected as:
 - (a) the Upper Tanana Resident Councillor, if they do not already live within the Traditional Territory on election day, then they must move to the Traditional Territory within six (6) months after election day and reside in the Traditional Territory for the remainder of their term of office;
 - (b) the Upper Tanana Non-Resident Councillor, they are encouraged but not required to reside in the Traditional Territory throughout their term of office;
 - (c) the Northern Tutchone Resident Councillor, if they do not already live within the Traditional Territory on election day, then they must move to the Traditional Territory within six (6) months after election day and reside in the Traditional Territory for the remainder of their term of office; or
 - (d) the Northern Tutchone Non-Resident Councillor, they are encouraged but not required to reside in the Traditional Territory throughout their term of office.
- 3.4. All Resident and Non-Resident Councillors shall take office and assume all Council duties immediately after completing the swearing-in ceremony and making the declaration required under section 7.17.
- 3.5. Resident Councillors and Non-Resident Councillors have equal powers and roles on Council once elected.

Article 4 - Electoral Officer

- 4.1. An Electoral Officer shall be appointed by the Council at least ninety (90) days before an election at which the Chief and Council will be elected and shall be responsible, in accordance with the First Nation's laws and this Election Code, for the registration of

Eligible Voters and for the supervision and conduct of nominations and elections, and shall have sole power before and during an election to hear and decide all protests or disputes related to any matter within his or her responsibilities or power.

4.2. The Electoral Officer shall not be:

(a) an Eligible Voter;

(b) a current employee of the First Nation; or

(c) a current independent contractor of the First Nation or the First Nation's affiliated corporations.

4.3. The Electoral Officer shall be appointed for a fixed term and may be reappointed.

4.4. The Electoral Officer:

(a) shall conduct the First Nation's elections in accordance with this Election Code and any other applicable rules and regulations respecting the First Nation's elections; and

(b) shall have the authority to modify time limits under this Election Code if he or she considers it necessary to do so to ensure the timely and fair conduct of the election.

4.5. The Electoral Officer shall be responsible for preparing mail-in ballots, and distributing mail-in ballots to Eligible Voters who request one in accordance with the instructions specified in the Initial Notice of Election.

4.6. The Electoral Officer may hold one or more advance polls for the election of Chief and Council at such time(s) and location(s) he or she considers appropriate.

Article 5 - List of Eligible Voters

5.1. At least seventy (70) days before a General Assembly at which an election will be held, the Electoral Officer will obtain from the First Nation the names, linguistic group, last known addresses and dates of birth of all Members who will be Eligible Voters on election day.

5.2. The First Nation is responsible for keeping its membership list current, and each Eligible Voter has the responsibility of notifying the First Nation if there has been a change to their contact information.

5.3. Unless an Eligible Voter otherwise consents, the Electoral Officer shall use an Eligible Voter's address only for the purpose of providing notices, mail-in ballots or other

election-related documents to the Eligible Voter as they are entitled to receive them under this Election law.

- 5.4. At least sixty (60) days before a General Assembly at which an election will be held, the Electoral Officer shall:
 - (a) ensure that a list of all Eligible Voters is prepared which contains the names of all Eligible Voters in alphabetical order, and that such list identifies all Eligible Voters as either an Upper Tanana Eligible Voter or a Northern Tutchone Eligible Voter; and
 - (b) post the list of Eligible Voters in a public area of the First Nation administration building.
- 5.5. On request by a Member, the Electoral Officer shall confirm whether the Member's name is on the list of Eligible Voters.
- 5.6. A Member who is entitled to vote but whose name does not appear on the list of Eligible Voters, or whose name is incorrectly set out in the voters list, may request in person, by mail, telephone, or email, that the Electoral Officer correct the list of Eligible Voters.
- 5.7. If the Electoral Officer receives a request under section 5.6, the Electoral Officer must consider the request along with any supporting documentation provided, and may request additional information from the First Nation relevant to the request. If satisfied that the list of Eligible Voters should be corrected, the Electoral Officer may make the necessary correction.
- 5.8. The decision of the Electoral Officer under section 5.7 is final and not subject to appeal.
- 5.9. The Electoral Officer shall ensure that the list of all Eligible Voters is updated at least seven (7) days before the General Assembly at which the Chief and Council will be elected.

Article 6 - Nomination Process

- 6.1. At least sixty (60) days before a General Assembly at which the Chief and Council will be elected, the Electoral Officer shall deliver an Initial Notice of Election to Eligible Voters, which shall include:
 - (a) a Call for Nominations; and
 - (b) instructions for any Eligible Voter to contact the Electoral Officer if he or she would like to receive a mail-in ballot.

- 6.2. The nomination period shall be ten (10) days long, commencing on the date the Electoral Officer issues the Call for Nominations under paragraph 6.1(a) and ending ten (10) days later with the close of nominations.
- 6.3. A Call for Nominations prepared under paragraph 6.1(a) shall specify the start and end date of the ten (10)-day nomination period and invite any Eligible Voter to submit one or more nominations, in writing, to the Electoral Officer, for the election of:
- (a) candidates for Chief; and/or
 - (b) candidates for Resident Councillor in the same linguistic group as the nominator; and/or;
 - (c) candidates for Non-Resident Councillor in the same linguistic group as the nominator.
- 6.4. All nominations shall be submitted directly to the Electoral Officer, and the Electoral Officer shall keep all nominations confidential until the close of the nomination period.
- 6.5. All nominees for election shall be required:
- (a) to provide consent in writing to nomination, which must be received by the Electoral Officer by a deadline specified by the Electoral Officer;
 - (b) to provide a criminal record check issued within the last twelve (12) months to the Electoral Officer, completed at the nominee's expense, which must be received by the Electoral Officer by a deadline specified by the Electoral Officer; and
 - (c) to make a declaration in writing that they will be eligible to hold office in accordance with the requirements of Article 3.
- 6.6. Within twenty-four (24) hours of the close of the nomination period, the Electoral Officer will:
- (a) contact the prospective candidates and confirm the acceptance or refusal of their candidacy; and
 - (b) publicly post the list of confirmed candidates.
- 6.7. If, after confirming the list of proposed candidates under section 6.6, there are no confirmed candidates for any of the following positions:
- (a) Northern Tutchone Resident Councillor;

(b) Northern Tutchone Non-Resident Councillor;

(c) Upper Tanana Resident Councillor; or

(d) Upper Tanana Non-Resident Councillor;

then the Electoral Officer shall extend the nominations period by a further fourteen (14) days and post a further Call for Nominations for the position(s) without any confirmed candidate.

6.8. If there is a dispute over the eligibility of a nominee to hold office under Article 3 that cannot be resolved before the preparation of ballots under Article 7, then the nominee's name shall be listed on the applicable ballot prepared by the Electoral Officer under Article 7, and:

(a) if the Electoral Officer determines the nominee is ineligible under Article 3 prior to the election, then the Electoral Officer will publicly post the nominee's withdrawal from the list of candidates and make every effort to strike the name of the nominee from the ballots; or

(b) if the Electoral Officer determines the nominee was ineligible under Article 3 after the election, then any candidate or Eligible Voter may appeal the election result under Article 9.

Election Platforms

6.9. Candidates may provide written, audio or visual information about their election platform to the Electoral Officer within seven (7) days of the close of the nomination period. The Electoral Officer will post all candidate platform materials on the First Nation's website, social media pages, or alternate electronic platform within ten (10) days of the close of the nomination period.

Candidates Forum

6.10. The current Council shall ensure a Candidates Forum is scheduled to be held within twenty (20) days after the close of nominations.

6.11. All candidates shall have the right to participate in the Candidates Forum.

6.12. The Candidates Forum shall be open to all Eligible Voters and shall provide for Eligible Voters to attend virtually or in-person.

6.13. An impartial moderator shall, in consultation with Members, Council, and Elders, compile questions to be asked of candidates at the Candidates Forum and shall host

and moderate the Candidates Forum.

- 6.14. The Electoral Officer may make additional rules of order and procedure for Candidates Forums that are not inconsistent with this Election Code.

Final Notice of Election

- 6.15. At the close of nominations, the Electoral Officer shall mail and deliver a Final Notice of Election to all Eligible Voters. The Final Notice of Election will include:
- (a) the list of candidates nominated for the office of Chief, in the order they will appear on the ballot;
 - (b) the list of candidates nominated for the offices of Resident Councillor and Non-Resident Councillor for each linguistic group, in the order they will appear on the ballot;
 - (c) voting methods available to Eligible Voters;
 - (d) if applicable, instructions on how to vote by electronic voting, including the dates and times that electronic voting opens and closes;
 - (e) the date and time for any advance polls;
 - (f) instructions to vote by mail-in ballot, and the deadline to submit any mail-in ballots;
 - (g) the date, place and time for the regular vote;
 - (h) the Electoral Officer's name and contact information; and
 - (i) any other information necessary to inform Eligible Voters how to vote.
- 6.16. Any employee of the First Nation who is nominated for election shall take a leave of absence from their employment with the First Nation without pay for at least two (2) weeks before the election at which the Chief and Council will be elected.

Article 7 - Voting Process

- 7.1. Elections for Chief and Councillors shall be held in conjunction with a General Assembly every four (4) years.
- 7.2. The election of the Chief and Councillors shall be by secret ballot in accordance with this Election Code.

Election of the Chief

- 7.3. The Electoral Officer shall prepare a ballot alphabetically listing all valid nominees for the position of Chief.
- 7.4. Every Eligible Voter shall be entitled to cast one ballot for the position of Chief, using one of the following methods:
- (a) by mail-in ballot;
 - (b) at an advance poll (if one or more advance polls are held by the Electoral Officer);
 - (c) by Electronic Voting, if the Final Notice of Election provides for Electronic Voting;
or
 - (d) in person at the General Assembly.
- 7.5. If there are three (3) or more candidates for the position of Chief, the ballot for the position of Chief will be a “preferential ballot”, as follows:
- (a) Eligible Voters shall write a “1” beside their first choice, a “2” beside their second choice, and so on, to rank as many candidates as they wish, in order of preference;
 - (b) if no candidate receives 50% + 1 of the first choice votes, the ballots for the candidate with the fewest votes will be reassigned to those voters’ next preferences; and
 - (c) this process shall be repeated until a candidate emerges with 50% + 1 of the votes, who shall be declared by the Electoral Officer as the winner and elected as Chief.

Election of Councillors

- 7.6. The Electoral Officer shall prepare:
- (a) a ballot for the election of:
 - i. one Northern Tutchone Resident Councillor; and
 - ii. one Northern Tutchone Non-Resident Councillor
- by Northern Tutchone Eligible Voters, alphabetically listing all valid nominees for each of those positions; and

(b) a ballot for the election of:

- i. one Upper Tanana Resident Councillor; and
- ii. one Upper Tanana Non-Resident Councillor

by Upper Tanana Eligible Voters, alphabetically listing all valid nominees for each of those positions.

7.7. Every Eligible Voter shall be entitled to cast one ballot for the Councillor positions corresponding to his or her linguistic group, using one of the following methods:

- (a) by mail-in ballot;
- (b) at an advance poll (if one or more advance polls are held by the Electoral Officer);
- (c) by Electronic Voting, if the Final Notice of Election provides for Electronic Voting;
or
- (d) in person at the General Assembly.

7.8. Eligible Voters may vote for up to two (2) candidates for Councillor on the ballot for their applicable linguistic group.

Electronic Voting

7.9. Any Electronic Voting platform used in an election must:

- (a) be accessible to all Eligible Voters;
- (b) protect the secrecy of individual votes;
- (c) enable the Electoral Officer to determine whether an Eligible Voter has voted by Electronic Voting, and if so, restrict that person from voting again by another method; and
- (d) otherwise be consistent with this Election Code.

7.10. The Electoral Officer may specify procedures related to Electronic Voting and the counting of votes cast through an Electronic Voting platform, provided that such procedures are consistent with this Election Code.

Counting the Ballots

7.11. Immediately following the close of the voting stations at the General Assembly on the date an election is held, the Electoral Officer shall, in the presence of every candidate present at the General Assembly, reveal the electronic voting results (if applicable) and open each envelope containing a mail-in ballot that was received before the close of the polls. To verify the mail-in ballots, the Electoral Officer shall:

(a) reject and preserve any mail-in ballot that:

- (i) is submitted by a person whose name is not on the Eligible Voters list;
- (ii) does not give a clear indication of the Eligible Voter's selection;
- (iii) contains votes for more than two (2) candidates for Councillor; or
- (iv) is otherwise invalid under this Election Code; and

(b) count and record the votes submitted on each valid mail-in ballot, and place a mark on the Eligible Voters list opposite the name of the Eligible Voter indicating they have already voted.

7.12. Immediately following the verification of electronic and mail-in ballots, the Electoral Officer shall, in the presence of every candidate present at the General Assembly, open the ballot boxes, including any ballot boxes used in advance polls, examine the ballots, and:

(a) reject and preserve any ballot that:

- (i) is submitted by a person whose name is not on the Eligible Voters list;
- (ii) does not give a clear indication of the Eligible Voter's selection;
- (iii) contains votes for more than two (2) candidates for Councillor; or
- (iv) is otherwise invalid under this Election Code; and

(b) count and record the votes given for each candidate on each valid ballot, and place a mark on the Eligible Voters list opposite the name of the Eligible Voter indicating they have already voted.

7.13. Immediately after counting all the votes, the Electoral Officer shall make a written statement of the number of votes given to each candidate for the positions of:

- (a) Chief;
 - (b) Upper Tanana Resident Councillor;
 - (c) Upper Tanana Non-Resident Councillor;
 - (d) Northern Tutchone Resident Councillor; and
 - (e) Northern Tutchone Non-Resident Councillor.
- 7.14. The Electoral Officer shall declare the candidate selected using the process under section 7.5 to be elected Chief.
- 7.15. The Electoral Officer shall declare the candidates with the highest number of votes for each Resident Councillor and Non-Resident Councillor position to be elected. However:
- (a) if no eligible candidate is elected for a Non-Resident Councillor position, then the eligible candidate for the Resident Councillor position of the same linguistic group with the next highest number of votes will be declared elected to the Non-Resident Councillor position; and
 - (b) if no eligible candidate is elected for a Resident Councillor position, then the eligible candidate for the Non-Resident Councillor position of the same linguistic group with the next highest number of votes will be declared elected to the Resident Councillor position, with the requirement that they must move to the Traditional Territory within six (6) months after election day and reside in the Traditional Territory for the remainder of their term of office.

Tie-Breaking

- 7.16. Any ties resulting from the above voting processes may be broken by further secret ballot of Eligible Voters in the applicable linguistic group at the General Assembly.

Declaration

- 7.17. All elected members of Council shall make a declaration in writing, sworn to or affirmed in front of a person having the authority to administer such oath, confirming their eligibility to hold office in accordance with the requirements of this Election Code and any other applicable First Nation election laws or regulations, and shall forfeit his or her seat on Council if any false information was provided in such declaration.

Article 8 - Vacancies and Removal From Office

Resignation

- 8.1. Any Chief or Councillor may resign by tendering a written resignation to the Council and such written notice must be preceded by a letter at least two (2) weeks in advance of the effective date of the resignation.

Failure to Satisfy Residency Requirements

- 8.2. If a candidate elected as Chief does not reside in Beaver Creek and does not move to Beaver Creek within six (6) months after the election day, then:
- (a) the candidate elected as Chief automatically ceases to hold office and their position will be declared vacant;
 - (b) Council will offer the vacant position to the candidate who had the next highest number of votes for the Chief position in the last election. If that candidate accepts the position within seven (7) days after receipt of the offer, the candidate will fill the vacant position; and
 - (c) if the vacancy cannot be filled under paragraph 8.2(b), then a by-election will be held to fill the vacant Chief position.
- 8.3. The successful Chief appointed under section 8.2 shall hold office for the remainder of the original term of the candidate whom they are appointed to replace.
- 8.4. If a candidate elected as a Resident Councillor does not reside within the Traditional Territory and does not move to the Traditional Territory within six (6) months after the election day, then:
- (a) the candidate elected as Resident Councillor automatically ceases to hold office and their position will be declared vacant;
 - (b) Council will offer the vacant position to the candidate who had the next highest number of votes for the Resident Councillor position in the last election. If that candidate accepts the position within seven (7) days after receipt of the offer, the candidate will fill the vacant position; and
 - (c) if the vacancy cannot be filled under paragraph 8.4(b), then a by-election will be held to fill the vacant Resident Councillor position.
- 8.5. The successful Resident Councillor appointed under section 8.4 shall hold office for the remainder of the original term of the Resident Councillor whom they are appointed to replace.

Disqualification from Office

- 8.6. The Chief or any Councillor shall automatically cease to hold office upon the following events:
- (a) if the Chief or Councillor fails to attend any two (2) consecutive regular meetings of Council, provided that any such absence may, upon written request by the absent member setting forth the reason for such absence, be excused by Council if caused by illness or other such reason satisfactory to Council;
 - (b) if the member is convicted of a criminal offence.

Removal from Office

- 8.7. Eligible Voters may remove the Chief or any Councillor during their term of office on the following grounds:
- (a) if the Chief or Councillor has been unable to substantially perform the functions of their office for a continuous period of more than six (6) months due to illness or other incapacity;
 - (b) if the Chief or Councillor accepts or offers a bribe, forges a document, or otherwise acts dishonestly in their elected role;
 - (c) if the Chief or Councillor has breached the Conflict of Interest provisions in the Constitution; or
 - (d) if the Chief or Councillor has repeatedly breached the Rules of Conduct set out in the Constitution.
- 8.8. Proceedings to have a Chief or Councillor removed from office may be initiated by any Eligible Voter, by submitting a Petition to Council containing the following information:
- (a) the name and office of the Respondent Council Member;
 - (b) the grounds identified under section 8.7 under which the Petitioner seeks removal of the Respondent Council Member;
 - (c) the evidence in support of the Petition;
 - (c) the signature of the Petitioner; and

- (d) the signatures of at least ten (10) Upper Tanana Eligible Voters and ten (10) Northern Tutchone Eligible Voters.
- 8.9. Upon receipt of a Petition, Council shall appoint an Arbitrator within thirty (30) days.
- 8.10. The Arbitrator appointed under section 8.9 must be an independent and impartial third party who is either a lawyer, arbitrator, retired judge, or a person with similar qualifications and who, upon request of Council, agrees to act in proceedings to remove a Council member under this Election Code.
- 8.11. Within seven (7) days of appointment, the Arbitrator shall review the Petition and all supporting materials and verify whether the Petition complies with the requirements of section 8.8. If the Arbitrator determines that the Petition:
- (a) does not comply with section 8.8, the Arbitrator shall notify the petitioner(s) in writing, and shall remit the Petition to the petitioner(s) who may correct and resubmit the Petition within five (5) days; or
 - (b) is harassing, malicious, a personal attack, is made in bad faith, or is clearly unsubstantiated, then the Arbitrator shall dismiss the Petition in a written decision that provides the rationale for the Arbitrator's decision.
- 8.12. If the Arbitrator dismisses a Petition under section 8.11(b), Council shall ensure the Arbitrator's written decision is posted in a public area of the First Nation administration building, on the website and social media maintained by the First Nation, and communicated to WRFN members by email.
- 8.13. If the Arbitrator determines that the Petition complies with section 8.8 and is not harassing, malicious, a personal attack, made in bad faith, or clearly unsubstantiated, then the Arbitrator shall forthwith:
- (a) forward the Petition and all supporting materials to the Respondent Council Member; and
 - (b) commence an investigation.
- 8.14. The Arbitrator shall conduct an investigation as soon as is practical and in accordance with the rules of procedural fairness. During the investigation, the Arbitrator shall:
- (a) seek information or documentation from any individual the Arbitrator deems appropriate;
 - (b) provide the Respondent Council Member with an adequate opportunity to respond to all allegations and evidence raised in the Petition, or in the course of the investigation; and

- (c) conduct further investigation into the matter as the Arbitrator deems appropriate.
- 8.15. Within fourteen (14) days of completing their investigation, the Arbitrator shall issue a report containing their decision to the Council, the Petitioner, and the Respondent Council Member. The decision of the Arbitrator shall:
- (a) be in writing;
 - (b) provide the Arbitrator's findings of fact and rationale in support of their decision;
 - (c) include a decision as to whether the Arbitrator concludes, on a balance of probabilities, that one or more of the grounds for removal in section 8.7 exists;
 - (d) conclude whether the Petition is upheld or dismissed; and
 - (e) where the Petition is upheld, declare the office of the Respondent Council Member vacant.
- 8.16. The decision of the Arbitrator made under section 8.15 is final and binding upon all parties.
- 8.17. Council shall ensure that a summary of the Arbitrator's decision under section 8.15 is posted in a public area of the First Nation administration building, on the website and social media maintained by the First Nation, and communicated to WRFN members by email.

Notification to Members

- 8.18. If a Council member resigns, is disqualified from office, or is removed from office under this Election Code, then Council must notify all Members of the vacancy on Council within two (2) weeks.
- 8.19. The notice required under section 8.18 may be provided to Members via written notice, mail, email, or other electronic means, and must state how the vacant office will be filled and if a By-Election will be held.

Vacancies and By-Elections

- 8.20. Vacancies in the office of Chief or Councillor shall be filled by By-Election if more than one year remains in the term of office, except that vacancies resulting from a failure to satisfy residency requirements shall be filled using the process set out under sections 8.2 to 8.5.

- 8.21. If there is a vacancy in the office of Chief or Councillor and less than one year remains in the term of office, then the candidate with the next highest number of votes for the vacant office in the last election shall be offered the position for the remainder of the original term of the Chief or Councillor who they replace. If the candidate does not accept the position, then the vacancy shall be filled by By-Election.
- 8.22. Any candidate who fills a vacancy in the office of Chief or Councillor under section 8.20 or 8.21 must fulfill the residency requirements of the applicable office.
- 8.23. Where the First Nation is required to hold a By-Election, Council shall, by motion, set a date for a By-Election after consultation with the Electoral Officer and as soon as reasonably possible after the office in question is declared vacant.
- 8.24. The procedures for every By-Election shall be governed by the election processes set out in this Election Code, with procedural modifications as deemed reasonably necessary by the Electoral Officer.
- 8.25. The successful Chief or Councillor appointed under section 8.20 or 8.21 shall hold office for the remainder of the original term of the Chief or Councillor whom they are appointed to replace.

Article 9 - Election Appeals

Elders Caucus

- 9.1. Prior to each election, an Elders Caucus consisting of two Upper Tanana Elders and Two Northern Tutchone Elders will be formed using the following process:
 - (a) at least thirty (30) days before an election, the Electoral Officer will post a call for two (2) Upper Tanana Elders and two (2) Northern Tutchone Elders to form an Elders Caucus;
 - (b) any Elder who is not a candidate in the current election may respond to the Electoral Officer and confirm they agree to sit on the Elders Caucus;
 - (c) if, seven (7) days prior to the election, vacant seat(s) remain on the Elders Caucus, then the Electoral Officer shall appoint any Elder(s) from the Eligible Voters list to fill the vacant seat(s).
- 9.2. For greater certainty, any Elder who is a candidate in the current election is ineligible to sit on the Elders Caucus.

- 9.3. The Elders' Caucus appointed under section 9.1 will have the authority to appoint an Appeal Board in the event of an election appeal.

Appeal Period

- 9.4. A Candidate or an Eligible Voter who wishes to appeal the results of an election must submit a Notice of Appeal to the Elders' Caucus within ten (10) days from the election date.
- 9.5. The Elders' Caucus may extend the deadline to submit a Notice of Appeal in extraordinary circumstances, such as in the event of a death in the appellant's Immediate Family.

Grounds for Appeal

- 9.6. An election result may be appealed on one or more of the following grounds:
- (a) a person declared elected was not qualified to be a candidate under this Election Code;
 - (b) there was a violation of this Election Code, including but not limited to a violation in the nominations process, the conduct of the election, or the counting of votes, that might have affected the results of the election; or
 - (c) there was a corrupt or fraudulent practice in relation to the election, including but not limited to bribery, forgery, or exerting undue influence on an Eligible Voter to vote a certain way, that may have affected the results of the election.

Notice of Appeal

- 9.7. A Notice of Appeal must:
- (a) identify one or more of the grounds for appeal listed in section 9.6;
 - (b) be in writing and set out the facts supporting the grounds for the appeal;
 - (c) include all supporting documentation and evidence pertaining to the grounds for appeal listed in section 9.6;
 - (d) clearly identify the Candidates or Electoral Officer, if any, who are affected by the appeal; and

- (e) be accompanied by a \$100.00 fee, refundable in the event the appeal is successful, paid to the Elders' Caucus in cash, e-transfer or money order, to be held in trust by the Elders' Caucus pending the outcome of the appeal.

Procedure

- 9.8. The Elders' Caucus shall review a Notice of Appeal within twenty-four (24) hours of receipt and:
 - (a) if the Notice of Appeal meets all the requirements of section 9.7:
 - (ii) forward the Notice of Appeal and its supporting documentation to all candidates and the Electoral Officer; and
 - (iii) post an expression of interest for the Appeal Board, as set out in section 9.9;
 - (b) if the Notice of Appeal does not contain the information required under section 9.7, inform the Appellant in writing that the appeal will not receive further consideration.

Appeal Board

- 9.9. If a Notice of Appeal meets all the requirements of section 9.7 , then the Elders' Caucus will post an expression of interest for Appeal Board candidates. Interested candidates must put their names forward within five (5) days of the posting.
- 9.10. At the close of the five (5) day expression of interest period, the Elders' Caucus will review the candidate submissions and appoint the Appeal Board. In the event no candidates put their names forward, the Elders' Caucus will have the authority to appoint to the Appeal Board any candidates who meet the criteria in sections 9.12 and 9.13.
- 9.11. The Elders' Caucus will have final decision-making authority to appoint the Appeal Board.
- 9.12. The Appeal Board shall consist of:
 - (a) one WRFN Elder;
 - (b) one WRFN Member who is at least nineteen (19) years of age who is familiar with the traditions and values of WRFN; and
 - (c) one person who is at least nineteen (19) years of age who is not a WRFN Member and has a background in law, dispute resolution, and/or election regulation.

- 9.13. A person may not sit on the Appeal Board if they:
- (a) are a candidate for a position on Council in the election under appeal;
 - (b) are the Electoral Officer; or
 - (c) have a personal, financial or Immediate Family interest in the outcome of the appeal.
- 9.14. An Appeal Board member who is in a real, perceived or potential Conflict of Interest concerning an appeal must disclose the conflict to the Appeal Board at the first available opportunity and recuse themselves from the appeal in question. In such case, the Elders' Caucus will appoint a replacement member to the Appeal Board within seven (7) days.
- 9.15. The Appeal Board will serve a term from the date of appointment to the resolution of any appeals.

Response to the Allegations

- 9.16. Within ten (10) days of receipt of the Notice of Appeal, a candidate or the Electoral Officer may submit a written Response to the Appeal Board, together with all supporting documentation.

Investigation

- 9.17. The Appeal Board shall conduct an investigation commencing as soon as is practical after appointment. The investigation must be conducted in accordance with the rules of procedural fairness, and must be completed within ten (10) days of receipt of the Response to the allegations. During the investigation, the Appeal Board shall:
- (a) seek information from any individual it deems appropriate; and
 - (a) provide any affected candidate or the Electoral Officer with an adequate opportunity to respond to all allegations and evidence raised in the Notice of Appeal, or in the course of the investigation.

Decision

- 9.18. Within seven (7) days of completing its investigation, the Appeal Board shall issue a written report to Chief and Council, the membership of WRFN, and the participants in the appeal process.

- 9.19. The Appeal Board report shall include:
- (a) a summary of the investigation process and all the evidence the Appeal Board received;
 - (b) the Appeal Board's findings of fact;
 - (c) a decision as to whether one or more of the grounds for appeal in section 9.6 occurred; and
 - (d) an order upholding or dismissing the appeal.
- 9.20. If the Appeal Board concludes that one or more of the candidates elected to Council was not qualified to be a candidate in accordance with this Election Code, then the Appeal Board may make an order setting aside the election of the affected candidate(s).
- 9.21. If the Appeal Board concludes that there was a violation of this Election Code or that there were corrupt practices which affected the results of the election, then the Appeal Board may make an order:
- (a) setting aside the election of the affected candidate(s); or
 - (b) setting aside the results of the election in its entirety.
- 9.22. The Elders' Caucus and the Electoral Officer shall ensure a summary of the Appeal Board report is posted in a public area of the WRFN administration building, on the WRFN website, and communicated to WRFN members by email.
- 9.23. The decision of the Appeal Board on an appeal under this Election Code is final.

Article 10 - Regulations

- 10.1 The Council of the First Nation may, by resolution, make regulations it considers necessary or advisable to achieve the purposes of this Election Code, including but not limited to regulations respecting:
- (a) procedures for the administration of this Election Code;
 - (b) the rules and procedures for Council meetings;
 - (c) the requirements and procedures for online voting;
 - (d) procedures for Petitions under Article 8 and Appeals under Article 9; and

- (e) the procedure for amendments under Article 11 of this Election Code.
- 10.2 A regulation passed pursuant to section 10.1 is deemed for all purposes to form part of, and be interpreted as if it were included in, this Election Code.

Article 11 - Amendments to Custom Election Code

- 11.1. Despite Article 19 of the Constitution, this Election Code may be amended by majority vote of Eligible Voters in a referendum, provided that the referendum requires the participation of at least 60% of all Eligible Voters and at least ten (10) Eligible Voters belonging to each linguistic group, and thereby fairly reflects a consensus of the First Nation's Eligible Voters.
- 11.2. A referendum to amend this Election Code may be initiated through the following process:
 - (a) the General Assembly may establish an Election Code Committee to give consideration to changes to the First Nation's election process;
 - (b) the Election Code Committee shall be responsible for consulting with Members about possible changes to the election process, and shall provide a report and recommendations for consideration at a General Assembly after the report is issued; and
 - (c) the General Assembly, after considering the report of the Election Code Committee, shall have the authority to refer the proposed changes to the election process to a referendum for approval by majority vote in accordance with section 11.1.

SCHEDULE A

White River First Nation Traditional Territory

