

**DRAFT**

**Pehdzeh Ki First Nation  
Election Code**

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**Application**

**Policy: 1.1**

**Approved:**

**Approval Process: PKFN Chief and Council**

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On the authority of the Pehdzeh Ki First Nation, these regulations may be cited as the regulations governing the customs election of the Chief and Council of the Pehdzeh Ki First Nation.

## **Definitions**

**Policy: 1.2**

**Approved:**

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In these regulations

advance vote means a vote held before election day;

by-election means an election held to replace or fill a vacancy on the Council;

candidate means a candidate for election as Chief or Band Councilor;

Chief means a First Nation member elected as Chief pursuant to these regulations;

councilor means a First Nation member elected as Councilor pursuant to these regulations;

corrupt practice means an act declared to be corrupt in Section 18;

declaration Canada	means a statutory declaration made in accordance with the Evidence Act;
election election or a by-	means an election of a First Nation member at a general election;
election day	means the day fixed for an election;
election officer clerks and	means returning officers, deputy returning officers, election interpreters;
election petition	means the election/petition referred to in subsection 17;
elector on the day pursuant to Federal or incompetent;	means a First Nation member who is at least 18 years of age of the election and who has not been declared Territorial legislation to be mentally
electoral district First Nation;	means the geographic area of jurisdiction of the Pehdzeh Ki
general election terms have	means an election held to replace a Chief and Council whose expired;
list of voters requirements as	means the First Nation members who meet residency prescribed in section 6;
public notice	means the giving of notice to the membership;
registrar	means the person appointed as registrar under section 7;
returning officer 3;	means the person appointed as returning officer under section
voter	means a person eligible to vote in an election;
voting station	means the place where a voter casts his or her vote.

## **Administration of Elections**

**Policy: 1.3**

**Approved:**

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The Pehdzeh Ki First Nation's elections will be administered according to the procedures as follows;

1. The Chief and Council shall appoint a person to serve as a returning officer.

2. If a returning officer is not appointed in accordance with subsection 1 or if the returning officer is unable to perform his or her duties, the Band Manager shall perform the duties and exercise the powers of the returning officer.

3. In addition to performing the duties specified in these regulations, a returning officer shall:

a) appoint deputy returning officers, election clerks, interpreters or other persons the returning officer deems necessary for the proper conduct of the election;

b) establish voting stations, designate their location and, wherever possible, locate them in buildings that will provide ease of access to any voter confined to a

wheelchair or who is disabled or incapacitated.

c) provide for the printing, supply and delivery of ballots, ballot boxes, instructions to voters, voter's registrar and other necessary election materials and supplies to all voting stations; and

d) give the notices required and generally take any action necessary to ensure the proper conduct of the election in accordance with these regulations.

4. Where an election officer is absent, incapacitated or unable to act, the returning officer will appoint another person in his or her place.

5. No candidate for the position of Chief or Councilor shall be appointed or continue to act as an election officer.

6. Every election officer shall, before assuming any duties, take an oath or affirmation in the form prescribed by the First Nation.

7. Election officers shall act to conserve the peace and may remove or cause to be removed from the voting station anyone who disrupts or interferes with the process or conduct of the election.

## **Election Dates**

**Policy: 1.4**

**Approved:**

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1. The date for a general election of Chief and Council will be established by the Chief and Council, providing that the date set shall be within 30 days of the end of their term of office.

2. An advance vote, if required, must be held within seven but not more than fourteen days for election day.

3. The list of voters must be posted at least thirty days before election day.

4. The time for nominating candidates expires at 3 p.m. on the day five weeks before election day.

5. Notice calling for nomination of candidates must be given at least two weeks before the time for nominating candidates expires.

6. A returning officer must be appointed at least eight weeks before election day.

7. When a by-election is required, the Chief and Council shall fix the election day.

8. Where a holiday falls on the day or date fixed by these regulations, the day or date shall be deemed to be the next day that is not a holiday.

## **Eligibility of Voters and Candidates**

**Policy: 1.5**

**Approved:**

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1. A person is eligible to vote at an election if the person is a member of Pehdzeh Ki First Nation, has attained the age of 18 years and has been a resident of the electoral district for at least twelve months immediately preceding election day.

2. A person is eligible to be nominated and stand as a candidate if the person is eligible to vote and is not disqualified by subsection 3.

3. A person is ineligible to vote if that person is indebted to the First Nation in an amount greater than five hundred dollars, is an election officer or an employee of the First Nation who has not been granted leave from his or her position to run for office.

## **Determining Residency**

**Policy: 1.6**

**Approved:**

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**Revision Date(s):**

1. The residence of a person is the place of the home or dwelling to which, when the person is absent, the person intends to return.
2. The person does not lose his or her residence by leaving his or her home or dwelling for a temporary purpose.
3. If a person leaves the electoral district with the intention of establishing his or her residence elsewhere, the person loses his or her residence in the electoral district.
4. No person shall be deemed to have a residence in more than one place.

## **Enumeration**

**Policy: 1.7**

**Approved:**

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1. The returning officer will serve as registrar.
2. The registrar shall prepare a list of voters based on the First Nation membership list provided by the Department of Indian and Northern Affairs Canada.

3. The registrar shall eliminate from the membership list any member who has not resided in the electoral district for at least twelve months prior to the date of the election.

4. The list of voters will contain the names of all voters in alphabetical order.

5. The registrar shall cause the list of voters to be posted in conspicuous places in the electoral district at least thirty days before election day.

6. The registrar shall provide the list of voters for use at voting stations on election day and at an advance vote.

7. A voter may apply to the registrar to have the list of voters revised at least ten days before the vote on the grounds that the name of a person eligible to vote has been omitted from the list or that a person who is not eligible to vote is included on the list.

8. The registrar will investigate the application with reference to the eligibility of the person in question and will notify the voter with respect of his or her decision in writing.

## **Nomination of Candidates**

**Policy: 1.8**

**Approved:**

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**Revision Date(s):**

1. The returning officer shall give public notice calling for nomination of candidates in the prescribed form.

2. No person shall be nominated for the position of Chief and Councilor.

3. A Councilor whose term of office has not expired must submit his or her resignation before notice of calling for nomination of candidates is given in order to be eligible to be a candidate for Chief.

4. A candidate must be nominated by two or more voters completing a nomination paper in the prescribed form and the candidate completing the consent and declaration form set out in the prescribed form.

5. Where a returning officer believes on reasonable grounds that a person nominated as a candidate is not eligible to be candidate, the returning officer may, by written notice to the person and without delay, specify the grounds and require the person to make a declaration as to his or her eligibility in the form that the returning officer requires.

6. The returning officer may refuse to accept a nomination unless the declaration referred to in subsection 5 is filed with the returning officer before nominations close.

7. Where the returning officer refuses to accept the nomination of a person as a candidate under subsection 5, the person shall not stand as a candidate.

8. Nominations of candidates must be received by the returning officer between the dates of the notice of calling for nominations of candidates is given and 3 p.m. on the day five weeks preceding the election day.

9. The date for the close of nominations set out in subsection 8 is extended for one week where the number of candidates nominated for election is less than the number of persons required to be elected.

10. The returning officer shall give public notice of the extension referred to in subsection

11. The returning officer shall give public notice of the names of all persons nominated as candidates immediately after the close of nominations.

12. Any member of the First Nation who believes that a candidate is not eligible to be a candidate may, within 72 hours after the public notice of the names of the candidates is given, advise the returning officer in writing of the grounds for that belief.

13. A returning officer who is advised of reasonable grounds for believing that a candidate is not eligible to be a candidate shall, without delay and by written notice delivered to the candidate, specify the grounds and require the candidate to make a declaration as to his or her eligibility in the form that the returning officer requires.

14. A returning officer shall reject the nomination of a candidate unless the declaration referred to in subsection 13 is filed with the returning officer within 48 hours after the candidate receives notice referred to in subsection 13.

15. Where the returning officer rejects the nomination of a candidate under subsection 13, that person shall not stand as a candidate.

## **Acclamations and Appointments**

**Policy: 1.9**

**Approved:**

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**Revision Date(s):**

1. the returning officer shall, 72 hours after public notice of the names of candidates is given and after resolving any issues brought forward with respect to the eligibility of candidates, declare the nominated candidates duly elected where the number of eligible candidates nominated to serve as Chief and Council does not exceed the number of persons required to be elected.

2. The returning officer shall send to each candidate a certificate of election in the prescribed form.

3. Where there are still vacancies on the Council after candidates have been declared elected by acclamation, the Council shall consult with the elders and appoint a sufficient number of persons as members of Council to fill any remaining vacant positions.

4. The persons appointed under subsection 3 must be eligible to be candidates.

5. A Councilor appointed under subsection 3 shall be deemed to be duly elected and holds his or her office for one year only, at which time there must be an election to fill the vacancy for the balance of the term, if any.

6. The candidates declared elected by acclamation under section 1 shall serve a full term of office.

## **Calling the Election**

**Policy: 1.10**

**Approved:**

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1. Where the number of candidates nominated to serve as members of the Council exceeds the number of persons required to be elected, an election must be held.

2. Where an election must be held, the returning officer shall, as soon as possible after the close of nominations, give public notice of the election in the prescribed manner.

3. Where more than the required numbers of candidates for Council are nominated, any person nominated may, within 48 hours after the close of nominations, withdraw his or her name as a candidate by filing written notice of withdrawal with the returning officer.

4. Where a candidate withdraws and there remain a number of candidates equal to or less than the vacancies to be filled by the election, the returning officer shall declare the remaining candidates elected and cancel the election.

**Vacancies in Office****Policy: 1.11****Approved:****Approval Process: PKFN Chief and Council****Revision Date(s):**

1. Where the office of a Councilor becomes vacant for any reason before the term of office expires, the Council shall fill a vacancy by appointing a person eligible to be a candidate or hold a by-election.

2. For the purpose of appointing a new Chief under subsection 1, the Council shall appoint only a member of Council as Chief.

3. A person appointed under subsection 1 shall hold office until the date of the next general election.

4. A person elected at a by-election holds office for the balance of the term of his or her predecessor.

5. The procedure at a by-election must follow, as close as possible, the procedure at a general election.

## **Voting Procedures**

**Policy: 1.12**

**Approved:**

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**Revision Date(s):**

1. Councilors must be elected by the voters of the electoral district voting at large.

2. Voting at all elections must be by secret ballot.

3. The proceedings at and following the close of each voting station must be in accordance with the Schedule.

4. A ballot for an election must be in the prescribed form, contain the name of each candidate in full or the name by which the candidate is known.

5. The names of candidates on a ballot must be listed in alphabetical order.

6. The Council may authorize the use of photographs of candidates on a ballot and may establish standards for the photographs.

7. The Council may authorize the use of photographs of candidates on a placard and establish standards for the photographs and the placards.

8. Where the Council authorizes photographs of candidates and on placards, the Council shall use the same photographs on the ballots as are used on the placards and ensure that the photographs on the placards are printed in the same order as the photographs on the ballots.

Where photographs of candidates have been authorized for use on placards and ballots, the returning officer shall cause the photographs to be posted in a conspicuous place at each voting station.

## **Proxy Voting**

**Policy: 1.13**

**Approved:**

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**Revision Date(s):**

1. Where a person is eligible to vote at an election and has reason to believe that he or she will be unable to vote either at an advance vote or on election day, the person may obtain an application authorizing another voter to vote on his or her behalf as a proxy voter.

2. A voter who requests an application under subsection 1 shall complete the applications and have his or her proxy voter sign the application to indicate that he or she consents to act as a proxy voter.

3. No person shall be a proxy voter for more than three voters.

4. No person shall have more than one proxy voter.

5. On election day or advance voting day, a voter who has been authorized as a proxy voter under subsection 1 must present the proxy application referred to in subsection 1 to the returning officer and makes a declaration in the prescribed form in order to be able to vote at the election for and in place of the voter.

6. The election clerk shall enter in the voter's register opposite the voter's name the fact that the voter voted by proxy together with the name of the proxy voter.

7. When the returning officer is made aware of a disabled or incapacitated voter who is unable to leave his or her residence to vote by reason of his or her disability or incapacity or requires assistance of a type not available at the voting station in order to vote, the returning officer shall notify the voter of provisions in these regulations concerning proxy voting and the provisions for advance voting.

**Advance Voting**

**Policy: 1.14**

**Approved:**

**Approval Process: PKFN Chief and Council**

**Revision Date(s):**

1. The returning officer shall, if the Council so directs, provide for an advance vote for the purpose of receiving the ballots of voters who expect to be absent, incapacitated or otherwise unable to vote in the electoral district on election day.

2. If an advance vote is to be held, the Council shall fix the date for the advance vote on a day that is not a holiday but is at least seven days but not more than fourteen days before election day and specify the hours during which the voting station will be open, being at least five hours but not more than nine.

3. If an advance vote is to be held, the returning officer shall establish one or more voting stations for the advance vote and conduct the advance vote in the same manner as the vote on election day, unless otherwise specifically provided.

4. The returning officer shall give notice of the times and places at which an advance voting station will be open, before advance voting day, by posting public notices.

5. Before being able to vote at an advance vote, a voter shall make a declaration in the prescribed form.

6. The returning officer shall keep the declaration with the other election material.

7. The election clerk shall record in the voter's register, after the name of each person who votes at an advance vote, notes that the voter has made the appropriate declaration and has voted in the advance vote.

8. After the close of the advance vote, the ballot box must be sealed so as to prevent ballots from being added or taken from the box and the box shall not be unsealed or opened until the close of the voting station on election day.

9. The voter's register shall be retained with other election material for use on election day.

## **Election Day Voting**

**Policy: 1.15**

**Approved:**

**Approval Process: PKFN Chief and Council**

**Revision Date(s):**

1. The returning officer shall ensure that each voting station is furnished with one or more voting compartments so that a voter is screened from observation and may mark his or her ballot without interruption or interference.

2. On election day, voting stations must be kept open from 10AM until 7 PM or for at least nine but no more than twelve hours at the times fixed by Council.

3. When a voting station closes, the returning officer shall allow any voters already in the voting station to vote and ensure that no other person enters the voting station to vote.

4. The returning officer shall ensure that there is posted in each voting station a conspicuous notice advising persons of the eligibility criteria for voters at the election and that it is an offence under these regulations to vote in the person is not eligible to do so.

5. A person who presents himself or herself at a voting station for the purpose of voting is entitled to vote at the election if that person is eligible to vote and the name of the person appears on the list of voters or the person makes a declaration of eligibility in the prescribed form.

6. Any candidate, agent of a candidate voter or election official who suspects that a person intending to vote is ineligible to vote may request that the person make a declaration of eligibility in the prescribed form, notwithstanding that the name of the person appears on the list of voters.

7. A person who refuses to make a declaration of eligibility when asked to do so shall not receive a ballot and shall not vote in the election.

8. A voter may vote once for each candidate of his or her choice.

9. A person shall not be considered to have voted if he or she has assisted another person to cast a ballot or has voted as a proxy voter.

10. No person shall vote for more than the number of persons that are required to be elected as Councilors.

11. A person shall mark his or her ballot by placing an "X" or making some other mark clearly indicating his or her choice opposite the name of the candidate of his or her choice.

12. A ballot that is marked with more votes than the voter is entitled to make is void in respect of all candidates.

13. During the time for voting, no person shall be present in a voting station other than election officers, a person in attendance for the purpose of voting, a candidate or one authorized agent of the candidate, but not both and any other person permitted to attend under these regulations.

14. A person who produces to the returning officer written authority to represent a candidate as his or her agent at a voting station must be recognized as such by the returning officer.

15. The receipt of a ballot by a voter, within the voting station, is evidence that the voter has been there and then voted.

16. A person receiving a ballot who leaves the voting station without delivering it to the returning officer or who refuses to vote forfeits his or her right to vote.

17. Where a voter requires assistance to vote, the returning officer or delegate shall assist the voter.

18. Where a person is blind, unable to read or understand the ballot, or otherwise disabled to such an extent that it prevents the person from casting a ballot, may have a person assist him or her in casting his or her ballot.

19. Where a person is confined to his or her home, the returning officer shall make appropriate arrangements so that the person may vote.

20. Where two or more candidates have received the same number of votes and it is necessary to determine which candidate is elected, the returning officer shall write the names of those candidates on separate blank sheets of paper, fold the sheets so that the names are concealed, deposit them in a box and withdraw one of the two sheets of paper at random. The returning officer shall declare the candidate whose name appears on the withdrawn sheet to have one more vote than the other candidate.

21. The returning officer shall, at the conclusion of the vote, publicly declare elected the appropriate number of candidates who received the greatest number of votes to fill the offices open for election.

22. The returning officer shall, immediately following the conclusion of the vote, send a certificate of results in the prescribed form to each candidate showing the total number of votes cast for each candidate and those declared elected.

23. The Council shall, in respect of an election, pay for all reasonable costs incurred on its behalf or by-election officers performing their duties.

24. At any time after a period of three months from election day, the Band Manager shall destroy the ballots and election material in the presence of two witnesses unless he or she is aware that proceedings for a recount, an election petition or other relevant legal proceedings are pending.

## **Recount**

**Policy: 1.16**

**Approved:**

**Approval Process: PKFN Chief and Council**

**Revision Date(s):**

1. If a candidate disagrees with the results of the count of votes, the candidates may, within 72 hours of the close of the voting, apply in writing to the returning officer for a recount.

2. On receipt of a request for a recount by a candidate, the returning officer shall conduct a recount if the returning officer is satisfied that there are reasonable grounds for recounting the ballots.

3. A returning officer conducting a recount shall notify the persons who attended the original count and all the candidates who may be affected by the recount of the date, time and place where the recount will be conducted at least 12 hours in advance, break the seal of each ballot box at the time specified for the recount and proceed to count the ballots.

4. After the recount, the returning officer shall correct the results of the election and the certificate sent, place in each ballot box all the documents contained in it at the time the returning officer broke the seal, lock each ballot box and seal it with the seal of the returning officer, notify the candidates of the results of the recount and give public notice of any changes in the results of the election.

**Election Petition**

**Policy: 1.17**

**Approved:**

**Approval Process: PKFN Chief and Council**

**Revision Date(s):**

1. Any voter may petition the First Nation to call any election at any time.
2. The election petition should be presented in the prescribed form and include the signatories of at least 50% of the membership resident in the electoral district.
3. The petition shall provide the names of those officials, whether the Chief or specific Councilors, whose right to serve in their elected capacity is being called into question.
4. The Council shall review any such petition and, having accepted the validity of the signatures on the petition, shall call an election within 60 days of receipt of the petition.
5. Any petition presented cannot be withdrawn without the consent of all signatories to the petition.

**Corrupt Practices**

**Policy: 1.18**

**Approved:**

**Approval Process: PKFN Chief and Council**

**Revision Date(s):**

1. Corrupt practices include efforts to influence the outcome of an election by offering gifts and inducements to voters, interfering with the elector process and conspiring to subvert the spirit and intent of these regulations in a manner that would affect the outcome of an election.

2. Any voter who has witnessed an act he or she deems to be corrupt may report the act to the Council in the prescribed form.

3. All reports of corrupt acts will be referred to a Council of Elders.

4. The Council of Elders will review the report to determine if sanctions are required.

5. The Council of Elders may, at their discretion, dismiss the complaint or recommend sanctions against the party accused of a corrupt practice.

6. The nature of the sanctions recommended will be decided by the Council of Elders and may include a reprimand, a suspension from office, dismissal from office or other measure as deemed appropriate.

7. The Council will abide by the recommendation of the Council of Elders.

## **Schedule of Election Procedures**

**Policy: 1.19**

**Approved:**

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**Revision Date(s):**

1. Before a voting station opens, the returning officer shall provide to the election clerk at least one ballot box and the ballot, materials for marking ballots and a sufficient number of printed directions for voting.

2. Immediately before the commencement of the vote, a returning officer shall open the ballot box and call anyone who is present to see that it is empty, lock and seal the box to prevent its being opened without breaking the seal and place the ballot box in view for the reception of ballots.

3. When a person arrives at the voting station, the election clerk shall see whether the name of the person is on the list of voters.

4. The election clerk shall ensure that in the voters' register is recorded the name and address of each person intending to vote.

5. If the person takes the declaration of eligibility, the word "declared" must be entered in the voters' register opposite the name of the voter.

6. If a person refuses to take the declaration of eligibility, the words "refused" to take declaration must be entered in the voters' register opposite the name of the person.

7. If the vote of a person is objected to, the words "objected to" must be entered in the voters' register opposite the voting name together with the name of the objector.

8. A person entitled to vote shall receive from the election clerk a ballot on the back of which the clerk has previously placed his or her initials, so placed that when the ballot is folded the initials can be seen without opening it.

9. The election clerk may, and on request shall, explain the way to mark a ballot.

10. A mark shall be made on the voters' register opposite the name of every voter receiving a ballot.

11. Except where these regulations permit, only one person claiming to be entitled to vote shall be allowed at a time in the compartment where ballots are marked.

12. Each person receiving a ballot shall immediately proceed to the

compartment provided for marking ballots.

13. After marking the ballot, the voter shall fold the ballot so as to conceal the names of the candidates and the marks on the ballot but so as to expose the initials of the election clerk.

14. On leaving the compartment a voter shall immediately and without exposing the face of the ballot to anyone or making known to any person for whom he or she has or has not voted, deliver the ballot to the election clerk.

15. On receipt of the ballot the election clerk shall, without unfolding the ballot, verify his or her initials and at once deposit it in the ballot box in the presence of the persons entitled to be present in the voting station.

16. If a person states that he or she is unable to mark his or her ballot, the election clerk shall cause the ballot to be marked as the voter directs, place the ballot in the ballot box and record in the voters' register, opposite the name of the voter, the fact that the ballot was caused to be marked by the clerk at the request of the voter and the reason for it.

17. A voter who has spoiled a ballot in marking it and discovers the fact before it has been placed in the ballot box may, on returning the ballot to the election clerk, obtain another ballot and the clerk shall mark on the face of the ballot paper so returned the word "cancelled".

18. All ballots marked "cancelled" shall be preserved by the election clerk.

19. Where a voter declines to vote, the election clerk shall record the fact in the voters' register and mark on the face of the ballot paper the word "declined".

20. All ballots marked "declined" shall be preserved by the election clerk.

21. A record in the voters' register shall be made of any person who receives a ballot and who leaves the voting station without voting.

22. Immediately after the close of the voting station, the election clerk in the presence of the candidates and their agents, not exceeding one for any candidate, shall open the ballot box and the advance ballot box.

23. The election clerk shall examine the ballots and reject any ballot that was not previously initialed by the election clerk, on which more votes are given than the voter is entitled to give, to which anything has been done or on which anything appears by which the voter can be identified and that is improperly marked.

24. The election clerk shall take note of any objection made by a candidate

or his or her agent to any ballot found in the ballot box and decide on any questions arising out of the objection.

25. The election clerk shall number all objections and place a corresponding number on the back of the ballot with the word "allowed" or "disallowed", as the case may be and his or her initials.

26. The election clerk shall count the valid ballots given for each candidate and make a written statement of the number of votes given to each candidate and of the number of ballots rejected and not counted by the election clerk and shall then sign the written statement.

27. The election clerk shall certify on the voters' register the total number of persons who voted at the voting station for which the clerk is responsible. Three separate packets will be prepared contained the statement of votes and the ballots that have been counted, whether objected or not, the statement of rejected ballots and those ballots declined and cancelled and the voters' register, list of voters and unused ballots. The election clerk will seal and initial the envelopes and mark the contents of the envelope on the outside of the envelope.

28. After the result of an election has been declared and on request to do so, the returning officer shall provide a candidate or his or her agent with a certificate showing the total number of votes cast at a voting station for each candidate and the number of rejected ballots.

29. After the election, the returning officer shall transmit the ballot boxes, ballots and election material to the Chief Executive Officer of the Council or their delegate.

30. The person who receives the ballots and election material on behalf of the Council from the returning officer is responsible for its safekeeping and for its destruction when required by these regulations.

**Policy Revisions**

**Policy: 1.20**

**Approved:**

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