



Penticton Indian Band
Custom Election and Governance Code
February 26, 2016

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**PART I
CITATION**

1. (1) This Code may be cited as the *Penticton Indian Band Custom Election Code, 2015*.

**PART II
DEFINITIONS AND REFERENCES**

2. In this Code

“appellant” means an individual who submits an appeal in accordance with this Code with respect to an election;

“Band” means the Penticton Indian Band;

“by-election” means a special election held in between regular elections for the purpose of filling a position on the Council that has become vacant;

“candidate” means a Band member who has accepted a nomination to run for a position of Chief or councillor;

“Code” means the custom election system set out herein;

“Chief” means a person who is declared by the CEO to be elected to the position of Chief under paragraph 69(a) or section 137;

“Chief Electoral Officer” or “CEO” means a person, appointed by a quorum of Council under section 32 who is responsible for conducting an election process;

“Complaints and Appeal Adjudicator” means a person appointed by Council under section 147 to review and make decisions concerning petitions or requests for removal from office and election appeals;

“Council” means the body composed of those persons who are declared or elected into positions of Chief or councillor;

“councillor” means a person who is declared by the CEO to be elected to the position of councillor under paragraph 69(b) or section 137;

“Deputy Electoral Officer” or “DEO” means a person appointed by a quorum of Council under section 32 to assist the Chief Electoral Officer in conducting an election process;

“election” means a general election or by-election of the Band held pursuant to the provisions of this Code;

“elector” means a person who:

- (a) is a registered member of the Band on the day of an election; and
- (b) is at least eighteen (18) years of age on the day of an election;

“mail-in ballot” means a ballot that is mailed or delivered to the CEO in accordance with this Code;

“membership clerk” means the Band employee responsible for maintaining the Band’s membership list;

“nomination meeting” means a meeting at which electors come forward to nominate and second candidates for an election;

“nominee” means a Band member who has been nominated to run for a position of Chief or councillor but has not yet accepted that nomination;

“ordinarily resident on the reserve” means the residential status of an elector who has their ordinary residence on the reserve, and the following factors are indicators of a person’s ordinary residence:

- (a) the place the person normally eats and sleeps;
- (b) the place the person receives mail; and
- (c) a place in proximity to the person’s place of employment;

A person may only be ordinarily resident in one place at one time, and a person is ordinarily resident in that place until another place of ordinary residence is acquired.

A person may be temporarily absent from a place of ordinary residence for education, medical or temporary employment reasons;

“polling station” means a building, hall, room or other site at which voting takes place;

“rejected ballots” means ballots that have been improperly marked or defaced by an elector, and mail-in ballots that are received after the close of polls on election day, that are not included in the tally of valid ballots cast during the counting of the votes;

“voters list” means a list of Band members who are eligible to vote in an election.

PART III THE COUNCIL

Composition and Size

3. Council must consist of one (1) Chief and eight (8) councillors.

First Meeting of Council

4. The first meeting of Council must be held within thirty (30) days from the date that Council are elected.

Subsequent Meetings of Council

5. After the first meeting of Council, subsequent meetings of Council must be held on a schedule set by a quorum of Council.

6. Council meetings must be held at least once a month.

Quorum of Council

7. A quorum of Council is:

- (a) five (5) members of Council, or
- (b) where five (5) members of Council cannot vote at a meeting of Council due to conflicts of interest, a majority of those members of Council who are not in conflict.

Mode of Election for Chief and Council Members

8. (1) Subject to subsection (2), the Chief and councillors must be elected by a vote held in accordance with this Code.

(2) The CEO may declare the positions of a Chief and councillor under section 69(a) or (b).

Term of Office

9. The term of office for the positions of Chief and councillors is four (4) years.

10. Elections for the positions of Chief and councillors must be held every four (4) years.

11. The term of office for a newly elected Chief or councillor commences on the day the newly elected Chief or councillor swears their oath of office and continues until the earlier of:

- (a) another Chief or councillor taking office in their place under this Code;
- (b) the Chief or councillor ceasing to be a member of Council under this Code; or
- (c) four (4) years from the date that the Chief or councillor swore their oath of office.

12. The successful candidate in a by-election must hold office for the remainder of the original term of office of the Chief or councillor whom he or she is elected to replace.

13. If a person is declared disqualified from office as a result of an election appeal, the successful replacement candidate must hold office for the remainder of the original term of office of the Chief or councillor whom he or she is elected to replace.

Vacancy

14.A Chief or councillor position must become vacant if, while in office:

- (a) the Chief or councillor resigns in writing from office on their own accord;
- (b) the Chief or councillor is unable to perform the functions of their office for more than six (6) months due to illness;
- (c) a person qualified as a medical doctor determines that the Chief or councillor is no longer capable of fulfilling the duties of Council and is highly unlikely to become capable within a six (6) month period of time from the date of the medical doctor's assessment;
- (d) the Chief or councillor dies;
- (e) the Chief or councillor is removed from office in accordance with this Code; or
- (f) a quorum of Council determines that the Chief or councillor is otherwise unable to fulfill the terms of office.

Responsibilities of Council

15. Every Chief and councillor has the following responsibilities:

- (a) to consider the well-being and best interests of Penticton Indian Band members and the community as a whole;
- (b) to fulfil all responsibilities of Council under the *Indian Act* and any law or regulation of Canada or any law, by-law or policy of the Penticton Indian Band;
- (c) to contribute to the development and evaluation of the laws, by-laws, policies and procedures of the Penticton Indian Band; and
- (d) to participate in Council meetings and meetings of committees or other bodies to which the Chief or councillor is appointed by Council.

PART IV REMOVAL OF COUNCILLORS FROM OFFICE

16. The Chief or a councillor may be removed from office if they:

- (a) violate this Code, their Oath of Office or Code of Conduct;
- (b) fail to attend three (3) consecutive regular meetings of Council without being excused from attendance by a quorum of Council;
- (c) fail to comply with the *Penticton Indian Band Financial Administration Law* or any other law, by-law, code or regulation of the Band in a manner that Council determines has caused serious harm to the Band or a community member;
- (d) fail to carry out their duties of office;
- (e) are convicted of an indictable offence since their election which is not related to the exercise of Aboriginal rights or title;

- (f) accept or offer a bribe, forge a Council document or otherwise act dishonestly in their role as Chief or councillor;
- (g) is negligent in ensuring the safety and protection of Penticton Indian Band members, lands or assets;
- (h) abuse their office such that the conduct negatively affects the dignity and integrity of the community or Council;
- (i) encourage, aid, abet, counsel, command or induce others to commit any of the above acts or omissions; or
- (j) engage in such other conduct as may be determined by a quorum of Council to be of such a serious nature that the removal is necessary and appropriate.

Initiating a Review by Council

17.Proceedings to remove a Chief or councillor from office may be initiated by:

- (a) any elector submitting to the Council a petition setting out:
 - (i) the ground pursuant to section 15 on which removal of a Chief or councillor is sought;
 - (ii) the evidence in support of the petition;
 - (iii) the signature of the petitioner;
 - (iv) the signatures of at least ten (10) percent of electors in support of the petition; and
 - (v) a non-refundable filing fee of fifty dollars (\$50.00); or
- (b) a Chief or councillor submitting a request to have the matter considered at Council, setting out:
 - (i) the ground(s) pursuant to section 15 on which removal of a Chief or councillor is sought;
 - (ii) the evidence in support of the resolution; and
 - (iii) the signature of the Chief or councillor in support of the removal.

Procedure for Review by Council

18.Within five (5) days of receiving a petition or request under section 17, Council must:

- (a) place the matter on the agenda for the next regular meeting of Council; and
- (b) in writing by hand or by registered mail, notify the petitioner or requestor and the Chief or councillor who is the subject of the petition or request, of the date and time at which a Council meeting will be held to review the petition.

19.The Chief or councillor who is the subject of the petition, and the petitioner or requestor, have a right to provide a submission at the Council meeting at which the petition or request is being reviewed.

20. A quorum of Council may request the production of any records or the attendance of any witnesses at the meeting of Council at which the petition or request for removal of a councillor is reviewed.

21. The Chief or councillor who is the subject of the petition is not permitted to vote on any decision related to the review of their position, including decisions around the production of evidence.

22. Within five (5) business days of the meeting of Council at which the petition or request is reviewed Council must:

- (a) declare that the grounds set out in the petition are frivolous in nature and that the Chief or councillor under review will not be removed from Council;
- (b) declare that insufficient evidence was produced to support a removal of the Chief or councillor under review from office and that the Chief or councillor under review will not be removed from Council;
- (c) declare that the Chief or councillor under review will be removed from Council and that the position held by the Chief or councillor who is under review is vacant; or
- (d) refer the matter to a vote at a special community meeting for a final decision to be made on the petition or request.

23. (1) If, under section 22(a), (b) or (c), Council makes a decision to remove or not remove the Chief or councillor under review, Council must draft and sign a written notice setting out the:

- (a) decision;
- (b) reasons for decision; and
- (c) process for filing an appeal to the Adjudicator.

(2) Council must deliver a written notice under subsection (1) by hand or registered mail to:

- (a) the petitioner or requestor; and
- (b) the Chief or councillor who is the subject of the petition or request.

24. If, under section 22(d), Council refers the decision regarding removal of a Chief or councillor to a vote at a special community meeting for final decision to be made:

- (a) the decision to remove the Chief or councillor from office must be passed by a vote of the majority of electors who attend the special community meeting to be held; and
- (b) the vote must occur within thirty (30) days of the Council meeting at which the petition was reviewed.

Suspension While under Review

25. Council may suspend the Chief or councillor who is the subject of the petition or request for removal from office during the review by Council or during an appeal to the Complaints and Appeal Adjudicator.

By-Elections

26. In the event that the office of a Chief or councillor is vacant and more than sixteen (16) months remain in that Chief or councillor's term, a by-election for that vacant position must be held within four (4) months after the date that the position is declared vacant.

27.(1) If a current councillor wishes to be a candidate for Chief in a by-election, they must resign their Council position in writing to the Band Administrator prior to the nomination meeting for the by-election.

(2) The position of a councillor who resigns under subsection (1) will be voted on at the same by-election that is being held for the position of Chief.

(3) A resignation under subsection (1) is binding.

28. Except as expressly provided otherwise in this Code, the rules and procedures in this Code must apply to by-elections.

By-Election Not Required

29. (1) Subject to subsection (2), if less than sixteen (16) months remain in the term of office for a position of councillor that becomes vacant, a by-election must not be held.

(2) If it is necessary to hold a by-election to have sufficient councillors to maintain a quorum, a by-election may be held to replace a position of councillor that is vacant and that has less than sixteen (16) months remaining in the term of office.

30. If less than sixteen (16) months remain in the term of office for a position of Chief that becomes vacant, the remaining Council will appoint a councillor to represent the interests of the Band to third parties.

PART V PRE-NOMINATION PROCEDURE

Posting for Chief Electoral Officer and Deputy Electoral Officer Positions

31. At least six months (6) months prior to the date that the term of office for a current Chief is set to expire, Council must post the positions of CEO and DEO and the posting must state that the CEO and DEO are required:

- (a) if they are a Band member, to provide a written affirmation that they give up any right to participate as an elector, candidate, campaigner or scrutineer in an election or any subsequent by-elections during the term of office to which an election relates;
- (b) to be at least eighteen (18) years of age;
- (c) to provide a copy of a criminal record check that shows the CEO or DEO has no convictions and that is completed no less than three (3) months before the CEO or DEO's appointment; and

(d) to have direct experience in the conduct of elections, or to have completed education or training related to electoral administration.

Appointment of a Chief Electoral Officer (CEO) and Deputy Electoral Officer (DEO)

32. At least five (5) months prior to the date that the term of officer for a current Chief is set to expire, a quorum of Council must appoint a CEO and DEO.

33. The appointment of a CEO and DEO must be in writing, signed by Council and set out:

- (a) the appointee's full name and address;
- (b) the deadline for when an election must be held; and
- (c) the type of election which is to be conducted (general election or by-election).

34. A CEO and DEO must accept their appointment by forwarding a letter of acceptance to Council.

Oath of Office

35. The CEO and DEO must, immediately after their appointment, swear an oath of office stating they will:

- (a) uphold and comply with this Code, the Code of Conduct and all Penticton Indian Band laws, by-laws, policies and procedures;
- (b) fulfill the duties and responsibilities of their office under this Code;
- (c) carry out their duties faithfully, honestly, impartially and to the best of their abilities;
- (d) keep confidential all personal information they collect in carrying out their duties as CEO or DEO; and
- (e) always act in the best interests of the community in carrying out their duties.

Responsibilities and Ethics

36. The CEO is responsible for administering all pre-electoral, electoral and post-electoral processes and procedures prescribed in this Code and must:

- (a) refrain from voting in an election or by-election to which he or she acts as CEO;
- (b) not be a councillor or candidate in an election or by-election to which he or she acts as CEO;
- (c) uphold and abide by the rules and regulations established in this Code and pursuant to the Code of Conduct;
- (d) remain neutral and professional in the conduct of their duties;
- (e) not provide preferential treatment or express support for or opposition to any candidate;
- (f) not accept anything of value (including but not limited to money, offers of employment,

gifts, travel) in exchange for preferential treatment or access to a public official or non-public information;

(g) not discriminate against anyone in the course of their duties;

(h) not use public office facilities for personal or partisan benefit;

(i) not pressure or intimidate other officials or personnel to favour a certain candidate; and

(j) avoid conflicts of interest, or the appearance of conflicts of interest, by not participating in decision making where the CEO has a conflict of interest in the matter at issue.

37. In the event that the CEO cannot fulfill their duties:

(a) the DEO must immediately be responsible for the CEO's duties under the same level of responsibility and ethics as is expected of the CEO; or

(b) in the absence of a DEO, a quorum of Council must immediately appoint a new CEO.

Voters List

38. Within four (4) months before the current Chief's term expires, the CEO must obtain from the membership clerk the names, Band membership numbers and dates of birth of all Band members who will have attained the age of eighteen (18) years on the date that an election is to be held.

39. The membership clerk must, no later than four (4) months before the current Chief's term expires, provide the CEO with the names, Band membership numbers, dates of birth and last known addresses of all Band members who will have attained the age of eighteen (18) years on the date that an election is to be held.

40. Electors are responsible for providing the membership clerk with their current addresses.

41. An elector's address must be used by the CEO only for the purpose of providing notices, mail-in ballots or other election documents to electors who are entitled to receive them under this Code.

42. The CEO must not disclose an elector's personal information unless doing so is required by Law or the elector has provided their consent to the CEO to disclose that information for another specific purpose.

43. At least ninety (90) days before the day that an election is to be held, the CEO must:

(a) prepare a voters list in alphabetical order that contains the names of all Band members, who will have attained the age of eighteen (18) years on the date that an election is to be held;

(b) post the voters list in a public area of the Band administration building; and

(c) post the voters list in such other conspicuous places on the reserve as may be determined by the CEO.

44.On request by an elector, the CEO or DEO must confirm whether the elector's name is on the voters list.

45.The CEO must revise the voters list upon presentation of documentary evidence which demonstrates that:

- (a) the name of an elector has been omitted from the voters list;
- (b) the name of an elector is incorrectly set out in the voters list; or
- (c) the name of a person not qualified to vote is included in the voters list.

46.No later than five (5) days prior to the date that an election is to be held, a person, or an elector acting on their behalf, may demonstrate that their name has been omitted from or incorrectly set out in the voters list by presenting the CEO with written evidence from the membership clerk that the elector:

- (a) is entitled to have their name entered on the Band list;
- (b) will be at least eighteen (18) years of age on the date that an election is to be held; and
- (c) is qualified to vote in Band elections.

47.A person may demonstrate that the name of a person not qualified to vote has been included on the voters list by presenting the CEO with written evidence that the person:

- (a) is neither on the Band list nor entitled to have their name entered on the Band list;
- (b) will not be at least eighteen (18) years of age on the date that an election is to be held; or
- (c) is not qualified to vote in Band elections.

48.Where the CEO believes that a person whose name is on the voters list is not entitled to be an elector, the CEO must give written notice to the person whose eligibility is challenged.

49.A notice given under section 48 must:

- (a) at least ten (10) days prior to the date of an election, be given to the person whose eligibility is challenged;
- (b) include the reasons for seeking the removal of the name from the voters list and any supporting documents; and
- (c) state that a written reply may be sent to the CEO, and that such reply must be received by the CEO at least five (5) days prior to the date that an election is to be held.

50.After consideration of all information and representations relating to amendments of the voters list, the CEO must add or delete names from the voters list based on whether persons qualify as electors.

51.The decision of the CEO under section 50 is final and is not subject to appeal.

Right to Vote

52.An elector whose name appears on the voting list has a right to vote:

- (a) in person at a polling station on polling day;
- (b) in person at an advance polling station during the advance polling period; or
- (c) by mail-in ballot in accordance with this Code.

53. A person whose name does not appear on the voters list must be entitled to vote on election day, provided that they present documentary proof to the CEO demonstrating that they are a qualified elector.

Appointment of Polling Clerks

54. The CEO may appoint up to two (2) polling clerks.

55. The CEO may make such orders and issue such instructions to the polling clerks as he or she may deem necessary for the effective administration of an election.

PART VI THE NOMINATION AND ELECTION DEADLINES

56. A nomination meeting for the position of Chief must be held at least seventy (70) days before the expiration of the term of the current Chief.

57. An election for the position of Chief must be held thirty (30) days from the date of the nomination meeting for the position of Chief.

58. A nomination meeting for Council positions must be held at least sixty (60) days before the expiration of the term of current Council.

59. An election for Council positions must be held thirty (30) days from the date of the nomination meeting for Council positions.

60. Subject to section 26, a by-election for the position of a Chief or councillor that has been declared vacant must be held within four (4) months of a vacancy.

Notice of Nomination Meetings

61. The CEO must, at least seven (7) days before the date that a nomination meeting is to be held, cause a notice of the nomination meeting to be posted:

- (a) in at least two (2) conspicuous places on the reserve;
- (b) on the Penticton Indian Band website; and,
- (c) in the Band's newsletter.

62. A notice of a nomination meeting for Chief or councillor positions must include:

- (a) the date, time, duration and location of the meeting;
- (b) notice that the voters list will be read by the CEO at the nomination meeting; and

(c) a description of the manner in which an elector can nominate a candidate, or second the nomination of a candidate.

Eligibility to be a Candidate

63. (1) To be entitled to run as a candidate, an elector must:

- (a) be at least eighteen (18) years of age on or before the day of an election;
- (b) be a registered member of the Band on or before the day of an election;
- (c) consent to a criminal record search within five (5) days of being nominated;
- (d) not have a history of removal from office or employment with the Band due to a contravention of the *Penticton Indian Band Financial Administration Law*;
- (e) not have a history of being terminated from office or employment with the Band for just cause related to theft or fraud;
- (f) not have a criminal conviction for an indictable offence, unless:
 - (i) they have been granted a pardon; or
 - (ii) the conviction is related to the defence of Aboriginal rights and title;
- (g) not owe any debt to the Band, unless they have a debt repayment agreement that was entered into at least six (6) months prior to the day of an election.

(2) If a candidate for the position of Chief is not successful in securing that position, that individual may be nominated in the subsequent nomination meeting for Council positions.

Eligibility to Nominate a Candidate

64. To be entitled to nominate a candidate, on the day of the nomination meeting the elector must be:

- (a) present at the nomination meeting;
- (b) at least eighteen (18) years of age; and
- (c) registered on the voters list.

Duration of Nomination Meeting

65. After the floor opens for nominations, nomination meetings must remain open for at least thirty (30) minutes.

Maintaining Order and Security at Nomination Meeting

66. The CEO must maintain order at all times during a nomination meeting and may cause to be removed any person who, in their opinion, is disrupting or otherwise interfering with the proceedings.

Nomination Meeting Procedure

67.(1) Subject to subsections (2) and (3) a candidate must be nominated and seconded by an elector.

(2) A candidate must not nominate or second themselves.

(3) An elector must not nominate more than one candidate at each nomination meeting.

68. (1) The CEO must open a nomination meeting by announcing:

(a) the positions on Council that are vacant and open for nominations;

(b) the eligibility criteria in section 63 for persons wishing to run as candidates;

(c) the eligibility criteria in section 64 for persons wishing to nominate someone to run as a candidate;

(d) that each elector who is eligible to make a nomination may only nominate one (1) person to run as a candidate; and

(e) that the floor is open for nominations.

(2) When an elector makes a nomination, the CEO must:

(a) record the name of the nominee, the nominator and the seconder;

(b) ask those present at the meeting if they have any reason to believe that the nominee may not be eligible to be a candidate in an election; and

(c) record any reasons provided by those present at the meeting for why a nominee may not be eligible to run as a candidate.

69. At the end of a nomination meeting, the CEO must:

(a) if only one (1) person has been nominated for the position of Chief and no person has raised a belief that the nominee may not be eligible to run as a candidate, declare that person to be elected by acclamation and announce that an election date for the position of Chief has been cancelled;

(b) if the number of persons nominated to serve as councillors does not exceed the number to be elected and no person has raised a belief that a nominee may not be eligible to run as a candidate, declare those persons to be elected by acclamation and announce that an election date for the positions of councillors has been cancelled; and

(c) where more than the required number of persons are nominated for Chief or councillor positions, announce that an election will be held and the date of that election.

Notice of Acclamation

70. If a candidate is declared elected by acclamation, the CEO must, within seven (7) days of the nomination meeting, post a notice of that candidate's declaration in the following places:

- (a) at least two (2) conspicuous places on the reserve;
- (b) on the Band's website; and
- (c) in the Band's community newsletter.

Notice of Election

71. If a nomination meeting is held and the position of a Chief or councillor is not declared, the CEO must, within seven (7) days of the nomination meeting, post a notice of election in the following places:

- (a) at least two (2) conspicuous places on the reserve;
- (b) on the Band's website; and
- (c) in the Band's community newsletter.

72. A notice of election must include:

- (a) the candidates' names;
- (b) an election date;
- (c) the times when the polling station(s) will open and close;
- (d) the location(s) of the polling station(s);
- (e) the time and location of the counting of the votes; and
- (f) a statement that the voters list is posted for public viewing and its location.

PART VII ACCEPTING CANDIDACY

73. Within five (5) days of being nominated, a nominee must:

- (a) complete and sign a notice of acceptance of nomination;
- (b) complete and sign a declaration confirming their eligibility to be a candidate;
- (c) complete and submit a criminal record search form to the local police station, naming the CEO in part 2 of that form as a party to receive a copy of the completed criminal record search by mail at the following address:

Penticton Indian Band
200 Westhills Drive
RR2 Site 80 Comp 19
Penticton, BC V2A 6J7

Withdrawal

74. A candidate may only withdraw their candidacy up until fourteen (14) days prior to the election by submitting a written withdrawal of nomination to the CEO.

75. A candidate must be deemed to have withdrawn their candidacy and the candidate with the next highest number of votes will be elected to the position, if:

- (a) the candidate dies before the close of the polls or within two (2) weeks of being elected; or
- (b) the candidate's criminal record search shows that the candidate has a criminal conviction for an indictable offence that they have not been granted a pardon for and that is not related to the defence of Aboriginal rights and title.

PART VIII CAMPAIGNING CONDUCT

76. Candidates may campaign up until the day prior to the election date.

77. While campaigning, a Candidate must:

- (a) not use coercion or vote-buying;
- (b) respect the rights and freedoms of other candidates to organize and campaign;
- (c) respect the rights of electors to obtain information from a variety of sources and to attend political meetings;
- (d) act ethically, focusing on political issues and candidate platforms;
- (e) act in a non-violent manner and refrain from intimidating opposing candidates, supporters or the media;
- (f) respect the freedom of the press to cover the campaign and to express opinions on the campaign; and
- (g) respect and not interfere with the duties of the CEO, DEO or polling clerks.

78. On the day an election is held, a candidate may not:

- (a) campaign;
- (b) distribute campaign-related materials;
- (c) attempt to interfere with or influence any elector in marking their ballot; or
- (d) attempt to obtain information as to how an elector is about to vote or has voted at the polling station or within five hundred (500) meters of the polling station.

Offences Related to Campaigning

79. A person who contravenes any of the campaign restrictions listed in section 77 or 78 is guilty of an offence.

80. A person who is guilty of an offence under section 79 is liable to a fine of not more than one thousand (\$1,000.00) dollars.

PART IX PRE-ELECTION PROCEDURES AND SPECIAL VOTING

All Candidates Forum

81. An all candidates forum must take place no more than fourteen (14) days after a nomination meeting has occurred.

82. Immediately after a nomination meeting has occurred, the CEO must:

- (a) arrange the date, time and place for an all candidates forum;
- (b) contact each candidate and invite them to participate in an all candidates forum; and
- (c) confirm the names of those candidates who agree to participate in an all candidates forum.

83. At least seven (7) days before an all candidates forum, the CEO must post an all candidates forum notice:

- (a) in at least two (2) conspicuous places on the reserve;
- (b) on the Penticton Indian Band website; and
- (c) in the Band's newsletter.

84. An all candidates forum notice must:

- (a) provide details on the date, time and location of the all candidates forum; and
- (b) invite electors to submit questions to the CEO no later than the day before the all candidates forum for the CEO to consider asking at the all candidates forum.

85. The CEO must moderate an all candidates forum and:

- (a) ensure each candidate is provided no more or less than ten (10) minutes to speak in relation to their election platform;
- (b) ask the candidates questions that are submitted by electors, or that directly relate to the role of Chief or the affairs of the Band, and allow each candidate equal response time;
- (c) open the floor to electors who may ask questions that are directly related to the role of Chief or the affairs of the Band;
- (d) provide each elector who takes the floor no more than five (5) minutes on the floor; and
- (e) allow each candidate equal response time to elector questions.

All Candidates Forum Meeting Minutes

86. (1) The CEO must ensure that minutes are taken at the all candidates forum.

(2) At the request of an elector, the CEO must provide the elector with the minutes that are taken at an all candidates forum.

Ballots

87. (1) The CEO must prepare ballots setting out:

(a) the position(s) being voted on;

(b) instructions for marking the ballot; and

(c) the candidates' names in alphabetical order by surname with a box beside each candidates' name for the elector to mark their vote in.

(2) The back of each ballot must be numbered.

(3) Where two (2) or more candidates have the same name, the CEO must add to the ballots the necessary additional information required to distinguish between those candidates.

(4) At the request of a candidate, a ballot may include a candidate's commonly used nickname.

Notice to Non-Resident Electors Re: Mail-in Ballots

88. At least ninety (90) days prior to an election, the CEO must mail every elector who is not ordinarily resident on the reserve a notice to request mail-in ballots consisting of:

(a) a copy of the notice of election; and

(b) the requirement that a request for a mail-in ballot be received by the CEO at least twenty-eight (28) days prior to an election.

Mail-in Ballot Requests – Electors Not Ordinarily Resident on Reserve

89. At least twenty-eight (28) days prior to an election, an elector who is not ordinarily resident on the reserve may make a written request to the CEO for a mail-in ballot.

90. At least twenty (20) days prior to an election, an elector who is not ordinarily resident on the reserve and who has requested but not received a mail-in ballot package may make a written request to the CEO for a replacement mail-in ballot package.

Mail-in Ballot Request – Electors Ordinarily Resident on Reserve

91. At least twenty (20) days prior to an election, an elector who is ordinarily resident on the reserve and who is unable to vote in-person may make a written request to the CEO for a mail-in ballot package.

Distribution of Mail-in Ballots

92. The CEO must send a mail-in ballot package:

- (a) at least twenty-eight (28) days prior to an election, to every elector who has made a written request under section 89;
- (b) immediately, to every elector who has made a written request under section 90 or 91.

93. A mail-in ballot package must include:

- (a) a ballot initialled and numbered on the back by the CEO;
- (b) an inner postage-paid return envelope, pre-addressed to the CEO;
- (c) an inner envelope, marked “ballot” for insertion of the completed ballot, that fits inside the postage-paid return envelope, pre-addressed to the CEO;
- (d) a voter declaration form setting out a space for:
 - (i) the date the declaration form is filled out;
 - (ii) the name of the elector;
 - (iii) the elector’s signature;
 - (iv) the elector’s membership number;
 - (v) the elector’s date of birth;
 - (vi) a statement that by signing the declaration form, the elector declares they are the person named on the envelope and that they know of no reason why they may be ineligible to vote in an election; and
 - (vii) the name, address and telephone number of a person who must witness the elector’s signature;
- (e) the notice of election; and
- (f) a letter of instruction setting out:
 - (i) the method of voting by mail-in ballot;
 - (ii) that the mail-in ballot must be received prior to an election date;
 - (iii) that mail-in ballots that are not received prior to an election date will not be counted in the votes;
 - (iv) that electors may vote in person at any polling station on the day of an election if:
 - (A) they return their mail-in ballot to the CEO at the polling station; or
 - (B) they swear a written declaration before the CEO they have lost the mail-in ballot.

Duty to Document Mail-in Ballot Package Distribution

94. The CEO has a duty to document the following on the voters list:

- (a) all elector requests for mail-in ballots, including the:

- (i) name of the elector,
 - (ii) date the request is received, and
 - (iii) whether the request is an initial request or a request for a replacement mail-in ballot package;
- (b) all mail-in ballot packages sent to an elector, including:
- (i) the name and address of the elector to whom a mail-in ballot package is sent,
 - (ii) the date a mail-in ballot package is sent out,
 - (iii) the number on the back of the ballot in each mail-in ballot package, and
 - (iv) whether the mail-in ballot package is an original package or a replacement package.

Voting by Mail-in Ballot

95. To vote by mail-in ballot an elector must:

- (a) place a mark, that does not identify the elector, on the ballot opposite the name of the candidate or candidates for whom he or she desires to vote;
- (b) fold the ballot in a manner that conceals the names of the candidates or any marks, and that exposes the CEO's initials on the back;
- (c) place the ballot in the inner envelope and seal the envelope;
- (d) complete and sign the voter declaration form in the presence of a witness who is at least eighteen (18) years of age and have the witness sign the voter declaration form confirming that the elector is the individual who signed the form;
- (e) place the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and
- (f) ensure the mail-in ballot is received by the CEO before the close of polls on election day.

96. (1) Where an elector is unable to personally complete the mail-in ballot procedure, the elector may enlist an assistant to mark the mail-in ballot forms on the elector's behalf and in accordance with the elector's instructions.

(2) If an assistant is used pursuant to subsection (1), the assistant must attest in writing:

- (a) that the elector is the person whose name is set out in the ballot; and
 - (b) that the ballot was marked according to the directions of the elector;
- and provide their name, address and phone number for the CEO.

Receiving Mail-in Ballots

97. The CEO must record the date a mail-in ballot is received and must, as soon as practicable, deposit the mail-in ballots in the mail-in ballot box unopened.

98. The CEO must keep the mail-in ballot box locked in the vault at the Band Administration Office until the day of an election.

Set-up of Polling Stations

99. The CEO must establish at least one (1) polling station on the reserve.

100. The CEO may appoint security to maintain order in the polling station.

101. The CEO must ensure that an interpreter is available at each polling station to assist voters who have difficulty reading or understanding English.

102. Before the polling station is open, the CEO must ensure each polling station is supplied with:

- (a) ballot boxes which must be constructed so that ballots can be inserted into them, but so that ballots cannot be withdrawn unless the box is opened;
- (b) a voting compartment for each ballot box that allows electors to mark their ballots free from observation by others;
- (c) a sufficient number of ballots for each elector to vote;
- (d) instruments for marking the ballots;
- (e) voting instructions for each voting compartment;
- (f) all other equipment and personnel necessary to establish and equip the polling stations; and
- (g) the final voters list.

103. The CEO must set up a station for candidate scrutineers to sit near the polling stations but away from the ballot booths and away from the location of the CEO and DEO.

Advance Polling

104. The CEO must establish an advance polling station to be open from 9 a.m. until 8 p.m. for five (5) business days prior to an election.

105. The CEO or DEO must follow the polling station requirements set out in sections 99 to 103, and the voting procedures set out in sections 107 to 122 to administer the advance polling station.

106. The advance polling ballot box must be locked in the vault at the Band Administration Office:

- (a) from 8 p.m. until 9 a.m. each day of the advance polling period; and
- (b) from 8 p.m. on the last day of the advance polling period until the advance polling ballots require counting.

PART X ELECTION DAY

Scrutineers

107. Each candidate is entitled to have a maximum of two (2) scrutineers present in the designated area at the polling station.

108. A scrutineer must:

- (a) provide the CEO or DEO with a letter signed by the candidate nominating them as a scrutineer;
- (b) not campaign in the polling station;
- (c) not be a candidate; and
- (d) remain in the designated area.

Polling Hours

109. The polling station must be open no later than 9 a.m. and remain open until at least 8 p.m. on the day of an election.

Verification of the Ballot Box

110. Immediately before the commencement of the poll, the CEO or DEO must:

- (a) open each ballot box and call such persons as may be present to witness and verify in writing that each ballot box is empty;
- (b) lock and properly seal each ballot box in a manner preventing it from being opened without breaking the seal; and
- (c) place each ballot box in a voting compartment that allows electors to mark their ballots free from observation by others.

Secrecy of Votes and Security of Polling Stations

111. Voting must be by secret ballot.

112. At the discretion of the CEO and only in the case of a sudden emergency that precludes an elector to vote by mail-in ballot, an elector may vote by proxy or authorize another person to vote on their behalf in a manner approved in writing by the CEO.

113. The CEO or DEO must maintain order at all times in the polling stations and may cause to be removed any person who in any way interferes, disrupts or attempts to influence the orderly conduct of the poll.

Voting Procedure

114. The only persons who may be present at a polling station on a polling day are:

- (a) the CEO and DEO;
- (b) the polling clerks;
- (c) two (2) scrutineers for each candidate; and
- (d) electors.

115. (1) On arrival at the polling station, each elector must give their name to the CEO or DEO.

(2) Upon request by the CEO or DEO, the elector must provide photo identification.

(3) If the elector's name is set out in the voters list, the CEO or DEO must:

- (a) initial a ballot;
- (b) write the number on the back of the ballot down in the proper column of the voters list next to that elector's name; and
- (c) provide the ballot to the elector.

116. An elector to whom a mail-in ballot was mailed or provided may obtain a ballot and vote in person at a polling station if:

- (a) the elector returns the mail-in ballot to the CEO or DEO; or
- (b) where the elector has lost the mail-in ballot, the elector signs a written affirmation in front of the CEO that the elector has lost the mail-in ballot.

117. At the request of an elector, the CEO or DEO must explain to the elector the method of voting and the voting procedure.

118. After receiving a ballot, an elector must:

- (a) immediately proceed to the compartment provided for marking ballots;
- (b) mark the ballot by placing a mark that clearly indicates the elector's choice for the exact number of vacant seats but does not in any way indicate who the elector is;
- (c) ensure that the marks he or she makes on a ballot do not identify them as the elector;
- (d) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the CEO's initials on the back; and
- (e) deliver the ballot to the CEO or DEO.

119. On receipt of a completed ballot, the CEO or DEO must, without unfolding the ballot:

- (a) verify the initials placed on the ballot; and
- (b) deposit the ballot in the ballot box in the presence of the elector and any other persons entitled to be present at the polling station.

120. Except where an interpreter or assistant is required in accordance with this Code, while an elector is in the compartment for the purpose of marking their ballot paper, no other person is allowed in the same compartment or to be in any position from which he or she can see the manner in which the elector marks their ballot paper.

121. Where an interpreter or an assistant is required, they may, at the elector's request, be permitted to remain with the elector requiring assistance throughout the voting process set out in section 120.

122. (1) Where an elector is unable to vote in the manner set out in section 118 they may request that the CEO or DEO assist by marking that elector's ballot in a manner consistent with the elector's wishes and placing the ballot in the ballot box.

(2) Where the CEO or DEO assists an elector in marking their ballot under subsection (1):

(a) such assistance must be provided in the presence of a witness selected by the elector; and

(b) the CEO or DEO must make an entry on the voters list in the column for remarks opposite the name of that elector to show that the ballot paper was marked by them at the request of the elector and the reasons therefore.

Voting Irregularities

123. A ballot that does not record a vote cast for each vacant position shall be considered incomplete and a spoiled ballot.

124. (1) On one (1) occasion only, an elector who has inadvertently dealt with their ballot paper in such a manner that it cannot be conveniently used may return it to the CEO or DEO and request another ballot paper.

(2) Where a person makes a request under subsection (1), the CEO or DEO must:

(a) write the word "cancelled" upon the spoiled ballot paper and preserve it; and

(b) issue a new ballot to the elector in accordance with section 115.

125. (1) Any elector who receives a ballot and leaves the polling station without delivering the same to the CEO or DEO in the manner provided, or who refuses to vote and leaves their ballot in the ballot box or elsewhere at the polling station, must forfeit their right to vote at an election.

(2) Where an elector forfeits their right to vote pursuant to subsection (1), the CEO or DEO must:

(a) make an entry on the voters list in the column for remarks opposite the name of that elector to show that the elector received a ballot and declined to vote; and

(b) mark upon the face of the ballot, if it is available, the word "declined" and all ballots so marked must be preserved.

Closing the Polling Station

126. Every elector who is inside the polling station at the time fixed for closing the poll must be entitled to vote before the poll is closed.

PART XI COUNTING OF THE VOTES

127. The counting of votes will commence immediately after the close of the polling station.

128. The following persons may be present for the counting of votes:

- (a) any person who is a candidate;
- (b) any person who is a scrutineer; and
- (c) any elector.

129. The CEO must supply a tally sheet to the DEO and all persons who are present.

130. The CEO must ensure each person who is present for the counting of the votes can see the tally and there is a system to supply a polling clerk with a method of recording the votes which is visible to all persons present for the counting of the votes.

Depositing Mail-in Ballot Votes

131. Immediately after the close of polling stations on election day, the CEO or DEO must open each envelope containing a mail-in ballot that was received before the close of the polls and without unfolding the ballot:

- (a) reject the ballot and state out loud the reason for such rejection, if:
 - (i) the ballot was not accompanied by a voter declaration form, or the voter declaration form is incomplete or is not signed or witnessed,
 - (ii) the name of the elector set out in the voter declaration form is not on the voters list, or
 - (iii) the voters list shows that the elector has already voted; or
- (b) in any other case, place a mark on the voters list opposite the name of the elector set out in the voter declaration form and deposit the ballot in a ballot box.

132. Mail-in ballots that are not received by the CEO before the close of polls on the day of an election must not be deposited in the ballot box and must not be counted.

Counting the Votes

133. (1) Immediately after all of the mail-in ballots have been deposited in the ballot box, the CEO must:

- (a) open all ballot boxes and empty their contents on to a table;
 - (b) examine each ballot;
 - (c) state out loud that the CEO accepts or rejects each ballot;
 - (d) if the ballot is accepted, call out the names of the candidates for whom the votes are cast on the ballot; and
 - (e) ask the DEO to mark the results of each ballot on a tally sheet.
- (2) In examining the ballots, the CEO must reject any ballots that:
- (a) do not contain the initials of the CEO or DEO;
 - (b) do not give a clear indication of the elector's intention;
 - (c) contain more or fewer votes than there are candidates to be elected; or
 - (d) contain a mark by which the elector can be identified.

134. (1) The CEO or DEO must attach a note to each ballot rejected setting out the reason for rejection.

(2) The CEO or DEO must place all notes and reasons for objection in a large envelope which must be sealed once all the votes have been counted and tallied.

Final Tally

135. Once each ballot has been opened and the result of each ballot has been recorded, the DEO must provide the CEO with a final tally of:

- (a) the number of ballots which have been rejected; and
- (b) the final tally of votes for each candidate.

Tie

136. (1) If it is not possible to determine the successful candidate(s) due to an equal number of votes being cast (i.e., tie vote), the CEO must conduct a recount and publicly announce the time and place for the recount in the presence of all those present in the counting of the votes.

(2) A recount under subsection (1) must take place immediately after the announcement by the CEO and in the presence of the candidates and their agents who wish to attend.

(3) If the recount under subsection (1) fails to determine a successful candidate, the CEO must immediately cast ballots in order to break the tie by:

- (a) placing the name of each candidate having the same number of votes on a separate piece of paper that is of equal size and weight, and placing each piece of paper in a box or other receptacle; and
- (b) drawing as many papers as there are positions available out of the box or receptacle.

(4) The candidate(s) whose name(s) appear on the pieces of paper the CEO has drawn from the receptacle in accordance with subsection (3) constitute the candidate(s) for whom the CEO must cast a vote.

PART XII POST-ELECTION PROCEDURES

Announcement

137. After completing the counting of the votes and establishing the successful candidates, the CEO must declare the candidate or candidates having the highest number of votes to be elected.

Election Report

138. Immediately after declaring the elected candidates, the CEO must complete and sign an election report which must contain:

- (a) the names of all candidates;
- (b) the number of ballots cast for each candidate; and
- (c) the number of rejected ballots.

139. Within four (4) days after declaring the elected candidates, the CEO must:

- (a) sign an election report;
- (b) post an election report on the Penticton Indian Band website;
- (c) post an election report in at least one (1) conspicuous place on the reserve;
- (d) publish an election report in the Band community newsletter;
- (e) forward a copy of an election report to the Band Administrator; and
- (f) forward a copy of an election report to Aboriginal Affairs and Northern Development Canada.

Retention of Ballots and Other Election Material

140. The CEO must deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and retain all ballots and materials in connection with an election until the later of:

- (a) forty-five (45) days from the date that an election was held; and
- (b) the date a decision on an appeal is rendered under Part XIII.

(2) After the time period in subsection (1) has passed and unless directed otherwise by Council, the CEO may destroy the materials stated in subsection (1) in the presence of two (2) witnesses who must make a declaration that they witnessed the destruction of those materials.

Chief and Councillor Formalities

141. Within five (5) days of being declared the successful candidate of a Council position, a newly elected Chief or councillor must:

- (a) swear an oath of office in front of the Band Administrator at a public inauguration ceremony, being Schedule A to this Code;
- (b) agree in writing to abide by the Code of Conduct in front of the Band Administrator at a public inauguration ceremony, being Schedule B to this Code;
- (c) swear an Oath of Confidentiality in front of the Band Administrator at a public inauguration ceremony, being Schedule C to this Code; and

142. Where due to illness or another valid reason a candidate elected as Chief or councillor cannot complete the administrative steps required by section 141 within five (5) days of being elected, he or she or an elector acting on their behalf may file a petition with the Band Administrator for an extension of time to do so.

143. (1) The Band Administrator receiving a petition under section 142 must determine whether the circumstances justify an extension and provide the candidate making the request written notice of:

- (a) the Band Administrator's decision;
- (b) if accepted, the extension period that is granted; and
- (c) if denied, the reasons for such denial.

(2) The Band Administrator must not grant an extension of time that exceeds one month from election day to complete the steps required by section 142.

144. If a person elected as Chief or councillor does not complete the requirements of section 142 on or before the time period allowed under section 142 or 143, the CEO must declare their office vacant.

145. If the CEO declares a Chief or councillor's position vacant under section 144, they must give written notice of the declaration to the elected candidate whose office is declared vacant and to the remaining elected Chief and councillors.

146. Unless the vacancy occurring under section 144 results in a situation where the Council can no longer form a quorum, the position must remain vacant until such time as a by-election is held.

PART XIII COMPLAINTS AND APPEALS

Complaints and Appeal Adjudicator

147. If at least fifty (50) days before the date that an election is to be held a Complaints and Appeal Adjudicator has not been appointed, Council must appoint an Adjudicator.

148. The Adjudicator must accept their appointment by forwarding a letter of acceptance to Council.

149. To be eligible to be appointed as an Adjudicator, a person must:

- (a) be a practising member of the British Columbia legal profession; and
- (b) not have previously acted for the Band except as a Complaints and Appeal Adjudicator.

150. The Adjudicator's term of office must commence on the date of their appointment and continue until her or she resigns or is removed by Council.

Oath of Office

151. The Adjudicator must execute an oath of office that states they will:

- (a) abide by the rules and regulations established in this Code;
- (b) remain neutral and professional in the conduct of their duties;
- (c) not accept anything of value from a Penticton Indian Band member, including but not limited to, money, offers of employment, gifts and travel;
- (d) not discriminate against anyone;
- (e) avoid conflicts of interest, or the appearance of conflicts of interest; and
- (f) withdraw from their position if they have a personal or private interest in the matter at issue.

Duties and Responsibilities

152. The Adjudicator must supervise and administer hearings that address:

- (a) election appeals; and
- (b) appeals of Council decisions regarding petitions and requests for the removal of a Chief or councillor from office.

Adjudicator Hearings

153. The Adjudicator may hold any combination of written, electronic and oral hearings.

Grounds for Appeal

154. The following persons may submit a notice of appeal to the Adjudicator:

- (a) following a Council decision to dismiss a petition or request under section 22 (a) or (b), the person(s) who initiated the petition or request;
- (b) following a Council decision to declare the office of a Chief or councillor vacant under section 22(c), that Chief or councillor whose position in office has been declared vacant;
- (c) following an election, a candidate or elector who has reasonable grounds to believe that:
 - (i) the person declared elected was not qualified to be a candidate;
 - (ii) the person declared elected violated this Code in a manner that might have affected the result of an election; or
 - (iii) the person declared elected was not in compliance with section 83 or 84.

Limitation Period

155. (1) A notice of appeal must be submitted:

- (a) if the appeal is related to the results of an election, within seven (7) days from the date of an election; and
- (b) if the appeal is related to a decision by Council under section 22, within seven (7) days from the date that the notice of decision under subsection 23(2) is delivered.

Notice of Appeal

156. (1) A notice of appeal must be in the form of an affidavit, sworn before a notary public or duly appointed commissioner for taking oaths, setting out the facts substantiating the grounds for the appeal, including:

- (a) the decision that is being appealed;
- (b) why the decision should be changed;
- (c) the outcome requested;
- (d) the name, address and telephone number of the appellant;
- (e) if the appellant has an agent to act on the appellant's behalf in respect of the appeal, the name of the agent and a telephone number at which the agent may be contacted during regular business hours;
- (f) an address for delivery of any notices in respect of the appeal.

(2) A notice of appeal must be signed by the appellant or the appellant's agent and attach all supporting documentation.

Application Fee

157. An appellant must pay an application fee with the notice of appeal in the amount of one hundred dollars (\$100.00), to be paid by certified cheque or money order in the name of the Penticton Indian Band.

Accepting or Rejecting the Appeal

158. Within five (5) days of receiving a notice of appeal, the Adjudicator must:

- (a) accept the appeal and forward a copy of the appeal and all supporting documents, by hand or registered mail, to:
 - (i) if it is an election appeal, the respondent, CEO and each candidate;
 - (ii) if it is an appeal to a Council decision to dismiss a petition or request under section 22 (a) or (b), the Council member to whom the appeal relates; or
 - (iii) if it is an appeal to Council decision to declare the office of a Chief or councillor vacant under section 22(c), the petitioners or requestor; or
- (b) dismiss the appeal and inform the applicant in writing, by hand or registered mail, that the appeal will not receive further consideration because:
 - (i) the application is not within the jurisdiction of the Adjudicator;
 - (ii) the application was not filed within the applicable limitation period;
 - (iii) the application is frivolous, vexatious or trivial or gives rise to an abuse of process;
 - (iv) the application was made in bad faith or filed for an improper purpose or motive; or
 - (v) there is no reasonable prospect the application will succeed.

Summary Dismissal

159. (1) At any time after a notice of appeal is filed, the Adjudicator may dismiss all or part of the appeal if the Adjudicator determines that any of the following apply:

- (a) the application is not within the jurisdiction of the Adjudicator;
- (b) the application was not filed within the applicable limitation period;
- (c) the application is frivolous, vexatious or trivial or gives rise to an abuse of process;
- (d) the application was made in bad faith or filed for an improper purpose or motive; or
- (e) there is no reasonable prospect the application will succeed.

(2) Before dismissing all or part of a notice of appeal under subsection (1), the Adjudicator must give the applicant an opportunity to make written submissions or otherwise be heard.

160. If the Adjudicator dismisses all or part of notice of appeal under section 159, the Adjudicator must inform the applicant and any respondent of their decision in writing and give reasons for that decision.

Respondent Submissions

161. Within fourteen (14) days of receiving a copy of a notice of appeal from the Adjudicator, a respondent must:

- (a) provide the Adjudicator with a written response to the appeal allegations that must be less

than ten (10) pages in length, together with any supporting documentation, setting out that the respondent:

- (i) admits all or part of the allegations made against them, or
 - (ii) opposes all or part of the allegations made against them, or
- (b) by hand or registered mail, deliver to the Adjudicator a written request to make an oral submission in response to the appeal allegations.

162. (1) If a respondent makes a written request under paragraph 161(b), the Adjudicator must:

- (a) set a date, time and location for the oral submission;
 - (b) provide the respondent with a written notice setting out the date, time and location for the oral submission; and
 - (c) conduct an oral submission hearing.
- (2) The maximum length of time allowed for an oral submission must be thirty (30) minutes.

Admissibility of Evidence

163. The Adjudicator may receive and accept information that he or she considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law.

Orders for Information

164. At any time before or during an appeal, but before making a decision, the Adjudicator may make an order requiring a person:

- (a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an appeal, or
- (b) to produce for the Adjudicator a document or other thing in the person's possession or control, as specified by the Adjudicator, that is admissible and relevant to an issue in an application.

Power to Make Final Orders

165. After hearing an election appeal, the Adjudicator must render a decision and make a final order that:

- (a) the appeal is dismissed because sufficient evidence does not exist to confirm that:
 - (i) the person declared elected was not qualified to be a candidate,
 - (ii) the person declared elected violated this Code in a manner that might have affected the result of an election, or
 - (iii) the person declared elected was not in compliance with section 83 or 84, or

(b) an election of one or more of the Chief or Council positions is declared vacant because sufficient evidence did exist to confirm that:

- (i) the person declared elected was not qualified to be a candidate,
- (ii) the person declared elected violated this Code in a manner that might have affected the result of an election, or
- (iii) the person declared elected was not in compliance with section 83 or 84.

166.After hearing an appeal regarding a Council decision to remove a Chief or councillor, the Adjudicator must render a decision and order that:

- (a) the Chief or councillor is not removed from office because sufficient evidence does not exist to confirm the allegations against that Chief or councillor; or
- (b) the Chief or councillor is removed from office because sufficient evidence does exist to confirm the allegations against that Chief or councillor.

Written Order and Reasons for Decision

167.The Adjudicator must:

- (a) send a copy of their order and written reasons for their decision to the person who initiated the appeal and all respondents to the appeal; and
- (b) retain a copy of their order and written reasons for their decision.

168.The order of an Adjudicator is final and not subject to appeal.

169.The decision of the Adjudicator is available to Penticton Indian Band members by request.

PART XIV AMENDMENTS

Minor Amendments

170.Council may amend this Code by Band Council Resolution to:

- (a) correct errors, omissions or inconsistencies in this Code; or
- (b) permit secure electronic voting in elections.

Petition to make Major Amendments

171.All other amendments to this Code must be initiated by:

- (a) an elector submitting to the Council a petition setting out:
 - (i) the proposed amendments to the Code;

- (ii) the signature of the petitioner; and
 - (iii) the signatures of at least ten (10) percent of electors in support of the petition; or
- (b) a Chief or councillor submitting a request to have the matter considered at Council, setting out:
- (i) the proposed amendments to the Code; and
 - (ii) signed by the Chief or councillor in support of the amendments.

172. Within five (5) days of receiving a petition for an amendment to this Code, Council must:

- (a) place the matter on the agenda for the next regular meeting of Council that must occur at least twenty (20) days after receipt of the petition; and
- (b) in writing by hand or by registered mail, notify the petitioner or requestor of the date and time that a Council meeting will be held to review the petition or request.

Notice of Petition

173.(1) Within five (5) days of receiving the petition for an amendment to this Code, Council must prepare a notice of petition that:

- (a) summarizes the proposed amendments;
- (b) provides that a full copy of the proposed amendments can be viewed at the Band administration office;
- (c) describes the amendment process; and
- (d) invites electors to make submissions in writing, and submit them to the Council within fourteen (14) days,

(2) Council must post the notice of petition:

- (a) in the Band's newsletter; and
- (b) in at least two (2) conspicuous places on the reserve.

Submission Period

174. Not more than fourteen (14) days after the posting of a notice of petition, electors may provide written comments to Council concerning the proposed amendments.

175. Council must review and consider all written comments of electors.

176. Following the submission period, Council may make such changes to the proposed amendments as they deem necessary in order to arrive at final draft of the amendments.

Community Approval of Major Amendments

177.The Council must present the final draft of the amendments at a community meeting at a date and time set by a quorum of Council.

178.If a majority of members attending the community meeting, vote in favour of the proposed amendments, Council must amend the Code accordingly.

PART XV

REPEAL AND EFFECTIVE DATE

179. This Code repeals all prior election codes of the Penticton Indian Band.

180. This Code comes into force and effect on the day after it is approved by Council.

THIS CODE IS HEREBY DULY ENACTED by the Council on the 25th day of February 2015, at Penticton, in the Province of British Columbia.

A quorum of Council consists of five (5) members of Council.

Chief Jonathan Kruger

Councillor Timmothy Lezard

Councillor Travis Kruger

Councillor Inez Pierre

Councillor Kevin Gabriel

Councillor Dolly Kruger

Councillor Joseph Pierre

Councillor Clint George

Councillor Clint Gabriel

**SCHEDULE A
OATH OF OFFICE**

I _____, do hereby swear/affirm that:

- (a) I have consented to a criminal record check and am qualified to hold the office of [Chief OR councillor] for the Penticton Indian Band to which I have been [elected OR appointed];
- (b) I have not contravened the *Penticton Indian Band Election Code, 2015* with respect to my campaigning for this position;
- (c) I will to the best of my judgement, skill, knowledge, and ability discharge my duties as a [Chief OR councillor] faithfully, diligently, honestly, and loyally and will not allow any private interest to influence my conduct in Penticton Indian Band matters;
- (d) I will uphold and comply with this Oath, the Code of Conduct, the Oath of Confidentiality, and all Penticton Indian Band laws, by-laws, policies and procedures; and
- (e) I will always act in the best interests of the Penticton Indian Band in carrying out my duties.

I accept my position as [Chief OR councillor] and agree to uphold the dignity and pride of the Penticton Indian Band throughout my term of office.

This Oath made this _____ day of _____ 20_____ at Penticton, in the Province of British Columbia.

[Name of Chief OR councillor]

[Name of CEO]

SCHEDULE B CODE OF CONDUCT

As a [Chief/ councillor] of the Penticton Indian Band, I hereby agree to become familiar with Penticton Indian Band laws, by-laws, policies and procedures, and comprehensive community plan.

I agree to fulfill my delegated duties to the best of my abilities, and abide by Penticton Indian Band laws, by-laws, policies and procedures, and comprehensive community plan.

I hereby also agree to abide by the following:

(a) I will carry out the duties of my position conscientiously, loyally, and honestly, remembering that my primary work task is to serve the Penticton Indian Band membership;

(b) In my actions and words, I will promote and uphold the integrity and dignity of the Penticton Indian Band membership and Penticton Indian Band laws, by-laws, policies and procedures, comprehensive community plan, programs and staff;

(c) I will not give out official or confidential information acquired while on Council unless the release of such information has been authorized by the Council or a duly authorized Band Official;

(d) I will not use my position as Chief/Council to promote the interests of individual members of the Band, but will act only in the best interests of the Band membership;

(e) I will be prompt, courteous, and temperate in the performance of my duties and responsibilities;

(f) I will carry out my duties in the most efficient, effective and economically sustainable way possible;

(g) I will maintain a positive attitude in dealing with Band employees, Band members, the general public and Council;

(h) Within my areas of responsibility, I will recommend changes of laws, by-laws, policy, priorities, or procedures, when I believe that such changes will help to meet the objectives of the Penticton Indian Band;

(i) I will conduct myself in a manner that will bring credit to me and the Penticton Indian Band membership;

(j) I will show respect for the authority and jurisdictional structures of the Council;

(k) I will continually work towards self-improvement and professional development, through self-evaluation, and availing myself of available literature, upgrading and training, when opportunities arise;

(l) I will be punctual and attend all meetings, workshops, conferences in their entirety, assigned to me as an official delegate of the Penticton Indian Band, and will formally report back to the Band Council on those activities as required;

(m) I will use equipment, property, or supplies which are owned or rented by the Band for authorized purposes only, and will use such equipment with care and report any maintenance required to an appropriate staff member;

(n) I will refuse any fees, gifts, or other tangibles offered to me in reward for duties performed by virtue of my position in accordance with the Code;

(o) I will not criticize the Chief or other councillors, Band employees or the policies of the Band Council or individual departments, and if I feel changes are advisable, I will provide constructive suggestions and/or recommendations through proper procedures and seek to make the workplace as harmonious as possible; and

(p) I will communicate openly with other councillors, and seek to settle any internal differences in a respectful, cooperative and constructive manner.

I understand that failure to comply with the Code of Conduct may result in disciplinary action up to and including removal from office.

Read, understood and acknowledged:

(Signature of Band councillor)

(For the Penticton Indian Band)

Dated this _____ day of _____, 20____.

**SCHEDULE C
OATH OF CONFIDENTIALITY**

I, _____, hereby affirm/swear that as a [Chief OR councillor] I understand and agree that the following conditions will apply to my position:

(a) Any information, recorded or not, that I receive or acquire in connection with my duties as [Chief OR councillor] is confidential information;

(b) I will not disclose confidential information unless that disclosure is necessary for the carrying out of my duties and Council approves of that disclosure or that disclosure is required by law;

(c) I will not use confidential information or my ability to access such information for the purpose of furthering my own interests or those of my immediate family, relatives, business associates or former business associates; and

(d) I understand that the Penticton Indian Band can only collect, use and disclose personal information in accordance with the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5 and I will only disclose personal information in accordance with that Act.

I agree and accept full responsibility that if my actions are contrary to the above, I may be censured by the Council of the Penticton Indian Band.

This Oath made this _____ day of _____ 20____ at Penticton, in the Province of British Columbia.

[Name of Chief OR councillor]

[Name of CEO]

**SCHEDULE D
GOVERNANCE PROCEDURES**

PART I

INTERPRETATION AND APPLICATION

Interpretation

1. Except as otherwise expressly provided in this Schedule, words and expressions used in this Schedule have the same meaning as in the Code.

2. Part XIV of the Code applies to this Schedule.

3. If there is a conflict between a provision in this Schedule and the Code, the Code prevails.

4. (1) The Band Administrator may provide interpretations of this Schedule as required from time to time and may apply those administrative interpretations, unless otherwise directed by Council.

(2) The Band Administrator may seek legal advice prior to providing an interpretation.

Application

5. This Schedule applies to the Chief and all councillors of the Band and, where applicable, to all members of Council committees.

PART II

DEFINITIONS

6. In this Schedule:

“apparent conflict of interest” means a situation when a reasonably well informed person would perceive that the individual’s ability to exercise a power or perform a duty or function of their office or position must be affected by the individual’s private interests.

“Band Administrator” means the person appointed as Band Administrator by Council;

“BCR” means Band Council Resolution;

“Code” means the *Penticton Indian Band Custom Election Code, 2015* to which this Schedule is attached and forms a part.

“conflict of interest” means a situation when the individual exercises a power or performs a duty or function and at the same time knows or ought reasonably to have known that in the exercise of the power or performance of the duty or function there is an opportunity to benefit the individual’s private interests.

“GAAP” means generally accepted accounting principles of the Canadian Institute of Chartered Accountants, as revised or replaced from time to time;

“in camera” means a closed and private session of the Council, which only authorized persons may attend;

“manager” means an employee or contractor appointed as a manager who reports to the Band Administrator or Council;

“official” means a person who reports to Council and is appointed in by Council as an official;

“private interests” means the individual’s personal and business interests and include the personal and business interests of:

- (a) the councillor’s spouse or common-law partner,
- (b) the councillor’s mother and father and the spouse or common-law partner of the mother or father,
- (c) the councillor’s children and the children of the employee’s spouse or common-law partner,
- (d) the councillor’s grandchildren,
- (e) the councillor’s brothers and sisters, including biological siblings, adopted siblings, foster siblings and step-siblings,
- (f) the grandfather and grandmother of the Council, the grandfather and grandmother of the Council’s spouse,
- (g) the mother and father of the spouse or common-law partner of the councillor and the spouse or common-law partner of the mother or father,
- (h) the Council’s sisters-in-law and brothers-in-law, and
- (i) any relative of the councillor who resides permanently with the councillor or with whom the councillor permanently resides;

“related body” means

- (a) any agency of the Band,
- (b) any corporation in which the Band has a material interest or that is controlled by the Band,
- (c) any partnership in which the Band or another related body of the Band is a partner, or
- (d) a trust of the Band;

“special Council meeting” means a meeting called by the Chief or Band Administrator to address issues that are urgent and cannot wait until the next regularly scheduled Council meeting.

PART III

CONDUCT EXPECTATIONS

7. When exercising a power, duty or responsibility relating to the financial and general governance of the Band, the Chief and all councillors must :

- (a) act honestly, in good faith and in the best interests of the Band;
- (b) ensure the integrity and dignity of the Band's local government, traditions, related bodies, members and staff;
- (c) comply with all Band laws, by-laws, policies and procedures, comprehensive community plans, the Oath of Office, Oath of Confidentiality and Code of Conduct;
- (d) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
- (e) avoid circumstances that could result in the Chief or councillor having a conflict of interest or apparent conflict of interest.

8. The Chief and all councillors must set an example in public and private of good conduct and citizenship in a manner that brings credit to themselves, the Band and its related bodies, and membership.

9. Councillors must not willfully misrepresent the Band.

10. If a Chief or councillor has a concern with the conduct of Council, or a member of Council, the Chief or councillor must bring the matter forward for consideration at a Council meeting.

11. A quorum of Council may determine the position of Council on any matter and all Council should act as one when presenting positions and issues to the membership or general public.

12. The Chief and all councillors must not publicly criticize other members of Council.

13. The Chief and all councillors must work together and must encourage each other to be an effective team by:

- (a) encouraging one another to respect each member of Council;
- (b) ensuring one another fulfils their duties;
- (c) focusing on the short and long term needs of the membership, the Band and its related bodies;
- (d) providing opportunities for one another to undertake self-development and wellness within budgetary limits;
- (e) assisting one another who experience difficulties with their Council duties.

PART IV

CONFIDENTIAL INFORMATION

14. The Chief and all councillors must comply with the Oath of Confidentiality and keep confidential all information that they receive while performing their duties or functions unless the information is generally available:

- (a) to members of the public; or
- (b) to members.

15. The Chief and all councillors must not disclose in camera matters.

16. The Chief and all councillors must only use confidential information for the specific purposes for which it was provided to them.

17. The Chief and all councillors must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit their private interests.

PART V

CONFLICT OF INTEREST

Duty to Avoid Conflicts of Interest

18. The Chief and all councillors must avoid circumstances that could result in them having a conflict of interest or an apparent conflict of interest.

19. The Chief and all councillors must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function could be influenced by the interests of an immediate family member or any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

Disclosure of Conflicts of Interest

20. As soon as a Chief or councillor becomes aware of circumstances in which they have a conflict of interest, they must disclose the circumstances of the conflict of interest at the next Council meeting and must complete a “Conflicts of Interest Disclosure Form” attached as Schedule E to the Code.

Procedure Where Conflict of Interest is Disclosed

21. The Chief or a councillor must leave any part of a Council meeting where the circumstances in which that person has a conflict of interest are being discussed or voted on, unless that person is at the Council meeting to provide information to the Council.

22. The minutes of a Council meeting must record that:

- (a) a “Conflicts of Interest Disclosure Form” has been received;

- (b) the name of who the conflicts of interest disclosure form has been received from; and
- (c) a note regarding that person's absence from the Council meeting when the circumstances in which that person has a conflict of interest are being discussed or voted on by Council.

23.A Chief or councillor must not influence or attempt to influence in any way before, during or after a Council meeting any discussion, or vote on any decision, respecting a decision that person has a conflict of interest in.

Power to Determine Whether Conflict of Interest Exists

24.If a Chief or councillor has reason to believe that another member of Council has a conflict of interest or an apparent conflict of interest in respect of a matter before the Council, that person may request clarification of the circumstances at a Council meeting.

25. (1) If as a result of a clarification discussion a councillor is alleged to have a conflict of interest or apparent conflict of interest and the councillor does not acknowledge the conflict of interest or apparent conflict of interest and take the actions required under section 21, the Council must determine whether the Chief or councillor has a conflict of interest or apparent conflict of interest before the Council considers the matter.

(2) If Council determines under subsection (1) that a Chief or Councillor has a conflict of interest or apparent conflict of interest, the Chief or Councillor to whom the determination relates must comply with section 21.

(3) The minutes of the Council meeting must record any determination made by Council under subsection (1).

PART VI

GIFTS AND BENEFITS

26.A Chief, councillor or person acting on their behalf must not accept a gift or benefit that might reasonably be seen to have been given to influence the Chief or councillor in the exercise of the Chief or councillor's powers or performance of the Chief or councillor's duties or functions.

27.Despite section 26, a gift or benefit may be accepted if the gift or benefit:

(a) would be considered within normal protocol exchanges or social obligations associated with the councillor's office, including:

- (i) normal exchanges common to business relationships; or
- (ii) normal exchanges common at public cultural events of the Band;

(b) is of nominal value;

(c) is given by a close friend or relative as an element of that relationship; or

(d) is of a type that the policies or directions of the Council have determined would be

acceptable if offered by the Band to another person.

28. Where a gift with a value greater than five hundred dollars (\$500.00) is given to a Chief or councillor, the Chief or councillor must make a written disclosure of the gift to the Band Administrator and the gift must be treated as the property of the Band.

PART VII

COUNCIL ROLES

29. A quorum of Council is the representative body of the Band.

30. Unless appointed as spokesperson for the Band, an individual councillor must not discuss Band matters with the public or media.

31. Council's role is political, and not administrative.

32. The Chief and all councillors do not exercise individual authority except if authorized to do so by Council.

33. The Chief and all councillors must not undermine the authority of the Band Administrator, Band employees or other Band officials.

34. The Chief and all councillors must not interfere with day to day operations except upon request by the Band Administrator.

35. Council, the Chief and all councillors must not instruct the Band Administrator or staff of the Band and its related bodies to perform any activity that illegal, unethical or dangerous.

36. Council, the Chief and all councillors must not intimidate or abuse political authority over the Band Administrator or staff of the Band and its related bodies.

37. Allegations of interference by Council, the Chief or any councillor in administrative matters shall be considered by Council in camera.

38. Matters regarding the performance of the Band Administrator shall be considered by Council in camera.

PART VIII

COUNCIL RESPONSIBILITIES

39. Council is responsible to ensure that the financial and general administration of the Band's affairs are carried out effectively and efficiently whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent.

40. Subject to any applicable law or by-law, the Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions except the following:

- (a) the approval of laws and by-laws;
- (b) the approval of Council policies, procedures or directions;

- (c) the appointment of members and Council representatives to internal and external boards and committees;
- (d) the appointment or removal of the Band Administrator;
- (e) the approval of budgets and financial statements of the Band;
- (f) the approval of borrowing of the Band;
- (g) the approval of a legal guarantee given on behalf of the Band; and
- (h) the approval of an indemnity given on behalf of the Band.

41.The Council may establish policies and procedures respecting any matter relating to the financial and general administration of the Band.

42.The Council must establish policies and procedures for the development of short, medium and long-term strategic plans and priorities.

43.The Council must establish policies or procedures or give directions respecting the acquisition, management and safeguarding of Band assets.

44.The Council must establish policies or procedures or give directions respecting the requirement for related bodies to report financial information and strategic plans to Council and the requirement to have appropriate finance, conflict of interest and human resource policies in place.

45.The Council must not establish any policies or procedures or give any directions relating to the financial administration of the Band that are in conflict with the Finance By-law and GAAP.

46.The Council must ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.

47.The Council must document all its policies, procedures and directions and make the relevant policy, procedure or direction available to any person who is required to act in accordance with it and membership.

48.A Chief or councillor may not direct staff.

49.Council must participate in Council orientation and training activities that will prepare them to carry out their duties in an informed and responsible manner.

PART IX

ROLE OF THE GRAND CHIEF

The customary position of Grand Chief is hereby recognized and affirmed.

The position Grand Chief is not governed by this Code, but the Grand Chief may request authority from Council, or Council may request the Grand Chief, to represent the community and the Okanagan Nation on behalf of the Band, and to serve on external boards and committees on behalf of the Band.

DUTIES OF THE CHIEF

50.The Chief must:

- (a) convene all meetings of Council in accordance with established procedures for meetings;
- (b) become familiar with and abide by all governing documents of the Band and Council;
- (c) act as the signing officer for specific Band matters if requested to do so by a quorum of Council;
- (d) act as the official spokesperson or representative of the Band at ceremonial or other functions as required, and with external bodies such as the Chiefs' Executive Council of the Okanagan Nation Alliance, or delegate this responsibility as required;
- (e) speak for and express the position of the Band that has been approved by Council at public meetings or with media; and
- (f) serve as an ex-officio member of all committees and boards.

51.The position of Chief is deemed to be full-time.

52.If the Chief is unable to act in his or her position, the remaining Council will appoint a councillor to carry out the duties of the Chief.

PART X

COUNCIL MEETINGS PROCEDURES

53. The Chief and all councillors must be provided with five (5) business days' notice of regularly scheduled Council meetings by the Band Administrator.

54. Council meetings must be held twice a month.

55. A quorum of Council must be present in person or via telephone or video conferencing in order to hold a Council meeting.

56. No member of the Council may be absent from meetings of Council for three (3) consecutive meetings without being authorized to do so by the Council or they shall be deemed to have vacated their position on Council.

57.The Chief may call a special meeting of the Council or a special Band meeting.

58.The Band Administrator may call a special meeting of the Council by direction of Chief or a quorum of Council.

59.If no quorum is present within thirty (30) minutes after the time appointed for the meeting, the Chief must call the roll and take the names of the members of Council then present and Council must stand adjourned until the next meeting.

60.The Chief or other person appointed by a quorum of Council must be the chairperson presiding at meetings of Council.

61.Upon a quorum being present, the chairperson must take the chair and call the meeting to order.

62.In the absence of the Chief, a chairperson must be chosen by a majority of those present at the meeting of Council.

63.The chairperson must maintain order and decide all questions of procedure.

64.The order of business at each regular meeting of the Council must be as follows:

- (a) adoption of the agenda and any changes or additions to the agenda;
- (b) reading, correction (if any) and adoption of the minutes of the previous meeting;
- (c) presentation and reading of correspondence and petitions;
- (d) new business;
- (e) presentation and consideration of reports of committees;
- (f) presentations from third parties;
- (g) unfinished business; and
- (h) adjournment.

65. Each resolution must be on the approved agenda, accompanied by a written motion and must be open for discussion prior to being duly moved, seconded and considered for approval by a quorum of Council.

66. When the Chief or any councillor desires to speak, he or she must confine what they say to the agenda item then before the meeting.

67.In the event of more than the Chief or one (1) councillor desiring to speak at one (1) time, the chairperson must determine who is entitled to speak.

68.The chairperson, Chief or any councillor may call the Chief or a councillor to order while speaking and the debate must then be suspended and the councillor must not speak until the point of order is determined.

69.All questions before Council must be decided by majority vote of the Chief and councillors present.

70.The Chief may vote on any motion of Council.

71.Every member present when a question is put must vote thereon unless the Council excuses him or her, or unless he or she has a real or apparent conflict of interest, in which case he or she must declare their interest, and must excuse him or herself from the room or be required to excuse him or herself from the room by a majority vote of the other councillors.

72.A councillor who refuses to vote must be deemed to vote in the affirmative.

73.A tie vote defeats the motion.

74. The Chief or any councillor may require a question or resolution under discussion to be read for their information at any period of the debate but must not interrupt a person who is speaking.

PART XI

ATTENDANCE AT COUNCIL MEETINGS

75. Any person may make a request in writing to present a matter at a Council meeting.

76. All requests in writing must be addressed to the Council executive assistant or Band Administrator and received five (5) days prior to the Council meeting at which they wish to present.

77. Requests must contain adequate supporting information, including an estimate of the time to present.

78. Inclusion on the agenda is at the discretion of Council.

79. The regular meetings of the Council must be open to members of the Band but they may not speak unless they have requested to be on the agenda in accordance with sections 75 to 78, unless a quorum of Council agrees to hear the matter based on emergency grounds.

80. No member may be excluded from a regular meeting except for improper conduct or if the chairperson directs that the meeting must be closed and moved to in camera discussions due to:

- (a) personal matters about an identifiable individual, including Band employees;
- (b) confidential business information;
- (c) employee negotiations including disciplinary matters;
- (d) litigation or potential litigation, including matters before administrative tribunals, affecting the Band; or
- (e) advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

81. The chairperson may expel or exclude from any meeting any person who causes a disturbance at the meeting, including through abusive or threatening behaviour.

PART XII

COUNCIL PORTFOLIOS

82. The Council may allocate specific responsibilities to the Chief or a councillor through appointment to one or more portfolios, including:

- (a) housing;
- (b) lands and resource management;
- (c) taxation;

- (d) finance, administration and personnel;
- (e) intergovernmental affairs;
- (f) culture and heritage;
- (g) health and healing;
- (h) public works;
- (i) social development;
- (j) justice and community safety;
- (k) education;
- (l) elders;
- (m) youth; and
- (n) economic development.

83. A Council portfolio holder must meet with the program manager for that portfolio area, determine the priorities and assistance that is expected from the Council portfolio holder, and review the policies that are relevant to the portfolio area as soon as possible after the Chief or councillor is appointed to the portfolio area.

84. The general duties of portfolio holders are:

- (a) to report to the Council regarding all matters connected with the duties imposed on the portfolio holder;
- (b) to recommend Council to take action in relation to that portfolio holder's duties;
- (c) to meet with the program manager for that portfolio area a minimum of three (3) times a year;
- (d) to consider and report back to the program manager for that portfolio area on all matters referred to that portfolio holder by the Council or by the Chief of the Band;
- (e) to, where authorized by a quorum of Council, advocate for the Band with external parties for matters falling within their portfolio area.

PART XIII

MINUTES

85. The chairperson must ensure that minutes are taken of each Council meeting.

86. Council must review and approve the minutes.

PART XIV

SPECIAL COUNCIL MEETINGS

87.When Special Council Meetings are required due to emergencies or other urgent or time sensitive matters, no notice is required provided that the Chief and all councillors are made aware of the nature of the meeting prior to its convening and that a quorum of Council is in attendance.

88.Only urgent, time sensitive or emergency matters may be placed on the agenda for a Special Council Meeting.

89.Minutes from a Special Council Meeting must be provided at the next regularly scheduled Council meeting.

PART XV

MEMBER COMMUNICATION

90.Council must hold General Band Meetings with members at least four (4) times per fiscal year.

91.Council must hold an Annual General Assembly at least (1) time per fiscal year.

92.The annual audited statements will normally be presented at the Annual General Assembly.

93. Portfolio holders must provide quarterly reports to Council on their work plan and progress for their portfolio areas.

94. Portfolio holders must provide, at a minimum, an annual report to members on their work plan and progress for their portfolio areas.

PART XVI

DISCIPLINARY ACTION AGAINST A COUNCILLOR

95.If Council receives a complaint in writing alleging that the Chief or a Council member has breached any of their duties or failed to carry out their responsibilities under the Code or this Schedule, a quorum of Council not in conflict may refer the matter for investigation under section 96.

96. Where a investigation is requested under section 95, legal counsel appointed by a quorum of Council must investigate the allegations and prepare a report for Council.

97.If, upon review of a report prepared by legal counsel under section 6 a quorum of Council not in conflict determines the allegations are substantiated, Council must raise the concerns with the Chief or councillor and request corrective action.

98.In the case of a more serious breach or a failure by the councillor to take corrective action, Council may bring a motion for disciplinary action, including suspension without honoraria for a period of time.

99.If there is no change in the behavior of the councillor, or in circumstances of an extreme nature, Council may, by BCR, deny the Chief or councillor access to Council meetings and remove the Chief or councillor from office in accordance with the Code.

100.If a Chief or councillor has been denied access to Council meetings under this Part, the councillor is no longer eligible to receive honoraria unless they are reinstated.

PART XVII

REMUNERATION AND BENEFITS OF COUNCIL

101. The Chief and all councilors must receive remuneration at a rate approved by a quorum of Council upon advice of the finance and audit committee and finance officer and any increase must be part of the approved annual budget.

102. The Chief and all councilors must be reimbursed for approved travel in accordance with the rates set by the Band in accordance with the *Penticton Indian Band Financial Administration Law 2013* and any related policies.

PART XVIII

SCHEDULE E

CONFLICTS OF INTEREST DISCLOSURE FORM

Date: _____

Name: _____

Position: _____

Transaction/Decision/Matter: _____

Details of real or perceived conflict of interest, including nature and extent:

CHIEF OR COUNCILOR SIGNATURE

Decision of Council

_____ The individual is in a position of conflict of interest and **may not** be involved in this transaction, decision or matter.

_____ The individual is not in a position of conflict of interest and **may** be involved in this transaction, decision or matter.

_____ The individual is in a position of conflict of interest which has been investigated and it has been determined that the individual **may** be involved in this transaction, decision or matter (explain below).

Additional Details
