PENTICTON INDIAN BAND

FINANCIAL ADMINISTRATION LAW,

2025

[April 1, 2019 Standards]

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WHEREAS:

A. Pursuant to section 9 of the *First Nations Fiscal Management Act,* the Council of a first nation may make laws respecting the financial administration of the first nation;

B. The Council of Penticton Indian Band considers it to be in the best interests of the Penticton Indian Band to make a law for such purposes; and

C. The Council of Penticton Indian Band wishes to repeal and replace the *Penticton Indian Band Financial Administration Law, 2016;*

NOW THEREFORE the Council of Penticton Indian Band enacts as follows:

PART I - Citation

Citation

1. This Law may be cited as the *Penticton Indian Band Financial Administration Law, 2025*.

PART II - Interpretation and Application

Definitions

2. (1) Unless the context indicates the contrary, in this Law,

"Act" means the *First Nations Fiscal Management Act*;

“annual financial statements” means the annual financial statements of the Penticton Indian Band referred to in Division 7 of Part IV;

“appropriation” means an allocation of money under a budget to the purposes for which it may be used;

“auditor” means the auditor of the Penticton Indian Band appointed under section 78;

“band administrator” means the person appointed band administrator under section 18;

“borrowing member” means a first nation that is a borrowing member under the Act;

“budget” means the annual budget of the Penticton Indian Band that has been approved by the Council;

“chief financial officer” means the person appointed chief financial officer under section 19;

“code” means a code adopted by the Penticton Indian Band under the *First Nations Oil and Gas and Moneys Management Act* or a land code adopted by the Penticton Indian Band under the *Framework Agreement on First Nations Land Management Act*;

“Council” means the Council of the Penticton Indian Band and includes the Chief of the Penticton Indian Band;

“Council chair” means the person appointed or elected to act as the chair of the Council;

“councillor” means a member of the Council of the Penticton Indian Band and includes the Chief of the Penticton Indian Band;

“Finance and Audit Committee” means the Finance and Audit Committee established under section 12;

“financial administration” means the management, supervision, control and direction of all matters relating to the financial affairs of the Penticton Indian Band;

“financial competency” means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by the Penticton Indian Band’s financial statements;

“financial institution” means the First Nations Finance Authority, a bank, credit union or caisse populaire;

“financial records” means all records respecting the financial administration of the Penticton Indian Band, including the minutes of meetings of the Council and the Finance and Audit Committee;

“First Nations Finance Authority” means the First Nations Finance Authority established under the Act;

“First Nations Tax Commission standards” means the standards established from time to time by the Commission under the Act;

“fiscal year” means the fiscal year of the Penticton Indian Band set out in section 24;

“FMB” means the First Nations Financial Management Board established under the Act;

“FMB standards” means the standards established from time to time by the FMB under the Act;

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

“local revenue account” means an account with a financial institution into which local revenues are deposited separately from other moneys of the Penticton Indian Band;

“local revenue law” means a local revenue law made by the Penticton Indian Band under the Act;

“local revenues” means money raised under a local revenue law;

“multi-year financial plan” means the plan referred to in section 26;

“officer” means the band administrator, chief financial officer, tax administrator and any other employee of the Penticton Indian Band designated by the Council as an officer;

“other revenues**”** means other revenues as defined in section 2 of the Act*;*

“Penticton Indian Band” means Penticton Indian Band, as scheduled to the Act;

“Penticton Indian Band’s financial assets” means all money and other financial assets of the Penticton Indian Band;

“Penticton Indian Band’s lands” means all reserves of the Penticton Indian Band within the meaning of the *Indian Act*;

“Penticton Indian Band law” means any law, including any by-law or code, of the Penticton Indian Band made by the Council or the membership of the Penticton Indian Band;

“Penticton Indian Band’s records” means all records of the Penticton Indian Band respecting its governance, management, operations and financial administration;

“record” means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

“special purpose report” means a report described in section 77;

“standards” means the standards established from time to time under the Act;

“strategic plan” means the plan referred to in section 25; and

“tax administrator” means the person appointed tax administrator under section 20 or the Penticton Indian Band’s local revenue laws.

(2) Except as otherwise provided in this Law, words and expressions used in this Law have the same meanings as in the Act.

(3) Unless a word or expression is defined under subsection (1) or (2) or another provision of this Law, the definitions in the *Interpretation Act* apply.

(4) All references to named enactments in this Law are to enactments of the Government of Canada.

Interpretation

3.(1) In this Law, the following rules of interpretation apply:

(a) words in the singular include the plural, and words in the plural include the singular;

(b) words importing female persons include male persons and corporations and words importing male persons include female persons and corporations;

(c) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;

(d) the expression “must” is to be construed as imperative, and the expression “may” is to be construed as permissive;

(e) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”; and

(f) a reference to an enactment includes any amendment or replacement of it and every regulation made under it.

(2) This Law must be considered as always speaking and where a matter or thing is expressed in the present tense, it must be applied to the circumstances as they arise, so that effect may be given to this Law according to its true spirit, intent and meaning.

(3) Words in this Law referring to an officer, by name of office or otherwise, also apply to any person designated by the Council to act in the officer's place or to any person assigned or delegated to act in the officer's place under this Law.

Posting of Public Notice

4.(1) If a public notice must be posted under this Law, the public notice is properly posted if a written notice is placed in a conspicuous and accessible place for public viewing in the principal administrative offices of the Penticton Indian Band.

(2) Unless expressly provided otherwise, if a public notice of a meeting must be posted under this Law the notice must be posted at least fifteen (15) days before the date of the meeting.

Calculation of Time

5. In this Law, time must be calculated in accordance with the following rules:

(a) where the time limited for taking an action ends or falls on a holiday, the action may be taken on the next day that is not a holiday;

(b) where there is a reference to a number of days, not expressed as "clear days", between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included;

(c) where a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;

(d) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and

(e) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Conflict of Laws

6.(1) If there is a conflict between this Law and another Penticton Indian Band law, other than a code or a local revenue law, this Law prevails.

(2) If there is a conflict between this Law and the Act, the Act prevails.

(3) If there is a conflict between this Law and a local revenue law, the local revenue law prevails.

Scope and Application

7. This Law applies to the financial administration of the Penticton Indian Band.

PART III - Administration

DIVISION 1 - Council

Responsibilities of Council

8.(1) The Council is responsible for all matters relating to the financial administration of the Penticton Indian Band whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under this Law.

(2) Subject to paragraph 5(1)(f) of the Act, this Law and any other applicable Penticton Indian Band law, the Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this Law except the following:

(a) the approval of Council policies;

(b) the appointment of members, the chair and the vice-chair of the Finance and Audit Committee;

(c) the approval of budgets and financial statements of the Penticton Indian Band; and

(d) the approval of borrowing of the Penticton Indian Band.

Council Policies and Procedures

9.(1) Subject to subsection (2), the Council may establish policies and procedures respecting any matter relating to the financial administration of the Penticton Indian Band.

(2) The Council must establish policies and procedures respecting the acquisition, management and safeguarding of Penticton Indian Band assets.

(3) The Council must not establish any policies or procedures relating to the financial administration of the Penticton Indian Band that are inconsistent with this Law, the Act, or GAAP – except as permitted in subsection 77(2) of this Law.

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

(5) The Council must ensure that all procedures made under this Law are

(a) consistent with, and made under the authority of, a policy approved by the Council, and

(b) approved by the Council or the band administrator.

(6) The Council must document all Penticton Indian Band policies and procedures referred to in this Law and make them available to any person who is required to act in accordance with them or who may be directly affected by them.

Reporting of Remuneration and Expenses

10.(1) In this section,

"entity" means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the annual financial statements of the Penticton Indian Band in accordance with GAAP;

"expenses" includes the costs of transportation, accommodation, meals, hospitality and incidental expenses; and

"remuneration" means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits.

(2) Annually the chief financial officer must prepare a report separately listing the remuneration paid and expenses reimbursed by the Penticton Indian Band, and by any entity, to each councillor whether such amounts are paid to the councillor while acting in that capacity or in any other capacity.

DIVISION 2 - Finance and Audit Committee

Interpretation

11. In this Division, "Committee" means the Finance and Audit Committee.

Committee Established

12.(1) The Committee of the Penticton Indian Band is established to provide Council with advice and recommendations in order to support Council's decision-making process respecting the financial administration of the Penticton Indian Band.

(2) The Council must appoint not less than three (3) members of the Committee, a majority of whom must have financial competency and all of whom must be independent.

(3) For purposes of this section, an individual is considered to be independent if the individual does not have a direct or indirect financial relationship with the Penticton Indian Band government that could, in the opinion of Council, reasonably interfere with the exercise of independent judgment as a member of the Committee.

(4) The Council must establish policies and procedures

(a) setting criteria to determine if an individual is eligible to be a member of the Committee and is independent,

(b) requiring confirmation, before appointment, that each potential member of the Committee is eligible to be a member and is independent, and

(c) requiring each member of the Committee annually to sign a statement confirming that the member continues to meet the criteria referred to in paragraph (a).

(5) If the Committee consists of

(a) three (3) members, at least one (1) of the Committee members must be a councillor, and

(b) four (4) or more members, at least two (2) of the Committee members must be councillors.

(6) Subject to subsection (7), the Committee members must be appointed to hold office for staggered terms of not less than thirty-six (36) consecutive months.

(7) A Committee member may be removed from office by the Council if

(a) the member misses three (3) consecutively scheduled meetings of the Committee, or

(b) the chair of the Committee recommends removal.

(8) If a Committee member is removed from office, resigns or dies before the member's term of office expires, the Council must as soon as practicable appoint a new Committee member to hold office for the remainder of the first member's term of office.

Chair and Vice-chair

13. (1) The Council must appoint a chair and a vice- chair of the Committee, one of whom must be a councillor.

(2) If Council appoints a non-councillor as chair of the Committee,

(a) Council must send to the chair notices and agendas of all Council meetings,

(b) on request of the chair, Council must provide the chair with any materials or information provided to Council respecting matters before it, and

(c) the chair may attend and speak at Council meetings.

Committee Procedures

14.(1) The quorum of the Committee is fifty percent (50%) of the total number of Committee members, including at least one (1) councillor.

(2) Except where a Committee member is not permitted to participate in a decision because of a conflict of interest, every Committee member has one (1) vote in all Committee decisions.

(3) In the event of a tie vote in the Committee, the chair of the Committee may cast a second tiebreaking vote.

(4) Subject to subsection (5), the band administrator and the chief financial officer must be notified of all Committee meetings and, subject to reasonable exceptions, must attend those meetings.

(5) The band administrator or the chief financial officer may be excluded from all or any part of a Committee meeting by a recorded vote if

(a) the subject matter relates to a confidential personnel or performance issue respecting the band administrator or the chief financial officer, or

(b) it is a meeting with the auditor.

(6) The Committee must meet

(a) at least once every quarter in each fiscal year as necessary to conduct the business of the Committee, and

(b) as soon as practicable after it receives the audited annual financial statements and report from the auditor.

(7) The Committee must provide minutes of its meetings to the Council and report to the Council on the substance of each Committee meeting as soon as practicable after each meeting.

(8) Subject to this Law and any directions given by the Council, the Committee may make rules for the conduct of its meetings.

(9) After consultation with the band administrator, the Committee may retain a consultant to assist in the performance of any of its responsibilities.

Financial Planning Responsibilities

15.(1) The Committee must carry out the following activities in respect of the financial administration of the Penticton Indian Band:

(a) annually review and recommend to the Council for approval the following:

(i) a strategic plan;

(ii) an operational plan with projections and priorities;

(iii) a business plan with projections and priorities; and

(iv) a multi-year financial plan;

(b) review draft annual budgets and recommend them to the Council for approval;

(c) on an ongoing basis, monitor the financial performance of the Penticton Indian Band against the budget and report any significant variations to the Council;

(d) review the quarterly financial statements and recommend them to the Council for approval;

(e) review and make recommendations to the Council on the audited annual financial statements, including the audited annual financial statements respecting the local revenue account and any special purpose reports;

(f) carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the Committee's duties specified in this Law; and

(g) perform any other duties of the Committee under this Law.

(2) The Committee may make a report or recommendations to the Council on any matter respecting the financial administration of the Penticton Indian Band that is not otherwise specified to be its responsibility under this Law.

Audit and Oversight Responsibilities

16. The Committee must carry out the following audit and oversight activities in respect of the financial administration of the Penticton Indian Band:

(a) make recommendations to the Council on the selection, engagement and performance of an auditor;

(b) receive assurances on the independence of a proposed or appointed auditor;

(c) review and make recommendations to the Council on the planning, conduct and results of audit activities;

(d) periodically review and make recommendations to the Council on policies and procedures on reimbursable expenses and perquisites of the councillors, officers and employees of the Penticton Indian Band;

(e) monitor financial reporting risks and risk of fraud and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;

(f) conduct a review of this Law under section 106 and, where appropriate, recommend amendments to the Council; and

(g) periodically review and make recommendations to the Council on the terms of reference of the Committee.

Council Assigned Responsibilities

17. Subject to paragraph 15(1)(f), the Council may assign to the Committee or another committee of the Council the following activities in respect of the financial administration of the Penticton Indian Band:

(a) to develop, and recommend to the Council for approval, performance measurements and goals designed to confirm that management activities, including financial management, occur as planned;

(b) to prepare, and recommend to the Council for approval, cash management plans;

(c) to review and report to the Council on the financial content of any Penticton Indian Band reports;

(d) to review, monitor and report to the Council on the appropriateness of the Penticton Indian Band's accounting and financial reporting systems, policies and practices;

(e) to review, and recommend to the Council for approval, any proposed significant changes in the Penticton Indian Band's accounting or financial reporting systems, policies or procedures;

(f) to monitor the collection and receipt of the Penticton Indian Band's financial assets, including debts owed to the Penticton Indian Band;

(g) to review and report to the Council on the Penticton Indian Band's risk management policies and control and information systems and, where appropriate, recommend improvements to the Council;

(h) to review the adequacy of security of information, information systems and recovery plans and, where appropriate, recommend improvements to the Council;

(i) to monitor compliance with the legal obligations of the Penticton Indian Band, including legislative, regulatory and contractual obligations, and report to the Council;

(j) to review and report to the Council on the adequacy of financial administration personnel and resources;

(k) to review, monitor and report to the Council on the adequacy and appropriateness of the Penticton Indian Band's insurance coverage respecting significant Penticton Indian Band risks; and

(l) to review, monitor and report to the Council on material litigation and its impact on financial administration and reporting.

DIVISION 3 - Officers and Employees

Band Administrator

18.(1) The Council must appoint a person as band administrator of the Penticton Indian Band and may set the terms and conditions of that appointment.

(2) Reporting to the Council, the band administrator is responsible for leading the planning, organization, implementation and evaluation of the overall management of all the day-to-day operations of the Penticton Indian Band, including the following duties:

(a) to develop and recommend to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of the Penticton Indian Band;

(b) to prepare and recommend to the Council for approval, descriptions of the powers, duties and functions of all employees of the Penticton Indian Band;

(c) to hire the employees of the Penticton Indian Band, as the band administrator considers necessary, and to set the terms and conditions of their employment;

(d) to oversee, supervise and direct the activities of all officers and employees of the Penticton Indian Band;

(e) to oversee and administer the contracts of the Penticton Indian Band;

(f) to prepare, recommend to the Council and maintain and revise as necessary the organization chart referred to in section 21;

(g) to identify, assess, monitor and report on financial reporting risks and risk of fraud;

(h) to monitor and report on the effectiveness of mitigating controls for the risks referred to in paragraph (g) taking into consideration the cost of implementing those controls;

(i) to perform any other duties of the band administrator under this Law; and

(j) to carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the band administrator's duties specified in this Law.

(3) The band administrator may assign the performance of any of the band administrator's duties or functions (except the approval of procedures made under this Law)

(a) to an officer or employee of the Penticton Indian Band, and

(b) with the approval of the Council, to a contractor or agent of the Penticton Indian Band.

(4) Any assignment of duties or functions under subsection (3) does not relieve the band administrator of the responsibility to ensure that these duties or functions are carried out properly.

Chief Financial Officer

19.(1) The Council must appoint a person as chief financial officer of the Penticton Indian Band and may set the terms and conditions of that appointment.

(2) Reporting to the band administrator, the chief financial officer is responsible for the day-to-day management of the systems of the financial administration of the Penticton Indian Band, including the following duties:

(a) to ensure the financial administration systems, policies, procedures and internal controls are appropriately designed and operating effectively;

(b) to administer and maintain all charts of accounts of the Penticton Indian Band;

(c) to prepare the draft annual budgets and, with advice and input from the tax administrator, to prepare any draft amendments to the component of the budget respecting the Penticton Indian Band's local revenues;

(d) to prepare the monthly financial information required in section 73, the quarterly financial statements required in section 74 and the draft annual financial statements required in sections 75 and 76;

(e) to prepare the financial components of reports to the Council and of any plans, projections and priorities referred to in subsection 15(1);

(f) to actively monitor compliance with any agreements and funding arrangements entered into by the Penticton Indian Band;

(g) to administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;

(h) to administer and supervise the maintenance of the records of all receipts and expenditures of the Penticton Indian Band to facilitate the annual audit;

(i) to actively monitor compliance with the Act, this Law, any other applicable Penticton Indian Band law, applicable standards and any policies and procedures respecting the financial administration of the Penticton Indian Band;

(j) to prepare or provide any documentation and financial information required by the Council or the Finance and Audit Committee to discharge its responsibilities;

(k) to evaluate the financial administration systems of the Penticton Indian Band and recommend improvements;

(l) to develop and recommend procedures for the safeguarding of assets and to ensure approved procedures are followed;

(m) to develop and recommend procedures to Council for identifying and mitigating financial reporting and risk of fraud and to ensure approved procedures are followed;

(n) to perform any other duties of the chief financial officer under this Law; and

(o) to carry out any other activities specified by the band administrator that are not contrary to the Act or inconsistent with the chief financial officer's duties under this Law.

(3) With the approval of the band administrator, the chief financial officer may assign the performance of any of the duties or functions of the chief financial officer to any officer, employee, contractor or agent of the Penticton Indian Band, but this assignment does not relieve the chief financial officer of the responsibility to ensure that these duties or functions are carried out properly.

Tax Administrator

20.(1) If the Penticton Indian Band is collecting local revenues, the Council must appoint a person as tax administrator of the Penticton Indian Band and may set the terms and conditions of that appointment.

(2) Reporting to the chief financial officer, the tax administrator is responsible for performing the tax administrator's duties or functions under the Penticton Indian Band's local revenue laws, the Act and this Law.

(3) In addition to any duties or functions under the Penticton Indian Band's local revenue laws and the Act, the tax administrator is responsible for the following:

(a) to manage local revenues and the local revenue account on a day-to-day basis;

(b) to recommend to the chief financial officer the draft and amended budgets for the component of the budget respecting local revenues;

(c) to recommend to the chief financial officer the local revenues components of the multi-year financial plan;

(d) on request, to provide advice to the band administrator, chief financial officer, Finance and Audit Committee and the Council respecting local revenues matters;

(e) to monitor compliance with the Act, the Penticton Indian Band's local revenue laws and this Law in the administration of local revenues and the local revenue account; and

(f) to perform any other duties of the tax administrator under this Law.

(4) With the approval of the band administrator, the tax administrator may assign the performance of any of the duties or functions of the tax administrator to any officer, employee, contractor or agent of the Penticton Indian Band, but this assignment does not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly.

Organizational Structure

21.(1) The Council must establish and maintain a current organization chart for the governance, management and administrative systems of the Penticton Indian Band.

(2) The organization chart under subsection (1) must include the following information:

(a) all governance, management and administrative systems of the Penticton Indian Band;

(b) the organization of the systems described in paragraph (a), including the linkages between them;

(c) the specific roles and responsibilities of each level of the organization of the systems described in paragraph (a); and

(d) all governance, management and administrative positions at each level of the organization of the systems described in paragraph (a), including

(i) the membership on the Council, Finance and Audit Committee and all other committees of the Council and the Penticton Indian Band,

(ii) the band administrator, the chief financial officer, the tax administrator and other officers of the Penticton Indian Band, and

(iii) the principal lines of authority and the responsibility between the Council, the committees referred to in subparagraph (i) and the officers referred to in subparagraph (ii).

(3) On request, the band administrator must provide a copy of the organization chart under subsection (1) to a councillor, a member of a committee referred to in subparagraph (2)(d)(i), an officer, employee or contractor or agent of the Penticton Indian Band and a member of the Penticton Indian Band.

(4) In the course of discharging his or her responsibilities under this Law, the band administrator must recommend to the Council for approval and implementation human resource policies and procedures that facilitate effective internal financial administration controls.

(5) The Council must take all reasonable steps to ensure that the Penticton Indian Band hires or retains qualified and competent personnel to carry out the financial administration activities of the Penticton Indian Band.

DIVISION 4 - Conduct Expectations

Conduct of Councillors

22.(1) When exercising a power, duty or responsibility relating to the financial administration of the Penticton Indian Band, a councillor must

(a) comply with this Law, the Act, any other applicable Penticton Indian Band law, policies, procedures and any applicable standards,

(b) act honestly, in good faith and in the best interests of the Penticton Indian Band,

(c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances, and

(d) avoid conflicts of interest and comply with applicable requirements of the Schedule: Avoiding and Mitigating Conflicts of Interest.

(2) If it has been determined under this Law or by a court of competent jurisdiction that a councillor has contravened this section, the Council may take any or all of the following actions:

(a) remove the councillor from their assigned administrative responsibilities or portfolio;

(b) withhold the councillor's compensation or honoraria for a period of time;

(c) record the Council's displeasure in the Council minutes;

(d) take any other appropriate action authorized under any other Penticton Indian Band law, code or policy; and

(e) use any legal means available to it to remedy the situation.

Conduct of Officers, Employees, Contractors, etc.

23.(1) This section applies to

(a) an officer, employee, contractor and agent of the Penticton Indian Band,

(b) a person acting under the delegated authority of the Council or the Penticton Indian Band, and

(c) a member of a committee of the Council or the Penticton Indian Band who is not a councillor.

(2) If a person is exercising a power, duty or responsibility relating to the financial administration of the Penticton Indian Band, that person must

(a) comply with this Law, the Act, any other applicable Penticton Indian Band law and any applicable standards,

(b) comply with all policies and procedures of the Penticton Indian Band, and

(c) avoid conflicts of interest and comply with applicable requirements of the Schedule: Avoiding and Mitigating Conflicts of Interest.

(3) The Council must incorporate the relevant provision of this section into the following:

(a) the terms of employment or appointment of every officer or employee of the Penticton Indian Band;

(b) the terms of every contract of a contractor of the Penticton Indian Band;

(c) the terms of appointment of every member of a committee who is not a councillor; and

(d) the terms of appointment of every agent of the Penticton Indian Band.

(4) If a person contravenes subsection (2), the following actions may be taken:

(a) an officer or employee may be disciplined, including dismissal;

(b) a contractor's contract may be terminated;

(c) the appointment of a member of a committee may be revoked;

(d) the appointment of an agent may be revoked; and

(e) the council may use any legal means available to it to remedy the situation.

PART IV - Financial Management

DIVISION 1 - Financial Plans and Annual Budgets

Fiscal Year

24. The fiscal year of the Penticton Indian Band is April 1 to March 31 of the following year.

Strategic Plan

25.(1) The Council must

(a) approve a strategic plan that sets out the long-term vision for the Penticton Indian Band and its members; and

(b) review the strategic plan on a regular, periodic basis and revise it as necessary.

(2) The Council must take the strategic plan into account when making financial decisions which will impact members of the Penticton Indian Band or the Penticton Indian Band's financial assets.

Multi-year Financial Plan Process

26.(1) The multi-year financial plan referred to in this section is to be used by the Penticton Indian Band for the purpose of informing its financial decision-making in a manner that is consistent with and supports the vision of the strategic plan.

(2) The multi-year financial plan must comply with the following:

(a) have a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years;

(b) be based on the projections of revenues, expenditures and transfers between accounts;

(c) set out projected revenues, segregated by significant category;

(d) set out projected expenditures, segregated by significant category;

(e) in respect of transfers between accounts, set out the amounts from the tangible capital assets reserve account;

(f) show all categories of restricted cash; and

(g) indicate whether in any of the five (5) years of the plan a deficit or surplus is expected from the projection of revenues and expenditures for that year.

(3) On or before January 31 of each year, the chief financial officer must prepare and submit to the Finance and Audit Committee for review a draft multi-year financial plan for the next fiscal year.

(4) On or before February 15 of each year, the Finance and Audit Committee must review the draft multi-year financial plan prepared by the chief financial officer and recommend a multi-year financial plan to the Council for approval.

(5) No later than March 31 of each year, the Council must approve a multi-year financial plan for the next fiscal year.

Content of Annual Budget

27. The annual budget must encompass all the operations for which the Penticton Indian Band is responsible and must identify

(a) anticipated revenues, segregated by significant category, with estimates of the amount of revenue from each category;

(b) anticipated expenditures, segregated by significant category, with estimates of the amount of expenditure for each category; and

(c) any anticipated annual and accumulated surplus or annual and accumulated deficit and the application of year-end surplus.

Annual Budget Process

28.(1) On or before January 31 of each year, the chief financial officer must prepare and submit to the Finance and Audit Committee for review a draft annual budget for the next fiscal year.

(2) On or before February 15 of each year, the Finance and Audit Committee must review the draft annual budget prepared by the chief financial officer and recommend an annual budget to the Council for approval.

(3) On or before March 31 of each year, the Council must review and approve the annual budget for the next fiscal year.

(4) On or before June 15 of each year, the chief financial officer must prepare and submit to the Finance and Audit Committee for review a draft amendment of the component of the budget respecting the Penticton Indian Band's local revenues.

(5) On or before June 30 of each year, the Finance and Audit Committee must review the draft amendment of the component of the budget respecting the Penticton Indian Band's local revenues and recommend an amendment to the budget to the Council for approval.

(6) No later than July 15 of each year, the Council must approve the amendment of the component of the budget respecting the Penticton Indian Band's local revenues.

Additional Requirements for Budget Deficits

29. If a draft annual budget contains a proposed deficit, the Council must ensure that

(a) no portion of the proposed deficit originates in or relates to local revenues,

(b) the multi-year financial plan demonstrates how and when the deficit will be addressed and how it will be serviced, and

(c) the deficit does not have a negative impact on the credit worthiness of the Penticton Indian Band.

Amendments to Budgets

30.(1) The Council must approve any change to the budget.

(2) Subject to subsection 28(6) and section 38, unless there is a substantial and unforeseen change in the forecasted revenues or expenses of the Penticton Indian Band or in the expenditure priorities of the Council, the Council must not approve a change to the budget.

Local Revenues Budget Requirements

31. Despite any other provisions of this Law, any part of a budget relating to local revenues must be prepared, approved and amended in accordance with applicable provisions of the Act and of the First Nations Tax Commission standards.

Policy for Penticton Indian Band Information or Involvement

32.(1) The Council must establish policies and procedures respecting the means by which members of the Penticton Indian Band must be informed about or involved in consideration of

(a) the strategic plan;

(b) the multi-year financial plan;

(c) the proposed annual budget, including

(i) any budget deficits, and

(ii) any component of the annual budget respecting the Penticton Indian Band's local revenues;

(d) any changes to the budget; and

(e) extraordinary expenditures.

(2) The Council must post a public notice of each Council meeting when a matter described in subsection (1) is being presented for approval.

(3) Members of the Penticton Indian Band may attend that part of the Council meeting when a matter described in subsection (1) is being considered.

DIVISION 2 - Financial Institution Accounts

Financial Institution Accounts

33.(1) No account may be opened for the receipt and deposit of money of the Penticton Indian Band unless the account is

(a) in the name of the Penticton Indian Band,

(b) opened in a financial institution, and

(c) authorized by the band administrator or the chief financial officer.

(2) The Penticton Indian Band must establish the following accounts in a financial institution:

(a) a general account for money from any sources other than those described in paragraphs (b) to (d);

(b) a local revenue account for money from local revenues;

(c) a trust account if the Penticton Indian Band has money held in trust; and

(d) a tangible capital assets reserve account for money set aside for purposes of section 91.

(3) The Penticton Indian Band may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage the Penticton Indian Band's financial assets.

Accounts Management

34.(1) The chief financial officer must ensure the safekeeping of all money received by the Penticton Indian Band.

(2) The chief financial officer

(a) must deposit all money received by the Penticton Indian Band as soon as practicable into the appropriate accounts described in section 33, and

(b) must not authorize payment of money from an account described in section 33 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this Law.

DIVISION 3 - Expenditures

Prohibited Expenditures

35.(1) Money or financial assets in a trust account must not be used for a purpose other than that permitted under the terms of the trust.

(2) Money in a local revenue account must not be used for any purpose other than that authorized in a local revenue law or as permitted under section 13.1 of the Act.

(3) Money in a tangible capital assets reserve account must not be used for any purpose other than that described in Part V.

Prohibited Agreements

36. The Penticton Indian Band must not enter into an agreement or undertaking that requires the Penticton Indian Band to expend money that is not authorized by or that contravenes this Law, a local revenue law or the Act.

No Expenditure Without Appropriation

37.(1) Subject to subsection 38(1), money must not be paid out of any account unless the expenditure is authorized under an appropriation.

(2) Subsection (1) does not apply to expenditures from a trust account where the expenditure is authorized under the terms of the trust.

Emergency Expenditures

38.(1) The band administrator may approve an expenditure for an emergency purpose that was not anticipated in the budget if the expenditure is not expressly prohibited by or under this Law or another Penticton Indian Band law.

(2) The Council must establish policies and procedures to authorize expenditures under subsection (1).

(3) The expenditure under subsection (1) must be reported to the Council as soon as practicable and the Council must amend the budget to include the expenditure.

(4) Subsection (1) does not give the band administrator the authority to borrow for the purpose of making an expenditure for an emergency purpose.

(5) For clarity, this section does not authorize an expenditure of local revenues.

Appropriations

39.(1) An amount that is appropriated in a budget must not be expended for any purpose other than that described in the appropriation.

(2) The total amount expended by the Penticton Indian Band in relation to an appropriation must not exceed the amount specified in the budget for that appropriation.

(3) Every person who is responsible for managing an appropriation must establish and maintain a current record of commitments chargeable to that appropriation.

Payments after Fiscal Year-end

40.(1) Money appropriated in a budget for a fiscal year must not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.

(2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess must be

(a) charged against a suitable appropriation for the following fiscal year, and

(b) reported in the annual financial statements for the fiscal year in which the liability was incurred.

Requisitions for Payment

41.(1) No money may be paid out of any account without a requisition for payment as required under this section.

(2) No requisition may be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.

(3) No requisition may be made or given for payment of money that results in expenditures from a trust account in excess of the unexpended balance of the trust account.

(4) No requisition may be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it is not sufficient to meet the commitments chargeable against it.

(5) A requisition may apply to one or more expenditures chargeable against one or more appropriations.

(6) A requisition must identify the appropriation or trust account out of which payment is to be made and must include a statement certifying that the expenditure is not prohibited under this section and that it is

(a) in accordance with the appropriation identified in the certified statement, or

(b) allowed without the authority of an appropriation under this Law.

(7) If a requisition is for the payment of performance of work or services or the supply of goods, the requisition must include a statement certifying that

(a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable, or

(b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.

(8) The band administrator or the chief financial officer must authorize payment out of, or sign a requisition for payment from, a trust account.

(9) The tax administrator must authorize payment out of a local revenue account.

(10) Subject to subsection (9), the band administrator or chief financial officer may authorize a payment out of, or sign a requisition for payment from, any appropriation.

(11) Subject to subsections (8) and (9), a person who is responsible for managing an appropriation may authorize payment out of, or sign a requisition for payment from, the appropriation.

Form of Payment

42. Payments by the Penticton Indian Band may be made by cheque, draft, electronic transfer or other similar instrument signed by a councillor designated by the Council and by either the band administrator or the chief financial officer.

DIVISION 4 - General Matters

Advances

43.(1) The band administrator or the chief financial officer may approve an advance to prepay expenses that are chargeable against an appropriation in the current fiscal year or an appropriation in the next fiscal year.

(2) The tax administrator may approve an advance to prepay expenses that are chargeable against an appropriation from local revenues in the current fiscal year or an appropriation from that account in the next fiscal year.

Holdbacks

44. If the Penticton Indian Band withholds an amount payable under an agreement, the payment of the amount withheld must be charged to the appropriation from which the agreement must be paid even if the fiscal year for which it was appropriated has ended.

Deposit Money

45.(1) Money received by the Penticton Indian Band as a deposit to ensure the doing of any act or thing must be held and disposed of in accordance with

(a) the agreement under which the deposit has been paid, and

(b) in the absence of any provisions respecting that matter, any policy or procedures of the Penticton Indian Band.

(2) The Council must make policies and procedures in respect of the disposition of deposit money referred to in subsection (1).

Interest

46.(1) All interest earned on the accounts described in section 33, other than a trust account, local revenue account, or tangible capital assets reserve account must be deposited in the general account referred to in paragraph 33(2)(a).

(2) All interest earned on

(a) a trust account must be retained in that account,

(b) the local revenue account must be retained in that account, and

(c) the tangible capital assets reserve account must be retained in that account.

(3) Subject to the *Interest Act*, the Penticton Indian Band may charge interest at a rate set from time to time by the Council on any debts or payments owed to the Penticton Indian Band that are overdue.

Refunds

47.(1) Money received by the Penticton Indian Band that is paid or collected in error or for a purpose that is not fulfilled may be refunded in full or in part as circumstances require.

(2) The Council must establish policies and procedures respecting the refund of money under subsection (1).

Write Off of Debts

48. All or part of a debt or obligation owed to the Penticton Indian Band may be written off

(a) if approved by the Council, or

(b) if done under the authority of a policy or direction of the Council.

Extinguishment of Debts

49. All or part of a debt or obligation owed to the Penticton Indian Band may be forgiven only

(a) if approved by the Council, or

(b) if done under the authority of a policy or direction of the Council.

Year-end Surplus

50.(1) Subject to subsections (2) and (3), an operating surplus at the end of the fiscal year must be paid into the general account described in paragraph 33(2)(a).

(2) An operating surplus in the local revenue account at the end of the fiscal year must be retained in that account.

(3) An operating surplus in the tangible capital assets reserve account at the end of the fiscal year must be retained in that account.

DIVISION 5 - Borrowing

Borrowing

51.(1) The Penticton Indian Band may borrow money or grant security under the conditions authorized in this Law or in a local revenue law.

(2) If the Penticton Indian Band is authorized to borrow money or grant security, the Council may authorize the chief financial officer to borrow money or grant security in the name of the Penticton Indian Band

(a) as specifically approved by the Council, or

(b) in accordance with the policies and procedures of the Penticton Indian Band.

Borrowing for Ordinary Operations

52.(1) The Penticton Indian Band may incur trade accounts or other current liabilities payable within normal terms of trade for expenditures provided for in the budget for the fiscal year if the debt will be repaid from money appropriated under an appropriation for the fiscal year or is in respect of an expenditure that may be made without the authority of an appropriation under this Law.

(2) The Penticton Indian Band may enter into agreements with financial institutions for overdrafts or lines of credit and, for the purpose of securing any overdrafts or lines of credit, may grant security to the financial institution in a form, amount, and on terms and conditions that the Council approves.

(3) The Penticton Indian Band may enter into a general security agreement or a lease for the use or acquisition of lands, materials or equipment required for the operation, management or administration of the Penticton Indian Band.

Financial Agreements

53.(1) The Penticton Indian Band may enter into the following agreements in the name of the Penticton Indian Band:

(a) for the purpose of efficient management of the Penticton Indian Band's financial assets, agreements with financial institutions and related services agreements, and

(b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of the Penticton Indian Band's financial assets, agreements with financial institutions respecting currency exchange, spot and future currency, interest rate exchange and future interest rates.

(2) Unless otherwise specified by the Council, the chief financial officer may enter into any agreements referred to in subsection (1) on behalf of the Penticton Indian Band.

Borrowing for Authorized Expenditures

54.(1) If the general account described in paragraph 33(2)(a) is not sufficient to meet the expenditures authorized to be made from it and the chief financial officer recommends that money be borrowed to ensure that the general account is sufficient for these purposes, the Penticton Indian Band may borrow an amount not exceeding a maximum amount specified by the Council and to be repaid within a specified period of time.

(2) Despite the repayment terms specified in subsection (1), if the money borrowed under subsection (1) is no longer required for the purpose for which it was borrowed, the money must be repaid as soon as practicable.

Borrowing Member Requirements

55.(1) This section applies if the Penticton Indian Band is a borrowing member.

(2) If the Penticton Indian Band has obtained long-term financing secured by property taxes from the First Nations Finance Authority, the Penticton Indian Band must not subsequently obtain long-term financing secured by property tax revenues from any other person.

(3) The Penticton Indian Band may only obtain long-term financing from the First Nations Finance Authority as permitted under its local revenue law and the Act.

(4) Money borrowed under subsection (2) may only be used for the purposes permitted under the Act.

(5) Money borrowed by the Penticton Indian Band from the First Nations Finance Authority that is secured by other revenues may only be used for the purposes set out in the Act.

Borrowing for New Tangible Capital Asset Projects

56.(1) The Council must establish policies and procedures respecting the means by which members of the Penticton Indian Band must be informed about or involved in consideration of borrowing for new tangible capital asset projects described in Part V.

(2) The Council must post a public notice of each Council meeting when borrowing for new tangible capital asset projects described in Part V is presented for approval.

(3) Members of the Penticton Indian Band may attend that part of the Council meeting when the matters referred to in subsection (2) are being considered.

Borrowing for Repayment of Debts

57. Subject to this Law and a local revenue law, the Penticton Indian Band may borrow money that is required for the repayment or refinancing of any debt of the Penticton Indian Band, other than a debt in relation to money borrowed under subsection 54(1).

Use of Borrowed Money

58.(1) Subject to this section and any local revenue law, money borrowed by the Penticton Indian Band for a specific purpose must not be used for any other purpose.

(2) All or some of the money borrowed for a specific purpose by the Penticton Indian Band and not required to be used immediately for that purpose may be temporarily invested under subsection 64(1) until required for that purpose.

(3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money must be applied to repay the debt from the borrowing.

Execution of Security Documents

59.(1) Subject to subsection (2), a security granted by the Penticton Indian Band must be signed by a councillor designated by the Council and by either the band administrator or the chief financial officer.

(2) A security granted by the Penticton Indian Band in respect of local revenues must be signed by a councillor designated by the Council and by the tax administrator.

DIVISION 6 - Risk Management

Management of Business Activity

60.(1) Under the conditions set out in subsections (2) and (3), the Penticton Indian Band may

(a) carry on business as a proprietor,

(b) acquire an interest in a partnership as a general partner, or

(c) act as a trustee respecting property used for, or held in the course of, carrying on a business.

(2) The Penticton Indian Band may carry on a business that

(a) is ancillary or incidental to the provision of programs or services or other functions of Penticton Indian Band governance, or

(b) derives income from the granting of a lease or licence of or is in respect of

(i) an interest in, or natural resources on or under, the Penticton Indian Band's lands or lands owned in fee simple by, or in trust for, the Penticton Indian Band, or

(ii) any other property of the Penticton Indian Band.

(3) The Penticton Indian Band may carry on business activities for the primary purpose of profit if the Council determines that the business activities

(a) do not result in a material liability for the Penticton Indian Band, or

(b) do not otherwise expose the Penticton Indian Band's financial assets, property or resources to significant risk.

(4) The Council must develop policies and procedures, setting out the terms and conditions regulating the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

(5) The Council must review the policies and procedures set out in paragraph 60(4) annually.

Guarantees and Indemnities

61.(1) The Penticton Indian Band must not give a guarantee unless the Council has considered the report of the chief financial officer under subsection (2).

(2) Before the Council authorizes a guarantee under subsection (1), the chief financial officer must prepare a report for Council identifying any risks associated with giving the guarantee and assessing the ability of the Penticton Indian Band to honour the guarantee should it be required to do so.

(3) The Penticton Indian Band must not give an indemnity unless it is

(a) authorized under section 102,

(b) necessary and incidental to and included in another agreement to which the Penticton Indian Band is a party, or

(c) in relation to a security granted by the Penticton Indian Band that is authorized under this Law or another Penticton Indian Band law.

(4) Subject to a resolution described in section 102, the Council must make policies and procedures respecting guarantees and indemnities as follows:

(a) specifying circumstances under which an indemnity may be given without Council approval;

(b) designating the persons who may give an indemnity on behalf of the Penticton Indian Band and specifying the maximum amount of any indemnity which may be given by them;

(c) specifying any terms or conditions under which a guarantee or indemnity may be given; and

(d) specifying the records to be maintained of all guarantees and indemnities given by the Penticton Indian Band.

Authority to Invest

62.(1) The Penticton Indian Band may invest the Penticton Indian Band's financial assets under the conditions set out in this Law or in another Penticton Indian Band law.

(2) If the Penticton Indian Band is authorized to invest the Penticton Indian Band's financial assets, the Council may authorize the chief financial officer to invest the Penticton Indian Band's financial assets

(a) as specifically approved by the Council; or

(b) in accordance with the investment management strategy approved by the Council under subsection 63(1).

Investment Management Strategy

63.(1) If the Penticton Indian Band intends to invest the Penticton Indian Band's financial assets, the Council must first approve an investment management strategy for those assets.

(2) The Council must establish policies and procedures respecting the development, approval and periodic review of an investment management strategy for the Penticton Indian Band's financial assets.

Approved Investments

64.(1) Money in an account described in section 33 that is not immediately required for expenditures may be invested by the Penticton Indian Band in one or more of the following:

(a) securities issued or guaranteed by Canada, a province or the United States of America;

(b) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution;

(c) securities issued by the First Nations Finance Authority or by a local, municipal or regional government in Canada;

(d) commercial paper issued by a Canadian company that is rated in the highest category by at least two (2) recognized security-rating institutions; or

(e) [add any other permitted types of financial instruments or investments].

(2) Subject to the terms of the trust, money held in trust that is not immediately required for expenditures may be invested by the Penticton Indian Band as permitted under the terms of the trust or under the laws of the jurisdiction in which the majority of the Penticton Indian Band's lands are located.

(3) If the Penticton Indian Band has established an investment account under section 33, the Penticton Indian Band may invest money in that account in the following:

(a) a company that is incorporated under the laws of Canada or of a province or territory and in which the Penticton Indian Band is a shareholder;

(b) a trust in which the Penticton Indian Band is a beneficiary;

(c) securities issued by the First Nations Finance Authority or by a local, municipal or regional government in Canada;

(d) a limited partnership in which the Penticton Indian Band is a partner; and

(e) a member loan program described in section 65.

(4) Despite any other provision in this section, the Penticton Indian Band may only invest the following funds in investments specified in paragraph 82(3)(a), (b), (c) or (d) of the Act and in investments in securities issued by the First Nations Finance Authority or a municipal finance authority established by a province:

(a) government transfer funds;

(b) local revenues.

Permitted Loans to Penticton Indian Band Members

65.(1) The Penticton Indian Band may make a loan to a member of the Penticton Indian Band or to an entity in which a member of the Penticton Indian Band has an interest if the loan is made from a program of the Penticton Indian Band that has been approved by the Council and that meets the requirements of this section.

(2) Before the Council establishes a program under this section, the chief financial officer must prepare a report for Council identifying any risks associated with the program and the costs of administering the program.

(3) A program referred to in subsection (1) must satisfy the following criteria:

(a) the program must be universally available to all members of the Penticton Indian Band;

(b) the terms and conditions of the program must be published and accessible to all members of the Penticton Indian Band;

(c) all loans made from the program and all payments received from those loans must be set out in an annual report that includes details about

(i) the amounts loaned,

(ii) the purposes of the loans,

(iii) subject to applicable privacy laws, the names of those receiving a loan, and

(iv) repayments of principal and interest on the loans; and

(d) all loans must be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

(4) The Council must make policies and procedures for the operation of the program referred to in this section.

Administration of Investments and Loans

66.(1) If the Penticton Indian Band is authorized to make an investment or loan under this Law, the chief financial officer may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.

(2) If the Penticton Indian Band is authorized to make a loan under this Law, the Council must establish policies and procedures respecting the terms and conditions under which loans may be made, including a requirement that all loans be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

Risk Assessment and Management

67.(1) Annually, and more often if necessary, the band administrator must identify and assess any significant risks to the Penticton Indian Band's financial assets, the Penticton Indian Band's tangible capital assets as defined in Part V and the operations of the Penticton Indian Band.

(2) Annually, and more often if necessary, the band administrator must report to the Finance and Audit Committee on proposed plans to mitigate the risks identified in subsection (1) or, where appropriate, to manage or transfer those risks by agreement with others or by purchasing insurance.

Insurance

68.(1) On recommendation of the Finance and Audit Committee, the Council must procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 67 and any other risks associated with any assets, property or resources under the care or control of the Penticton Indian Band.

(2) The Council may purchase and maintain insurance for the benefit of a councillor or an officer or their personal representatives against any liability arising from that person being or having been a councillor or an officer.

Risk of Fraud

69.(1) In this section:

"fraudulent financial reporting" means an intentional act in financial reporting that is designed to deceive users of financial reports and that may result in a material omission from or misstatement of financial reports;

"fraudulent non-financial reporting" means an intentional act in non-financial reporting that is designed to deceive users of non-financial reports; and

"misappropriation of assets" means the theft of Penticton Indian Band assets in circumstances where the theft may result in a material omission or misstatement in financial reports.

(2) The Council must establish procedures for the identification and assessment of the following types of risk of fraud in the Penticton Indian Band:

(a) fraudulent financial reporting;

(b) fraudulent non-financial reporting;

(c) misappropriation of assets; and

(d) corruption and illegal acts.

Operational Controls

70. The Council must establish policies and procedures respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of the Penticton Indian Band's operations.

DIVISION 7 - Financial Reporting

GAAP

71. All accounting practices of the Penticton Indian Band must comply with GAAP.

Separate Accounting

72.(1) The chief financial officer must account for local revenues of the Penticton Indian Band separately from other moneys of the Penticton Indian Band.

(2) If the Penticton Indian Band has a loan from the First Nations Finance Authority that is secured by other revenues, the chief financial officer must

(a) account for all other revenues of the Penticton Indian Band separately from other moneys of the Penticton Indian Band, and

(b) provide the First Nations Finance Authority or the FMB, on its request, with accounting information respecting the other revenues.

Monthly Financial Information

73.(1) The chief financial officer must prepare monthly financial information respecting the financial affairs of the Penticton Indian Band in the form and with the content approved by the Council on the recommendation of the Finance and Audit Committee.

(2) The chief financial officer must provide the financial information in subsection (1) to the band administrator within a reasonable period of time following the end of the month for which the information was prepared.

Quarterly Financial Statements

74.(1) At the end of each quarter of the fiscal year, the chief financial officer must prepare financial statements for the Penticton Indian Band for that quarter in the form and with the content approved by the Council on the recommendation of the Finance and Audit Committee.

(2) The chief financial officer must provide the quarterly financial statements in subsection (1) to the Finance and Audit Committee and the Council not more than forty-five (45) days after the end of the quarter of the fiscal year for which they were prepared.

(3) The quarterly financial statements in subsection (1) must be

(a) reviewed by the Finance and Audit Committee and recommended to Council for approval, and

(b) reviewed and approved by the Council.

Annual Financial Statements

75.(1) This section does not apply to the annual financial statements respecting local revenues referred to in section 76.

(2) At the end of each fiscal year the chief financial officer must prepare the annual financial statements of the Penticton Indian Band for that fiscal year in accordance with GAAP.

(3) The annual financial statements must be prepared in a form approved by the Council on the recommendation of the Finance and Audit Committee.

(4) The annual financial statements must include all the financial information of the Penticton Indian Band for the fiscal year.

(5) The chief financial officer must provide draft annual financial statements to the Finance and Audit Committee for review within a reasonable period of time following the end of the fiscal year for which they were prepared.

(6) The Finance and Audit Committee must present draft annual financial statements to the Council for review within a reasonable period of time following the end of the fiscal year for which they were prepared.

(7) For purposes of this section, a reasonable period of time means a period of time which will allow the annual financial statements to be audited within the time required in subsection 80(1).

Local Revenues Annual Financial Statements

76.(1) The chief financial officer must prepare, at least once each calendar year, separate annual financial statements respecting the Penticton Indian Band's local revenues in accordance with the FMB's *Local Revenue Financial Reporting Standards.*

(2) The council must establish policies and procedures respecting the annual preparation, review, audit and approval of the annual financial statements referred to in subsection (1) including any required deadlines for completing these activities.

(3) The policies and procedures referred to in subsection (2) must be consistent with any requirements of the FMB's *Local Revenue Financial Reporting Standards.*

(4) The provisions of this Law, including this section, respecting separate annual financial statements for local revenues do not apply if the FMB's *Local Revenue Financial Reporting Standards* permit the Penticton Indian Band to report on its local revenues in its audited annual financial statements as a distinct segment of the activities that appear in those statements and the Penticton Indian Band chooses to report on its local revenues in that manner.

Special Purpose Reports

77.(1) The chief financial officer must prepare the following special purpose reports:

(a) a report setting out all payments made to honour guarantees and indemnities for that fiscal year;

(b) a report setting out the information required in section 10;

(c) a report setting out all debts or obligations forgiven by the Penticton Indian Band;

(d) a report setting out the information required in paragraph 65(3)(c); and

(e) any other report required under the Act or an agreement with the Penticton Indian Band.

(2) The chief financial officer may prepare a special purpose report on a basis of accounting other than GAAP if necessary to comply with any reporting obligations the Penticton Indian Band has under an agreement.

Appointment of Auditor

78.(1) The Penticton Indian Band must appoint an auditor for each fiscal year to hold office until the later of

(a) the end of the Council meeting when the audited annual financial statements for that fiscal year are being considered, or

(b) the date the auditor's successor is appointed.

(2) The terms and conditions of the appointment of the auditor must be set out in an engagement letter approved by the Finance and Audit Committee and must include the content required by the Canadian generally accepted auditing standards.

(3) To be eligible for appointment as the auditor of the Penticton Indian Band, an auditor must

(a) be independent of the Penticton Indian Band, its related bodies, councillors and officers and members, and

(b) be a public accounting firm or public accountant

(i) in good standing with the Chartered Professional Accountants of Canada and its respective counterpart in the province or territory in which the public accounting firm or public accountant is practicing, and

(ii) licensed or otherwise authorized to practice public accounting in the province or territory in which the majority of the reserve lands of the Penticton Indian Band are located.

(4) If the auditor ceases to be independent, the auditor must as soon as practicable after becoming aware of the circumstances

(a) advise the Penticton Indian Band in writing of the circumstances, and

(b) eliminate the circumstances that resulted in loss of independence or resign as the auditor.

Auditor's Authority

79.(1) To conduct an audit of the annual financial statements of the Penticton Indian Band, the auditor must be given access to

(a) all records of the Penticton Indian Band for examination or inspection and given copies of these records on request, and

(b) any councillor, officer, employee, contractor or agent of the Penticton Indian Band to ask any questions or request any information.

(2) On request of the auditor, every person referred to in paragraph (1)(b) must

(a) make available all records referred to in paragraph (1)(a) that are in that person's care or control, and

(b) provide the auditor with full information and explanation about the affairs of the Penticton Indian Band as necessary for the performance of the auditor's duties.

(3) The auditor must be given notice of

(a) every meeting of the Finance and Audit Committee, and

(b) the Council meeting where the annual audit, including the annual financial statements, will be considered and approved.

(4) Subject to subsection (6), the auditor may attend any meeting for which he or she must be given notice under this section or to which the auditor has been invited and must be given the opportunity to be heard at those meetings on issues that concern the auditor as auditor of the Penticton Indian Band.

(5) The auditor may communicate with the Finance and Audit Committee, as the auditor considers appropriate, to discuss any subject that the auditor recommends be considered by the Committee.

(6) The auditor may be excluded from all or any part of a meeting of the Finance and Audit Committee or the Council by a recorded vote if the subject matter relates to the retaining or dismissal of the auditor.

Assurance Requirements

80.(1) The auditor must provide an audit report on the annual financial statements referred to in section 75 not more than one hundred and twenty (120) days after the fiscal year-end.

(2) The separate annual financial statements respecting local revenues referred to in section 76 must be audited by the auditor at least once every calendar year.

(3) The auditor must conduct the audit of the annual financial statements referred to in both sections 75 and 76 in accordance with Canadian generally accepted auditing standards.

(4) The auditor must provide an audit report or a review engagement report on the special purpose reports referred to in section 77.

Review of Audited Annual Financial Statements

81.(1) This section does not apply to the annual financial statements respecting local revenues referred to in section 76.

(2) The audited annual financial statements must be provided to the Finance and Audit Committee for its review and consideration within a reasonable period of time after the fiscal year-end for which the statements were prepared.

(3) The Council must review and approve the audited annual financial statements not more than one hundred and twenty (120) days after the end of the fiscal year for which the statements were prepared.

Access to Annual Financial Statements

82.(1) Before the annual financial statements referred to in both sections 75 and 76 may be published or distributed, they must

(a) be approved by the Council,

(b) be signed by

(i) the Chief of the Penticton Indian Band or the Council chair,

(ii) the chair of the Finance and Audit Committee, and

(iii) the chief financial officer, and

(c) include the auditor's audit report of the annual financial statements.

(2) The audited annual financial statements referred to in section 75 must be available for inspection by members of the Penticton Indian Band at the principal administrative offices of the Penticton Indian Band during normal business hours.

(3) The following documents must be available for inspection by any person referred to in subsection 14(2) of the Act at the principal administrative offices of the Penticton Indian Band during normal business hours:

(a) the audited annual financial statements respecting local revenues referred to in section 76; or

(b) the audited annual financial statements referred to in section 75 if those statements include a report on local revenues as a distinct segment of the activities that appear in those statements.

Annual Report

83.(1) No later than one hundred and eighty (180) days after the end of each fiscal year, the Council must publish an annual report on the operations and financial performance of the Penticton Indian Band for the previous fiscal year.

(2) The annual report referred to in subsection (1) must include

(a) a description of the services and operations of the Penticton Indian Band, and

(b) a progress report on any established objectives and performance measures of the Penticton Indian Band.

(3) The annual report referred to in subsection (1) must include or incorporate by reference

(a) the audited annual financial statements referred to in section 75 and 76 for the previous year, and

(b) any special purpose reports referred to in section 77, including the auditor's report.

(4) The band administrator must provide the annual report referred to in subsection (1)

(a) to a member of the Penticton Indian Band as soon as practicable after a request is made by the member, and

(b) to the First Nations Finance Authority as soon as practicable after the report's publication, if the Penticton Indian Band is a borrowing member.

(5) The Council must establish policies and procedures respecting an accessible process and remedy available to members of the Penticton Indian Band who have requested but have not been provided with the annual report of the Penticton Indian Band or access to the audited annual financial statements and special purpose reports incorporated by reference in the annual report.

(6) The policies and procedures referred to in subsection (5) must require

(a) the maintenance of a register for the annual report that

(i) identifies all members of the Penticton Indian Band who have requested a copy of the annual report, or the audited annual financial statements or special purpose reports incorporated by reference in the annual report,

(ii) the date each request was received, and

(iii) the date the requested documents were provided to a requesting member, and

(b) the band administrator to report quarterly to the Finance and Audit Committee on the steps taken to ensure compliance with subsection (4) and the policy and procedures made under subsection (5).

DIVISION 8 - Information and Information Technology

Ownership of Records

84.(1) All records that are produced by or on behalf of the Penticton Indian Band or kept, used or received by any person on behalf of the Penticton Indian Band are the property of the Penticton Indian Band.

(2) The Council must establish policies and procedures to ensure that the records referred to in subsection (1) remain the property of the Penticton Indian Band.

Record Keeping and Maintenance

85.(1) The band administrator must ensure that the Penticton Indian Band prepares, maintains, stores and keeps secure all of the Penticton Indian Band's records that are required under this Law or any other applicable law.

(2) The Penticton Indian Band's records may not be destroyed or disposed of except as permitted by, and in accordance with, the policies and procedures of the Penticton Indian Band.

(3) All financial records of the Penticton Indian Band must be stored for at least seven (7) years after they were created.

(4) The Council must establish policies and procedures respecting access of any persons to Penticton Indian Band's records.

Confidentiality of Information

86.(1) No person may be given access to the Penticton Indian Band's records containing confidential information except as permitted by, and in accordance with, the policies and procedures of the Penticton Indian Band.

(2) All persons who have access to the Penticton Indian Band's records must comply with all policies and procedures of the Penticton Indian Band respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

Account Records

87.(1) The tax administrator must prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of the Penticton Indian Band, including all records referred to in section 5 of the *Revenue Management Implementation Regulations.*

(2) If the Penticton Indian Band has a loan from the First Nations Finance Authority that is secured by other revenues, the chief financial officer must prepare, maintain, store and keep secure a complete set of all records respecting other revenues of the Penticton Indian Band, including all records referred to in section 5 of the *Revenue Management Implementation Regulations* as amended by the Act.

Information Technology

88. The Council must establish policies and procedures respecting information technology used by the Penticton Indian Band in its operations to ensure the integrity of the Penticton Indian Band's financial administration system and its database.

PART V - Tangible Capital Assets

Definitions

89. In this Part,

"life-cycle management program" means the program of inspection, planning, maintenance, replacement and oversight of Penticton Indian Band tangible capital assets as described in section 92;

"Penticton Indian Band tangible capital assets" means all non-financial assets of the Penticton Indian Band having physical substance that

(a) are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,

(b) have useful economic lives extending beyond an accounting period,

(c) are to be used on a continuing basis, and

(d) are not for sale in the ordinary course of operations; and

"tangible capital asset project" means the acquisition, construction, rehabilitation, repair or replacement of a Penticton Indian Band tangible capital asset but does not include routine maintenance.

Council General Duties

90. The Council must take reasonable steps to ensure that Penticton Indian Band tangible capital assets are

(a) recorded in an assets register,

(b) adequately safeguarded,

(c) maintained in accordance with a life-cycle management program described in this Part, and

(d) planned, financed, managed and constructed to acceptable community standards.

Tangible Capital Assets Reserve Fund

91. The Council must establish and manage a tangible capital assets reserve fund to be applied for the purpose of funding expenditures for tangible capital asset projects carried out under this Part.

Life-cycle Management Program

92.(1) The band administrator must establish and keep current a register of Penticton Indian Band tangible capital assets that identifies each of these assets and includes the following information:

(a) location and purpose of the asset;

(b) ownership and restrictions over ownership of the asset;

(c) year of acquisition;

(d) last inspection date of the asset;

(e) expected life of the asset at the time of acquisition;

(f) assessment of condition of the asset and its remaining useful life;

(g) estimated residual value of the asset;

(h) insurance coverage for the asset; and

(i) any other information required by the Council.

(2) On or before November 30 of each year, the band administrator must arrange for the inspection and review of the state of each of the Penticton Indian Band tangible capital assets to establish or update information respecting the following matters:

(a) its present use;

(b) its condition and state of repair;

(c) its suitability for its present use;

(d) its estimated remaining life;

(e) its estimated replacement cost;

(f) estimated dates and costs of its required future rehabilitation;

(g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five (5) fiscal years;

(h) maintenance records for all periods up to the date of inspection; and

(i) property and liability insurance covering the capital asset and its use or operation.

(3) On or before December 31 of each year, the chief financial officer must prepare the following:

(a) for routine maintenance of Penticton Indian Band tangible capital assets,

(i) a schedule of maintenance for Penticton Indian Band tangible capital assets for the next fiscal year,

(ii) five (5), ten (10) and thirty (30) year forecasts of the estimated cost for maintenance of Penticton Indian Band tangible capital assets, and

(iii) the budget for maintenance of Penticton Indian Band tangible capital assets for the next fiscal year; and

(b) for tangible capital asset projects,

(i) a schedule of tangible capital asset projects for the next fiscal year,

(ii) five (5), ten (10) and thirty (30) year forecasts of the estimated cost of tangible capital asset projects, and

(iii) the budget for tangible capital asset projects for the next fiscal year.

(4) The Council must establish policies and procedures respecting

(a) a life-cycle management program for Penticton Indian Band tangible capital assets, and

(b) tangible capital asset projects.

Review by Finance and Audit Committee

93. On or before January 15 of each year, the Finance and Audit Committee must review the information, schedules and budget prepared under section 92 for the following purposes:

(a) to know the effect that each tangible capital asset project included in the budget will have on the annual operating costs and routine maintenance costs in future years; and

(b) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation and repair projects rather than replacement projects.

Reports on Tangible Capital Asset Projects

94. At each Finance and Audit Committee meeting, the band administrator must report on the following subjects:

(a) year to date borrowings, loans and payments in respect of each tangible capital asset project;

(b) the status of a tangible capital asset project, including

(i) a comparison of expenditures to date with the tangible capital asset project budget,

(ii) a detailed description of any identified legal, financial, technical, scheduling or other problems, and

(iii) the manner in which a problem identified in subparagraph (ii) has been or will be addressed; and

(c) steps taken to ensure compliance with subsection 95(2) for every tangible capital asset project.

Tangible Capital Asset Projects Management

95.(1) The Council must establish policies and procedures respecting procurement, contract and risk management and administration of tangible capital asset projects.

(2) All tangible capital asset projects must be managed in accordance with the policies and procedures referred to in subsection (1).

Consultants

96. The band administrator may retain the services of a professional engineer or other consultant to assist the band administrator, Finance and Audit Committee and Council to carry out their obligations under this Part.

Policy for Information or Involvement of Penticton Indian Band Members

97. The Council must establish policies and procedures for

(a) the provision of information to Penticton Indian Band members respecting tangible capital asset projects, or

(b) the involvement of Penticton Indian Band members in consideration of tangible capital asset projects.

PART VI - Reporting Breaches

Reports of Breaches and Financial Irregularities, etc.

98.(1) Subject to subsections (2) and (3), if any person has reason to believe that

(a) an expenditure, liability or other transaction of the Penticton Indian Band is not authorized by or under this Law or another Penticton Indian Band law,

(b) there has been a theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of the Penticton Indian Band,

(c) a provision of this Law has been contravened, or

(d) a person has failed to comply with the Schedule that forms part of this Law,

the person may disclose the circumstances to the chair of the Finance and Audit Committee.

(2) If a councillor becomes aware of any circumstances described under subsection (1), the councillor must report them to the chair of the Finance and Audit Committee.

(3) If an officer, employee, contractor or agent of the Penticton Indian Band becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case may be, must report them to the band administrator or the chair of the Finance and Audit Committee.

Inquiry into Report

99.(1) If a report is made to the band administrator under subsection 98(3), the band administrator must inquire into the circumstances reported and report the findings to the Finance and Audit Committee as soon as practicable.

(2) If a report is made to the chair of the Finance and Audit Committee under section 98, the chair must inquire into the circumstances reported and report the findings to the Finance and Audit Committee as soon as practicable.

(3) The Finance and Audit Committee may make a further inquiry into any findings reported to it under this section but, in any event, must make a report to the Council respecting any circumstances reported to the Committee under this section, including the Committee's recommendations, if any.

Protection of Parties

100.(1)All reasonable steps must be taken by the band administrator, the members of the Finance and Audit Committee and the councillors to ensure that the identity of the person who makes a report under section 98 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 98 must not be subjected to any form of reprisal by the Penticton Indian Band or by a councillor, officer, employee, contractor or agent of the Penticton Indian Band as a result of making that report.

(3) The band administrator and the chair of the Finance and Audit Committee must take all necessary steps to ensure that subsection (2) is not contravened and must report any contravention or suspected contravention to the Council.

(4) The Council must establish policies and procedures

(a) for the recording and safeguarding of reports made under section 98 and any records prepared during the inquiry or investigation into those reports;

(b) for the inquiry or investigation into reports made under section 98; and

(c) concerning the fair treatment of a person against whom a report has been made under section 98.

Liability for Improper Use of Money

101.(1) A councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this Law or the Penticton Indian Band's local revenue law is personally liable to the Penticton Indian Band for that amount.

(2) Subsection (1) does not apply if the councillor relied on information provided by an officer or employee of the Penticton Indian Band and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct when providing the information.

(3) An amount owed to the Penticton Indian Band under subsection (1) may be recovered for the Penticton Indian Band by the Penticton Indian Band, a member of the Penticton Indian Band or a person who holds a security under a borrowing made by the Penticton Indian Band.

(4) It is a good defence to any action brought against an officer or employee of the Penticton Indian Band for unauthorized expenditure, investment or use of the Penticton Indian Band's financial assets if it is proved that the officer or employee gave a written and signed warning to the Council that in his or her opinion, the expenditure, investment or use would be unlawful.

Indemnification against Proceedings

102.(1) In this section:

"indemnify" means pay amounts required or incurred to

(a) defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions, or

(b) satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a);

"Penticton Indian Band official" means a current or former councillor, officer or employee of the Penticton Indian Band.

(2) Subject to subsection (3), the Council may by resolution indemnify or provide for the indemnification of a named Penticton Indian Band official, a category of Penticton Indian Band official or all Penticton Indian Band officials in accordance with the terms specified in the resolution.

(3) The Council may not pay a fine that is imposed as a result of a Penticton Indian Band official's conviction for an offence unless the offence is a strict or absolute liability offence.

PART VII - Miscellaneous

FMB Standards

103.(1) If the Penticton Indian Band is a borrowing member or has a certificate issued by the FMB under subsection 50(3) of the Act, the Penticton Indian Band must comply with all the applicable FMB standards.

(2) If the Council becomes aware that the Penticton Indian Band is not complying with a FMB standard referred to in subsection (1), the Council must as soon as practicable take the required actions to bring the Penticton Indian Band into compliance with the FMB standard.

Delegated Authority for Local Revenues

104.(1) This section applies to the Penticton Indian Band only if it is

(a) making local revenue laws under subsection 5(1) of the Act, or

(b) using its local revenues to secure a loan from the First Nations Finance Authority.

(2) Without limiting section 53 of the Act, if the FMB gives notice to the Penticton Indian Band under section 53 of the Act that third-party management of the Penticton Indian Band's local revenues is required, the Council of the Penticton Indian Band delegates to the FMB

(a) the powers and authorities described in subsection 53(2) of the Act, and

(b) any other of the Council's powers required to give effect to third-party management of the Penticton Indian Band's local revenues and local revenue account under the Act.

Delegated Authority for Other Revenues

105.(1) This section applies to the Penticton Indian Band only if it is using its other revenues to secure a loan from the First Nations Finance Authority.

(2) Without limiting section 53 of the Act, if the FMB gives notice to the Penticton Indian Band under section 53 of the Act that third-party management of the Penticton Indian Band's other revenues is required, the Council of the Penticton Indian Band delegates to the FMB

(a) the powers and authorities described in subsection 53(2) of the Act, and

(b) any other of the Council's powers required to give effect to third-party management of the Penticton Indian Band's other revenues under the Act.

Periodic Review and Changes of Law

106.(1) On a regular, periodic basis established by a policy of the Council, the Finance and Audit Committee must conduct a review of this Law

(a) to determine if it facilitates effective and sound financial administration of the Penticton Indian Band; and

(b) to identify any amendments to this Law that may better serve this objective.

(2) The Council must establish policies and procedures for

(a) the provision of information to members of the Penticton Indian Band respecting any proposed amendment of this Law; or

(b) the involvement of members of the Penticton Indian Band in consideration of an amendment to this Law.

(3) The Council must post a public notice of each Council meeting when a proposed amendment to this Law is presented for approval.

(4) Members of the Penticton Indian Band may attend that part of the Council meeting when the matter referred to in subsection (3) is being considered.

(5) If the Penticton Indian Band is a borrowing member, it may only repeal this Law if it replaces it at the same time with another financial administration law which has been reviewed by the FMB and issued a compliance approval under section 9 of the Act.

(6) Any amendment of this Law must be reviewed by the FMB and issued a compliance approval under section 9 of the Act.

Repeal

107. The *Penticton Indian Band Financial Administration Law, 2016* is repealed.

Coming into Force

108. This Law comes into force on the day after it is approved by the FMB under section 9 of the Act.

THIS LAW IS HEREBY DULY ENACTED by Council on the _____ day of _____ 2025, at _____, in the Province of British Columbia at a duly called and conducted Council meeting at which the required quorum of _____ (_____) members of Council was present throughout.

_____	_____
Chief Greg Gabriel	Councillor Clint Gabriel
_____	_____
Councillor Lesley Gabriel	Councillor Suzanne Johnson
_____	_____
Councillor Dolly Kruger	Councillor Timmothy Lezard
_____	_____
Councillor Joseph Pierre	Councillor Kathy Pierre
_____	
Councillor Charlene Roberds	

SCHEDULE – Avoiding And Mitigating Conflicts Of Interest

PART I - Interpretation

Interpretation

1.(1) In this Schedule:

"spouse" means, in relation to an individual, a person to whom the individual is married or with whom the individual has lived as a common law partner for at least one (1) year in a marriage-like relationship; and

"this Law" means the Financial Administration Law to which this Schedule is attached and forms a part.

(2) Except as otherwise expressly provided in this Schedule, words and expressions used in this Schedule have the same meanings as in this Law.

(3) Sections 3 and 5 of this Law apply to this Schedule.

(4) If there is a conflict between a provision of this Schedule and this Law, the provision of this Law applies.

Definition of Conflict of Interest

2.(1) In this Schedule, an individual has a "conflict of interest" 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.

(2) In this Schedule, an individual has an "apparent conflict of interest" if 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.

(3) In this Schedule, an individual's "private interests" means the individual's personal and business interests and include the personal and business interests of

(a) the individual's spouse,

(b) a person under the age of eighteen (18) years in respect of whom the individual or the individual's spouse is a parent or acting in a parental capacity,

(c) a person in respect of whom the individual or the individual's spouse is acting as guardian,

(d) a person, other than an employee, who is financially dependent upon the individual or the individual's spouse or on whom the individual is financially dependent, and

(e) an entity in which the individual or the individual in combination with any other person described in this subsection has a controlling interest.

(4) Despite subsections (1) and (2), an individual's private interests do not give rise to a conflict of interest if those interests

(a) are the same as those of a broad class of members of the Penticton Indian Band of which the individual is a member; or

(b) are so remote or insignificant that they could not be reasonably regarded as likely to influence the individual in the exercise of a power or performance of a duty or function.

PART II - Councillors and Committee Members

Application

3. This Part applies to all councillors of the Penticton Indian Band and, where applicable, to all members of Council committees.

General Obligations

4.(1) Councillors must avoid circumstances that could result in the councillor having a conflict of interest or an apparent conflict of interest.

(2) 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 any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

Disclosure of Interests

5.(1) In paragraph (2)(c) "real property" includes an interest in a reserve held under

(a) a certificate of possession under the *Indian Act*; or

(b) the Penticton Indian Band's traditional land holding system pursuant to a Council resolution.

(2) A councillor must file a written disclosure of the following information with the band administrator:

(a) the names of the councillor's spouse and any persons or entities referred to in subsection 2(3);

(b) the employer of the councillor and the councillor's spouse;

(c) real property owned by the councillor or the councillor's spouse; and

(d) business interests and material investments of the councillor or the councillor's spouse, including in an entity referred to in paragraph 2(3)(e).

(3) A councillor must file a written disclosure under subsection (2) on the following occasions:

(a) within thirty (30) days of being elected to the Council;

(b) as soon as practicable after a material change in the information previously disclosed; and

(c) on April 15 of each year that the councillor holds office.

(4) The band administrator must establish and maintain a register of all information disclosed by a councillor under this section and section 6.

(5) On request of a member of the Penticton Indian Band or any person engaged in any aspect of the financial administration of the Penticton Indian Band, the band administrator must permit that member or person to view the register referred to in subsection (4).

Gifts and Benefits

6.(1) A councillor or a person referred to in paragraphs 2(3)(a) to (d) in relation to that councillor must not accept a gift or benefit that might reasonably be seen to have been given to influence the councillor in the exercise of the councillor's powers or performance of the councillor's duties or functions.

(2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit

(a) would be considered within

(i) normal protocol exchanges or social obligations associated with the councillor's office,

(ii) normal exchanges common to business relationships, or

(iii) normal exchanges common at public cultural events of the Penticton Indian 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 which the policies or procedures of the Penticton Indian Band have determined would be acceptable if offered by the Penticton Indian Band to another person.

(3) Where a gift with a value greater than five hundred dollars ($500) is given to a councillor or a person referred to in subsection (1), the councillor must make a written disclosure of the gift to the band administrator under section 5, and the gift must be treated as the property of the Penticton Indian Band.

(4) Subsection (3) does not apply to a gift received during a public cultural event of the Penticton Indian Band.

Confidential Information

7.(1) Councillors must keep confidential all information that the councillors receive while performing their duties or functions unless the information is generally available

(a) to members of the public; or

(b) to members of the Penticton Indian Band.

(2) Councillors must only use confidential information referred to in subsection (1) for the specific purposes for which it was provided to the councillors.

(3) Councillors must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the councillor's private interests or those of relatives, friends or associates.

Procedure for Addressing Conflict of Interest

8.(1) As soon as a councillor becomes aware of circumstances in which the councillor has a conflict of interest, the councillor must disclose the circumstances of the conflict of interest at the next Council meeting.

(2) A councillor must leave any part of a Council meeting where the circumstances in which the councillor has a conflict of interest are being discussed or voted on.

(3) The minutes of a Council meeting must record the councillor's disclosure under subsection (1) and note the councillor's absence from the Council meeting when the circumstances in which the councillor has a conflict of interest were being discussed or voted on.

(4) A councillor must not take part in any discussions or vote on any decision respecting the circumstances in which the councillor has a conflict of interest.

(5) A 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 the circumstances in which the councillor has a conflict of interest.

Procedure for Undisclosed Conflict of Interest

9.(1) If a councillor has reason to believe that another councillor has a conflict of interest or an apparent conflict of interest in respect of a matter before the Council, the councillor may request clarification of the circumstances at a Council meeting.

(2) If, as a result of a clarification discussion under subsection (1), a councillor is alleged to have a conflict of interest or an 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 8, the Council must determine whether the councillor has a conflict of interest or an apparent conflict of interest before the Council considers the matter referred to in subsection (1).

(3) The minutes of the Council meeting must record any determination made by the Council under subsection (2).

(4) If the Council determines under subsection (2) that a councillor has a conflict of interest or an apparent conflict of interest, the councillor must comply with section 8.

Obligations of Committee Members

10.(1) This section applies to all members of Council committees.

(2) Sections 4 and 6 to 9 apply to a member of a Council committee and all references in those sections to

(a) a councillor are considered to be references to a member of a Council committee; and

(b) a Council meeting are considered to be references to a committee meeting.

PART III - Officers and Employees

Application

11. This Part applies to all officers and employees of the Penticton Indian Band.

General Obligations

12.(1) In the performance of their duties and functions, an officer or employee must act honestly and in good faith and in the best interests of the Penticton Indian Band.

(2) An officer or employee must avoid circumstances that could result in the officer or employee having a conflict of interest or an apparent conflict of interest.

(3) An officer or employee must avoid placing themselves in circumstances where their ability to exercise a power or perform a duty or function of their office or position could be influenced by the interests of any person to whom they owe a private obligation or who expects to receive some benefit or preferential treatment from them.

(4) The band administrator must ensure that every officer and employee is informed of their obligations under this Part and must take steps to ensure that employees comply with these obligations.

Disclosure of Conflict of Interest

13. If an officer or employee believes he or she has a conflict of interest, the officer or employee must

(a) disclose the circumstances in writing as soon as practicable to the band administrator or, in the case of the band administrator, to the chair of the Finance and Audit Committee; and

(b) refrain from participating in any discussions or decision-making respecting the circumstances of the conflict of interest until advised by the band administrator or the chair, as the case may be, on actions to be taken to avoid or mitigate the conflict of interest.

Gifts or Benefits

14.(1) An officer or employee or a member of their family must not accept a gift or benefit that might reasonably be seen to have been given to influence the officer or employee in the exercise of their powers or performance of their duties or functions.

(2) Despite subsection (1), a gift or benefit may be accepted if the gift or benefit

(a) would be considered within

(i) normal exchanges common to business relationships, or

(ii) normal exchanges common at public cultural events of the Penticton Indian 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 procedures of the Penticton Indian Band have determined would be acceptable if offered by the Penticton Indian Band to another person.

Outside Employment and Business Interests

15.(1) If an officer or employee is permitted under their terms of employment to have outside employment or business interests, the officer or employee must disclose these employment or business interests in writing to the band administrator or, in the case of the band administrator, to the chair of the Finance and Audit Committee.

(2) An officer or employee must ensure that any permitted outside employment or business interests do not unduly interfere with the exercise of their powers or performance of their duties and functions and that these activities are conducted on their own time and with their own resources.

Confidential Information

16.(1) An officer or employee must keep confidential all information that the officer or employee receives while exercising their powers or performing their duties or functions unless the information is generally available

(a) to members of the public; or

(b) to members of the Penticton Indian Band.

(2) An officer or employee must only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the officer or employee.

(3) An officer or employee must not make use of any information received in the course of exercising their powers or performing their duties or functions to benefit the officer or employee's private interests or those of relatives, friends or associates.

Penticton Indian Band Property and Services

17.(1) Officers and employees must not use any personal property or services of the Penticton Indian Band for any purposes unrelated to performance of their duties or functions unless that use is otherwise acceptable under the policies or procedures of the Penticton Indian Band.

(2) Officers and employees must not acquire any personal property of the Penticton Indian Band unless it is done in accordance with policies or procedures of the Penticton Indian Band.

PART IV - Contractors

Application

18.(1) This Part applies to all contractors of the Penticton Indian Band, other than a person who has an employment contract with the Penticton Indian Band.

(2) In this Part, a reference to a contractor includes a reference to each employee or agent of the contractor who is engaged to perform duties or functions under the contract with the Penticton Indian Band.

Contractor Acting as Officer or Employee

19. If a contractor is retained to exercise the powers or perform the duties or functions of an officer or employee, the contractor must comply with Part III of this Schedule as if the contractor were an officer or employee of the Penticton Indian Band.

General Obligations

20.(1) A contractor must act at all times with integrity and honesty

(a) in its dealings with the Penticton Indian Band; and

(b) in its dealing with any third party when the contractor is representing or acting on behalf of the Penticton Indian Band.

(2) A contractor must not attempt to obtain preferential treatment from the Penticton Indian Band by offering gifts or benefits that a councillor, committee member, officer or employee is prohibited from accepting under this Schedule.

(3) A contractor must ensure that every employee or agent of the contractor who is engaged to perform duties or functions under the contract with the Penticton Indian Band is informed of their obligations under this Part and must take steps to ensure that these employees or agents comply with these obligations.

Confidential Information

21.(1) A contractor must keep confidential all information that the contractor receives in the course of performing their duties or functions unless the information is generally available to members of the public.

(2) A contractor must only use any confidential information referred to in subsection (1) for the specific purposes for which it was provided to the contractor.

(3) A contractor must not make use of any information received in the course of performing its duties or functions to benefit the contractor's interests or those of the contractor's relatives, friends or associates.

Business Opportunities

22. A contractor must not take advantage of a business or investment opportunity being considered by the Penticton Indian Band and which the contractor becomes aware of while

performing services for the Penticton Indian Band unless the Penticton Indian Band has determined not to pursue the opportunity.

Penticton Indian Band Property and Services

23. If a contractor has been provided the use of any property or services of the Penticton Indian Band in order to perform services for the Penticton Indian Band, the contractor must not use the property or services for any purposes unrelated to performance of those services.