

**SWAN RIVER FIRST NATION
CUSTOMARY ELECTION
REGULATIONS**

AS AMENDED MARCH 8, 2007

TABLE OF CONTENTS

PART 1 - CITATION.....	4
PART 2 - COMING INTO FORCE	4
PART 3 - DEFINITIONS	5
PART 4 - THE COUNCIL.....	7
4.1 Composition and Size.....	7
4.2 Meetings.....	7
4.3 Mode of Election for Chief and Councilors.....	7
4.4 Term of Office.....	7
4.5 Vacancy.....	8
PART 5 - CODE OF ETHICS.	8
PART 6 – 6.1 REMOVAL OF COUNCIL MEMBERS FROM OFFICE	9
6.2 Procedure.....	9
6.3 By-Election.....	11
PART 7 - PRE-NOMINATION PROCEDURE	11
7.1 Appointment of an Electoral Officer.....	12
7.2 Oath of Office.....	12
7.3 Responsibilities and Ethics	12
7.4 Voters List	12
7.5 Appointment of Deputies and Interpreters.....	14
PART 8 - THE NOMINATION PROCESS.....	15
8.1 Notice of Nomination Meeting and Mail-in Procedures	15
8.2 Eligibility to Nominate.....	15
8.3 Nomination Meeting.....	15
8.4 Duration.....	16
8.5 Maintaining Order and Security.....	16
8.6 Nomination Procedure.....	16
PART 9 - 9.1 CANDIDACY.....	17
9.2 Deposit	17
9.3 Withdrawal.....	17
PART 10 – PRE-ELECTION PROCEDURE.....	17
10.1 Acclamation.....	17
10.2 Ballots.....	17
10.3 Notice of the Election.....	18
10.4 Mail-in Ballots.....	18
10.5 Equipment for the Election.....	20
10.6 Polling Stations.....	20
10.7 Advance Poll	20
10.8 Secret Vote.....	21
10.9 Refusal of Permission to Vote.....	21

PART 11 - ELECTION DAY.....	21
11.1 Electoral Officer	21
11.2 Candidate's Agent.....	21
11.3 Polling Hours.....	21
11.4 Verification of the Ballot Box	21
11.5 Secrecy and Security.....	22
11.6 Voting Procedure.....	22
11.7 Closing of the Polling Station.....	23
PART 12 - COUNTNG OF THE VOTES.....	23
12.1 Opening Mail-in Ballots	23
12.2 Counting the Ballots.....	24
12.3 Ballots not Counted.....	24
12.4 Tie.....	24
PART 13 – RUN-OFF ELECTION	25
13.1 Notice of Run-off Election.....	25
13.2 Procedure for Run-off Election.....	25
13.3 A list of Electors for Run-off Election.....	25
13.4 The vote in Run-off Election.....	25
PART 14 - POST-ELECTION PROCEDURE.....	25
14.1 Declaration of Outcome.....	25
14.2 Retention of Ballots and Other Election Material.....	26
14.3 Chief and Councilor Oath of Office.....	26
14.4 Residency Requirements.....	26
PART 15 – APPEAL BOARD.....	27
15.1 Composition.....	27
15.2 Functions.....	27
PART 16 – APPEAL MECHANISM.....	27
16.1 Appeal Mechanism.....	27
16.2 Grounds for Appeals.....	27
16.3 Notice of Appeal.....	28
16.4 Procedure.....	28
16.5 Meeting of the Election Appeal Board.....	28
PART 17 – AMENDMENTS	29

NOTE: The masculine gender is used throughout this document without bias, in the interest of Simplicity and ease of reading.

SECTION 1 – CITATION

Whereas the Swan River First Nation has the inherent Aboriginal right and authority to govern relations among its members and between the Swan River First Nation and other governments; and

Whereas the Swan River First Nation's inherent right to self government recognized and reaffirmed in Treaty No. 8 entered into between Her Majesty The Queen in Right of Canada and the Swan River First Nation; and

Whereas the customs, traditions, and institutions of self government of the Swan River First Nation have been established with the consent and participation of its members; and

Whereas the Swan River First Nation desires democratic, fair, and open elections for the leadership; and

Whereas the Swan River First Nation now desires its customs and traditions in relation to the election of the Chief and Councilors be incorporated and recorded in written customary election regulations and procedures; and

Whereas a majority of the electors of the Swan River First Nation approved by petition or referendum the adoption of the Customary Election Regulations of the Swan River First Nation as outlined herein;

The Swan River First Nation, by and with the advice and consent of its members, enacts as follows:

SECTION 1 – CITATION

The Rules, procedures and regulations outlined herein may be cited as “**The Customary Election Regulations of the Swan River First Nation**”.

SECTION 2 – COMING INTO FORCE

1. This code comes into effect upon the passing of a majority (50% + 1) of the Electors.

SECTION 3 – DEFINITIONS

2. In this code

“**Appellant**” means an individual who submits an appeal in accordance with this code with respect to the election.

“**By-Election**” means a special election to fill a position that has become vacant.

“**Candidate**” means a band member who:

- a) is at least 18 years of age on the day on which the nomination meeting is held and;
- b) has been nominated to be a candidate (pursuant to the provisions of this code.)

“**Code**” means the Customary Election Regulations set out herein.

“**Code of Ethics**” means guidelines, general rules of behavior and standards established in accordance with section (5) of this code, which govern the conduct of candidates running for office and their supporters relating to their participation in the electoral process.

“**Appeal Board**” means the body appointed by The Elder Advisory Council in accordance with section (15.1.a) of this code to review and make decisions concerning petitions for removal from office and election appeals.

“**Council**” means those members elected pursuant to the Regulations holding the office of Chief and Councilors and who are empowered to act on behalf of the First Nation Tradition and the Indian Act, R.S.A. 1980, as amended.

“**Corrupt Practices**” means such forms of bribery direct or indirect, **fraud**, or providing a financial or material incentive to an elector in exchange for a vote

“**Deputy Electoral Officer**” means any person appointed by the electoral officer (**excluding electors**) for the purposes of an election to assist him in the conduct of the election process.

“**Elder**” means a Band Member who is at least 55 years of age.

“**Elder Advisory Council**” means a group comprised of all the Elders of the Swan River First Nation.

“**Election**” means a general election or by-election of the band held pursuant to the provisions of this code.

“**Electoral Officer**” means a person, appointed by a band council resolution before each election, who has the responsibility for conducting the nomination meeting, the election and post-election procedures.

“Elector” means a person who:

- a) is a member of the band, and
- b) is at least 18 years of age on the day on which the election is held.

“List of Electors” means a list of Electors compiled by the Electoral Office pursuant to the Regulation.

“Mail-in Ballot” means a ballot mailed or delivered in accordance with section 10.4) of this code.

“Membership Clerk” means the band employee responsible for maintaining the band’s membership list.

“Nomination Meeting” means the meeting at which persons come forward to nominate and second candidates at the election.

“Oath” means a solemn affirmation.

“Polling Station” means a building, hall or room which is selected as the site at which voting takes place.

“Quorum of Council” means at least a majority of the Council are present and vote.

“Rejected Ballots” means those ballots that have been improperly marked and/or defaced by electors which are not included in the tally of valid ballots cast during the counting of the votes.

“Regulations” means the Customary Election regulations of the Swan River First Nation.

“Resident of Reserve” means a person is ordinarily resident on the Swan River Reserve.

“Run-Off Election” means an Election held in the event of a tie vote among the leading candidates for an office.

“Swan River First Nation” means the Swan River Indian Band as recognized in the Indian Act and by the traditions of the members of the First Nation.

“Voter Declaration form” means a document that sets out, or provides for:

- a) The name of the elector:
- b) The band membership or registry number of the elector or, if the elector does not have a band membership or registry number, the date of birth of the elector:
and
- c) the name, address and telephone number of a witness to the signature of the elector.

“Voters List” means the list of band members eligible to vote in an election.

SECTION 4 – THE COUNCIL

4.1 **Composition and size**

The council shall consist of one (1) Chief and three (3) Councilors.

4.2 **Meetings**

- (a) A majority of the Whole Council shall constitute a quorum.
- (b) The first meeting of the Council shall be held not later than 30 days after it's election, on a day, hour and place to be stated in a notice given to each member of the council, and meetings shall thereafter be held on such days and at such times as may be necessary for the business of the Council or the affairs of the Band.
- (b) No member of the Council may be absent from meetings of the Council for three (3) consecutive Meetings without being authorized to do so by the Council. This will be grounds for removal.
- (c) The Chief of the Band or a majority of the Council shall summon a special meeting of the Council.
- (d) The secretary to the council shall notify each member of the Council, of the day, hour and place of each meeting of the Council.
- (e) Any member of Council who is absent from any regular meeting of the Council without being authorized to do so by the Council, will result in a pay deduction.

4.3 **Mode of Election for Chief and Councilors**

Chief and Councilors shall be elected by a majority of electors in accordance with this code.

4.4 **Term of Office**

- (a) The term of office for the position of Chief and Councilors shall not exceed three (3) years.
- (b) Council shall, by Band council resolution, establish the date on which the election is to be held, which must be no sooner than 90 days prior and no later than 10 following the end of the term of office of the council.
- (c) The term of office for the Chief and Councilors commences when all elected Council Members swear the oath of office under section 14.3 of this code. And subject to any vacancy arising under this code, expires three years later.
- (d) The successful candidate in a by-election shall hold office for the remainder of the original term of office of the Chief or Councilor whom he is elected to replace.

- (e) In the event that a successful appeal results in a new general election, the term of office of the newly elected Council shall commence on the date all elected Council members swear the oath of office under section 14.3 of this code and expire three years later

4.5

Vacancy

A Chief or Councilor position on the Council may become vacant if, while in office,

- (a) the Chief or Councilor resigns in writing from office on his own accord;
- (b) the Chief or Councilor has been unable to perform the functions of his office for more than six months due to illness or other incapacity;
- (c) the Chief or Councilor dies;
- (d) the Chief or Councilor is removed from office in accordance with section 6 of this code; or
- (e) the Chief or Councilor is otherwise unable to fulfill the terms of office.

SECTION 5 – CODE OF ETHICS

5.1 Candidates must campaign.

- (a) According to the rules and regulations established in this code and pursuant to the Code of Ethics.
- (b) without coercion or vote buying
- (c) respecting the right and freedom of other parties to organize and campaign;
- (d) respecting the rights of voters to obtain information from a variety of sources and to attend political rallies;
- (e) ethically, focusing on political issues and candidate platforms, instead of conducting smear campaigns or ones of rumor and innuendo;
- (f) nonviolently, without intimidating opposing candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
- (g) respecting the freedom of the press to cover the campaign and to express opinions on the campaign;
- (h) respecting the electoral officials and not interfering with the performance of their duties; and
- (i) accepting and complying with the official election results and the final decision of the complaints and Appeal Board.

- 5.2 (a) Every person is guilty of an offence who, during an election period, directly or indirectly offers a bribe to influence an elector to vote or refrain from voting or to vote or refrain from voting for a particular candidate, or during an election period, accepts or agrees to accept a bribe that is offered.

(b) Every person is guilty of an offence who, by intimidation or duress, compels a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election; or by any pretense or contrivance, induces a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate in an election.

SECTION 6 – REMOVAL OF COUNCIL MEMBERS FROM OFFICE

6.1 Grounds for removal.

The Chief or a Councilor may be removed from office and be prevented from running for office (depending on severity of violation) for a minimum of six years if he

- (a) violates this code, his oath of office or the Code of Ethics;
- (b) fails to attend three consecutive regular meeting of council without being reasonably excused from attendance by a majority of the council.
- (c) fails to maintain a standard of conduct expected of a member of council;
- (d) has been convicted of an indictable offence since his election;
- (e) accepts or offers a bribe, forges **any SRFN** documents or otherwise acts dishonestly in his role **affecting the dignity and integrity of the SRFN**.
- (f) is negligent in failing to ensure the safety and protection of the community's members and property.
- (g) abuses his office such that the conduct negatively affects the dignity and integrity of the community or of council.
- (h) encourages others to commit any of the above acts or omissions; or
- (i) engages in such other conduct as may be determined by council to be of such a serious nature that the removal is necessary and appropriate.

6.2 Procedure

Proceedings to declare a person ineligible to continue to hold the office of Chief or Councilor shall be initiated by:

- (a) Any elector submitting to the Appeal Board a petition on which shall appear:
 - 1) the ground pursuant to section 6 of this code on which removal of a Chief or Councilor is sought;
 - 2) the evidence in support of the petition;
 - 3) the signature of the petitioner;
 - 4) the signatures of at least 25% of all eligible electors of the band in support of the petition;

- (b) On receipt of a petition , the Appeal Board shall verify that the petition complies with Section 6 of this code. If the petition does not comply, the Elder's Appeal Board shall so notify the petitioner(s).
- (c) In a case where the petition complies with section 6.1 of this code, the Elder's Board shall;
 - 1) determine that the grounds put forth in the petition are either frivolous in nature or unsubstantiated, and dismiss the petition; or
 - 2) schedule a review hearing, which shall take place within 7 days from the date on which the petition was submitted to the board.
- (d) In a case where the petition has been dismissed under subsection 6.2(c)1, the Appeal Board shall so inform the petitioner(s) in writing and provide a rationale.
- (e) In a case where the Appeal Board schedules a hearing under subsection 6.2(c)2 The Board shall send a written notice of the hearing by registered mail to council, the Petitioner(s) and the Council member who is the subject of the petition for removal.
- (f) The written notice described in section 6.2(e) of this code shall set out;
 - 1) The nature of the hearing and all related particulars
 - 2) The date, time and location of the hearing; and
 - 3) A statement that the petitioner(s) any Council member who is the subject of the Petition for removal may, at the hearing, make a presentation to the board, which May include the presentation of documents and testimony by witnesses.
- (g) The Appeal Board shall conduct a hearing at the time and place set out in the notice provided under section 6.2(f) of this code.
- (h) Within five days of the day on which the hearing under section 6.2(g) of this code is held, the Appeal Board shall rule,
 - 1) that the petition shall be allowed to stand and declare the council position of the member of council who is the subject of the petition to be vacant; or
 - 2) that the petition is dismissed.
- (i) The Appeal Board shall send, by registered mail, a written notice of the ruling made under section 6.2(h) of this code to Council, the petitioner(s) and the council member who is the subject of the petition for removal.
- (j) The decision of the Appeal Board made under section 6.2(h) of this Code is final and binding upon all parties.
- (k) If the Council position is declared vacant under subsection 6.2(h) of this code, the Chief or Councilor removed from office shall be disqualified from being a candidate for a minimum of six (6) years commencing on the date of the Board's ruling.

6.3 By- Election

- a) Unless otherwise provided in this code, in the event that the office of Chief or Councilor Becomes vacant, a by-election shall be held within 30 days after the date on which the Position is declared vacant.
- b) No by-election shall be held if there are less than three months remaining in the term of the Council member whose office has become vacant, except where a by-election is necessary to have sufficient Council members to maintain a majority.
- c) Except as expressly provided otherwise in this code, the rules and procedures in this code shall apply to by-elections.

SECTION 7 – PRE-NOMINATION PROCEDURE

7.1 Appointment of an Electoral Officer

- (a) The electoral officer shall be appointed by a Band Council Resolution at least 50 days prior to the date set for election.
- (b) The Band Council Resolution for the appointment of the electoral officer shall contain his full name and address, the date of the election, the type of election which is to be conducted (general or by-election,) as well as any special instructions.
- (c) If an electoral officer has not been appointed within the time set out in section (7.1 (a) of this code,
The electoral officer shall be appointed by the Band manager as soon as possible.
- (d) The electoral officer must be a person who;
 - 1) is not a member of the band
 - 2) has no vested interest in the outcome of the election;
 - 3) is at least 21 years of age; and
 - 4) has experience in the conduct of elections or has received appropriate training.
- (e) In the event that the electoral officer cannot fulfill his duties, an existing deputy electoral officer shall be appointed by a Band Council Resolution to undertake the duties of the electoral officer. In the absence of an existing deputy electoral officer, the council shall appoint a new electoral officer.

7.2 Oath Of Office

The Electoral Officer shall swear an oath to uphold the office in accordance with this code.

7.3 Responsibilities and Ethics

The electoral officer is responsible for managing and executing all pre-electoral, electoral and Post-electoral processes and procedures included in this code. The electoral officer must;

- a) Uphold and abide by the rules and regulations established in this code and pursuant to the Code of Ethics;
- b) remain neutral and professional in the conduct of his officer and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
- c) not accept anything of value (including but not limited to money, offers of employment, gifts, travel) in exchange for preferential treatment or access to a public official or non public information.
- d) not discriminate against anyone because of race, religion, sex, age or handicap;
- e) use public office facilities to fulfill the terms of his office, and not for personal or partisan benefit;
- f) not pressure or intimidate other officials or personnel to favor a certain candidate; and
- g) avoid conflict of interests, or the appearance of conflict of interests, by abstaining from decision making where the electoral officer has a personal or private interest in the matter at issue.

Failure of the Electoral Officer to adhere to the Responsibilities and Ethics described in Section 7.3 will be grounds for dismissal

7.4 Voters List

- (a) At least 42 days before the day on which an election is to be held, the electoral officer shall obtain the names, band membership numbers and dates of birth of all Band members who will have attained the age of 18 on the date on which the election is to be held.
- (b) The Membership Clerk shall, no later than 40 days before the date on which the election is to be held, provide the electoral officer with the last known addresses, if any, of all electors who do not reside on the reserve.
- (c) Electors are responsible for providing the Membership Clerk with current contact addresses.
- (d) An Elector's address shall be used by the electoral officer only for purposes of providing notices, mail-in ballots or other election documents to electors who are entitled to receive them under this code.

- (e) Except for the purposes noted in section 7.4(d) the electoral officer shall not disclose an Elector's address without the consent of the elector
- (f) A candidate for election as Chief or Councilor may obtain from the electoral officer a list of the names and the addresses of electors who have consented to have their addresses disclosed to the candidates.
- (g) At least 40 days before the day on which an election is to be held, the electoral officer shall prepare a voters list containing the names of all of the electors in alphabetical order.
- (h) The electoral officer shall post the voters list in a public area of the Band administration Building, no later than 40 days before the date on which the election is to be held.
- (i) On request, the electoral officer or deputy electoral officer shall confirm whether the name of a person is on the voters list.
- (j) The electoral officer shall revise the voters list upon presentation of documentary evidence Which demonstrates that;
 - 1) the name of an elector has been omitted from the voters list.
 - 2) The name of an elector is incorrectly set out in the voters list; or
 - 3) The name of a person not qualified to vote is included in the voters list.
- (k) A person, or an elector acting on his behalf, may, no later that ten days before the date on which an election is to be held, demonstrate that an elector has been omitted from or incorrectly set out in the voters list by presenting in writing to the electoral officer evidence from the Membership Clerk that the elector;
 - 1) is entitled to have his name entered on the band list;
 - 2) will be at least 18 years of age on the date on which the election is to be held; and
 - 3) is qualified to vote in band elections.
- (l) A person may demonstrate that the name of a person not qualified to vote has been included in the voters list by presenting in writing to the electoral officer, no later than 10 days prior to the date on which the election is to be held, evidence that the person;
 - 1) is neither on the Band list nor entitled to have his name entered on the band list;
 - 2)will not be at least 18 years of age on the date on which the election is to be held; or
 - 3)is not eligible (jail) to vote in band elections.
- (m) Where the electoral officer believes or has information that a person whose name is on the voters list is not an elector, or where, in accordance with section 7.4 an elector demonstrates to the electoral officer that the name of a person not qualified to vote appears on the voters list, the electoral officer shall give written notice to the person whose eligibility is challenged at least 10 days before the date on which the election is to be held.
- (n) The notice given under section 7.4(l) shall include the reasons for seeking removal of a name from the voters list and any supporting documents, and shall provide notice that a written reply may be sent to the electoral officer, which must be received no later than ten days before the date on which the election is to be held.

(o) After consideration of all information and representations relating to amendments to the Voters' list, the electoral officer shall add names to or delete names from the voters list based on whether persons qualify as electors.

(p) The decision of the electoral officer under section 7.4(o) is final and is not subject to appeal.

(q) A person whose name does not appear on the voters list shall be entitled to vote on election day, provided he presents documentary evidence to the electoral officer demonstrating his qualifications as an elector to the electoral officer's satisfaction.

7.5 Appointment of Deputies and Interpreters

- a) The electoral officer shall appoint deputies and interpreters as he deems necessary, who will work under his direction.
- b) The deputy electoral officer shall have such powers as described in this code as well as those powers of the electoral officer as are delegated to the deputy by the electoral officer.
- c) A deputy electoral officer shall not be a member of Council or a candidate in the election.
- d) Every deputy electoral officer shall swear an oath of office to;
 - 1) uphold and comply with this code, the Code of Ethics and all the laws of the community;
 - 2) fulfill the duties and responsibilities of his office under this code;
 - 3) carry out his duties faithfully, honestly, impartially and to the best of his abilities;
 - 4) Keep confidential, both during and after his term of office, any matter or information which, under this code, community law or policy, is considered confidential; and
 - 5) always act in the best interests of the community in carrying out his duties
- e) The electoral officer may make such orders and issues such instructions consistent with the provisions of this code as he may deem necessary for the effective administration of the election.

PART 8 – THE NOMINATION PROCESS

8.1 **Notice of Nomination Meeting and Mail-in Procedures**

- (a) The electoral officer shall, at least 10 days before the date on which the nomination meeting is to be held, post a notice of nomination meeting in at least one conspicuous place in the band Administration Building.
- (b) The electoral officer shall, at least 10 days before the date on which the nomination meeting is to be held, mail a notice of the nomination meeting and a voter declaration form to every Elector in respect of whom the electoral officer has been provided with, or has been able to obtain, an address.
- (c) A notice of a nomination meeting shall include:
 - 1. The date, time, duration and location of the nomination meeting;
 - 2. The date on which the election will be held and the location of each polling place;
 - 3. The name and phone number of the electoral officer;
 - 4. The statement that any voter may vote by mail-in ballot;
 - 5. A description of the manner in which an elector can nominate a candidate, or second the nomination of a candidate;
 - 6. the statement that, if the elector wants to receive information from candidates, the elector can agree to have his or her address released to the candidates;
- (d) The electoral officer shall record the names of the electors to whom a notice of the Nomination meeting was mailed, the addresses of those electors, and the date on which The notices were mailed.

8.2 **Eligibility to Nomination**

- (a) In order to be entitled to nominate a candidate at an election, an elector must, on the day of the nomination meeting:
 - 1) be at least 18 years of age; and
 - 2) be included on the voters list.

8.3 **Nomination Meeting**

- (a) The nomination meeting shall be held at least 30 days before the date on which the election is to be held.
- (b) At the time and place set for the nomination meeting, the electoral officer shall declare the nomination meeting open for the purpose of receiving the nomination of candidates for the available Council positions.
- (c) The electoral officer is responsible for managing and conducting the nomination meeting.

8.4 **Duration**

- (a) The nomination meeting shall remain open for at least five hours.

8.5

Maintaining Order and Security

- (a) The electoral officer shall maintain order at all times during the nomination meeting and may cause to be removed any person who, in his opinion, is disrupting or otherwise interfering with the proceedings.

8.6

Nomination Procedure

- (a) The electoral officer shall record the name of the candidate in person, the nominator and the seconder and confirm to those present at the meeting that the proposed candidate is eligible to be elected to the position of Chief or Councilor of the band.
- (b) A person present at a nomination meeting who is eligible to do so may second the nomination of any person nominated.
- (c) Where the same person receives two written nominations for the same office, the second Nomination shall constitute a secondment of the first nomination.
- (d) Any elector may nominate or second no more than,
 - 1) one eligible person for the office of Chief; and
 - 2) the number of eligible persons equivalent to the number of Councilor positions available for election.
- (e) At the end of the nomination meeting, the electoral officer shall;
 - 1) If only one person has been nominated for election as chief, declare that person to be elected;
 - 2) If the number of persons nominated to serve as councilors does not exceed the Number to be elected, declare those persons to be elected; and
 - 3) Where more than the required number of persons are nominated for election as Chief or Councilors, announce that an election will be held.
- (f) On the day following the nomination meeting, the electoral officer shall post in one conspicuous place in the Band Administration Buildings, a list of nominees, their nominators and seconders and the offices for which they are nominated.

PART 9 – CANDIDACY

9.1 Eligibility of Candidates.

- (a) Only electors who meet the requirements of a candidate as set out in this code may be nominated as a candidate;
 - 1) Does not have any outstanding debt owed to the Band.
 - 2) Resident on the reserve for at least 1 (One) year prior to Nomination.
- (b) If the nominee is present at the nomination meeting, he or she shall sign the following Documents(s)
 - 1) a notice of acceptance of nomination
- (c) A nominee not present at the nomination meeting shall file the document(s) required under Section 9.1(b) with the electoral officer in person.
- (d) No person shall accept candidacy in an election if that person is not eligible to be a candidate in accordance with this code.

9.2 Deposit

A non-refundable deposit of \$500.00 is required to run for Chief and \$400.00 for Council.

9.3 Withdrawal

- a) A candidate may withdraw his candidacy within (3) three days from the date on which the nomination meeting was held by submitting a written withdrawal of nomination to the electoral officer.

SECTION 10 – PRE-ELECTION PROCEDURE

10.1 Acclamation

- (a) Where the office of chief and all offices of councilor are filled by acclamation.
 - 1) The electoral officer shall post in at least one conspicuous place in the Band Administration Building, and mail to every elector who does not reside on the reserve, a notice that sets out the names of the persons who have been acclaimed and states That an election will not be held; and
 - 2) sections 10.2 through 13.4 of this code shall not apply.

10.2 Ballots

- (a) The electoral officer shall prepare ballot papers setting out:
 - 1) the names of the candidates nominated for election as Chief, in alphabetical

- order by surname; and
 - 2) the names of the candidates nominated for election as Councilors, in alphabetical order by surname..
- (b) Where two or more candidates have the same name, the electoral officer shall add to the Ballots such additional information as is necessary to distinguish between those candidates. The ballot may, at the request of the candidate, include a candidate's commonly used nickname.

10.3 Notice of the Election

- (a) The election shall be held at least (40) days after the day on which the nomination meeting was held.
- (b) The electoral officer shall, within three days after the day on which the nomination meeting Was held, post a notice of election in at least one conspicuous place in the Band Administration Buildings.

The notice of Election for Chief and Councilors must include the following information:

- 1) the date of the election
 - 2) the times at which the polling station(s) will open and close;
 - 3) the location of the polling station(s);
 - 4) the time and location of the counting of the votes; and
 - 5) a statement that the voters list is posted for public viewing and it's location.
 - 6) the candidates nominated.
 - 7) the list of electors.
 - 8) notice of advance poll
 - 9) a copy of the regulations
- (c) At least 27 days prior to an Election Day, the Electoral Officer must post a Notice of Election In the Band Administration Buildings, and mail delivery or any other means which the council, in their discretion, may consider appropriate, send the Notice of Election to Electors residing anywhere other than the reserve of the Swan River First Nation. In respect of mail or other delivery to the residence of Electors residing elsewhere that the Swan River First Nation, Notices will be sent to the last known address of the Elector. Electors shall be responsible for notifying the First Nation of changes in address.

10.4 Mail-in Ballots

- 10.4 (a) The electoral officer shall, at least 27 days before the date on which the election is to be held, mail to every elector who does not reside on the reserve and to every elector whose application to vote by mail-in ballot has been received, a mail-in ballot package consisting of;
- (1) ballot(s) for Chief and Councilor initialed on the back by the electoral officer;
 - (2) an inner postage-paid return envelope, pre-addressed to the electoral officer;
 - (3) a second inner envelope marked "ballot" for insertion of the completed ballot;
 - (4) an voter declaration form which shall set out:

- (i) the name of the elector
 - (ii) the membership number and date of birth of the elector; and
 - (iii) the name, address and telephone number of the witness to the signature of the elector;
- (5) the notice of election set out in section (10.3) of this code; and
- (6) a letter of instruction regarding voting by mail-in ballot which shall also include;
- (i) a statement advising electors that they may vote in person at any polling station on the day of the election, if they return their mail-in ballot to the electoral officer at the polling station or swear a written declaration before the electoral officer, a justice of the peace, notary public or duly appointed commissioner for taking oaths that they have lost the mail-in ballot;
 - (ii) a list of the names of any candidates who were acclaimed (if applicable)
- 10.4(b) an elector who is ordinarily resident on the reserve and who is unable to vote in person on election day may, at least 10 days before the date on which the election is to be held, request a mail-in ballot package from the electoral officer.
- 10.4(c) An elector not residing on the reserve who has not received a mail-in ballot package may, not later than 10 days before the date on which the election is to be held, request a mail-in ballot package from the electoral officer.
- 10.4.(d) Upon receipt of a request for a mail-in ballot package under section (10.4 (a), (b), the electoral officer shall mail or deliver a mail-in ballot package to the elector whose name appears on the application.
- 10.4 (e) The electoral officer shall indicate on the voters list that a ballot has been provided to each elector to whom a mail-in ballot was mailed or otherwise provided and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed or otherwise provided.
- 10.4 (f) An elector shall vote by mail-in ballot by:
- 1) placing an "X" or other mark that clearly indicates the elector's choice but does not identify the elector opposite the name of the candidate or candidate's for whom he desires to vote;
 - 2) folding the ballot in a manner that conceals the names of the candidates or any marks, but exposes the electoral officer's initials on the back;
 - 3) placing the ballot in the inner envelope and sealing the envelope
 - 4) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
 - 5) placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope
 - 6) delivering, mailing or otherwise ensuring receipt by the electoral officer of the envelope before the close of polls on the day of the election.

10.4 (g) Mail-in ballots that are not received by the electoral officer before the close of polls on the day of the election shall not be counted.

10.5 Equipment for the Election

10.5 (a) The electoral officer shall, before the polling station is open, supply the polling station with:

- (i) sufficient ballot boxes;
- (ii) a sufficient number of ballots;
- (iii) a sufficient number of voting compartments enabling elector to make their ballots free from observation;
- (iv) instruments for marking the ballots;
- (v) a sufficient number of voting instructions as may be required;
- (vi) all other equipment necessary to establish and equip the voting locations; and
- (vii) the final voters list.

10.6 Polling Stations

- a) The electoral officer will establish at least one polling station on the reserve
- b) The location of polling stations and any provisions for mail-in ballots must be determined by Council prior to the date set herein for posting the Notice of Election.
- c) The electoral officer shall provide a voting compartment in the polling station where electors can mark their ballots free from observation and the electoral officer may appoint security to maintain order in the polling station.

10.7 Advance Polls

- a) The Council may by resolution provide for the holding of an Advance Poll. The resolution must state the time, date, and place of the Advance vote.
- b) The Advance Poll must be held at least three(3) days prior to an Election day.
- c) Notice of the Advance Poll including the date, place, and hours of operation must be posted in the Notice of Election.
- d) Voting procedures for the Advance Poll will be the same as voting procedures on Election day.
- e) Votes cast in an Advance Poll will remain locked in sealed ballot boxes and remain in the possession of the Electoral Officer at all times. These ballots will be counted following the close of Polling Stations on Election Day.

10.8 Secret Vote

- a) Subject to (8.6) , voting in all Elections, Bi-elections and Run-off Elections will be by secret ballot.
- b) physically handicapped or other incapacitated voters who are incapable of marking a ballot may indicate their selection of Candidates to the Polling Clerk who will mark their ballots on their behalf.
- c) No person may be required to disclose in any legal proceeding whether they voted or for which particular Candidate they voted.

10.9 Refusal of Permission to Vote

- a) The Electoral officer or Polling Clerk may refuse to allow a member to vote if, in sole opinion:
 - 1) The person's name is not listed on the List of Electors;
 - 2) The person is intoxicated by any substance;
- b) If requested to do so by the Electoral Officer or the Polling Clerk, each person requesting a ballot must present identification to the Electoral Officer or Polling Clerk verifying age and name.

SECTION 11- ELECTION DAY

11.1 Electoral Officer

The electoral officer shall not be allowed to vote in the election.

11.2 Candidate's Agent

- a) A candidate shall be entitled to not more than two agents in the polling station at any one time
- b) A candidate's agent must present a letter of authorization to the electoral officer or the deputy electoral officer, signed by the candidate, in order to be permitted to remain in the polling station.
- c) A candidate cannot be their own agent.

11.3 Polling Hours

- 11.3 (a) The polling station shall be open from 9:00 a.m. until 8:00 p.m. local time on the day of the election.

11.4 Verification of the Ballot Box

- 11.4 (a) The electoral officer or deputy electoral officer shall, immediately before the commencement of the poll;

- 1) Open the ballot box and call such persons as may be present to witness that it is empty and complete a written statement to that effect, verified by a witness;
- 2) properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and
- 3) Place the ballot box in public view for the reception of the ballots.

11.5 Secrecy and Security

- a) Voting shall be by secret ballot.
- b) No elector may vote by proxy or authorize another person to vote on his or her behalf.
- c) The electoral officer or deputy electoral officer shall maintain order at all times in the polling station and may cause to be removed any person who in anyway interferes, disrupts or attempts to influence the orderly conduct of the poll.
- d) No person shall, on the day the election is held, on the premises of the polling station;
 - i) Distribute any election related printed materials except such materials as may be distributed by the electoral officer or deputy electoral officer for the purpose of conducting the election.
 - ii) attempt to interfere with or influence any elector in marking his ballot; or
 - iii) attempt to obtain information as to how an elector is about to vote or has voted.

11.6 Voting Procedure

- a) Each person, on arriving at the polling station, shall give his name to the electoral officer or deputy electoral officer.
- b) The electoral officer or deputy electoral officer shall, if the person's name is set out in the voters list, place his initials on both the ballot for chief and the ballot for councilor and provide them to the elector.
- c) The electoral officer or deputy electoral officer shall cause to be placed in the proper column of the voters list a mark opposite the name of every person receiving a ballot paper.
- d) An elector to whom a mail-in ballot was mailed or provided under section 10.4 of this code may obtain a ballot and vote in person at a polling place if;
 - (i) the elector returns the mail-in ballot to the electoral officer or deputy electoral officer; or
 - (ii) where the elector has lost the mail-in ballot, the elector provided the electoral officer provides the electoral officer or deputy electoral officer with a written affirmation that

the elector has lost the mail-in ballot, signed by the elector in the presence of the electoral officer, deputy electoral officer, a justice of the peace, a notary public or a commissioner for oaths.

- e) The electoral officer or deputy electoral officer shall, when requested to do so, explain the method of voting to the elector.
- f) After receiving a ballot, an elector shall;
 - (i) immediately proceed to the compartment provided for marking ballots;
 - (ii) mark the ballot by placing an "X" or other mark that clearly indicates the elector's choice but does not identify the elector opposite the name of the candidate or candidates for whom he desires to vote;
 - (iii) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
 - (iv) deliver the ballot to the electoral officer or deputy electoral officer.
- g) On receipt of a completed ballot, the electoral officer or deputy electoral officer shall without unfolding the ballot, verify the initials placed on it and deposit it in the ballot box in the presence of the elector and any other persons entitled to be present at the polling station.
- h) while an elector is in the compartment for the purpose of marking his ballot paper, no other person shall, except as provided in section 10.8(b) of this code, be allowed in the same compartment or be in any position from which he can see the manner in which the elector marks his ballot paper.

11.7 Closing of the Polling Station

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

SECTION 12-COUNTING OF THE VOTES

12.1 Opening Mail-in Ballots

At the time published in the notice prepared under section 10.3 (c) (4) of this code for the counting of the votes the electoral officer or deputy electoral officer shall, in the presence of any candidates or their agents who are present, open each envelope containing a mail-in ballot that was received before the close of the polls and, without unfolding the ballot.

- a) reject the ballot if;
 - 1) it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed
 - 2) the voter declaration form does not contain a date of birth or a band number that matches the information contained for that elector on the voters list;
 - 3) the name of the elector set out in the voter declaration form is not on the

voters list or

4) the voters list shows that the elector has already voted; or

b) in any other case, place a mark on the voters list opposite the name of the elector set out in the voter declaration form, and deposit the ballot in a ballot box.

12.2 Counting the Ballots

a) The electoral officer or deputy electoral officer shall supply other deputy electoral officer and all persons present and who so request with a tally sheet to keep their own tally of the votes.

b) Immediately after the mail-in ballots have been deposited in the ballot box under subsection 12.1 of this code, the electoral officer or deputy electoral officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and examine each ballot.

c) The electoral officer or deputy electoral officer shall call out the names of the candidates for whom the votes were cast on all valid ballots

d) A deputy electoral officer shall mark a tally sheet in accordance with the names being called out under section (12.2.c) of this code, for the purpose of arriving at the total number of votes cast for each candidate.

12.3 Ballots not Counted

a) In examining the ballots, the electoral officer or deputy electoral officer must reject any ballots that:

- 1) do not contain the initials of the electoral officer or deputy electoral officer;
- 2) do not give a clear indication of the elector's intention;
- 3) contain more votes than there are candidates to be elected; or
- 4) contain a mark by which the voter can be identified.

b) The electoral officer or deputy electoral officer shall attach a note to each ballot rejected which outlines the reason for rejection.

12.4 Tie

a) If it is not possible to determine the successful candidate(s) for either a chief or councilor position due to an equal number of votes being cast (i.e., tie vote), the electoral officer shall establish a time for the conduct of a recount and publicly announce this time in the presence of all those present in the polling station.

b) A recount conducted pursuant to section (12.4) must take place within 24 hours of the announcement made by the electoral officer, made pursuant to section 12.4), in the presence of the candidates and their agents who wish to attend.

c) At the time established pursuant to section 12.4.b, the electoral office shall conduct a recount of the valid ballots.

- d) If the recount fails to determine a successful candidate, the Electoral Officer will call a run-off election.

SECTION 13 - Run-off Election

13.1 Notice of Run-off Election

Within three(3) days following the election day giving rise to the Run-off Election, the electoral officer must post a Notice of Run-off Election in the same time, manner, form and places as the initial Notice of Election set forth in 8.3, 8.4 and 8.5. This run-off election will take place within 30 days of the election.

13.2 Procedure for Run-off Election

The rules and procedures for conducting a Run-off Election will be same as those used for Conducting an Election or Bi-Election.

13.3 A list of Electors for Run-off Election

In a Run-off Election, the list of Electors must be the same as the List of Electors used in the Election or Bi-Election.

13.4 The vote in Run-off Election

In the event of a tie vote in the Run-off Election, another Run-off Election will be held.

SECTION 14 – POST-ELECTION PROCEDURES

14.1 Declaration of Outcome

- 14.1 (a) After completing the counting of the votes and establishing the successful candidates, the electoral officer shall declare to be elected the candidates or candidates having the highest number of votes.
- (b) Following the declaration of elected candidates made pursuant to section 14.1 (a) the electoral officer shall complete and sign an election report which shall contain:
- i) the names of all candidates;
 - ii) the number of ballots cast for each; and
 - iii) the number of rejected ballots.
- (c) Within four days after completion of the counting of the votes, the electoral officer shall;
- i) sign and post, in at least one conspicuous place in the Band Administration Building, election report prepared in accordance with section (7.3) ;

- ii) mail a copy of the election report to every elector of the band who does not reside on the reserve;

14.2 Retention of Ballots and Other Election Material

- 14.2 (a) The electoral officer shall deposit all ballot papers in sealed envelopes, including those rejected, spoiled and unused, and shall retain these ballots and all materials in connection with the election.
- (b) All ballots and materials retained in accordance with section 14.2 (a) of this code, shall be retained for 45 days from the date on which the election was held or until a decision on an appeal is rendered. Whichever date is later, after which time the electoral officer shall, unless directed otherwise by the Council of the Band, destroy them in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those papers.

14.3 Chief and Councilor Oath of Office

A candidate who has been elected Chief or Councilor shall, within 10 days of the electoral officer's Declaration under section 14.1 of this code, swear an oath of office before a justice of the peace, Notary public or duly appointed commissioner for taking oaths, swearing to:

- 1) Uphold and comply with this code, the Code of Ethics and all laws of the Community;
- 2) Fulfill the duties and responsibilities of his office under this code, the Code of Ethics and all laws of the community.
- 3) Carry out his duties faithfully, honestly, impartially and to the best of his abilities;
- 4) Keep confidential, both during and after his term of office, any matter or information which, under this code, the laws of the community or policy, is considered confidential; and
- 5) Always act in the best interests of the community in carrying out his duties.
- 6) No person elected as Chief or Councilor shall be permitted to assume office until they have sworn and filed with the electoral officer the oath of office required under section 14.3 of this code.
- 7) Subject to section 14.3 of this code, if a person elected as Chief or Councilor fails to file the sworn oath of office with the electoral officer on or before the specified time period, the electoral officer shall declare the office vacant.
- 8) The electoral officer shall give notice in writing to the elected candidate whose office is declared vacant under section 14.3.7 of this code and to the elected Chief and Council.
- 9) Unless the vacancy occurring under section (14.3) results in a situation where the Band Council can no longer form a quorum, the position shall remain vacant until such time as a bi-election is called by the election officer.

14.4 Residency Requirements

All members of the Council must be a resident on the Swan River First Nation Reserve for the duration of their term of office.

PART 15 – APPEAL BOARD

15.1 Composition

- 15.1 (a) The Appeal Board shall be composed of five (5) members of the Elders Advisory Council appointed by the Elders Advisory Council at a special meeting.
- (b) All members of the Appeal Board shall possess some understanding of the principles of natural justice.
- (c) At least 30 days before the date on which the election is to be held, the Band Council shall,
- i) notify the members of the Appeal Board in accordance with section 15.1.a
 - ii) draw a list of 10 additional potential members.
- (d) The term of office of the appeal Board shall be from its appointment under Section 15.1 until the day on which the Council ratifies another Appeal Board in accordance with this code, 15.1.c.i
- (e) Upon receipt of an election appeal in accordance with section 16.3, an Appeal Board member who is immediate family of any appellant or candidate, or who may be reasonably apprehended to have a bias or conflict in connection with the appeal, shall excuse himself from the board.
- (f) Each member of the Appeal Board shall execute an Oath of Office and accept his appointment by forwarding a letter of acceptance to the Council.

15.2 Functions

- 15.2 (a) The Appeal Board shall supervise and administer, in accordance with the provisions of this code;
- (i) all election appeals; and
 - (ii) all petitions for the removal of a Council member from office.

SECTION 16- APPEAL MECHANISM

16.1 Appeal Mechanism

Within 5 consecutive days from the date on which the election was held, a candidate or an elector may submit an appeal to the Appeal Board.

16.2 Grounds for Appeals

An appeal submitted pursuant to section 16.3 of this code must sufficiently outline one or more of the following;

- a) That the person declared elected was not qualified to be a candidate;
- b) That there was a violation of this code in the conduct of the election; or
- c) That there was corrupt or fraudulent practice in relation to the election.

16.3 Notice of Appeal

- (a) An appeal may be made by forwarding a Notice of Appeal in writing to the Electoral Officer outlining the grounds for the appeal together with a cash deposit of One Hundred (\$100.00) dollars;
- (b) The Notice of Appeal must be received by the Electoral Officer within five(5) days from the Election day giving rise to the appeal

16.4 Procedure

The Electoral Officer will:

- a) in the case of an appeal with respect to an Election, Bi-Election or Run-off Election, shall forward a Notice of Appeal to all candidates and
- b) post a Notice of Appeal in public places on the Swan River Reserve.

16.5 Meeting of the Election Appeal Board

Subject to Section 16.3, within fourteen (14) days of receiving the Notice of Appeal, the Electoral Officer will convene a meeting of the Appeal Board for the purpose of hearing the appeal. The meeting will be chaired by the Electoral Officer who will not be entitled to vote.

Notice of the meeting must be posted in the same manner as the Notice of Appeal and delivered to the appellant at least three (3) days prior to the date set for the meeting .

The Appellant, the individual in respect of whom the appeal is brought and other interested parties or their representatives may present oral or written submissions to the Appeal Board at the meeting. If requested, the appeal board may grant an adjournment of five (5) days to allow the accused to prepare a response.

16.6 Within Five (5) days of the meeting, the Appeal Board will promptly make one of the following decisions:

- a) To deny the appeal on the basis the evidence presented did not fully and properly establish the necessary grounds for an appeal;
- b) To uphold the grounds for an appeal but allow the results of the Election in question to stand as the infraction did not materially or directly affect the result of the Election; or

c) To Uphold the grounds for Appeal and call for a: new Election, Bi-election, or a run-off Election

16.7 Forthwith, the Electoral Officer will notify affected parties of the decision.

If the appeal is upheld under section 16.8 (b) or (c). the cash deposit will be returned to the appellant. If the appeal is denied, the deposit is forfeited to the Swan River First Nation. The decision of the Appeal Board made pursuant to section (16.8(a) (b) of this code shall be; "Confidential"

The decision of the Appeal Board is final and not subject to appeal.

SECTION 17 - AMENDMENTS

17.1 Amendments to the Customary Election Regulations may be prepared and presented by the Band Council upon written request to the Council by Twenty five (25 %) percent of the electors of the Swan River Band.

17.2 Once received by the Council, the amendment request, the Council shall provide to the members of the Band, sixty (60) days notice of the proposed amendments to the Customary Election Regulations. Notices shall be publicly posted in the Swan River First Nation Band Office.

17.3 Amendments shall be consented to by a majority of the electors of the Band by way of Referendum or petition held sixty (60) days after the posting of the proposed amendment.