



Bridge River Indian Band

XWÍSTEN ELECTION CODE

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TABLE OF CONTENTS**Contents**

PART 1 - PREAMBLE & TITLE	3
PART 2 - COMING INTO FORCE	3
PART 3 - INTERPRETATION.....	3
PART 4 - THE COUNCIL	5
PART 5 - CODE OF ETHICS	8
PART 6 - REMOVAL OF COUNCIL MEMBERS FROM OFFICE.....	9
PART 7 - ELECTORAL OFFICIALS	11
PART 8 - VOTERS LIST	12
PART 9 - THE NOMINATION PROCESS.....	14
PART 10 – CANDIDACY	16
PART 11 - PRE-ELECTION PROCEDURE.....	17
PART 12 - ELECTION DAY.....	20
PART 13 - COUNTING OF THE VOTES.....	22
PART 14 - POST-ELECTION PROCEDURES.....	24
PART 15 - COMPLAINTS AND APPEAL BOARD	26
PART 16 - APPEAL MECHANISM.....	27
PART 17 – AMENDMENTS.....	29
Appendix A	31
Appendix B.....	32
Appendix C.....	33
Appendix D	34
Appendix E.....	35

PART 1 - PREAMBLE & TITLE

1. This code shall be called the Xwísten Election Code.

PART 2 - COMING INTO FORCE

2. This code comes into force upon the passing of a Ministerial Order proclaiming the removal of the Bridge River Indian Band from the election provisions of the *Indian Act*.

PART 3 - INTERPRETATION

3. In this code

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

“by-election” means a special election to fill a position on the council that has become vacant with 120 days of declaring the position 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;
- (b) is a Xwísten member;

“code” means the Xwísten Election Code set out herein.

“Code of Ethics” means guidelines, general rules of behaviour and standards established in accordance with section 47 of this code, which govern the conduct of candidates running for office and their supporters relating to their participation in the electoral process (see Appendix A).

“Complaints and Appeal Board” means the body appointed by a Band Council Resolution in accordance with section 180 of this code to review and make decisions concerning petitions for removal from office and election appeals.

“corrupt or fraudulent practices” means any attempt, either direct or indirect, to influence an elector’s participation at any stage in the electoral process through bribery, force or intimidation.

“council” means the body composed of those persons selected pursuant to this code.

“Deputy Electoral Officer” means any person appointed by the Electoral Officer for the purposes of an election to assist them in the conduct of the election process.

“Elder” means a Band member who is at least 65 years of age the day on which they are appointed.

“election” means a general election or by-election to elect a Chief or Councillor 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.

“member” means anyone who is accepted by ISC or the Band as a Xwísten member.

“membership meeting” means general meetings to receive and discuss information that are called by the Chief and open to all members.

“mail-in ballot” means a ballot mailed or delivered in accordance with section 120 of this code.

“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.

“Registrar” means the officer of the Department of Indigenous Services Canada who is in charge of the Indian Register and the Band Lists maintained by the Department.

“rejected ballots” means those ballots that have been cast, but have been improperly marked and/or defaced by elector(s) which are not included in the tally of valid ballots cast during the counting of the votes.

“voter declaration form” means a document that sets out, or provides for:

- (a) the name of the elector;
- (b) the Band membership 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.

“Xwísten” means Bridge River Indian Band.

4. Where there is a reference to a number of days between two events, in calculating that number, the day on which the first event occurred is not counted and the day on which the later event occurred is counted (i.e., between Monday and Wednesday is two days).

PART 4 - THE COUNCIL

Composition and Size of Council

5. The council shall consist of one chief and five councillors.
6. If the population exceeds 500 members, Chief and Council may amend the Election Code by Band Council Resolution to add one Councillor for every 100 members.

Governance

7. Chief and Council shall govern pursuant to the procedures and stipulations set out in the Xwisten Chief and Council Governance Policy which shall include but is not limited to the inclusion of a Code of Conduct for Chief and Council.

Meetings

8. The first meeting of the council shall be held not later than 30 days after its 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.
9. No member of the council may be absent from meetings of council for three consecutive meetings without being authorized to do so by the council.
10. The chief of the band or a quorum of the council shall summon a special meeting of the council.
11. The secretary to the council shall notify each member of the council of the day, hour and place of each meeting of the council.

Order and Proceedings

12. A majority of the whole council shall constitute a quorum.
13. If no quorum is present within 30 minutes after the time appointed for the meeting, the secretary shall call the roll and take the names of the members of council then present and council shall stand adjourned until the next meeting.
14. The chief shall be the presiding officer at meetings of council, but the chief may appoint an alternate at the chief's discretion.
15. Upon a quorum being present, the presiding officer shall take the chair and call the meeting to order.

16. In the absence of the chief, a chairman shall be chosen from among the councillors present until the chief's arrival.
17. The presiding officer shall maintain order and decide all questions of procedure.
18. The order of business at each regular meeting of the council shall consider the following items in its agenda:
 - (a) reading, correction (if any) and adoption of the minutes of the previous meeting;
 - (b) unfinished business;
 - (c) presentation and reading of correspondence and petitions;
 - (d) presentation and consideration of reports of committees;
 - (e) new business;
 - (f) hearing deputations; and
 - (g) adjournment.
19. Each resolution shall be presented or read by the mover, and when duly moved and seconded and placed before the meeting by the presiding officer, shall be open for consideration.
20. After a resolution has been placed before the meeting by the presiding officer, it shall be deemed to be in the possession of the council, but it may be withdrawn by consent of the majority of the council members present.
21. When any council member desires to speak, the council member shall address their remarks to the presiding officer and confine himself to the question then before the meeting.
22. In the event of more than one council member desiring to speak at one time, the presiding officer shall determine who is entitled to speak.
23. The presiding officer or any council member may call a council member to order while speaking, and the debate shall then be suspended, and the council member shall not speak until the point of order is determined.
24. A council member may speak only once on a point of order.
25. Any member of the council may appeal the decision of the presiding officer to the council and all appeals shall be decided by a majority vote and without debate.
26. All questions before the council shall be decided by majority vote of the councillors present.

27. The presiding officer shall not be entitled to vote unless the votes in favour and against the measure are equal, in which case the presiding officer shall cast the deciding vote.
28. Every council member present when a question is put shall vote thereon unless the council excuses the council member or unless the council member is personally interested in the question, in which case the council member shall declare their interest, and may recuse himself or be required to recuse himself by a majority vote of the other council members.
29. A member of the council who refuses to vote shall be deemed to vote in the affirmative.
30. Whenever a division of the council is taken for any purpose, each council member present and voting shall announce their vote upon the question openly and individually to the council and, when so requested by any member, the secretary shall record it.
31. Any council member may require the question or resolution under discussion to be read for their information at any period of the debate, but not so as to interrupt a member who is speaking.
32. Council may vote to hold meetings in-camera and kept confidential.
33. The presiding officer may expel or exclude from any meeting any person who causes a disturbance at the meeting.
34. The council may, at its first meeting, appoint standing committees in lieu of the committee of the whole.
35. The council may appoint special committees on any matters as the interests of the band may require.
36. The council may appoint an advisory committee on any matters as the interests of the band may require that is composed of at least three members as follows:
 - (a) An Elder who is a member of the Band;
 - (b) A member of the Band who is under 30 years of age; and
 - (c) A member of the Band, at least 18 years of age, who is familiar with the traditions, values and language of the Band.
37. A majority of the members of a committee shall be a quorum.
38. The chief of the band shall be an ex officio member of all committees and be entitled to vote at all committee meetings, and other members of the council may attend meetings of a committee and may with the consent of the committee take part in the discussion but shall not be entitled to vote.
39. The general duties of standing, special, and advisory committees are:

- (a) to report to the council from time to time as often as the interests of the band may require, all matters connected with the duties imposed on them and recommend such action by the council in relation to those duties as they may deem necessary and expedient; and
 - (b) to consider and report upon all matters referred to them by the council or by the chief of the band.
- 40. Special meeting of committees shall be called at the request of the chairman or a majority of the committee or, in the absence of the chairman, on request of the chief of the band.

Mode of Election for Chief and Councillors

- 41. Chief and Council, shall be elected in accordance with this code on the date set out in section 132.

Term of Office

- 42. A term of office shall be 3 years.
- 43. The term of office for the chief and councillors commences when all elected council members swear the oath of office under Appendix C and, subject to any vacancy arising under this code, expires 3 years later.
- 44. In the event that a successful appeal results in a new general election, the term of the newly elected council shall commence on the date all elected council members swear the oath of office under Appendix C, and expires 3 years later.

Vacancy

- 45. A chief or councillor position on the council will become vacant immediately if:
 - (a) the chief or councillor dies or resigns their office,
 - (b) the chief or councillor refuses to sign their oath of office
 - (c) the chief or councillor is removed from office as per Part 6 of the code.
- 46. A chief or councillor position on the council will become vacant immediately if the chief or councillor fails to sign their oath of office within 30 days of the election of council.

PART 5 - CODE OF ETHICS

- 47. Candidates must campaign according to the rules and regulations established in this code and pursuant to the Election Candidate Code of Ethics (see Appendix A).

PART 6 - REMOVAL OF COUNCIL MEMBERS FROM OFFICE

48. The chief or a councillor may be removed from office and be prevented from running for office for up to 6 years if they:
- (a) violate this code, their oath of office, the Election Candidate Code of Ethics, the Xwísten Chief and Council Governance Policy, or any other policy governing the conduct of Xwísten Chief and Council;
 - (b) fail to attend 3 consecutive regular meetings of council without being reasonably excused from attendance by a quorum of the council;
 - (c) have been convicted of an indictable offence since their election;
 - (d) accept or offers a bribe, forges a council document or otherwise acts dishonestly in their role;
 - (e) are negligent in failing to ensure the safety and protection of the community's members and property;
 - (f) use their office for personal financial gain or for the financial benefit of members of their family to the detriment of the council or the Band as a whole;
 - (g) encourage others to commit any of the above acts or omissions; or
 - (h) engage in such other conduct as may be determined by council to be of such a serious nature that the removal is necessary and appropriate.

Procedure for Removal

49. Proceedings to declare a person ineligible to continue to hold the office of chief or councillor shall be initiated by:
- (a) any Band member submitting to the Complaints and Appeal Board a petition on which shall appear:
 - (i) the ground pursuant to section 48 on which removal of a chief or councillor is sought;
 - (ii) the evidence in support of the petition;
 - (iii) the signature of the petitioner;
 - (iv) the signatures of 50 eligible electors of the Band in support of the petition; and
 - (b) a majority of council members passing a Band Council Resolution and submitting a petition to the Complaints and Appeal Board on which shall appear:

- (i) the ground pursuant to section 48 on which removal of a chief or councillor is sought;
 - (ii) the evidence in support of the resolution; and
 - (iii) the signatures of all council members who voted for the removal.
- 50. On receipt of a petition, the Complaints and Appeal Board shall verify that the petition complies with section 49. If the petition does not comply, the Complaints and Appeal Board shall so notify the petitioner(s).
- 51. In a case where the petition complies with section 49, the Complaints and Appeal Board shall:
 - (a) determine that the grounds put forth in the petition are either frivolous in nature or unsubstantiated, and dismiss the petition; or
 - (b) schedule a review hearing, which shall take place within 20 days from the date on which the petition was submitted to the board.
- 52. In a case where the petition has been dismissed under subsection 51(a) the Complaints and Appeal Board shall so inform the petitioner(s) in writing and provide a rationale.
- 53. In a case where the Complaints and Appeal Board schedules a hearing under subsection 51(b) 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.
- 54. The written notice described in section 53 shall set out:
 - (a) the nature of the hearing and all related particulars;
 - (b) the date, time and location of the hearing; and
 - (c) a statement that the petitioner(s), any member of council or the 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.
- 55. The Complaints and Appeal Board shall conduct a hearing at the time and place set out in the notice provided under section 53.
- 56. Within 20 days of the day on which the hearing under section 55 is held, the Complaints and Appeal Board shall rule:
 - (a) 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
 - (b) that the petition is dismissed.

57. The Complaints and Appeal Board shall send, by registered mail, a written notice of the ruling made under section 56 to council, the petitioner(s) and the council member who is the subject of the petition for removal.
58. The decision of the Complaints and Appeal Board made under section 56 is final and binding upon all parties.
59. If the council position is declared vacant under subsection 56(a), the Complaints and Appeal Board may further declare the chief or councillor removed from office shall be disqualified from being a candidate for a period of up to 6 years commencing on the date of the board's ruling.
60. Any party may seek a judicial review by the federal court of decisions made under this code.

By-election

61. A by-election is not required to fill a vacancy, unless such by-election is necessary to maintain quorum on Council, in which case a by-election must be held.
62. No sitting council member is eligible to be a candidate in a by-election. If a council member wishes to be a candidate in a by-election, they must resign their council position prior to the nomination meeting for the by-election.
63. Except as expressly provided otherwise in this code, the rules and procedures in this code shall apply to by-elections.

PART 7 - ELECTORAL OFFICIALS

Appointment of an Electoral Officer

64. The Electoral Officer shall be appointed by a Band Council Resolution not less than 100 days before the expiration of the council's term of office.
65. The Band Council Resolution for the appointment of the Electoral Officer shall contain their full name and address, the date of the election, the type of election which is to be conducted (general election or by-election), as well as any special instructions.
66. If a by-election must be held pursuant to section 61, then the Administrator shall appoint a Chief Electoral Officer as soon as possible.
67. Council may in the Band Council Resolution direct the Electoral Officer to facilitate e-voting.
68. If an Electoral Officer has not been appointed within the time set out in section 64, the Electoral Officer shall be appointed by the Administrator as soon as possible.
69. The Electoral Officer must be a person who:

- (a) is at least 18 years of age; and
- (b) must be experienced and qualified to assume the duties in the conduct of elections or has received appropriate training.

70. In the event that the Electoral Officer cannot fulfill their duties, the existing Deputy Electoral Officer may 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.

Appointment of Deputies and Interpreters

71. The Electoral Officer shall appoint deputies and interpreters as they deem necessary, who shall work under their direction.
72. The Deputy Electoral Officer shall have such powers as described in this code as well as those powers of the Electoral Officer as delegated to the Deputy by the Electoral Officer.
73. A Deputy Electoral Officer shall not be a member of council or a candidate in the election.
74. The Electoral Officer may make such orders and issue such instructions consistent with the provisions of this code as they may deem necessary for the effective administration of the election.

Oath of Office

75. The Electoral Officer, deputies and interpreters must swear an oath of office to uphold the office in accordance with this code (see Appendix B).

PART 8 - VOTERS LIST

Preparing Voters List

76. At least 79 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 years on the date on which the election is to be held from the Registrar. The membership clerk will provide the last known addresses of all electors to the Electoral Officer.
77. The Electoral Officer shall prepare a voters list containing the names of all of the electors in alphabetical order.
78. No personal information such as dates of birth, mailing address, or treaty number of Band member shall be included on voters list.
79. No later than 72 days prior to the date on which the election is to be held, the Electoral Officer shall post the voters list in a public area of the Band administration building and

- in such other conspicuous places on the reserve as may be determined by the Electoral Officer.
80. Electors are responsible for providing the membership clerk with their current addresses.
 81. An elector's address shall only be used by the Electoral Officer only for the purpose of providing notices, mail-in ballots or other election documents.
 82. A candidate for election as chief or councillor may obtain from the Electoral Officer a list of the names and addresses of electors who have consented to have their addresses disclosed to candidates.
 83. On request, the Electoral Officer shall confirm whether the name of a person is on the voters list.

Revising the Voters List

84. The Electoral Officer shall revise the voters list under the following circumstances, pursuant that appropriate evidentiary documents are provided:
 - (a) a member has documentation from the Department's Registrar clearly showing that they are a band member, are at least 18 years of age, and have been added to the Department's membership list.
 - (b) the name of an elector has been incorrectly omitted from the voters list;
 - (c) the name of an elector is incorrectly set out in the voters list; or
 - (d) the name of a person not qualified to vote is included in the voters list.
85. Where the Electoral Officer has information that the name of a person not qualified to vote appears on the voters list in accordance with section 76, the Electoral Officer shall give written notice to the person whose eligibility is challenged as soon as possible and no less than 10 days prior to the date on which the election is to be held.
86. The notice given under section 85 shall include the reasons for seeking the removal of the 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 as soon as it is practical prior to the date on which the election is to be held.
87. After consideration of all information and representations relating to amendments of the voters list, the Electoral Officer shall add or delete names from the voters list based on whether persons qualify as electors.
88. The decision of the Electoral Officer under section 87 is final and is not subject to appeal.

89. A person whose name does not appear on the voters list shall be entitled to vote on election day, provided the Band member presents documentation from the Department's Registrar to the Electoral Officer demonstrating their qualifications as an elector to the Electoral Officer's satisfaction in accordance with section 84.

PART 9 - THE NOMINATION PROCESS

Notice of Nomination Meeting and Mail-in Procedures

90. The Electoral Officer shall, at least 42 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 on the reserve.
91. The Electoral Officer shall, at least 42 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 off-reserve elector.
92. A notice of a nomination meeting shall include:
- (a) the date, time, duration and location of the nomination meeting;
 - (b) the date on which the election will be held and the location of each polling place;
 - (c) the name and phone number of the Electoral Officer;
 - (d) the statement that any voter may vote by mail-in ballot on request (see Appendix D);
 - (e) a description of the manner in which an elector can nominate a candidate, or second the nomination of a candidate; and
 - (f) the statement that, if the elector wants to receive information from candidates, the elector can agree to have their address released to the candidates.
93. 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

Eligibility to Nominate

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

95. Subject to section 94, any elector may propose or second the nomination of any qualified person to serve as the chief or councillor:
- (a) by delivering or mailing a written nomination and a completed, signed and witnessed voter declaration form to the Electoral Officer before the time set for the nomination meeting; or
 - (b) orally, at the nomination meeting.

Nomination Meeting

96. The nomination meeting shall be held at least 42 days prior to the date on which the election is to be held.
97. 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.
98. The Electoral Officer is responsible for managing and conducting the nomination meeting.
99. Immediately following the opening of the nomination meeting, the Electoral Officer shall read aloud all written nominations and secondments that have been received by mail or delivered in accordance with subsection 95(a).

Duration

100. The nomination meeting shall remain open for at least 3 hours.

Maintaining Order and Security

101. The Electoral Officer shall maintain order at all times during the nomination meeting and may cause to be removed any person who, in their opinion, is disrupting or otherwise interfering with the proceedings.

Nomination Procedure

102. A nomination must specify whether the nomination is for the position of chief or the position of councillor.
103. Mailed nominations that are not received by the Electoral Officer before the time set for the nomination meeting are void.
104. The Electoral Officer shall record the name of the candidate, 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 councillor of the Band.

105. A person present at a nomination meeting who is eligible to do so may second the nomination of any person nominated in writing.
106. Where the same person receives two written nominations for the same office, the second nomination shall constitute a secondment of the first nomination.
107. Any elector may nominate or second no more than:
 - (a) one eligible person for the office of chief; and
 - (b) the number of eligible persons equivalent to the vacancies for the office of councillor.
108. At the end of the nomination meeting, the Electoral Officer shall:
 - (a) if only one person has been nominated for election as chief, declare that person to be elected;
 - (b) if the number of persons nominated to serve as councillors does not exceed the number to be elected, declare those persons to be elected; and
 - (c) where more than the required number of persons are nominated for election as chief or councillors, announce that an election will be held.
109. Five days following the nomination meeting, the Electoral Officer shall post in at least one conspicuous place on the reserve a list of nominees, their nominators and seconders and the offices for which they are nominated.

PART 10 – CANDIDACY

110. A person may only be a candidate for one of the offices of chief or councillor in any election.
111. If the nominee is present at the nomination meeting, they shall sign the following documents:
 - (a) a notice of acceptance of nomination or withdrawal; and
 - (b) a sworn declaration confirming their eligibility as a candidate.
112. A nominee not present at the nomination meeting shall file the documents required under section 111 with the Electoral Officer by mail, email, facsimile transmission or in person within 5 days of the nomination.
113. A person nominated as a candidate for both the office of chief and the office of councillor must declare which office they intend to seek (if any).
114. A person who accepts candidacy in an election must provide a written platform and participate in a candidates meeting.

Withdrawal

115. A candidate may withdraw their candidacy within 5 days of the date on which the nomination meeting was held by submitting a written withdrawal of nomination to the Electoral Officer.

PART 11 - PRE-ELECTION PROCEDURE**Ballots**

116. The Electoral Officer shall prepare ballot papers setting out:
- (a) the names of the candidates nominated for election as chief, in alphabetical order by surname; and
 - (b) the names of the candidates nominated for election as councillors, in alphabetical order by surname.
117. 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.

Notice of the Election

118. The Electoral Officer shall, within 3 days after the day on which the nomination meeting was held, post a notice of election in at least one conspicuous place on the reserve.
119. The notice shall include:
- (a) the date of the election;
 - (b) the times at which the polling station(s) will open and close;
 - (c) the location of the polling station(s);
 - (d) the time and location of the counting of the votes; and
 - (e) a statement that the voters list is posted for public viewing and its location.

Mail-in Ballots

120. An elector who wishes to vote by mail must request a mail-in ballot from the Electoral Officer at least 14 days prior to the date on which the election is to be held. Within 14 days of the Election, an Electoral Officer will no longer send out any mail-in ballots.
121. The Electoral Officer shall mail to every elector whose request to vote by mail-in ballot has been received, a mail-in ballot package consisting of:
- (a) a ballot initialled on the back by the Electoral Officer;

- (b) an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
 - (c) a second inner envelope marked “ballot” for insertion of the completed ballot;
 - (d) a 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;
 - (e) the notice of election set out in section 119; and
 - (f) a letter of instruction (Appendix E) 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, swear a written declaration before the Electoral Officer that they have lost the mail-in ballot, or sent their mail-in ballot but wish to vote in person; and
 - (ii) a list of the names of any candidates who were acclaimed.
122. An elector who inadvertently spoils a mail-in ballot or loses their mail-in ballot may choose to vote in person or request another mail-in ballot as described in section 121 if the elector provides the 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.
123. Upon receipt of a request for a mail-in ballot package under section 120, the Electoral Officer shall mail or deliver a mail-in ballot package described in section 121 to the elector who so requests.
124. 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 address to which, each mail-in ballot was mailed or otherwise provided.
125. An elector shall vote by mail-in ballot by:
- (a) 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 they desire to vote;
 - (b) 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;

- (c) placing the ballot in the inner envelope and sealing the envelope;
 - (d) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
 - (e) placing the inner envelope and the completed, signed and witnessed voter declaration form in the postage-paid envelope; and
 - (f) delivering, mailing or otherwise ensuring receipt by the Electoral Officer of the envelope before the close of polls on the day of the election.
126. Where an elector is unable to vote in the manner set out in section 125 the elector may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with that section.
127. A person referred to in section 126 shall attest to:
- (a) the fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or
 - (b) the fact that the elector is the person whose name is set out in the form and that the ballot was marked according to the directions of the elector; or
 - (c) is not a candidate in the election.
128. 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.

Equipment for the Election

129. The Electoral Officer shall, before the polling station is open, supply the polling station with:
- (a) sufficient ballot boxes;
 - (b) a sufficient number of ballots;
 - (c) a sufficient number of voting compartments enabling electors to mark their ballots free from observation;
 - (d) instruments for marking the ballots;
 - (e) a sufficient number of voting instructions as may be required;
 - (f) all other equipment necessary to establish and equip the polling stations; and
 - (g) the final voters list.

Polling Stations

130. The Electoral Officer will establish at least one polling station on the reserve.
131. 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.

PART 12 - ELECTION DAY

Setting General Election Date

132. The general election shall be held on the third Saturday in October in the same calendar year as the present Council term ends.

Candidate's Agent

133. A candidate shall be entitled to not more than one agent in the polling station at any one time.
134. A letter of authorization, signed by the candidate, must be provided to the Electoral Officer or to the Deputy Electoral Officer at or before the opening of the polling station, in which the candidate names the person authorized to act as their agent.
135. A candidate's agent may observe the ballot counting process and may be given tally sheets to follow along, but cannot handle any of the ballots or voter declarations or interfere with the election process.

Polling Hours

136. The polling station shall be open from 9 a.m. until 8 p.m. local time on the day of the election.

Verification of the Ballot Box

137. The Electoral Officer shall, immediately before the commencement of the poll:
 - (a) 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;
 - (b) properly seal the ballot box in a manner preventing it from being opened without breaking the seal; and
 - (c) place the ballot box in public view for the reception of the ballots.

Voting Procedure

138. Each person, on arriving at the polling station, shall give their name to the Electoral Officer or Deputy Electoral Officer.

139. The Electoral Officer or Deputy Electoral Officer shall, if the person's name is set out in the voters list, place their initials on the ballot(s) and provide them to the elector.
140. 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.
141. An elector to whom a mail-in ballot was mailed or provided under section 120 may obtain a ballot and vote in person at a polling place if:
 - (a) the elector returns the mail-in ballot to the Electoral Officer;
 - (b) where the elector has lost or not received the mail-in ballot, the elector provides the 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; or
 - (c) where the elector sent their mail-in ballot but wishes to vote in person, the mail in ballot will be nullified during verification.
142. The Electoral Officer, when requested to do so, explain the method of voting to the elector.
143. After receiving a ballot, an elector shall:
 - (a) immediately proceed to the compartment provided for marking ballots;
 - (b) 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 they desire to vote;
 - (c) fold the ballot in a manner that conceals the names of the candidates and any marks, but exposes the initials on the back; and
 - (d) deliver the ballot to the Electoral Officer or Deputy Electoral Officer.
144. On receipt of a completed ballot, the Electoral Officer or Deputy Electoral Officer shall, without unfolding the ballot, verify the initials placed on it.
145. The Electoral Officer or Deputy Electoral Officer may deposit the ballot in the ballot box, or return the ballot to the elector to deposit it in the ballot box in the presence of the Electoral Officer or Deputy Electoral Officer and any other persons entitled to be present at the polling station.
146. While an elector is in the compartment for the purpose of marking their ballot, no other person shall, except as provided in section 147 be allowed in the same compartment or be in any position from which they can see the manner in which the elector marks their ballot.

Voting Irregularities

147. At the request of any elector who is unable to vote in the manner set out in section 143, the Electoral Officer shall assist that elector by marking their ballot in the manner directed by the elector in the presence of another elector selected by the elector as a witness and shall place the ballot in the ballot box.
148. The Electoral Officer shall note on the voters list opposite the name of an elector requiring assistance as set out in section 147 the fact that the ballot was marked by them at the request of the elector and the reasons therefore.
149. An elector who has inadvertently dealt with their ballot paper in such a manner that it cannot be conveniently used shall, on one occasion only, upon returning it to the Electoral Officer or Deputy Electoral Officer, be entitled to obtain another ballot paper. The Electoral Officer or Deputy Electoral Officer shall write the word "cancelled" upon the spoiled ballot paper and preserve it.
150. Any person who has received a ballot and who leaves the polling place without delivering the same to the Electoral Officer or a Deputy Electoral Officer in the manner provided, or after receiving a ballot, refuses to vote, shall forfeit their right to vote at the election, and the Electoral Officer or Deputy Electoral Officer shall make an entry in the voters list in the column for remarks opposite the name of such person to show that such person received a ballot and declined to vote, and the Electoral Officer or Deputy Electoral Officer shall mark upon the face of the ballot the word "declined" and all ballots so marked shall be preserved.

Closing of the Polling Station

151. 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.

PART 13 - COUNTING OF THE VOTES**Opening Mail-in Ballots**

152. At the time published in the notice prepared under section 118 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:
 - (i) it was not accompanied by a voter declaration form, or the voter declaration form is not signed or witnessed,
 - (ii) 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;

- (iii) the name of the elector set out in the voter declaration form is not on the voters list; or
 - (iv) the voters list shows that the elector has already voted.
- (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.

Counting the Ballots

- 153. The Electoral Officer shall supply other Deputy Electoral Officers and all persons present and who so request with a tally sheet to keep their own tally of the votes.
- 154. Immediately after the mail-in ballots have been deposited in the ballot box under subsection 152(b), the Electoral Officer shall, in the presence of any candidates or their agents who are present, open all ballot boxes and examine each ballot.
- 155. 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.
- 156. A Deputy Electoral Officer shall mark a tally sheet in accordance with the names being called out under section 155, for the purpose of arriving at the total number of votes cast for each candidate.

Ballots not Counted

- 157. In examining the ballots, the Electoral Officer or Deputy Electoral Officer must reject any ballots that:
 - (a) do not contain the initials of the Electoral Officer or Deputy Electoral Officer;
 - (b) do not give a clear indication of the elector's intention;
 - (c) contain more votes than there are candidates to be elected; or
 - (d) contain a mark by which the voter can be identified.
- 158. The Electoral Officer or Deputy Electoral Officer shall attach a note to each ballot rejected which outlines the reason for rejection.
- 159. Subject to review on recount or on an election appeal, the Electoral Officer shall take a note of any objections made by any candidate or their agent to any of the ballots found in the ballot box and decide any questions arising out of the objection.
- 160. The Electoral Officer shall number objections to ballots raised pursuant to section 159 and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, with their initials.

Other Polling Stations

161. Immediately upon completion of the counting of the ballots pursuant to sections 152 through 160 at a polling station other than that considered the principal polling station managed by the Electoral Officer, the Deputy Electoral Officer shall transmit the results to the Electoral Officer.
162. Only the total number of votes will be released.

Recount

163. If it is not possible to determine the successful candidate(s) for either a chief or councillor, due to an equal number of votes being cast (i.e., tie vote), or where the number of vote margin is very small (1% of all ballots cast), 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.
164. A recount shall be held by the Electoral Officer within 24 hours of the election, in the presence of all of the affected candidates or a person chosen by the individual candidate to attend on their behalf;
165. At the time established pursuant to section 163, the Electoral Officer shall conduct a recount of the valid ballots.
166. The results of the recount shall be final.
167. If the recount fails to determine a successful candidate for a councillor and there are only two candidates, the Electoral Officer shall place the names of the candidates having the same number of votes on a paper and place each in a receptacle. Without looking, they shall draw as many papers as there are positions available. The candidate(s) whose name(s) appear on the pieces of paper the Electoral Officer has drawn from the receptacle shall constitute the candidate(s) for whom the Electoral Officer shall cast a vote.
168. If the recount fails to determine a successful candidate for chief and/or there are more than two councillor candidates, the Electoral Officer will break the ties as per section 164 conducted according to the procedure of this Code.

PART 14 - POST-ELECTION PROCEDURES**Announcement**

169. 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.
170. Following the declaration of elected candidates made pursuant to section 169, the Electoral Officer shall complete, sign, and submit to ISC an election report which shall contain:

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

171. Within 4 days after completion of the counting of the votes, the Electoral Officer shall:
- (a) sign and post, in at least one conspicuous place on the reserve and on the Band website or newsletter, the election report prepared in accordance with section 170;
 - (b) mail a copy of the election report to every elector of the Band who does not reside on the reserve; and
 - (c) forward a copy of the election report to the Administrator.

Retention of Ballots and Other Election Material

172. 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.
173. All ballots and materials retained in accordance with section 172 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 may, unless directed otherwise by the council, destroy them in the presence of two witnesses who shall make a declaration that they witnessed the destruction of those papers.

Chief and Councillor Oath of Office

174. A candidate who has been elected chief or councillor shall, within 7 days of the Electoral Officer's declaration under section 169, swear an Oath of Office (see Appendix C) before the Electoral Officer swearing to uphold the office in accordance with this code.
175. Where a candidate elected as chief or councillor cannot, due to illness or other valid reason, swear the oath of office within the time prescribed in section 174, they or an elector acting on their behalf may file a petition with the Electoral Officer for an extension of the time to swear the oath of office.
176. The Electoral Officer receiving a petition under section 175 shall determine whether the circumstances justify an extension and shall provide the candidate making the request written notice of the decision, and where applicable, the extension period.
177. No person elected as chief or councillor shall be permitted to assume office until they have sworn and filed with the Electoral Officer the oath of office required under section 174.

178. The Electoral Officer shall give notice in writing to the elected candidate whose office is declared vacant under section 45(b) or section 46 and to the elected chief and council.
179. Unless the vacancy occurring under section 45(b) or section 46 result in a situation where the Band council can no longer form a quorum, the position shall remain vacant until such time as a by-election is called by council.

PART 15 - COMPLAINTS AND APPEAL BOARD

Composition

180. The Complaints and Appeal Board shall be composed of three members as follows:
 - (a) An Elder who is a member of the Band;
 - (b) a person, at least 18 years of age, who is not a member of the Band and who does not have a vested interest in the outcome of an election appeal or a petition for the removal of a council member from office; and
 - (c) a Band member, at least 18 years of age, who is familiar with the traditions, values and language of the Band.
181. At least 100 days before the date on which the election is to be held, the Band council shall:
 - (a) select the members of the Complaints and Appeal Board in accordance with section 180; and
 - (b) draw a list of 10 additional potential members in accordance with section 180.
182. The term of office of the Complaints and Appeal Board shall be from its appointment under section 181 until the day on which the council selects another Complaints and Appeal Board in accordance with this code.
183. Upon receipt of an election appeal in accordance with section 187, any Complaints and 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 themselves from the board.
184. The remaining members of the Complaints and Appeal Board will select additional members as required to attain three from the list of potential members drawn by the Band council in accordance with section 181(b).
185. Each member of the Complaints and Appeal Board shall execute an oath of office and accept their appointment by forwarding a letter of acceptance to the council.

Functions

186. The Complaints and Appeal Board shall supervise and administer, in accordance with the provisions of this code:
- (a) all election appeals; and
 - (b) all petitions for the removal of a council member from office.

PART 16 - APPEAL MECHANISM

Timing

187. A candidate or an elector may, within 30 days from the date on which the election was held, submit an appeal to the Complaints and Appeal Board.

Grounds for Appeals

188. An appeal submitted pursuant to section 187 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 that might have affected the result of the election; or
 - (c) that there was corrupt or fraudulent practice in relation to the election.

Submission

189. An appeal submitted to the Complaints and Appeal Board must be in writing and set out in an affidavit sworn before a notary public or duly appointed commissioner of oaths the facts substantiating the grounds for the appeal accompanied by any supporting documentation; and

Procedure

190. Upon receipt of an election appeal, the Complaints and Appeal Board shall:
- (a) in the case where the appeal is submitted in accordance with section 189, forward a copy together with supporting documents by registered mail to the Electoral Officer and to each candidate at the election; or
 - (b) in the case where the appeal is not submitted in accordance with section 189, inform the appellant(s) in writing that the appeal will not receive further consideration.

Response to the Allegations

191. Any candidate or the Electoral Officer may, within 14 days of the receipt of the appeal(s), forward to the Complaints and Appeal Board by registered mail a written response to the appeal allegations, together with any supporting documentation.

Investigation

192. The Complaints and Appeal Board may, if the material that has been filed is not adequate for deciding the validity of the election complained of, conduct such further investigation into the matter as the board deems necessary.

Decision

193. After a review of all of the evidence that it has received, the Complaints and Appeal Board shall rule:
- (a) that the evidence presented was not sufficiently substantive to determine that:
 - (i) a violation of this code has taken place that might have affected the result of the election;
 - (ii) the person declared elected was not qualified to be a candidate; or
 - (iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results,and dismiss the appeal; or
 - (b) that all evidence and information gathered allows shows on a balance of probabilities that:
 - (i) a violation of this code has taken place that might have affected the result of the election;
 - (ii) the person declared elected was not qualified to be a candidate; or
 - (iii) there was a corrupt or fraudulent practice in relation to the election that might have affected its results,and uphold the appeal by setting aside the election of one or more council members.
194. The decision of the Complaints and Appeal Board made pursuant to section 193 shall be:
- (a) published in the community's newsletter, which is mailed to Band members, or in a separate written notice delivered or mailed to all Band members; and
 - (b) posted in at least one conspicuous place on the reserve.

195. The decision of the Complaints and Appeal Board is final and not subject to appeal.
196. Any party may seek a judicial review by the federal court of decisions made under this code.

PART 17 – AMENDMENTS

197. The process for development and passage of amendments to this code may be initiated by:
 - (a) a petition presented to council, signed by at least 25% of all eligible electors and setting out the proposed for amendments and reasons for amendments; or
 - (b) a Band Council Resolution.
198. Upon receipt of an amendment proposal in accordance with section 197(a) or in accordance with the Band Council Resolution, council shall prepare a notice that sets out:
 - (a) a summary of the proposed amendments to this code;
 - (b) a statement that the full copy of the proposed amendments can be obtained at the Band administration office; and
 - (c) a description of the amendment process.
199. The notice provided for in section 198 shall be:
 - (a) published in the Band's newsletter, delivered or mailed to all Band electors, or by separate notice delivered or mailed to all Band electors; and
 - (b) posted in at least one conspicuous place on the reserve, and the Band's website.
200. Electors may, within 30 days of publication of the notice outlined in section 199, provide comments concerning the proposed amendments in writing to council.
201. Following receipt of comments concerning the proposed amendments pursuant to section 200, the council shall review the comments and make such changes to the proposed amendments as they deem necessary in order to arrive at a final amendment proposal.
202. The council shall submit the final amendment proposal at the next membership meeting following the notice of that meeting.
203. Electors must be given at least 30 days notice before the membership meeting.
204. In accordance with section 120, Electors not residing on the reserve may request a mail-in ballot from the Electoral Officer at least 14 days prior to the membership meeting.

205. The proposed amendments will be deemed approved if at least 50% + 1 of the votes cast voted in favour of the proposed amendments.
206. Elections held under the amended code shall take place no sooner than 100 days from the membership meeting.

APPENDIX A**Election Candidate Code of Ethics**

According to the following rules and regulations established in this Election Code, as well as the Xwísten Chief and Council Governance Policy, candidates must campaign:

1. Without coercion or vote-buying;
2. Respecting the right and freedom of other parties to organize and campaign;
3. Respecting the rights of voters to obtain information from a variety of sources and to attend political rallies;
4. Ethically, focusing on political issues and candidate platforms;
5. Non-violently, without intimidating opposing party candidates, opposition supporters or the media, and without the use of language inciting their own supporters to violence;
6. Respecting the freedom of the press to cover the campaign and to express opinions on the campaign;
7. Respecting the electoral officials and not interfering with the performance of their duties; and
8. Accepting and complying with the official election results and the final decision of the Election Appeal Committee.

Signature of Election Candidate

Signature and Title of Witness

APPENDIX B**Electoral Officer Oath of Office**

As the Xwísten Electoral Officer I am responsible for managing and executing all pre-electoral, electoral and post-electoral processes and procedures included in the Xwísten Election Code. As the Xwísten Electoral Officer I will:

1. Uphold and abide by the rules and regulations established in the Xwísten Election Code;
2. Remain neutral and professional in the conduct of the duties of office, and refrain from providing any preferential treatment or expressing support for or opposition to any candidate;
3. Not accept anything of value, including but not limited to money, offers of employment, gifts, travel, in exchange for preferential treatment or access to confidential information;
4. Not discriminate against anyone because of race, religion, sex, age or handicap;
5. Use public office facilities to fulfill the terms of their office, and not for personal or partisan benefit;
6. Not pressure or intimidate other officials or personnel to favour a certain candidate;
7. Avoid conflicts of interest, or the appearance of conflicts of interest, by abstaining from decision making where the Electoral Officer has a personal or private interest in the election outcome.

Signature of Electoral Officer

Signature and Title of Witness

APPENDIX C

Chief and Councillor Oath of Office

I, _____ do solemnly swear;

1. That I will diligently, faithfully and to the best of my ability execute according to the laws of my people the Office of _____ of Xwísten (Bridge River Indian Band);
2. That I will seek to uphold the integrity of the office I represent;
3. That I will not promote, occasion or participate when there is conflicting interest affecting adversely the Office of _____;
4. That I will conduct myself with integrity and strive to advance the interests of Xwísten (Bridge River Indian Band);
5. That I will uphold, and maintain the duties of the office to which I have been elected to the best of my skills and knowledge; and
6. That I will abide by the code of conduct of Xwísten (Bridge River Indian Band).

I make this solemn oath having read it and understanding the true nature of the said Oath.

Signature of Elected Official

Signature and Title of Witness

APPENDIX D

Application To Receive Mail-In Ballot Package

Name of applicant [first/last]: _____

Address: _____

Date of Election: _____

I, _____, do hereby request to receive a mail-in voting package to participate in the election taking place on the date given above, as I will be unable to reach the Polling Station during the hours fixed for voting.

I, the person named above as the applicant, hereby declare that the information given above is true, and to the best of my knowledge, my name appears on the Voters' List.

Declared at _____ [address], the
_____ [day] of _____ [month], _____ [year].

Signature of applicant

Signature and Title of Witness

APPENDIX E**Instructions for mail-in voting**

Dear Elector:

As per the attached Polling Notice, an election for one (1) chief and five (5) councillors of Xwísten is currently underway.

As a member of Xwísten, you are entitled to vote, provided you will be at least 18 years of age on the date of the election. As you have requested to vote by mail, please find enclosed a mail-in voting package consisting of:

- a ballot initialled on the back by the Electoral Officer;
- an inner postage-paid return envelope, pre-addressed to the Electoral Officer;
- a second inner envelope marked “ballot” for insertion of the completed ballot; and
- a voter declaration form.

Carefully follow the steps below to ensure that your ballot is valid and will not be rejected.

1. On the ballot for Chief and Councillors: Mark an “X” in the box immediately to the right of the name of the Candidate of your choice. You must choose only one Candidate for chief and may vote for up to five (5) Councillor Candidates.
2. Fold the ballots in the same way as you received it, so that the Electoral Officer’s initials on the back are visible.
3. Place the ballots back into the envelope marked “Ballot”, and seal the envelope.
4. Complete the voter declaration form. Both you and a witness, who is at least 18 years of age, must sign it.
5. In the larger postage paid pre-addressed outer envelope, place the completed and signed voter declaration form and the sealed envelope marked “Ballot”.
6. Seal and drop the return envelope in the mail as soon as possible. It must be received by the Electoral Officer before the polls close on Election Day.

Note: ballots received after the close of the poll on _____, 20____ will not be counted. You may also hand deliver it to the Electoral Officer. In order for your ballots to be counted, they must be accompanied by a completed voter declaration form, which is to be signed by you and a witness.

Although you have received this mail-in voting package, you may choose to vote on Election Day in person. If you so choose, your Mail-in Ballot will not be counted.

If you have any questions, please do not hesitate to contact me at (____) ____ - _____
Yours truly,

Electoral Officer