



Nez Perce

TRIBAL EXECUTIVE COMMITTEE
P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

NOTICE

AMENDMENTS TO THE NEZ PERCE TRIBAL CODE

This notice is being posted OCTOBER 29, 2020, according to the Nez Perce Tribal Code § 1-4-2 and at the request of the General Council Election Judges, to request written comments for the following proposed amendments (see attached):

Amend the Election Ordinance of the Code, Chapter 6-10, to allow for absentee voting for qualified tribal members who will be unable to appear at the Polling Places in person on Primary, Special, and General Election days.

STATEMENT OF PURPOSE:

To provide a way to vote for qualified tribal members who are unable to appear at the polling places.

WRITTEN COMMENT PERIOD:

The Law and Order & Intergovernmental Affairs Subcommittee will be accepting written comments on the proposed amendment being applied to the Code. Please submit written comments to: Arthur Broncheau, Chairman, Law and Order Subcommittee, P. O. Box 305, Lapwai, ID 83540; email to arthurb@nezperce.org, fax to (208) 843-7354 or hand deliver to the NPTEC offices in Lapwai. The deadline for receipt and consideration of such comments is **DECEMBER 15, 2020 at 4:30 p.m.**

CHAPTER 6-10
ELECTION ORDINANCE
(adopted 12/28/04, implemented 7/12/05)

§6-10-1 Definitions

~~(a)~~ (a) "Absentee Voter" A participant in a tribal election who, ~~because of serious illness, military service, or absence from home for business or other reasons, are is unable to appear at the polls in person on election day~~ Election Day.

~~(a)~~(b) "Acceptable Ballot" means a ballot that is properly marked and/or color coded.
(amended 11/13/07)

~~(b)~~(c) "Business Day" means Monday through Friday, except for Federal or Tribal holidays.

~~(c)~~(d) "Candidate" means any eligible enrolled member of the Nez Perce Tribe who is running for office.

~~(d)~~(e) "Constitution" means the revised Nez Perce Tribe Constitution and By-laws.

~~(e)~~(f) "Election Judges" means Nez Perce Tribe General Council Election Judges.

~~(f)~~(g) "General Council Officers" means General Council Chairperson, General Council Secretary, Special Committee members, Standing Committee members, and Resolutions Committee members.

~~(g)~~(h) "Incumbent" means any eligible enrolled member of the Nez Perce Tribe who currently holds a NPTEC office. (added 4/3/08)

~~(h)~~(i) "NPTEC" means the Nez Perce Tribal Executive Committee.

~~(i)~~(j) "Office" means any elected NPTEC office.

~~(j)~~(k) "Polling Places" means the three recognized polling places of Lapwai, Kamiah, and Orofino.

~~(k)~~(l) "Poll Watcher" means an eligible voter designated in writing by a candidate to monitor the polling places during the election.

~~(l)~~(m) "Public Notice" means posted in prominent places in the three recognized polling places, public announcements in the Tribe's newspaper and local newspapers.

~~(m)~~(n) "Residency" means living within the Treaty of 1863 reservation boundaries and being physically present there for the required length of time in order to be a candidate for office.

~~(n)~~(o) "Secretary" means Executive Secretary of the Nez Perce Tribal Executive Committee.

~~(p)~~ "Tellers" means Tellers appointed by the Election Judges to assist during elections.

~~(q)~~ "Sergeant-At-Arms" means the Sergeant-At-Arms appointed by the Election Judges to maintain order during elections.

~~(r)~~ "Tribe" means Nez Perce Tribe.

§6-10-2 Types of Elections (amended 11/13/07)

A Non-Partisan Primary election provisions would be held for the purpose of reducing the field of candidates for each position to only two candidates for the General election. Such election would be held for each position for which more than two candidates declare their candidacy and are declared to be qualified for office.

- (a) Non-Partisan Primary election will be held annually the first Saturday in April.
- (b) General Elections shall be held annually on the Saturday of the General Council meeting in the month of May, in accordance with Article VI, Section 2 of the Constitution.
- (c) Recall elections are held on a date set by the NPTEC in accordance with Article VI, Section 6 of the Constitution.
- (d) If the Primary and/or Election Day is a legal holiday, the election shall be held on the first subsequent day which is not a legal holiday.

§6-10-3 Qualifications for Office

- (a) Prior to being declared a candidate, the individual must meet the minimum qualifications pursuant to Article VI, Section 3 of the Constitution. The candidate must also pay the required one time filing fee pursuant to Chapter 6-10-3(b) of this ordinance.
- (b) A non-refundable filing fee of one hundred dollars (\$100) shall be paid in cash, cashier's check or money order to the Tribe. These fees shall be used only for election expenses.

§6-10-4 Filing for Office

- (a) On January 15, the Election Judges shall give public notice and shall make available the candidacy forms through the NPTEC Executive Assistant of the three regular NPTEC positions to be elected and any special NPTEC positions created by vacancies. Any candidacy forms received prior to January 15 shall be ineligible. (amended 3/14/06)
- (b) Candidates must file their completed candidacy forms with the NPTEC Executive Assistant between January 15 and 4:30 pm on February 15. Any candidacy forms received after February 15 shall be ineligible. No nominations will be taken on the floor of the General Council or at any other time AFTER February 15. (amended 3/14/06)

(c) No person may be a candidate for more than one position during any election.

(d) A valid candidacy form properly filed and subsequently approved by the Election Judges is necessary for a candidate's name to be placed on the ballot.

(e) The candidacy form shall contain: 1) name of the candidate; 2) candidate's address and enrollment number; 3) the position the candidate is seeking; and 4) verification that the person is eligible.

(f) The candidacy form shall be as follows: (the candidacy form is attached at the back of this chapter).

§6-10-5 Certification of Candidates

(a) Within ten (10) business days of a candidate's filing, the Election Judges shall meet to certify the eligibility of the candidate based on the candidacy form submitted. (amended 3/14/06)

(b) The Election Judges shall verify the enrollment and physical address of each candidate. If further investigation is necessary, then the process will be completed by the Office of Legal Counsel.

(c) A final candidate listing shall be compiled. The Election Judges determination is final. No further nominations will be allowed.

(d) Any candidacy form which does not contain the required information or which is not on the official form shall be disqualified and invalidated by the Election Judges.

(e) The Election Judges shall notify all nominees as their status by certified mail within ten (10) business days of receiving the candidacy form.

(f) Candidates who fail to comply with the foregoing requirements and deadlines will be ineligible to run for any office.

§6-10-6 Notice of Election

(a) The Election Judges shall issue a public notice of the election indicating date, time, type of election, polling places, and voter eligibility requirements by March 1. The notice shall also include a final listing of candidates and the office they are seeking.

(b) The Election Judges shall post and have readily available for distribution to eligible voters sample ballots and instructions describing the manner of casting a vote for the Primary Election by March 15. (amended 11/13/07)

(c) The Election Judges shall issue a public notice of the General election candidates within 72 hours following the Primary election. (amended 11/13/07)

(d) The Election Judges shall post and have readily available for distribution to eligible voters sample ballots and instructions describing the manner of casting a vote for

General Election by April 15. (amended 11/13/07)

§6-10-7 Absentee Voting.

(a) Only a qualified tribal member voter who will be unable to appear at the Polling Places in person on Primary, Special and General Election days will be allowed to vote by Absentee Ballot.

(b) Voters who request an Absentee Ballot will not be permitted to vote at the Polling Places. Absentee Voting Request.

(c) All voters requestings for absentee ballots voting must shall complete the absentee ballot request form with a completed notarization and return it by email, in person or be made in writing by the voter and delivered in person or by Certified Mail to the General Council post office box NPTEC Offices., in care of the Election Judges at least thirtyfifteen (4530) working days before a Primary, Special or General Election.

(d) The Election Judges shall

a. It shall be the duty of the Election Judges to indicate on the Tribal Sign-In Sheet of Registered Voters at each Polling Place those voters who requested Absentee Ballots.

B. Absentee Voting Ballot Execution and Return

The Election Judges shall mail to the Absentee Voter an envelope containing an official ballot, and an inner and outer envelope as described herein.

C The Election Judges shall maintain a log of all Absentee Voting Requests, together with a record of the names and addresses to whom absentee voting ballots are mailed, including the date of receipt of the returned absentee voting ballot.

(e) The Absentee Voter shall:

a. mark, fold and place the ballot in the inner envelope provided by the Election Judges, which shall be marked "ABSENTEE VOTER".

b. The Absentee Voter shall enclose the inner envelope in the outer envelope and after sealing same, shall execute the following statement marked thereon:

"I do swear or affirm, under penalty of perjury, that I am a duly qualified and registered elector at the address listed on the label above. I have read and understand the instruction accompanying this ballot(s) and that I have complied with instructions in marking the enclosed ballot(s).

Signed: _____ will be unable to appear at the Poll Place in _____, Idaho, on the _____ day of _____, 20____, and have enclosed my ballot for the Primary, Special or General Election."

(f) The outer envelope shall be pre-addressed as follows:

Nez Perce Election Judges
c/o Nez Perce Tribal Executive Committee General Council
P.O. Box XXXX1050365

Lapwai, ID 83540

- (g) ~~All absentee voting envelopes with ballots enclosed mustay be returned in-person, or by email, in person or by CertifiedExpress Mail and be received at least at the NPTEC Offices on one day prior or before of the closing of the polls on election day Election Day.~~
- (h) ~~The absentee voting envelopes received at least one day prior to on or before election day Election Day, shall be date stamped and verified by the Election Judges by the NPTEC support staff and placed in a locked "Absentee" ballot box provided and maintained by the Election Judges. Envelopes may only be opened by Election Judges.~~
- (i) ~~At the time the polls close on election day Election Day, the Election Judges shall receivertrieve the locked "absentee" ballot box from the NPTEC Support staff or fromescorted by Law Enforcement atto the polling place where the ballots will be counted.~~
- (d) ~~Any absentee ballots received after the day prior to the closing of polls on election day Election Day will be marked INVALID by the Election Judges, at the certification of election results.~~

§6-10-7 Polling Places and Times

- (a) The designated polling places for all Elections shall be the Tribal Community Buildings in Kamiah, Orofino, and Lapwai.
- (b) If one of the Tribal community buildings is unavailable, the Election Judges will designate an alternate public building that is not a private home or business.
- (c) The polling places shall open at 7:00 am (Pacific Standard Time (PST)) on each Primary Election Day and they shall be closed by 6:00 pm (PST). (amended 4/3/08)
- (d) The polling places shall open at 7:00 am (PST) on each General Council Election Day and they shall be closed by 3:00 pm (PST). (added 4/3/08)
- (e) Qualified voters may vote at any of the three locations regardless of actual county of residence or may vote through the absentee voting process. Each voter shall represent that they have not voted at any other location. Voters requesting an absentee ballot will be ineligible to vote at any polling location. Voting more than once shall be considered a violation of the Nez Perce Tribal Code.

§6-10-8 Terms of Office

- (a) The terms of office for the NPTEC shall be pursuant to Article VI of the Nez Perce Tribe Constitution and By-Laws, Section 2A.
- (b) Vacancies on the NPTEC shall be pursuant to Article VI of the Nez Perce Tribe Constitution and By-Laws, Section 2B.

§6-10-9 Ballots

(a) The Election Judges shall have the duty and responsibility to have the ballots printed with only the names of the eligible candidates who have been listed on the Final Candidate listing. The names of the candidates shall appear in the order which their candidacy forms were received.

(b) The printer of the ballots shall sign an affidavit indicating the number of ballots printed and/or color coded for each polling place. This affidavit will be kept in a safe and secure place. (amended 11/13/07)

(c) The Election Judges shall have the duty and responsibility of making available sample ballots to absentee voters upon request and in the polling places prior to the election.

§6-10-10 Ballot Boxes

(a) The Election Judges shall certify and determine an adequate number of ballot boxes per polling place, as well as a ballot box at the NPTEC Offices for absentee ballots. (amended 3/14/06) (second amendment 4/3/08)

(b) The Election Judges shall keep the ballot boxes safe and secure at all times prior to the election. (amended 11/13/07)

(c) Prior to the election, the Election Judges will deliver each ballot box to the polling places.

(d) Prior to the opening of the polls, the Election Judge shall open the ballot box in view of other General Council officers and the general public, to show there are no ballots contained therein and will lock the box. The ballot boxes shall remain locked through the close of voting.

§6-10-11 Voting Booths

(a) The Election Judges shall be responsible for providing, at least, two (2) voting booths at each polling place.

(b) The voting booths shall ensure privacy of the voter.

(c) With the exception of physically challenged individuals, visually challenged individuals and non-reading/non-speaking English persons, only one person will be allowed in a voting booth at a time.

§6-10-12 Poll Watcher

(a) A candidate shall be entitled to have one (1) poll watcher for each of the polling places. The candidate shall submit the names of his/her poll watcher(s) in writing to the Election Judges by 5:00 pm (Pacific Standard Time) five (5) business days prior to the Election.

(b) The Poll Watcher(s) will not be compensated by the Tribe for his/her time or mileage.

(c) A Poll Watcher is limited to observing the election and the tallying of ballots. The Poll Watcher is not allowed to leave the polling place until the polls close. If the Poll Watcher does leave, he/she will not be allowed to return until after the polls are closed.

(d) No candidate shall be able to designate himself or herself as a poll watcher.

(e) A Poll Watcher will be required to sign the Poll Watcher Registry and wear a badge or other appropriate identification designating him/her as a Poll Watcher.

(f) A Poll Watcher may not attempt to influence any eligible voter or Election Judge or any other person appointed by the Election Judges in the polling place. A Poll Watcher who influences or attempts to influence will be removed from the polling place by the Sergeant-At-Arms.

(g) A Poll Watcher may not interfere or attempt to interfere with the marking of the ballot or casting of the ballot by any eligible voter. A Poll Watcher who interferes or attempts to interfere with the marking or casting of a ballot by any eligible voter will be removed from the polling place by the Sergeant-At-Arms.

(h) Only one (1) Poll Watcher will be allowed per candidate to observe the tallying of the ballots. The Poll Watcher is not allowed to leave the premises until the tallying is complete. If the Poll Watcher does leave, he/she will not be allowed to return until after the tallying is complete. (amended 3/14/06)

§6-10-13 Electioneering and Loitering

(a) There shall be no electioneering, loitering, or campaigning within one hundred (100) yards of the polling places by any person. The Election Judges shall authorize the Sergeant-At-Arms to remove such persons.

§6-10-14 Voting Procedures

(a) Voting shall be by secret ballot at polling places or through the absentee voting process set forth herein. Voters shall be allowed to vote once in any election.

(b) After the opening of the polls, the Election Judge shall issue ballots to those eligible voters. A person seeking to vote shall identify themselves to the Election Judges at the polling place. Identity as a tribal member eligible to vote shall be confirmed by either a valid picture identification or by tribal enrollment records assembled and verified for this purpose.

(c) Any picture identification card that is damaged or has been visibly altered or is otherwise suspicious may be rejected as a means of identification and other picture identification may be required by the Election Judge.

(d) Upon confirmation that a person is an eligible voter, the person shall sign the poll book as having appeared in person to vote and one official ballot shall be issued. The Election judge shall stamp each ballot with the words, "Official Ballot" prior to issuance.

(e) The voter will enter the voting booth and vote by placing a mark by the name of the candidate(s) supported by the voter. The voter will place their ballot in the ballot box.

(f) The Election Judge shall issue a new ballot if the voter mutilates a ballot. The Election Judge shall issue an envelope to the voter and have the voter seal the envelope. The Election judge shall write "VOID" across the envelope and sign his/her name. The mutilated ballots shall be kept in an envelope. The envelopes containing mutilated ballots will be placed in the ballot box at the end of voting.

(g) Write-in votes shall not be allowed and will deem the ballot "INVALID."

(h) There is no proxy voting.

(i) An Election Judge may allow a voter to have a person of their preference to assist them in the marking of their ballot or in casting their ballot if the voter requests assistance.

(j) The Election Judge may designate a teller to assist a voter in the marking of their ballot or casting of their ballot if the voter requests assistance. The teller shall not influence the voter in any manner while assisting him/her. If the teller influences or attempts to influence the voter, the teller shall be dismissed and removed from the area.

(k) The unused ballots shall be collected and tied together in a bundle that shall be labeled "unused" in ink, signed by one (1) Election Judge and one witness. The unused ballots shall be stored in a safe and secure place for a period of six months.

(l) An Election Judge, Security/Law Enforcement Officer, and Sergeant-At-Arms shall transport the locked ballot boxes to the designated Election Judge at the General Council meeting place for the counting of the ballots.

§6-10-15 Tallying the Votes (amended 6/9/09)

(a) When all ballot boxes have returned to the General Council meeting place, the counting of the ballots shall commence.

(b) The three (3) Election Judges, and Election Tellers shall conduct the counting and tribal members shall be allowed to be present at the counting.

(c) Upon the unlocking of the ballot boxes, the Election Judges shall remove the ballots and count them publically. All ballots must be reviewed to ensure that they are the official ballot printed for the election with the official stamp. All ballots that are not official ballots, or that are not sealed in an inner envelope in the case of absentee ballots, or do not have the official stamp, must be marked "ILLEGAL" and signed by two (2) Election Judges.

(d) Ballots that have more than one mark per NPTEC position will be deemed "INVALID" for that position.

(e) Ballots that have write-in votes per NPTEC position shall be deemed "INVALID"

for that position.

(f) A tally sheet prepared by the Election Judges shall give the total count of the marked ballots, the invalid ballots, the mutilated ballots, and the unused ballots. A total count of the illegal ballots shall also be included in a separate section.

(g) When the tally is complete, the marked ballots, the invalid ballots, the mutilated ballots, the illegal ballots, the unused ballots, and the tally sheets shall be placed in a locked ballot box.

§6-10-16 Declaring the Winners

(a) The two candidates receiving the highest number of votes for a particular position shall be declared the winners of that Non-Partisan Primary position. This would be a plurality vote, rather than a majority vote. (amended 11/13/07)

(b) The candidate receiving the highest number of votes for a particular position shall be declared the winner of that General Election position. This would be by majority vote. (amended 11/13/07)

(c) In the event of a tie, an automatic recount will be conducted immediately by the Election Judges.

(d) In the event of a tie following the re-count, a public coin toss by the Chief Election Judge shall determine the outcome. The person whose name appears last on the ballot shall make the call prior to the toss. Such determination, upon certification by the General Council Chairperson, shall be final.

§6-10-17 Recount

(a) The Election Judges shall be authorized to recount the ballots as many times as they deem necessary to insure an accurate count of votes.

(b) No candidate may request a re-count of the ballots except a candidate who lost a position by a margin of less than 5% of the votes cast for that position. The request must be made within one half hour of the completion of the counting and must be accompanied with a personal check, or cash, in the amount of one hundred dollars (\$100.00). The request must be made in writing and delivered to the Election Judge Chairperson within that time.

(c) Upon receiving a valid request, the Chairperson shall summon the Election Judges and a recount shall be conducted immediately.

(d) The decision of the Election Judges is final and may not be appealed in any court or other forum.

§6-10-18 Certification of Results

(a) The Election Judges shall prepare a Certification of Results of the Primary and General election which shall be signed by each member of the Election Judges and attested to by

the General Council Chairperson. (amended 11/13/07)

(b) The Certification of Results shall be made public after all recounts have been completed and there has been an official decision(s) on a challenge(s).

(c) The certification shall, at a minimum, reflect the number of valid votes cast for each candidate and shall identify which candidate was elected to the positions up for election.

§6-10-19 Incumbents

(a) Incumbents remain in office until the Certification of Results has been posted and newly elected candidates have taken the oath of office, in accordance with Article VI, Section 2(A).

§6-10-20 Date of Taking Office

(a) Newly elected members who have been certified will be installed immediately.

(b) The elected members shall take the oath of office prior to assuming duties.

§6-10-21 NPTEC Vacancies Arising After February 15 Filing Deadline (adopted 5/23-24/06)

For those NPTEC vacancies that arise after the February 15 filing deadline, the following special expedited procedures shall apply:

(a) The Election Judges shall issue immediate public notice of any additional NPTEC vacancies, and make available candidacy forms as set forth in § 6-10-4.

(b) The open period for submission of completed candidacy forms for any newly opened position, shall be set forth in the public notice, which shall allow adequate response time, but be completed in time for the new set of candidates' names to be included on the original ballot or on a supplemental ballot to be available for the first Saturday of May.

(c) Candidacy forms submitted after the open period dates set forth in the special public notice above shall be ineligible. No nominations will be taken on the floor of the General Council.

(d) The Election Judges shall expedite their certification of candidates, following the general provisions set forth in § 6-10-5, so that the candidates' eligibility will be determined before the date that ballots must be printed.

(e) The Election Judges shall issue a public notice of the final list of candidates and the office they are seeking upon completion of the certification process.

(f) No person may be a candidate for more than one position during any election.

**NEZ PERCE TRIBE
CANDIDACY FORM**

I, _____, am submitting my name as a candidate for
(Insert Full Legal Name)
the regular position number _____ or the special position number _____ on the Nez Perce
Tribal Executive Committee (NPTEC). I submit my filing fee of \$ _____ on this date of

(Insert Date)

I certify that I am, at least, 18 years old and I am enrolled with the Nez Perce Tribe. My
enrollment number is NP _____.
(Insert Enrollment Number)

My Social Security Number is _____ (added 3/14/06)

I have attached a copy of my CDIB or Tribal Identification Card as issued by the Bureau of
Indian Affairs or Nez Perce Tribe Enrollment Officer.

My physical address is:

I attest that I have resided at the above address since:

(Insert Month, Day, Year)

I attest that I have not:

- (a) within the last three years been convicted by any court of competent jurisdiction
of any criminal offense, other than a minor traffic, hunting or fishing violation;
for which I was sentenced to imprisonment or payment of a fine in lieu thereof;
and/or
- (b) been convicted of a felony by a court of competent jurisdiction in the past ten
years; and/or
- (c) been removed from NPTEC according to Article VII, Section 2, of the Nez Perce
Constitution.

I attest that all the facts stated herein to be true. I understand that I will be subject to prosecution
for any misrepresentation under the Nez Perce Law & Order Code, if I sign this document
knowing the contents to be untrue.

Signed: _____

Dated:

Witness Signature: _____

Dated: