

**TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS**

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TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS
CHAPTER 6-1
ENROLLMENT ORDINANCE

§6-1-1 Definitions

- (a) "NPTEC" means the Nez Perce Tribal Executive Committee.
- (b) "Enrollment Committee" means that Committee or Sub-Committee of NPTEC assigned responsibility for overseeing Nez Perce Tribal membership procedures.

§6-1-2 Enrollment Application Procedures

(a) Applications for enrollment of children who are at least one fourth (1/4) degree Nez Perce Indian ancestry born to a member of the Nez Perce Tribe, filed with the Enrollment Committee within eighteen (18) years after birth shall include all information required on attachments (A), (B), (C) and (D).

(b) Applications for enrollment through adoption of persons who are at least one-fourth (1/4) degree Nez Perce Indian ancestry, filed with the Enrollment Committee, shall include all information as required on attachments (A), (B), (C) and (D).

(c) No person shall be eligible for membership by adoption into the Nez Perce Tribe who:

- (1) previously relinquished membership in the Nez Perce Tribe. Persons who were minors at time of relinquishment of their membership by their parents may be granted special consideration;
- (2) is enrolled or an enrolled member of another tribe or band;
- (3) applies for adoption for the sole purpose of obtaining financial benefits from the tribe;
- (4) is less than one fourth (1/4) degree Nez Perce Blood. *(Corrected to reflect language which was adopted by Resolution NP 91-132 (Amended), May 28,29, 1991, correction authorized by NPTEC 4/14/2015)*

(d) Any person who has heretofore been a member of the Nez Perce Tribe and who relinquished his membership and is enrolled in another tribe under conditions that do not permit him to share in any benefits or any judgment claims recovered by that tribe shall be entitled to reenroll in the Nez Perce Tribe without regard to the limitations contained in (c) of this section. The application shall contain written documentation, submitted under oath, that the conditions are in fact true.

(e) Any person reenrolled under (d) of this section shall be reenrolled subsequent to the effective date of this chapter and shall not be entitled to any benefits distributed to members of the Nez Perce Tribe prior to that date.

(f) Applications may be submitted by the person requesting enrollment, his parents, guardian or next of kin.

(g) Enrollment into membership in the Nez Perce Tribe shall not be a matter of right but a matter of privilege and the determination of NPTEC of an applicant's qualifications for enrollment pursuant to this chapter shall be final.

§6-1-3 Application Processing

(a) The Enrollment Committee shall meet at regular intervals as designated by NPTEC to consider all applications for enrollment into membership of the Nez Perce Tribe. If at any time the Enrollment Committee feels that additional information is required, the applicant will be requested to provide such information and/or appear before the Enrollment Committee for a personal informal interview.

(b) After its consideration the Enrollment Committee shall prepare and submit a written recommendation to NPTEC recommending either accepting the applicant for enrollment or rejection of the application. The recommendation shall state when the application will be considered by NPTEC and describe the rights of the applicant and other interested tribal members to object to the recommendation of the Enrollment Committee. One copy shall be forwarded to the applicant by certified mail and copies shall be posted on the bulletin boards in front of the Tribal Office, the tribal community buildings in Lapwai and Kamiah, the Northern Idaho Agency and the North Idaho Indian Health Service Unit for a period of sixty (60) days.

(c) If no protest has been filed to the Enrollment Committee's recommendation and NPTEC agrees with the recommendation, it shall at the designated meeting or at its next regularly scheduled meeting following the expiration of sixty (60) days from the date of posting, order the enrollment of the applicant.

(d) If the Enrollment Committee recommends the enrollment of a person, any member of the Nez Perce Tribe may, within forty-five (45) days from the date of posting, file an official protest with NPTEC stating the reasons for believing that the applicant is not entitled to enrollment.

(e) If the Enrollment Committee recommends against enrollment of a person, the applicant may, within forty-five (45) days of receipt of the notice, file a protest with NPTEC.

(f) If NPTEC, by a majority vote, rejects the recommendation of the Enrollment Committee or a protest has been filed, NPTEC shall schedule the case for a hearing as follows:

- (1) provide the applicant and/or any other interested parties not less than twenty (20) days advance notice of the time, date and location of the scheduled hearing;
- (2) allow all parties to the hearing a full opportunity to present any and all relevant evidence to the case;
- (3) upon completion of the hearing NPTEC shall render its decision on the enrollment application and promptly notify all parties concerned with the case;
- (4) the decision of NPTEC shall be considered final.

§6-1-4 Determination of Blood Quantum or Degree

(a) Anytime a child or a person who applies for enrollment with the Nez Perce Tribe but was born out of wedlock, specifically meaning that the alleged father and mother were not legally married under the laws of a state or tribe, the applicant's eligibility for enrollment shall be determined only by the blood quantum or degree of Nez Perce blood of the applicant's mother. Provided however:

- (1) that if the parents of such person applying for enrollment were domiciled outside the State of Idaho and were living in such a relationship that a valid common-law marriage would have formed in Idaho but for their domicile, then such common-law marriage shall be deemed to have existed for enrollment purposes and the blood quantum or degree of Nez Perce blood of the applicant's father shall also be used in determining the eligibility of the applicant;
- (2) that if proceedings for filiation under the paternity or bastardy laws of the State of Idaho, another state, or other tribal laws of proper jurisdiction have adjudicated the putative father to be the natural father, then the blood quantum or degree of Nez Perce blood of the applicant's father shall also be used in determining the eligibility of the applicant;
- (3) that if a child is born out of wedlock and the putative father submits to the Enrollment Committee a sworn written statement, duly acknowledged under oath, acknowledging such child as his own child, then the blood quantum or degree of Nez Perce blood of the applicant's father shall also be used in determining the eligibility of the applicant;
- (4) if an applicant provides evidence of paternity through the use of a legal DNA test performed by a laboratory that has been accredited by the AABB (formerly known as the American Association of Blood Banks), the Enrollment Committee may use the blood quantum or degree of Nez Perce blood of the person identified as the father by the legal DNA test in determining the eligibility of the applicant. (NPTEC added subsection 2/26/13)
- (5) that if the parents of an applicant for enrollment were not married either at the child's conception or at its birth, then a subsequent intermarriage of the parents will legitimize the child; (formerly subsection (4) - changed 2/26/13)
- (6) that any child of a marriage which was valid or apparently valid in its inception which is subsequently found by a court of competent jurisdiction to be void or voidable shall be deemed legitimate; (formerly subsection (5) - changed 2/26/13)
- (7) that any child conceived at a time when the natural mother was married in any of the ways hereinabove specified shall be presumed to be the natural child of the mother's spouse, which presumption may be rebutted by a preponderance of evidence to the contrary. (formerly subsection (6) - changed 2/26/13)

§6-1-5 Termination of Enrollment (section amended by NPTEC 8/28/12)

(a) If at any time the Enrollment Committee has reason to believe that a person was enrolled into membership in the Nez Perce Tribe upon false, fraudulent or erroneous evidence, and without meeting the eligibility requirements for enrollment, it shall file a written "Request for Determination of Eligibility" with NPTEC. The request shall:

- (1) include the full name and address of the tribal member in question. If the tribal member is deceased, the request shall include the full name of the tribal member in question, as well as his or her dates of birth and death;
- (2) state the reasons why the enrolled member's eligibility for membership in the Nez Perce Tribe is questioned;
- (3) contain any other details deemed pertinent to the case; and
- (4) call for a public hearing to determine whether or not the enrolled member's membership in the Nez Perce Tribe should be voided.

(b) Upon receipt of the "Request for Determination of Eligibility" NPTEC shall, at least thirty (30) days prior to such hearing, serve written notice entitled "Notice of Proceedings" upon the enrolled member whose eligibility for membership in the Nez Perce Tribe is questioned, or in the event the enrolled member is a minor, the notice shall be served upon his parents, guardian or next of kin. If the enrolled member is deceased, then NPTEC shall, at least thirty (30) days prior to such hearing, serve written notice entitled "Notice of Proceedings" upon the enrolled descendants of the enrolled member, and cause a brief summary of the notice to be published once in a local newspaper of general distribution and a tribal newspaper. The Notice of Proceedings shall:

- (1) include a copy of the Enrollment Committees "Request for Determination of Eligibility";
- (2) fix the time, date and location of the hearing;
- (3) advise the member in question, or his descendants, that, although not required to do so, he may examine the evidence or witnesses offered in support of the "Request for Determination of Eligibility" or offer evidence and/or witnesses in his or his ancestor's behalf as to any matter alleged in the complaint; and
- (4) be sent to all persons entitled thereto by certified mail, return receipt requested with postage thereon fully prepaid, addressed to such persons at their last known address. Evidence concerning the service of the notice shall be kept by NPTEC and become a part of the record of proceedings.

(c) At the appointed time, date and location as contained in the "Notice of proceedings" NPTEC shall:

- (1) provided a quorum is present, conduct the public hearing as called for. However, in the interest of justice, the hearing may be continued to a later date at the request of the member in question or his descendants;

- (2) allow the enrolled member in question or his descendants to appear and testify, submit oral and documentary evidence, as well as present witnesses in his or his ancestor's behalf to support his or his ancestor's enrollment in the Nez Perce Tribe;
 - (3) consider all evidence pertaining to matters contained in the "Request for Determination of Eligibility" and determine the relevancy, weight and sufficiency of such evidence;
 - (4) determine whether or not the enrolled member whose membership in the Nez Perce Tribe is questioned, meets all of the qualifications for enrollment into membership in the Nez Perce Tribe; and
 - (5) prepare written findings of fact with regard to the issues determined.
- (d) At the conclusion of the hearing NPTEC shall:
- (1) if it finds from the evidence and testimony submitted that the enrollment was valid, issue a written order signed by the chairman and secretary setting forth its determination that the enrolled member whose eligibility for membership into the Nez Perce Tribe was questioned, was properly enrolled into membership;
 - (2) if it finds from the preponderance of the evidence submitted, that the enrollee was enrolled into membership in the Nez Perce Tribe upon false, fraudulent or erroneous evidence, and did not meet the requirements for enrollment, it shall issue a written order signed by the chairman and secretary declaring the enrolled member's membership in the Nez Perce Tribe null and void and of no effect;
 - (3) promptly after making its written findings and order, cause a written copy thereof to be served upon the enrolled member whose eligibility for membership in the Nez Perce Tribe was determined, or if deceased, then the enrolled member's enrolled descendants or other descendants who participated in the hearing;
- (e) The decision of NPTEC on a Request for Determination of Eligibility shall be considered final.

§6-1-6 Voluntary Relinquishment of Enrollment

Enrolled tribal members who apply for relinquishment shall receive by certified mail notification of the following:

- (a) that such application for relinquishment does not entitle them to re-enrollment with the Nez Perce Tribe. Persons who were minors at the time of relinquishment may be granted special consideration;
- (b) the applicant must surrender all tribal membership card(s) issued to such person;
- (c) the applicant, upon acceptance of relinquishment, is no longer entitled to exercise any of the treaty rights in hunting, fishing, gathering or use of usual and accustomed places as

reserved under the treaties between the U.S. government and the Nez Perce Tribe. Notification of relinquishment shall be sent to the Nez Perce Tribal Police and tribal conservation officers; and

(d) the applicant must certify that they owe no debts to the Nez Perce Tribe or any of its programs, enterprises, or authorities. (Amended by NPTEC 3/26/13)

§6-1-7 Enrollment Records

(a) The proper administration of the official enrollment records of the Nez Perce Tribe shall be maintained by the Bureau of Indian Affairs as directed by the official actions of NPTEC.

(b) Anytime a correction to the records is deemed necessary due to an error of omission, misprint or other similar action not necessarily the fault of the enrollee the correction shall be ordered by the Enrollment Committee.

(c) Anytime a change to the records is deemed necessary due to a change in an enrollee's status the enrollee shall provide the Enrollment Committee with:

- (1) a copy of the official document that effected the name change. (Marriage license, corrected birth certificate, court order, etc.);
- (2) a copy of the official document that shows the correct birth date. (Birth certificate, baptismal record, etc.);
- (3) a notarized copy of the official family tree record on file with the Bureau of Indian Affairs and any other document that will support the request;
- (4) appropriate documentation that will support the request.

(d) Upon receipt of any change requests under (c) of this section the Enrollment Committee shall promptly review the request and submit its recommendation to NPTEC for official action.

§6-1-8 Resolutions

All official actions of NPTEC relating to enrollment shall be by resolution.

§6-1-9 Enrollment Cards; Certification of Indian Blood

(a) Any person who is an enrolled member of the Nez Perce Tribe may obtain an enrollment card certifying that such individual is a member of the tribe and is entitled to all the privileges guaranteed under the Nez Perce Treaty of 1855.

(b) All applications and other forms to be used in issuing an enrollment card shall be obtained at the Nez Perce Tribal Office in Lapwai. Any person wishing to obtain a tribal enrollment card may apply in person at the Tribal Office or, if feasible, by mail. The completed application form shall include the applicant's full name, address, date of birth, sex, height, weight, eye color, hair color and enrollment number. If the application is conducted by mail, the applicant shall submit the following to the Enrollment Card staff at the Tribal Office:

- (1) a completed application;
- (2) a 1&1/4 inch by 1&1/4 inch picture taken at the nearest BIA office; and
- (3) a completed picture certification form obtained from the Nez Perce Tribal Office which contains:
 - (A) the applicant's current name and address; and
 - (B) a signature of an authorized staff person of the BIA office where the applicant's picture was taken certifying that:
 - (i) the applicant presented him with two pieces of reliable identification which include a picture and current name and address as proof of identity at the time the form was signed; and
 - (ii) to the best of his knowledge, the picture accurately represents the individual whose name and address is on the picture certification form; and
 - (iii) after development, he witnessed the placement of the picture taken at the BIA office into an envelope with the other application materials and the sealing of the envelope; and
 - (iv) the envelope was left with the BIA office to be mailed to the tribe.

(c) Once an application has been received by the Tribal Office, NPTEC staff shall check to see that all of the application materials have been submitted and if so, confirm that the applicant is actually an enrolled member by looking up the applicant's name on the enrollment lists. Applicants shall not receive an enrollment card until they have submitted all of the application materials and their enrollment has been verified.

(d) Once all application materials have been received and enrollment has been verified, NPTEC staff shall unless one has already been collected and produce an enrollment card for the applicant using the information provided in the application and the applicant's picture. The card shall be hand delivered to the applicant or mailed using the address provided by the applicant.

(e) If an applicant for a Nez Perce Tribe enrollment card does not live in the vicinity of the Nez Perce Tribal Office, a local BIA office is unavailable or the local BIA office for whatever reason is unable or unwilling to assist the applicant in certifying his picture, the applicant may obtain a written Certification of Indian Blood (C.I.B.) from the Nez Perce Tribal Office until such time as it is feasible to obtain picture certification. The C.I.B. form shall provide the name and address of the tribal member, that the individual is a member of the Nez Perce Tribe and the individual's amount of Nez Perce Tribe blood quantum.

(f) A C.I.B. shall be obtained by submitting a written request to the Nez Perce Tribal Office which shall include the reason a C.I.B is requested and the requester's current name and address. Once a request for a C.I.B. is received at the Tribal Office, the requester's enrollment

status shall be verified. Upon verification, if the requester is an enrolled tribal member than he shall be sent a C.I.B. using the address provided.

**TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS**

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CHAPTER 6-2
GAMING ORDINANCE

(adopted by NPTEC 9/9/03 and approved by NIGC 2/27/04)
(chapter amendments adopted by NPTEC 3/22/11 and approved by NIGC 8/22/11)

§6-2-1 Definitions (amended by NPTEC 3/22/11)

Unless a different meaning is clearly indicated in this Ordinance, the terms used herein shall have the same meaning as defined in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2701 et seq., and its regulations, 25 C.F.R. § 500 et seq.

(a) "Act" means the Federal Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. §§ 2701 et seq. and 18 U.S.C. §§ 1166-68.

(b) "Bingo" means a game, whether or not electronic, computer or other technological aids are used in connection therewith

- (1) which is played for prizes, including monetary prizes with cards bearing numbers or other designations;
- (2) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and
- (3) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in same location) pull tabs, lotto, punch cards, tip jars, instant bingo, and other games similar to bingo.

(c) "Class I gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

(d) "Class II gaming" see §6-2-8

(e) "Class III gaming" means all forms of gaming that are not class I or class II gaming.

(f) "Commission" or "Gaming Commission" means the Nez Perce Tribal Gaming Commission, the single tribal agency primarily responsible for regulatory oversight and for monitoring compliance with Tribal, Federal and applicable State regulations.

(g) "Fishing Derby" means a fishing contest, with or without the payment or given of any entry fee or other consideration by some or all of the contestants wherein prizes are awarded for the species, size, weight or quality of fish caught in a bona fide fishing or recreational event.

(h) "Fund raising event" means a fund raising event sponsored by a bona fide religious, charitable or nonprofit organization at which gaming activities will be conducted under the regulation of the Nez Perce Tribal Gaming Commission. Gaming as authorized under this section may be allowed provided that sixty percent of the net income from such events shall be devoted solely to a lawful purpose of the Nez Perce Tribe and provided that the tribal or BIA law enforcement agency shall be notified as to the time and place where such activity shall be

conducted.

(i) "Gaming" means those activities defined in §6-2-7, §6-2-8 and § 6-2-9.

(j) "Gaming area" means the area where Class II or Class III gaming occurs. This does not include cage, soft count, showroom, food and beverage, parking lots, delivery areas, hotels, warehouses, money areas, gift shops or the Events Center when gaming is not being conducted.

(k) "Gaming code" means the laws, rules and regulations adopted by the Tribe as amended from time to time governing gaming activities at Tribal gaming facilities, and any other gaming operations conducted within the boundaries of the Nez Perce Reservation.

(l) "Gaming employee" means any natural person employed in the operation or management of the gaming operation, whether employed by the Tribe or by any enterprise providing onsite services to the Tribe within the gaming facility, excluding persons providing maintenance, janitorial or other such ancillary non-gaming services such as food service employees. For purposes of this chapter, "gaming employee" shall include any employee whose duties include the handling of cash generated from Class II or Class III gaming activities.

(m) "Gaming contractor" means persons or entities which engage in gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services.

(n) "Gaming facility" or "gaming facilities" means all buildings, improvements and facilities used or maintained in connection with the conduct of gaming whether or not authorized by the Nez Perce Tribe.

(o) "Gaming operation" means any gaming enterprise whether or not authorized by the Tribe on Indian lands for the conduct of gaming.

(p) "Indian lands" means Indian lands as defined in the Act, as well as lands within the State which meet the requirements of 25 U.S.C. §2719.

(q) "Key employee" means:

(1) a person who performs one or more of the following functions:

- (A) All bingo personnel
- (B) bingo caller; or
- (C) bingo supervisor
- (D) any cashier;
- (E) all security personnel; or
- (F) any shift manager; or
- (G) any shift supervisor; or

- (H) all vault personnel; or
- (I) all surveillance personnel;
- (J) counting room supervisor, personnel, drop team personnel;
- (K) custodian of gaming supplies or cash; or
- (L) floor manager; or
- (M) pit boss; or
- (N) croupier; or
- (O) approver of credit, pay-outs or complimentary items;
- (P) custodian of gaming devices (including persons with access to cash and accounting records within such devices) and/or financial records;
- (Q) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year; or
- (R) If not otherwise included, the four (4) most highly compensated persons in the gaming operation.

(r) "License" and variations of that word such as licenses and licensed, unless otherwise defined herein and as indicated by the context, means either:

- (1) an approval or certification issued by the Nez Perce Tribal Gaming Commission to any natural person or enterprise to be involved in the gaming operation or in the providing of gaming services to the gaming operation, or
- (2) the formal document evidencing authority granted by the Nez Perce Tribe to engage in gaming under this Act.

(s) "Licensee" means any natural person or enterprise that has been approved and licensed by the Nez Perce Tribe Gaming Commission to be involved in the gaming operation or in the provision of gaming services to or in the gaming operations.

(t) "Management Contract" means a contract for the development and management of a Class III gaming operation, as provided in Article 9 of the Nez Perce 1995 Class III Gaming Compact with the State of Idaho and approved pursuant to the Act.

(u) "Management Contractor" means any person, corporation or entity that enters into a development and management contract with the Tribe pursuant to Article 9 of the Nez Perce 1995 Class III Gaming Compact.

(v) "Net revenue" means gross gaming receipts of a gaming operation minus amounts paid out as, or paid for, prizes; and total gaming-related operating expenses, excluding management fees.

(w) "NIGC" means the National Indian Gaming Commission.

(x) "NPTEC" means the Nez Perce Tribal Executive Committee, which is the governing body of the Nez Perce Tribe.

(y) "Operator" means any person, organization or entity that operates any gaming activity that is subject to regulation under this Ordinance, on the Nez Perce Reservation.

(z) "Pari-mutual betting" means a system of wagering on a live race whereby the winners divide the total amount wagered, in proportion to the amount individually wagered after deducting commissions, fees and taxes. For purposes of this Ordinance wagering on live races is authorized if it occurs either at a racetrack or on Indian lands by means of a simulcast of a live race and is approved by the Commission.

(aa) "Primary management official" means:

- (1) the person having management responsibility for a management contract; or
- (2) any person who has authority to hire and fire employees or to set up working policy for the gaming operation; or
- (3) the executive officer; or
- (4) other person who has financial management responsibility; including
 - (A) accounting controller; or
 - (B) the general manager.

(bb) "Regulations" means the gaming regulations promulgated by the Nez Perce Tribe pursuant to this chapter.

(cc) "Simulcast" means a simultaneous telecast of a live race, including horses, dogs, mules and any other race contest of a species legal in this jurisdiction.

(dd) "State" means the State of Idaho, its authorized officials, agents and representatives.

(ee) "State gaming agency" means the Idaho State Lottery or any other agency designated by the State of Idaho to coordinate Class III gaming.

(ff) "State Lottery" means:

- (1) Any type of game that the State hereafter conducts as a lottery game.

(gg) "Track" means an in-state or out-of-state facility licensed to operate horse or other racing where pari-mutuel wagering on races is conducted.

(hh) "Tribal law enforcement agency" means the police force of the Tribe, established and maintained by the Tribe, pursuant to the Tribe's powers of self-government to carry out law enforcement on Indian lands.

(ii) "Tribe" means the Nez Perce Tribe its authorized officials, agents and representatives.

§6-2-2 Purpose

This ordinance is enacted to:

(a) Regulate all forms of permissible and authorized gaming within the jurisdiction of the Nez Perce Tribe.

(b) Safeguard all persons from unscrupulous and illegal operations of any type of gaming.

(c) Protect all persons from any infiltration of organized crime into any gaming operation within the jurisdiction.

(d) Provide for tribal audit system on all gaming operations.

(e) Provide that the Tribe will have primary regulatory authority over all forms of gaming on the Nez Perce Reservation subject only to applicable federal law.

(f) Provide for system of investigations of all persons associated with gaming.

(g) Provide a system of licensing for any gaming activities subject to the provisions of this Act that occur within the Nez Perce Reservation.

(h) To provide revenues for the operation of the tribal government.

(i) To allow the tribal government to use the revenues generated for tribal self-determination, to generate value on the reservation, to provide additional tribal services, employment for tribal members and for general economic development and individual self-sufficiency of tribal members.

(j) To harmonize with and adhere to the Indian Gaming Regulatory Act, Public Law 100-497, 102 Stat. 2467-88. 25 U.S.C. §§ 2701 et seq. as enacted by the U.S. Congress on October 17, 1988.

(k) To cooperate and agree on a sovereign to sovereign basis with the State of Idaho and any other concerned or affected states to enter into compacts or other agreements for gaming operation, regulation or coordination.

(l) To establish a commission within the tribal organization to oversee and regulate gaming consistent with this ordinance and within the precepts established by the Nez Perce Tribal Executive Committee.

§6-2-3 Ownership of Gaming and Use of Gaming Revenue

(a) The Tribe shall have the sole proprietary interest in and responsibility for the conduct of any gaming operation authorized by this ordinance unless individually owned gaming is approved and licensed under this ordinance.

(1) In order to be licensed by the Nez Perce Tribe, individual owners, in addition to the requirements of this ordinance, shall also be required to:

- (A) Pay to the Nez Perce Tribe not less than 60 percent of the individually owned operation's net revenues, to be used only for the purposes set forth below;
- (B) Pay an assessment to the National Indian Gaming Commission as set forth in 25 CFR § 514.1;
- (C) Comply with eligibility standards of a State license for the same activity, so that if the individual is ineligible to receive a State license to conduct the same activity within that jurisdiction, a tribal license shall be denied.

(b) Net revenues from tribal gaming or from individually owned games or State Lottery agreements shall be used only for one or more of the following purposes: (subsection authorized by NPTEC 3/22/11)

- (1) To fund tribal government operations or programs;
- (2) To provide for the general welfare of the tribe and its members;
- (3) To promote tribal economic development;
- (4) To donate to charitable organizations; or
- (5) To help fund operations of local government agencies.

(c) If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3).

(d) The Nez Perce Tribe hereby specifically reserves, through its inherent power, the full right and authority to adopt or impose a uniform and comprehensive system of revenue, taxation and licensing relating to gaming allowed by this ordinance.

§6-2-4 Severability (section amended by NPTEC 9/9/03)

If any clause, provision or section of this ordinance shall be ruled invalid or unenforceable by any court of competent jurisdiction by final order after all appellate jurisdiction is exhausted, such holding shall not invalidate or render unenforceable any other remaining provisions of this ordinance. Until such final order is entered and review exhausted, the questioned provisions shall be valid absent an enforceable injunction to the contrary, in full force and effect.

§6-2-5 Amendment

Except as provided in § 6-2-13(m), all powers of amendment are retained by the Nez Perce Tribal Executive Committee.

§6-2-6 Sovereignty

The Nez Perce Tribal Executive Committee acting for the Nez Perce Tribe by this enactment, does expressly retain and does not in any way waive its right of sovereignty as

expressed in treaties, laws or in any other manner.

AUTHORIZED GAMBLING ACTIVITIES

§6-2-7 Class I Gaming

Class I gaming is defined as social games solely for prize of minimal value or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations.

(a) Class I gaming may be engaged in by individuals and organizations without restriction and is not subject to the provisions of this Act.

§6-2-8 Class II Gaming

Class II gaming is defined as:

(a) The game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith)

- (1) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
- (2) in which the holder of the card covers such numbers or designations with objects, similarly numbered or designated, which are drawn or electronically determined; and
- (3) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including, (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and

(b) Card games that:

- (1) are explicitly authorized by the laws of the State of Idaho, or
- (2) are not explicitly prohibited by the laws of the State of Idaho and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(c) The Nez Perce Tribe has authorized Idaho State Lottery Terminals located on the Nez Perce Reservation, through the 2008 Class III Gaming Compact. (subsection authorized by NPTEC 3/22/11)

(d) The Nez Perce Tribe may engage in Class II gaming as an operator without the necessity of a license under this Act but shall comply with other applicable provisions of this Act.

(e) Until this Act is amended by appropriate action of the Nez Perce Tribal Executive Committee in a manner consistent with the relevant provisions of the National Indian Gaming

Regulatory Act, 25 U.S.C. §§ 2701et seq., the Nez Perce Tribe shall be the only entity or organization authorized to engage in gaming activities on the Nez Perce Reservation for profit to the exclusion of any other entity, organization or person. The Nez Perce Tribe may conduct or license gaming activities on behalf of bona fide charitable, religious and non-profit organizations subject to regulations promulgated by the Commission on this topic and the National Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq.

§6-2-9 Class III Gaming

(a) Class III gaming means all forms of gaming that are not Class I or Class II gaming.

(b) No person, entity, corporation, organization or government, except the Nez Perce Tribe, shall authorize or conduct any form of Class III gaming within the Nez Perce Reservation unless such gaming is consistent with:

- (1) the Indian Gaming Regulatory Act;
- (2) a Tribal-State compact for Class III gaming; and
- (3) is licensed by the Nez Perce Tribe.

(c) The Nez Perce Tribe has authorized Idaho State Lottery Terminals located on the Nez Perce Reservation, through the 2008 Class III Gaming Compact. (language added by NPTEC 3/22/11)

(d) The Nez Perce Tribe shall enact rules and regulations regarding licensing of Class III games which shall be consistent with the provisions of the Indian Gaming Regulatory Act and the laws of the Nez Perce Tribe.

(e) Any person, entity, corporation, organization or government that conducts Class III gaming within the Nez Perce Reservation or that purports to authorize such gaming in violation of the laws or regulations of the Nez Perce Tribe commits a civil infraction.

(f) Any person, entity, corporation, organization or government found to have committed a civil infraction by failing to comply with the laws of the Nez Perce Tribe shall be subject to a civil fine in addition to other legal and equitable remedies available in civil cases.

(g) The Nez Perce Tribal Executive Committee hereby reserves the right to later enact authorization of Class III gaming as defined herein upon proper compliance with the Class III gaming requirements of the National Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701et seq..

§6-2-10 Gaming Prohibited (section amended 3/22/11)

All gaming activities not authorized by this Act are unlawful and prohibited.

§6-2-11 Nez Perce Tribe Gaming Commission Established (section amended 3/22/11)

(a) The Nez Perce Tribe Gaming Commission (the "Commission") shall consist of three individuals appointed by the Nez Perce Tribal Executive Committee. Commission members shall meet the qualifications of a primary management official licensing standards, as

set forth in this Ordinance.

- (1) NPTEC shall establish such application procedures as it deems appropriate for members of the Tribe interested in serving on the Commission.
- (b) The following persons are not allowed to serve on the Commission:
 - (1) Current members of the Nez Perce Tribe's Enterprise Board (not applicable to any designated NPTEC representative);
 - (2) Persons having a direct or indirect financial interest in a management contract, gaming contractors (including any principal or member of a management or other contracting company);
 - (3) Persons directly related to or sharing a residence with any parties listed in criteria 2;
 - (4) Current Key Employee/Primary Management officials;
 - (5) Persons previously convicted of a felony, or embezzlement, of theft, or of any other money-related crimes or honesty-related crime (such as fraud).
- (c) Each Commissioner shall serve for a term of three (3) years, with the term beginning on January 1 of the year of the appointment and ending on December 31 of the third year; except that for the initial group of Commissioners, one position will be for a term of three (3) years, one position will be for a term of two (2) years and one position will be for a term of one (1) year allowing for a staggered term process thereafter.
- (d) Commission members shall serve beyond their term only in the event that NPTEC fails to promptly make appointments for the subsequent year. Upon the appointments for the following year, the prior year's appointments shall expire.
- (e) Commission positions vacated prior to the end of the term shall be promptly filled by NPTEC so that a full Commission may serve on a continual basis. However, a temporary vacancy on the Commission shall not mean the Commission will be non-functional, since business can be conducted with a minimum of two members being present.
- (f) The Commission shall elect among themselves a President, Vice President and Secretary-Treasurer. Elections shall be conducted each year, within two weeks after NPTEC appointments are made.

§6-2-12 Powers and Duties of the Commission and of the Nez Perce Tribal Executive Committee with Regard to the Commission Hours, Compensation and Removal (section amended by NPTEC 9/9/03) amended by NPTEC 3/22/11)

- (a) Duties shall include: (subsection amended by NPTEC 3/22/11)
 - (1) Such power includes the power to inspect premises.
 - (2) Safeguard and regulate by civil fines and other actions as specified in § 6-2-25 of this chapter.

- (3) Issue licenses when such are required by this chapter, and in accordance with § 6-2-16 through § 6-2-22 of this chapter.
- (4) Deny or revoke such license when the results of a thorough and objective investigation by the NPTGC indicates that such action is appropriate and/or in accordance with § 6-2-23 through § 6-2-25 of this chapter.
- (5) Formulate and promulgate rules and regulations which shall govern in detail the issuance of licenses, the amount of the license fee, and the revocation of licenses.
- (6) Insure the proper record keeping of gambling proceeds of the Nez Perce Tribe Gaming Enterprise, gaming licenses and anyone whose gambling activities subject him to the provisions of the Bank Secrecy Act, CFR Title 12, Banks and Banking or CFR Title 31, Money and Finance, or any other applicable requirement of the Internal Revenue Service.
- (7) Insure a review of the appropriate records of gaming licensees of the Nez Perce Tribe at least every three years. Appropriate records are those directly related to determining a licensee's suitability to hold a gaming license.
- (8) Cause annual outside audits as required by the Indian Gaming Regulatory Act, of all gaming activities on the Nez Perce Reservation to be conducted and submitted to the National Indian Gaming Commission specifically including all gaming-related contracts for supplies, services or concessions having a contract amount in excess of \$25,000.00 per annum or in any 12 month period.
- (9) Insure that facilities where gaming occurs are properly constructed and maintained and that the operation of the game is conducted in a manner which adequately protects the environment and the public health and safety.
- (10) Cause to be conducted background investigation and suitability determinations of potential gaming employees as required by the National Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.

(b) The Commission Director shall be supervised by the Law and Order Executive Officer. (subsection amended by NPTEC 4/8/14)

- (1) The role of the Commission Director will be to oversee and manage the day to day operations and employees of the Commission and will serve as a full time employee.

(c) It shall be the responsibility of the NPTEC to set the maximum hours (not to exceed 40 hours per week) and hourly compensation for the Gaming Commission.

(d) Any Gaming Commission member may be removed by NPTEC for cause, including neglect of duty, failure to recuse oneself in cases of conflicts of interest as set forth in §

6-2-12(d), gross misconduct or failure to attend more than one half of the regular commission meetings, or for any offense listed in § 4-1-93 through § 4-1-111, inclusive of the Nez Perce Tribal Code.

(e) The Chairman or Vice-Chairman of Law & Order Subcommittee shall be appointed by NPTEC to act as the Gaming Commission for purposes of making the suitability determination for a gaming license applicant in the event that a Gaming Commissioner has a conflict, or the appearance of a conflict, and a quorum cannot be met including the following: (subsection amended by NPTEC 3/22/11)

- (1) Any member of the Gaming Commission has applied for the same position held by a particular gaming license applicant; or
- (2) Any member of the Gaming Commission has participated in the background investigation of a license applicant; or
- (3) Any member of the Gaming Commission is considered "immediate family" as defined in the Gaming Enterprise Human Resources Manual, of a gaming license applicant.

GAMING OPERATIONS

§6-2-13 General Gaming Operations Requirements (section amended by NPTEC 9/9/03; section amended by NPTEC 3/22/11)

(a) Each gaming employee or operator including owners of an operating entity as defined in (o) of this section, prior to beginning work, shall be required to be licensed, at least on a temporary or conditional basis as provided for in this chapter, by the Nez Perce Tribe Gaming Commission and shall be required to apply to the Commission for a determination that he:

- (1) has not been convicted of an offense related to gambling, fraud, misrepresentation or deception, drugs or a felony; for the past ten (10) years;
- (2) has no prior activities, reputation, habits, or associations affecting his present conduct that would pose a threat to the effective regulation and control of gaming, or enhance the dangers of unsuitable, unfair or illegal practices, methods or activities, in the conduct of gaming; and
- (3) has no present interest in the conduct of any gaming business.

(b) The determination shall be confidential unless otherwise required for purposes of the tribal Human Resources Manual or the requirements of federal law or regulation

(c) The Gaming Commission is also subject to periodic background investigations, at the discretion of NPTEC, and by the full NPTEC, based on any findings brought to the attention of NPTEC by the Internal Auditor or Background Investigator.

(d) The employee or contractor shall follow the application procedure for licenses described herein, provided that, no notice shall be published, and no public hearing shall be held. No employee may accept any gift or thing of value from a gaming contractor.

(e) In addition to any provisions of the tribal Human Resources Manual which may

be applicable, any employee or operator shall be required to comply with the provisions of this ordinance, the provisions of his contract with the Tribe, if any, and the provisions of applicable federal law.

(f) Any entity which contracts with a tribal gaming operation, shall be required to submit to a determination as required in (a) of this section. No such contract will be valid until it is approved by the Commission and the Secretary of the Interior as is necessary under federal law.

(g) Tribally operated gaming shall be held in compliance with this ordinance, and any other applicable laws, rules and regulations.

(h) Operators or employees in charge of tribally operated gaming shall provide required reports, audits and the results of any contract for service or supplies at least quarterly or when required.

(i) Any operator or employee of the tribal gaming operation shall deposit the proceeds of the gaming operation according to applicable federal and tribal law.

(j) Any operator or employee may request the assistance of the Commission in obtaining training or instruction for the benefit of the tribal gaming operation as well as in determining the proper meaning of this ordinance.

(k) The Commission may require that any operator or employee of a tribal gaming operation be bonded in a particular amount. The Gaming Enterprise will pay for the bonds of the Tribe's gaming employees; independent contractors are responsible for the cost of their own bonds.

(l) The Commission may recommend to the Nez Perce Tribal Executive Committee that a particular type of tribal gaming be operated through a management contract. The management contract must be in compliance with applicable federal law. The Commission shall require that the proposed operator comply with the requirements for licenses under this section of the ordinance. A proposed manager need not be a tribal member. Sole tribal approval of all management contracts shall remain with the Nez Perce Tribal Executive Committee.

(m) All tribal gaming operations are subject to monitoring and inspection by the Commission or agents of the Commission.

(n) The Commission shall issue regulations, which will control:

- (1) The possession of firearms by operators or employees. No firearms or weapons of any kind shall be allowed on gaming premises with the exception of armed armored car personnel and on duty law enforcement officers.
- (2) The security requirements for the operations.
- (3) The posting of rules of play.
- (4) Rules for the conduct of the games, should the Commission deem that such rules are necessary for the proper conduct of gaming.

- (5) Any other regulations controlling the operation which are deemed necessary in writing by Nez Perce Tribal Executive Committee. NPTEC shall provide written notice to the Commission, in a reasonably timely manner before additional regulations take effect by means of amendments or revisions to the Tribe's gaming compact.

(o) Any person authorized by the Commission, an employee or independent contractor, who has a financial interest other than salary or wages or management responsibility in the conduct of tribal gaming activities must be licensed by the Commission including those persons who may serve on the Board of Directors or other governing body of a corporation, trust, partnership or other entity or who own ten (10%) or more of the stock of a corporation or like interest in profits or capital of any other business entity.

(p) The Commission may charge a fee not in excess of that approved by NPTEC for each application of renewal.

(q) NPTEC has the sole authority to approve the Commission budget.

(r) Members of the Commission and its staff are prohibited from participating in bingo games.

(s) Members of the Commission and its staff are prohibited from participating in any gaming sponsored by the Nez Perce Tribal Gaming Enterprise. This prohibition on participation shall not include gaming sponsored by the Nez Perce Tribal Gaming Enterprise that is Class I. (amended by NPTEC 12/22/09)

§6-2-14 Inspection of Premises (section amended by NPTEC 3/22/11)

(a) The premises where authorized gambling activities are being held shall be subject to inspection and audit at any reasonable time by persons designated by the Commission.

(b) The Commission shall be provided, at such reasonable intervals as the Commission shall determine, with a report, under oath, detailing all receipts and disbursements in connection with such gambling activities together with such other reasonable information as required in order to determine whether such activities comply with this chapter or other applicable laws, rules or regulations.

KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

§6-2-15 Applications for Key Employee and Primary Management Official Positions (section amended by NPTEC 9/9/03)

(a) Applications for individuals that have been offered employment by the Nez Perce Tribe's gaming enterprises for key employee and primary management official positions with the Nez Perce Tribe's gaming enterprises shall be submitted to the Commission for licensing and background checks.

(b) The following notice shall be placed on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming

license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position. (language amended by NPTEC 3/22/11)

The disclosure of a Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(c) Existing key employees and primary management officials shall be notified in writing that they shall either:

- (1) Complete a new application form that contains a Privacy Act notice; or
- (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(d) The following notice shall be placed on the application form for a key employee or primary management official before that form is filled out by an applicant.

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. See 18 U.S.C. § 1001. (language added by NPTEC 3/22/11)

(e) The Commission shall notify in writing existing key employees and primary management officials that they shall either:

- (1) Complete a new application form that contains a notice regarding false statements; or
- (2) Sign a statement that contains the notice regarding false statements.

BACKGROUND INVESTIGATIONS

§6-2-16 Applications - Required Information (section amended by NPTEC 9/9/03)

(a) The Tribe shall require, in its initial investigation of each key employee and from each primary management official all of the following information:

- (1) Full name, other names used (oral or written), social security numbers, birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous five (5) years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence addresses, and driver's license numbers;

- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with any Indian tribes, including ownership interests in those businesses;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name or address of the Court involved, and the date and disposition if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the Court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there was a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (8) or (9) of this section, the criminal charge, the name and address of the Court involved and the date and disposition;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A current photograph;
- (13) Any other information the Tribe deems relevant;
- (14) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. 522.2(h).

(b) The Human Resources Director shall provide a written statement to the Background Investigator stating that three personal references and three employment checks were performed, stating that no problems were discovered, or details of any problems discovered.

(c) The Human Resources Director shall provide the Gaming Commission with Employee Action Reports for key employees and primary management officials, including Employee Action Reports for new hires, terminations, and transfers. Such Employee Action reports shall include the employee's name, new position, and shall be sent to the Gaming Commission within one week of the employee action.

(d) The Tribe shall conduct an investigation sufficient to make a determination under

§ 6-2-19. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

(e) Unless extraordinary circumstances apply, the Tribe shall require, for a tri-annual background investigation of an employee already issued a gaming license, information regarding only the past 36-month period after the issuance of the gaming license.

§6-2-17 Investigative Procedures for Background Checks (section amended by NPTEC 9/9/03)

(a) A Background Investigator shall not conduct the background investigation for a gaming license applicant if that Background Investigator has a conflict, or the appearance of a conflict, including the following:

- (1) The Background Investigator has applied for the same position held by a particular gaming license applicant; or
- (2) The Background Investigator is considered "immediate family" as defined in the Gaming Enterprise Human Resources Manual, of a gaming license applicant.

(b) The Nez Perce Tribe's Investigative Officer shall conduct the initial investigation by:

- (1) Verifying written or oral information submitted by the applicant;
- (2) Inquiring into the applicant's prior activities, criminal record, if any, and reputation, habits and associations;
- (3) Interviewing a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred; and
- (4) Documenting the disposition of all potential problem areas noted and disqualifying information obtained.

(c) The Investigative Officer shall utilize the employment and personal reference checks conducted by Human Resources.

(d) The Investigative Officer shall then prepare and submit to the Commission an investigative report detailing:

- (1) Steps taken in conducting the background investigation; and
- (2) Results obtained;

(e) The Background Investigator shall use NIGC's Notification of Results/Eligibility Determination electronic form, or the shortest form approved by NIGC, to report the details of the background investigation.

(f) Fingerprints of all applicants shall also be taken by the Nez Perce Tribal Police. Completed fingerprint cards will be returned to the Commission and placed in the applicant's background file.

- (1) The Commission shall send to the NIGC, at the Regional Office, Portland Area or to the Washington, D.C. office, whichever is designated, the names and fingerprint cards for those licensees who require an FBI criminal background check, with the appropriate funds to cover the costs of such inquiry.
- (2) Information obtained from NIGC as a result of the FBI fingerprint check shall be reviewed only by the Commission and the Tribe's Investigative Officer. No further dissemination of this information is authorized; and in fact, the Tribe is subject to the restrictions set forth in an MOU with NIGC forbidding use of such information for any other purpose. See NP 95-102.

§6-2-18 Eligibility Determination

(a) The Commission shall meet with the Investigative Officer, make a suitability determination based on all the information gathered from the various sources set forth above, including prior activities, criminal record, reputation, habits and associations, and the information received from NIGC resulting from the FBI fingerprint check; and submit this determination in written form to the National Indian Gaming Commission (NIGC) for review. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, a tribal gaming operation shall not employ that person in a key employee or primary management position. (If the applicant is not hired and issued a license by the Tribe, NIGC shall be notified, but submittal of the determination and report shall be at the discretion of the Commission.) The report to NIGC shall also contain the information documenting investigative steps taken by the Investigative Officer, including those set forth above.

(b) The report to NIGC shall be sent within 60 days after an employee begins work with the Tribe. A response from NIGC shall be requested by the Commission within 30 days of receipt of the Commission's report.

(c) If the Chairman of NIGC requests additional information from the Commission regarding any employee who is a subject of a report, such information, if available shall be forwarded as soon as possible.

(d) When NIGC notifies the Commission that it has no objections to the issuance of a license to a particular applicant, the Commission may proceed with annual licensing of the applicant.

(e) If NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a particular applicant, the Commission must reconsider the application, taking into account the objections itemized by NIGC. The Commission may then make a final licensing decision as to such applicant.

§6-2-19 Procedure for Submission of Applications and Reports for National Indian Gaming Commission Approval

(a) The Commission shall follow the following procedures when forwarding reports for key employees and primary management officials to the National Indian Gaming Commission (NIGC): (subsection amended by NPTEC 3/22/11)

- (1) The Commission shall forward the report referred to in (b) of this section to the NIGC within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the NIGC.
- (2) The gaming operation shall not employ as a key employee or a primary management official a person who does not have a license after 90 days.

(b) Pursuant to the procedures set forth in paragraph (a) above, the Commission shall forward to NIGC an investigative report on each background investigation.

- (1) An investigative report shall include all of the following:
 - (A) Steps taken in conducting a background investigation;
 - (B) Results obtained;
 - (C) Conclusions reached; and
 - (D) The basis for those conclusions.
- (2) The Commission shall submit, with the report, a copy of the eligibility determination made under § 6-2-18.
- (3) If a license is not issued to the applicant, by the Tribe, the Commission:
 - (A) Shall notify NIGC; and
 - (B) May forward copies of its eligibility determination and investigative report (if any) to NIGC for inclusion in the Indian Gaming Individuals Records System.
- (4) With respect to key employees and primary management officials, the Commission shall retain application for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee no less than three (3) years from the date of termination of employment.

§6-2-20 Gaming Licenses (section amended by NPTEC 3/22/11)

(a) The Commission shall issue a ninety (90) day temporary license based on Human Resources' review and approval of a completed employee application. If granted, the employee will work under the temporary licensing agreement pending receipt of a response from the National Indian Gaming Commission pursuant to § 6-2-18 of this chapter.

- (1) The Commission Director has the authority to sign and approve temporary gaming licenses if Commission members are not available.

(b) Commission members shall determine whether or not to issue a three-year license within ninety (90) days after application.

(c) A conditional license may be issued when an applicant does not meet the standards required of licensees outlined in the Nez Perce Tribal Code, Gaming Ordinance, the

Nez Perce Tribe/State of Idaho Gaming Compact or the rules and regulations promulgated by the NPTGC. A conditional license shall not exceed one (1) year.

- (1) Commission members have exclusive authority to sign and approve a conditional license.

(d) A license shall be valid for not more than three years and shall be renewed following a satisfactory criminal background check for the preceding three years. Only when extraordinary circumstances warrant an additional background investigation shall the Commissioner's investigation inquire into an applicant's activities earlier than the past licensing period. This section does not relieve a licensee of the obligation and responsibility of providing required updated information to the Background Investigator, such as:

- (1) criminal charges, convictions; or
- (2) status changes, new addresses.

(e) Response from National Indian Gaming Commission (NIGC)

- (1) If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies that Tribe that it has no objection to the issuance of a license by the Commission to the individual for whom the Commission has provided an application and investigative report to the NIGC, the Commission may issue a license to such applicant.
- (2) The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under the preceding paragraph until the Chairman of NIGC receives the additional information.
- (3) If, within the thirty (30) day period described above, the NIGC provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the NIGC, the Tribe shall reconsider the application, taking into account the objections itemized by the NIGC. The Tribe shall make the final decision whether to issue a license to such applicant.

§6-2-21 Facility Licenses (subsection title changed and language amended by NPTEC 3/22/11)

(a) The Commission shall issue a separate license to each place, facility, or location on Indian lands where any gaming is conducted under this ordinance.

- (1) The Tribe hereby designates the NPTEC Chairman as agent for service of process.

§6-2-22 License Suspension

(a) If, after the issuance of a gaming license by the Commission, the NIGC receives reliable information indicating that a key employee or a primary management official is not

eligible for employment, NIGC shall notify the Gaming Commission. (subsection amended by NPTEC 3/22/11)

(b) Upon receipt of such notification, the Commission shall suspend such license and shall notify in writing the licensee of the suspension, proposed revocation, and their right to request a hearing.

(c) No less than fourteen (14) days before the time of the hearing, the Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(d) The Commission shall provide, to the licensee, upon his written request, full disclosure of all information and evidence which has been the basis for the Commission's decision to suspend such license.

(e) After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify NIGC of its decision and shall notify the person in writing of its decision within fourteen (14) business days following the hearing as described in § 6-2-24(a) of this chapter.

(f) If the person does not receive written notice of decision by registered mail, return receipt requested or other carrier as evidenced by a return receipt, as outlined in this chapter within fourteen (14) business days of the hearing, the person may immediately file notice in the Nez Perce Tribal Court for an order requiring the Gaming Commission to issue a temporary license to work pending a rehearing on this matter.

§6-2-23 Dispute Resolution Process

(a) The Nez Perce Tribal Gaming Commission, as established in § 6-2-11 is authorized to oversee and regulate all gambling activities authorized by this ordinance, including decision-making authority in regard to any disputes that may arise by the gaming public.

(b) Any person having a dispute with the Gaming Operator or Management Company licensed by the Tribe may request that the Gaming Manager resolve the dispute. If dissatisfied with the result, the person may request a hearing with the Nez Perce Tribal Gaming Commission. Such a hearing shall be held within thirty (30) business days of receipt of a written request from the grievant. A decision shall be issued at the hearing or within fourteen (14) business days of the hearing. (subsection amended by NPTEC 3/22/11)

§6-2-24 Appeal from Decisions of the Commission

(a) If the Commission denies a person a license, or if the Commission revokes a license which was previously granted, the Commission shall do so in writing, outlining the reasons for such decision, and deliver such writing to the person by certified mail, return receipt requested. If a person considers himself or herself aggrieved by such a decision, he or she may appeal to the Nez Perce Tribal Court within thirty (30) business days of the date of the mailing was received by the U.S. Postal Service or other carrier as evidenced by a dated receipt for same. The appeal shall be only on the record and shall not be heard de novo. If the Court finds that the order of the Commission was issued arbitrarily and capriciously, clearly erroneously, or in violation of the Constitution of the Nez Perce Tribe or the constitutional rights of Indians (25 U.S.C. §§ 1301-1303), made upon unlawful procedure or some other clear error of law, the Court

shall vacate the same and remand the issuance or re-issuance of a license. Otherwise, the denial shall be upheld.

(b) If the grievant is dissatisfied with the decision issued by the Nez Perce Tribal Gaming Commission, he or she may appeal to the Nez Perce Tribal Court within thirty (30) business days of the issuance of the written decision from the Nez Perce Tribe Gaming Commission. The appeal shall be only on the record and shall not be heard de novo. If the Court finds that the order of the Nez Perce Tribe Gaming Commission was issued arbitrarily and capriciously, clearly erroneously, or in violation of the Constitution of the Nez Perce Tribe of Indians or the constitutional rights of Indians (25 U.S.C. §§ 1301-1303), made upon unlawful procedure or some other clear error of law, the Court shall vacate the same and remand. Otherwise, the decision of the Nez Perce Tribe Gaming Commission shall be upheld.

(c) If the grievant is dissatisfied with the decision issued by the Nez Perce Tribal Court under either (a) or (b) above, he or she may appeal to the Nez Perce Court of Appeals in accordance with Chapter 2-9 of the Nez Perce Tribal Code.

§6-2-25 Penalties for Violations

(a) Any person, or gaming operation, who shall violate provisions of this ordinance; or shall conduct gambling operations without a required license; or commits acts of fraud or deceit; or shall engage in professional gambling is subject to one or more of the following: (subsection amended by NPTEC 3/22/11)

- (1) A letter of warning;
- (2) A letter of reprimand;
- (3) A civil fine of up to a maximum of \$500.00 per occurrence per day;
- (4) And/or revocation of gaming license.

(b) The Commission may refer violations under this chapter to the Tribal Prosecutor for possible civil or criminal prosecution in conformance with the Nez Perce Tribal Code.

§6-2-26 Exclusion of Individuals from Gaming Activities

(a) Any person may be excluded from the premises for good cause at any time at the discretion of the operator. This may include but not be limited to: (subsection amended by NPTEC 3/22/11)

- (1) Appears to be violating rules or regulations governing gaming activities as established by the Commission or operator;
- (2) By virtue of his condition or activities, disturbs the peaceful participation of other individuals in gaming activities or disrupts the orderly conduct of the gaming activity;
- (3) To either intentionally or negligently cause injury or harm to any patron or employee or threaten to do so;
- (4) To possess any illegal narcotics or controlled substances on any Licensed

Gaming Facility.

(b) An operator may make reasonable inquiries of individuals in the course of determining whether any of the activities defined in paragraph (a) above are occurring;

(c) An operator who excludes any individual pursuant to this section shall not incur any liability, criminal or civil, as a result of doing so.

(d) Any person who is excluded from gaming by an operator pursuant to this section may petition the Commission for an order lifting the exclusion. The Commission shall have full discretion in determining whether to hear any such petition. The Commission shall further have discretion to impose such conditions as they deem appropriate in issuing any order lifting an exclusion.

**TITLE 6
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CHAPTER 6-3 FIREWORKS ORDINANCE

§6-4-1 Title

This Ordinance may be cited or referred to as “The Fireworks Regulatory Act.”

§6-4-2 Purpose

The purpose of this ordinance is to regulate the sale of fireworks upon the Nez Perce Reservation and provide for the safety of persons and property by such regulation.

§6-4-3 Jurisdiction

This Ordinance applies to all Indians within the exterior boundaries of the Nez Perce Reservation.

§6-4-4 Definitions

(a) “Common Fireworks” is defined as devices designed to produce a visible or audible effect by combustion, deflagration, explosion, or detonation.

(b) “Fireworks outlet” means each individual fireworks stand operated on trust and Indian-owned property within the exterior boundaries of the Nez Perce Reservation.

(c) “Indian-Owned Lands” shall mean Nez Perce Indian-owned property, both tribal and individual.

(d) “License” is a permit issued by the Nez Perce Tribe to each fireworks outlet authorizing the sale of fireworks on trust and Indian-owned property within the exterior boundaries of the Nez Perce Reservation.

(e) “NPTEC” shall mean the Nez Perce Tribal Executive Committee.

(f) “Permit” is a permit issued by the Nez Perce Tribe to each fireworks outlet authorizing the sale of fireworks on trust and Indian-owned property within the exterior boundaries of the Nez Perce Reservation, and to each wholesale operator authorizing transport and sale of fireworks for the purpose of resale. (amended by NPTEC 12/8/15)

(g) “Person” includes any individual, firm, partnership, joint venture, association, concern, corporation, estate, trust, business, receiver, syndicate, or any groups or combination acting as a unit.

(h) “Operator” is the person responsible for a fireworks business whether the operation is on the wholesale or retail level.

(i) “Quitclaim Deed” is a deed that passes on to the buyer all those rights or as much of a title as a seller actually has. A quitclaim deed does not warrant (promise) that the seller actually has full title pass on.

(j) “Safe and Sane Fireworks” shall mean any nonaerial common fireworks such as ground spinners, fountains, sparklers, smoke devices or snakes designed to remain on or near the

ground and not to travel outside a fifteen (15) foot diameter circle or emit sparks or other burning material which land outside a twenty (20) foot diameter circle or above a height of twenty (20) feet. Nonaerial common fireworks do not include firecrackers, jumping jacks, or similar products. (NPTEC authorized correction of a clerical error in last sentence 6/25/02).

(k) “Trust Property” shall mean all real property held in trust by the United States for the Nez Perce Tribe or its individual members.

(l) “Wholesaler” is a person or business that transports fireworks to the Nez Perce reservation for sale to retailers for re-sale. (amended by NPTEC 12/8/15)

§6-4-5 Wholesale Permit

(a) No person shall transport or sell on the reservation for the purposes of resale on the reservation or sell on the reservation any fireworks of any nature unless they are a valid holder of a wholesale permit. The fee for the wholesale permit shall be \$500.00. Wholesale permit applications must be submitted by the first Friday of June of the year the permit is requested.

(b) The wholesale permit is valid from the date of issuance and shall expire at the close of the fireworks season, as established heretofore, in the same calendar year, except that the wholesaler can sell fireworks seven (7) days prior to the established fireworks selling period of the retailers.

(c) No sales of fireworks shall be made pursuant to a wholesale permit, except to a holder of a valid Nez Perce Tribal Fireworks retail permit.

(d) Any person holding a wholesale permit shall display the same upon request to any Tribal or BIA Law Enforcement officer and/ or tribal safety officer and shall allow such officers to examine and inspect all merchandise transported for or offered for sale to ascertain conformance with this ordinance.

(e) Any individual making application for a wholesale permit who has had a previous permit revoked or suspended may be denied a permit absent written, documented and verifiable assurances that he/she can demonstrate legal responsibility and protect the safety of the public.

§6-4-6 Firework Retail Permit

No person shall sell fireworks without applying for a permit to sell fireworks at a fireworks outlet on trust property or Indian owned lands within the exterior boundaries of the Nez Perce Reservation. Applicants must be Nez Perce Tribal members and at least 18 years of age. Each fireworks outlet must be separately permitted. A firework permit will not be issued for property conveyed through quitclaim deeds.

§6-4-7 Right to Deny Permit

The Nez Perce Tribe reserves the right to deny applications for permits for any reason.

§6-4-8 Right to Close Fireworks Season

(a) The Nez Perce Tribe reserves the right to close the season at any time for safety purposes. The fireworks season shall automatically close when the firework sales cease as set out

in §6-3-13 (a) and (b). The discharge of fireworks will not be permitted after permits are suspended for sales at the end of each season. (NPTEC authorized amendment 10/23/12)

§6-4-9 Application

An application shall be accompanied by a permit fee of \$200.00 for the first firework outlet, and \$100.00 for each additional outlet. Temporary permits for single days or short periods not exceeding five (5) days shall be issued for \$50.00 for each application.

§6-4-10 Application Form

- (a) Full name
- (b) Enrollment number
- (c) Address
- (d) Telephone number
- (e) Location of the fireworks outlet including the allotment or unit number.
- (f) A list of the types of fireworks to be sold.

(g) Proof of ownership, or a valid lease agreement in accordance with federal law if fireworks outlet is located on property other than that of applicant. Application will require the Superintendent of the BIA-NIA to certify that such agreement has been negotiated and that such agreement meets the requirements of the BIA.

§6-4-11 Permit Suspension or Revocation

Any wholesale or retail permit issued shall be subject to revocation and/or suspension by the Nez Perce Tribe for any violation of the ordinance in addition to the civil infractions set forth herein or any criminal penalties that may apply. Wholesalers and Retailers may also be deemed ineligible for a fireworks permit in subsequent years.

§6-4-12 Permit Non-Transferrable

All fireworks permits issued to an enrolled member of the Nez Perce Tribe, retail or wholesale, shall be non-transferrable between Nez Perce Tribal members and between fireworks outlets. The permit cannot be sold, assigned, leased or transferred in any manner whatsoever.

§6-4-13 Duration of Permit (amended by NPTEC 12/8/15)

(a) A retail permit shall permit the sale of fireworks to the general public no sooner than June 9th and no later than July 9th of that calendar year. Furthermore, the operator shall remove all unsold fireworks from his or her shop or store premises not later than July 9th of the calendar year.

(b) A retail permit shall permit the sale of fireworks to the general public for a New Year's Eve fireworks season from December 24th, of that calendar year, to January 2nd of the following year.

§6-4-14 Operator

The specific Tribal member so authorized and permitted as provided for above, must be the owner, operator, and beneficiary of said business. The operator shall be held jointly responsible for the payment of any fines resulting from violations of this ordinance by any of his employees.

§6-4-15 Employees of Operator

All fireworks operators shall use good faith efforts to hire tribal members and other Indians. Any person under the age of 18 years employed for the sale of fireworks pursuant to the fireworks permit shall be supervised by an adult.

§6-4-16 Sale to Minors

It shall be unlawful to sell fireworks to anyone under the age of eighteen (18) unless such fireworks are of a nature that has been designated as "safe and sane" fireworks as defined herein. "Safe and sane" fireworks may be sold regardless of age.

§6-4-17 Intoxication

It shall be unlawful to sell fireworks to any intoxicated person, or for any operator or employee to sell, discharge or distribute fireworks while under the influence of alcohol or drugs while engaged in the distribution or sale of fireworks.

§6-4-18 Permitted Fireworks - Conformity with Federal Law

An operator shall conform in all respects, to the laws of the United States, pertaining to the sale of fireworks. The operator shall not stock or sell any fireworks which are in violation of the Hazardous Substance Act of the United States Code, 15 U.S. Code 1261 et seq. and regulations promulgated thereunder.

§6-4-19 Discharge of Fireworks in Selling Area

It shall be unlawful for an operator to discharge or to allow his employee or customers to discharge fireworks within one hundred (100) feet of a fireworks outlet.

§6-4-20 Fire Safety

(a) All operators shall have at least two (2) ten (10) pound ABC Type approved (inspected within one year) fire extinguishers in the selling area.

(b) All operators shall construct and maintain a fire line around the perimeter of the fireworks outlet.

§6-4-21 Notice

Each operator shall display at a prominent place in each fireworks outlet a notice listing those acts declared unlawful by this Ordinance. (amended by NPTEC 12/8/15)

§6-4-22 Repeal

This ordinance repeals prior ordinances concerning fireworks.

§6-4-23 Non-Liability

The issuing of fireworks permits by the Tribe shall not be construed as a waiver of sovereign immunity or as the assumption of any liability on the part of the Tribe.

§6-4-24 Severability

In the event that any provision of this act shall be found or declared invalid, the remaining provision of this act shall be unaffected thereby and shall remain in full force and effect.

§6-4-25 Requirements for Retail Operators (amended by NPTEC 12/8/15)

All retail operators must:

(a) Remove all temporary structures within five (5) days of the end of the fireworks season. If retail operator owns the property on which his outlet is located and can demonstrate absence of fire hazard, he may be granted an exemption of this requirement.

(b) Remove and cleanup of signs on and off the retail site, and debris and waste resulting from retailer's use of retail site within five (5) days of the fireworks season. If retail operator owns the property on which his outlet is located and can demonstrate absence of a fire hazard, he may be granted an exemption from this requirement, except for off-site signs.

(c) Provide a designated area for fireworks displays at least 100 feet away from the fireworks outlet or retail structure or existing buildings.

(d) Utilize not more than four (4) signs not to exceed 32 square feet to advertise their business, so long as such signs do not violate applicable billboard or zoning ordinances, do not create a safety hazard, as determined by the Safety Officer; and that the operator obtain permission of the owner on where property the sign is located.

(1) Retail Operator's Permit Number must be affixed to all signs used to advertise or identify a Fireworks Retail Outlet.

(e) The operator shall be held responsible in the event of fire, personal or physical injury as a result of negligent acts of the operator or their employees.

§6-4-26 Violations/Sanctions

(a) Any violation of this Ordinance shall be considered a civil infraction under §4-3-72 and may subject the offender to a fine.

(b) In addition to any fine ordered under §4-3-72, Tribal Law Enforcement may close any offending business and seize all illegal fireworks and or proceeds from same.

(c) This section does not preclude any other civil or criminal remedies which may apply to activities governed by this Ordinance, including immediate police action necessary to

protect the health and safety of the community.

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CHAPTER 6-4
NEZ PERCE TRIBAL COMMERCIAL BUILDING AND ELECTRICAL CODE
(adopted 10/26/99, revised 5/22/18)

§6-4-1 Title

This ordinance shall be known and cited as the Nez Perce Tribal Commercial Building and Electrical Code.

§6-4-2 Jurisdiction

(a) The provisions of this ordinance shall apply to all structures wholly or partially used for commercial purposes which are located on land owned by any member of a federally recognized tribe and which are within the 1863 Nez Perce Reservation boundary.

(b) The exception to this provision will be compliance with the National Electrical Code (NEC) which shall be required for residential as well as commercial purposes.

§6-4-3 Adoption of Code

(a) The following code and its amendments, including subsequent revisions and supplements are hereby adopted by reference and made a part of this ordinance as though fully set forth-herein including:

(b) the current edition of the International Building Code (IBC), as compiled and published by the International Code Council, including all of the appendices, and the current edition of the National Electrical Code.

§6-4-4 Definitions

(a) “Building Official” shall be a qualified building inspector who is authorized via contract or through direct employment, to administer and enforce the IBC and the Nez Perce Tribal Code. He inspects commercial buildings for health, sanitary or safety violations.

(b) “Electrical Inspector” shall be a licensed electrician who inspects electrical installations in residential and commercial building to verify compliance with Nez Perce Tribal Code and the NEC and certifies the installation to be safe to connect and energize.

§6-4-5 Commercial Building Permits When Required

(a) It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, substantially alter or repair, move, improve, remove, convert or demolish any commercial building structure or mobile or pre-manufactured structure or any part or mechanical system thereof; or to cause any of the foregoing to be done; without first obtaining a separate building permit from the Building Official for each such building or structure. The required permit shall be obtained before work is initiated, unless other arrangements are approved in advance by the Building Official.

§6-4-6 Electrical Inspection Verification

(a) It shall be unlawful for any person, firm or corporation to energize an electrical installation within the jurisdiction of the Nez Perce Tribe without obtaining a written document, signed by an Electrical Inspector who has properly inspected the installation, and based on his/her expertise, certifies that the electrical connection is in compliance with the NEC and is safe to connect and energize.

(b) This verification shall be required for residential, as well as commercial electrical installations.

§6-4-7 Fees

(a) All buildings valued at \$3,000 or less shall be charged a permit fee of twenty-five (\$25) dollars. Buildings valued at \$3,000 or more shall be based on those fees as specified in the attached commercial building permit fee schedule.

§6-4-8 Issue of Permits

(a) Permits required under the provisions of this ordinance shall be issued by the authorized Building Official, or his designee, in accordance with applicable provisions of this ordinance, utilizing for the purpose suitable forms to be provided by the Nez Perce Tribe. The Nez Perce Tribal Executive Committee shall employ or contract with a qualified inspector who shall be the Building Official. Fees shall be paid to the Nez Perce Tribe Finance Department.

§6-4-9 Inspection and Enforcement

(a) All of the inspection and enforcement required under this ordinance shall be provided by the Nez Perce Tribe, under authority of the Nez Perce Tribal Executive Committee. Costs of inspections, or of plan reviews shall be paid from permit fees collected by the Tribe.

§6-4-10 Public Access to Code

(a) One (1) copy of the code adopted by this ordinance, and its supplements and later revisions, shall be provided and made available to the public at the Tribal Employment Rights Office, and shall be available for inspection to the public during normal business hours, upon request. A copy of the ICC and NEC shall also be available for inspection.

§6-4-11 Noncompliance

(a) In the event that any person, firm or corporation shall willfully fail to secure a permit before initiation of construction or an Electrical Inspection Verification prior to energizing an electrical installation, as required by this chapter, such person may be found to have committed a civil infraction and upon such a finding by the Nez Perce Tribal Court may be fined not more than three hundred dollars (\$300.00), for each violation, and in addition shall be required to pay all costs and expenses involved in the case. Nothing contained herein shall prevent the Nez Perce Tribe from taking such other action as is necessary to prevent or to remedy any violation before or instead of a civil infraction proceeding.

§6-4-12 Review

(a) Orders, decisions or determinations made by the Building Official or Electrical Inspector relative to the application and interpretation of the Code, may be reviewed by the Nez Perce Tribal Court as per Chapter 2-5 of the Nez Perce Tribal Code.

§6-4-13 Severability

(a) If any section, subsection, clause, phrase, or portion of this ordinance shall, for any reason be held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect, invalidate or nullify the remaining portions of this ordinance. (NPTEC authorized amendment 5/22/18)

Nez Perce Tribal Commercial Building-Permit Fees	
Total Valuation	Fee
\$3,001.00 to \$25,000.00	\$35.00 for the first \$5,000.00 plus \$5.00 for each additional \$5,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$55.00 for the first \$25,000.00 plus \$3.50 for each additional \$5,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$75.00 for the first \$50,000 plus \$2.50 for each additional \$5,000.00 or fraction thereof, to and including \$100,000.00.
\$100,001.00 to \$500,000.00	\$95.00 for the first \$100,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof to and including \$500,000.00.
\$500,001.00 to \$1,000,000.00	\$500.00 for the first \$500,000.00 plus \$1.50 for each additional \$5,000.00 or fraction thereof, to and including \$1,000,000.00.
\$1,000,001.00 and up	\$1,000.00 for the first \$1,000,000.00 plus \$1.00 for each additional \$1,000.00 or fraction thereof.
Other Inspections and Fees:	
(a)	Inspections outside of normal business hours \$30.00 per hour* (minimum charge-two hours)
(b)	Reinspection fees assessed under provisions of IBC Section 109.5. ..\$30.00 per hour*
(c)	Inspections for which no fee is specifically indicated \$30.00 per hour* (minimum charge – one-half hour)
(d)	Additional plan review required by changes, additions or revisions to approved plans \$30.00 per hour* (minimum charge – one-half hour)

*Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.
(NPTEC authorized amendment 5/22/18)

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CHAPTER 6-5
FOREST PROTECTION FIRE ORDINANCE
(chapter adopted 9/14/99)

§6-5-1 Definitions

(a) "Campfire" means a fire, not within any building, mobile home or living accommodation mounted on a motor vehicle, which is used for cooking, personal warmth, lighting, ceremonial, or esthetic purposes.

§6-5-2 Fire

The following are prohibited:

- (a) Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.
- (b) Firing any tracer bullet or incendiary; ammunition.
- (c) Causing timber, trees, slash, brush or grass to burn except as authorized by permit.
- (d) Leaving a fire without completely extinguishing it.
- (e) Allowing a fire to escape from control.
- (f) Building, attending, maintaining, or using a campfire without removing all flammable material from around the campfire adequate to prevent its escape.

§6-5-3 Spark Arresters

- (a) Requirements. The steam or internal combustion engines be equipped with properly installed, maintained, and effectively working spark arresters as categorized below:
 - (1) Portable power saws. The spark arrester shall meet the standards set forth in the Society of Automotive Engineers (SAE) Recommended Practice J335b, "Multi-position Small Engine Exhaust System Fire Ignition Suppression", and be listed in the most recent "Spark arrester Guide" as having been approved as meeting above standard. Copies of the "Spark Arrester Guide" may be viewed at the Tribal Fire Office.
 - (2) Other engines. The spark arrester shall meet the standards set forth in the publication of the USDA Forest Service, entitled "Standard 5100la for Spark Arresters of Internal Combustion Engines" as amended under date of July 1970, and be listed in the most recent "Spark Arrester Guide" as having been approved as meeting above standard. Copies of the "Spark Arrester Guide" may be viewed at the Tribal Fire Office.)
- (b) Exceptions. The following are exempt from the requirements of the rule:
 - (1) Turbo-charged internal combustion engines in which one hundred percent (100%) of the exhaust gases pass through the turbo-charger.

- (2) Engines of passenger-carrying vehicles and light trucks, equipped with baffle-type muffler and tailpipe through which all exhaust gasses pass, that are kept in good repair.
- (3) Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle.
- (4) Engines of water pumping equipment used in firefighting.
- (5) Engines of helicopters and other aircraft.

§6-5-4 Cost of Fire Suppression and Protection

Whenever the Tribe incurs costs in controlling or extinguishing a fire that any person willfully or is negligently responsible for, such cost shall include all actual cost to the Tribe including wages and use of equipment.

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CHAPTER 6-6
FUEL TAX ORDINANCE
(Chapter adopted 10/9/01)

§6-6-1 Definitions

(a) "Administrator" shall mean the person, program or body authorized by NPTEC to administer the Fuel Tax Ordinance.

(b) "Distributor" shall mean those businesses, entities or individuals that receive fuel, store it, and/or sell fuel to Retailers on a wholesale basis for resale at the Retail level.

(c) "Fuel" shall mean any mixture of hydrocarbons suitable as a fuel for the propulsion of motor vehicles or motorboats.

(d) "Indian" shall mean any person who is enrolled or is eligible for enrollment in a federally recognized Tribe or who is at least 1/4 degree Indian blood. BIA or tribal certification may be required.

(e) "Retailer" shall mean any business, entity or individual engaged in the retail sale of fuel to the public.

§6-6-2 Purpose

The purpose of this Ordinance is to govern the transactions involving the receipt and sale of fuels by Distributors and Indian-owned Retailers within the confines of the Nez Perce Reservation.

§6-6-3 Imposition of Tax (Amended by NPTEC 6/23/15)

A tax is imposed on all fuel received within the confines of the Nez Perce Reservation and designated for sale at the retail level to consumers. This amount is established by NPTEC resolution. The Nez Perce Tribal Executive Committee may adjust the amount of the tax by resolution. The tax is to be paid by the licensed Retailer and remitted with the monthly Retailer report as required in §6-6-5(c).

§6-6-4 Distributor Licenses

(a) No Distributor shall receive or sell fuel to a Retailer or to any person or entity for resale unless that Distributor has a valid Distributor's license duly issued by the Nez Perce Tribe.

(b) A Distributor may obtain a Distributor's license on an annual basis from the Nez Perce Tribe by submitting a completed application form provided by the Nez Perce Tribe upon request and paying an annual license fee of \$100.00. After the first year this ordinance is effective, the amount of annual license fees shall be established annually by resolution of the Nez Perce Tribal Executive Committee. Licensed Distributors shall be advised in writing no later than the last business day of September of the amount of the license fee for the next calendar year. Fees for an application submitted during the calendar year shall be prorated. The Nez Perce Tribe may require posting of a bond, in addition to the license fee, or any other requirement deemed necessary in administering the Ordinance and is under no obligation to issue any Distributor's license.

(c) A Distributor, regardless of whether he obtains a Distributor's License shall

submit, not later than the tenth day of the calendar month following the month in which fuel was received, monthly reports of amounts of fuel received and any other information reasonably requested by the Administrator. If the tenth of the month falls on a holiday or week-end, such report shall be due on the next business day following the week-end or holiday.

(d) All Distributors will be required to comply with federal requirements for health and safety in regard to construction, placement and operation of fuel storage tanks, trucks and other related equipment. Such compliance shall be demonstrated to the satisfaction of the Administrator prior to obtaining a license. Notwithstanding additional enforcement tools as set forth herein and, in the Nez Perce, Tribal Code, a license may be revoked for non-compliance.

§6-6-5 Retailer Licenses

(a) No Indian shall operate a Retail Fuel Station within the boundaries of the Nez Perce Reservation unless that Retailer has a valid license duly issued by the Nez Perce Tribe. Nor shall a Retail Fuel Station purchase fuel from any entity other than a duly licensed Distributor of the Nez Perce Tribe.

(b) A Retailer may obtain a Retailer's license on an annual basis from the Nez Perce Tribe by submitting a completed application form provided by the Nez Perce Tribe upon request and paying an annual license fee of \$100.00. After the first year this ordinance is effective, the amount of annual license fees shall be established annually by resolution of the Nez Perce Tribal Executive Committee. Licensed Retailers shall be advised in writing no later than the last business day of September of the amount of the license fee for the next calendar year. Fees for an application submitted during the calendar year shall be prorated. The Nez Perce Tribe may require posting of a bond, in addition to the license fee, or any other requirement deemed necessary in administering the Ordinance and is under no obligation to issue any Retailer's license.

(c) A Retailer, regardless of whether he obtains a Retailer's License shall submit, not later than the tenth day of the calendar month following the month in which fuel was received/sold, monthly reports of amounts of fuel received and sold and any other information reasonably requested by the Administrator. If the tenth of the month falls on a holiday or week-end, such report shall be due on the next business day following the week-end or holiday.

(d) A Retailer shall also, with the report, remit the amount of taxes imposed on fuel received the preceding month, as set forth in subsection (c) of this section. (correction to subsection: replaced word distributor with correct word retailer effective 3/26/02)

(e) All Fuel Retailer Stations will be required to comply with federal requirements for health and safety in regard to construction, placement and operation of fuel storage tanks and other related equipment. Such compliance shall be demonstrated to the satisfaction of the Administrator prior to obtaining a license. Notwithstanding additional enforcement tools as set forth herein and, in the Nez Perce, Tribal Code, a license may be revoked for non-compliance.

§6-6-6 Enforcement

(a) Any Indian person, corporation or entity that receives or sells fuel within the Nez Perce Reservation, with or without a license, is deemed to be doing business within the Nez Perce Reservation and shall be subject to the jurisdiction of the Nez Perce Tribe and the terms of this Ordinance. Any Indian person, corporation or entity doing business within the Nez Perce

Reservation shall be subject to the service of process issued by the Nez Perce Tribal Court as though that person, corporation or entity was a resident of the Nez Perce Reservation.

(b) Any person, corporation or entity who engages in the business as a fuel Distributor or fuel Retailer without being the holder of a valid license shall be guilty of a civil infraction. Each day of business without a valid license shall constitute a separate offense.

(c) A Distributor or Retailer whose monthly reports are not received within seven days of the date it is due may be subject to a daily fine of \$100 for each day the report is late. Such report will be presumed to be late on the eighth day after the date is due. Such fine may be assessed by the Administrator as an administrative procedure and shall accrue interest at the highest legal rate allowed under federal law. If such report is received by the Nez Perce Tribe after the seven day late period and the postmark date on the envelope is found to have a date within the allowable time period, no penalty will be assessed. An appeal of any penalty assessment shall be available through the Nez Perce Tribal Court and the sole basis for review shall be whether the report was postmarked before the required date and received by the Nez Perce Tribe before or within the seven day late period.

- (1) Enactment of this provision as law and delivery to all existing licensees and new applicants shall be deemed full and fair notice of them of their reporting obligations and no further notice shall be required. The failure to provide the required monthly report within twenty days after the seven day late period, when it will be presumed late or an indication by the Distributor or Retailer that he/she will not comply with the reporting requirements, shall be deemed a violation of this ordinance and be subject to such additional penalties as provided herein.

(d) In the event that a Distributor or Retailer fails to provide the monthly reports as required herein, the Administrator may assess the fines authorized in section VI.B. above. The Administrator shall serve written notice by regular mail addressed to the licensee of the amount of the fine then due, request the monthly report, demand payment of the fine then due in full immediately and advise the licensee that if the report and payment are not received by that deadline, the license will be suspended on that date. Unless a licensee pays the total fine due and submits the required report within twenty days of the date due, their license shall be suspended by the Administrator. Once suspended for failure to pay the fine assessed or to provide the report within twenty days of the date due, the license shall not be reinstated unless and until the licensee provides a cash performance bond to the Tribe in the amount of \$50,000 to ensure compliance with the provisions of this ordinance.

(e) In all other instances where the Administrator reasonably believes that a violation of the Fuel Tax Ordinance has occurred, the Administrator shall, on a timely basis, conduct such investigation into relevant facts as is necessary and provide such information to the Nez Perce Tribal Executive Committee, Office of Legal Counsel who shall take such legal steps as are necessary to ensure compliance with the provisions of the Code. If warranted, the legal steps could include a referral to the Tribal Prosecutor for criminal charges to be filed.

(f) Upon a determination by the Court that a violation of any provision of this Ordinance has occurred, sanctions, including any or all of the following, may be imposed:

- (1) Revocation of Distributor or Retail license;

- (2) Civil fine in an amount established by the Court unless the violation for which it is imposed resulted in the loss of revenue to the Nez Perce Tribe in which case, the amount of the fine shall be equal to three times the amount of revenue lost to the Nez Perce Tribe;
- (3) Forfeiture of property belonging to Distributor or Retailer within the boundaries of the Nez Perce Reservation of a value sufficient to pay in full any fine, assessment or amount due pursuant to this Ordinance;
- (4) Posting of a cash bond with Nez Perce Tribe before license is reissued or restored.

(g) The Nez Perce Tribe may file a complaint with the Nez Perce Tribal Court alleging a violation of the Fuel Tax Ordinance. If the complaint seeks preliminary relief, including but not limited to, the closure of the Distributor or Retailers business pending final disposition of the complaint, the Nez Perce Tribal Court may be requested to issue an order granting the preliminary relief on an ex parte basis upon a showing by the Nez Perce Tribe that reasonable efforts were made to advise the named defendant of the filing of the complaint and the request for preliminary relief. Upon presentation of prima facie evidence that a Distributor or Retailer failed to provide the reports or pay the taxes required by the Fuel Tax Ordinance, the court shall grant the preliminary relief. Regardless of whether the preliminary relief is granted, the court shall schedule the cause notice to be served upon the defendant and hold a full hearing on the matter of the preliminary relief no later than three business days from the date of the complaint.

(h) Any order of the Nez Perce Tribal Court granting preliminary relief may include authorization or direction to appropriate enforcement agencies to secure premises or property to avoid transfer or concealment of property that may be subject to forfeiture.

(i) Any transfer or concealment of property subject to forfeiture by a Distributor or Retailer to avoid or attempt to avoid forfeiture pursuant to, or enforcement of, this ordinance shall be a criminal offense subject to criminal penalties.

§6-6-7 Distribution of Tax Revenues

Tax revenues shall be distributed as determined by the Nez Perce Tribal Executive Committee.

§6-6-8 Violations/Sanctions

(a) Any violation of this Ordinance shall be considered a civil infraction under §4-3-73 and may subject the offender to a fine.

(b) In addition to any fine ordered under §4-3-73, Tribal Law Enforcement may close any offending business and seize all fuel or fuel proceeds from same.

(c) This section does not preclude any other civil or criminal remedies which may apply to activities governed by this Ordinance, including immediate police action necessary to protect the health and safety of the community.

**TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS**

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CHAPTER 6-7
TOBACCO AND LIQUOR ORDINANCE
(adopted by NPTEC 10/28/03)

§6-7-1 Definitions

- (a) Carton of Cigarettes - A unit made up of packages of cigarettes per industry standard.
- (b) Distributor - Those businesses that sell tobacco products to Operators on a wholesale basis for resale at tobacco or liquor outlets.
- (c) Licensee - Any person or operator who holds either a Distributor's license or an Outlet license issued pursuant to this Ordinance.
- (d) Operator - shall mean an enrolled member of the Nez Perce Tribe licensed by the Tribe to operate a tobacco or liquor outlet.
- (e) Other Tobacco Products - shall mean any cigars, cheroots, stogies, smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing) and snuff, however prepared; and shall include any other articles or products made of tobacco or any substitute other than cigarettes. (definition amended by NPTEC 9/27/11)
- (f) Outlet - shall mean a tribally licensed retail or wholesale business selling tobacco or liquor products on the Nez Perce Reservation.
- (g) Package of Cigarettes - One single, factory sealed package containing a number of cigarettes per industry standard.
- (h) Tribe - shall mean the Nez Perce Tribe.

§6-7-2 Distributor Licenses

- (a) In order to maintain an accurate record of tobacco products coming in and going out of the Nez Perce Reservation all tobacco wholesalers and retailers, whether licensed or non-licensed, shall be required to report every transaction involving tobacco products occurring within the boundaries of the Nez Perce Reservation, including the name and address of each purchaser and contact information. Sales to non-licensed or non-resident persons or entities is hereby prohibited.
- (b) A distributor may obtain a Distributor's License on an annual basis from the Nez Perce Tribe by submitting a completed application form provided by the Nez Perce Tribe upon request and paying an annual license fee of \$300. The amount of annual license fees shall be established annually by resolution of the Nez Perce Tribal Executive Committee. Licensed Distributors shall be advised in writing no later than the last business day of November of the amount of the license fee for the next calendar year. Fees for an application submitted during the Calendar year shall be prorated. The Nez Perce Tribe is under no obligation to issue any Distributor's licenses.
- (c) A Distributor who obtains a Distributor's License shall submit monthly reports of

sales made to Operators or tobacco outlets. Such reports shall indicate the number of cartons of cigarettes and other tobacco products delivered to or for each Operator or Tobacco Outlet and the names and addresses of those operators, tobacco outlets and any other personal entity to which cigarettes/tobacco products have been delivered. If no sales are made in a particular month, the report shall be submitted reflecting no sales. The report of sales for a particular month must be postmarked before the 15th of the following month, otherwise the Distributor shall be subject to the penalties described below. (amended by NPTEC 9/27/11)

(d) A Distributor who obtains a Distributor's License shall provide full and accurate information in all license application forms and monthly reports of sales to Operators or Tobacco Outlets in addition to any other information reasonably requested by the Nez Perce Tribe.

(e) A Distributor whose monthly sales report is not received within seven days of the date it is required to be postmarked shall be subject to a daily fine of \$100 for each day the report is late. Such report will be presumed to be late on the eighth day after the date it is required to be postmarked. Such a fine shall be assessed beginning on the eighth day and collected as an administrative procedure and such fines shall accrue interest at the highest legal rate allowed under federal law until paid. If such report is received by the Nez Perce Tribe after the seven day mailing period, and the postmark date on the envelope is later than the required postmark date, the \$100 daily fine shall also be assessed for the number of days beyond the required postmarked date that it was actually mailed. If the report is found to be mailed on or before the required postmark date, no penalty shall be assessed. An appeal of any penalty assessment shall be available through the Nez Perce Tribal Court and the sole basis for review shall be whether the report was postmarked before the required date and received by the Nez Perce Tribe within the seven day mail period.

Enactment of this provision as law and delivery to all existing licensees and new applicants shall be deemed full and fair notice of them of their reporting obligations and no further notice shall be required. The failure to provide the required monthly report within twenty days after the seven day mailing period, when it will be presumed late or an indication by a Distributor, verbal or otherwise, that the Distributor will not comply with the reporting requirements, shall be deemed a violation of this ordinance and be subject to such additional penalties as are provided herein.

(f) There is levied and there shall be collected, a tax upon the distribution of all cigarettes and other tobacco products sold or distributed to a Tobacco or Liquor Outlet in an amount to be established by NPTEC resolution. Such amount may be adjusted by NPTEC resolution with thirty (30) days written notice prior to the adjustment to the licensed Tobacco or Liquor Outlet Operators and the Licensed Distributors. The tax on other tobacco products besides cigarettes shall equal a percentage of the wholesale sales prices of such tobacco products. The percentage of the levy shall be set by NPTEC resolution. The tax shall be imposed at the time the Licensed Distributor (a) brings, or causes to be brought tobacco products for sale to licensed Operators or tobacco outlets, (b) makes, manufactures, or fabricates tobacco products for sale to licensed Operators or tobacco outlets, or (c) ships or transports tobacco products to licensed Operators or tobacco outlets to be sold by those licensed Operators or tobacco outlets. (amended by NPTEC 9/27/11)

The excise tax levied hereunder shall be added to the selling price, whether the product is sold at wholesale or at retail, of tobacco products sold by the person required to be licensed by this Chapter.

All cigarette packages sold by a tobacco distributor licensed by this chapter must bear a tax stamp indicating that the tribal tax on the cigarettes has been paid. A \$500.00 fine will be

imposed for each package found to be sold by a licensed tobacco distributor without the required stamp.

(g) Upon a determination by the Nez Perce Tribal Court that a Distributor has violated any provision of this section, any or all of the following sanctions may be imposed:

- (1) Suspension of the Distributor's license;
- (2) (Revocation of the Distributor's license;
- (3) A civil fine in an amount established by the Court unless the violation for which it is imposed resulted in a loss of revenue to the Nez Perce Tribe in which case, the amount of the fine shall be equal to three times the amount of revenue lost to the Nez Perce Tribe;
- (4) Forfeiture of any property belonging to the Distributor within the boundaries of the Nez Perce Reservation of a value sufficient to pay in full any fine, assessment or any other amount due pursuant to this Ordinance;
- (5) Posting of a cash performance bond with the Nez Perce Tribe before a license is restored or reissued.

§6-7-3 Tobacco Outlet Licenses

(a) No Indian shall operate a Tobacco Outlet within the boundaries of the Nez Perce Reservation unless that Tobacco Outlet has a valid license duly issued by the Nez Perce Tribe.

(b) A Tobacco Outlet may obtain a Tobacco Outlet license on an annual basis from the Nez Perce Tribe by submitting a completed application form provided by the Nez Perce Tribe upon request and paying an annual license fee of \$200. The amount of the annual license fee shall be established by resolution by the Nez Perce Tribal Executive Committee. Licensed outlets shall be advised in writing no later than the last business day of November of the amount of the annual license fee for the next year. The fee for any application submitted during the calendar year shall be prorated. The Nez Perce Tribe is under no obligation to issue any Tobacco Outlet license.

(c) A Tobacco Outlet shall purchase tobacco products only from those distributors that have a valid Distributor's License duly issued by the Nez Perce Tribe. Sales of cigarettes by Tobacco Outlets shall not exceed 48 cartons for each individual transaction.

(d) Each Tobacco Outlet shall provide to the Nez Perce Tribe a report on the volume of cigarettes and other tobacco products purchased from distributors the preceding month, to be postmarked by the tenth day of each month. If such a report is not received by the Nez Perce Tribe within seven days of the required postmark date, it shall create a presumption that a violation has occurred and shall subject the tobacco outlet to the sanctions provided herein. Such sanctions shall begin to be assessed on the eighth day after the date the report is required to be postmarked. If the report is received after the seven day mailing period and the postmark date on the envelope is found to be after the date it is required to be postmarked, sanctions will be assessed as to the number of days it was postmarked late. If the report is received and found to be mailed on or before the required postmark date, no penalty will be assessed. (amended by NPTEC 9/27/11)

(e) There is levied and there shall be collected, a tax upon the distribution of all cigarettes and other tobacco products purchased by a Tobacco or Liquor Outlet in an amount to be established by NPTEC resolution. Such amount may be adjusted by NPTEC resolution with thirty (30) days written notice prior to the adjustment to the licensed Tobacco or Liquor Outlet Operators and the Licensed Distributors. The tax on other tobacco products besides cigarettes shall equal a percentage of the wholesale sales prices of such tobacco products. The percentage of the levy shall be set by NPTEC resolution. The tax shall be imposed at the time the Licensed Distributor (a) brings, or causes to be brought tobacco products for sale to licensed Operators or tobacco outlets, (b) makes, manufactures, or fabricates tobacco products for sale to licensed Operators or tobacco outlets, or (c) ships or transports tobacco products to licensed Operators or tobacco outlets to be sold by those licensed Operators or tobacco outlets. **(amended by NPTEC 9/27/11)**

The excise tax levied hereunder shall be added to the selling price, whether the product is sold at wholesale or at retail, of tobacco products sold by the person required to be licensed by this Chapter.

All cigarette packages sold by a tobacco outlet licensed by this chapter must bear a tax stamp indicating that the tribal tax on the cigarettes and other tobacco products has been paid. A \$500.00 fine will be imposed for each package found to be sold by a licensed tobacco outlet without the required stamp.

(f) The Operator of a Tobacco Outlet shall provide full and accurate information on all license application forms and monthly reports of purchases of cigarettes and other tobacco products in addition to any other information reasonably requested by the Nez Perce Tribe. **(amended by NPTEC 9/27/11)**

(g) In addition to any other penalties that may be assessed, an Operator who fails to mail a monthly report of purchases by the required postmark date or to pay the taxes assessed in full by the date due shall be subject to a daily fine of \$100 for each day the report is found to be late as stated in § 6-7-3(d) or payment of taxes is past due as stated in § 6-7-3(e). Such a fine shall be assessed and collected as an administrative procedure and such fines shall accrue interest at the highest legal rate allowed under federal law until paid. An appeal of such assessment shall be available through the Nez Perce Tribal Court and the sole basis for review shall be whether the report was postmarked on or before the required date and received by the Nez Perce Tribe within the seven day mailing period or whether taxes were paid to the Nez Perce Tribe by the due date.

Enactment of this provision as law and delivery of copies to all existing licensees and new applicants shall be deemed full and fair notice to them of their obligations to report and pay taxes and not further notice shall be required. The failure to provide the required monthly report within twenty days after the seven day mailing period following the postmark date, or an indication by an Operator of a Tobacco Outlet, verbal or otherwise, that the Operator will not comply with the reporting requirements, shall be deemed a violation of this ordinance and be subject to such additional penalties as are provided herein.

(h) Upon a determination by the Nez Perce Tribal Court that an Operator or Tobacco Outlet has violated any provision of this section, any or all of the following sanctions may be imposed:

- (1) Suspension of Tobacco Outlet license;
- (2) Revocation of Tobacco Outlet license;
- (3) Civil fine in an amount established by the Court unless the violation for

which it is imposed resulted in the loss of revenue to the Nez Perce Tribe in which case, the amount of the fine shall be equal to three times the amount of the revenue lost to the Nez Perce Tribe;

- (4) Forfeiture of property belonging to Operator within boundaries of Nez Perce Reservation of a value sufficient to pay in full any fine, assessment or amount due pursuant to this Ordinance;
- (5) Posting of a cash bond with Nez Perce Tribe before license is reissued or restored.

§6-7-4 Liquor Distributor and Outlet Licenses

(a) No Indian shall distribute or sell liquor within the boundaries of the Nez Perce Reservation unless the liquor distributor or outlet has a valid license duly issued by the Nez Perce Tribe.

(b) A liquor distributor or outlet may obtain a liquor distributor or outlet license on an annual basis from the Nez Perce Tribe by submitting a completed application form provided by the Nez Perce Tribe upon request and paying an annual license fee. The annual license fee is \$300.00. The Nez Perce Tribal Executive Committee may establish adjusted license fees by resolution, so long as a liquor distributor or outlet outlets are notified 30 days prior to the effective date of the adjustment. Fees for an application submitted during the calendar year shall be prorated. The Nez Perce Tribe is under no obligation to issue any liquor distributor or outlet license.

(c) A liquor distributor or outlet shall purchase liquor products only from those distributors that have a valid distributor's license duly issued by the Nez Perce Tribe or the State of Idaho.

(d) Each liquor distributor or outlet shall provide to the Nez Perce Tribe a report on the volume of liquor purchased from distributors the preceding month, to be postmarked by the tenth day of each month. If such a report is not received by the Nez Perce Tribe within seven days of the required postmark date, it shall create a presumption that a violation has occurred and shall subject the liquor distributor or outlet to the sanctions provided herein. Such sanctions shall begin to be assessed on the eighth day after the date the report is required to be postmarked. If the report is received after the seven day mailing period and the postmark date on the envelope is found to be after the date it is required to be postmarked, sanctions will be assessed as to the number of days it was postmarked late. If the report is received and found to be mailed on or before the required postmark date, no penalty will be assessed.

(e) Each liquor distributor or outlet shall pay to the Nez Perce Tribe by the close of business on the last day of each month or the next business day if the last day falls upon a weekend or tribal holiday, a tax in the amount of 5¢ for every dollar of liquor products sold during the preceding month. The Nez Perce Tribal Executive Committee may adjust the amount of tax by resolution and with proper notice provided to liquor distributor or outlets thirty (30) days prior to the effective date of adjustment. The excise tax levied hereunder shall be added to the retail selling price of liquor products paid by the ultimate consumer.

(f) The operator of a liquor distributor or outlet shall provide full and accurate information on all license application forms and monthly reports of purchases of liquor products

in addition to any other information reasonably requested by the Nez Perce Tribe.

(g) In addition to any other penalties that may be assessed, an operator who fails to mail a monthly report of purchases by the required postmark date or to pay the taxes assessed in full by the date due shall be subject to a daily fine of \$100 for each day the report is found to be late as stated in § 6-7-4 (d) or payment of taxes is past due as stated in § 6-7-4(e). Such a fine shall be assessed and collected as an administrative procedure and such fines shall accrue interest at the highest rate allowed under federal law until paid. An appeal of such assessment shall be available through the Nez Perce Tribal Court and the sole basis for review shall be whether the report was postmarked on or before the required date and received by the Nez Perce Tribe within the seven day mailing period or whether taxes were paid to the Nez Perce Tribe by the due date.

Enactment of this provision as law and delivery of copies to all existing licensees and new applicants shall be deemed full and fair notice to them of their obligations to report within twenty days after the seven day mailing period following the postmark date, or an indication by an operator of an liquor distributor or outlet, verbal or otherwise, that the operation will not comply with the reporting requirements, shall be deemed a violation of this ordinance and be subject to such additional penalties as are provided herein.

(h) Upon a determination by the Nez Perce Tribal Court that an operator or liquor distributor or outlet has violated any provision of this section, any or all of the following sanctions may be imposed:

- (1) Suspension of liquor distributor or outlet license;
- (2) Revocation of liquor distributor or outlet license;
- (3) Civil fine in an amount established by the Court unless the violation for which it is imposed resulted in the loss of revenue to the Nez Perce Tribe in which case, the amount of the fine shall be equal to three times the amount of the revenue lost to the Nez Perce Tribe;
- (4) Forfeiture of property belonging to operator within boundaries of the Nez Perce Reservation of a value sufficient to pay in full any fine, assessment or amount due pursuant to this ordinance;
- (5) Posting of a cash bond with Nez Perce Tribe before license is reissued or restored.

§6-7-5 Sales to Minors Prohibited (updated by NPTEC 1/14/20)

(a) A tobacco operator is prohibited from selling any tobacco products to any person under the age of twenty-one (21) years.

(b) A liquor distributor or outlet is prohibited from selling liquor products to any person under the age of twenty-one (21) years.

§6-7-6 Other Business by Operator

An operator may conduct other business simultaneously with managing a tobacco outlet or liquor outlet. The other business may be conducted on the same premises and the operator shall not be required to maintain separate books of account for the other business.

§6-7-7 Tribal Liability and Credit

(a) An operator is forbidden to represent or give the impression to any supplier or any other person with whom he does business that he is a representative of the Tribe, authorized to pledge tribal credit or financial responsibility for any of the expenses of his business operation. The operator shall hold the Nez Perce Tribe harmless from all claims and liability of whatever nature.

§6-7-8 Severability

If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance, or the application of the provisions to other persons or circumstances is not affected.

§6-7-9 Assignment, Transfer, Sublease or Amendment of Outlet Licenses

Unless otherwise provided herein, an assignment, transfer, sublease or amendment of an outlet license may be made only with the prior approval of NPTEC and the written consent of all parties, including the surety or sureties.

§6-7-10 Enforcement Procedures *(originally misnumbered as §6-7-20)*

(a) The Nez Perce Tribal Executive Committee shall authorize such person, persons, program or body as they deem appropriate to administer the Tobacco Ordinance. For purposes of this section, that person shall be referred to as the administrator. Until modified by appropriate action of the Nez Perce Tribal Executive Committee, the Administrative Manager of the Nez Perce Tribe shall be the administrator of the Tobacco Ordinance.

(b) Any person, corporation or entity that sells tobacco or liquor products to a Tobacco or Liquor Outlet; sells tobacco or liquor products to a person or business that are resold or intended for resale at a Tobacco or Liquor Outlet; delivers tobacco or liquor products to a Tobacco or Liquor Outlet or a person representing a Tobacco or Liquor Outlet; and regardless of whether any of the foregoing acts are done with or without a Distributor's license as required herein, is deemed to be doing business within the Nez Perce Reservation and is thereby subject to the jurisdiction of the Nez Perce Tribe and the terms of this Ordinance. A person, corporation or entity that is doing business within the Nez Perce Reservation shall be subject to the service of process issued by the Nez Perce Tribal Court as though that person, corporation or entity was a resident on the Nez Perce Reservation.

(c) In the event that a Distributor or Tobacco or Liquor Outlet fails to provide the monthly reports as required herein, the administrator shall assess the fines authorized in sections 6-7-2(f) and 6-7-3(g) above. If the reports have not been received within ten days after the date it is to be postmarked, the administrator shall serve written notice by regular mail addressed to the licensee of the amount of the fine then due, request the monthly report, demand payment of the fine then due in full immediately and advise the licensee that if the report and payment are not received by that deadline, the license will be suspended on that date. Unless a licensee pays the total fine due and submits the required report within twenty days of the date due, their license shall be suspended by the administrator. Once suspended for failure to pay the fine assessed or to provide a report within twenty days of the date due, the license shall not be reinstated unless and until the licensee provides a cash performance bond to the Tribe in the amount of \$50,000.00 to insure compliance with the provisions of this ordinance.

(d) The administrator may meet with the various licensees who are in arrears with the Tribe due to nonpayment of taxes and/or incurred fines on a case by case basis to review delinquencies and resolve disputes. In all other instances where the administrator reasonably believes that a violation of the Tobacco and Liquor Ordinance has occurred, the administrator shall, on a timely basis, conduct such investigation into relevant facts as is necessary and provide such information to the Nez Perce Tribal Executive Committee, Office of Legal Counsel who shall take such legal steps as are necessary to insure compliance with the provisions of the Tobacco and Liquor Ordinance.

(e) The Nez Perce Tribe may file a complaint with the Nez Perce Tribal Court alleging a violation of the Tobacco and Liquor Ordinance. If the complaint seeks preliminary relief, including but not limited to, the closure of a Tobacco or Liquor Outlet pending final disposition of the complaint, the Nez Perce Tribal Court may issue an order granting the preliminary relief on an ex parte basis upon a showing by the Nez Perce Tribe that reasonable efforts were made to advise the named defendant of the filing of the complaint and the request for preliminary relief. Upon presentation of prima facie evidence that a Tobacco or Liquor Outlet has failed to provide the reports or pay the taxes required by the Tobacco and Liquor Ordinance the court shall grant the request for preliminary relief. Regardless of whether the preliminary relief is granted or not, the court shall cause notice to be served upon the defendant and hold a full hearing on the matter of the preliminary relief no later than three business days from the date of the complaint.

(f) Any order of the Nez Perce Tribal Court granting preliminary relief may include authorization or direction to appropriate enforcement agencies to secure premises or property to avoid transfer or concealment of property that may be subject to forfeiture.

(g) Any transfer or concealment of property subject to forfeiture by an Operator to avoid or attempt to avoid forfeiture pursuant to, or enforcement of, this ordinance shall be a criminal offense subject to criminal penalties.

**TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS**

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CHAPTER 6-8
DOG ORDINANCE

(Ordinance codified & amended 4/24/04; Ordinance amended 5/14/14)

AN ORDINANCE PROVIDING FOR REGULATION OF DOGS WITHIN THE RESERVATION AREAS DESCRIBED HEREIN; DEFINING THE PURPOSE OF THE ORDINANCE; PROVIDING FOR DEFINITIONS; PROVIDING FOR LICENSING; PROVIDING FOR RABIES CONTROL; PROVIDING FOR IMPOUNDING; PROVIDING FOR IMPOUND FEES; PROVIDING FOR PROHIBITION OF DOGS RUNNING AT LARGE; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR DOG MARSHAL; PROVIDING FOR THE REGULATION OF FEMALE DOGS IN HEAT AND SICK DOGS; ESTABLISHING EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES.

§6-8-1 Purpose

The Nez Perce Tribe is concerned about the welfare of dogs owned, harbored and possessed within the confines of the Nez Perce Reservation and the responsibility of the owners, harborers and other persons possessing such dogs. The Nez Perce Tribe is also concerned with the welfare of the community, especially children, in relation to dogs running at large, particularly Vicious Dogs. This ordinance will address those concerns.

§6-8-2 Definitions

(a) The term "Owner" as used in this section shall mean any person harboring or keeping a dog within the Nez Perce reservation.

(b) The term "Dog" as used in this section shall mean and include either male or female dog.

(c) The term "Dog Marshal or his designated assistant" shall mean and include any law enforcement officer authorized to uphold the laws of the Nez Perce Tribe or a designated assistant authorized by a Nez Perce Tribe Law Enforcement Officer.

(d) The term "Domestic Animal" shall mean and include any equine or bovine animal, goat, sheep, swine, dog, cat, poultry, or other domesticated beast or bird.

(e) The term "Vicious Dog" shall mean and include any dog that has bitten or otherwise attacked any person or domestic animal in the past two years, or has threatened to bite or otherwise attack any person within the past two years, or any dog previously designated as a "Vicious Dog" by an authorized tribal entity.

(f) The term "Dog at Large" means a dog not confined on the property of the owner or not on a leash and muzzled or caged when off the owner's property as required herein.

§6-8-3 License Required

(a) It shall be unlawful for any person to own, harbor, keep or possess a dog within the Nez Perce reservation without first procuring a license as provided by this section, provided however, that the provisions of this section shall not apply to any person visiting in the Nez Perce reservation for a period not exceeding thirty (30) days and owning or possessing a dog currently licensed and bearing the license issued by another licensing authority.

(b) It is unlawful for any person to own more than four (4) dogs older than five (5) months or to maintain or operate a kennel facility unless such person has obtained the applicable license as provided hereinafter. If there is a change in the ownership of any such facility, the new owner shall have the license transferred to his name upon receipt of new updated application and payment of a thirty-five dollar (\$35) transfer fee.

(c) This section shall not apply to any person owning or possessing a dog currently licensed and bearing a current license issued by the City of Lapwai or any other city or county within the Nez Perce reservation who resides in that city or county.

§6-8-4 Collar and Tag

Every dog shall at all times wear a substantial, durable collar to which shall be securely attached the required license.

§6-8-5 Licensing

(a) All dog licenses shall be issued for the calendar year January 1 through December 31 of each and every year. The owner or person in charge of any dog within the Nez Perce reservation shall make application to the Nez Perce Tribal Police (NPTP) and submit proof of rabies vaccination and pay an annual license fee in the sum of ten dollars (\$10.00) for each and every spayed /neutered dog; twenty-five dollars (\$25.00) for each unaltered dog; and seventy-five dollars (\$75.00) for a kennel license. Kennel licenses shall be in addition to individual dog license fees. Upon receipt of such application and payment of fees, the Tribal Police Department shall issue a receipt stating the owner's name and the number of the license, the sex of the dog, the amount paid by him, together with a metal tag bearing the number corresponding to that upon the receipt. It shall be unlawful for anyone to make a false statement in such application for said license. Upon satisfactory proof that a license tag has been lost, a new tag of a different number may be issued, and the transaction shall be noted upon the NPTP file for the number originally issued.

(b) At the first renewal of the annual license, with proof of current rabies vaccination, the license will be effective for 3 years and at every renewal thereafter.

(c) Replacement tags will cost three dollars (\$3.00), proof of previous license required.

(d) The annual license for any dog of an owner who has been found by the Nez Perce Tribe to allow a Vicious Dog, as that term is herein defined, to run at large, shall be increased by the amount of one hundred dollars (\$100.00) in addition to the fees required under §6-8-5 herein.

§6-8-6 Imitation License Tags Prohibited

It shall be unlawful for any person to allow any dog, kept or harbored by him to wear a license tag received on account of a former license, or to wear any imitation of the license tag issued by the Tribe for that year, or any tag marked on plate or collar similar to that required by the Tribe at that time, and calculated to deceive, and it shall be unlawful for any person to put on a female dog a tag received with a license issued for a male dog, or to allow any female owned by him or within his care or custody to wear a tag issued with a license for a male dog.

§6-8-7 Rabies

The Dog Marshal shall have authority to order the owner of any dog showing symptoms of rabies or of any dog which has bitten any person, so as to cause an abrasion of the skin, to subject such dog to a temporary Dog Shelter for quarantine for a period not to exceed fifteen (15) days unless the owner or harbinger of such dog can show proof of current rabies vaccination; and if such dog shall be determined to be free of rabies the dog shall be returned to the owner upon payment of the regular fee for keeping dogs impounded. No other fee shall be charged. If such fee is not paid, the dog shall be subject to disposal as provided hereinafter. Provided, however, that, in lieu of submitting such dog to a temporary Dog Shelter the owner may, at his expense, admit such dog to a veterinarian for examination. Any dog afflicted with rabies shall be disposed of immediately, either by the owner or by the Dog Marshal or his designated assistant with shelter and other costs to be borne by owner.

§6-8-8 Impounding

(a) All dogs found running at large within the Nez Perce Tribal reservation contrary to the provisions of this section, may be impounded by the Dog Marshal or his designated assistant, whether such dog so running at large is owned or harbored by a person residing within the Nez Perce reservation or elsewhere; the Dog Marshal or his designated assistant may impound any and all dogs without collars bearing licenses as required herein, provided, when a dog wearing a collar bearing a license tag of the preceding year is taken up, the Dog Marshal or his assistant shall notify the owner or representative of the owner, if such owner or representative can be found. The owner or representative of the owner of any dog which may be taken up and impounded under the provisions of this section, may recover possession of such dog upon payment to the Tribe or to the Animal Shelter receiving the dog the license fee, impoundment fees, and any other fees and costs provided by this ordinance. Dogs may be disposed of, if, within ten (10) business days of its owner/harbinger receiving written notice of impoundment, or for dogs whose owner is unknown, within forty-eight hours of the Dog Marshal's posting of public notice of the impoundment, the owner/harbinger does not recover possession of the dog by paying impoundment fees and any other fines and costs provided by this ordinance.

(b) Any person or persons in violation of any section of this ordinance in excess of two (2) occasions shall be deemed a persistent or habitual violator and in addition to other remedies available under this ordinance, for each impound shall pay a penalty of not less than \$50.00 for each such dog or dogs plus any and all care/boarding and other expenses charged under the NPTC by the Animal Shelter. In addition to any penalties incurred under this section, any person or persons may be cited under Chapter 4-1, Criminal Offenses, § 4-1-204 Repeat Violations of the Dog Ordinance.

(c) If the owner or harbinger of any impounded dog is unknown, it shall be the duty of the Dog Marshal or his designated assistant to post at least two (2) written or printed notices in public places within the Nez Perce Tribal reservation, describing the dog or dogs by sex, color and markings and breed, if it can be determined. The notices shall be posted for a period of forty-eight hours, and if the unknown owner or harbinger fails to recover his dog by paying the license or other fees imposed by the provisions of this ordinance, the dog shall be disposed of in the manner provided above.

§6-8-9 Impounding Fees

(a) Any dog(s) impounded under the provisions of this ordinance shall not be

released until the owner of the dog or dogs, or his representative, shall pay to the Animal Shelter receiving the dog whatever sums are charged for each such licensed dog or dogs, and the sum charged for the impounding of each such unlicensed dog or dogs, plus any care/boarding and expenses charged by the Animal Shelter.

(b) Any person or persons in violation of any section of this ordinance in excess of two (2) occasions shall be deemed a persistent or habitual violator and in addition to other remedies available under this ordinance, for each impound shall pay a penalty of not less than \$50.00 for each such dog or dogs plus any and all care/boarding and other expenses charged under the NPTC by the Animal Shelter. In addition to any penalties incurred under this section, any person or persons may be cited under Chapter 4-1, Criminal Offenses.

§6-8-10 Miscellaneous Prohibited Acts

(a) No person owning, harboring, controlling, or keeping any dog shall permit the dog to do any of the following acts:

- (1) Scatter garbage, refuse or debris;
- (2) Deposit fecal material on any property not that of its owner or custodian without the owner or custodian immediately removing it;
- (3) Bark, howl or otherwise cause noise which disturbs or is likely to disturb the peace and quiet of any person;
- (4) Trespass upon the property of another person.

(b) Any such owner or harbinger shall be entitled to one written notice from the Dog Marshal or his designated assistant that the owner's or harbinger's dog is or has been reported for any of the provisions of this section before such owner shall be deemed to be in violation of this section. If after receiving such notice, the owner fails or refuses to remedy the problem, as provided for herein, he shall be in violation of this section.

(c) It is unlawful for the owner or person responsible to cause, allow, permit, either willfully or by failure to exercise due care or participate in any of the following:

- (1) Interfere with, obstruct, torture, beat, kick, strike, mutilate, disable, shoot, poison, kill or in any other way abuse or harass any dog; or
- (2) Harass a police dog while said police dog is confined in its quarters, an automobile, kennel fenced area, training area, or while it is under the control of a dog handler; or
- (3) Interfere with a police dog or dog handler while said police dog or dog handler is engaged in lawful police activities.

§6-8-11 Running at Large Prohibited

(a) It shall be unlawful for any owner or harbinger or anyone in any way responsible for the control of a dog on the Nez Perce Reservation to fail to keep such dog from Running at Large as that term is defined herein.

(b) All persons owning, harboring, or in any way responsible for any dog(s) kept within the corporate limits of Nez Perce reservation shall keep such animal confined or on a leash, and at all other times such animal shall be in complete control of owner or harborer. The owner of any Vicious Dog as that term is herein defined shall at all times confine the dog within a building or secure enclosure on the owner's premises, or when not confined on the premises, shall keep the dog on a leash or caged whenever off the premises of its owner.

(c) The owner or harborer of a dog-at-large, unless the dog is a Vicious Dog as that term is herein defined, shall be entitled to one written notice from the Dog Marshal or his designated assistant that the owner's or harborer's dog is or has been running at large and in violation of the provisions of this ordinance before such owner shall be deemed to be in violation of this section. If after receiving such notice, the owner fails or refuses to take up and confine his dog(s), and keep it confined, as provided for herein, he shall be in violation of this section. However, if the dog running at large has attacked a person or domestic animal or threatened to attack a person at any time in the past, or while running at large, or is a Vicious Dog as that term is herein defined, it shall be impounded immediately and the owner shall be in violation of this section.

(d) If, after receiving written notice that a dog which is not a Vicious Dog as that term is herein defined, has been running at large, the owner refuses to take up and confine his dog(s) and keep it/them confined, as required herein, the dog shall be impounded immediately upon a second determination that the dog is running at large, and the applicable provisions for impounded dogs running at large shall be followed.

§6-8-12 Interference with Officer

It shall be unlawful for any person to hinder, molest or interfere with the Dog Marshal or with his designated assistant in the discharge of any of his duties under this ordinance, or who shall attempt to remove, or does remove any dog or dogs from the Dog Shelter or take from the possession of the Dog Marshal or the possession of his properly designated assistant, in any manner than that provided for in this ordinance. Any person who violates this provision may also be cited for Assault upon a Police Officer under this Code.

§6-8-13 Penalty for Violations

Any person keeping or harboring a dog within the Nez Perce reservation and refusing to pay the license or other fees herein provided for, or who shall permit a dog owned or harbored by him, whether licensed or unlicensed, to run at large, after given notice if required by this Chapter, or who shall violate any of the other provisions of this Chapter shall be guilty of a civil infraction and subject to fines and other penalties, including paying restitution to victims, at the discretion of the Nez Perce Tribal court. In addition, if the Nez Perce Tribal Court determines, by a preponderance of the evidence, that any dog found running at large is a Vicious Dog (that is, a dog which has, on one or more occasions within the past two years, bitten or otherwise attacked a person or domestic animal, or threatened to bite or otherwise attack a person), the Court may order the disposal of the dog and the dog shall be disposed of with the costs of such disposal to be paid by the owner or harborer of the dog, in addition to any other fines or penalties ordered by the Court.

§6-8-14 Dog Marshal and Designated Assistant

The Nez Perce Tribe shall assign and authorize their law enforcement personnel as their

Dog Marshall or as assistants to the Dog Marshall, for the purpose of enforcing the provisions of this ordinance, and are responsible for the enforcement of all dog regulations as well as those pertaining to other animals.

§6-8-15 Female Dogs in Heat

All persons owning or in charge of any female dog shall keep the same shut up or fenced in when in heat. Any female dog running at large at such time may be impounded by the Dog Marshal or his assistant whether such animal be licensed or not.

§6-8-16 Sick Dogs Prohibited from Public Places

No owner or person in charge of any dog having mange or any other apparent and contagious disease shall permit such animal, whether running at large or on a leash, to be on any street, highway or public grounds, designated Tribal Housing areas or other tribal public places within the exterior boundaries of the Nez Perce Reservation. Additionally, an owner or person responsible for the control of any dog having mange or any other apparent and contagious disease shall not take or allow the dog to be on any private premises without the express consent of the owner of such premises. In addition to other penalties provided in this ordinance, such dog may be immediately disposed of wherever found by the Dog Marshal or his assistant, without the notice otherwise prescribed by § 6-8-8 of this ordinance.

§6-8-17 Removal of Vicious Dogs from Nez Perce Reservation

In addition to, or in lieu of, one or more of the penalties herein, the owner of a dog found to be running at large which is a Vicious Dog as that term is herein defined, may be ordered by the Nez Perce Tribal court to permanently remove the dog from the exterior boundaries of the Nez Perce Reservation. If such an order is issued, the owner or harbinger must, within the time specified by the Order, remove the dog to a place outside the Nez Perce Reservation and provide a written statement signed by a person residing in that off-reservation location warranting that this person agrees to take and maintain possession of the dog. If, after such order is issued, the dog is found to be within the boundaries of the Nez Perce Reservation, whether at large or not, the dog shall be impounded and may be disposed of by Order of the Tribal Court.

§6-8-18 Citations, Prosecutions, Penalties

Citations issued or charges filed under this chapter, if these allege that a dog has attacked or threatened to attack any person, or killed or wounded a domestic animal, shall be prosecuted by the Nez Perce Tribal Prosecutor and heard by the Nez Perce Tribal Court and penalties imposed as allowed by this Chapter. The court may establish a fine schedule for violations of this Chapter and impose other penalties as deemed reasonable and necessary to protect the public, and may order the disposal of any dog which has attacked or threatened to attack a person or killed or seriously wounded a domestic animal.

§6-8-19 Civil Liability (NPTEC authorized amendment 4/28/15)

The owner of any dog which shall bite any person or attack and seriously wound another person's domestic animal, while such person is in control of his or her domestic animal in or on a public place or such domestic animal is not "at large" as that term is defined herein, or while such person or domestic animal is lawfully in or on private property, shall be liable for such damages as may be suffered by the person bitten or owner of the domestic animal attacked and

wounded or killed, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness. This section does not apply to the lawful use of a police dog.

§6-8-20 Conflicting Ordinances

All ordinances or parts of ordinances in conflict herewith are hereby repealed, except those provisions that provide for additional remedies for violations of this ordinance. For example, a criminal assault charge could be made, in addition to the charge of harboring a vicious dog, if the dog bites an individual.

§6-8-21 Jurisdiction

Nothing in this ordinance shall be construed to diminish the political or governmental power or authority already vested with the Nez Perce Tribe.

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**TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS**

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CHAPTER 6-9
NEZ PERCE TRIBAL ATHLETIC COMMISSION

(Adopted by NPTEC 6/28/05)

(NPTEC authorized Boxing Commission name changed to Athletic Commission on 7/8/14)

(NPTEC updated §6-9-4 on 10/8/19 – NP 20-012)

§6-9-1 Establishment of Commission

There is hereby established the Nez Perce Tribal Athletic Commission (herein, the “Athletic Commission” or “Commission”).

§6-9-2 Purpose and Authorities of Commission

(a) The Nez Perce Tribal Athletic Commission shall regulate, by licensure, permitting, and rules and regulations, all professional boxing, sparring, wrestling, and other unarmed combat events held within the boundaries of the Nez Perce Reservation; provided however, that all rules and regulations promulgated by the Commission shall not be in effect unless and until approved by Resolution of the Nez Perce Tribal Executive Committee (“NPTEC”).

(b) For the purposes of this Chapter, a “professional” event means a contest between individuals for financial compensation.

(c) The Commission shall also have the authority to regulate, at its discretion, amateur boxing, sparring and wrestling events held within the boundaries of the Nez Perce Reservation.

(d) The Commission shall regulate its own operations through development of by-laws consistent with the provisions of this Chapter.

§6-9-3 Membership of Commission

The Nez Perce Tribal Athletic Commission shall be comprised of five members. Commission members shall be appointed by resolution of the Nez Perce Tribal Executive Committee. The NPTEC reserves the right at any time and for any reason to remove members of the Commission by NPTEC Resolution. Such action shall be final.

§6-9-4 Term of Membership

Upon adoption of this Chapter by the NPTEC—the NPTEC shall appoint by Resolution the Commission members. Initial terms of the Commission members shall be as follows:

- one year for two of the commissioners;
- two years for two of the commissioners; and
- three years for one of the commissioners.

At the expiration of these terms, the NPTEC shall appoint qualified successors for three-year terms.

A sitting Commissioner shall automatically be nominated to serve on the Commission when his term expires—unless he notifies the NPTEC he does not wish to be nominated to serve a new term, or NPTEC determines that he no longer meets the qualifications of serving on the Commission.

Members of the Commission shall receive compensation for their services in the amount of \$300.00 per event. Compensation will only be paid to participating commissioners personally serving in the capacity of a commissioner during the entire event.

§6-9-5 Meetings

The Commission shall meet at least quarterly, with public notice of regular quarterly notice provided as such notice is provided by other Tribal Commissions. The Commission may hold emergency meetings at the call of the Chair, or pursuant to a written request to the Chair for a meeting signed by a majority of the Commission members.

§6-9-6 Officers and Responsibilities

(a) At its first meeting, the Commission shall elect the following officers: Chair, Vice-Chair, Secretary-Treasurer.

(b) The Chair shall be responsible for the operation of the meetings, for calling meetings, for the day-to-day operation of the Commission, and for other duties as assigned by the Commission's by-laws.

(c) The Vice-Chair shall be responsible for the Chair's duties in the absence of the Chair.

(d) The Secretary-Treasurer shall be responsible for taking and keeping minutes of the proceedings at Commission meetings, for the accounting of all monies held by or for the Commission, and for other duties as assigned by the Commission's by-laws. Written reports of all public meetings shall be timely compiled by the Secretary-Treasurer and published as are reports of other Tribal Commission public meetings.

§6-9-7 Open Meetings and Public Records

(a) All meetings of the Commission shall be open to the public unless the Commission agrees, by majority vote, to convene an executive session for the purpose of discussing personnel matters, contract negotiations, or other matters which are deemed by the Commission to involve potential litigation or to discuss information which is deemed confidential by the Commission or the Nez Perce Tribal Executive Committee.

(b) All reports of public meetings of the Commission shall be available to the public.

(c) All rules and regulations issued by the Commission and approved by NPTEC shall be published pursuant to its by-laws and shall be available upon request to any member of the public.

§6-9-8 Event Permits

(a) No person or entity may provide a location for, organize, advertise, sponsor, or participate in a professional boxing, wrestling, or sparring event within the boundaries of the Nez Perce Reservation unless the event has received an Event Permit from the Nez Perce Tribal Athletic Commission.

(b) No permit shall be granted unless the person or authorized representative of the entity seeking such a permit provides adequate assurances for limitation of liability of the Nez Perce Tribe and the Commission regarding claims which may arise out of a permitted event.

(c) No such permit shall be granted unless the person or authorized representative of the entity seeking such a permit consents in writing to the jurisdiction of the Nez Perce Tribal Court.

(d) Anyone found in violation of this provision is subject to the penalties described herein.

(e) Subject to the limitations of § 6-9-2(a) herein, the Commission shall have the authority to promulgate and publish rules and regulations for the issuance, denial, suspension and revocation of such permits, and to hear appeals of its denials, suspensions, or revocations of such permits.

§6-9-9 Licensure of Event Participants

(a) No person or entity may participate as a combatant, judge, referee, timekeeper, trainer, physician, promoter, manger, or matchmaker in any event required to be permitted by this Chapter without being duly licensed by the Commission.

(b) The Commission may, at its discretion, require licensure for other persons or entities who participate in any way in any event required to be permitted by this Chapter.

(c) Licensing requirement for combatants shall include, but not be limited to, physical examinations, drug and HIV testing, and criminal background checks.

(d) Licensing requirements shall include adequate assurances for limitation of liability of the Nez Perce Tribe and the Commission regarding claims by a licensee which might otherwise arise out of a permitted event.

(e) No license shall be issued pursuant to this Chapter unless the person seeking licensure consents in writing to the jurisdiction of the Nez Perce Tribal Court.

(f) Anyone found in violation of this provision is subject to the penalties described herein.

(g) Subject to the limitations of § 6-9-2(a) herein, the Commission shall have the authority to promulgate and publish rules and regulations for the issuance, denial, suspension and revocation of such licenses, and to hear appeals of its denials, suspensions, or revocations of such licenses.

§6-9-10 Other Commission Rules and Regulations

Subject to the limitations of §6-9-2(a) herein, the Commission shall promulgate and publish any other rules and regulations which it deems in its discretion necessary, or which NPTEC deems necessary, to assure the lawful, safe, and orderly operation of all professional boxing, wrestling, sparring and other unarmed combat events held within the boundaries of the Nez Perce Reservation.

§6-9-11 Penalties

The Nez Perce Tribal Court, upon petition by an attorney duly authorized to represent the Commission, and following a hearing on the matter, may levy a civil penalty of up to one thousand dollars (\$1,000.00) for each violation of the event permitting, licensing, or other rules and regulations of the Commission. A decision of the Nez Perce Tribal Court on such petition may be appealed pursuant to Chapter 2-9 of this Code.

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

§6-10-1 Definitions

- (a) "Acceptable Ballot" means a ballot that is properly marked and/or color coded. (amended 11/13/07)
- (b) "Business Day" means Monday through Friday, except for Federal or Tribal holidays.
- (c) "Candidate" means any eligible enrolled member of the Nez Perce Tribe who is running for office.
- (d) "Constitution" means the revised Nez Perce Tribe Constitution and By-laws.
- (e) "Election Judges" means Nez Perce Tribe General Council Election Judges.
- (f) "General Council Officers" means General Council Chairperson, General Council Secretary, Special Committee members, Standing Committee members, and Resolutions Committee members.
- (g) "Incumbent" means any eligible enrolled member of the Nez Perce Tribe who currently holds a NPTEC office. (added 4/3/08)
- (h) "NPTEC" means the Nez Perce Tribal Executive Committee.
- (i) "Office" means any elected NPTEC office.
- (j) "Polling Places" means the three recognized polling places of Lapwai, Kamiah, and Orofino.
- (k) "Poll Watcher" means an eligible voter designated in writing by a candidate to monitor the polling places during the election.
- (l) "Public Notice" means posted in prominent places in the three recognized polling places, public announcements in the Tribe's newspaper and local newspapers.
- (m) "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) "Secretary" means Executive Secretary of the Nez Perce Tribal Executive Committee.
- (o) "Tellers" means Tellers appointed by the Election Judges to assist during elections.
- (p) "Sergeant-At-Arms" means the Sergeant-At-Arms appointed by the Election Judges to maintain order during elections.
- (q) "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 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. Each voter shall represent that they have not voted at any other 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, Section 2A.
- (b) Vacancies on the NPTEC shall be pursuant to Article VI, 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 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. (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. 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 publicly. 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 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: _____

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**TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS**

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CHAPTER 6-11
SALES TAX ORDINANCE
(Chapter adopted by NPTEC 9/27/11)

§6-11-1 Purpose

The purpose of this Ordinance is to impose a tax on certain retail sales by enterprises owned and operated by the Nez Perce Tribe and shall be referred to as the Nez Perce Tribe Sales Tax Ordinance.

§6-11-2 Imposition of Tax

(a) Except as provided in paragraph (b) of this section, a tax in the amount of six percent (6%) of all retail sales of goods or merchandise, and on all sales of food and/or beverages sold for consumption on or off the premises of the enterprise, by all retail enterprises owned and operated by Nez Perce Tribe, including its gaming enterprises, is hereby imposed. The tax shall be paid to the Tribe by the enterprise and remitted with the monthly retailer report as required in §6-11-4.

(b) A tax in the amount of 8% of sales to an individual for the renting of a place to sleep by a hotel, motel or campground owned and operated by the Tribe is hereby imposed. The tax shall be paid to the Tribe by the enterprise and remitted with the monthly retailer report as required in Section §6-11-4.

§6-11-3 Exemptions from Sales Tax (amended by NPTEC 12/13/11)

(a) The sales of gasoline and other motor fuels otherwise taxed by the Nez Perce Tribe shall not be subject to the tax imposed by Section §6-11-2 of this ordinance.

(b) Enrolled members of any federally recognized Tribe shall be exempt from the tax imposed in Section §6-11-2 of this ordinance. (amended by NPTEC 3/26/13)

§6-11-4 Reporting

Each tribally owned and operated retail enterprise shall submit, not later than the tenth day of the calendar month following the month in which goods and/or merchandise taxed herein were sold, monthly reports of sales of such goods and merchandise to the Nez Perce Tribe Department of Finance. If the tenth of the month falls on a holiday or week-end, such report shall be due on the next business day following the weekend or holiday.

§6-11-5 Deposit of Sales Tax Revenue

Sales tax revenues herein described shall be deposited by the Tribe's Finance Department into the Nez Perce Tribe General Fund.

§6-11-6 Penalties

(a) Any enterprise which fails to file any report or pay the tax as required by this Chapter on or before the due date thereof shall be liable for an additional penalty of two percent (2%) of the gross amount of the tax due and payable with that report plus interest at the statutory rate until paid.

(b) The Nez Perce Tribal Executive Committee (NPTEC) shall authorize such person,

persons, program or body as they deem appropriate to administer this Sales Tax Ordinance. For purposes of this section, that person shall be referred to as the administrator. Until modified by the appropriate action of the Nez Perce Tribal Executive Committee, the Administrative Manager of the Nez Perce Tribal shall be the administrator of the Sales Tax Ordinance.

(c) The administrator may meet with authorized representatives of the enterprise which is in arrears due to the nonpayment of the sales tax as required herein, on a case by case basis and with NPTEC's authorization, to review delinquencies and resolve disputes. In all other instances where the administrator reasonably believes that a violation of the Sales Tax Ordinance has occurred, the administrator shall, on a timely basis, conduct such investigation into relevant facts as is necessary and provide such information to the Nez Perce Tribal Executive Committee.