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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) and _____)

Unless a different meaning is clearly indicated in this Gaming 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. The definitions found in this section shall apply to all capitalized uses of the defined terms in this Gaming Ordinance, including plural forms of such terms or such terms with derivational suffixes.

(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)(a) — "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~~Bingo, and other games similar to ~~bingo~~Bingo.

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

(d)(c) — "Class II gaming" ~~see "Gaming"~~ means those activities described in § 6-2-8 of this Gaming Ordinance.

(e)(d) — "Class III gamingGaming" means all forms of gamingGaming that are not ~~class~~Class I or ~~class~~Class II gamingGaming, as defined in this Gaming Ordinance.

(e) — "Commission" or "Compact" means an agreement between the Tribe and a State about Class III Gaming, consistent with 25 U.S.C. § 2710(d).

(f) "Gaming" means those activities defined in § 6-2-7, § 6-2-8, and § 6-2-9 of this Gaming Ordinance.

(f) — "Gaming Commission" means the Nez Perce Tribal Gaming Commission, the single tribal agency of the Tribe primarily responsible for Class III Gaming Licensing, regulatory oversight, and for monitoring compliance with Tribal, Federal and applicable Tribe, federal, and 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 Gaming Commission also has the species, size, weight or quality of fish caught in a authority to License, regulate, and monitor Class II Gaming by bona fide fishing or recreational event.

(h)(g) — "Fund raising event" means a fund raising event sponsored by a bona fide charitable, religious, charitable or nonprofit organization at which gaming activities will be conducted under and non-profit organizations on 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 Tribe's Indian lands, as to the time and place where such activity shall be conducted described in § 6-2-8 of this Gaming Ordinance.

(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.

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

(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 Facility" means all buildings, improvements, and facilities Licensed by the Gaming Commission to be used or maintained in

connection with the conduct of ~~gaming whether or not authorized by the Nez Perce Tribe.~~

~~(i)~~(i) ~~"Class II or Class III Gaming operation" means any gaming enterprise whether or not authorized by the Tribe on the Tribe's Indian lands for the conduct of gaming.~~

~~(j)~~ "Indian lands" means "Gaming Operation" means any economic entity that is Licensed by the Gaming Commission to operate Class II or Class III Gaming on the Tribe's Indian lands. A Gaming Operation may be operated by the Tribe directly, by a Management Contractor, or, under certain conditions, by another person or entity, if allowed under this Gaming Ordinance.

~~(k)~~ "Gaming Ordinance" means the regulations adopted by the NPTEC, as amended from time-to-time, governing Gaming on the Tribe's Indian lands as defined in the.

~~(l)~~(l) ~~"IGRA" means the federal Indian Gaming Regulatory Act, as well as lands within the State which meet the requirements of Pub. L. 100-497, 25 U.S.C. '2719§ 2701 et seq., and 18 U.S.C. § 1166-68 and its implementing regulations, 25 C.F.R. §§ 500 et seq.~~

~~(m)~~(m) ~~"Key employee Indian lands" means:~~

~~(1) land within the limits of an Indian reservation; or~~

~~(2) land over which an Indian tribe exercises governmental power and that is either;~~

~~(A) held in trust by the United States for the benefit of any Indian tribe or individual;
or~~

~~(B) held by an Indian tribe or individual subject to restriction by the United States against alienation.~~

~~(n)~~ "Key Employee" means:

~~(1)~~ a person who performs one or more of the following functions ~~for a Gaming Operation or in a Gaming Facility:~~

~~(A)~~ All bingo ~~All Bingo~~ personnel

~~(B)~~ bingo caller; or

~~(C)~~ bingo supervisor

~~(D)~~(B) any cashier;

~~(E)~~(C) all security personnel; or

~~(F)~~(D) any shift manager; or

~~(G)~~(E) any shift supervisor; or

~~(H)~~(F) all vault personnel; or

~~(H)~~(G) all surveillance personnel;

~~(H)~~(H) counting room supervisor, personnel, drop team personnel;

~~(K)~~—custodian of gaming supplies or cash; or

~~(L)~~(I) floor manager; or

~~(M)~~(J) pit boss; or

~~(N)~~(K) croupier; or

~~(O)~~(L) approver of credit, pay-outs, or complimentary items;

~~(P)~~(M) custodian of ~~gaming~~Gaming devices (including persons with access to cash and accounting records within such devices) and/or financial records;

~~(Q)~~(N) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year; or, if not otherwise included;

~~(R)~~(O) If not otherwise included, the four (4) most highly compensated persons in the ~~gaming operation. Gaming Operation, if not otherwise included; and~~

~~(P)~~ any other person designated as a Key Employee.

~~(+)(o)~~ "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, Gaming Facility, or Gaming Operation~~ to be involved in the ~~gaming operation~~Gaming or in the providing of ~~gaming~~Gaming services to the ~~gaming operation; a Gaming Operation on the Tribe's Indian lands; or~~
- (2) the formal document evidencing authority granted by the ~~Nez Perce Tribe to Gaming Commission to house or~~ engage in ~~gaming~~Class II or Class III Gaming on the Tribe's Indian lands under ~~this Act~~IGRA.

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

~~(+)(q)~~ "Management Contract" means ~~any contract, subcontract, or collateral agreement between a Gaming Operator and a contractor or between a contractor and a subcontractor, if such~~

~~contract or agreement provides~~ for the development and management of ~~all or part 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~~Gaming Operation.

~~(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.~~

~~(r) "Net revenue~~Revenue" means gross ~~gaming~~Gaming receipts of a ~~gaming operation minus Gaming Operation less:~~

~~(1)~~ (1) amounts paid out as, or paid for, prizes; and

~~(v)(2)~~ (2) total ~~gaming~~Gaming-related operating expenses, including all those expenses of the Gaming Operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

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

~~(x)(t)~~ (t) "NPTEC" means the Nez Perce Tribal Executive Committee, ~~which is the Tribe's 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)(u)~~ (u) "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~~Wagering on live races is authorized if it occurs either at a ~~racetrack~~track or on the Tribe's Indian lands by means of a simulcast of a live race and is approved by the Gaming Commission.

~~(aa)(v)~~ (v) "Primary ~~management official~~Management Official" means:

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

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

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

(dd)(x) "State" means ~~the~~any State of Idaho ~~comprising the United States~~, its authorized officials, agents ~~and~~, representatives, ~~and territory~~.

(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:

(y) Any "State Lottery" means:

(1) any type of game that ~~the~~a State ~~hereafter~~ conducts as a lottery game.

(gg)(z) "Track" means ~~an in-state or out-of-state~~a facility licensed to operate horse or other racing where pari-mutuel ~~wagering~~betting 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)(aa) "Tribe" means the Nez Perce Tribe its authorized officials, agents, and representatives.

§6-2-2 Purpose

This ~~ordinance~~Gaming Ordinance is enacted to:

(a) Regulate and govern all forms of permissible and authorized ~~gaming within~~Gaming on the ~~jurisdiction of the Nez Perce Tribe~~Tribe's Indian lands.

(b) Safeguard all persons from unscrupulous and illegal operations of any type of ~~gaming~~Gaming on the Tribe's Indian lands.

(c) Protect all persons from ~~any~~the infiltration of organized crime into any ~~gaming operation within~~Gaming Operation on the ~~jurisdiction~~Tribe's Indian lands.

(d) Provide for ~~tribal~~an audit system ~~on~~of all ~~gaming operations~~Gaming Operations on the Tribe's Indian lands.

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

(f) Provide for a system of investigations of all persons associated with ~~gaming~~Gaming on the

Tribe's Indian lands.

(g) Provide a system of licensing~~Licensing~~ for any gaming activities subject to the provisions of this Act that occur within the Nez Perce Reservation~~Gaming on the Tribe's Indian lands~~.

(h) ~~To provide revenues~~Provide revenue for the operation of the ~~tribal~~Tribe's government.

(i) ~~To allow~~Allow the ~~tribal~~Tribe's government to use ~~the revenues generated for tribal self-determination, to generate value on the reservation~~Gaming revenue to provide additional ~~tribal~~ services, employment for ~~tribal~~Tribal members, and for the general economic development and individual self-sufficiency of ~~tribal~~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;~~

(j) ~~To cooperate~~Harmonize with and adhere to IGRA.

(k) Cooperate and agree on a sovereign ~~to sovereign~~ basis with ~~the State of Idaho and any other concerned or affected states~~States to enter into ~~compacts~~Compacts or other agreements for gaming operation, regulation or coordination~~Class III Gaming Operations on the Tribe's Indian lands~~.

(l) ~~To establish~~Establish a commission within the ~~tribal organization~~Tribe's government to oversee and regulate gaming~~Gaming~~ consistent with this ordinance~~Gaming Ordinance~~ and within the precepts established by the ~~Nez Perce Tribal Executive Committee~~NPTEC.

§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~~Gaming Operation~~ authorized by this ordinance unless individually owned gaming is approved and licensed under~~Gaming Ordinance, except as otherwise provided in this ordinance~~Gaming 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:~~

(b) ~~Pay to the Nez Perce~~In order for any person or entity who is not the Tribe to conduct Gaming on the Tribe's Indian lands, that person or entity must obtain a Licence or Licenses from the Gaming Commission, comply with the other provisions of this Gaming Ordinance, and:

(A)(1) pay to the Tribe not less than 60 percent of the individually ~~owned~~ operation's net revenues~~Net Revenues~~, to be used only for the purposes set forth below;

(B)(2) Pay an assessment to the ~~National Indian Gaming Commission~~NIGC as set forth in 25 ~~CFR~~C.F.R. § 514.1;

(C)(3) Comply~~comply~~ with eligibility standards of a State license, in the

~~applicable State~~, for the same activity, ~~so that if~~. If the individual owner is ineligible to receive a State license to conduct the same activity within that jurisdiction, ~~a tribal license~~ the Gaming Commission shall ~~be denied~~ not issue a License.

(c) Use of Net revenues from tribal gaming or Gaming Revenues

~~(b)(1)~~ (1) Net Revenues from ~~individually owned games or State Lottery agreements~~ Gaming shall be used only for ~~one or more of~~ the following purposes: ~~(subsection authorized by NPTEC 3/22/11)~~

~~(1)(A)~~ (A) To fund ~~tribal~~ the Tribe's government operations or programs;

~~(2)(B)~~ (B) To provide for the general welfare of the ~~tribe~~ Tribe and its members;

~~(3)(C)~~ (C) To promote ~~tribal~~ the Tribe's economic development;

~~(4)(D)~~ (D) To donate to charitable organizations; ~~or~~ and

~~(5)(E)~~ (E) To help fund the operations of local government agencies.

~~(e)(d)~~ (d) If the Tribe elects to make per capita payments to ~~tribal~~ its 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)~~; C.F.R. §§ 522.4(b)(2)(ii), 522.6(b).

~~(d)(e)~~ (e) 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~~ the Gaming allowed ~~by~~ under this ~~ordinance~~ Gaming Ordinance.

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

If any clause, provision, or section of this ~~ordinance~~ Gaming 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~~ Gaming Ordinance. Until such final order is entered and review exhausted, the questioned provisions shall be valid and in full force and effect, 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~~ All powers of amendment for this Gaming Ordinance are retained by the ~~Nez Perce Tribal Executive Committee~~ NPTEC.

§6-2-6 Sovereignty

The ~~Nez Perce Tribal Executive Committee~~ NPTEC 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~~**Class I Gaming** may be engaged in by individuals and organizations without restriction and is not subject to the provisions of IGRA or this Act~~Gaming Ordinance~~.

§6-2-8 Class II Gaming

(a) ~~Class II gaming~~**Gaming** is defined as:

~~(a)(1) The game of chance commonly known as bingo (whetherBingo or not electronic, computer, or other technological aids are used in connection therewith)lotto.~~

~~(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:~~

~~(2) — Non-banking card games that:~~

~~(1) — are explicitly authorized, or not explicitly prohibited, by the laws of the State of Idaho, or~~

~~(A) — are not explicitly prohibited by the laws of the State of Idaho in which they are played and are played at any location in the State, but only if such card games; and~~

~~(2)(B)~~**(B)** 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.

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

(e)(c) Until this Gaming Ordinance is amended by appropriate action of the Nez Perce Tribal Executive Committee NPTEC in a manner consistent with the relevant provisions of the National Indian Gaming Regulatory Act, 25 U.S.C. " 2701 et seq., the Nez Perce Tribe shall be the only entity or organization authorized to engage in Class II Gaming on the Nez Perce Reservation Tribe's Indian lands for profit to the exclusion of any other entity, organization, or person. The Nez Perce Tribe may conduct or license gaming on behalf of bona fide charitable, religious, and non-profit organizations, subject to regulations promulgated by the Gaming 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 Only the Nez Perce Tribe, NPTEC shall authorize or conduct any form of Class III gaming within the Nez Perce Reservation unless such gaming on the Tribe's Indian lands. The NPTEC shall only authorize any form of Class III Gaming that is:

(1) consistent with: IGRA;

(1) — the Indian Gaming Regulatory Act;

(2) consistent with a Tribal-State compact for Class III gaming; and

(3) is licensed by the Nez Perce Tribe.

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

(d) The Nez Perce Tribe NPTEC shall enact rules and regulations regarding licensing the of Class III games, which shall be consistent with the provisions of the Indian Gaming Regulatory Act IGRA 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. " 2701 et seq.~~

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

(a) ~~All gaming activities~~All Gaming on the Tribe's Indian lands not authorized by this ~~Act are~~Gaming Ordinance is unlawful and prohibited.

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

(a) ~~The Nez Perce Tribe Gaming Commission (the "Commission") shall consist of three individuals (3) Tribal members appointed by the Nez Perce Tribal Executive Committee. NPTEC. Gaming Commission members shall meet the Licensing qualifications of a primary management official licensing standards~~Primary Management Official, as set forth in this Gaming Ordinance.

(1) the NPTEC shall establish such application procedures as it deems appropriate for members of the Tribe interested in serving on the Gaming Commission.

(b) The following persons are not allowed to serve on the Gaming Commission:

(1) ~~Current~~current members of the Nez Perce ~~Tribe's Enterprise Board (not applicable to any designated NPTEC representative); Tribal Enterprises board;~~

(2) ~~Persons~~persons having a direct or indirect financial interest in a ~~management contract, gaming contractors~~Management Contract (including any principal or member of a ~~management~~Management Contractor) or ~~other contracting company~~;

(3)(2) ~~Persons directly related to or sharing a residence with any parties listed any "close relatives" of such persons, as defined in criteria 2; the Nez Perce Tribal Enterprises Human Resouce Manual.~~

(4)(3) ~~Current~~current Key Employee/Primary Management ~~officials~~Officials;

(5)(4) ~~Persons~~persons previously convicted of a felony, ~~or embezzlement, of theft, or of any other money-related crimes or honesty-related crime~~crimes (such as fraud).

(c) Each ~~Commissioner~~Gaming Commission member 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 (3rd) year; except that for the initial group of ~~Commissioners~~Gaming Commission members, 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 to allow~~ for a staggered term process thereafter.

(d) Gaming Commission members shall serve beyond their term only in the event that the NPTEC fails to promptly make appointments ~~for the subsequent year to fill expired Gaming Commission member seats~~. Upon ~~the appointments for by the following year~~NPTEC to fill expired seats, the prior ~~year's~~ appointments shall ~~expire~~end.

(e) Gaming Commission positions vacated prior to the end of ~~the~~ term shall be promptly filled by the NPTEC so that a full Gaming Commission may serve on a continual basis. However, a temporary vacancy on the Gaming Commission shall not mean the Gaming Commission ~~will be non-functional, since cannot conduct business~~; business can be conducted with a minimum quorum of two members ~~being~~ present.

(f) The Gaming Commission shall elect among themselves ~~a the offices of~~ President, Vice President, and Secretary-Treasurer. Elections ~~for such offices~~ shall be conducted each year, within two (2) weeks after the NPTEC Gaming Commission member appointments are made.

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

(a) ~~Duties~~Gaming Commission powers and duties shall include: (subsection amended by NPTEC 3/22/11) ~~and _____~~)

- (1) ~~Such power includes the power to inspect~~the inspection of Gaming Facility premises.
- (2) ~~Safeguard~~the safeguarding and regulateregulation by civil fines and other actions as specified in ~~'6-2-25 of this chapter~~Gaming Ordinance.
- (3) ~~Issue license~~the issuance of Licenses when such are required by this ~~chapter~~Gaming Ordinance and in accordance with ~~'6-2-16 through '6-2-22 of this chapter~~Gaming Ordinance.
- (4) ~~Deny~~the denial or ~~revoke such license~~revocation of Licenses when the results of a thorough and objective investigation by the ~~NPTGC~~Gaming Commission indicates that such action is appropriate and ~~or~~ in accordance with ~~'6-2-23 through '6-2-25 of this chapter~~Gaming Ordinance.
- (5) ~~Formulate~~the formulation and ~~promulgate~~promulgation of rules and regulations, which shall govern in detail the issuance ~~of licenses, the amount of the license fee, and the~~ denial or revocation of ~~licenses~~Licenses and License fee amounts.

- (6) ~~Insure~~ensuring the proper record keeping of gambling proceeds ~~of by~~ the Nez Perce ~~Tribe Gaming Enterprise, gaming licenses Tribal Enterprises of Licenses, and of~~ anyone whose ~~gambling~~Gaming activities on the Tribe's Indian lands subject ~~him~~them to the provisions of the Bank Secrecy Act, ~~CFR~~C.F.R. Title 12, Banks and Banking, or ~~CFR~~C.F.R. Title 31, Money and Finance, or any other applicable requirement of the U.S. Internal Revenue Service.
- (7) ~~Insure~~ensuring the review of ~~the~~ appropriate records ~~of gaming licensees of the Nez Perce Tribe for Licensees~~ at least every three (3) years. Appropriate records are those records directly related to determining a ~~licensee's~~Licensee's suitability to hold a ~~gaming license~~License.
- (8) ~~Cause annual outside~~conducting independent audits ~~as required by the Indian of all Gaming Regulatory Act, of all gaming activities~~Operations on the Nez Perce Reservation Tribe's Indian lands subject to be conducted and submitted to the National Indian the Gaming Commission specifically including all gaming Commission's regulation and oversight annually and submitting the results of those audits to the NIGC within one hundred twenty (120) days after the end of each fiscal year of the Gaming Operation. These audits will occur annually, as required by the IGRA. All Gaming-related contracts for that result in the purchase of supplies, services, or concessions having a contract amount in excess of for more than \$25,000.00 per annum or in any 12 month period year (except contracts for professional legal and accounting services) shall be specifically included within the scope of audits conducted under this Gaming Ordinance.
- (A) ~~Insure that facilities where gaming occurs are properly~~ audits shall conform to generally accepted auditing standards;
- (B) ~~copies of the annual audit of each Licensed Gaming Operation, and each audit of supplies, services, or concessions of each Gaming Operation, shall be furnished to the NIGC within one hundred twenty (120) days after the end of each fiscal year of the Gaming Operation.~~
- (C) ~~all Gaming-related contracts that result in the purchase of supplies, services, or concessions that cost more than \$25,000 in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of the audit.~~
- (9) ~~ensuring that each Gaming Facility shall be constructed and, maintained and that the operation of the game is conducted, and otherwise operated in a manner which that adequately protects the environment and the public health and safety~~ of the public.

- (10) ~~Cause~~causes to be conducted background ~~investigation~~investigations and eligibility and suitability determinations of potential gaming employees~~Gaming Employees~~ as required by ~~the National Indian Gaming Regulatory Act, 25 U.S.C. ' 2701 et seq~~IGRA.

(b) The NPTEC's direct and delegated powers and duties shall include:

~~(b)~~(1) The Gaming Commission Director shall be hired and supervised by the Law and Order Executive Officer. (subsection amended by NPTEC 4/8/14) and

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

~~(e)~~(2) 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 members.

~~(d)~~(3) Any Gaming Commission member may be removed by the NPTEC for cause, including for neglect of duty, for failure to recuse ~~oneself~~themselves in cases of conflicts of interest ~~as set forth in ' 6-2-12(d), for~~ 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 ' 4-1-11, inclusive of~~ the Nez Perce Tribal Code.

~~(e)~~(4) The Chairman or Vice-Chairman of the NPTEC's Law & Order Subcommittee shall be appointed by the NPTEC to act as the Gaming Commission for purposes of making the ~~suitability-eligibility~~ determination for a ~~gaming license~~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: the Gaming Commission cannot reach a quorum for any reason.~~ (subsection amended by NPTEC 3/22/11) and

- (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), and~~

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

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

(b) ~~The determination~~Gaming Commission determinations made in accordance with § 6-2-13(a) shall be confidential unless otherwise required for purposes of the ~~tribal~~Nez Perce Tribal Enterprises Human ~~Resources~~Resource Manual or the requirements of federal law or regulation.

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

(d) ~~The employee or contractor~~Prospective Gaming Employees and Management Contractors shall follow the application procedure for ~~licenses~~Licenses described herein, ~~provided that, no notice shall be published, and no public hearing shall be held. No in this Gaming Ordinance. No Gaming~~ employee may accept any gift or thing of value from a gaming contractor.

(e) In addition to any provisions of the ~~tribal~~Nez Perce Tribal Enterprises Human ~~Resources~~Resource Manual ~~which that~~ may be applicable, any ~~employee or operator~~Gaming Employee or Gaming Operator shall be required to comply with the provisions of this ~~ordinance~~Gaming Ordinance, the provisions of ~~his~~their contract or terms of employment with the Tribe, if any, and the provisions of applicable federal and state law.

(f) Any entity ~~which that~~ contracts with a ~~tribal gaming operation~~Gaming Operation Licensed by the Gaming Commission, shall be required to submit to a determination as required in ~~(a) of this section. § 6-2-13(a)~~. No such contract will be valid until it is approved by the Gaming Commission and the Secretary of the Interior ~~as is necessary under federal law, as required by IGRA~~.

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

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

~~(+)(h)~~ Any operator or employee of the tribal gaming operation Gaming Operator or Gaming Employee shall deposit the proceeds of the gaming operation according to Gaming Operation in accordance with applicable federal law and tribal law the Nez Perce Tribal Code.

~~(+)(i)~~ Any operator or employee Gaming Operator or Gaming Employee may request the assistance of the Gaming 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 a Gaming Operation.

~~(+)(j)~~ The Gaming Commission may require that any operator or employee of a tribal gaming operation Gaming Operator or Gaming Employee be bonded infor a particular amount. The Gaming Enterprise Nez Perce Tribal Enterprises will pay for the bonds of the Tribe's gaming employees; independent contractors are responsible for the cost of their own bonds Gaming Employees.

~~(+)(k)~~ The Gaming Commission may recommend to the Nez Perce Tribal Executive Committee NPTEC that a particular type of tribal gaming Gaming be operated through a management contract. The management contract Management Contract. The Management Contract must be in compliance with applicable federal law. The Gaming Commission shall require that the proposed operator Management Contractor 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 Licenses under this Gaming Ordinance. The NPTEC has the sole authority to approve Management Contracts.

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

~~(+)(m)~~ The Gaming Commission shall issue regulations, which will control:

(1) ~~The~~ the possession of firearms by operators or employees. No Gaming Operators or Gaming Employees while in Gaming Facilities.

~~(+)(A)~~ the Gaming Commission shall prohibit firearms ~~or~~ and weapons of any kind shall be allowed on gaming premises with the exception of armed within Gaming Facilities, except when carried by armored car personnel and on-duty law enforcement officers.

(2) ~~The~~ the security requirements for the operations Gaming Operations.

(3) ~~The~~ the posting of rules of play.

(4) Rules rules for the conduct of the games Gaming, should the Commission deem that such rules are necessary for the proper conduct of gaming Gaming.

~~(5)(n)~~ Any other regulations controlling the operation which are deemed necessary in

~~writing by Nez Perce Tribal Executive Committee. NPTEC~~ If the NPTEC makes changes to the Gaming Ordinance, or enters into or makes changes to any Compact with a State, it shall provide written notice to the Gaming Commission, in a reasonably timely manner before ~~additional regulations such changes~~ 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~~ Gaming on the Tribe's Indian lands must be ~~licensed~~ Licensed by the Gaming 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 percent (10%) or more of the stock of a corporation or like interest in profits or capital of any other business entity.

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

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

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

~~(s)(r) — Members of the Commission and its staff employees 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, II or III Gaming subject to Gaming Commission regulation and oversight. (amended by NPTEC 12/22/09) and _____)~~

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

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

(b) The Gaming 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~~ regulated Gaming Operations together with such other reasonable information as required in order to determine whether ~~such activities comply~~ the Gaming Operation is complying with this ~~chapter or Gaming Ordinance and~~ 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) and _____)

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

(b) The following notice shall be placed on the Gaming Commission's License application form for a key employee~~Key Employee~~ or a primary management official~~Primary Management Official~~ before that form it 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~~NIGC members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC 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~~NIGC 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~~tribe~~ being unable to license you for a primary management official or key employee position. (language amended by NPTEC 3/22/11) and _____)

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

~~(e) — 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)(c)~~ The following additional notice shall be placed on the application form for a key employee or primary management official~~Key Employee or Primary Management Official~~ before that form~~it~~ 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~~of revocation of a license. —Also, you may be punished by fine or imprisonment. See 18 imprisonment (U.S.C.—Code, Title 18, section 1001. (language added by NPTEC 3/22/11)).

The Commission

~~(e)(d)~~ Existing Key Employees and Primary Management Officials shall ~~notify~~be notified in writing ~~existing key employees and primary management officials~~ that they shall either:

- (1) Complete~~complete~~ a new application form that contains a notice regarding false statements~~Privacy Act notices provided in § 6-2-15(b) and (c);~~ or
- (2) Sign~~sign~~ a statement that contains the notice regarding false statements~~Privacy Act notices provided in § 6-2-15(b) and (c) and consent~~

to the routine uses described in that notice.

BACKGROUND INVESTIGATIONS

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

(a) The Tribe Gaming Commission shall require, in its initial perform a background investigation offor each key-employeeprospective or current Primary Management Official and Key Employee in its Gaming Operation. The background investigation shall include a check of criminal history records information maintained by the Federal Bureau of Investigations. The investigation must be sufficient to allow the Gaming Commission to make an eligibility determination in accordance with this Gaming Ordinance.

(b) The Tribe shall request fingerprints from each primary management-officialprospective or current Primary Management Official and Key Employee. The law enforcement agency designated to take fingerprints is the Tribe's Police Department.

(a)(c) The Gaming Commission shall request from each prospective or current Primary Management Official and Key Employee all of the following information:

- (1) Fullfull name, other names used (oral or written), social security numbersnumber, birth date, place of birth, citizenship, gender, and all languages (spoken and/or written);
- (2) Currentlycurrently, and for the previous five (5) years: Business, 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 (3) personal references, including one personal reference who was acquainted with the applicant during each period of residence addresses, and driver's license numbers; listed under § 6-2-16(d)(2);
- (4) Currentcurrent business and residence telephone numbers; and all cell phone numbers;
- (5) Aa description of any existing and previous business relationships with any Indianother tribes, including ownership interests in those businesses;
- (6) Aa description of any existing and previous business relationships with the gamingGaming 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 gamingGaming, whether or not such license or permit was granted;
- (8) Forfor each felony for which there is an ongoing prosecution or a

conviction, the charge, the name ~~or~~and address of the ~~Court~~court involved, and the date ~~and of~~ disposition, if any;

- (9) ~~For~~for each misdemeanor ~~conviction or for which there is an~~ ongoing ~~misdemeanor~~ prosecution ~~or a conviction~~ (excluding ~~minor~~ traffic violations), within ~~ten~~ (10) years of the date of the application, the name and address of the ~~Court~~court involved, and the date ~~and of~~ disposition, if any;
- (10) ~~For~~for each criminal charge (excluding ~~minor~~ traffic ~~charges~~violations), whether or not there ~~was~~is a conviction, if such criminal charge is within ~~ten~~ (10) years of the date of the application, and is not otherwise listed pursuant to ~~paragraph (§ 6-2-16(d)(8) or (§ 6-2-16(d)(9) of this section, the~~ criminal charge, the name and address of the ~~Court~~court involved, and the date ~~and of~~ disposition, if any;
- (11) ~~The~~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~~a photograph;
- (13) ~~Any~~any other information the Tribe deems relevant; and
- (14) ~~Fingerprints consistent~~fingerprints obtained in accordance with procedures adopted by the Tribe ~~according to 25 C.F.R. 522.2(h).~~

(b)(d) ~~The~~ Human Resources ~~Director~~ shall provide a written statement to the ~~Background Investigator~~background investigator stating that three (3) personal references and three (3) employment checks were performed, stating that no problems were discovered, or stating the details of any problems discovered.

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

(d)(f) ~~The~~ ~~Tribe~~Gaming Commission shall conduct an investigation sufficient to make ~~an~~ eligibility determination under ~~§ 6-2-19~~18. In conducting a background investigation, the ~~Tribe~~Gaming Commission or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

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

(h) When a Primary Management Official or Key Employee is employed by the Tribe, a complete application file, containing all of the information listed in section § 6-2-16(d), shall be maintained by the Gaming Commission.

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

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

- (1) ~~The Background Investigator~~the background investigator has applied for the same position held or sought by a particular ~~gaming license~~License applicant; or
- (2) ~~The Background Investigator~~the background investigator is considered "immediate-family" a "close relative," of a License applicant, as defined in the ~~Gaming Enterprise~~Nez Perce Tribal Enterprises Human ResourcesResource Manual, ~~of a gaming license applicant.~~

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

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

(c) The ~~Investigative Officer~~investigative officer shall ~~utilize~~use the employment and personal reference checks conducted by Nez Perce Tribal Enterprises Human Resources.

~~(d)~~ The Investigative OfficerGaming Commission and its background investigators shall then prepare and submit to keep confidential the identity of each person interviewed in the course of conducting a background investigation.

~~(d)~~(e) The Gaming Commission shall create and maintain an investigative report detailing for each background investigation of a Primary Management Official or Key Employee. Investigative reports shall include all of the following information:

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

(3) The conclusions reached; and

(4) the basis for those conclusions.

(e)(f) Background Investigator ~~investigators~~ 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~~ their background investigation. Completed fingerprint cards will be returned to the Gaming Commission and placed in the applicant's confidential background file. The Gaming Commission shall send to the NIGC the names and fingerprint cards for those Licensees or applicants who require an Federal Bureau of Investigations criminal background check, with the appropriate funds to cover the costs of such inquiry.

(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)(g) Information obtained from NIGC as a result of the FBI ~~Federal Bureau of Investigations~~ fingerprint check ~~checks~~ shall be reviewed only by the Gaming Commission and the Tribe's Investigative Officer ~~investigative officer~~. No further dissemination of this information is authorized; and, in fact, the Tribe Gaming Commission is subject to the restrictions set forth in an MOU ~~a Tribe's Memorandum of Understanding~~ 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 Before a License is issued to a Primary Management Official or Key Employee, the President of the Gaming Commission shall make a finding, as authorized by the Gaming Commission, concerning the eligibility of that person for receiving a License by reviewing the applicant's prior activities, criminal record if any, reputation, habits, and associations, and the information received from NIGC resulting from the FBI~~ Federal Bureau of Investigations fingerprint check; and submit this determination in written form to the National Indian Gaming Commission (NIGC) for review.

(b) If the President of the Gaming Commission determines that employment of, as authorized by the Gaming Commission, that licensing the person poses a threat to the public interest or to the effective regulation of gaming ~~Gaming~~, or creates or enhances the dangers of unsuitable, unfair, or illegal practices ~~and, methods and/or activities in the conduct of gaming, a tribal gaming operation~~ Gaming, the President shall not employ License that person in a key employee ~~Key Employee~~ or primary management ~~Primary Management Official~~ position. ~~(If the applicant is not hired and issued a license by the Tribe, NIGC~~

~~(a)(c)~~ Copies of the eligibility determination shall be notified, but submittal of the determination and report shall be included with the notice of results that must be at the discretion of the Commission.) submitted to NIGC before the licensing of a Primary Management Official or Key Employee. The report to NIGC shall also contain the information documenting investigative steps taken by the ~~Investigative Officer~~ investigative officer, including those set forth above.

~~(b)(d)~~ The report to NIGC shall be sent within 60 days after an employee begins work with the Tribe. Before issuing a License to a Primary Management Official or Key Employee, the Gaming Commission shall prepare a notice of results of the applicant's background investigation and submit it to the NIGC. The notice of results must be submitted to the NIGC no later than sixty (60) days after the applicant begins work. A response from NIGC shall be requested by the Gaming Commission within thirty (30) days of receipt of the Gaming Commission's report.

(1) the notice of results shall include the following information:

- (A) the applicant's name, date of birth, and social security number (if available);
- (B) the date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
- (C) a summary of the information presented in the investigative report, including:
 - (i) licenses, whether issued by the Gaming Commission or another entity, that have previously been denied;
 - (ii) licenses, whether issued by the Gaming Commission or another entity, that have been revoked, even if subsequently reinstated;
 - (iii) every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and
 - (iv) every felony offense of which the applicant has been convicted or any ongoing felony prosecution.
- (D) a copy of the eligibility determination made in accordance with this section.

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

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

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

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

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

- (1) ~~The~~the Gaming Commission shall forward the report referred to in § 6-2-19(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~~Gaming Ordinance by the Chairman of the NIGC.
- (2) ~~The gaming operation~~the Gaming Operation shall not employ as a ~~key employee~~Key Employee or a ~~primary management official~~Primary Management Official a person who does not have a licenseLicense after ninety (90) days of work.

(b) Pursuant to the procedures set forth in ~~paragraph § 6-2-19(a) above,~~ the Gaming 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)(1)~~ Thethe Gaming Commission shall submit, with the report, a copy of the eligibility determination made under ~~§ 6-2-18~~.

~~(3)(2)~~ If a licenseLicense is not issued to the applicant, ~~by the Tribe,~~ the Gaming Commission:

- (A) ~~Shall~~shall notify NIGC; and
- (B) ~~May~~may forward copies of its eligibility determination and investigative report (if any) to NIGC for inclusion in the Indian Gaming Individuals Records System.

~~(4)(3)~~ Withwith respect to ~~key-employees~~Key Employees and ~~primary~~

~~management—officials~~Primary Management Officials, the Gaming Commission shall retain ~~application~~applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or ~~his or her~~their designee for no less than three (3) years from the date of ~~the~~ termination of employment.

§6-2-20 Gaming—Primary Management Official and Key Employee Licenses (section amended by NPTEC 3/22/11) ~~and~~ _____)

~~(a) The Commission shall issue a ninety (90) day~~ All Primary Management Officials and Key Employees of a Gaming Operation must have a (3)-year, conditional, or temporary ~~license~~License issued by the Gaming Commission. Gaming Commission members are authorized to sign ~~Licesnes~~.

~~(b) The Gaming Commission may issue a three (3)-year License to a Primary Management Official or Key Employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by this Gaming Ordinance.~~

~~(a)(c) The Gaming Commission may issue a temporary License for a Gaming Operation employee based on a Human Resources~~Resources review and approval of a completed employee application; ~~for a period of ninety (90) days.~~ If granted, the employee will work under the temporary ~~licensing agreement~~License pending receipt of a response from ~~the National Indian Gaming Commission pursuant to '6-2-18 of this chapter.~~ NIGC, pursuant to § 6-2-18 of this Gaming Ordinance. The Gaming Commission shall notify the NIGC of the issuance of a temporary License to a Primary Management Official or Key Employee within thirty (30) days of issuance.

~~(1) The~~the Gaming Commission Director has the authority to sign and approve ~~temporary gaming licenses~~Licenses on behalf of Gaming Commission members, if Gaming Commission members are not available; ~~after efforts are made and documented to locate them.~~

~~(b)(2) Gaming Operations shall not employe an individual in a Primary Management Official or Key Employee position who does not have a License after ninety (90) days of beginning work at the Gaming Operation. The Gaming Commission members shall determine whether or not to issue a three- (3)-year license~~License within ninety (90) days ~~after application of the issuance of a temporary License.~~

~~(e)(d) A~~The Gaming Commission may issue a conditional ~~license may be issued~~License when an applicant does not meet the standards required of ~~licensees~~Licensees outlined in the Nez Perce Tribal Code, ~~this~~ Gaming Ordinance, ~~the Nez Perce Tribe/State of Idaho Gaminga~~ Compact, or the ~~rules and regulations promulgated by the NPTGC.~~Gaming Commission. A conditional ~~license~~License shall not exceed one (1) year.

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

~~(d)(e) A~~ ~~license~~License shall be valid for not more than three (3) years and shall be renewed following a satisfactory criminal background check for the preceding ~~three years.~~License

period. Only when extraordinary circumstances warrant an additional background investigation shall the ~~Commissioner's investigation~~Gaming Commission's background check inquire into an applicant's activities earlier than the ~~past-licensing~~previous License period. This section does not relieve a ~~licensee~~Licensee of the obligation and responsibility of providing required updated information to the ~~Background Investigator~~background investigator, such as:

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

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

- (1) ~~If~~If, within a thirty (30)-day period after the NIGC receives a report, the NIGC notifies ~~that Tribe~~the Gaming Commission that it has no objection to the issuance of a ~~license~~License by the Gaming Commission to the individual for whom the Gaming Commission has provided an application and investigative report ~~to the NIGC~~, the Gaming Commission may issue a ~~license~~License to such applicant.
- (2) ~~The~~The Gaming Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a ~~key employee~~Key Employee or a ~~primary management official~~Primary Management Official who is the subject of a report. Such a request shall suspend the ~~thirty (30)-day~~ period under the preceding paragraph until the Chairman of NIGC receives the additional information.
- (3) ~~If~~If, within the thirty (30)-day period described above, the NIGC provides the ~~Tribe~~Gaming Commission with a statement itemizing objections to the issuance of a ~~license~~License to a ~~key employee~~Key Employee or to a ~~primary management official~~Primary Management Official for whom the ~~Tribe~~Gaming Commission has provided an application and investigative report to the NIGC, the ~~Tribe~~Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The ~~Tribe~~Gaming Commission shall make the final decision whether to issue a ~~license~~License to such ~~an~~ applicant for a Primary Management Official or Key Employee position.
- (4) if the Gaming Commission has issued a License to a Primary Management Official or Key Employee before receiving the NIGC's statement of objections, notice and a hearing shall be provided to the Licensee, as required by this Gaming Ordinance.

§6-2-21
and

Gaming Facility Licenses (subsection title changed and language amended by NPTEC 3/22/11)

(a) The Gaming Commission shall issue a separate ~~license~~Gaming Facility License to each place, facility, or location on the Tribe's Indian lands where ~~any gaming~~Class III Gaming is conducted under this ~~ordinance~~Gaming Ordinance. The Gaming Commission shall issue a separate Gaming

Facility License for each place, facility, or location on the Tribe's Indian lands where Class II Gaming is conducted by bona fide charitable, religious, or non-profit organizations.

- (1) ~~The~~the Tribe hereby designates the NPTEC Chairman as the agent for service of ~~process~~any official determination, order, or notice of violation concerning the Tribe.

(b) The Gaming Commission shall submit to the NIGC Chair a notice that issuance of a Gaming Facility License is under consideration by the Gaming Commission. This notice must be submitted at least one hundred twenty (120) days before the opening of any new Gaming Facility on Indian lands where Class III Gaming will occur.

(c) The Gaming Commission shall submit a copy of each newly issued or renewed Gaming Facility License to the NIGC Chair within thirty (30) days of issuance, along with any other required documentation.

(d) The Gaming Commission shall notify the NIGC Chair within thirty (30) days if a Gaming Facility License is terminated or expires or if a Gaming Facility closes or reopens.

§6-2-22 Denying Primary Management Official and Key Employee Gaming Licenses

(a) The Gaming Commission shall not License a Primary Management Official or Key Employee if an authorized Tribal official determines, in applying the standards for making a License eligibility determination, that licensing the person:

- (1) poses a threat to the public interest;
- (2) poses a threat to the effective regulation of Gaming; or
- (3) creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods and/or activities in the conduct of Gaming.

(b) When the Gaming Commission does not issue a License to an applicant for a Primary Management Official or Key Employee position, or revokes a previously issued License after reconsideration, it shall:

- (1) notify the NIGC; and
- (2) forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

§6-2-22§6-2-23 Primary Management Official and Key Employee License Suspension and Revocation

(a) If, after the issuance of a ~~gaming license~~License by the Gaming Commission to a Primary Management Official or a Key Employee, the NIGC-Gaming Commission receives reliable information indicating notice from the NIGC that a key employee or a primary management officialthe Primary

Management Official or Key Employee is not eligible for employment, ~~NIGC shall notify~~ the Gaming Commission. ~~(subsection amended by NPTEC 3/22/14)~~ shall do the following:

(1) ~~Upon~~upon receipt of such notification, the Gaming Commission shall immediately suspend such license~~License~~; and ~~shall~~

~~(b)(2)~~ notify in writing the licensee~~Licensee~~ of the suspension, and proposed revocation, and of their right to request a hearing.

(b) The Gaming Commission shall set a revocation hearing at a time no later than thirty (30) days after receiving notice from the NIGC that a Primary Management Official or Key Employee is not eligible for employment

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

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

(e) After a revocation hearing, the Gaming Commission shall decide whether to revoke or to reinstate ~~a gaming license~~the License at issue. The Commission ~~shall notify NIGC of its decision and~~ shall notify the ~~person in writing~~Licensee of its decision~~their decision~~ within fourteen (14) business days following the hearing ~~as described in '6-2-24(a) of this chapter.~~. The Gaming Commission shall also notify the NIGC of its decision within forty-five (45) days of receiving notification from the NIGC that a Primary Management Official or Key Employee is not eligible for employment.

(f) If the person does not receive written notice of a Gaming Commission decision by ~~registered~~certified mail, return receipt requested ~~or other carrier as evidenced by a return receipt~~, as outlined in § 6-2-25 of this chapterGaming Ordinance, 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~~License~~ to work pending a rehearing on this matter.

§6-2-23~~§6-2-24~~ Non-Licensing Dispute Resolution Process

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

(b) Any person having a dispute with ~~the~~ Licensed Gaming Operator or Management ~~Company licensed by the Tribe~~Contractor 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 by the Gaming Commission at the hearing or within fourteen (14) business days of the hearing, in compliance with the procedures outlined in § 6-2-25 of

this Gaming Ordinance. (subsection amended by NPTEC 3/22/11)

§6-2-24§6-2-25 Appeal from Decisions of the Nez Perce Tribal Gaming Commission

(a) If the Gaming Commission denies a person a licenseLicense, or if the Gaming Commission revokes a licenseLicense which was previously granted, the Gaming 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 in compliance with the procedures outlined in § 6-2-25 of this Gaming Ordinance.

(b) The person considers himselfwhose License was denied or herself aggrieved by such a revoked has five (5) days from the date they receive the Gaming Commission's denial or revocation to submit a written request for a hearing before the Gaming Commission.

(c) The Gaming Commission shall schedule a hearing on the License denial or revocation as soon as practicable, and both parties may submit evidence. A copy of the hearing procedures shall be provided to the person whose License was denied or revoked.

~~(a)(d)~~ If the grievant is dissatisfied with the decision, he or she issued by the Gaming Commission, they 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 sameissuance of the written decision from the 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 Gaming Commission was issued arbitrarily and capriciously, clearly erroneously, or in violation of the Tribe's 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 denialdecision of the Gaming Commission 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.

~~(e)(e)~~ If the grievant is dissatisfied with the decision issued by the Nez Perce Tribal Court under either (a) or (b) above, he or she§ 6-2-25(d), they may appeal to the Nez Perce Court of Appeals in accordance with Chapter 2-9 of the Nez Perce Tribal Code.

§6-2-25§6-2-26 Penalties for Violations

(a) AnyThe Gaming Commission may subject any person, or gaming operation,Gaming

~~Operation~~ who ~~shall violate~~violates provisions of this ~~ordinance; or shall conduct gambling operations without a required license; or commits~~Gaming Ordinance, acts of fraud or deceit; ~~or shall engage~~engages in professional gambling ~~is subject to one or more of the following:~~(subsection amended by NPTEC 3/22/11) and _____)

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

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

~~§6-2-26~~§6-2-27 Exclusion of Individuals from Gaming ~~Activities~~

(a) Any person may be excluded from a Gaming Facility on the ~~premises~~Tribe's Indian lands for good cause at any time at the discretion of the ~~operator. This Gaming Operator. Good cause~~ may include but is not be limited to: (subsection amended by NPTEC 3/22/11) and _____)

- (1) ~~Appears~~a person appears to be violating rules or regulations governing ~~gaming activities~~Gaming as established by this Gaming Ordinance, the Gaming Commission, the Gaming Operator, or operator~~applicable Tribe, federal, or state law;~~
- (2) ~~By a person, by~~ virtue of ~~his~~their condition or activities, disturbs the peaceful participation of other individuals in ~~gaming activities~~Gaming or disrupts the orderly conduct of ~~the gaming activity~~Gaming;
- (3) ~~Te a person~~ either intentionally or negligently ~~cause~~causes injury or harm to any patron or ~~employee~~Gaming Employee or ~~threaten~~threatens to do so;
- (4) ~~To possess~~a person possesses any illegal narcotics or controlled substances ~~on any Licensed Gaming Facility.~~

(b) ~~An operator~~A Gaming Operator or its agents may make reasonable inquiries of individuals in the course of determining whether any of the activities defined ~~in paragraph (a)~~listed above are occurring;

(c) ~~An operator~~A Gaming Operator or its agents who excludes any ~~individual~~person pursuant to this section shall not incur any liability, criminal or civil, in Nez Perce Tribal Court as a result of doing so.

(d) Any person who is excluded from gaming~~Gaming~~ by ~~an operator~~A Gaming Operator

pursuant to this section may petition the Gaming Commission for an order lifting the exclusion. The Gaming Commission shall have full discretion ~~in determining~~ to determine whether to hear any such petition. The Gaming Commission shall further have discretion to impose such conditions as they deem appropriate in issuing any order lifting an exclusion.

§6-2-28 Records Retention

(a) The Gaming Commission shall retain, for no less than three (3) years from the date a Primary Management Official or Key Employee is terminated from employment, the following documentation:

- (1) application for licensing;
- (2) investigative reports; and
- (3) eligibility determinations.