

TITLE 6
INTERGOVERNMENTAL RULES AND REGULATIONS

CHAPTER 6-1

ENROLLMENT ORDINANCE.....	1
§6-1-1 Definitions.....	1
§6-1-2 Enrollment Application Procedures	1
§6-1-3 Application Processing	2
§6-1-4 Determination of Blood Quantum or Degree.....	3
§6-1-5 Termination of Enrollment	4
§6-1-6 Voluntary Relinquishment of Enrollment.....	5
§6-1-7 Enrollment Records	6
§6-1-8 Resolutions.....	6
§6-1-9 Enrollment Cards; Certification of Indian Blood.....	6

TITLE 6 INTERGOVERNMENTAL RULES AND REGULATIONS

Ch. 6.20 Gaming Ordinance

TABLE OF CONTENTS

PART I.	GENERAL PROVISIONS	1
	Section 6.20.001 Definitions.....	1
	Section 6.20.002 Purpose.....	4
	Section 6.20.003 Ownership of Gaming and Use of Gaming Revenue	4
	Section 6.20.004 Severability	5
	Section 6.20.005 Amendment.....	5
	Section 6.20.006 Sovereignty	5
	Section 6.20.007 Nez Perce Tribe Gaming Commission Established.....	6
	Section 6.20.008 Powers and Duties of the Nez Perce Tribal Gaming Commission and of the Nez Perce Tribal Executive Committee.....	7
PART II.	AUTHORIZED GAMBLING ACTIVITIES.....	8
	Section 6.20.009 Class I Gaming	8
	Section 6.20.010 Class II Gaming	8
	Section 6.20.011 Class III Gaming	9
	Section 6.20.012 Gaming Prohibited	9
PART III.	GAMING OPERATIONS	10
	Section 6.20.013 General Gaming Operation Requirements	10
	Section 6.20.014 Inspection of Premises	12
	Section 6.20.015 Penalties for Violations	12
	Section 6.20.016 Exclusion of Individuals from Gaming.....	12
	Section 6.20.017 Non-Licensing Dispute Resolution Process	13
PART IV.	INDIVIDUAL LICENSES.....	13
	Section 6.20.018 Applications for Key Employee and Primary Management Official Positions	13
	Section 6.20.019 Background Investigations	14
	Section 6.20.020 Procedures for Background Investigations.....	16
	Section 6.20.021 Eligibility Determination.....	17
	Section 6.20.022 Notice of Results	17
	Section 6.20.023 Issuing and Revoking Primary Management Official and Key Employee Licenses	18
	Section 6.20.024 Denying Primary Management Official and Key Employee Gaming Licenses	20
	Section 6.20.025 Notice and Appeal of Decisions of the Nez Perce Tribal Gaming Commission.....	21
	Section 6.20.026 Records Retention.....	22
PART V.	GAMING FACILITY LICENSES	23
	Section 6.20.027 Licenses for Gaming Facilities	23
PART VI.	VENDOR LICENSES.....	24
	Section 6.20.028 Licenses for Vendors	24
	Section 6.20.029 Submission of a Vendor License Application.....	24



NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

Section 6.20.030	Contents of the Vendor License Application.....	24
Section 6.20.031	Vendor Background Investigations	26
Section 6.20.032	Vendor Background Investigation Reports.....	26
Section 6.20.033	Vendors Licensed By Recognized Regulatory Authorities.....	26
Section 6.20.034	Compliance with Federal Law	26

CHAPTER 6-3

FIREWORKS ORDINANCE..... 1

§6-3-1 Title 1

§6-3-2 Purpose..... 1

§6-3-3 Jurisdiction 1

§6-3-4 Definitions..... 1

§6-3-5 Wholesale License 2

§6-3-6 Firework Retail License 2

§6-3-7 Right to Deny License 2

§6-3-8 Right to Close Fireworks Season..... 2

§6-3-9 Application..... 3

§6-3-10 Application Form 3

§6-3-11 License Suspension or Revocation 3

§6-3-12 License Non-Transferrable 3

§6-3-13 Duration of License..... 3

§6-3-14 Operator 4

§6-3-15 Employees of Licensee 4

§6-3-16 Sale to Minors 4

§6-3-17 Intoxication 4

§6-3-18 Permitted Fireworks - Conformity with Federal Law..... 4

§6-3-19 Discharge of Fireworks in Selling Area..... 4

§6-3-20 Fire Safety 4

§6-3-21 Notice 4

§6-3-22 Repeal 5

§6-3-23 Non-Liability..... 5

§6-3-24 Severability 5

§6-3-25 Requirements for Retail Operators 5

§6-3-26 Violations/Sanctions 5

CHAPTER 6-4

NEZ PERCE TRIBAL COMMERCIAL BUILDING CODE..... 1

§6-4-1 Title 1

§6-4-2 Jurisdiction 1

§6-4-3 Adoption of Code..... 1

§6-4-4 Definitions..... 1

§6-4-5 Commercial Building Permits When Required 1

§6-4-6 Electrical Inspection Verification 2

§6-4-7 Fees 2

§6-4-8 Issue of Permits..... 2

§6-4-9 Inspection and Enforcement 2

§6-4-10 Public Access to Code 2

§6-4-11 Noncompliance 2

§6-4-12 Review 3

§6-4-13 Severability 3

Fees 4

CHAPTER 6-5

FOREST PROTECTION FIRE ORDINANCE..... 1

§6-5-1 Definitions..... 1

§6-5-2 Fire 1

§6-5-3 Spark Arresters..... 1

§6-5-4 Cost of Fire Suppression and Protection..... 2

CHAPTER 6-6

FUEL TAX ORDINANCE..... 1

§6-6-1 Definitions..... 1

§6-6-2 Purpose..... 1

§6-6-3 Imposition of Tax..... 1

§6-6-4 Distributor Licenses 1

§6-6-5 Retailer Licenses 2

§6-6-6 Enforcement 2

§6-6-7 Distribution of Tax Revenues 4

§6-6-8 Violations/Sanctions 4

CHAPTER 6-7

TOBACCO AND LIQUOR ORDINANCE..... 1

§6-7-1 Definitions..... 1

§6-7-2 Distributor Licenses 1

§6-7-3 Tobacco Outlet Licenses 3

§6-7-4 Liquor Distributor and Outlet Licenses 5

§6-7-5 Sales to Minors Prohibited 6

§6-7-6 Other Business by Operator 7

§6-7-7 Tribal Liability and Credit 7

§6-7-8 Severability 7

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

§6-7-10 Enforcement Procedures 7

CHAPTER 6-8

DOG ORDINANCE..... 1

§6-8-1 Purpose..... 1

§6-8-2 Definitions..... 1

§6-8-3 License Required 1

§6-8-4 Collar and Tag..... 2

§6-8-5 Licensing..... 2

§6-8-6 Imitation License Tags Prohibited 2

§6-8-7 Rabies..... 3

§6-8-8 Impounding 3

§6-8-9 Impounding Fees..... 3

§6-8-10 Miscellaneous Prohibited Acts 4

§6-8-11 Running at Large Prohibited 4

§6-8-12	Interference with Officer.....	5
§6-8-13	Penalty for Violations	5
§6-8-14	Dog Marshal and Designated Assistant	5
§6-8-15	Female Dogs in Heat.....	6
§6-8-16	Sick Dogs Prohibited from Public Places	6
§6-8-17	Removal of Vicious Dogs from Nez Perce Reservation	6
§6-8-18	Citations, Prosecutions, Penalties	6
§6-8-19	Civil Liability	6
§6-8-20	Conflicting Ordinances	7
§6-8-21	Jurisdiction	7

CHAPTER 6-9

NEZ PERCE TRIBAL ATHLETIC COMMISSION.....		1
§6-9-1	Establishment of Commission	1
§6-9-2	Purpose and Authorities of Commission	1
§6-9-3	Membership of Commission.....	1
§6-9-4	Term of Membership	1
§6-9-5	Meetings.....	2
§6-9-6	Officers and Responsibilities	2
§6-9-7	Open Meetings and Public Records	2
§6-9-8	Event Permits	2
§6-9-9	Licensure of Event Participants	3
§6-9-10	Other Commission Rules and Regulations	3
§6-9-11	Penalties	4

CHAPTER 6-10

ELECTION ORDINANCE		1
§6-10-1	Definitions.....	1
§6-10-2	Types of Elections.....	2
§6-10-3	Qualifications for Office	2
§6-10-4	Filing for Office	2
§6-10-5	Certification of Candidates	3
§6-10-6	Notice of Election	3
§6-10-7	Absentee Voting.....	3
§6-10-8	Polling Places and Times	5
§6-10-9	Terms of Office.....	5
§6-10-10	Ballots	5
§6-10-11	Ballot Boxes.....	5
§6-10-12	Voting Booths	6
§6-10-13	Poll Watcher.....	6
§6-10-14	Electioneering and Loitering.....	7
§6-10-15	Voting Procedures.....	7
§6-10-16	Tallying the Votes.....	8
§6-10-17	Declaring the Winners	8
§6-10-18	Recount	9
§6-10-19	Certification of Results	9

§6-10-20	Incumbents	9
§6-10-21	Date of Taking Office	9
§6-10-22	NPTEC Vacancies Arising After February 15 Filing Deadline.....	9

CHAPTER 6-11

SALES TAX ORDINANCE.....		1
§6-11-1	Purpose.....	1
§6-11-2	Imposition of Tax.....	1
§6-11-3	Exemptions from Sales Tax	1
§6-11-4	Reporting.....	1
§6-11-5	Deposit of Sales Tax Revenue	1
§6-11-6	Penalties	1

§ 6-12-1 *Section Reserved*

CHAPTER 6-13

HEMP REGULATORY CODE		
PART I. GENERAL PROVISIONS.....		1
§6-13-1	Short Title.....	1
§6-13-2	Findings and Purpose	1
§6-13-3	Scope and Authority	2
§6-13-4	Industrial Hemp as an Agriculture Crop	2
§6-13-5	Jurisdiction	2
§6-13-6	Sovereign Immunity	3
§6-13-7	Exemption from Prosecution for Certain Acts	3
§6-13-8	Compliance with Federal Law	3
§6-13-9	Savings Clause	3
§6-13-10	Section Reserved	3
§6-13-11	Definitions	3
PART II. OVERSIGHT, AUTHORITY, AND THE AGRICULTURAL OFFICE		7
§6-13-12	Nez Perce Tribe Hemp Program	7
§6-13-13	Agriculture Office	8
§6-13-14	Section Reserved.....	8
PART III. HEMP LICENSING.....		8
§6-13-15	General – Annual Hemp License Required.....	8
§6-13-16	License Applications	8
§6-13-17	Grow Site Registration Application	9
§6-13-18	Terms and Conditions Acknowledgement	10
§6-13-19	License Term.....	11
§6-13-20	Annual Renewal	11
§6-13-21	Ineligible for a Hemp License	11
§6-13-22	Reserved	12

§6-13-23 Revocation of a License	12
§6-13-24 Appeal of Denial of License.....	12
§6-13-25 Fees	12
§6-13-26 Compliance and Enforcement	12
§6-13-27 Section Reserved.....	13
§6-13-28 Section Reserved.....	13
§6-13-29 Section Reserved.....	13
PART IV. REGISTERED LAND AREA CONTROLS.....	13
§6-13-30 Land Use Restrictions and Site Modification	13
§6-13-31 Location; Restrictions	13
§6-13-32 Section Reserved.....	14
§6-13-33 Section Reserved.....	14
§6-13-34 Section Reserved.....	14
PART V. TRANSPORTATION.....	14
§6-13-35 Transportation	14
§6-13-36 Section Reserved.....	14
§6-13-37 Section Reserved.....	14
§6-13-38 Section Reserved.....	14
§6-13-39 Section Reserved.....	14
PART VI. RECORDS AND REPORTS	15
§6-13-40 Agriculture Office Reports.....	15
§6-13-41 Retention	15
§6-13-42 Privacy Protections.....	15
§6-13-43 Reporting to the USDA.....	15
§6-13-44 Hemp Producer/Licensee Recordkeeping and Reporting	17
§6-13-45 Section Reserved.....	18
§6-13-46 Section Reserved.....	18
§6-13-47 Section Reserved.....	18
§6-13-48 Section Reserved.....	18
§6-13-49 Section Reserved.....	18
PART VII. INSPECTIONS, SAMPLING, AND TESTING	18
§6-13-50 Inspections.....	18
§6-13-51 Lab Accreditation.....	19
§6-13-52 Procedure for Sampling and Testing.....	19
§6-13-53 Methods for Sampling and Testing	20
§6-13-54 Compliance Sampling and Testing Prior to Harvest.....	20
§6-13-55 Post-Testing Procedures	21
§6-13-56 Federal Notice Required for Non-Compliant Test Results	22
§6-13-57 Remediation and Disposal of Non-Compliant Plants and Hemp Products.....	22
§6-13-58 Section Reserved.....	24
§6-13-59 Section Reserved.....	24
PART VIII. HEMP LICENSE VIOLATIONS.....	24
§6-13-60 Negligent License Violations	24
§6-13-61 Corrective Action Plan.....	25
§6-13-62 Repeat Negligent Violations	25

§6-13-63 Other Violations	26
§6-13-64 Revocations, Suspensions, Penalties, and Civil Enforcement	26
§6-13-65 Section Reserved	26
§6-13-66 Section Reserved	26
PART IX. MISCELLANEOUS	26
§6-13-67 Restrictions on Cannabis	26
§6-13-68 Section Reserved	27
§6-13-69 Transfer, Sale, and Purchase of Hemp	27
§6-13-70 Other Licenses and Business Requirements.....	27
PART X. APPENDICES	29
USDA Sampling Guidelines for Hemp (Updated January 15, 2021)	
USDA Testing Guidelines for Hemp (Updated January 15, 2021)	

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 Subcommittee 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

CHAPTER 6.20 GAMING ORDINANCE

PART I. GENERAL PROVISIONS

Section 6.20.001 Definitions

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, 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. "Bingo" means a game, whether or not electronic, computer, or other technological aids are used in connection therewith, in which:
 - 1. players play for prizes, including monetary prizes, with cards bearing numbers or other designations;
 - 2. players cover such numbers or other designations when objects, similarly numbered or designated, are drawn or electronically determined; and
 - 3. the game is won by the first player 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.
- B. "Class I Gaming" means social games played 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.
- C. "Class II Gaming" means those activities described in § 6-20-010 of this Gaming Ordinance.
- D. "Class III Gaming" means all forms of Gaming that are not Class I or Class II Gaming, as defined in this Gaming Ordinance.
- E. "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 § 6-20-009, § 6-20-010, and § 6-20-011 of this Gaming Ordinance.
- G. "Gaming Commission" means the Nez Perce Tribal Gaming Commission, the single agency of the Tribe primarily responsible for Licensing, regulatory oversight, and monitoring compliance with applicable Tribe, federal, and


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

State regulations for Class II and Class III Gaming on the Tribe's Indian Lands.

- H. "Gaming Employee" means any natural person employed in the operation or management of a Gaming Operation, excluding persons providing maintenance, janitorial, or other such ancillary non-Gaming services to a Gaming Operation, such as food service employees. Gaming Employee shall include any employee whose duties include the handling of cash generated from Class II or Class III Gaming.
- I. "Gaming Facility" means all buildings, improvements, and facilities Licensed by the Gaming Commission to be used or maintained in connection with the conduct of Class II or Class III Gaming on the Tribe's Indian Lands.
- J. "Gaming Operation" means any economic entity that provides Class II or Class III Gaming activities 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.
- L. "IGRA" means the federal Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. §§ 2701 *et. seq.*
- M. "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 the employees listed at 25 C.F.R. § 502.14.
- O. "License" means:
1. an approval or certification issued by the Gaming Commission to any natural person to be involved in Class II or Class III Gaming or in providing Class II or Class III Gaming services to a Class II or Class III Gaming Operation on the Tribe's Indian Lands;
 2. the approval or certification issued by the Gaming Commission to any facility authorizing it to house Class II or Class III Gaming on the Tribe's Indian Lands; or


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

3. an approval or certification issued by the Gaming Commission to any Vendor of gaming services or supplies to allow them to transact business valued at or exceeding \$25,000 with a Gaming Operation on the Tribe's Indian Lands.
- P. "Licensee" means any natural person, Gaming Facility, or Vendor that has been approved and Licensed by the Gaming Commission to be involved in, house, or transact business with a Class II or Class III Gaming Operation.
- Q. "Management Contract" means any contract, subcontract, or collateral agreement between a Gaming Operation and a contractor or between a contractor and a subcontractor, if such contract or agreement provides for the management of all or part of a Gaming Operation.
- R. "Net Revenue" means gross Gaming receipts of a Gaming Operation less:
1. amounts paid out as, or paid for, prizes; and
 2. total Gaming-related operating expenses, including all expenses of the Gaming Operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.
- S. "NIGC" means the National Indian Gaming Commission.
- T. "NPTEC" means the Nez Perce Tribal Executive Committee, the Tribe's governing body.
- 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. Wagering on live races is authorized if it occurs either at a track or on the Tribe's Indian Lands by means of a simulcast of a live race and is approved by the Gaming Commission.
- V. "Primary Management Official" means the employees listed at 25 C.F.R. § 502.19.
- W. "Simulcast" means a simultaneous telecast of a live race, including horses, dogs, mules, and any other race contest of a species legal in the jurisdiction.
- X. "State" means any State comprising the United States, its authorized officials, agents, representatives, and territory.
- Y. "State Lottery" means any type of game that a State conducts as a lottery game.
- Z. "Track" means a facility licensed to operate horse or other racing where Pari-Mutual Betting on races is conducted.
- AA. "Tribe" means the Nez Perce Tribe, its authorized officials, agents, and representatives.

BB. "Vendor" means any business that provides Gaming supplies or services to a Gaming Operation.

Section 6.20.002 Purpose

This Gaming Ordinance is enacted to:

- A. Regulate and govern all forms of permissible and authorized Gaming on the Tribe's Indian Lands.
- B. Safeguard all persons from unscrupulous and illegal operations of any type of Gaming on the Tribe's Indian Lands.
- C. Protect all persons from the infiltration of organized crime into any Gaming Operation on the Tribe's Indian Lands.
- D. Provide for an audit system of all Gaming Operations on the Tribe's Indian Lands.
- E. Provide that the Tribe will have primary regulatory authority over all forms of Gaming on the Tribe's Indian Lands, subject to applicable federal law.
- F. Provide for a system of investigations of all persons associated with Gaming on the Tribe's Indian Lands.
- G. Provide a system of Licensing for all Gaming on the Tribe's Indian Lands.
- H. Provide revenue for the operation of the Tribe's government.
- I. Allow the Tribe's government to use Gaming revenue to provide additional services, employment for Tribal members, and for the general economic development and individual self-sufficiency of Tribal members.
- J. Harmonize with and adhere to IGRA.
- K. Cooperate and agree on a sovereign-to-sovereign basis with concerned or affected States to enter into Compacts or other agreements for Class III Gaming Operations on the Tribe's Indian Lands.
- L. Establish a commission within the Tribe's government to oversee and regulate Gaming consistent with this Gaming Ordinance and within the precepts established by the NPTEC.

Section 6.20.003 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 Gaming Ordinance, except as otherwise provided in this Gaming Ordinance.
- B. 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 License or Licenses from the Gaming Commission, comply with the other provisions of this Gaming Ordinance, and:


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

1. pay to the Tribe not less than 60 percent of the individually-owned Gaming Operation's Net Revenues to be used only for the purposes set forth below;
 2. pay an assessment to the NIGC as set forth in 25 C.F.R. § 514.1; and
 3. comply with Licensing standards that are at least as restrictive as those established by State law, governing similar Gaming within the jurisdiction of the surrounding State. If the individual owner is ineligible to receive a State license to conduct the same activity within that jurisdiction, the Gaming Commission shall deny a License and otherwise comply with 25 C.F.R. § 522.11(f).
- C. Net Revenues from Gaming shall be used only for the following purposes:
1. to fund the Tribe's government operations or programs;
 2. to provide for the general welfare of the Tribe and its members;
 3. to promote the Tribe's economic development;
 4. to donate to charitable organizations; and
 5. to help fund the operations of local government agencies.
- D. Net Revenues from any Class II or Class III gaming activities conducted or licensed by the Tribe may be used to make per capita payments only if such payments are consistent with IGRA, as set forth in 25 U.S.C. § 2710(b)(3).
- E. The 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 the Gaming allowed under this Gaming Ordinance.

Section 6.20.004 Severability

If any clause, provision, or section of this 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 remaining provisions of this 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.

Section 6.20.005 Amendment

All powers of amendment for this Gaming Ordinance are retained by the NPTEC.

Section 6.20.006 Sovereignty

The NPTEC, acting for the 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.

Section 6.20.007 Nez Perce Tribe Gaming Commission Established

- A. The Gaming Commission shall consist of three (3) Tribal members appointed by the NPTEC. Gaming Commission members shall meet the Licensing qualifications of a Primary Management Official, as set forth in this Gaming Ordinance.
- B. The NPTEC shall establish such application procedures as it deems appropriate for members of the Tribe interested in serving on the Gaming Commission.
- C. The following persons are not allowed to serve on the Gaming Commission:
 - 1. current members of the Nez Perce Tribal Enterprises board;
 - 2. persons having a direct or indirect financial interest in a Management Contract (including any principal or member of a Management Contractor) or any “close relatives” of such persons, as defined in the Nez Perce Tribal Enterprises Human Resource Manual;
 - 3. current Key Employee/Primary Management Officials; or
 - 4. persons previously convicted of a felony, embezzlement, theft, or any other money related or honesty related crimes (such as fraud).
- D. Each 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.
- E. Gaming Commission members shall serve beyond their term only if the NPTEC fails to promptly make appointments to fill expired Gaming Commission member seats. Upon appointments by the NPTEC to fill expired seats, the prior appointments shall end.
- F. Gaming Commission positions vacated prior to the end of a term shall be promptly filled by the NPTEC so that a full Gaming Commission may serve on a continual basis. However, a 90-day temporary vacancy on the Gaming Commission shall not mean the Gaming Commission cannot conduct business; business can be conducted with a quorum of two members present during a 90-day temporary vacancy.
- G. The Gaming Commission shall elect among themselves 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 appointment is made.
- H. The Gaming Commission shall be independent of, and act independently and autonomously from, the NPTEC regarding all matters within the Gaming Commission’s purview. No prior or subsequent review by the NPTEC of any Gaming Commission actions shall be required or permitted, except as otherwise explicitly provided in this Gaming Ordinance.

- I. Current and former Gaming Commission members shall keep confidential all information and communications relating to Licensing decisions, except that confidential information or communications related to Licensing decisions may be released to law enforcement to further a law enforcement investigation or to otherwise comply with the law.

Section 6.20.008 Powers and Duties of the Nez Perce Tribal Gaming Commission and of the Nez Perce Tribal Executive Committee

- A. Gaming Commission powers and duties shall include:
1. the inspection of Gaming Facility premises subject to the Gaming Commission's regulation and oversight;
 2. the safeguarding and regulation by civil fines and other actions as specified in this Gaming Ordinance;
 3. the issuance of Licenses when such are required by this Gaming Ordinance and in accordance with this Gaming Ordinance;
 4. the denial or revocation of Licenses when the results of a thorough and objective investigation by the Gaming Commission indicates that such action is appropriate and in accordance with this Gaming Ordinance;
 5. the formulation and promulgation of rules and regulations, which shall govern in detail the issuance and the denial or revocation of Licenses and License fee amounts;
 6. ensuring the proper record keeping of gambling proceeds by the Nez Perce Tribal Enterprises of Licenses and of Gaming activities, subject to the Gaming Commission's regulation and oversight, on the Tribe's Indian Lands subject to the provisions of the Bank Secrecy Act, C.F.R. Title 12, Banks and Banking, or to C.F.R. Title 31, Money and Finance, or to any other applicable requirement of the U.S. Internal Revenue Service;
 7. ensuring the review of appropriate records for Licensees at least every three (3) years (appropriate records are those records directly related to determining a Licensee's suitability to hold a License);
 8. conducting annual, independent audits of all Class II and Class III Gaming Operations on the Tribe's Indian Lands 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. All Gaming related contracts that result in the purchase of supplies, services, or concessions worth \$25,000.00 or more in any year (except contracts for professional legal and accounting services) shall be specifically included within the scope of audits conducted under this Gaming Ordinance. Audits shall conform to generally-accepted auditing standards.

9. ensuring that each Gaming Facility, subject to the Gaming Commission's regulation and oversight, shall be constructed, maintained, and otherwise operated in a manner that adequately protects the environment and the health and safety of the public; and
 10. conducting background investigations and eligibility and suitability determinations of potential Key Employees and Primary Management Officials at least as stringent as those found in 25 C.F.R. §§ 556 and 558.
- B. The NPTEC's direct and delegated powers and duties shall include:
1. determining who hires and supervises the Gaming Commission Director;
 2. to set the maximum hours and hourly compensation for Gaming Commission members;
 3. any Gaming Commission member may be removed by the NPTEC for cause, including for neglect of duty, for failure to recuse themselves in cases of conflicts of interest, for gross misconduct, or for any offense listed in the Nez Perce Tribal Code;
 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 eligibility determinations for a License applicant if the Gaming Commission cannot reach a quorum for any reason;
 5. the NPTEC has the sole authority to approve the Gaming Commission budget; and
 6. the NPTEC Chairman shall be the agent for service of any official determination, order, or notice of violation concerning the Tribe.

PART II. AUTHORIZED GAMBLING ACTIVITIES

Section 6.20.009 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 Gaming Ordinance.

Section 6.20.010 Class II Gaming

- A. Class II Gaming is defined as:
1. the game of chance commonly known as Bingo or lotto; or
 2. non-banking card games that:


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

- a. are explicitly authorized, or not explicitly prohibited, by the laws of the State in which they are played and are played at any location in the State; and
 - 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.
- B. Until this Gaming Ordinance is amended by appropriate action of the NPTEC in a manner consistent with the relevant provisions of IGRA, the Tribe shall be the only entity or organization authorized to engage in Class II Gaming on the Tribe's Indian Lands for profit to the exclusion of any other entity, organization, or person. The 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 and IGRA.

Section 6.20.011 Class III Gaming

- A. Class III Gaming means all forms of Gaming that are not Class I or Class II Gaming.
- B. Only the NPTEC shall authorize or conduct any form of Class III Gaming on the Tribe's Indian Lands. The NPTEC shall only authorize any form of Class III Gaming that is:
 - 1. consistent with IGRA;
 - 2. consistent with a Compact for Class III Gaming; and
 - 3. Licensed by the Tribe.
- C. The NPTEC has authorized the Tribe to operate Class III gaming on the Tribe's Indian Lands within the State of Idaho through the 1995 Class III Gaming Compact (amended in 1998 and 2002) between the Nez Perce Tribe and the State of Idaho.
- D. The NPTEC has authorized Idaho State Lottery Terminals to be placed on the Tribe's Indian Lands 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.
- E. The NPTEC shall enact rules and regulations regarding the Licensing of Class III Games, which shall be consistent with the provisions of IGRA and the laws of the Tribe.

Section 6.20.012 Gaming Prohibited

All Gaming on the Tribe's Indian Lands not authorized by this Gaming Ordinance is unlawful and prohibited.

PART III. GAMING OPERATIONS

Section 6.20.013 General Gaming Operation Requirements

- A. Each Gaming Employee and Primary Management Official, prior to beginning work, shall be required to be Licensed as provided for in this Gaming Ordinance by the Gaming Commission and shall be required to apply to the Gaming Commission for a determination that they:
 - 1. have not been convicted of a felony or an offense related to gambling, fraud, misrepresentation, deception, or drugs for the past ten (10) years;
 - 2. have no prior activities, reputation, habits, or associations affecting their present conduct that would pose a threat to the effective regulation and control of Gaming or that would enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gaming; and
 - 3. have no present interest in the conduct of any Gaming business.
- B. Gaming Commission determinations made in accordance with § 6-20-013(A) shall be confidential unless otherwise required for purposes of the Nez Perce Tribal Enterprises Human Resources Manual, the Nez Perce Tribe's Human Resources Manual, or the requirements of law or regulation.
- C. Gaming Commission members are subject to periodic background investigations, at the discretion of the NPTEC and by the NPTEC, based on any findings brought to the attention of the NPTEC by the internal auditor or background investigator.
- D. Prospective Gaming Employees and Management Contractors shall follow the application procedure for Licenses described in this Gaming Ordinance. No Gaming Employee may accept any gift or thing of value from a contractor, including from any Vendor.
- E. In addition to any provisions of the Nez Perce Tribal Enterprises Human Resources Manual or the Nez Perce Tribe's Human Resources Manual that may be applicable, any Gaming Employee or Gaming Operation shall be required to comply with the provisions of this Gaming Ordinance, the provisions of their contract or terms of employment with the Tribe, if any, and the provisions of applicable federal and state law.
- F. Gaming Operations or Gaming Employees shall provide to the Gaming Commission required reports, audits, and the results of any contract for service or supplies at least quarterly or sooner if required.
- G. Gaming Operations and Gaming Employees shall deposit the proceeds of the Gaming Operation in accordance with applicable federal law and the Nez Perce Tribal Code.


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

- H. Gaming Operations and Gaming Employees may request the assistance of the Gaming Commission in obtaining training or instruction for the benefit of a Gaming Operation.
- I. The Gaming Commission may require that any Gaming Operation or Gaming Employee be bonded for a particular amount. Nez Perce Tribal Enterprises will pay for the bonds of the Tribe's Gaming Employees.
- J. The Gaming Commission may recommend to the NPTEC that a particular type of Gaming be operated through a Management Contract. The Management Contract must comply with applicable federal law. The Gaming Commission shall require that the proposed Management Contractor comply with the requirements for Licenses under this Gaming Ordinance. The NPTEC has the sole authority to approve Management Contracts. Any entity that enters into a Management Contract with a Gaming Operation shall be required to submit to a determination as required in § 6-20-013(A).
- K. All Gaming Operations are subject to monitoring and inspection by the Gaming Commission or agents of the Gaming Commission.
- L. The Gaming Commission shall issue regulations, which will control:
 - 1. the possession of firearms in Gaming Facilities.
 - a. the Gaming Commission shall prohibit firearms and weapons of any kind within Gaming Facilities, except when carried by armored car personnel and on-duty law enforcement officers.
 - 2. the security requirements for the Gaming Operations;
 - 3. the posting of rules of play; and
 - 4. rules for the conduct of Gaming, should the Gaming Commission deem that such rules are necessary for the proper conduct of Gaming.
- M. 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 such changes take effect.
- N. The Gaming Commission may charge Licensing fees, to be set by the Gaming Commission, to cover the expenses it incurs investigating and Licensing applicants, but the Gaming Commission may not charge a fee more than that approved by the NPTEC for each application for License renewal.
- O. Members of the Gaming Commission and its employees are prohibited from participating in any Class II or III Gaming subject to the Gaming Commission's regulation and oversight.

Section 6.20.014 Inspection of Premises

- A. Gaming Facilities shall be subject to inspection and audit at any reasonable time by the Gaming Commission or the Gaming Commission’s agents.
- B. The Gaming Commission shall be provided, at such reasonable intervals as the Gaming Commission shall determine, with a report under oath detailing all receipts and disbursements in connection with regulated Gaming Operations together with such other reasonable information as required to determine whether the Gaming Operation is complying with this Gaming Ordinance and other applicable laws or regulations.

Section 6.20.015 Penalties for Violations

- A. The Gaming Commission may subject any person or Gaming Operation who violates provisions of this Gaming Ordinance, commits acts of fraud or deceit, or engages in professional gambling to one or more of the following:
 - 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; and/or
 - 4. the revocation of License.
- B. The Gaming Commission may refer violations under this Gaming Ordinance to the Tribal Prosecutor for possible civil or criminal prosecution in conformance with the Nez Perce Tribal Code.

Section 6.20.016 Exclusion of Individuals from Gaming

- A. Any person may be excluded from a Gaming Facility on the Tribe’s Indian Lands for good cause at any time at the discretion of the Gaming Operation. Good cause may include but is not limited to:
 - 1. a person appears to be violating rules or regulations governing Gaming as established by this Gaming Ordinance, the Gaming Commission, the Gaming Operation, or applicable Tribe, federal, or state law;
 - 2. a person, by virtue of their condition or activities, disturbs the peaceful participation of other individuals in Gaming or disrupts the orderly conduct of Gaming;
 - 3. a person, either intentionally or negligently, causes injury or harm to any patron or Gaming Employee or threatens to do so; or
 - 4. a person possesses any illegal narcotics or controlled substances.
- B. A Gaming Operation or its agents may make reasonable inquiries of individuals in the course of determining whether any of the activities defined listed above are occurring.

- C. A Gaming Operation or its agents who exclude any 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 by a Gaming Operation pursuant to this section may pursue the dispute resolution process contained in §6-20-017.

Section 6.20.017 Non-Licensing Dispute Resolution Process

- A. The Gaming Commission is authorized to adjudicate disputes that may arise by the Gaming public.
- B. Any person having a dispute with a Gaming Operation may request that the Gaming Operation’s Gaming manager resolve the dispute. If dissatisfied with the result, the person may request a hearing with the Gaming Commission. Such a hearing shall be held within thirty (30) 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) days of the hearing.

PART IV. INDIVIDUAL LICENSES

Section 6.20.018 Applications for Key Employee and Primary Management Official Positions

- A. Applications for Key Employee and Primary Management Official positions shall be submitted to the Gaming Commission for Licensing and background investigations.
- B. The following notice shall be placed on the Gaming Commission’s License application form for a Key Employee or a 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 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 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 being unable to license you for a Primary Management Official or Key Employee position.

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. The following additional notice shall be placed on the application form for a Key Employee or Primary Management Official before 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 revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, Title 18, Section 1001).

- D. Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:
1. complete a new application form that contains the Privacy Act notices provided in § 6-20-018(B) and (C); or
 2. sign a statement that contains the Privacy Act notices provided in § 6-20-018(B) and (C) and consent to the routine uses described in that notice.

Section 6.20.019 Background Investigations

- A. The Gaming Commission shall perform a background investigation for each prospective or current Primary Management Official and Key Employee in a Gaming Operation sufficient to make an eligibility determination under § 6-20-021. The background investigation shall include the following:
1. a check of criminal history records information maintained by the Federal Bureau of Investigations;
 2. the Gaming Commission shall request from each prospective or current Primary Management Official and Key Employee all of the following information:
 - a. full name, other names used (oral or written), social security number, birth date, place of birth, citizenship, gender, and all languages (spoken and/or written);
 - b. 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;
 - c. 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 listed above under § 6-20-019(A)(2)(b);
 - d. current business and residence telephone numbers and all cell phone numbers;


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

- e. a description of any existing and previous business relationships with other tribes, including ownership interests in those businesses;
 - f. a description of any existing and previous business relationships with the Gaming industry generally, including ownership interests in those businesses;
 - g. 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;
 - h. for each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved and the date of disposition, if any;
 - i. for each misdemeanor for which there is an ongoing 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 involved and the date of disposition, if any;
 - j. for each criminal charge (excluding minor traffic violations), whether or not there 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 § 6-20-019(A)(2)(h) or § 6-20-019(A)(2)(i) of this section, the criminal charge, the name and address of the court involved, and the date of disposition, if any;
 - k. 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;
 - l. a photograph;
 - m. any other information the Tribe deems relevant; and
 - n. fingerprints obtained in accordance with procedures adopted by the Tribe; the law enforcement agency designated to take fingerprints is the Tribe's Police Department.
3. Nez Perce Tribal Enterprises Human Resources shall provide a written statement to the 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; and
 4. Nez Perce Tribal Enterprises Human Resources 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 and new position and shall be sent to the Gaming Commission within one (1) week of the employee action.

- B. The Gaming Commission shall provide the results of all background investigations in an investigation report. Background investigation reports shall include the following information:
 - 1. steps taken in conducting the background investigation;
 - 2. results obtained;
 - 3. conclusions reached; and
 - 4. the basis for those conclusions.
- C. Unless extraordinary circumstances apply, the Gaming Commission shall require, for a tri annual background investigation of an employee already issued a License, information regarding only the previous License term.

Section 6.20.020 Procedures for Background Investigations

- A. A background investigator shall not conduct the background investigation for a 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 or sought by a particular License applicant; or
 - 2. the background investigator is considered a "close relative" of a License applicant, as defined in the Nez Perce Tribal Enterprises Human Resources Manual.
- B. The background investigator 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, 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 all potential problem areas noted and disqualifying information obtained.
- C. The background investigator shall use the employment and personal reference checks conducted by Nez Perce Tribal Enterprises Human Resources.

- D. The Gaming Commission and its background investigators shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.
- E. The Gaming Commission shall send to the NIGC the names and fingerprint cards for those Licensees or applicants who require a Federal Bureau of Investigations criminal background check, with the appropriate funds to cover the costs of such inquiry. Completed fingerprint cards will be returned to the Gaming Commission and placed in the applicant's confidential background file.
- F. Information obtained from NIGC as a result of Federal Bureau of Investigations criminal background checks shall be reviewed only by the Gaming Commission and the background investigator. No further dissemination of this information is authorized; and, in fact, the Gaming Commission is subject to the restrictions set forth in a Tribe's Memorandum of Understanding with NIGC dated September 9, 2021.

Section 6.20.021 Eligibility Determination

Before a License is issued to a Primary Management Official or Key Employee, the Gaming Commission shall make a finding, 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 Federal Bureau of Investigations fingerprint check.

Section 6.20.022 Notice of Results

- A. Before issuing a three (3)-year permanent License to a Primary Management Official or Key Employee, the Gaming Commission shall prepare a Notice of Results of the applicant's background investigation to submit to the NIGC. The Notice of Results shall include the following information:
 - 1. the applicant's name, date of birth, and social security number (if available);
 - 2. the date on which the applicant began, or will begin, working as a Primary Management Official or Key Employee;
 - 3. a summary of the information presented in the investigation report, including:
 - a. licenses, whether issued by the Gaming Commission or another entity, that have previously been denied;
 - b. licenses, whether issued by the Gaming Commission or another entity, that have been revoked, even if subsequently reinstated;
 - c. every known criminal charge brought against the applicant within the last ten (10) years of the date of the application; and

- d. every felony offense of which the applicant has been convicted or any ongoing felony prosecution.
4. a copy of the eligibility determination made in accordance with this section.
- B. The Notice of Results must be submitted to the NIGC no later than sixty (60) days after the applicant begins working. A response from NIGC shall be requested by the Gaming Commission within thirty (30) days of receipt of the Gaming Commission's Notice of Results.

Section 6.20.023 Issuing and Revoking Primary Management Official and Key Employee Licenses

- A. The Gaming Commission is authorized to issue and revoke ninety (90)-day temporary Licenses, three (3)-year permanent Licenses, and conditional Licenses not to exceed one (1) year.
 1. Gaming Commission members are authorized to sign issued Licenses; and
 2. the Gaming Commission may revoke a ninety (90)-day temporary License, a three (3)-year permanent License, or a conditional License not to exceed one (1) year at any time.
 - a. all revocations are subject to the appeal process set forth in §6-20-025; and
 - b. when the Gaming Commission revokes a previously issued three (3)-year permanent License or conditional License, it shall notify the NIGC and 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.
- B. All Primary Management Officials and Key Employees of a Gaming Operation must have a valid License issued by the Gaming Commission prior to beginning work.
- C. Issuing ninety (90)-day temporary Licenses:
 1. the Gaming Commission may issue a ninety (90)-day temporary License for a Gaming Operation or Gaming Employee based on a Nez Perce Tribal Enterprises Human Resources review and approval of a completed employee application.
 - a. the Gaming Commission Director has the authority to sign ninety (90)-day temporary Licenses on behalf of Gaming Commission members, if Gaming Commission members are not available and only after efforts are made and documented to locate them; and


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

- b. Gaming Operations shall not employ an individual in a Primary Management Official or Key Employee position after ninety (90) days of beginning work at the Gaming Operation who does not have a three (3)-year permanent License or a conditional License not to exceed one (1) year.
- D. Issuing three (3)-year permanent Licenses and conditional Licenses not to exceed one (1) year:
- 1. before issuing a three (3)-year permanent License or a conditional License not to exceed one (1) year to a Primary Management Official or Key Employee applicant, the Gaming Commission must submit a Notice of Results, in accordance with §6-20-022, to NIGC. A Notice of Results must be submitted to NIGC no later than sixty (60) days after the applicant begins work.
 - 2. Gaming Commission actions based on NIGC's response to a Notice of Results:
 - a. objections made by NIGC prior to the Gaming Commission issuing a three (3)-year permanent License or conditional License not to exceed one (1) year:
 - i. if the Gaming Commission receives from NIGC a statement of itemized objections to the issuance of a License within thirty (30) days of NIGC receiving the Gaming Commission's Notice of Results for the applicant, the Gaming Commission must reconsider the License application for a Primary Management Official or Key Employee, taking into account the objections itemized by the NIGC; or
 - ii. if the Gaming Commission receives from NIGC a request for additional information within thirty (30) days of NIGC receiving the Gaming Commission's Notice of Results for the applicant, the Gaming Commission shall respond to the request. Such a request from NIGC shall suspend the thirty (30) day period under the preceding paragraph, §6-20-023(D)(2)(a)(i), until the Chairman of NIGC receives the additional information from the Gaming Commission.
 - b. objections made by NIGC after the Gaming Commission has issued a three (3)-year permanent License or conditional License not to exceed one (1) year:
 - i. if, after the Gaming Commission has issued a License to a Primary Management Official or Key Employee, the NIGC notifies that Tribe that it has received reliable information indicating that the Licensee is not eligible for

employment, in accordance with 25 C.F.R. § 558.4 and 25 C.F.R. § 556.5, the Gaming Commission shall immediately, upon receipt of such notification, suspend such License and provide the Licensee with written notice of the suspension and its proposed revocation of the License. The Gaming Commission shall then follow the procedures set out in §6-20-025.

- E. Issuing conditional Licenses not to exceed one (1) year:
 - 1. the Gaming Commission may issue a conditional License not to exceed one (1) year when an applicant does not meet the standards required of Licensees outlined in the Nez Perce Tribal Code, this Gaming Ordinance, a Compact, or the regulations promulgated by the Gaming Commission; and
 - 2. conditional Licenses not to exceed one (1) year are not renewable.
- F. Renewing three (3)-year permanent Licenses:
 - 1. the Gaming Commission shall renew a three (3)-year permanent License following a satisfactory criminal background investigation for the preceding License period. Only when extraordinary circumstances warrant an additional background investigation shall the Gaming Commission's background investigation inquire into an applicant's activities earlier than the previous License period. This section does not relieve a Licensee of the obligation and responsibility of providing required updated information to the background investigator, such as:
 - a. criminal charges, convictions; and
 - b. status changes, new addresses.
- G. The Gaming Commission shall notify NIGC within thirty (30) days of the issuance of a three (3)-year permanent License, renewal of a three (3)-year permanent License, or issuance of a conditional License not to exceed one (1) year.

Section 6.20.024 Denying Primary Management Official and Key Employee Gaming Licenses

- A. The Gaming Commission is authorized to deny ninety (90)-day temporary Licenses, three (3)-year permanent Licenses, and conditional Licenses not to exceed one (1) year.
- B. The Gaming Commission shall not License a Primary Management Official or Key Employee if the Gaming Commission 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.
- C. When the Gaming Commission does not issue or denies a three (3)-year permanent License or a conditional License not to exceed one (1) year to an applicant for a Primary Management Official or Key Employee position it shall:
1. notify the NIGC;
 2. notify the applicant; and
 3. 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.

Section 6.20.025 Notice and Appeal of Decisions of the Nez Perce Tribal Gaming Commission

- A. This section applies to all Vendor Licenses and Gaming Facility Licenses the Gaming Commission has denied or revoked and all individual Licenses the Gaming Commission has denied, suspended and proposed for revocation under 25 C.F.R. § 558.4 and 25 C.F.R. § 556.5, or revoked.
- B. If the Gaming Commission denies a License, suspends and proposes revocation of a License previously granted, or revokes a License previously granted, the Gaming Commission shall do so in writing, outlining the reasons for such decision, and deliver such written notice to the person.
- C. If the Gaming Commission denies or revokes a License, the License applicant or former Licensee has five (5) days from the date they receive the Gaming Commission's notice of denial or revocation to submit a written request for a hearing before the Gaming Commission. If the License applicant or former Licensee requests a hearing before the Gaming Commission within the five (5)-day period, the Gaming Commission shall notify the Licensee in writing of a time and place for a hearing on the denial or revocation of the License.
- D. If the Gaming Commission proposed revocation of a License based on notice from NIGC that the Licensee is not eligible for employment, in accordance with 25 C.F.R. § 558.4 and 25 C.F.R. § 556.5, the Gaming Commission shall automatically schedule a hearing and notify the Licensee in writing of the time and place for the hearing on the proposed License revocation.
- E. The Gaming Commission shall schedule hearings as soon as practicable.
- F. The Gaming Commission shall provide to all persons for whom a hearing has been scheduled, upon their written request, full disclosure of all information and evidence that forms the basis for the hearing.


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

- G. The Gaming Commission shall provide a copy of the Gaming Commission's hearing procedures to all persons for whom a hearing has been scheduled.
- H. Both the Gaming Commission and the person whose License application, License, or former License are at issue in the hearing may submit evidence.
- I. After a hearing, the Gaming Commission shall decide in writing whether to issue, revoke, or reinstate the License at issue. The Gaming Commission shall notify the Licensee by certified mail, return receipt requested, of their decision within fourteen (14) days following the hearing.
 - 1. The Gaming Commission shall notify the NIGC of its decision revoke or reinstate a License proposed for revocation within forty-five (45) days of receiving notification from the NIGC, in accordance with 25 C.F.R. § 558.4 and 25 C.F.R. § 556.5, that the Licensee is not eligible for employment.
- J. If the License applicant, Licensee, or former Licensee does not receive written notice of a Gaming Commission decision by certified mail, return receipt requested, within fourteen (14) days of the revocation hearing, the person may immediately file notice in the Nez Perce Tribal Court for an order requiring the Gaming Commission to issue a 90-day temporary License to work pending a rehearing on the matter.
- K. If the License applicant, Licensee, or former Licensee is dissatisfied with the decision issued by the Gaming Commission, they may appeal the Gaming Commission's decision to the Nez Perce Tribal Court within thirty (30) days of the Gaming Commission's written decision. Their appeal to the Nez Perce Tribal Court shall be only on the hearing record and shall not be heard de novo. If Nez Perce Tribal Court finds that the order of the Gaming Commission was issued arbitrarily and capriciously, clearly erroneously, in violation of the Tribe's Constitution or the constitutional rights of Indians (25 U.S.C. §§ 1301 1303), made upon unlawful procedure, or there was some other clear error of law, the Court shall vacate the same and remand. Otherwise, the decision of the Gaming Commission shall be upheld. If the former Licensee is dissatisfied with the decision issued by the Nez Perce Tribal Court, they may appeal to the Nez Perce Court of Appeals, in accordance with the Nez Perce Tribal Code.

Section 6.20.026 Records Retention

- A. When a Primary Management Official or Key Employee is employed by the Tribe, a complete application file, containing all the information listed in section §6-20-019(A), shall be maintained by the Gaming Commission.
- B. 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. applications for Licensing;
2. investigation reports; and
3. eligibility determinations.

PART V. GAMING FACILITY LICENSES

Section 6.20.027 Licenses for Gaming Facilities

- A. The Gaming Commission shall issue a separate Gaming Facility License to each place, facility, or location on the Tribe's Indian Lands where Class II or Class III Gaming is conducted under this Gaming Ordinance.
- 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 the Tribe's Indian Lands where Class II or Class III Gaming will occur.
 1. The notice must contain the following:
 - a. a legal description of the property;
 - b. the tract number for the property as assigned by the Bureau of Indian Affairs, Land Title Records Offices, if any;
 - c. if not maintained by the Bureau of Indian Affairs, a copy of the trust or other deed(s) to the property or an explanation as to why such documentation does not exist; and
 - d. if not maintained by the Bureau of Indian Affairs, Department of the Interior, documentation of property ownership.
- C. The Gaming Commission does not need to submit to the NIGC Chair a notice that a Facility License is under consideration for issuance for occasional charitable events lasting not more than one week.
- D. The Gaming Commission may request an expedited review of sixty (60) days and the NIGC Chair shall respond to the Tribe's request, either granting or denying the expedited review, within thirty (30) days.
- E. The Gaming Commission shall only issue a Gaming Facility License if the application includes the required information and documentation and sufficiently satisfies any additional conditions deemed necessary by the Tribe.
- F. Gaming Commission members are authorized to sign issued Licenses.
- G. 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.
- H. The Gaming Commission may revoke a Gaming Facility License at any time.

- I. The Gaming Commission shall notify the NIGC Chair within thirty (30) days if a Gaming Facility License is revoked or expires or if a Gaming Facility closes or reopens.
- J. All denials and revocations of Gaming Facility Licenses are subject to the appeal process set forth in §6-20-025.

PART VI. VENDOR LICENSES

Section 6.20.028 Licenses for Vendors

- A. Vendors of Gaming services or supplies, with a value of \$25,000 or more annually, must have a Vendor License from the Gaming Commission to transact business with a Gaming Operation. Contracts for professional legal and accounting services are excluded from this section.
- B. Gaming Commission members are authorized to sign issued Vendor Licenses.
- C. The Gaming Commission may revoke a Vendor License at any time.
- D. All denials and revocations of Vendor Licenses are subject to the appeal process set forth in §6-20-025.

Section 6.20.029 Submission of a Vendor License Application

To obtain a Vendor License, the business must complete a Vendor application and submit to background investigations of itself and its principles. Principles of a business include those officers, directors, managers, owners, and non-institutional stockholders that either own 10% or more of the business' stock or are the 10 largest stockholders, as well as the on-site supervisors or managers designated in an agreement with the Tribe, if applicable.

Section 6.20.030 Contents of the Vendor License Application

- A. Applications for Vendor Licenses must include the following:
 - 1. name of business;
 - 2. any other names used by the applicant in business;
 - 3. business address;
 - 4. main office address (if different from business address);
 - 5. business phone number(s);
 - 6. federal tax identification number (or social security number if sole proprietorship);
 - 7. type of services applicant will provide;
 - 8. whether applicant is a partnership, corporation, limited liability company, sole proprietorship, or other entity;


NEZ PERCE TRIBE REVISED CODES
As Amended through Resolution NP 23-482 (September 26, 2023)

9. if the applicant is a corporation, the state of incorporation, and the applicant's qualification to do business in the state of the Gaming Operation, if the Gaming Operation is in a different state than the corporation's state of incorporation;
 10. trade name, other names ever used and names of any wholly-owned subsidiaries or other businesses owned by the Vendor or its principals;
 11. general description of the business and its activities;
 12. whether the applicant will be investing in, or loaning money to, the Gaming Operation, and, if so, how much;
 13. description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
 14. a list of Indian tribes with which the Vendor has an existing or previous business relationship, including ownership, financial, or management interests in any non-Gaming activity;
 15. names, address, and telephone numbers or three (3) business references with whom the company has regularly done business for the past five (5) years;
 16. the name and address of any licensing or regulatory agency with which the business has filed an application for a license or permit related to Gaming, whether or not such license or permit was granted;
 17. if the business has ever had a license revoked for any reason and the circumstances involved;
 18. a list of lawsuits to which the business has been a defendant, including the name and address of the court involved, and the date and disposition, if any;
 19. a list of the business' funding sources and liabilities of \$50,000 or more;
 20. a list of the principals of the business, their social security numbers, addresses, telephone numbers, titles, and percentage of ownership in the company; and
 21. any further information the Tribe deems relevant.
- B. The following notice shall be placed on the application form for a Vendor and its principals:
- Inclusion of false or misleading information in the Vendor application may be grounds for denial or revocation of the Tribe's Vendor License.*
- C. A Vendor may submit to the Gaming Commission a copy of a recent license application to another jurisdiction if it contains the information listed above.

The Vendor will be required to submit, in writing, any changes in the information contained in the other license application as well as any additional information requested by the Tribe.

Section 6.20.031 Vendor Background Investigations

- A. The Gaming Commission shall employ, or otherwise engage, an investigator to complete a background investigation of a Vendor. This background investigation shall include, at minimum, the following steps:
1. verification of the Vendor business' incorporation status and qualifications to do business in the state where the Gaming Operation is located;
 2. obtaining a business credit report, if available, and conducting a Better Business Bureau check of the Vendor;
 3. conducting a check of the Vendor business' credit history;
 4. calling and questioning each of the references listed in the Vendor application; and
 5. investigating the principals of the Vendor's business, including facilitating a criminal history check, obtaining criminal history check results, obtaining a credit report, and interviewing the personal references listed.

Section 6.20.032 Vendor Background Investigation Reports

The investigator shall complete a background investigation report covering each of the steps taken in the background investigation of the Vendor and the Vendor's principals and shall present the background investigation report to the Gaming Commission.

Section 6.20.033 Vendors Licensed By Recognized Regulatory Authorities

The Gaming Commission may adopt regulations authorizing exemptions to the Vendor Licensing process for Vendors who have received licenses from specific licensing authorities recognized, and named, by the Gaming Commission.

Section 6.20.034 Compliance with Federal Law

The Tribe shall comply with all applicable federal laws, including the Bank Security Act, 31 U.S.C. § 5311 *et. seq.*

**CHAPTER 6-3
FIREWORKS ORDINANCE**

§6-3-1 Title

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

§6-3-2 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.

§6-3-3 Jurisdiction

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

§6-3-4 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)

§6-3-5 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.

§6-3-6 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.

§6-3-7 Right to Deny Permit

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

§6-3-8 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)

§6-3-9 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.

§6-3-10 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.

§6-3-11 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.

§6-3-12 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.

§6-3-13 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.

§6-3-14 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.

§6-3-15 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.

§6-3-16 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.

§6-3-17 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.

§6-3-18 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.

§6-3-19 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.

§6-3-20 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.

§6-3-21 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)

§6-3-22 Repeal

This ordinance repeals prior ordinances concerning fireworks.

§6-3-23 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.

§6-3-24 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.

§6-3-25 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.

§6-3-26 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.

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)

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.

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.

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 54 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

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.

**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.

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.

CHAPTER 6-10
ELECTION ORDINANCE
(adopted 12/28/04, implemented 7/12/05)(Amended 12/22/2020 NP 21-098)

§6-10-1 Definitions

(a) "Absentee Voter" A participant in a tribal election who is unable to appear at the polls in person on Election Day.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (f) "Tribe" means Nez Perce Tribe.

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

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

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

§6-10-3 Qualifications for Office

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

§6-10-4 Filing for Office

- (a) On January 15, the Election Judges shall give public notice and shall make available the candidacy forms through the NPTEC Executive Assistant of the three regular NPTEC positions to be elected and any special NPTEC positions created by vacancies. Any candidacy forms received prior to January 15 shall be ineligible. (amended 3/14/06)
- (b) Candidates must file their completed candidacy forms with the NPTEC Executive Assistant between January 15 and 4:30 pm on February 15. Any candidacy forms received after February 15 shall be ineligible. No nominations will be taken on the floor of the General Council or at any other time AFTER February 15. (amended 3/14/06)
- (c) No person may be a candidate for more than one position during any election.
- (d) A valid candidacy form properly filed and subsequently approved by the Election Judges is necessary for a candidate's name to be placed on the ballot.
- (e) The candidacy form shall contain: 1) name of the candidate; 2) candidate's address and enrollment number; 3) the position the candidate is seeking; and 4) verification that the person is eligible.
- (f) The candidacy form shall be as follows: (the candidacy form is attached at the back of this chapter).

§6-10-5 Certification of Candidates

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

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

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

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

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

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

§6-10-6 Notice of Election

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

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

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

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

§6-10-7 Absentee Voting.

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

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

(c) Absentee Voting Request.

(1) All voters requesting absentee ballots must complete the absentee ballot request form with a completed notarization and return it by mail, in person to the General

Council post office box, in care of the Election Judges at least thirty (30) working days before a Primary, Special, or General Election.

(d) The Election Judges shall

- (1) indicate on the Tribal Sign-In Sheet of Registered Voters at each Polling Place those voters who requested Absentee Ballots.
- (2) mail to the Absentee Voter an envelope containing an official ballot, and an inner and outer envelope as described herein.
- (3) maintain a log of all Absentee Voting Requests, together with a record of the names and addresses to whom absentee voting ballots are mailed, including the date of receipt of the returned absentee voting ballot.

(e) The Absentee Voter shall:

- (1) mark and place the ballot in the inner envelope provided by the Election Judges, which shall be marked "ABSENTEE VOTER."
- (2) enclose the inner envelope in the outer envelope and after sealing same, shall execute the following statement marked thereon:

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

Signed:_____."

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

Nez Perce Election Judges
c/o General Council
P. O. Box 1050
Lapwai, ID 83540

(g) All absentee voting envelopes with ballots enclosed must be returned by mail, in person and be received at least one day prior of the Election Day.

(h) The absentee voting envelopes received at least one day prior to Election Day, shall be date stamped and verified by the Election Judges and placed in a locked "Absentee" ballot box provided and maintained by the Election Judges. Envelopes may only be opened by Election Judges.

(i) At the time the polls close on Election Day, the Election Judges shall retrieve the locked “absentee” ballot box escorted by Law Enforcement to the polling place where the ballots will be counted.

(j) Any absentee ballots received after the day prior to Election Day will be marked INVALID by the Election Judges.

§6-10-8 Polling Places and Times

(a) The designated polling places for all Elections shall be the Tribal Community Buildings in Kamiah, Orofino, and Lapwai.

(b) If one of the Tribal community buildings is unavailable, the Election Judges will designate an alternate public building that is not a private home or business.

(c) The polling places shall open at 7:00 am (Pacific Standard Time (PST)) on each Primary Election Day and they shall be closed by 6:00 pm (PST). (amended 4/3/08)

(d) The polling places shall open at 7:00 am (PST) on each General Council Election Day and they shall be closed by 3:00 pm (PST). (added 4/3/08)

(e) Qualified voters may vote at any of the three locations regardless of actual county of residence or may vote through the absentee voting process. Each voter shall represent that they have not voted at any other location. Voters requesting an absentee ballot will be ineligible to vote at any polling location. Voting more than once shall be considered a violation of the Nez Perce Tribal Code.

§6-10-9 Terms of Office

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

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

§6-10-10 Ballots

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

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

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

§6-10-11 Ballot Boxes

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

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

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

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

§6-10-12 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.

§6-10-13 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)

§6-10-14 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.

§6-10-15 Voting Procedures

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

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

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

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

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

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

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

(h) There is no proxy voting.

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

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

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

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

§6-10-16 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 that are not sealed in an inner envelope in the case of absentee ballots, or do not have the official stamp, must be marked "ILLEGAL" and signed by two (2) Election Judges.

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

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

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

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

§6-10-17 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.

§6-10-18 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.

§6-10-19 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.

§6-10-20 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).

§6-10-21 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.

§6-10-22 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: _____

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.

§6-12-1 *Section Reserved*

CHAPTER 6-13
HEMP REGULATORY CODE
(Chapter adopted by NPTEC 4/12/22, NP 21-186 AMENDED)

PART 1. GENERAL PROVISIONS

§6-13-1 Short Title

This document shall be cited as the “Hemp Regulatory Code.”

§6-13-2 Findings and Purpose

The Nez Perce Tribe (Tribe) hereby finds and declares that:

(a) Article VIII, Section 1, Subsection B of the Nez Perce Tribe Constitution authorizes the Nez Perce Tribal Executive Committee (NPTEC), as the governing body of the Tribe, to engage in business activities which promote the economic well-being and advancement of the Tribe and its members.

(b) Industrial Hemp is a valuable agricultural crop and commodity with many traditional and healing properties. Hemp is a strain of Cannabis that has grown naturally in North America. It predates the foundation of the United States of America and continues to grow in the wild. Hemp was historically utilized for a variety of products and functions including paper, cloth, and rope, but its uses have greatly expanded, in more recent times.

(c) The cultivation of Hemp was a staple of American agriculture until it was outlawed through state law, the Marijuana Tax Act in the 1930’s, and the Controlled Substances Act of 1970, 21 U.S.C. § 801 et seq. (“Controlled Substances Act”), because Hemp is derived from the same Cannabis plant as Marijuana.

(d) Prior to the 2018 amendments to the Controlled Substances Act, contained in the Agriculture Improvement Act of 2018 (the “2018 Farm Bill”), the Controlled Substances Act classified Hemp as a Schedule I drug and prohibited any possession or use of Hemp except in the course of federally approved research projects. The Controlled Substances Act also made it unlawful for any person to cultivate, manufacture, distribute, dispense, or possess (with intent to manufacture) Hemp.

(e) The 2018 Farm Bill also amended the Agricultural Marketing Act of 1946 (7 U.S.C. § 1621 et seq.) by adding Subtitle G entitled “Hemp Production,” which now allows the Tribe’s controlled cultivation of Hemp in accordance with that Act, and a Tribal Hemp Plan approved by the Secretary of Agriculture.

(f) The Tribe has decided to open specific lands within its jurisdiction to the cultivation, Processing, and distribution of Hemp by ratifying this Plan and submitting it to the United States Department of Agriculture (USDA) for approval.

§6-13-3 Scope and Authority

(a) The Nez Perce Tribe shall have rulemaking, regulatory and taxing authority over the commerce of, including but not limited to the growth, cultivation, processing, marketing, production, and sale, of hemp and hemp products within its territorial boundaries by any persons.

(b) Nothing in this Hemp Regulatory Code (Code) or in the license process indicates any guarantee by the Tribe or NPTEC regarding the economic viability of any specific seed, growing method, or hemp product.

(c) The regulations and penalties imposed by this Code extend to any person within the Tribe's Jurisdiction, whether Licensed or not.

(d) Nothing in this Code shall be construed to limit the jurisdiction of the Nez Perce Tribe, Tribal Court, or the Tribal Police.

§6-13-4 Industrial Hemp as an Agriculture Crop

Hemp (also referred to as Industrial Hemp) that has no more than 0.3 percent Total Tetrahydrocannabinol (THC) is considered an agriculture crop on the Nez Perce Reservation. The Nez Perce Tribe hereby authorizes the possession, cultivation, transportation, production and use of Industrial Hemp and Hemp products within the territory of the Tribe, when those activities are licensed by the Tribe and conducted in full compliance with the requirements of this Code and applicable law.

§6-13-5 Jurisdiction

(a) Territories of the Nez Perce Tribe. For purposes of the Hemp Regulatory Code, the Territories of the Nez Perce Tribe includes all lands within the exterior boundaries of the Nez Perce Reservation; all Nez Perce Tribe allotments, located both on and off the Nez Perce Reservation that still possess an Indian title; and, any lands, both on and off the Nez Perce Reservation, title to which is either held in trust by the United States for the benefit of the Nez Perce Tribe, or its members, which remain subject to restriction against alienation and over which the Nez Perce Tribe exercises jurisdiction. The Tribe shall also have jurisdiction over E-commerce transactions emanating from or to the jurisdiction of the Nez Perce Tribe.

(b) Consensual relations among non-Indians, the Nez Perce Tribe, and enrolled members of the Nez Perce Tribe or any other federally-recognized tribe. Any person who uses land anywhere within the exterior boundaries of the Tribe and any person who enters into agreements or understandings with the Tribe or its members and residents by commercial dealings, contracts, leases, licenses, permits, intergovernmental agreements, or other arrangements, commercial or otherwise, shall be deemed to have entered into a consensual relationship with the Nez Perce Tribe or its members subject to the regulatory and adjudicatory jurisdiction of the Nez Perce Tribe.

§6-13-6 Sovereign Immunity

Nothing in this Code shall be construed to waive, alter, or otherwise diminish the Nez Perce Tribe's Sovereign Immunity, whether expressed or implied, by virtue of this Code for any and all administrative or legal action which may arise directly or indirectly from the same; nor does the Nez Perce Tribe waive, alter, or otherwise diminish its rights, privileges, remedies, or services guaranteed by the Treaty of 1855.

§6-13-7 Exemption from Prosecution for Certain Acts

No employee or Key Participant of a Licensed Hemp Business or Licensed Producer or Processor shall be subject to prosecution or civil penalty in the Tribal Court for the cultivation, production, or distribution of Hemp when acting in accordance with the requirements of this Code and applicable Tribal and federal law.

§6-13-8 Compliance with Federal Law

Nothing in this Code authorizes any Person to violate any Federal law or regulation.

§6-13-9 Savings Clause

In the event that any phrase, provision, part, paragraph, subsection, or section of this Code is found by a court of competent jurisdiction to violate the Constitution or laws of the Tribe or any federal law, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and be deleted from this Code. The entirety of the balance of this Code shall remain in full and binding force and effect.

§6-13-10 *Section Reserved*

§6-13-11 Definitions

Within this Hemp Regulatory Code, the following definitions apply:

(a) **Acceptable Hemp THC Level** *means* when a laboratory tests a sample, it must report the Total Delta-9 Tetrahydrocannabinol (THC) content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level for the purpose of compliance with the requirements of this hemp plan is when the application of the measurement of uncertainty to the reported Total Delta-9 Tetrahydrocannabinol content concentration level on a Dry Weight Basis produces a distribution or range that includes 0.3% or less. For example, if the reported Total Delta-9 Tetrahydrocannabinol content concentration level on a Dry Weight Basis is 0.35% and the Measurement of Uncertainty is +/-0.06%, the measured Delta-9 Tetrahydrocannabinol content concentration level on a Dry Weight Basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the Acceptable Hemp THC Level for the purpose of plan compliance. This definition of "Acceptable Hemp THC Level" affects neither the federal statutory definition of hemp, 7 U.S.C.

§1639o(1), in the 2018 Farm Bill nor the definition of “marihuana,” 21 U.S.C. § 802(16), in the Controlled Substances Act.

(b) **Agriculture Office** *means* the Nez Perce Tribal office, program, agency, commission, or department responsible for the oversight and implementation of the Hemp Regulatory Code as designated by the NPTEC.

(c) **AMS** *means* the Agricultural Marketing Service (AMS) under the U.S. Department of Agriculture (USDA), which administers programs that create domestic and international marketing opportunities for U.S. producers of food, fiber, and specialty crops.

(d) **Applicant** *means* a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the Nez Perce Tribe Hemp Program.

(e) **Cannabis** *means* a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis refers to any form of the plant in which the Delta-9 Tetrahydrocannabinol concentration on a Dry Weight Basis has not been determined.

(f) **Commercial Sales** *means* the sale of a product in the stream of commerce at retail or at wholesale, including sales on the Internet.

(g) **Consumable Product** *means* a Hemp Product intended for human or animal consumption.

(h) **Cultivate** *means* to plant, water, grow, or harvest a plant or crop.

(i) **DEA** *means* the United States Drug Enforcement Administration.

(j) **Decarboxylated** *means* the completion of the chemical reaction that converts THC-acid into Delta-9 Tetrahydrocannabinol. The decarboxylated value is also calculated using a conversion formula that sums Delta-9 Tetrahydrocannabinol and eighty-seven and seven-tenths (87.7) percent of THC-acid.

(k) **Delta-9 Tetrahydrocannabinol** or **THC** *means* delta-9- tetrahydrocannabinol concentration (the primary intoxicating component of Cannabis). For purposes of this Plan, Delta-9 Tetrahydrocannabinol and THC are interchangeable.

(l) **Disposal** *means* destroying non-compliant Hemp using one of the approved on-farm methods. Approved methods include plowing under, mulching / composting, disking, bush mowing, deep burial, and burning the non-compliant Hemp.

(m) **Dry Weight Basis** *means* the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. In the case of Cannabis, a percentage of THC on a Dry Weight Basis means the percentage of THC, by weight in a Cannabis item (plant, extract or other derivative) after excluding moisture from the item.

(n) **FSA** means the Farm Service Agency (FSA), which is an agency under the U.S. Department of Agriculture (USDA) that serves all farmers, ranchers and agricultural partners through the delivery of effective, efficient agricultural programs.

(o) **GPS** means global positioning system.

(p) **Grow Site** has the same meaning as **Registered Land Area** as that term is defined in this Section, below.

(q) **Harvest Lot** means a quantity of Hemp, of the same Variety, harvested in a distinct timeframe that is: (1) Cultivated in one contiguous production area within a Grow Site; or (2) Cultivated in a portion or portions of one contiguous production area within a Grow Site. Harvest Lot does not include a quantity of Hemp comprised of Hemp grown in noncontiguous production areas.

(r) **Harvest Lot Identifier** means a unique identifier used by the Nez Perce Tribe to identify the Harvest Lot.

(s) **Hemp** means the plant *Cannabis sativa* L., and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with a THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, or as otherwise defined in Federal law.

(t) **Hemp Crop** means one (1) or more unprocessed Hemp plants or plant parts.

(u) **Hemp eManagement Platform (H.eM.P.)** means USDA's secure online system for USDA producers, states, tribes, testing laboratories, and sampling agents that will be used to manage and submit hemp information and mandatory reporting to USDA, replacing the need to submit via email, mail, or fax.

(v) **Hemp Ingredient** means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers of any part of the Hemp plant included in the definition of "Hemp."

(w) **Hemp Processor** means any person processing, manufacturing, extracting, or producing Hemp Products.

(x) **Hemp Producer** means any person growing, cultivating, handling or harvesting hemp, hemp crops, hemp seeds, or hem propagules on the Nez Perce Reservation, and who is licensed by the Agriculture Office to Cultivate or Handle Hemp on the Nez Perce Reservation.

(y) **Hemp Product** means a finished product with an Acceptable Hemp THC Level, that is derived from, or made by, processing a Hemp Crop, and that is prepared in a form available for commercial sale. The term includes, but is not limited to cosmetics, personal care products, Consumable Products, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more Hemp Ingredients such as cannabidiol.

(z) **Hemp Program** *means* the cannabis regulatory framework established under this Code with respect to Hemp.

(aa) **Hemp Seller** *means* any person marketing, distributing, or selling, wholesale or retail, hemp or hemp-based products.

(bb) **Industrial Hemp** *has the same meaning* as **Hemp** as that term is defined in this Section, above.

(cc) **Institution of Higher Education** *has the meaning* assigned to it by 20 U.S.C. § 1001.

(dd) **Intended for Consumption** *means* intended for a human or animal to ingest, inhale, topically apply to the skin or hair, or otherwise absorb into the body.

(ee) **Key Participant** *means* a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation, limited liability company or any other corporate entity. This definition does not include a member of NPTEC who is acting in their official capacity as a Tribal leader except when that member exercises managerial control over Hemp production. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

(ff) **License** *means* a permit issued by the Nez Perce Tribe to an individual or business to grow, process, manufacture, distribute or transport hemp or hemp-based products. A valid license means that the license is unexpired, unsuspended, and unrevoked.

(gg) **Licensee** *has the same meaning* as **Hemp Producer** as that term is defined in this Section, above.

(hh) **Measurement of Uncertainty** or **MU** *means* the parameter, associated with the results of a measurement that characterizes the dispersion of the valued that could reasonably be attributed to the particular quantity subject to measurement.

(ii) **NPTEC** *means* the duly elected Nez Perce Tribal Executive Committee, which is the governing body of the Nez Perce Tribe.

(jj) **Person** *means* a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, as well as the Nez Perce Tribe or a local government entity.

(kk) **Process** *means* to convert any portion of a Hemp Crop into a Hemp Ingredient, Hemp Product, or other marketable form.

(ll) **Registered Land Area** means a contiguous lot, parcel, or tract of land registered with the Nez Perce Tribe on which a Licensee Cultivates Hemp. A Registered Land Area may include land and buildings that are not used to Cultivate Hemp.

(mm) **Remediation** means any process by which non-compliant Hemp is rendered compliant. Remediation can be achieved by separating and destroying non-compliant flowers while retaining stalks, leaves, and seeds; or by shredding the entire hemp plant to create a homogenous “biomass.” Regardless of the form of Remediation used, the remediated Hemp must then be retested for THC compliance.

(nn) **THC** means Tetrahydrocannabinol (the primary psychoactive component of Cannabis) and has the same meaning as **Delta-9 THC**, measured post-decarboxylation. For purposes of this Plan, Delta-9 THC and THC are interchangeable.

(oo) **THCA** means Tetrahydrocannabinolic acid.

(pp) **Total THC** means the value determined after the process of decarboxylation, that expresses the potential total Delta-9 Tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. This post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, such as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The total THC can also be calculated by using a liquid chromatograph technique, which keeps the THCA intact. This technique requires the use of the following conversion: $[\text{Total THC} = (0.877 \times \text{THCA}) + \text{THC}]$ which calculates the potential total THC in a given sample.

(qq) **Variety** means a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition.

PART II. OVERSIGHT, AUTHORITY, AND THE AGRICULTURE OFFICE

§6-13-12 Nez Perce Tribe Hemp Program

(a) Persons desiring to Cultivate Hemp must obtain a license from the Tribe prior to engaging in such activity.

(b) Persons seeking to Cultivate Hemp shall provide to the Agriculture Office the legal description and GPS coordinates sufficient for locating the Registered Land Area and each field, greenhouse, or structure where the Person Cultivates Hemp, or intends to Cultivate Hemp.

(c) Notwithstanding any rule or regulation to the contrary, the inclusion of Hemp as an ingredient in a Consumable Product shall not by itself render the product misbranded or adulterated.

§6-13-13 Agriculture Office

The Nez Perce Tribe’s Agriculture Office shall have the complete and full authority necessary to fulfill its responsibilities under this Code, including but not limited to licensing, inspection, sampling, testing, regulation, fee scheduling, taxation, and enforcement.

§6-13-14 Section Reserved

PART III. HEMP LICENSING

§6-13-15 General – Annual Hemp License Required

Any person who would like to grow, cultivate, process, manufacture, produce, extract, market, distribute, or sell Hemp (including seeds and propagules) and Hemp Products within, or emanating from, the Nez Perce Tribe shall complete a license application, annually, prior to any hemp activity. The Agriculture Office may choose to tailor licenses differently for Hemp Producers, Hemp Processors, and Hemp Sellers.

§6-13-16 License Applications

(a) LICENSE APPLICATION. The Applicant shall submit a signed, complete, accurate and legible application form provided by the Agriculture Office at least thirty (30) days prior to planting that includes the following information:

- (1) CONTACT INFORMATION. Full name, residential address, telephone number, and email address;
- (2) BUSINESS ENTITY. If the Applicant represents a business entity, the full legal entity name of the business, the principal business location address on the Nez Perce Reservation, full name and title of the Key Participants, Employer Identification Number (EIN) of the business entity; the full name of the Applicant who will have signing authority on behalf of the entity, title, and an email address of the Person with signing authority;
- (3) BACKGROUND CHECK. A completed criminal background check report, which includes a national search, for the Applicant on a form determined by the Agriculture Office demonstrating that the Applicant does not have any disqualifying felony drug convictions pursuant to Section 6.13.23 of this Code;
 - (A) Each Applicant is required to submit fingerprints to the Nez Perce Tribal Police Department or other law enforcement agency designated by the Agriculture Office, to obtain a current criminal history check, proof of which must be submitted as an attachment to the application for licensure.

- (B) Applicants must also submit a notarized attestation that the Applicant does not have any felony conviction relating to a controlled substance under state, tribal, or federal law for the previous ten (10) years as required by the 2018 Farm Bill, unless the Applicant was already licensed as a Hemp Producer in this Tribe prior to December 20, 2018.
 - (C) The Agriculture Office shall review the criminal history report for each Applicant to determine whether the felony ban applies.
 - (D) When an Applicant is a business entity, the Applicant shall submit, and the Agriculture Office shall review a criminal history report for each Key Participant in the business.
 - (E) Any Applicant or Licensee must report any felony conviction relating to controlled substances under state, Tribal, or Federal law to the Agriculture Office within five (5) business days of receiving notice of such conviction;
 - (F) Application fees shall not cover or include the cost of the criminal background checks.
- (4) FEE. An application fee as set by the Tribe's Agriculture Office;
 - (5) GROW SITE REGISTRATION APPLICATION. As set forth below;
 - (6) ACKNOWLEDGMENT. An acknowledgment of the licensing terms and conditions as detailed below; and
 - (7) OTHER. Any other information or disclosure required to be submitted by Federal regulation.

§6-13-17 Grow Site Registration Application

As a component of the Hemp Producer license application, each Applicant shall submit a Grow Site registration application on a form provided by the Agriculture Office for each proposed Registered Land Area in which the Applicant intends to Cultivate Hemp. Information submitted to the Agriculture Office must include, at a minimum:

- (a) The street address and legal description of each field, greenhouse, building, or site where Hemp will be Cultivated;
- (b) If Hemp is Cultivated or is intended to be Cultivated in a field:
 - (1) The GPS coordinates provided in decimal of degrees and taken at the approximate center of the Grow Site;

- (2) The number of square feet or acres of each Grow Site; and
 - (3) A map of the production area showing clear boundaries of the Grow Site.
- (c) If Hemp is Cultivated or is intended to be Cultivated in a greenhouse or other building:
- (1) The GPS coordinates provided in decimal of degrees and taken at the approximate entrance of the greenhouse or other building composing the Grow Site;
 - (2) The approximate dimension or square feet of the greenhouse or other building composing the Grow Site; and
 - (3) A map of the production area showing clear boundaries of the Grow Site.
- (d) The Agriculture Office may approve an Applicant to Cultivate an acreage or square footage that is equal to, greater than, or less than the acreage or square footage stated in the Grow Site registration application.
- (e) Applicants must have the legal right to produce Hemp on the Registered Land Area and the legal authority to grant the Agriculture Office access for inspection and sampling.

§6-13-18 Terms and Conditions Acknowledgment

By submitting an application, the Applicant acknowledges and agrees to the following minimum terms and conditions:

- (a) Any information provided to the Agriculture Office may be provided to law enforcement agencies without further notice to the Applicant;
- (b) The Applicant or Licensee shall allow and fully cooperate with any inspection and sampling that the Agriculture Office deems necessary;
- (c) The Applicant or Licensee shall pay for any inspection and laboratory analysis costs that the Agriculture Office deems necessary within thirty (30) days of the date of the invoice, provided that the Licensee shall not be required to pay for more than one (1) Agriculture Office inspection and associated laboratory analysis costs per year for each Lot. Combining Lots is not permitted;
- (d) The Applicant or Licensee shall submit all required reports by the applicable due date specified by the Agriculture Office;
- (e) Applicants shall submit fingerprints and pay criminal background check fees directly to the Nez Perce Tribal Police or other law enforcement agency designated by the Tribe to obtain a criminal history background check report; and

(f) The Applicant or Licensee must report any felony convictions relating to controlled substances under state or federal law to the Agriculture Office within five (5) business days of receiving notice of such conviction.

§6-13-19 License Term

All licenses issued shall be valid for one (1) year from date of issuance, unless otherwise extended, or revoked at an earlier date pursuant to Section 6.13.21 below or other Agriculture Office issued rule. License numbers issued by the Agriculture Office will be in the format prescribed by the USDA.

§6-13-20 Annual Renewal

Current and valid licenses may be renewed annually or as otherwise determined by the Agriculture Office by submitting a renewal application on a form provided by the Agriculture Office no later than thirty (30) days prior to the date of the license expiration. Renewal licenses shall be subject to a Background Check as detailed above in Section 6.13.16(A)(3).

§6-13-21 Ineligible for a Hemp License

(a) RESTRICTIONS. Unless otherwise provided under this Code, the following individuals shall be ineligible for a License under this Code:

- (1) Any Person who is not an enrolled member of the Nez Perce Tribe or a resident who lives within the territorial jurisdiction of the Nez Perce Tribe;
- (2) Any Person under the age of 18 years;
- (3) Any Person convicted of a felony relating to a controlled substance under tribal, state, or federal law shall be ineligible, during the ten (10) year period following the date of such felony conviction.
- (4) Any Person who materially falsifies any information contained in their Hemp license application.
- (5) Any Person that Negligently violates the Industrial Hemp law or regulations three (3) times in a five (5) year period shall be ineligible to participate in the Nez Perce Tribe Hemp Program for a period of five (5) years beginning on the date of the third violation.

(b) ENTITIES/EMPLOYEES. Licensees cannot have primary employees or partners, including Key Participants and individuals with executive managerial control, within their Hemp production who are convicted of a felony, relating to a controlled substance, within the past ten (10) years from the date of the application of a License, under tribal, state, or federal law.

§6-13-22 *Section Reserved*

§6-13-23 **Revocation of a License**

The License of a Hemp Producer shall be immediately revoked in the event that a Licensee (Hemp Producer):

- (a) Pleads guilty to, or is convicted of, any felony related to a controlled substance;
- (b) Makes any materially false statement with regard to the provisions of this Code to the Agriculture Office;
- (c) Commits any act of ineligibility within this Code; or
- (d) Is found to be growing Cannabis exceeding the Acceptable Hemp THC Level with a Culpable Mental State Greater Than Negligence.

§6-13-24 **Appeal of Denial of License**

The Nez Perce Tribe Agriculture Office shall develop and make public a process to hear and decide appeals of denials and revocation of licenses.

§6-13-25 **Fees**

- (a) Each Applicant shall pay the application fee set by the Agriculture Office when submitting a Hemp Producer license application.
- (b) The Agriculture Office may set and collect additional fees, including license, renewal, and testing fees, in amounts that are reasonable and necessary to cover the costs of administering and enforcing the Nez Perce Tribe Hemp Program.
- (c) Application fees shall not cover or include the cost of obtaining and submitting a criminal background check report.

§6-13-26 **Compliance and Enforcement**

- (a) Licenses cannot be assigned or transferred to another Person, unless first approved by the Agriculture Office in writing. Any transfer of License shall also be reported to the USDA and local FSA office.
- (b) Hemp Producers shall provide the Agriculture Office's inspector complete and unrestricted access to all plants, parts, and seeds within a Registered Land Area, whether growing or harvested, and all land, buildings and other structures used for the Cultivation of Hemp, and all documents and records pertaining to the Licensee's Hemp business.

(c) It is unlawful to transfer or sell Hemp or Hemp Products that exceed the Acceptable Hemp THC Level.

§6-13-27 *Section Reserved*

§6-13-28 *Section Reserved*

§6-13-29 *Section Reserved*

PART IV. REGISTERED LAND AREA CONTROLS

§6-13-30 **Land Use Restrictions and Site Modification**

(a) A Licensee shall not Cultivate Hemp on any site not listed in a valid Agriculture Office approved Grow Site registration.

(b) Any Licensee that wishes to alter its Registered Land Area shall, before altering the Registered Land Area, submit to the Agriculture Office an updated legal description, GPS location, and map specifying the proposed alterations on a form determined by the Agriculture Office.

(c) No modifications to the Registered Land Area may be made without prior written approval from the Agriculture Office.

(d) No Registered Land Area may be included in more than one (1) Grow Site registration at the same time, and no Hemp plant shall be included in more than one (1) Grow Site registration simultaneously.

§6-13-31 **Location; Restrictions**

(a) Any establishments which sell retail CBD products shall not be within 100 feet of a school or other location primarily populated by minors.

(b) Licensees shall ensure Hemp grows are completely segregated from any other crops.

(c) A Licensee shall not allow unsupervised access to Hemp Grow Sites and manufacturing facilities.

(d) A Licensee cannot employ or partner with any Person, within their Hemp business, convicted of a felony related to a controlled substance under tribal, state, or federal law, or who would otherwise be ineligible from participating in the Nez Perce Tribal Hemp Program in accordance with this Code.

§6-13-32 *Section Reserved*

§6-13-33 *Section Reserved*

§6-13-34 *Section Reserved*

PART V. TRANSPORTATION

§6-13-35 **Transportation**

(a) The Licensee or other Person responsible for the transportation of a Hemp Crop must ensure that the following documentation accompanies the Hemp at all times during transport:

- (1) A copy of the Tribe’s Hemp Producer license that corresponds to the Registered Land Area from which the Hemp originated;
- (2) A copy of the pre-harvest test results that correspond to the Harvest Lot in transit as identified by the Harvest Lot Identifier that accompanies the Hemp;
- (3) Destination Information; and
- (4) Any other documentation that may be required by the Agriculture Office or the USDA.

(b) The 2018 Farm Bill and accompanying committee report language explicitly prohibits state and tribal governments from interfering with the interstate transportation of hemp and hemp products. The Tribe shall provide reciprocity to other state and tribal licenses and testing certifications for Hemp and Hemp Products being transported through the Nez Perce Reservation. Any person who possesses Hemp or Hemp Products which will stay within the Nez Perce Reservation must apply for a Nez Perce Tribe license.

§6-13-36 *Section Reserved*

§6-13-37 *Section Reserved*

§6-13-38 *Section Reserved*

§6-13-39 *Section Reserved*

PART VI. RECORDS AND REPORTS

§6-13-40 Agriculture Office Reports

(a) The Nez Perce Tribe's Agriculture Office requires annual harvest, contact information, and disposal reports of Licensees, which may include information on: seed variety; field location; legal description of the land on which the Licensee will grow, produce, or handle Hemp (including, to the extent practicable, geospatial location) agricultural techniques; production and sales; end use of product; contact information including full name, telephone number, license identifier, business address or principal business location address, federal employer identification number (to the extent applicable), title, and email address (if available) of Licensee or each Key Participant of a Licensee; disposal records of any non-conforming plants or plant material disposed of in accordance with Section 6.13.56 below, including the name and address of the Licensee, Licensee license number, location information for the lot subject to disposal, information on the disposal agent, date that such disposal was completed, and the total acreage disposed; annual information including total acreage of hemp planted, total harvested acreage, and, if applicable, total acreage disposed; and any other report information deemed necessary by the Agriculture Office to which the Licensee has consented in the license application.

(b) To the extent required, the Agriculture Office will report and share any such information to the USDA's Agricultural Marketing Service (AMS) through the online Hemp eManagement System (H.eM.P.), including pursuant to 7 C.F.R. § 990.3(a)(9), in order to support the information sharing requirements in 7 U.S.C. § 1639q(d).

§6-13-41 Retention

The Agriculture Office shall maintain information on hemp licenses, license applications, reports provided to USDA under Section 6.13.43 below, and other relevant information regarding the Registered Land Area on every approved site which Hemp is produced, including a legal description of the land, for a period of not less than three (3) calendar years.

§6-13-42 Privacy Protections

Except as required by USDA reporting and to law enforcement, the Agriculture Office shall remove the following from any collected information: all personally identifiable information including name; physical address; drivers' licenses; social security numbers; GPS coordinates; telephone numbers; email address. Such information shall be shielded by the Agriculture Office to the maximum extent permitted by law.

§6-13-43 Reporting to the USDA

(a) Tribal Monthly USDA Producer and Disposal Report: On the first of each month, the Agricultural Office will submit to the USDA a report, in the format compatible with USDA's Hemp eManagement Platform (H.eM.P.), containing the following:

(1) The time period covered by the report;

- (2) If applicable, an indication that there were no changes during the time period;
- (3) Contact information for each Hemp Producer;
- (4) A legal description of each Hemp Producer's land, including to the extent practicable, geospatial location;
- (5) The acreage or indoor square footage dedicated to the production of Hemp for each Hemp Producer;
- (6) The license number for each Hemp Producer;
- (7) The status or status change and number of each Hemp Producer's License, including previously reported information and new information;
- (8) If there have been any disposals that month, the report must also include:
 - (A) Name and address of the Hemp Producer;
 - (B) Hemp Producer License number;
 - (C) Location information (such as lot number, location type, and if practicable geospatial location) for the production area subject to disposal;
 - (D) Testing results;
 - (E) Information on the agent who handled the disposal;
 - (F) Disposal completion date; and
 - (G) Total acreage disposed.

(b) Tribal Annual USDA Acreage Report: Annually, by December 15 of each year, the Agriculture Office shall report, in the format compatible with the USDA's Hemp eManagement Platform (H.eM.P.), to the USDA, the following:

- (1) Total planted acreage;
- (2) Total harvested acreage; and
- (3) Total acreage disposed.

(c) Hemp Producer Report to FSA: After receiving a Nez Perce Tribe Hemp License, and in addition to providing this Report to the Tribe's Agriculture Office, each Hemp Producer is

responsible for submitting the following information to the USDA's Hemp eManagement Platform (H.eM.P.), and will update the FSA and Tribe's Agriculture Office not more than thirty (30) days after the date on which the information is changed:

- (1) Street address, and to the extent practicable geospatial location, for each Harvest Lot or indoor growing facility where such producer grows Hemp. If a Hemp Producer operates in more than one location, or is producing under multiple licenses, production information shall be provided for each location;
- (2) Total acreage or indoor square footage dedicated to Hemp production;
- (3) Total acreage of Hemp planted, harvested, and disposed or remediated; and
- (4) License identifier number.

(d) Hemp Producer Test Results Report: Each Hemp Producer will work with the DEA-registered laboratory that conducts the test of sample(s) of Hemp crop collected in accordance with the Sections below under PART VII INSPECTIONS, SAMPLING AND TESTING from the Hemp Producer's lot(s) to ensure that the test results for all such sample(s) include information required under 7 C.F.R. § 990.7(d) and are reported to the USDA's Hemp eManagement Platform (H.eM.P.).

(e) Laboratory Reporting Requirements: Laboratories conducting the "final" test that will be used to determine whether a pre-harvest sample is complaint shall report all test results—whether passing or failing—to the USDA's Hemp eManagement Platform (H.eM.P.) via the "Laboratory Test Results Report."

- (1) Laboratories conducting testing for purposes of *monitoring the THC concentration throughout the growing season* are not subject to the reporting requirements. These tests throughout the growing season are for the Hemp Producer (Licensee) to monitor their production as it grows and not to comply with the pre-harvest testing requirements.

§6-13-44 Hemp Producer/Licensee Recordkeeping and Reporting

(a) Hemp Producers/Licensees must report any changes of contact information to the Agriculture Office in writing within fourteen (14) days of the change.

(b) Planting Report: Within fourteen (14) days after planting any Hemp, each Hemp Producer shall submit, on a form provided by the Agriculture Office, a Planting Report that includes the GPS coordinates and a map showing the location and actual acreage or square feet of Hemp planted.

(c) Pre-Harvest Report: At least thirty (30) days prior to harvest, each Hemp Producer shall file a Harvest Report, on a form provided by the Agriculture Office that includes:

- (1) A statement of intended disposition of its Hemp crop; and
- (2) The projected harvest date(s) and location(s) of each Variety of Hemp Cultivated within a Registered Land Area. A Hemp Producer must notify the Agriculture Office immediately of any changes in the reported harvest date(s) in excess of seven (7) days.
- (3) A Hemp Producer is not required to document the removal of male Hemp plants on a Harvest Report provided that the male Hemp plants are destroyed or utilized on the Registered Land Area prior to filing a Harvest Report for the remaining Cannabis plants.

(d) A Hemp Producer must retain all documentation of sampling and testing for at least three (3) years in a manner such that it can be readily provided to the Agriculture Office upon request.

§6-13-45 *Section Reserved*

§6-13-46 *Section Reserved*

§6-13-47 *Section Reserved*

§6-13-48 *Section Reserved*

§6-13-49 *Section Reserved*

PART VII. INSPECTIONS, SAMPLING, AND TESTING

§6-13-50 **Inspections**

(a) The Nez Perce Tribe's Agriculture Office shall conduct, at a minimum, an annual inspection of Licensees (Hemp Producers) and all Registered Land Areas (Grow Sites) to verify compliance with all requirements of the license issued and provisions of this Code.

- (1) The inspections may be without prior notice and inspection visits may be conducted at any time during regular business hours.
- (2) Inspectors and/or Sampling Agents shall be granted unrestricted access to the Registered Land Area(s) and all adjacent areas under the Licensee's control.

- (3) All samples collected by the Agriculture Office shall become the property of the Agriculture Office and no compensation shall be owed by the Agriculture Office for such samples.
- (4) The Agriculture Office shall keep test results for all Hemp and Hemp Products tested for a minimum of three (3) years.
- (5) The inspections may be of all Licensees or of a blindly-selected random sample of Licensees.

(b) The provisions set forth below in PART VIII VIOLATIONS will apply to any Licensee found to be in violation of this Code following any inspection.

§6-13-51 Lab Accreditation

(a) Compliance and safety testing for Hemp and Hemp Products required by this Code shall be conducted by independent laboratories accredited to ISO/IEC 17025, the standard published by the International Organization for Standardization (the “ISO”) titled “General requirements for the competence of testing and calibration laboratories,” or an accreditation standard approved by the USDA and Tribe. All laboratories testing hemp regulated pursuant to this Code shall be DEA-registered after December 31, 2022.

(b) Sampling and testing procedures and methods shall be conducted in accordance with the Sections below.

(c) All final test results must be certified by a DEA-registered laboratory before the Hemp or Hemp Products can enter the stream of commerce.

§6-13-52 Procedure for Sampling and Testing

(a) The Tribe will utilize the USDA Sampling Guidelines for Hemp Growing Facilities and the USDA Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol Concentration in Hemp (updated Jan. 15, 2021), each as may be amended from time to time, for purposes of establishing procedures both for effectively collecting samples and for testing the Delta-9 Tetrahydrocannabinol concentration levels of hemp produced on or sold from the Nez Perce Reservation, using post-decarboxylation.

- (1) Procedures for collecting samples from the flowering tops of plants which shall be approximately five to eight inches in length from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), or “central cola” (cut stem that could develop into a bud).

(b) Representatives of the sampling agency shall be granted complete and unrestricted access during business hours to all Hemp and other Cannabis plants and to the Registered Land Area(s), buildings and all adjacent areas under the Licensee’s control used for cultivation and/or handling.

§6-13-53 Methods for Sampling and Testing

(a) The sampling methods used under this Code must ensure that a representative sample is collected that represents a homogenous composition of the lot and must be sufficient at a confidence level of 95% that no more than 1% of plants would exceed the Acceptable Hemp THC level.

(b) The Total THC concentration level shall be determined and reported on a Dry Weight Basis, and the testing methodology shall consider the potential conversion of Delta-9 Tetrahydrocannabinol acid (THC-A) in hemp into THC and test results will measure total available THC derived from the sum of the THC and THC-A content.

(c) Permitted testing methodologies include gas or liquid chromatography with detection.

(d) The Total THC concentration level shall be determined and reported on a Dry Weight Basis.

(e) The Agriculture Office may choose to contract for such collection and testing services. A contracted Sampling Agent will be trained pursuant to USDA requirements. Information on a contracted agent will be made available to Licensees. Producers may not collect samples from their own Growing facilities.

§6-13-54 Compliance Sampling and Testing Prior to Harvest

(a) When referring to “sampling” in this Section, sampling means the process of collecting cuttings from Hemp plants for purposes of compliance testing.

(b) A Hemp Producer must arrange for and ensure the sampling of each Harvest Lot no more than thirty (30) days prior to harvest for the purpose of ensuring that the Harvest Lot does not exceed the maximum permissible THC concentration levels on a Dry Weight Basis. Producers may not collect samples from their own Growing facilities.

(c) Compliance and safety testing for Hemp and Hemp Products required under this Code shall be conducted by a DEA-registered laboratory.

(d) Representative samples collected from a Harvest Lot in accordance with this Section shall be delivered to and tested at a DEA-registered laboratory using a reliable methodology for Total Delta-9 Tetrahydrocannabinol testing. Any such analytical testing for purposes of detecting the concentration levels of THC shall comply with the standards set forth in 7 C.F.R. §§ 990.3(a)(3)(iii) and 990.25, including using procedures to adhere to standards of performance for detecting THC concentration and using a Measurement of Uncertainty.

(e) A Hemp Producer shall not remove a Harvest Lot from a Registered Land Area (i.e., Grow Site) that has not been sampled and tested for compliance in accordance with this Section.

(f) Samples of Hemp plant material from one Harvest Lot shall not be commingled with Hemp plant material from other Harvest Lots.

(g) Samples shall include the flower material from the Hemp crop for Delta-9 Tetrahydrocannabinol concentration testing purposes.

(1) Procedures for collecting samples from the flowering tops of plants which shall be approximately five to eight inches in length from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), or “central cola” (cut stem that could develop into a bud).

(h) Except for samples collected by the Agriculture Office for auditing, inspection, and performance-based purposes, all samples collected to determine compliance with these rules shall be collected by an approved tribal, state, local or federal law enforcement agency, or other tribal, state, local, or federal designated Person.

(i) During a scheduled sample collection, the Hemp Producer or an authorized representative thereof shall be present at the Grow Site.

(j) The required number and size of samples shall be determined in accordance with the USDA Sampling Guidelines for Hemp Producers, as amended from time to time.

(k) Any test of a representative sampling resulting in higher than the Acceptable Hemp THC Level shall be conclusive evidence that the Harvested Lot represented by the sample is not in compliance with this Code.

(l) Harvested Lots tested and not certified by a DEA-registered laboratory at or below the Acceptable Hemp THC Level may not be further handled, processed, or enter the stream of commerce. Cannabis containing more than the Acceptable Hemp THC Level is prohibited to be transferred or sold and must be disposed of in accordance with this Code.

(m) Nothing in this Section shall prevent a Hemp Producer from voluntarily collecting samples and testing Hemp for quality assurance and research and development purposes. The test results from voluntary tests performed by the Hemp Producer shall not be sufficient to evidence compliance with this Code.

(n) A Hemp Producer may apply to the Agriculture Office for retesting and/or resampling of any non-compliant Harvest Lot within 30 days of Harvest, which may be approved or denied at the Agriculture Office’s discretion.

§6-13-55 Post-Testing Procedures

(a) The Hemp Producer must harvest the Hemp Crop no more than thirty (30) days following the sampling of the Hemp Crop. If the Hemp Crop within a Harvest Lot is not harvested within thirty (30) days from the sampling, another pre-harvest sampling must be taken and tested.

(b) If the Hemp plants are harvested prior to the return of the test results, the Hemp plants must be kept segregated from all other Harvest Lots and may not be comingled for any purpose.

(c) Once the Hemp Crop is certified by the testing facility as Hemp, it may be sold or transferred as authorized by the Hemp Producer's License.

§6-13-56 Federal Notice Required for Non-Compliant Test Results

The Agriculture Office shall promptly notify the USDA AMS Administrator of any occurrence of Cannabis plants or plant material that do not meet the definition of Hemp and will attach disposal records demonstrating the appropriate disposal of all of those plants and materials in the Harvested Lot from which the representative samples were taken.

§6-13-57 Remediation and Disposal of Non-Compliant Plants and Hemp Products

(a) Hemp that tests higher than the Acceptable Hemp THC Level shall be remediated or disposed of by the Hemp Producer in compliance with USDA Guidance on Remediation and Disposal (issued Jan. 15, 2021) and all applicable federal, tribal, and local laws, regulations, rules, and other requirements.

(b) **REMEDICATION.** Remediation can be achieved by separating and destroying non-compliant flowers while either retaining stalks, leaves, and seeds, or, by shredding the entire Hemp plant to create a homogenous biomass. Regardless of the form of Remediation used, the remediated Hemp must be retested for THC compliance.

- (1) Separate and Remove Flowers: The remediator must remove and destroy the buds, trichomes, trim, and kief from the plants within the non-compliant Harvest Lot. The remediator may remove the non-compliant buds, trichomes, trim, and kief by hand or by the use of a mechanical device that can properly remove the noncompliant buds, trichomes, trim, and kief.
 - (A) The leftover stalks, leaves, and seeds must be separated from the noncompliant floral material and labeled clearly and demarcated as "hemp for remediation purposes."
 - (B) Seeds removed from non-compliant hemp during remediation must not be used for propagative purposes.
 - (C) Remediated stalks cannot leave the labeled and demarcated area until a test result showing compliance with the Acceptable Hemp THC Level is received or until the remediated stalks are destroyed. The resample must be taken by a Sampling Agent as described in the USDA's Sampling Guidelines and as outlined in this Code.

- (D) Any stalks that remain above the Acceptable Hemp THC Level after remediation and retesting shall be destroyed through any process outlined in this Code and the USDA Remediation and Disposal Guidelines (issued Jan.15, 2021). The Agriculture Office must verify that disposal occurred successfully.
- (2) Creation of Biomass: The entire non-compliant Harvest Lot, as reported to the USDA FSA, can be shredded to create a homogenous, uniform biomass, which can be achieved by shredding the non-compliant Harvest Lot through shredders, composters, or special mechanical equipment.
- (A) The biomass process must ensure that the non-compliant Harvest Lot is crushed, shredded, or mulched.
 - (B) The biomass created through this process shall be resampled and retested to ensure compliance before entering the stream of commerce in accordance with the Final Rule. Biomass that fails retesting is non-compliant Hemp and shall be destroyed.
 - (C) Remediated biomass must be separated from any compliant hemp stored in the area and clearly labeled and demarcated as “hemp for remediation purposes.” All Harvest Lots subject to remediation should be stored, labeled, and demarcated apart from each other and from other compliant hemp lots stored or held nearby.
 - (D) Remediated biomass cannot leave the labeled and demarcated area until a test result showing compliance with the Acceptable Hemp THC Level is received or until the biomass is destroyed.
 - (E) The resample should be taken by a Sampling Agent as described in the USDA’s Sampling Guidelines and as outlined in this Part of the Code.
 - (F) When resampling, a representative sample of the biomass should be taken for compliance purposes. The Sampling Agent must take biomass material from various depths, locations, and containers in the labeled and demarcated area to collect a representative sample of the material. At minimum, ~750 mL or three (3) standard measuring cups of biomass material should be collected. Sampling Agents may collect more biomass material based on the requirements of the testing laboratory. If ~750 mL of material is not available, the sampling agent should collect enough biomass material for a representative sample.
 - (G) An original copy of the resample test results, or a legible copy, must be retained by the Licensee or an authorized representative

and be available for inspection for a period of three (3) years from the date of receipt.

- (H) Laboratories testing a resample must use the same testing protocols as when testing a standard sample of Hemp.

(c) **DISPOSAL.** Disposal can be achieved through any process outlined in the USDA Remediation and Disposal Guidelines (issued Jan. 15, 2021). The Agriculture Office must verify that disposal occurred successfully. Disposal can be accomplished by:

- (1) Plowing a non-compliant Hemp Lot with curved plow blades that rotate subsoil to the surface and bury the crop below;
- (2) Mulching or composting field crops by cutting or blending crop with manure or other biomass material.
- (3) Disking or leveling the crop using a tow-behind disk implement to amend soil directly from the crop while leveling the field.
- (4) Commercial Bush Mower or Chopper to shred and mix vegetation to decompose into the soil.
- (5) Deep burial of crop by trenching the field and burying surface soil at a depth of twelve (12) inches.
- (6) Burning or setting fire to specific non-compliant production fields or biomatter piled on the field in order to clear all plant material.

§6-13-58 *Section Reserved*

§6-13-59 *Section Reserved*

PART VIII. HEMP LICENSE VIOLATIONS

§6-13-60 **Negligent License Violations**

(a) A Licensee or Hemp Grower has Negligently violated the Nez Perce Tribe's License requirements if they Negligently (each, a "Negligent Violation"):

- (1) Failing to provide a legal description of land on which the Hemp Producer Cultivates Hemp;
- (2) Failing to obtain a License or other required authorization from the Agriculture Office as applicable; or

(3) Producing Cannabis sativa L. with a THC concentration of more than the Acceptable Hemp THC Level.

(b) Producers shall not receive more than one negligent violation per Growing Season.

(c) Notwithstanding the provisions above, a Hemp Producer does not commit a Negligent Violation under this Section if such Hemp Producer makes reasonable efforts to grow Hemp, and the Cannabis does not have a Delta-9 Tetrahydrocannabinol concentration of more than one percent (1.0%) on a Dry Weight Basis.

(1) For the purposes of this Section, the Agriculture Office shall determine whether a Hemp Producer has taken reasonable efforts to grow Hemp.

(2) Reasonable efforts involve taking necessary steps and precautions to produce Hemp, and may include without limitation using certified seed, using other seed that has reliably grown compliant plants, or engaging in other best practices.

(d) Potential Criminal Liability.

(1) A Hemp Producer that negligently violates this Code shall not, as a result of that violation, be subject to any criminal enforcement action.

§6-13-61 Corrective Action Plan

(a) To correct a Negligent Violation, a Licensee shall be subject to a corrective action plan, which shall include:

(1) A reasonable date to correct the negligent violation;

(2) A requirement to report bi-annually to the Agriculture Office regarding their ongoing compliance for two (2) calendar years from date of the Negligent Violation; and

(3) A requirement that the Licensee/Hemp Producer shall be subject to an inspection to determine if the applicable corrective action plan has been implemented as submitted.

§6-13-62 Repeat Negligent Violations

A Hemp Producer that negligently violates this Hemp Regulatory Code three (3) times in a five (5)-year period shall be ineligible to produce Hemp for a period of five (5) years beginning on the date of the third violation.

§6-13-63 Other Violations

(a) If the Agriculture Office determines that a Licensee on the Nez Perce Reservation has violated Nez Perce Tribal Hemp laws or regulations with a Culpable Mental State Greater than Negligence, the Agriculture Office shall immediately report the Licensee to:

- (1) The United States Attorney General or his designee; and
- (2) The Nez Perce Tribal Police.

(b) The provisions set forth in the above Sections regarding Negligent Violations shall not apply to the violation in this section.

§6-13-64 Revocations, Suspensions, Penalties, and Civil Enforcement

(a) The Agriculture Office may, at its discretion, revoke or suspend any License issued under this Code, or subject a Licensee to other civil penalties for violation of Nez Perce Tribe or federal law, this Code, or other rules or regulations promulgated by the Agriculture Office.

(b) When necessary, the Agriculture Office will investigate and/or determine whether a Licensee has violated any provision of this Code. If the Agriculture Office or its agents conclude a Licensee is in violation of this Code, it will determine whether a civil citation, revocation, suspension, or enforcement action is necessary.

(c) In the event the Agriculture Office determines a civil citation, revocation, suspension, or enforcement action is necessary, the Agriculture Office shall issue a civil citation notifying the Licensee of a violation and noting which part of the Code the Licensee had been found to be in violation of and serve the citation upon the licensee by mail and email at the physical and email addresses listed on the Licensees' application filed with the Agriculture Office. The citation is deemed to be served upon the Licensee within three (3) days of mailing. The citation shall have a clearly indicated choice for the Licensee to either mark agreement with the citation or to mark disagreement and an intent to challenge the citation.

§6-13-65 Section Reserved

§6-13-66 Section Reserved

PART IX. MISCELLANEOUS

§6-13-67 Restrictions on Cannabis

No Registered Land Area or storage area may contain Cannabis plants or parts thereof that the Licensee knows or has reason to know are of a variety that will produce a plant that when tested will produce more than the Acceptable Hemp THC level on a Dry Weight Basis.

§6-13-68 *Section Reserved*

§6-13-69 **Transfer, Sale, and Purchase of Hemp**

(a) Any transfer, sale, purchase, or receipt of Hemp must be properly documented. A Licensee selling or transferring Hemp must include with the sale a copy of the test results verifying the Acceptable Hemp THC Levels and a copy of the seller's license. The Licensee selling or transferring Hemp must also record all other sale information, including date, time, prices, weight, sale or transfer location, and the buyer or receiver's License number if Licensed under a USDA approved plan or by the USDA.

(b) A Licensee purchasing or receiving Hemp must receive with the Hemp a copy of the seller's license under a USDA-approved plan or USDA license and a copy of the Hemp test results verifying the Acceptable Hemp THC Levels. The Licensee must also record all other purchase information available, such as date, time, prices, weight, and purchase location.

§6-13-70 **Other Licenses and Business Requirements**

Licensees must obtain a Nez Perce Tribe Business license and maintain all other Nez Perce Tribe or federally required business licenses and permits and pay all applicable taxes. Licensees must also comply with any Nez Perce Tribe zoning laws and any other such requirements for engaging in commerce within the Territories of the Nez Perce Tribe.

[THIS PAGE INTENTIONALLY LEFT BLANK]

PART X. APPENDICES

- USDA Sampling Guidelines for Hemp (updated January 15, 2021)
- USDA Testing Guidelines for Hemp (updated January 15, 2021)

(from <https://www.ams.usda.gov/rules-regulations/hemp>)

Sampling Guidelines for Hemp
U.S. Domestic Hemp Production Program
Issued January 15, 2021

Purpose:

1. Standard and Performance-based sampling guidelines are specified for field and indoor sampling of hemp. States and Tribes shall develop their own sampling protocols in accordance with §990.3.
2. Samples are taken to obtain specimens for the measurement of total tetrahydrocannabinol (THC) content, which determine whether the specimens are hemp or marijuana. The measurements are intended to be representative of the total THC content in a “lot” of hemp crop acreage as identified by the producer. Hemp producers may not harvest hemp prior to the hemp being sampled for THC concentration. Testing procedures are provided in a separate guidance document.

Scope:

1. Samples collected under this procedure are acceptable for submission to a qualified testing laboratory for determination of total THC concentration in hemp. After December 31, 2023, all laboratories testing hemp under the U.S. Domestic Hemp Production Program must be registered with the DEA in accordance with §990.3(a)(3)(iii)(H) and §990.25(g)(iii).
2. Since the THC content of hemp generally peaks as the plant ripens, the timing of when sampling occurs is important to accurately measure total THC concentration and monitor compliance with the USDA hemp production program. Harvest shall be completed within 30 days from sample collection.
3. Samples shall be collected only by a trained sampling agent. Sampling agents must be trained under applicable USDA, State, or Tribal training procedures. States and Tribes must maintain information, available to producers, about trained sampling agents. Hemp producers may not act as sampling agents.
4. It is the responsibility of the licensed producer to pay any fees associated with sampling.
5. It is the responsibility of the sampling agent to pay any fees associated with sampling agent training or testing.

Summary of Practice:

1. This practice provides procedures for entering a growing area and collecting the minimum number of plant specimens necessary to represent a homogeneous composition of the “lot” that is to be sampled. A trained sampling agent enters a growing area, strategically examines the growing area, establishes an approach for navigating the growing area, and collects individual specimens of plants in order to obtain a representative sample of hemp in the designated lot.

2. Cuttings from each “lot” of hemp crop acreage, as identified by the producer, and submitted to and uniquely identified by the Farm Service Agency (FSA) per the requirements of the USDA hemp production program, shall be organized as composite samples. The terminology used by FSA to denote land areas include terms like “farm,” “tract,” “field,” and “subfield,” which are equivalent to AMS’s term “lot.” For the purposes of these procedures, a “lot” is a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout. In addition, “lot” refers to the batch of contiguous, homogeneous whole of a product being sold to a single buyer at a single time. The size of the “Lot” is determined by the producer in terms of farm location and field acreage and is to be reported as such to the FSA.

Performance-Based Sampling Protocols:

1. States and Tribes may develop performance-based sampling protocols.
2. Performance-based sampling protocols may consider seed certification processes, other process that identify varieties that have consistently resulted in compliant hemp plants, whether the producer is conducting research on hemp at an institution of higher learning or that is funded by a Federal, State, or Tribal government, whether a producer has consistently produced compliant hemp plants over an extended period of time, and other similar factors.
3. Performance-based sampling protocols may consider alternative requirements for operations that grow “immature” cannabis that does not reach the flowering stage. These facilities may grow seedlings, clones, microgreens, or other non-flowering cannabis, as determined by the State or Tribe.
4. A performance-based sampling protocol must have the potential to ensure, at a confidence level of 95 percent, that the cannabis plants will not test above the acceptable hemp THC level of 0.3 percent on a dry weight basis.
5. Regardless of the specific performance-based sampling requirements developed under a State or Tribal plan, all samples must be collected from the flowering tops of the plant by cutting the top five to eight inches from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), ”or “central cola” (cut stem that could develop into a bud) of the flowering top of the plant.
6. States and Tribes are required to include performance-based sampling protocols in the plan submitted to USDA for approval if they decide to use this methodology.

Standard Sampling Protocols:

1. The standard sampling method must be used by all producers, except for producers operating under a State or Tribal plan that includes a performance-based sampling requirement.
2. The standard sampling protocol ensures, at a confidence level of 95 percent, that no more than one percent of the plants in each lot would exceed the acceptable hemp THC level and ensures that a collected sample represents a homogeneous composition of the lot.
3. Every lot and every producer must be sampled and tested.

4. All samples must be collected from the flowering tops of the plant by cutting the top five to eight inches from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), ”or “central cola” (cut stem that could develop into a bud) of the flowering top of the plant.

5. All producers licensed directly by USDA are subject to these requirements.

Equipment and Supplies:

1. Garden pruners/shears (Cleaned prior to and following each composite sample. Some examples of appropriate cleaning agents and supplies to use on garden pruners/shears are bleach, rubbing alcohol, steel wool, and/or sandpaper.)

2. Sample bags, paper.

2.1. The size of the bags will depend upon the number of clippings collected per lot.

2.2 The bags should be made from material known to be free from THC.

3. Security tape

4. Permanent markers

5. Sample collection forms

6. GPS Unit of lot being sampled

7. Disposable gloves – Nitrile

8. Ladder

Sampling Guidelines:

1. The licensee or designated employee should be present throughout the sampling process, if possible.

2. Surveillance of the growing area.

2.1. The sampling agent should estimate the average height, appearance, approximate density, condition of the plants, and degree of maturity of the inflorescences (flowers/buds).

2.2. The sampling agent should visually establish the homogeneity of the stand to establish that the growing area is of like variety.

3. Time of Sampling:

3.1. Within 30 days prior to the anticipated harvest of a designated hemp lot, an approved sampling agent, State or Tribally designated person or Federal, State, local, or Tribal law enforcement agency shall collect representative samples from such cannabis plants for THC concentration level testing.

4. Field Sampling:

4.1. The licensee or designated employee should accompany the sampling agent throughout the sampling process, if possible.

5. Surveillance of the growing area.

5.1 The sampling agent should verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee to USDA.

5.2 The sampling agent should estimate the average height, appearance, approximate density, condition of the plants, and degree of maturity of the inflorescences (flowers/buds).

5.3 The sampling agent should visually establish the homogeneity of the stand to establish that the growing area is of like variety.

6. Time of Sampling:

6.1 Within 30 days prior to the anticipated harvest of a lot a sampling agent should collect representative samples from such a lot for THC concentration level testing.

7. Field Sampling:

7.1 For purposes of determining the number of individual plants to select for sampling, the size of the growing area should be considered. For sampling purposes, samples from separate lots must be kept separate and not be comingled.

7.2 For lots of less than one acre, including greenhouses, select a minimum of 1 plant, then take a cutting from the plant to form a sample. For lots of 1 to 10 acres, including greenhouses, follow the chart in example 2 below, take cuttings of each plant, then combine to form a composite sample.

7.3 For growing areas larger than ten (10) acres, including greenhouses, the number of plants that should be selected to form a composite sample is based upon the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL 33-1999.

7.4 The sample size is estimated in a two-step process. The first step is to estimate the number of primary plants to be sampled. The second step is to adjust the estimate of primary plants by the acreage under cultivation.

The initial number of primary plants is estimated using:

$$n_o = \frac{\ln(1-p)}{\ln(1-i)}$$

where p is the confidence level to detect hemp plants testing above the acceptable THC threshold and i is the proportion of hemp plants having THC content above the acceptable threshold. The values for i are based on past experience in the same or similar growing areas, and should be consistent with the requirements currently in the Final Rule.

The initial primary plants estimate is adjusted by the number of acres to calculate the minimum number of primary plants as follows:

$$n = \frac{n_o}{1 + \frac{(n_o - 1)}{N}}$$

where n is the minimum number of primary plants to be selected for forming a composite sample, n_o is the initial number of primary plants estimated using the previous formula, and N is the number of acres under cultivation.

Examples 1 and 2 below describe the minimum number of samples that must be collected in order to meet the 95% confidence level requirements in the Final Rule. If a State or Tribal hemp program does not have data from a prior growing season to determine the i value, the sampling charts below may be utilized. State and Tribal hemp programs are free to include more rigorous sampling requirements, or to develop performance based requirements.

Example 1: The initial primary plant sample size is 299 with a confidence level of 95% to detect hemp plants having an acceptable hemp THC level and a proportion of hemp plants having THC content above the acceptable threshold equal to 0.01 is considered appropriate. The adjusted primary plant sample sizes for fields from 11 to 173 acres in size are shown in the following table:

Number of acres	Sample Size	Number of acres	Sample Size	Number of acres	Sample Size	Number of acres	Sample Size
11	11	40	36	75-76	61	119-120	86
12	12	41-42	37	77	62	121-122	87
13	13	43	38	78-79	63	123-124	88
14	14	44	39	80-81	64	125-126	89
15	15	45-46	40	82	65	127-128	90
16	16	47	41	83-84	66	129-130	91
17	17	48	42	85-86	67	131-132	92
18-19	18	49-50	43	87	68	133-134	93
20	19	51	44	88-89	69	135-136	94
21	20	52	45	90-91	70	137-138	95
22	21	53-54	46	92	71	139-140	96
23	22	55	47	93-94	72	141-143	97
24	23	56	48	95-96	73	144-145	98
25-26	24	57-58	49	97-98	74	146-147	99
27	25	59	50	99	75	148-149	100
28	26	60-61	51	100-101	76	150-152	101
29	27	62	52	102-103	77	153-154	102
30	28	63-64	53	104-105	78	155-156	103
31-32	29	65	54	106-107	79	157-157	104
33	30	66-67	55	108	80	159-161	105
34	31	68	56	109-110	81	162-163	106
35	32	69-70	57	111-112	82	164-166	107
36	33	71	58	113-114	83	167-168	108
37-38	34	72-73	59	115-116	84	169-170	109
39	35	74	60	117-118	85	171-173	110

Example 2: The adjusted primary plant sample sizes for fields from less than 1 to 10 acres in size are shown in the following table:

Number of acres	Sample Size
Less than 1	1
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10

7.5 Sampling agents should always walk at right angles to the rows of plants if possible, beginning at one point of the lot and walking towards another point on the opposite side of the lot. If the lot is too dense for this to be possible, the sampling agent should take all reasonable steps to ensure that a sample is collected that represents a homogeneous composition of the lot by avoiding edges and thoroughfares.

7.6 While walking through the growing area, the sampling agent should cut at least “n” inflorescences (the flower or bud of a plant) based on the acreage of the growing area, at random but convenient distances. Avoid collecting sample specimens from the borders of the field/greenhouse.

7.7 The cut should be obtained from the flowering tops of plants when flowering tops are present, and shall be approximately five to eight inches in length from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), or “central cola” (cut stem that develops into a bud) of the flowering top of the plant.



7.8. Utilize paper sample bag(s) for collecting sample cuttings. Ensure that each bag has the minimum number of cuttings, n , as calculated by 7.4, or in the Example Tables 1 and 2. If one bag cannot accommodate the minimum number of cuttings due to lot size, the sample may be divided into multiple bags, but must be clearly labeled in such a way that each bag is appropriately matched with the corresponding lot. (i.e. For lot 101 with three corresponding sample bags: 101 1 of 3, 101 2 of 3, 101 3 of 3.)

7.9. Seal each bag and record the sample number or other documentation as required by the State or Tribe.

7.10 A sampling protocol must have the potential to ensure, at a confidence level of 95 percent, that the cannabis plants will not test above the acceptable hemp THC level of 0.3 percent on a dry weight basis.

8. Sample identification:

8.1 The sampling agent should seal each bag and record the sample identification number. The sample should also be identified with the following information: Sampling agent contact information; name and contact information of the producer; producer hemp license or authorization number; date of sample; and lot, subfield, or other identifier as provided by the USDA Farm Service Agency; any other information that may be required by States, Tribes, Law Enforcement Authorities, mail delivery services, Customers or groups of customers.

Note: In accordance with 7 CFR 1.901(e), the contents of this document does not have the force and effect of law and are not meant to bind the public in any way, and the document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Laboratory Testing Guidelines
U.S. Domestic Hemp Production Program
Issued January 15, 2021

Purpose:

1. Standard testing procedures are specified for samples taken in accordance with the Sampling Procedures for the USDA Hemp Production Program to measure the total delta-9 tetrahydrocannabinol (THC) concentration levels of samples on a dry weight basis.
2. The results are intended to measure the total THC concentration of composite hemp samples collected from a “lot” of hemp crop acreage designated by a hemp producer and as reported to USDA as required under the USDA Hemp Production Program. The purpose of the measurements is to determine whether the total THC concentration of the tested material is within the acceptable hemp THC level.

Scope:

1. Hemp grown under a USDA, State, or Tribal hemp production plan is subject to sampling and compliance testing for THC concentration. Certain producers, including research institutions and facilities growing immature plants may have different testing requirements depending on the applicable State or Tribal plan and regulations.
2. Tests shall measure the total THC concentration in a sample submitted to a laboratory for analysis. The laboratory will perform chemical analysis on the sample using post-decarboxylation or other similarly reliable methods where the total THC concentration level considers the potential to convert delta-9-tetrahydrocannabinolic acid (THCA) into THC.
3. The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis.
4. Laboratories shall calculate and include the Measurement of Uncertainty (MU) when they report THC concentration test results. “Measurement of uncertainty” is defined as “the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.” USDA does not establish or standardize an upper or lower boundary for general use by laboratories to calculate a measurement of uncertainty. MU is typically not standardized, but rather is controlled using test methods controlled by performance standards (e.g., AOAC Standard Method Performance Requirements 2019.003 that can be found at <https://www.aoac.org/resources/smpr-2019003/>).
5. Hemp testing laboratories are not required to be ISO accredited, although USDA strongly encourages adherence to the ISO 17025 standard.
6. It is the responsibility of the licensed producer to pay any fees associated with testing or retesting.

Summary of Practice:

1. As required under USDA Hemp Production Program regulations, laboratories that analyze hemp to determine total delta-9 tetrahydrocannabinol THC should meet the following standards:

1.1. Laboratory quality assurance protocols must ensure the validity and reliability of test results;

1.2. Analytical method selection, validation, and verification protocols must ensure that the testing method used is appropriate (fit for purpose) and that the laboratory can successfully perform the testing;

1.3. Protocols for demonstrating testing validity must ensure consistent, accurate analytical performance;

1.4. Method performance specifications must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part; and

1.5. Testing protocols must include an effective disposal procedure, in accordance with USDA guidelines, for non-compliant samples that do not meet the requirements of this part.

1.6. Measurement of uncertainty (MU) must be estimated and reported with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

1.7. Sample preparation of pre- or post-harvest sample shall require grinding of the sample to ensure homogeneity of plant material prior to testing.

1.8 At a minimum, analytical testing of samples for total delta-9 tetrahydrocannabinol concentration levels must use post-decarboxylation or other similarly reliable methods approved by the Secretary in writing. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC), and the test result must reflect the total available THC derived from the sum of the THC and THCA content. Current testing methodologies meeting these requirements include gas chromatography and liquid chromatography. Other methods may be approved if they meet the regulatory requirements.

1.9 The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis.

2. Laboratories should create an internal SOP specific to testing and retesting hemp and should have the SOP available upon request for inspection. If Sampling Agents are employed,

contracted or utilized by a laboratory, the laboratory shall meet all training requirements under the USDA, State, or Tribal hemp production program.

3. After December 31, 2022, laboratories approved for THC testing must also be registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.

4. In order to provide flexibility to States and Tribes in administering their own hemp production programs, alternative testing protocols will be considered, if they are comparable and similarly reliable to the baseline mandated by section 297B(a)(2)(ii) of the Agricultural Marketing Act of 1946 and established under the USDA plan and procedures. Approval for alternative testing protocols must be requested of USDA in writing and approved in writing by USDA, provided they meet the requirements of this guidance.

General Guidelines:

General Sample Preparation and Testing Procedures should be conducted as follows:

1. Laboratory receives sample.
2. Dry sample to remove the majority of water.
3. Grind entire sample including leaves, seeds, twigs, and stems.
4. Separate sample into “Test” and “Retain” specimens.
5. Package and store the “Retain” specimen(s) until needed.
6. Analyze the “Test” specimen.
7. Determine moisture content or dry to a consistent weight.
8. Perform chemical analysis.
9. Calculate total THC concentration on a dry weight basis. Test results should be reported on a dry weight basis.

Sample Preparation Guidelines:

Samples should be prepared for testing as follows:

1. Once the composite sample is received by the laboratory, the laboratory should dry the composite sample until brittle in a manner that maintains the THC level of sample.

2. If it is not possible to dry the composite sample within 24 hours from the time of sample arrival, the sample should be held in a freezer at approximate -20°C or lower until the sample is dried.

3. After the initial drying step, the laboratory should grind the entire sample including leaves, seeds, twigs, and stems using centrifugal rotor mill or other method as appropriate. All samples received should be ground, regardless of whether they consist of the initial intact material or “remediated” (shredded or blended) material, as allowed under USDA regulations.

4. The laboratory should create both a “Test Specimen” and a “Retain Specimen for reanalysis and/or confirmation as needed.” One sample part should be selected for analysis and labeled "Test Specimen." The other sample part should be marked "Retain Specimen" and should be packaged and stored in a secured place. The testing laboratory internal SOP should define the sample size and distribution of “Test Specimen” and “Retain Specimen.”

5. Samples should be stored in secured locations, in appropriate containers (e.g., bottles, tubes, vials, etc.).

6. The laboratory should then either determine moisture content or dry the test specimen to a consistent weight. Samples should be dried to a consistent loss (typically 5- 12% moisture content) so that the test can be performed on a dry weight basis, meaning the percentage of THC by weight, after excluding moisture from the sample. The moisture content is expressed as the ratio of the amount of moisture in the sample to the amount of dry solid in the sample.

6.1. The sample can be dried to a consistent weight to remove all water and then be tested on a dry weight basis. If the sample is not to be extracted immediately after drying, it should be stored in a desiccator.

6.2. Alternatively, the sample can be analyzed for moisture content and this moisture content can be factored into the total THC result to give a dry weight basis.

7. Extraction of the sample should occur as soon as possible from the time of sample arrival. Extracts should be stored in secured locations, in appropriate containers (e.g., bottles, tubes, vials, etc.).

Testing Guidelines:

1. The laboratory will perform chemical analysis on the sample using post- decarboxylation or other similarly reliable methods where the total THC concentration level considers the potential to convert delta-9-tetrahydrocannabinolic acid (THCA) into THC.

2. Testing methodologies meeting these requirements include those using gas chromatography and liquid chromatography.

3. The laboratory will then calculate total THC concentration on a dry weight basis.

Testing Methods:

1. The total available THC, derived from the sum of the THC and THCA content, shall be determined and reported on a dry weight basis.

2. Alternative testing protocols will be considered if they are comparable to the baseline mandated by the 2018 Farm Bill and established under the USDA plan and procedures. Approval to use alternative sampling and testing procedures must be requested in writing and approved in writing by USDA.

3. Laboratories shall use appropriate, validated methods and procedures for all testing activities and shall evaluate measurement of uncertainty.

4. Laboratories should meet the AOAC International standard method performance requirements for Quantitation of Cannabinoids in Plant Materials of Hemp (Low THC Varieties Cannabis sp.) (SMPR 2019.003) for selecting an appropriate method.

5. The range of estimated uncertainty is reported as a \pm value and is the same unit as the hemp THC threshold (e.g. +/- 0.05), following best practices for significant figures and rounding.

6. There are resources available for defining, guiding, and calculating measurement uncertainty. They include the GUM, ISO, and Eurachem. Once the expanded measurement uncertainty (U) is determined, then the confidence interval can be calculated around a designated threshold. (i.e. the hemp threshold of 0.3% THC.)

Test Results Exceeding 0.3% THC Concentration:

1. Any sample test result where the total THC concentration of the sample is higher than the acceptable hemp THC level shall be conclusive evidence that one or more cannabis plants or plant products from the lot represented by the sample contain a THC concentration in excess of that allowed under the Act.

1.1. If the results of a test conclude that the THC concentration levels of a sample are higher than the acceptable hemp THC level, the laboratory will promptly notify the producer and the State, Tribal, or Federal regulatory licensing body.

2. Retest Procedures.

2.1. Any hemp program licensee may request that the laboratory retest samples if it is believed the original THC concentration level test results were in error.

2.2. If this occurs, the laboratory shall follow the same procedures as to conduct the initial test.

2.3. The licensee requesting the retest of the second sample will pay the cost of the test.

2.4. The retest results shall be issued to the licensee requesting the retest, and a copy shall be provided to USDA or its agent.

Information Sharing:

1. Laboratories performing THC testing for compliance purposes of this program are required to share test results with the licensed producer, the appropriate State Department of Agriculture or Tribe, and USDA. Laboratories shall report all test results, whether passing or failing, to USDA using AMS Form 22 available here: <https://www.ams.usda.gov/rules-regulations/hemp/information-laboratories>.

2. Laboratories shall indicate that a test result is for “official compliance” purposes on lab testing results for compliance purposes. Laboratories shall not mark test results for monitoring of THC levels throughout the growing season as for “official compliance” purposes. Laboratories shall retain a legible copy for inspection upon request of all test results for official compliance purposes for a period of three (3) years from date of analysis.

3. Laboratories may provide test results to licensed producers in whatever manner best aligns with their business practices, but producers must be able to produce a legible copy of test results upon request for inspection purposes. For this reason, providing test results to producers through a web portal or through electronic mail, so the producer will have ready access to print the results when needed, is preferred.

4. Results of testing conducted throughout the growing season for the purposes of monitoring THC concentration should not be submitted to USDA. Only the official test result for compliance testing purposes shall be submitted to the USDA.

Testing Remediated Hemp Samples:

1. Licensees can “remediate” hemp following an initial failed test by shredding plant material in a product called “biomass.” In this instance, laboratories will receive samples of remediated biomass material for retesting.

2. For remediated testing, the laboratory shall follow the same procedures used to conduct an initial test, as described in this document.

3. For remediated testing, the laboratory shall follow the same reporting requirements as described in this document. A licensee must maintain a legible copy of the remediated test results, available for inspection, for a period of three years from receipt of the testing results provided by the laboratory. Therefore, laboratories are encouraged to provide such documentation to licensees.

References:

ISO 17025. General requirements for the complete testing and calibration laboratories. Food and Drug Administration, Office of Regulatory Affairs, ORA Laboratory Manual
Volume III Section 4, Basic Statistics and Data Presentation (current version).
AOAC Standard Method Performance Requirements AOAC SMPR 2019.003; Title: Quantitation of cannabinoids in plant materials of hemp (low THC varieties 4 Cannabis spp.), and Official Method of Analysis 2018.11.
JCGM 100:2008, Evaluation of measurement data – Guide to the expression of uncertainty in measurement (GUM).
ISO/IEC Guide 98, Expression of Uncertainty in Measurement.
EURACHEM/CITAC Guide “Quantifying Uncertainty in Analytical Measurement” Second edition (2000). A Williams, S L R Ellison, M Roesslein (eds.) ISBN 0 948926 15 5. Available from the Eurachem Secretariate
E. Small and H. D. Beckstead. 1973. Common Cannabinoid Phenotypes in 350 stocks of Cannabis.
J. of Natural Products. 36(2): 144-165.
United Nations Office on Drugs and Crime: Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products. ISBN 978-92-1-148242-3.

Note: In accordance with 7 CFR 1.901(e), the contents of this document do not have the force and effect of law and are not meant to bind the public in any way, and the document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.