



JUN 27 2001

Julie Kane  
Office of Legal Counsel  
Nez Perce Tribal Executive Committee  
P.O. Box 305  
Lapwai, ID 83540-0305

Re: Request for approval of amendments to Nez Perce gaming ordinance

Dear Ms. Kane:

This letter is in response to your request for the National Indian Gaming Commission (NIGC) to review and approve the Nez Perce Tribal Code, Chapter 6-2, "Gaming Ordinance" and the Background Investigation "Description of Procedures." The ordinance was adopted by the Nez Perce Tribal Executive Committee on June 12 and 13, 2001, as NP 01-197 Amended and received in this office on June 21, 2001. An earlier ordinance was received in this office on April 20, 2001. We are treating that ordinance as withdrawn and the ordinance received on June 21, 2001 as its replacement. The background investigation procedures were adopted by the Nez Perce Tribal Executive Committee on March 27, 2001, as NP 01-197 and received in this office on April 20, 2001. This letter constitutes approval of your submission under the Indian Gaming Regulatory Act (IGRA). It is important to note that the gaming ordinance is approved for gaming only on Indian lands, as defined in the IGRA, over which the Tribe has jurisdiction.

Thank you for submitting the Gaming Ordinance for review and approval. The NIGC staff and I look forward to working with you and the Tribe on future gaming issues.

Sincerely,

A handwritten signature in black ink that reads "Montie R. Deer". The signature is written in a cursive style.

Montie R. Deer  
Chairman

NP 01-197  
Amended

RESOLUTION

WHEREAS, the Nez Perce Tribal Executive Committee has been empowered to act for and in behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and By-Laws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27, 1961; and

WHEREAS, the Nez Perce Tribe is a sovereign nation with the powers and sovereign rights of tribal governments to regulate activities and enforce laws on Indian lands; and

WHEREAS, the Nez Perce Tribe retains all rights that were not expressly relinquished including rights to regulate gaming Indian lands; and

WHEREAS, the Nez Perce Tribal Executive Committee adopted a gaming ordinance which was codified and incorporated into the Nez Perce Tribal Code as Chapter 6-2; and

WHEREAS, the National Indian Gaming Commission requires inclusion of Background Investigation Procedures; and

WHEREAS, there is a need for amendments to Chapter 6-2 to clarify the gaming operations and the duties of the Gaming Commissioners;

NOW, THEREFORE BE IT RESOLVED, that having opened a 15 day comment period and having considered such comments, the Nez Perce Tribal Executive Committee (NPTEC) hereby authorizes the adoption of the amendments to Chapter 6-2 and adoption of the Background Investigation Procedures.

BE IT FURTHER RESOLVED, that the NPTEC Chairman is hereby appointed as the official agent for service for the Nez Perce Tribe;

BE IT FINALLY RESOLVED, that the following minor typos are corrected with passage of this amended resolution:

- 1) Delete the words "and driver's license numbers" in NPTC § 6-2-16(a)(3);

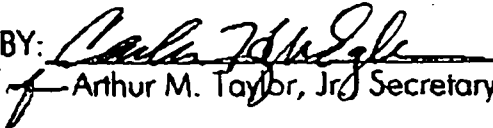
NP 01-197  
Amended

2) Add the underlined words to NPTC § 6-2-16(a)(5): "A description of any existing and previous business relationships with the gaming industry generally and/or with Indian Tribes, including ownership interests in those businesses tribal or otherwise; and

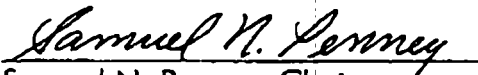
3) Delete the words "10 year limitation" from NPTC § 6-2-16(a)(6).

CERTIFICATION

The foregoing resolution was duly adopted by the Nez Perce Tribal Executive Committee meeting in Regular Session, June 12 & 13, 2001 in the Richard A. Halfmoon Council Chambers, Lapwai, Idaho, a quorum of its Members being present and voting.

BY:   
Arthur M. Taylor, Jr. Secretary

ATTEST:

  
Samuel N. Penney, Chairman

CHAPTER 6-2  
GAMING ORDINANCE

GAMING COMMISSION

§ 6-2-1 Definitions

For purposes of this chapter:

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

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

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

(c) "Class III gaming" means that type of gaming defined in Section 4(8) of the Act, 25 U.S.C. § 2703(8).

(d) "Commission" or "Gaming Commission" means the Nez Perce Tribal Gaming Commission, the single tribal agency primarily responsible for regulatory oversight of Class III gaming as authorized under the Nez Perce 1995 Class III Gaming Compact.

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

(f) "Fund raising event" means a fund raising event sponsored by a bona fide religious, charitable or nonprofit organization at which gaming activities will be conducted under

the authority and regulation of the Nez Perce Tribal Gaming Commission. Gaming as authorized under this section may be allowed provided that sixty percent of the net income from such events shall be devoted solely to lawful purpose of the Nez Perce Tribe and provided that the tribal or BIA law enforcement agency shall be notified as to the time and place where such activity shall be conducted.

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

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

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

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

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

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

(m) "Governor" means the Governor of the State of Idaho.

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

(o) "Key employee" means a person who performs one or more of the following functions:

- (1) bingo caller; or
- (2) counting room supervisor; or
- (3) chief of security; or
- (4) custodian of gaming supplies or cash; or
- (5) floor manager; or

- (6) pit boss; or
- (7) dealer; or
- (8) croupier; or
- (9) approver of credit; or
- (10) custodian of gambling devices including persons with access to cash and the accounting records within such devices; or
- (11) any other person whose total cash compensation is in excess of \$50,000.00 per year; or
- (12) the four most highly compensated persons in the gaming operation.

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

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

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

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

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

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

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

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

(w) "Operator" means any person, organization or entity that operates any gaming

activity that is subject to regulation under this Ordinance, on the Nez Perce Reservation.

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

(y) "Player" means a natural person who engages, on equal terms with the other participants, and solely as a contestant or better, in any form of gaming in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gaming activity.

(z) "Primary management official" means:

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

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

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

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

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

(ae) "State Lottery" means:

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

(af) "Thing of value" means any money or property, any token, object or article

exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or any interest therein.

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

(ah) "Tribal law enforcement agency" means the police force of the Tribe, established and maintained by the Tribe, pursuant to the Tribe's powers of self-government, to carry out law enforcement on Indian lands, including the law enforcement program maintained by the Bureau of Indian Affairs on the Nez Perce Reservation.

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

**§ 6-2-2 Purpose**

This ordinance is enacted to:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

- (1) In order to be licensed by the Nez Perce Tribe, individual owners, in addition to the requirements of this ordinance, shall also be required to:
  - (i) Pay to the Nez Perce Tribe not less than 60 percent of the individually owned operation's net revenues, to be used only for the purposes set forth below;
  - (ii) Pay an assessment to the National Indian Gaming Commission as set forth in 25 CFR § 514.1;
  - (iii) Comply with eligibility standards of a State license for the same activity, so that if the individual is ineligible to receive a State license to conduct the same activity within that jurisdiction, a tribal license shall be denied.

(b) Net revenues from tribal gaming or from individually owned games shall be used only for one or more of the following purposes:

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

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

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

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

**§ 6-2-4 Severability**

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

**§ 6-2-5 Amendment**

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

**§ 6-2-6 Sovereignty**

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

**AUTHORIZED GAMBLING ACTIVITIES**

**§ 6-2-7 Class I Gaming**

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

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

## § 6-2-8

## Class II Gaming

Class II gaming is defined as:

- (a) The game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith)
- (1) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations;
  - (2) in which the holder of the card covers such numbers or designations with objects, similarly numbered or designated, which are drawn or electronically determined; and
  - (3) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including, (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo; and
- (b) Card games that:
- (1) are explicitly authorized by the laws of the State of Idaho, or
  - (2) are not explicitly prohibited by the laws of the State of Idaho and are played at any location in the State, but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.
- (c) The Nez Perce Tribe may engage in Class II gaming as an operator without the necessity of a license under this Act but shall comply with other applicable provisions of this Act.
- (d) Until this Act is amended by appropriate action of the Nez Perce Tribal Executive Committee in a manner consistent with the relevant provisions of the National Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.*, the Nez Perce Tribe shall be the only entity or organization authorized to engage in gaming activities on the Nez Perce Reservation for profit to the exclusion of any other entity, organization or person. The Nez Perce Tribe may conduct or license gaming activities on behalf of a bona fide charitable, religious and non-profit organizations subject to regulations promulgated by the Commission on this topic and the National Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.*

**§ 6-2-9 Class III Gaming**

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

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

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

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

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

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

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

**§ 6-2-10 Gaming Prohibited**

All gaming activities not authorized by this Act, including, but not limited to, those activities commonly known as bookmaking, betting, card parlors, bunco or confidence games, pyramid clubs or schemes, chain letters and three card monte, are unlawful and prohibited.

**§ 6-2-11 Nez Perce Tribe Gaming Commission Established**

(a) The Nez Perce Tribe Gaming Commission (the "Commission") shall consist of three individuals appointed by the Nez Perce Tribal Executive Committee.

(b) Each Commissioner shall serve for a term of three (3) years, with the term

beginning on January 1 of the year of the appointment and ending on December 31 of the third year; except that for the initial group of Commissioners, one position will be for a term of three (3) years, one position will be for a term of two (2) years and one position will be for a term of one (1) year allowing for a staggered term process thereafter.

(c) Commission members shall serve beyond their term only in the event that NPTEC fails to promptly make appointments for the subsequent year. Upon the appointments for the following year, the prior year's appointments shall expire.

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

(e) The Commission shall elect among themselves a President, Vice President and Secretary-Treasurer. Elections shall be conducted each year, within two weeks after NPTEC appointments are made.

**§ 6-2-12 Powers and Duties of the Commission and of the Nez Perce Tribal Executive Committee with Regard to the Commission Hours, Compensation and Removal**

(a) The Commission shall:

- (1) Oversee and regulate the gambling activities authorized by this chapter. Such power includes the power to inspect premises.
- (2) Safeguard and regulate by civil fines and other actions as specified in § 6-2-25 of this chapter.
- (3) Issue licenses when such are required by this chapter, and in accordance with § 6-2-16 through § 6-2-22 of this chapter.
- (4) Deny or revoke such license when the results of a thorough and objective investigation by the NPTGC indicates that such action is appropriate and/or in accordance with § 6-2-23 through § 6-2-25 of this chapter.
- (5) Formulate and promulgate rules and regulations which shall govern in detail the issuance of licenses, the amount of the license fee, and the revocation of licenses.
- (6) Insure the proper record keeping of gambling proceeds of the Nez Perce

Tribe Gaming Enterprise, gaming licenses and anyone whose gambling activities subject him to the provisions of the Bank Secrecy Act, CFR Title 12, Banks and Banking or CFR Title 21, Money and Finance, or any other applicable requirement of the Internal Revenue Service .

- (7) Cause a review of the appropriate records of gaming licensees of the Nez Perce Tribe at least annually. Appropriate records are those directly related to determining a licensee's suitability to hold a gaming license.
- (8) Cause annual outside audits as required by the Indian Gaming Regulatory Act, of all gaming activities on the Nez Perce Reservation to be conducted and submitted to the National Indian Gaming Commission specifically including all contracts for supplies, services or concessions having a contract amount in excess of \$25,000.00 per annum or in any 12 month period..
- (9) Insure that facilities where gaming occurs are properly constructed and maintained and that the operation of the game is conducted in a manner which adequately protects the environment and the public health and safety.
- (10) Cause to be conducted background investigation and suitability determinations of potential gaming employees as required by the National Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*

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

(c) Any Gaming Commission member may be removed by NPTEC for cause, including neglect of duty, failure to recuse oneself in cases of conflicts of interest, gross misconduct or failure to attend more than on half of the regular commission meetings, or for any offense listed in § 4-1-93 through § 4-1-111, inclusive of the Nez Perce Tribal Code.

## **GAMING OPERATIONS**

### **§6-2-13 General Gaming Operations Requirements**

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

- (1) has not been convicted of an offense related to gambling, fraud,

misrepresentation or deception, drugs or a felony;

- (2) has no prior activities, reputation, habits, or associations affecting his present conduct that would pose a threat to the effective regulation and control of gaming, or enhance the dangers of unsuitable, unfair or illegal practices, methods or activities, in the conduct of gaming; and
- (3) has no present interest in the conduct of any gaming business.

(b) The determination shall be confidential unless otherwise required for purposes of the tribal Personnel, Policies and Procedures or the requirements of federal law or regulation.

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

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

(e) In addition to any provisions of the tribal Personnel, Policies and Procedures which may be applicable, any employee or operator shall be required to comply with the provisions of this ordinance, the provisions of his contract with the Tribe, if any, and the provisions of applicable federal law.

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

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

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

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

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

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

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

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

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

- (1) The possession of firearms by operators or employees. No firearms or weapons of any kind shall be allowed on gaming premises with the exception of armed armored car personnel and on-duty law enforcement officers.
- (2) The security requirements for the operations.
- (3) The posting of rules of play.
- (4) The maximum limit, if any, which may be offered as a prize.
- (5) Rules for the conduct of the games, should the Commission deem that such rules are necessary for the proper conduct of gaming.
- (6) Any other regulations controlling the operation which are deemed necessary in writing by the Commission or the Nez Perce Tribal Executive Committee. NPTEC shall provide written notice to the Commission, in a reasonably timely manner before additional regulations which may be required as the result of amendments or revisions to the Tribe's gaming compact take effect.

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



interest in profits or capital of any other business entity.

(p) Each affected person covered in (o) above must apply for a license to the Commission giving the name, social security number and address; previous gaming experience; any felonies, violations of any kind whatsoever relating to the gaming, fraud or illegal practices; fingerprints; and any and all other reasonable requirements as may be determined by the Commission.

(q) The Commission may after an initial criminal and credit background check issue a ninety (90) day temporary license.

(r) The Commission shall determine whether or not to issue a full year license within ninety (90) days after application. The Commission may issue a conditional license pending receipt of a response from the National Indian Gaming Commission pursuant to § 6-2-18 of this chapter.

(s) A license shall be valid for not more than one year and shall be renewed following review of a satisfactorily - completed application regarding the applicant's activities for the past calendar year and a background investigation, if necessary, of the applicant's activities for the past calendar year. Only when extraordinary circumstances warrant an additional background investigation shall the Commissioner's investigation inquire into an applicant's activities earlier than the past calendar year.

(t) The Commission may charge a fee not in excess of \$50.00 for each application of renewal.

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

(v) Members of the Commission and Nez Perce Tribal Executive Committee members are prohibited from participating in bingo games.

(w) Members of the Commission and its staff are prohibited from participating in any gaming sponsored by the Nez Perce Tribal Gaming Enterprise.

#### **§ 6-2-14 Inspection of Premises**

(a) The premises where authorized gambling activities are being held shall be subject to inspection and audit at any reasonable time by persons designated by the Commission, with or without notice as follows:

- (1) if the items or records to be inspected or audited are located anywhere upon a premises, any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at

which time they are usually open;

- (2) or if the items or records to be inspected or audited are not located upon a premises set out in subsection (1) above, then at any time between the hours of 8:00 a.m. and 9:00 p.m, Monday through Friday.

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

## **KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS**

### **§ 6-2-15 Applications for Key Employee and Primary Management Official Positions**

(a) Applications for key employee and primary management official positions with the Nez Perce Tribe's gaming enterprises shall be submitted to the Commission. The Commission shall conduct oral interviews of persons selected as potential candidates for a particular position. Copies of such applications and notes from interviews shall be provided to the Nez Perce Tribe's Investigative Officer.

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

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a primary management official or key employee position.

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

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

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

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

A false statement on any part of your application may be grounds for not hiring you, or for terminating you from employment after you begin work. Also, you may be punished by fine or imprisonment. 18 U.S.C. § 1001.

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

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

## **Background Investigations**

### **§ 6-2-16 Applications - Required Information**

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

- (1) Full name, other names used (oral or written), social security numbers, birth date, place of birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous ten (10) years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence addresses;

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

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

(c) Unless extraordinary circumstances apply, the Tribe shall require, for an annual background investigation of an employee already issued a gaming license, information regarding only the past 12-month period after the issuance of the gaming license.