

**Redding Rancheria
Workers Compensation Ordinance**



REDDING RANCHERIA WORKERS' COMPENSATION ORDINANCE

The Redding Rancheria Indian Tribe, a federally recognized Indian Tribe ("Tribe") hereby enacts the following ordinance to create and maintain a system to redress work related injuries. This ordinance shall be known as the "Workers' Compensation Ordinance." This ordinance and any regulations promulgated thereunder shall constitute the entire workers' compensation system for the Tribe.

Findings and Policy

The Tribe finds that:

1. Under the Constitution of the Tribe, the Tribal Council is charged with the duty of protecting the general welfare of the Tribe and promoting and developing economic endeavors for tribal members.
2. The Tribe owns and operates enterprises on and off the Tribe's reservation, including the Win-River Casino.
3. The Tribe operates governmental departments on and off the Tribe's reservation.
4. All tribal departments and enterprises share the sovereign immunity of the Tribe.
5. Tribal departments and enterprises need a better system to redress work related injuries in an efficient and fair manner.
6. The Tribe wishes to comply with Section 10.3 of the Class III Gaming Compact between the Tribe and the State of California approved by the Secretary of the Interior on May 5, 2000.

The Tribe hereby declares that the policy of the Tribe is to create and maintain a system to redress work related injuries in an efficient and fair manner, with benefits comparable to those mandated for employees under present California State law and tribal policy.

NOW, THEREFORE, the General Membership of the Redding Rancheria hereby ordains as follows:

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Chapter 1. Purpose.

The purpose of this Ordinance is to establish a fair, efficient and exclusive system for redressing work related injuries to employees of the Tribe and its enterprises.

Chapter 2. General Provisions

§2000. Short title. This ordinance shall be known and cited as the “Redding Rancheria Workers’ Compensation Ordinance.”

§2050. Purpose. The purpose of this Ordinance is to establish a fair, efficient and exclusive system for redressing work related injuries to employees of the Tribe and its enterprises.

§2100. Sovereign immunity preserved. Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Tribe. No officer or employee of Redding Rancheria or any of its enterprises is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this ordinance unless such officer or employee has an express and explicit written authorization from the Council.

§2150. Applicability. This ordinance shall apply to all employees within the boundaries of the reservation and to employees working outside the boundaries of the reservation whose employer has offices on the reservation.

§2200. Interpretation and findings. The Redding Rancheria Tribal Council may interpret any ambiguities contained in this ordinance, until such time as a tribal court is established pursuant to tribal ordinance, at which time only the Redding Rancheria Tribal Court may interpret any ambiguities contained in this ordinance.

§2250. Conflicting provisions. Whenever any conflict occurs between the provisions of this ordinance and the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

Chapter 3. Definitions.

In construing the provisions of this ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

1. **Administrator** shall mean the agency that is responsible for managing the Tribe's Worker's Compensation Program. Responsibilities include, but are not limited to determining the compensability of claims, making payments to injured workers, medical providers and others, managing a trust account for the purpose of dispensing the Employer's worker's compensation liabilities; and, making reports to the Tribe regarding their program and individual claims. The Administrator's duties are more fully described in Chapter 7, below.
2. **Agency** shall mean any entity described in Chapter 4 below.
3. **Appeals Board** shall mean the Board described in Chapter 10 to hear appeals from written decisions of the Administrator.
4. **Child or Children** shall mean the child of an Employee, under the age of eighteen (18) including an unborn child, a child legally adopted prior to the injury, a child toward whom the Employee stands in loco parentis, an illegitimate child, and a stepchild, if such stepchild was, at the time of the injury a member of the Employee's family and substantially dependent upon the Employee for support. A child does not include any married children unless they are Dependents. A person might also qualify as a child according to tribal custom as determined by applicable Tribal law.
5. **Claimant** for the purposes of this ordinance shall mean any Employee, and excluding independent contractors, who suffers an injury either specific or cumulative, arising from that employment or occurring in the course and scope of that employment.
6. **Compact** shall mean the Class III Gaming Compact between the Tribe and the State of California approved by the Secretary of the Interior on May 5, 2000.

7. **Compensable Injury** means a Work Injury to an Employee when that Injury arises during a period of Employment, and while performing the duties of the Employment in or on the premises of the Employer or whatever the employer requires the Employee to perform the Employment activities as more fully described in this Ordinance. Injury caused by second hand tobacco smoke or by a third person or fellow Employee intended to injure the Employee for personal reasons is not Compensable under this Ordinance.
8. **Constitution** shall mean the Tribe's Constitution as amended from time to time.
9. **Council** shall mean the Tribal Council of the Tribe as established by custom and tradition.
10. **Court** shall mean the Tribal Court of the Tribe as established by tribal ordinance.
11. **Days** shall mean calendar days unless otherwise provided
12. **Dependent** shall mean the father mother, grandfather grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half-sister, half-brother, niece or nephew or any other extended family member as approved by the Administrator, who at the time of the Compensable injury that causes the Employee's death is actually and necessarily dependent in whole or in part upon the earnings of the Employee.
13. **Disability** shall mean incapacity because of injury, to earn wages in the same or any other employment.
14. **Employee** shall mean a person, other than an independent contractor, employed by or in the service of an Employer described in Chapter 4, below, its agencies and enterprises, under any contract of hire express or implied, oral or written, where the Tribe, its agency, or enterprise, has the power or right to control and direct such individual in return for which such individual receives a salary or wages. For purposes of this Ordinance, Employee shall not include Tribal Council members, independent contractors, contractors and outside consultants.
15. **Employer** shall mean the entities described in Chapter 4, below.
16. **General Membership** shall mean the adult members of the Tribe when acting as a body pursuant to the Constitution.
17. **Reservation** shall mean all land held or owned by the Tribe, including all lands held in trust by the United States of America which the Tribe controls, whether or not such land has reservation status.
18. **Spouse** shall mean a husband or wife of the Employee.
19. **Tribal Enterprise** shall mean all enterprises now owned and/or operated by the Tribe, including but not limited to the Win-River Casino, Redding Rancheria Economic Development Corporation ("RREDCO") and its subsidiaries and such other entities as

may be determined by Tribal Council pursuant to Chapter 4, below.

20. **Tribe** shall mean the Redding Rancheria.
21. **Work injury** shall include any physical injury or disease arising out of and in the course and scope of employment, including injuries to artificial members, dentures, hearing aids, eyeglasses, and medical braces of all types; provided, however that eyeglasses and hearing aids will not be replaced, repaired, or otherwise compensated unless injury to them is incident to an injury covered by this Ordinance.

Work injuries under this section shall be either:

- a) **Specific occurring**, which means that the injury is a result of one incident or exposure which causes disability or need for medical treatment; or
 - b) **Cumulative occurring** which means that the injury is a result of repetitive mental or physical activities extending over a period of time, the combined effect of which causes any disability or need for medical treatment. The date of a cumulative injury is the date upon which the Employee first suffered disability and knew, or in the exercise of reasonable diligence should have known, that the disability was caused by his present or prior employment.
22. **Written Decision** shall mean the following:
 - a) The findings, decisions, or awards of the Appeals Board or Court; or
 - b) The finding(s) and decision(s) of the Administrator to accept in full or in part, or deny in full or in part, any claim submitted by a claimant regarding a work injury.

Chapter 4. Scope

This Ordinance applies to all Employees of the Tribe, RREDCO and its subsidiaries, Win-River Casino Bingo, any other Class II or Class III gaming operations owned in the future by the Tribe, and such other entities as may be determined by Tribal Council.

Chapter 5. Exclusive Remedy

This ordinance shall be the exclusive method for compensation liability against the Employer for injuries sustained by Employees in the course and scope of employment. The liability of the Employer for all injuries arising out of and in the course of employment is limited to the compensation provided to injured Employees and/or Dependents pursuant to this Ordinance. Such liability shall not be expanded except by amendment of this Ordinance by the General Membership.

Chapter 6. Reporting Obligations

§6000. An Employee must report any injury, no matter how slight, to his/her supervisor within twenty-four (24) hours of the Accident, which caused the Work Injury. No

compensation or medical benefits will be paid if a Work Injury is not reported in writing within thirty (30) days of the Employee first receiving medical treatment for the Work Injury or first losing time from work due to the Work Injury. If the Work Injury incapacitates the Employee, the thirty (30) days will not begin to run until the incapacity ends. Another person on behalf of the Employee may report a Work Injury.

§6050. A Supervisor, receiving a report or notice of a Work Injury from the Employee or another acting on the Employee's behalf must promptly report the claim to the Administrator.

§6100. Claim Forms; Notification and Filing

- a) Within one working day of receiving notice or knowledge of injury under Section 6000, which injury results in lost time beyond the Employee's work shift at the time of injury or which results in medical treatment beyond first aid, the Employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits under this ordinance to the injured Employee, or in the case of death, to his or her Dependents. As used in this Chapter, "first aid" means any one-time treatment, and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment and follow-up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel. The claim form shall request the injured Employee's name and address, social security number, the time and address where the injury occurred, and the nature of and part of the body affected by the injury. Claim forms shall be available at the Employer's Human Resource Department.
- b) Insofar as practicable, the notice of potential eligibility for benefits required by this section and the claim form shall be a single document and shall instruct the injured Employee to fully read the notice of potential eligibility. The form and content of the notice and claim form shall be prescribed by regulation pursuant to Chapter 19 herein. The content shall include, but not be limited to, the following:
 1. The procedure to be used to commence proceedings for the collection of compensation for the purposes of this chapter.
 2. A description of the different types of worker's compensation benefits.
 3. What happens to the claim form after it is filed.
 4. From whom the Employee can obtain medical care for the injury.
 5. The role and function of the primary treating physician.

6. The rights of an Employee to select and change the treating physician.
7. How to get medical care while the claim is pending.
8. Protections against discrimination.
9. The following written statements:
 - (i) You have a right to disagree with decisions affecting your claim.
 - (ii) You can obtain free information from your Employer's Human Resource Department.
 - (iii) You can consult an attorney. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits.
- c) The completed claim form shall be filed with the Employer by the injured Employee, or, in the case of a death, by a Dependent of the injured Employee, or by an agent of the Employee or Dependent. A claim form is deemed filed when it is personally delivered to the Employer or received by the Employer by first-class or certified mail. A dated copy of the completed form shall be promptly provided by the Employer to the Administrator and to the Employee, Dependent or agent who filed the claim form.
- d) The claim form shall be filed with the Employer prior to the injured Employee's request for a medical evaluation. For purposes of this Chapter, a claim form is deemed filed when it is personally delivered to the Employer or mailed to the Employer by first-class or certified mail.

Chapter 7. Administrator

§7000. The Administrator shall act on behalf of the Employer in processing Worker's Compensation claims under this Ordinance. The responsibility of the Administrator to make determinations and decisions will include, but not be limited, to the following

- a) Based upon investigation and available information, the Administrator shall make a determination of the responsibility of the Employer and will either accept or deny a claim. Within ninety (90) days of Employer's receipt of a First Report of Injury, the Administrator shall advise the Employee and Employer by personal delivery or first class mail of its determination.
- b) The Administrator will determine the reasonableness and necessity of medical care and charges and will determine amounts payable under this Ordinance. The Administrator will also approve or disapprove any change of primary Physician, referral to a Referral Physician, or Surgical Procedure.

- c) Based on information supplied by the Employer and/or Employee, the Administrator will determine the Compensation Rate payable for Temporary Total, Temporary Partial, and Permanent Partial Disability, and for Dependency.
- d) The Administrator will determine the length of time during which Temporary Total Disability or Temporary Partial Disability Benefits are payable.
- e) The Administrator will determine the eligibility of Dependents and the term of any Dependency Benefits payable.
- f) In the event of the need to allocate Dependency Benefits between Dependents living in different households, the Administrator will make the necessary allocation, based on the obligations, legal or otherwise of the decedent.
- g) If an Employee's claim is subject to the limitations of Chapter 12, the Administrator shall advise the Employee and Employer of the effect of this limitation in writing.
- h) The Administrator will, on behalf of the Employer, vigorously pursue any cause of action assigned to the Employer under Chapter 17.
- i) Benefits payable to Employees pursuant to this Ordinance shall be comparable to those mandated for comparable employees under present California law and tribal policy.

Chapter 8. Scope of Coverage

All Employees are covered for Compensable Work Injuries whether the Accident and Work Injury occurred on or off the reservation. Benefits are limited as indicated in this Ordinance.

Chapter 9. Independent Medical Examination

§9000. For purposes of this Ordinance, Independent Medical Examination means a medical examination and/or evaluation of the Employee scheduled by the Employer or Administrator at the Employer's expense, for the purpose of obtaining medical information or opinion.

§9050. Whenever the right to compensation under this Ordinance exists in favor of an Employee, the Employee shall, upon the written request of the Employer, submit at reasonable intervals to examination by a practicing physician, provided and paid for by the Employer, and shall likewise submit to examination at reasonable intervals by any physician selected by the Appeals Board or Court.

§9100. If the Employee unreasonably fails to appear for a scheduled Independent Medical Examination, the Employer may suspend payment of medical expenses until the Employee complies with a subsequently scheduled Independent Medical Examination.

Chapter 10. Dispute Resolution

§10000. Independent Arbitrators

- a) The Council shall appoint up to seven (7) individuals to serve on an Appeals Board. Until a Court is established as provided in Chapter 11, Tribal Council will randomly select a panel of three (3) Appeals Board members each calendar quarter to hear any issues and make any necessary determinations related to Compensability of a Work Injury, medical care or charges, extent of Disability, Dependency, or any other issue that may arise under this Ordinance. An Appeals Board panel will hear the issue(s) *de novo*.

§10050. Composition and Compensation of Appeals Board

- a) The members of the Appeals Board shall be selected for their expertise in the areas of worker's compensation law, claims administration, and physical disabilities. Such expertise may be further prescribed by regulations approved pursuant to Chapter 19 herein.
- b) The members of the Appeals Board shall be compensated for hours of service on a Board panel at rates to be determined by regulations approved pursuant to Chapter 19 herein.

§10100. Hearing Before Appeals Board

- a) Any Employee or Dependent who disagrees with a determination made by the Administrator may request a hearing before a panel of the Appeals Board. A hearing may also be requested if no written decision has been issued by the Administrator within 90 days of the Employer's receipt of a First Report of Injury.
- b) Any Employee or Dependent may request a hearing before the Appeals Board within fifteen (15) days of receipt of the Administrator's written decision. Failure to request a hearing within the time specified herein renders the Administrator's decision final.
- c) The Board shall schedule a hearing within ninety (90) days of receipt of the request for a hearing from the Employee or Dependent. The Employer, Employee or Dependent may request in writing one extension of the initial hearing date of up to ninety (90) days, which must be granted by the Board.

§10150. Request for Appeal

- a) Requests for appeal may be made by submitting a written request to:

Redding Rancheria Appeals Board
2000 Redding Rancheria Road
Redding, CA 96001

- b) Written requests may be served by personal service on the Redding Rancheria tribal receptionist, regular or certified mail addressed to the Redding Rancheria Appeals Board at the above address.

§10200. Written Notice of Hearing Date

- a) The Appeals Board shall send written notice to each party informing them of the hearing date at least 30 days prior to the hearing.

§10250. Discovery

- a) All medical reports relating to the claimed injury must be filed with the Appeals Board and served on all parties at least fifteen (15) days prior to the hearing date, if the reports have not been previously disclosed.
- b) Either party may request disclosure of witness statements, if any such statements exist, at least fifteen (15) days prior to the hearing date,
- c) Upon written request by a party, depositions may be ordered by the Appeals Board. The Appeals Board shall have authority to order depositions of party witnesses, including current Employees of the Employer. Fees incurred in taking any such deposition shall be borne by the party requesting the deposition. Claimant's refusal to submit to any deposition ordered by the Appeals Board may be grounds for denial of the appeal.

§10300. Conduct of Hearing

- a) The Appeals Board shall consider evidence, hear witnesses and receive exhibits in keeping with its goal of making a just and final determination.

§10350. Evidence

- a) When written evidence is offered in lieu of oral evidence, one copy of the written evidence shall be filed with the Appeals Board and one copy shall be delivered to all parties at least fifteen (15) days prior to the hearing of Claimant's appeal. If the evidence was not available at least fifteen days prior to Claimant's appeal, the Appeals Board may waive this time requirement.

- b) Medical evidence must be in the form of a written report. The reports should include the following information, where applicable:
 - 1. Date of the examination;
 - 2. History of the injury;
 - 3. Patient's complaints;
 - 4. A listing of all documents reviewed, or relied upon, for formulation of the physician's opinion;
 - 5. Patient's medical history and residuals thereof, if any;
 - 6. Findings on examination;
 - 7. Diagnosis;
 - 8. Opinion as to the nature, extent, and duration of disability and work limitations, including whether or not the disability is permanent and/or stationary;
 - 9. Cause of the disability;
 - 10. Treatment indicated,
 - 11. Apportionment of disability, if any;
 - 12. Basis for all medical opinions
 - 13. Signature of the physician.

§10400. Additional Rules of Evidence

- a) Additional evidentiary rules may be promulgated as needed by the Appeals Board.

§10450. Standard of Proof

- a) The Appeals Board shall weigh the evidence, testimony of witnesses, and exhibits and make its decision on the basis of the preponderance of the evidence and credibility of the evidence and witnesses.

§10500. Burden of Proof

- a) The burden of proof in any hearing before the Appeals Board shall be on the Employee or Dependent. Upon request, a Dependent who has filed a claim must furnish the Administrator with proof, satisfactory to the Administrator, of the nature, amount and extent of the contribution Employee made to Dependent's support. Dependent shall have the burden of proof on such issue in any hearing before the Appeals Board.

§10550. Right to Counsel

- a) The Employee or Dependent may have legal representation at any hearing before the Appeals Board at the Employee or Dependent's own expense.

§10600. Law to Apply

- a) Any claim presented pursuant to this Ordinance shall be determined in accordance with Tribal law and the principles of law applicable to similar claims arising under applicable federal law. To the extent that Tribal Law differs from federal law, Tribal law shall be applied. California case law may be used as a non-binding source of guidance, if the Appeals Board so desires.

§10650. Final Decision

- a) The Appeals Board shall not award attorneys fees, costs or punitive damages to any Employee or Dependent.

§10700. Effect of Request for Hearing

- a) During the pendency of the action, the Employee Or Dependent shall continue to receive all benefits approved by the Administrator in its original written decision but shall not receive any new benefits claimed before the Appeals Board (except as may later be awarded by the Appeals Board.)
- b) Payments made to Claimant during the pendency of the action shall not be recouped or recovered by the Administrator or the Employer, except in cases of fraud.

Chapter 11. Tribal Court

Upon adoption of a tribal court ordinance and swearing in of Court personnel, the Court shall exercise jurisdiction over any appeals subsequently filed. After the Court assumes jurisdiction over these appeals, the jurisdiction of the Appeals Board shall be limited to deliberations and written decisions on the appeals over which the Board has already exercised jurisdiction. The responsibility of the Court shall be the same as that of the Appeals Board under Chapter 10, §10000-§10200. The Court shall establish its own rules in lieu of all other sections of Chapter 10.

Chapter 12. Acts Outside Course or Scope of Employment

§12000. Employees determined by the Administrator to be acting outside of the course or scope of their employment shall be afforded no coverage under this Ordinance except that such decision may be reviewed by the Appeals Board or Court upon request of Dependent or Employee.

§12050. An accident occurring to an Employee while on the way to or from work is not within the due course or scope of employment unless such travel is in direct connection with the Employee's work, as in cases of special errand.

§12100. Liability for compensation shall not exist against the Employer for any injury sustained by an Employee if the injury is caused by any of the following:

- a) Where the injury is caused by the intoxication, by alcohol or the unlawful use of a controlled substance, of the injured Employee;
- b) Where the injury is self-inflicted;
- c) Where the Employee has willingly and deliberately caused his or her own injury or death,
- d) Where the injury arises out of an altercation in which the injured Employee is the initial physical aggressor,
- e) Where the injury is caused by the commission of a crime by the injured Employee; or
- f) Where the injury arises out of voluntary participation in any off-duty recreational, social, or athletic activity not constituting a part of the Employee's work related duties, including but not limited to, activities sponsored by Employer, except where these activities are a reasonable expectancy of, or are expressly or implied required by the employment.

Chapter 13. Benefits

§13000. Worker's Compensation benefits shall include usual and customary medical costs as approved by the Administrator. Medical services and providers utilized must be pre-approved by the Administrator, except in case of emergency.

§13050. Temporary Disability

- a) If the injury causes temporary partial or temporary total disability, the disability payment shall be two-thirds (2/3) of the Employee's average weekly earnings, not to exceed the maximum weekly benefit then authorized by California state law. No payment is due during the first three (3) days after the Employee leaves work as a result of the injury. If temporary disability continues for more than fourteen (14) days, or the Employee is hospitalized as an inpatient for treatment as a result of the injury, temporary disability shall be payable as of the date of the disability.
- b) Average weekly earnings used to calculate temporary disability benefits shall be determined by calculating the average gross weekly wage earned over the past 52 weeks of employment with Employer. If there has been a change in job assignment or position within the 52 week period that has altered earnings substantially, averaging gross weekly earnings in those situations will be based on an average of gross weekly earnings for the length of time in that position. If an injured worker has been employed at Employer for less than 52 weeks, the average gross weekly wage will be calculated using wages earned

from the date of hire through the date of injury. Tips will be considered in the calculation only when they are reported and can be demonstrated by Employer's payroll history records.

1. Where the Employee is working for two or more employers at or about the time of the injury, the average weekly earnings shall be taken as the aggregate of these earnings from all employment computed in terms of one week; but the earnings from employment other than the employment in which the injury occurred shall not be taken at a higher rate than the hourly rate paid at the time of the injury.
 2. If the earnings are at an irregular rate, such as piecework, or on a commission basis, or are specified to be by week, month, or other period, then the average weekly earnings mentioned shall be taken as the actual weekly earnings average for this period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay.
 3. Where the employment is for less than 30 hours per week, or where for any reason the foregoing methods of arriving at the average weekly earnings cannot reasonably and fairly be applied, the average weekly earnings shall be taken at 100 percent of the sum which reasonably represents the average weekly earning capacity of the injured employee at the time of his or her injury, due consideration being given to his or her actual earnings from all sources of employment.
 4. Disability indemnity benefits shall be calculated according to the limits in this section in effect on the date of injury and shall remain in effect for the duration of any disability resulting from the injury.
- c) Such payments shall be reduced by the sum of unemployment compensation benefits, extended duration benefits, and disability insurance received by the Employee during the period of such disability. The injured Employee shall report any pensions, disability payments or earnings to the Administrator within ten (10) days of receipt of such funds. Failure to do so shall constitute Employee fraud and action may be taken against Employee to recoup any benefits paid.

§13100. Permanent Partial Disability

- a) For purposes of this Ordinance, Permanent Partial Disability shall mean permanent disability with a rating of less than 100 percent permanent disability.

- b) In determining the percentages of permanent disability, account shall be taken of the nature of the physical injury or disfigurement, the occupation of the injured worker, and the Employee's age at the time of the injury, with consideration given to the diminished ability of the Employee to compete in an open labor market.
- c) The schedule of the administrative director of the California Department of Worker's Compensation may be used as guidance in determining the percentages of permanent disability, but is not prima facie evidence of a percentage of disability.
- d) If the injury causes permanent disability, the percentage of disability shall be determined by the administrator based on the permanent work restrictions or impairment set forth by the authorized primary treating physician. The Administrator shall employ generally accepted guidelines for rating permanent disability employed by the state.
- e) No provision is made for providing permanent disability benefits for injuries or complaints deemed by the authorized primary treating physician or an Independent Medical Examiner to be purely subjective in nature.

§13150. Permanent Total Disability

- a) Permanent total disability is a disability that precludes the injured Employee from any and all gainful employment. There shall not be any presumptions of permanent total disability
- b) Compensation shall be paid at the same rate as is paid for temporary disability benefits.

§13200. No Compensation after Death or Retirement

- a) No compensation under this section shall be payable subsequent to the death or retirement of the injured Employee.

§13250. No Compensation if Incarcerated

- a) No compensation under this section shall be payable upon incarceration of Employee.

§13300. Fatality Income Benefits

- a) When an injury causes death within five (5) years from the date of the injury, the Employer shall be liable for compensation to the Dependent of the injured Employee as provided for in this section. The Dependent must be a spouse or a minor child) totally or partially dependent upon the injured

worker, at the time of the injury and at the time of death in order to qualify for benefits.

- b) The death benefit shall be four times the Employee's annual earnings from the Employer at the time the disability occurred, not to exceed the following maximums:
 - i) Spouse plus minor child or children: \$125,000.00;
 - ii) Spouse only: \$95,000.00;
 - iii) Minor Child or Children Only \$95,000.00, or
 - iv) Additional Maximum Burial Allowance: \$5,000.00.
- c) The death benefit will be paid at a weekly rate of two-thirds (2/3) of the average weekly wage of the deceased Employee while employed by Employer subject to a maximum compensation rate of \$406.00 and a minimum rate of \$224.00 per week, provided that these amounts may be amended from time to time by Tribal Council to maintain comparability with California state law. Benefits shall cease upon the remarriage of the Spouse, upon the minor child or children turning 18 years of age, or both. Average weekly wage shall be determined based upon the Employee's actual average weekly wage for the six months prior to Employee's disability, exclusive of Overtime.
- d) The weekly compensation will be divided between the qualifying dependents in proportion to the percentage of support each received from the deceased Employee. It will be presumed that each qualifying dependent received equal support from the deceased Employee.

§13350. Vocational Rehabilitation

- a) Where it has been determined by the primary treating physician that the injured worker, as a direct and proximate result of the work-related injury, is medically considered to be a Qualified Injured Worker eligible for vocational rehabilitation services, a provision shall be made to provide for such services or reasonable compensation therefor.
- b) When determining what is reasonable compensation, the age, occupation, disability, diminished ability to compete in an open labor market, and lack of earning capacity will all be factors to consider.

Chapter 14. Statute of Limitations

Except as otherwise provided herein, the right to benefits for Disability, Death or permanent impairment under this Ordinance shall be barred unless a Claim therefore is filed with the

Employer within thirty (30) days after the occurrence of the Compensable injury. The time for filing a Claim shall not begin to run until the Employee or Dependent is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the compensable injury.

Chapter 15. Compromise and Release

Nothing in this Ordinance shall impair the rights of the parties to compromise any liability that is claimed to exist under this Ordinance on account of injury, disease or death, subject to the provisions herein. After reaching a compromise, a copy of the release or compromise agreement signed by both the Claimant and the Administrator shall be presented to the Employer, or a designated representative, for approval. If approved, the Administrator shall enter an award based on the release or compromise agreement.

Chapter 16. Claim Closure

An Employee's claim shall be closed when the Administrator determines that the injured Employee has reached the point where no further material improvement would reasonably be expected from medical treatment, or for the reasons stated in this Ordinance.

Chapter 17. Recovery of Payments

§17000. Whenever any payment of Compensation under this Ordinance is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstances of a similar nature not induced by fraud, the recipient thereof shall repay it. The Administrator must make a claim for such repayment or recoupment within one year of making any such payment or it will be deemed that any claim therefor has been waived. Upon the approval of the Tribal Council, or a designated representative, the Administrator may waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

§17050. Whenever any payment of Compensation under this Ordinance has been made pursuant to a determination by the Administrator and timely protest or appeal therefrom has been made which results in a final decision that the Claimant is not entitled to such payments, the Claimant shall repay such sums. Subject to approval by the Tribal Council or their authorized representative, the Administrator may waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

§17100. Whenever any payment of benefits under this Ordinance has been induced by fraud, as determined by the Administrator, subject to right of appeal, the recipient thereof shall repay any such payment together with a penalty of fifty percent (50%) of the total of any such payments. The Administrator must make a claim for such repayment or recoupment within one year after discovery of the fraud, or any such payment or any such claim shall be deemed to have been waived.

Chapter 18. Claim Files and Records Confidentiality

Information contained in the claims files and record of injured Employees under the provisions of this Ordinance shall be deemed confidential and shall not be open to public inspection. The Employee, Dependents or representatives of the same, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant. The Employer or its duly authorized representatives may review any files of their own injured Employees in connection with any pending claims. Physicians treating or examining Employees claiming benefits under this Ordinance; or physicians giving medical advice to the Administrator regarding any claim may, at the discretion of the Administrator, inspect the claims files and records of the injured Employee; and other persons may make such inspection, at the Administrator's discretion, when such persons are rendering assistance to the Administrator at any stage of the proceedings on any matter pertaining to administration of this Ordinance.

Chapter 19. Regulations

The Tribal Council shall appoint a committee to submit recommended regulations for approval by Tribal Council. The subjects of the regulations shall include without limitation, compensation and qualifications of Appeal Board members, apportionment of benefits in cases of dual employers, compensation for cumulative effect injuries, claims reporting, form and content of claim notices, first aid only procedures, proof and compensation for cumulative trauma/stress claims, manner of payment of permanent disability claims, maximum and minimum temporary and permanent disability payments, vocational rehabilitation, and any other area as directed by Tribal Council, the Appeals Board, or Tribal Court.

Chapter 20. Appropriation of Funds

Tribal Council shall provide in its annual budget for funds sufficient to cover compensation of the Appeals Board and Tribal Court costs associated with worker's compensation matters. These funds shall be provided by Employers in shares proportional to the Employer's share of annual worker's compensation premium for the respective year.

Chapter 21. Severability

If any part of this Ordinance is held to be invalid, the remainder shall continue to be in full force and effect to the maximum extent possible.

Chapter 22. Reserved

Chapter 23. Effective Date, Amendment

§21000. For purposes of compliance with the Compact this Ordinance shall be deemed to have taken effect on the effective date of the Compact.

§21050. This Ordinance may be amended in accordance with applicable Tribal law provided that a majority vote of Tribal Council shall be sufficient to amend provisions of this ordinance to add coverage of Employers and Employees and to modify benefit amounts to maintain comparability with California law.

CERTIFICATION

This is to certify that the above Ordinance was duly adopted at a regular meeting of the Redding Rancheria General Membership on March 23, 2004, by a vote of 25 for, 1 against, with 14 abstentions, said ordinance not having been rescinded or amended in any way.

Tracy Edwards
Redding Rancheria Chairperson

Dated: 3/24/04

Jack E. Potter
Tribal Secretary

Dated: 3-24-04

Present Council:

1. Tracy Edwards
2. Hope Wilkes
3. Leon Benner
4. Richard Burns
5. Virgil Baker
6. Jack Potter