

## **Tribal Workplace Safety Ordinance**

**Section 1. Title.** This Ordinance shall be known as the "Tribal Workplace Safety Ordinance."

**Section 2. Findings and Purposes.** The PICAYUNE RANCHERIA OF CHUKCHANSI INDIANS ("Tribe" or "Tribal") Tribal Council on behalf of the General Council finds that:

2.1 Pursuant to the requirements of Section 6.4.2(b) of the Tribal-State Gaming Compact adopted between the Picayune Rancheria of Chukchansi Indians and the State of California, it is incumbent upon the Tribe to comply with federal standards related to achieving safe and healthful working conditions in its Gaming Facility. The Tribe intends to make the federal standards applicable to the Gaming Facility and other commercial establishments within the jurisdiction of the Tribe.

2.2 Purposes. The purpose of the Tribal Workplace Safety Ordinance is to:

- a. Regulate the safety and inspection of retail sale, wholesale/commercial and light-industrial labor practices;
- b. Regulate the standard of tribal labor force protections from hazardous workforce environments;
- c. Regulate the exposure to potential contaminants to the tribal labor force;
- d. Establish contract work hours and other labor safety standards as deemed necessary by the Tribal Government;
- e. Establish enforcement procedures related to this Ordinance.
- f. Incorporate by reference the standards of the United States Occupational Health and Safety Act (OSHA).

**Section 3. Definitions.**

3.1 Accept as provided below, the definitions of words and phrases in 29 C.F.R. § 1910.2 shall apply to the same words and phrases in this Ordinance.

3.1.1 Employee: means one who is employed by the Gaming Facility or a commercial establishment within the jurisdiction of the Tribe.

3.1.2 Employer: means the Tribe or other Person owning the commercial establishment affecting commerce that has Employees.

3.1.3 Gaming Facility: means any building which Class III gaming activities or gaming operations occur, or in which the business records, receipts, or other funds of the gaming operation are maintained (but excluding offsite facilities primarily dedicated to storage of those records and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purposes of which is to serve the activities of the Gaming Operation.

3.1.4 Law or Tribal Law: means the laws of the Picayune Rancheria of Chukchansi Indians.

3.1.5 Person: means any individual, firm, corporation or entity.

3.1.6 Tribal Council: means the duly elected representatives of the governing body of the Picayune Rancheria of Chukchansi Indians.

3.1.7 Tribal Department of Safety: means the department of the Tribe established by the Tribal Building Ordinance.

3.1.8 Tribal Lands: means all lands under the jurisdiction of the Tribe.

3.1.9 Tribe or Tribal Government: means the Picayune Rancheria of Chukchansi Indians.

**Section 4. Scope.** This Ordinance shall apply to the Class III Facility, all tribal government agencies, and Tribally-owned commercial enterprises located on Tribal Lands.

**Section 5. Administration, Publication.**

5.1 Accessibility. The Tribal Secretary shall make available at the Tribal Government offices for public review and inspection three copies of this Ordinance.

5.2 Certification of Adoption and Publishing. The Tribal Secretary shall certify the adoption of this Tribal Ordinance and cause the same to be published as required by Tribal Law.

5.3 Effective Date. This Tribal Ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage and approval.

**Section 6. Adoption by Reference.**

6.1 Adoption of Certain Provisions of Code of Federal Regulations. 29 Code of Federal Regulations (C.F.R.) Part 1910 and Part 1926, promulgated pursuant to Section 655 of the Occupational Health and Safety Act, as amended (29 U.S.C. § 655), are hereby

adopted as the law of the Tribe and made part of this Ordinance by reference for the purposes of regulating the safe and healthful working conditions of the tribal labor force.

**6.2 Adopting of Amendments.** Any revisions or amendments to 29 C.F.R. Part 1910 or Part 1926 shall automatically be incorporated as Tribal Law and shall be deemed to automatically amend this Ordinance in conformity therewith and it shall not be necessary for the Tribal Council to take any action with regard to such revision, amendment of, or repeal of Parts 1910 and 1926.

**6.3 Exclusions:** In addition to the definitions listed below, the following sections shall be excluded from adoption into this Ordinance: 29 C.F.R. § 1910.5; 29 C.F.R. § 1910.16; 29 C.F.R. § 1926.30; 29 C.F.R. § 1926.605; Subpart Y of 29 C.F.R. Part 1926 (§§ 1926.1070-1926.1092 and appendices A & B).

**6.3.1** Appendices A-H associated with Subpart R of 29 C.F.R. Part 1926 are not intended to have a binding effect on Employers and are adopted as non-mandatory guidelines for compliance with construction standards.

## **Section 7. Employee Compliance.**

**7.1** Every Employee whose Employer is subject to this Ordinance is responsible for complying with all safety regulations applicable to their industry and incorporated with this Ordinance. All Employees are responsible for adhering to the following basic safety principles:

- a. **Always follow safety rules.** Applicable safety rules and regulations are to be followed at all times.
- b. **Do not perform unsafe acts.** Employees should never perform any tasks that they believe may be unsafe. Any such conditions or practices an Employee believes are unsafe should be reported to a supervisor immediately.
- c. **Do not engage in horseplay.** Employees should not engage in acts of horseplay or perform their duties in a reckless manner.
- d. **Listen to supervisors.** Supervisors have been instructed to familiarize Employees with safe operations and practices. All Employees must follow established safety rules and wear the required safety equipment in performing their assigned tasks.
- e. **Detect Symptoms.** Learn to detect early signs and symptoms of any illnesses or ailments, report symptoms to supervisor and get proper medical treatment.

## **Section 8. Reporting Requirements.**

**8.1** All Employees shall receive information on reporting job related accidents in new Employee orientation.

- 8.2 An Employee must report any injury, no matter how slight, to his/her supervisor within twenty-four (24) hours of the incident that caused the work injury. An injury may be reported on behalf of the Employee.
- 8.3 Employees who are involved in work place accidents should give full details concerning the nature of their injuries, the cause, the time/date, and any other relevant information.
- 8.4 Employees should immediately secure any necessary medical treatment.
- 8.5 Employees and supervisors shall fill out all accident reporting forms.
- 8.6 If first aid is administered on the premises, the nature of the first aid, and condition of the individual must be documented.

**Section 9. Safety Training.**

- 9.1 To reduce the chance of injury, it is the Tribe's policy to provide each Employee with training in the tools, equipment, and skills necessary to perform his or her job. Training will comply with the specifics of any OSHA standards. Employees are to cooperate and take training seriously as its purpose is to protect their lives, health and safety.

**Section 10. Administration and Enforcement.**

- 10.1 The Tribal Department of Safety shall be responsible for enforcing the provisions of this Ordinance within the jurisdiction of the Tribe.
- 10.2 The Tribal Department of Safety shall be entitled to contract with consultants to provide inspections and assistance with the enforcement of this Ordinance.
- 10.3 Following an inspection by a federal inspector with the Occupational Health and Safety Administration or the United States Department of Labor, the Tribal Department Safety shall be entitled to rely upon the opinions and findings of such inspection when enforcing this Ordinance.
- 10.4 The Tribal Department of Safety shall have the authority to: issue notices of violation; issue corrective action orders; issue closure orders; issue compromises and settlements; and assess penalties.

**Section 11. Penalties.**

- 11.1 The following penalties shall apply to violations of this Ordinance:

11.1.1 Non-Serious Violations. Other than serious violations shall receive a written citation without a monetary penalty.

11.1.2 Serious Violations. Serious violations shall be assessed a civil fine from \$0 to \$50.00.

11.1.3 Willful Violations. Willful violations shall be assessed a civil fine of \$50.00 to \$100.00.

11.1.4 Repeated Violations. Repeated violations shall be assessed a civil fine of \$100.00 to \$200.00.

## **Section 12. Hearings and Appeals.**

12.1 Right to Appeal. A recipient of an order, decision, suspension, or fine from the Tribal Department of Safety may appeal it to the Board of Appeals.

12.2 Appointment of Board of Appeals. The Tribal Council may establish on a case-by-case basis a Board of Appeals for purposes of hearing appeals related to this Ordinance, or such appeals may be heard by the Tribal Council. The Board of Appeals shall be comprised of three members to serve on an as-needed basis, and upon the conclusion of any appeal shall no longer exist as a Board. The Tribal Council may appoint members of the Board qualified by experience and training.

12.3 General authority. The Board of Appeals shall have the authority to review, sustain, reverse, change or modify any decision of the Tribal Department of Safety.

12.4 Manner of filing appeals. Any individual(s) who wishes to appeal to and be heard before the Board of Appeals shall file a request for an appeal hearing to the Tribal Council on a form provided by the Tribal Department of Safety. The appeal shall be filed within fifteen (15) business days of the date the recipient received the order, decision, suspension, or fine, and shall include all grounds for objections.

12.5 Fee for appeals. Every request for a hearing filed under the provisions of this Ordinance shall be accompanied by a fee of \$50.00, payable to the Tribe.

12.6 Scheduling of hearing; notice of hearing. Upon receipt of a request for hearing before the Board of Appeals, the Board of Appeals shall set a date for the hearing. The applicant and other persons interested in the case shall be notified as to the time and date of the hearing in writing.

12.7 Conduct of hearing. The Board of Appeals shall hear all arguments and review all evidence submitted by the applicant, the Tribal Department of Safety, and any other person(s) interested in the case, and shall render its opinion. The Board of Appeals shall keep a verbatim record of its proceedings, maintain all documents reviewed or introduced as evidence at meetings, and issue its decisions or other orders in writing.

12.8 Burden of Proof. The individual(s) filing the objection has the burden of establishing that the decision of the Tribal Department of Safety should be reversed, changed, or modified.

12.9 Decisions by Board of Appeals. The Board of Appeals may affirm, modify or reverse the decision upon which a request for hearing was filed, and may remand specific issues to the Tribal Department of Safety for reconsideration. The decision of the Board of Appeals shall be final, and is not subject to appeal.

**Section 13. Tribal Gaming Commission.** Consistent with the provisions of the Tribal Gaming Ordinance, the Picayune Rancheria of the Chukchansi Indians Tribal Gaming Commission shall be entitled to rely on the enforcement of this Ordinance by the Tribal Department of Safety, and the official determinations of the Tribal Department of Safety and the Board of Appeals.

**Section 14. Inconsistent Codes Repealed.** All other codes or portions of codes in conflict herewith are hereby repealed in that respect only

**Section 15. Sovereign Immunity.** Nothing in this Ordinance is intended nor shall it be construed to waive the sovereign immunity of the Picayune Rancheria of the Chukchansi Indians, its officers, agents, members, Employees, tribal entities or tribal enterprises, nor to confer any jurisdiction on any federal, state or local governmental officer, entity or agency.



Picayune Rancheria  
of the

VIII-d.

# CHUKCHANSI INDIANS

46575 Road 417 • Coarsegold, CA 93614 • (559) 683-6633 • FAX (559) 683-0599

## THE PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS

### RESOLUTION #2008-31

### APPROVAL OF THE TRIBAL WORKPLACE SAFETY ORDINANCE


- WHEREAS,** the Picayune Rancheria of the Chukchansi Indians (the "Tribe") is a sovereign federally recognized Indian tribe; and
- WHEREAS,** the Tribal Council of the Picayune Rancheria of the Chukchansi Indians (the "Tribal Council") is authorized by the Tribe's Constitution (the "Constitution") to act as the governing body of the Tribe pursuant to Article IV, Section 2; and
- WHEREAS,** the Tribal Council is authorized to promulgate and enforce bylaws and ordinances necessary to carry out its powers under the Constitution pursuant to Article V(a), to safeguard the peace, safety, morals, and general welfare of the Tribe pursuant to Article (c), to apportion available tribal funds for public purposes pursuant to Article (o), to manage all economic affairs and enterprises of the Tribe pursuant to Article V(m), and to delegate to subordinate boards, or cooperative associations, any of the powers of the Tribal Council pursuant to Article V(t); and
- WHEREAS,** the Tribe previously had adopted the Federal Occupations Safety and Health Standards for the Class III Gaming Facility to workplace safety within the jurisdiction of the Tribe; and
- WHEREAS,** the Tribal-State Gaming Compact entered into between the Tribe and the State of California requires the Tribe at Section 10.2(e) to adopt and comply with standards no less stringent than federal workplace and occupational health and safety standards; and
- WHEREAS,** the Tribal Council finds that it is in the best interests of the Tribe to adopt the Tribal Workplace Safety Ordinance attached hereto,
- NOW THEREFORE BE IT RESOLVED,** the Tribal Council hereby adopts the Tribal Workplace Safety Ordinance attached hereto.

## CERTIFICATION

The Tribal Council of the Picayune Rancheria of the Chukchansi Indians does hereby certify that a meeting duly called, noticed and convened on the 15th day of May 2008, where a quorum was present, do hereby certify that the foregoing resolution was adopted by the Picayune Rancheria of the Chukchansi Indians, by a vote of 3 for, 0 against, 0 abstain, 1 not voting, and 3 absent.

  
Morris Reid, Chairman

ATTEST:

  
Joe Alberta, Secretary

**RESOLUTION #2008-31 ~ APPROVAL OF THE TRIBAL WORKPLACE  
SAFETY ORDINANCE**