SHINGLE SPRINGS RANCHERIA
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# ORDINANCE #11

**Subject:** **Establishment of Economic Development Zone; Compensation to Affected Tribal Members; Claims, Settlement, and Hearing Process**

**WHEREAS,** the Shingle Springs Band of Miwok Indians is a federally recognized Indian Tribe with powers of self-government over its people and its reservation, the Shingle Springs Rancheria; and

**WHEREAS,** pursuant to the Tribe's Articles of Association the Shingle Springs Tribal Council is a governing body of the Tribe and is authorized to act on behalf of the Tribe; and

**WHEREAS,** the Shingle Springs Tribal Council is empowered, pursuant to Article VI, Section i. of the Articles of Association to "administer Tribal assets and to manage all economic affairs and enterprises of the band" and

**WHEREAS,** the lands of the Shingle Springs Rancheria are the most important and valuable physical asset of the Tribe; and

**WHEREAS,** proper administration of the lands of the Shingle Springs Rancheria is essential to the management of the economic affairs and enterprises of the Tribe; and

**WHEREAS,** the Tribal Council has consulted with economic development experts, and the Tribe's other professional consultants and has determined that at this time it appears based upon all available information that the most viable location for its gaming enterprise is in a specific location on the Rancheria; and

**WHEREAS,** based upon political, legal, and economic considerations, time is of the essence in making land available for the gaming enterprise; and

**WHEREAS,** in light of the above circumstances the Tribal Council believes it is necessary and in the best interest of the Tribe to establish an Economic Development Zone in which all land uses incompatible with development of the Tribe's gaming enterprise cease in the near future; and

**WHEREAS**, the Tribal Council has enacted, and from time to time has amended, Assignment and Land Use Ordinances governing the use of the lands of the Shingle Springs Rancheria and pursuant to those Ordinances has granted assignments to tribal members conferring specific limited and terminable rights upon those members; and

**WHEREAS**, the Tribal Council recognizes that imposition of an Economic Development Zone may be inconsistent with the assignment rights of certain members which were granted pursuant to the Assignment Ordinance, and therefore may entitle members to compensation; and

**WHEREAS**, the Tribal Council has made a good faith effort to determine which tribal members may claim such rights, to discuss with those members the potential terms of settlement of their claims, and to agree tentatively upon the terms of settlement of each of them, and believes it has reached such tentative agreements with all affected members; and

**WHEREAS**, the Tribal Council acknowledges that despite its efforts it might not have identified all tribal members who have such rights, and that it therefore needs to provide notice to all tribal members of the establishment of the Economic Development Zone and the right to claim compensation; and

**WHEREAS**, the Tribal Council wishes to establish a process whereby any tribal member who believes his or her assignment rights may be affected by imposition of the Economic Development Zone may have a reasonable opportunity to make a claim to that effect and seek compensation according to proof of entitlement; and

**WHEREAS**, the Tribal Council also wishes to use the same process to formalize the tentative agreements it has reached with the tribal members it has identified as affected by establishment of the Economic Development Zone,

**THEREFORE IT IS HEREBY ORDAINED** as follows:

1. This Ordinance shall be referred to as the Economic Development Zone Ordinance of 2000.

2. An Economic Development Zone ("EDZ") is hereby established. The EDZ includes all of the parcels identified in Exhibit A, attached hereto. Subject to the notice, claim, settlement and hearing process set forth below, and to the requirement of enactment of an Abatement Resolution as set forth below, property within the EDZ may be used only for the purposes of tribal government economic development, and only pursuant to resolution of the Tribal Council.

3. All interests in real property located within the EDZ, including but not limited to the rights to use, occupy, and possess such property pursuant to tribal assignments, may be terminated upon 30 days written notice by resolution of the Tribal Council ("Abatement Resolution"), provided that the notice, claim,

settlement and hearing process set forth below has been fully complied with by the Tribal Council prior to the enactment of any Abatement Resolution and provided further that the Abatement Resolution certifies such compliance. Use, occupancy, or possession of property within the EDZ prior to the enactment of an Abatement Resolution shall be considered a legal non-conforming use. Any tribal member may waive in writing the application to his or her Claim of any of the procedures of this Ordinance which are intended for his or her benefit.

4. Any tribal member ("EDZ Claimant") who believes that establishment of the EDZ and the enactment of an Abatement Resolution pursuant to this Ordinance would affect a parcel within the EDZ in such a way as to entitle that person to compensation may file with the Secretary of the Tribal Council a claim (a "Taking Claim") asserting that interest and requesting compensation. No Taking Claim will be valid unless it is filed within thirty days from the date upon which notice is mailed to that person's last known address as set forth below, or posted on the affected parcel, whichever is later. Upon receipt of any Taking Claim, the Tribal Secretary shall log in a permanent record the date of receipt of the Claim and forward a copy of the Claim to the EDZ Settlement Committee and a copy to the Tribal Council.

5. There is hereby established the EDZ Settlement Committee ("EDZ Committee"). The EDZ Committee shall consist of three members, shall be appointed by majority vote of the Tribal Council, and shall continue to serve until disbanded by the Tribal Council. Members of the Settlement Committee may be removed by the Tribal Council only upon a showing of malfeasance or neglect of duty, and not as a result of the Council's disagreement with the content of their reports.

6. Upon receiving a Taking Claim, the EDZ Committee shall immediately offer in writing to meet with the EDZ Claimant to negotiate a settlement of the Claim. The EDZ Committee shall meet and negotiate with any EDZ Claimant in an attempt to reach a fair resolution of that person's Taking Claim. The EDZ Committee shall conduct a reasonable factual investigation of the basis of the Taking Claim and the fairness of the amount of compensation requested by the EDZ Claimant. Based upon that investigation, if the EDZ Committee is able to reach tentative agreement with the EDZ Claimant on a settlement, it shall report that tentative agreement to the Tribal Council for its consideration. If the EDZ Committee is unable for any reason, despite its good faith efforts, to reach a tentative agreement with the Claimant within fourteen calendar days of its first written offer to meet with the EDZ claimant, it shall report to the Tribal Council and to the EDZ Claimant in writing that negotiations have failed and the reason for that failure.

7. Upon receipt of a report of a tentative agreement, the Tribal Council may accept that agreement and finalize it by a resolution authorizing the Tribal Chair to sign a written EDZ Claim Settlement Agreement, or it may reject the agreement.

14. Upon request to the Tribal Council by any claimant or potential claimant based upon good cause, the Tribal Council may extend for a reasonable period of time any deadline established by this Ordinance.

15. The Secretary of the Tribal Council shall cause notice of the enactment of this Ordinance to be provided to all members of the Shingle Springs Band of Miwok Indians by causing this Ordinance, its Exhibits, and the model claim form:

    To be mailed, first class mail, certified, return receipt requested to every person who is a member of the Shingle Springs Band of Miwok Indians at that person's last known address;

    To be posted in a conspicuous location at the main tribal office and at the tribal center; and

    To be posted in a conspicuous location on each separate parcel within the EDZ.

16. To the extent that this Ordinance may be inconsistent with the existing Assignment Ordinance, Land Use Ordinance, or any other tribal law, this Ordinance shall govern, and such prior enactments shall be deemed to be amended by this Economic Development Zone Ordinance so that such inconsistencies are resolved.

17. This Ordinance does not constitute a waiver of the sovereign immunity of the Shingle Springs Band of Miwok Indians.

18. This Ordinance shall be effective immediately.

CERTIFICATION

As a duly-elected official of the Shingle Springs Rancheria, I do hereby certify that, at a meeting duly called, noticed, and convened on the 21st day of October 2000, adopted by a vote of 6 FOR, 0 AGAINST, 0 ABSTAINED, and said resolution has not been rescinded or amended in any form.

Nicholas [illegible]
Chairperson

12-21-2000
Date

ATTEST:

Adrian Murray
Secretary

12/21/2000
Date