



## **SHINGLE SPRINGS BAND OF MIWOK INDIANS**

Shingle Springs Rancheria, (Verona) Tract, California  
5281 Honpie Road, Placerville CA 95667  
P.O. Box 1340, Shingle Springs CA 95682  
(530) 676-8010 office; (530) 676-8033 fax

### **RESOLUTION 2012-48**

#### **SUBJECT: APPROVAL OF AMENDMENTS TO THE TRIBE'S LAND USE ORDINANCE.**

**WHEREAS**, the Shingle Springs Band of Miwok Indians (the "Tribe") is a federally recognized Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as possessing powers of self-government; and

**WHEREAS**, the Shingle Springs Tribal Council is the duly-elected governing body of the Tribe and is authorized to act on behalf of the Tribe; and

**WHEREAS**, the Tribe, on June 19, 1976 did adopt the Articles of Association for the management of all Tribal affairs; and

**WHEREAS**, Article VI of the Tribe's Articles of Association provides for the Tribal Council the authority to enact and amend ordinances; and

**WHEREAS**, the Tribal Council has developed a Land Use Ordinance to regulate the use of land belonging to the Shingle Springs Band of Miwok Indians, as enacted on June 5, 2002; and

**WHEREAS**, the Land Use Ordinance was amended so as to regulate camping on the Rancheria by granting a temporary camping permit to guests approved by the Tribal Council, incorporate land not previously described in the zoning maps provided in the original ordinance, and to zone the previously mentioned land for its delegated uses; and

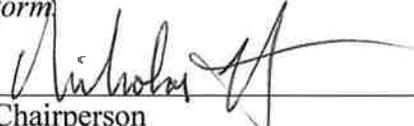
**WHEREAS**, the Tribal Council has reviewed the attached Amended Land Use Ordinance and has determined that it is consistent with its desired land use for the Rancheria.

**NOW THEREFORE, BE IT RESOLVED** that the Tribal Council hereby enacts and adopts the amended attached "Land Use Ordinance" as an ordinance of the Tribe, and authorizes the Chairman or his designee to execute any and all documents and agreements necessary as may be required to give effect to the transactions, herein contemplated, and to take such other actions as may hereby be necessary and appropriate to carry out the obligations there under.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately.

**CERTIFICATION**

*As a duly-elected official of the Shingle Springs Band of Miwok Indians, I do hereby certify that, at a meeting duly called, noticed, and convened on the 12th day of July, 2012 at which time a quorum of 5 was present, this resolution was duly adopted by a vote of 5 FOR, 0 AGAINST, 0 ABSTAINED, and said resolution has not been rescinded or amended in any form*

  
\_\_\_\_\_  
Chairperson

7-12-12  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Secretary

7-12-12  
\_\_\_\_\_  
Date



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### LAND USE ORDINANCE

#### SECTION 1. AUTHORITY

(A) The Articles of Association ("Articles"), adopted on June 19, 1976, as amended, govern the management of all Tribal affairs for the Shingle Springs Band of Miwok Indians. Specifically, Article VI, Section 1(d) of the Articles authorizes the Tribal Council to regulate, by land use ordinance, the use and development of all Tribal lands, whether assigned or unassigned, and to manage, lease or otherwise operate all unassigned Tribal property.

#### SECTION 2. DEFINITIONS

Wherever used in this Ordinance, the following terms shall have the following meaning:

- (A) "**Assignee**" refers to the holder of an Assignment.
- (B) "**Assignment**" refers to a formal right to use reservation land subject to the terms of this Ordinance as now set forth or as may be amended from time to time.
- (C) "**Band**" refers to the Members of the Shingle Springs Band of Miwok Indians of the Shingle Springs Rancheria.
- (D) "**Camping**" refers to the use of a tent structure for the purpose of temporarily living on a designated parcel of land, for a duration to be predetermined by the Tribal Council. Camping does **not** include the use of mobile homes, recreational vehicles, pop-ups, or any other mobile device that accommodates electrical or water hook-ups unless pre-approved by the Tribal Council.
- (E) "**Commercial**" refers to property which will be used for the development of retail and service-oriented establishments such as gaming, shopping centers, restaurants, offices, entertainment enterprises, and services.
- (F) "**Easement**" refers to an intangible interest in the property of another which allows the owner to use the property. As used in this Ordinance, it means that area of Tribal property over which the Tribe asserts dominion and control.
- (G) "**Gaming Facility**" refers to any building in 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 off-site facilities primarily dedicated to storage of those

records, and financial institutions, and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the gaming operation.

(H) "**Greenway**" refers to linear open space established along a natural corridor that is planned, designed and managed for multiple purposes, including ecological, recreational, cultural, aesthetic or other purposes compatible with the concept of sustainable land use.

(I) "**Multi-Family Housing**" refers to multiple-family residential dwellings (e.g. multi-plex units, apartment-style condominiums, and apartments) with ample open space and on-site facilities and amenities to serve more than one family.

(J) "**Rancheria or Shingle Springs Rancheria**" refers to all land, air, and water located within the borders of land owned in fee or trust by the Shingle Springs Band of Miwok Indians.

(K) "**Tribe**" refers to the Shingle Springs Band of Miwok Indians.

(L) "**Tribal Council**" refers to the governing body of the Shingle Springs Band of Miwok Indians.

(M) "**Tribal Office**" refers to the administrative offices located on the parcel designated as Tribal Activity Area.

### **SECTION 3. PURPOSE**

The purpose of this Ordinance is to supersede all prior Land Use plans and Ordinances so as to conform with land use pattern changes previously approved by the Tribal Council, and provide proper control of all lands within the boundaries of the Shingle Springs Rancheria and subject to governance by the Tribe, by establishing standards and procedures so as to preserve the health and safety of persons on the Shingle Springs Rancheria.

### **SECTION 4. JURISDICTION**

The provisions of this Ordinance shall apply to the entire Shingle Springs Rancheria as it currently exists, and to such future annexations of property as are approved by the Tribal Council.

### **SECTION 5. ADMINISTRATION**

(A) The Shingle Springs Tribal Council shall administer the provisions of this Ordinance, and shall propose future amendments to this Ordinance, as it deems necessary and prudent.

(B) The duties of the Shingle Springs Tribal Council with respect to land use matters shall be as follows:

- (1) To administer and enforce the provisions of this Ordinance;

- (2) To provide for written terms and conditions of the necessary permits;
- (3) To issue permits as provided by this Ordinance;
- (4) To evaluate, approve, or deny the application for any permit as soon as reasonably possible after application for a permit is made. Any denial of a permit shall be supported by a brief written statement of reasons. Any denial of a permit may be appealed pursuant to Section 12 below.
- (5) To approve such amendments to the Land Use Plan as may be deemed necessary and applicable by the Tribal Council, subject to ratification by the Band; and
- (6) To keep such records as may be required.

**SECTION 6. ZONING**

Zoning will provide control by the Tribe of the locations for various activities on Rancheria property. The entire Rancheria, presently consisting of 50 parcels, will be zoned for various land uses as follows:

Land Use/ Designations/ Zoning Designations		
Commercial	Property designated to support service- related establishments such as gaming, restaurants, retail, professional services, offices, gas stations, Health Clinic, and entertainment services.	Parcels # 9-15, # 48-50
❖ Tribal Activity Area	Includes all necessary support services for Tribal Government, including, but not limited to, Tribal Fire Station, Tribal Court, Administrative Office, Multi-Purpose Facility.	"Tribal Activity Area" <i>(no parcel number)</i>
❖ Industrial	Property designated for manufacturing and assembly of products.	None
Greenway	Linear open space established along a natural corridor that is planned, designed and managed for multiple purposes, including ecological, recreational, cultural, aesthetic or other purposes compatible with the concept of sustainable use. Camping is <b>prohibited</b> at all times.	Parcels # 6, 7, 22, & # 42-44
Greenway	Linear open space established along	Parcel #5

❖ Camping	a natural corridor that is planned, designed and managed for the same purposes as the standard Greenway Zone. However, camping is allowed pending approval by Tribal Council.	
Single-Family Residential  <i>Assignees may determine the use of their parcel for single or multiple dwellings. Determination is based upon available waste disposal capability</i>	Single-family residential dwelling.	Parcels #1-4, #16-21, #23-41, & # 45-47
Multi-Family Residential <i>(transitional housing)</i>	Multi-family duplex, apartment, or condominium dwelling.	Parcels #8 and East 1/3 portion of Parcel #36
Public Easement	Land owned by the Tribe that operates for a public use. ie. Freeway off-ramps.	Parcel #44

## SECTION 7. STANDARDS

These standards are designed to protect the health and safety of, and to enhance development resources of, the Rancheria. The standards to be applied on the Shingle Springs Rancheria are as follows:

(A) Residential Use: Dwellings of conventional construction, modular or mobile homes shall comply with the requirements of the Shingle Springs Assignment Ordinance, Section 6- Standards and Section 7- Procedures, and as hereinafter amended to conform to the Uniform Building Code. Multiple-dwelling construction will be approved in accordance with the permit procedures set forth in Sections 7-9 and will be approved subject to a 25-year lease to be granted by the Tribal Council. Zone designations are listed in the Land Use Map attached as Exhibit A.

(1) Set Back Requirements. Any single-family, multiple-family or mobile home constructed or placed after the date of this Ordinance upon the Shingle Springs Rancheria shall adhere to the following set back requirements applicable to such unit:

- Minimum front yard - thirty (30) feet
- Minimum side yard - ten (10) feet
- Minimum rear yard - thirty (30) feet
- Maximum height - forty-five (45) feet
- Lot line clearance - six (6) feet

The locations of all existing units are deemed approved and nonconforming uses.

(B) Commercial Use: No person shall conduct any business or professional endeavor from his or her home within the boundaries of the Shingle Springs Rancheria.

(C) Greenway: Greenway properties may be planned, designed, and managed for multiple purposes, including ecological, recreational, cultural, aesthetic, or other purposes compatible with the concept of sustainable land use.

(D) Industrial: Industrially zoned parcels are those whose primary use is manufacturing and assembly of products. Industrially zoned parcels will not be approved for Rancheria parcels unless and until a comprehensive industrial plan is adopted by the Band.

(E) Public Easement: Land owned by the tribe that operates for a public use. ie. Freeway off-ramps.

## **SECTION 8. LAND ASSIGNMENT & USE**

(A) Individual assignments are conditional upon compliance with all relevant sections of the Land Assignment Ordinance.

(B) Non-Conforming and Inconsistent Uses. Uses of lands on the Rancheria that are in existence at the time of the enactment of this Ordinance, and are non-conforming or inconsistent with its terms, shall be permitted.

(C) Other Uses. Other uses besides residential, otherwise consistent with the provisions of this Ordinance, may be accommodated on Tribal sites by noticed action of the Tribal Council.

## **SECTION 9. PROCEDURES**

(A) Residential Construction. The Tribal Council will review the plans for residential construction on a case-by case basis. After the review process, the Tribal Council will determine whether or not to issue a permit.

(1) Removal of Natural Resources: If any trees or gravel or other natural resources are to be removed in preparation for residential construction, the quantity and types of trees and amount of gravel to be removed must be stated in the application for a permit.

(B) Commercial. The Tribal Council has designated Commercial Zones to promote the development of retail and service-oriented establishments such as gaming, shopping centers, restaurants, professional offices, entertainment enterprises, and related services.

(1) Every business of any nature will be separately permitted by the Tribal Council. All commercial development will be separately approved by the Tribal Council based on

detailed review of plans and specific use restrictions applicable to the site of the application.

(C) Business Permits. The Tribal Council shall issue permits to conduct business only if the following conditions are met:

- (1) The applicant files an application for a permit to conduct business activity on commercially zoned or greenway property;
- (2) The applicant complies with all Tribal Ordinances and rules relating to conducting a business;
- (3) The applicant grants permission for the Tribal Council to enter the applicant's premises for the reasonable inspections of land, facilities and records in order to determine whether the applicant is in compliance with the permit conditions as may have been imposed.

#### **SECTION 10. BUSINESS AND COMMERCIAL PERMIT PROCESS**

(A) Business and Commercial permits may be granted upon application to the Tribal Office.

(B) Application for a permit shall be filed at the Tribal Office in a form provided by that Office. The form shall be accompanied by such information as may be required to describe fully the proposed use for which the permit is sought. Determination of a complete application will be determined by the Tribal Office within fifteen (15) days of the application.

(C) Completed applications shall be forwarded to the Tribal Council for processing, and will be considered at its next regular meeting following certification of completion of the application for a permit. Consideration for the application shall be based solely on Sections 7-9 of this Ordinance.

(D) Within thirty (30) days of receipt of a completed application, the Tribal Council shall grant or deny the issuance of the permit applied for, unless notice of an extension has been provided to the applicant. Failure of the Tribal Council to act within the time set for hearing shall be deemed to be a denial of the application on that date.

#### **SECTION 11. ENFORCEMENT**

(A) Enforcement of this Ordinance shall be by the Tribal Council or Tribal Court.

(B) Violations of this Ordinance shall be subject to the jurisdiction of the Shingle Springs Rancheria. The Tribal Council or Tribal Court shall act on all reported violations of this Ordinance. Wherever possible, the Tribal Council or Tribal Court shall grant the alleged violator an opportunity to correct the reported violation within a specified time.

(C) If the alleged violator fails to take corrective action upon being given the opportunity, the Tribal Council shall notify the alleged violator by certified mail, return receipt requested, that his/her assignment may be canceled or he/she may be evicted from the Rancheria.

(D) The alleged violator has thirty (30) days to appear before the Tribal Council to present his/her case.

(E) The Tribal Council shall conduct a hearing at the scheduled time and place and then and there may make its final decision whether or not the alleged violator appears, provided that good cause has not been shown at the time for the nonappearance.

(F) When the Tribal Council upon hearing and after due deliberation has reached its final decision, such decision shall be confirmed in a letter issued by the Tribal Council and directed to the alleged violator by certified mail, return receipt requested. This letter shall cover all of the following items:

(1) The nature of the decision;

(2) Whether the alleged violator has been found innocent or guilty;

(3) In the event of a finding of guilty, the exact remedy that is to be carried out by the Tribal Council;

(4) The period of time allowed for removing or otherwise disposing of personal property, which period shall not be less than six (6) months from the date of the letter. If a person is ordered to leave tribal lands, he/she shall have at least thirty (30) days to do so.

## **SECTION 12. APPEALS**

(A) Any person aggrieved by an action of the Tribal Council may make an appeal by filing a notice of appeal with the Tribal Office, attn: Tribal Chairman within thirty days of the action by the Tribal Council.

(B) The Tribal Council shall consider the appeal and the record upon which the action appealed from was taken.

(C) Within sixty (60) days of the filing of the notice of appeal, the Tribal Council shall render its decision on the matter in writing.

(D) The decision of the Tribal Council upon an appeal is final and conclusive as to all things involved in the matter.

## **SECTION 13. AMENDMENTS**

This Ordinance, or any section herein, may be amended by the Tribal Council by majority vote.

**SECTION 14. SEVERABILITY**

The parts of this Ordinance are declared severable. If any provision, clause, sentence, or paragraph of this Ordinance is held to be unconstitutional or otherwise illegal, the valid provisions shall remain in force and effect.

**SECTION 15. CONSTRUCTION/ INTERPRETATION**

To the extent that this Ordinance may be inconsistent with prior Tribal Council Ordinances affecting land use designations, this Ordinance shall prevail.

**SECTION 16. SOVEREIGN IMMUNITY**

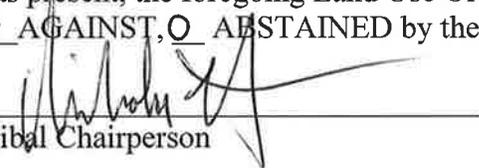
Nothing in this Ordinance shall be construed to constitute a waiver of sovereign immunity by the Shingle Springs Band of Miwok Indians.

**SECTION 17. DATE EFFECTIVE**

This Ordinance shall become effective immediately upon approval of the Tribal Council.

**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 12 day of July, 2012 at which time a quorum of 5 was present, the foregoing Land Use Ordinance was duly enacted by a vote of 5 FOR, 0 AGAINST, 0 ABSTAINED by the Shingle Springs Band of Miwok Indians Tribal Council.

  
Tribal Chairperson

7/12/12  
Date

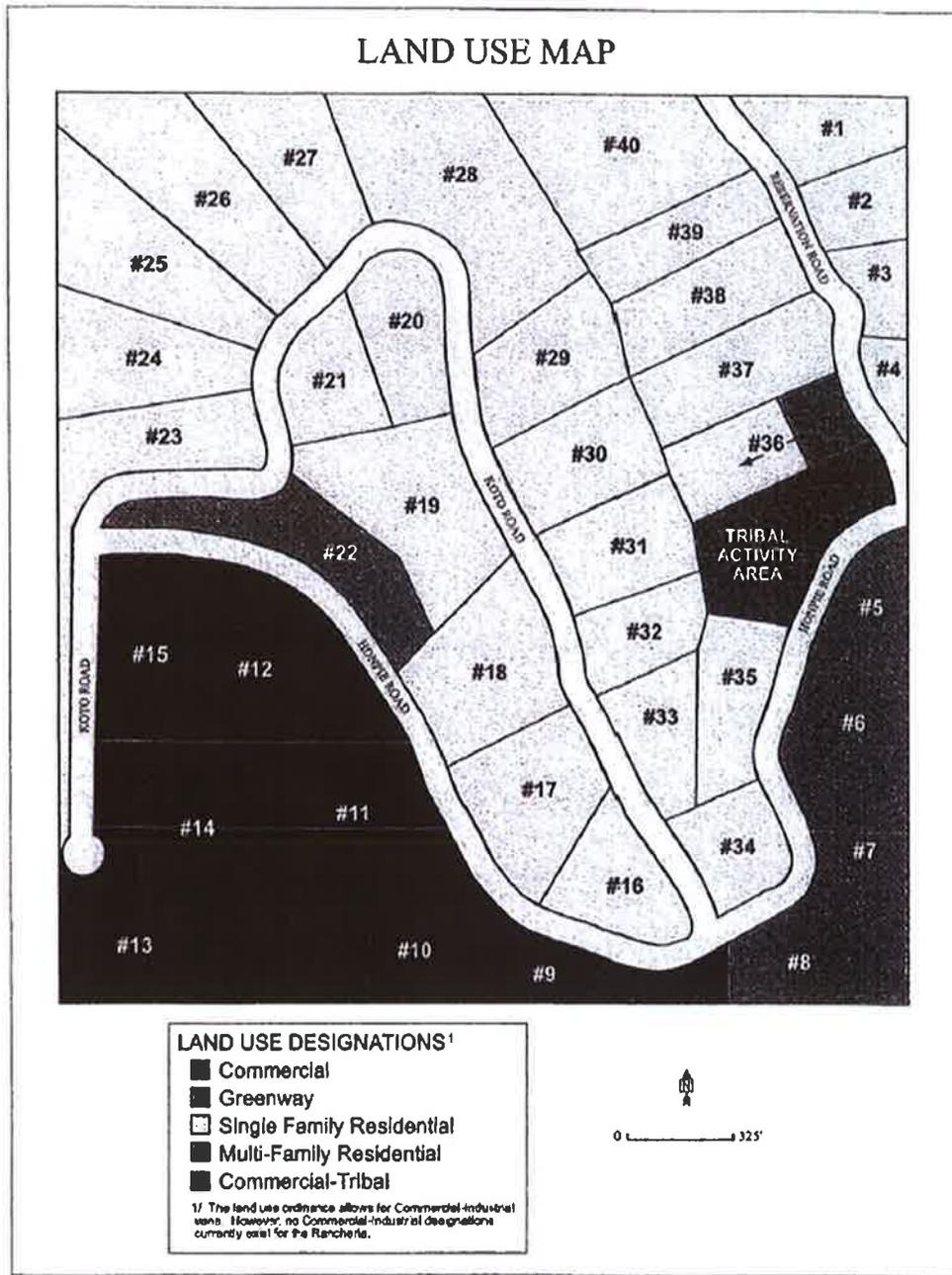
ATTEST:

  
Tribal Secretary

7/12/12  
Date

**INSERT MAP HERE**

EXHIBIT A



SOURCE: Urspr Partners & Associates, 2007; AES, 2012

Shingle Springs Rancheria / 201512 ■

Land Use Map