



AGUA CALIENTE BAND OF CAHUILLA INDIANS

LAND USE ORDINANCE

Adopted by the Tribal Council on July 14, 2009, as Tribal Ordinance No. 45
As amended by Amendment No. 1, on January 11, 2011
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ARTICLE I – INTRODUCTORY PROVISIONS

1.1.0 Title

This Ordinance shall be officially known and cited as the Land Use Ordinance of the Agua Caliente Band of Cahuilla Indians (Tribe). References herein to “this Ordinance” shall be interpreted as referring to Land Use Ordinance.

1.2.0 Authority

This chapter is enacted under the inherent sovereign authority of the Tribe and pursuant to Sections a, b, f, and I, of Article V, and amendment No. 9, approved on August 9, 1991, by the authorized representative of the Secretary of the Interior, of the Constitution and Bylaws of the Agua Caliente Band of Cahuilla Indians, as well as pursuant to any applicable delegations of federal authority to the Band for treatment as a state, or otherwise, under federal law.

1.3.0 Applicability and Jurisdiction

This Land Use Ordinance shall apply to all development, public and private, within areas of the Agua Caliente Indian Reservation (Reservation) not covered under a Land Use Agreement between the Tribe and a local jurisdiction. All structures and land uses constructed or commenced after adoption of this Ordinance and all enlargements of, additions to, changes in, and relocations of existing structures and uses occurring after adoption of this Ordinance shall be subject to the Land Use Ordinance.

No land is to be used or occupied, and no building or structure which has been erected or altered is to be used or changed in use, in whole or in part, until a Certificate of Occupancy has been issued by the Tribal Building Official stating that the proposed use and occupancy of such land, building or structure complies with the provisions of this Ordinance.

No excavation for any building or structure is to be commenced until a Building Permit has been issued by the Tribal Building Official.

Any development project approved prior to the adoption of this Ordinance shall be permitted to proceed as originally approved.

1.4.0 Minimum Requirements

The standards set forth in this Ordinance are minimum requirements. The issuance of any permit, certificate or approval in accordance with the standards and requirements of the Land Use Ordinance shall not relieve the recipient of the responsibility for complying with all other applicable requirements of any other Tribal or federal agency.

1.5.0 Purpose and Intent

This Land Use Ordinance is adopted to promote the public health, safety and general welfare of residents and visitors to the Agua Caliente Indian Reservation. More specifically, the regulations are intended to:

- A. Ensure the highest and best use of all land on the Reservation;
- B. Direct the timely and orderly development of the Reservation;
- C. Preserve and protect land, air, water, environmental resources and property values;
- D. Regulate the type and intensity of development;
- E. Protect and maintain the Reservation's unique and irreplaceable natural resources; and
- F. Preserve open space, clean air, groundwater recharge and wildlife.

The Tribal Council finds and declares that each and every provision of this Ordinance promotes and enhances the public health, safety, and general welfare and is authorized by the provisions of the Tribe's Constitution noted in Section 1.2.0. above.

1.6.0 Word Usage and Construction of Language

1.6.1 Meanings and Intent

All provisions, terms, phrases and expressions contained in this Ordinance shall be construed according to the Purpose and Intent set out in Section 1.5.0.

1.6.2 Headings, Illustrations and Text

In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, figure, or illustration, the text shall control.

1.6.3 Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples; not to be exhaustive lists of all possibilities.

1.6.4 References to Other Regulations, Publications, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such resolution, ordinance, statute, regulation, or document or to the relevant successor document, unless otherwise expressly stated.

1.6.5 Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the Tribe to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate that responsibility to another over whom they have authority.

1.6.6 Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning. (See also Article III "Definitions").

1.6.7 Tribal Officials and Bodies

All officials and bodies to which references are made are those of the Tribe, unless otherwise expressly provided.

1.6.8 Mandatory and Discretionary Terms

The words "shall," "will," and "must" are mandatory. The words "may" and "should" are advisory and discretionary terms.

1.6.9 Tenses and Plurals

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

1.7.0 Zoning Map

The boundaries of the zoning districts established by the Land Use Ordinance are shown on a map or series of maps designated as the "Zoning Map," which, together with all legends, symbols, notations, references, district boundaries, and other information thereon, is adopted and made a part of this Ordinance as fully as if it were set out herein in detail.

Original copies of the Zoning Map, which shall constitute the official record, are maintained in the office of the Chief Planning & Development Officer, or his/her designee. In case of any dispute regarding the zoning classification of property subject to the Land Use Ordinance, the maps maintained by the Chief Planning & Development Officer shall control.

Changes in the boundaries of any zoning district shall be reflected on the Zoning Map promptly upon approval of the amendment by the Tribal Council. All amendments to the Zoning Map shall be attested to by the Chief Planning & Development Officer.

1.7.1 District Boundaries

The following rules shall apply in the determination of the boundaries of any district shown on the Zoning Map.

- A. Wherever a site is divided by a zoning district boundary, the zoning regulations applicable within each district shall apply to each portion of the site situated in a separate district.
- B. Where boundaries approximate street and alley lines or other identifiable property or boundary lines, such lines shall be construed to be the district boundary. Where such boundaries are shown as being within streets or within identifiable rights-of-way, the centerline thereof shall be construed to be the district boundary.
- C. Where a district boundary divides an unsubdivided parcel, the location of the district boundary shall be determined by the use of the scale appearing on the Zoning Map unless indicated by dimensions.
- D. Map codes or symbols indicating the classification of property on the Zoning Map apply to the entire area within the district boundaries.
- E. Where a street, alley or right-of-way is officially vacated or abandoned, the zoning designation of the abutting property shall apply to the centerline of the vacated or abandoned street, alley or right-of-way.
- F. Should any uncertainty remain about the location or meaning of a boundary indicated on the Zoning Map, the uncertainty shall be resolved by the Chief Planning & Development Officer, whose decision may be appealed to the Tribal Council.

1.8.0 **Conflicting Provisions**

1.8.1 Conflict with Other Tribal Regulations

If the provisions of the Land Use Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the Tribe, the more restrictive provision will control.

1.8.2 Conflict with Private Agreements and Covenants

The Land Use Ordinance is not intended to abrogate, annul, or otherwise interfere with any easement, covenant, or other private agreement or legal relationship. The Tribe is responsible for enforcing this Ordinance; it does not enforce private agreements.

ARTICLE II – REVIEW AND DECISION-MAKING BODIES

2.1.0 Tribal Council

The Tribal Council is responsible for all land use decisions on the Reservation. While some land use authority has been delegated to local jurisdictions, final authority for all development within the Reservation rests with the Tribal Council.

2.1.1 Hearings and Proceedings before the Tribal Council

For all projects subject to the Land Use Ordinance, the Tribal Council has the final decision authority, unless otherwise allowed in this Ordinance.

2.1.2 Conditions and Mitigation

The Tribal Council shall have the authority to condition, require mitigation including impact fees, or deny a subdivision and rezone request based on significant adverse impacts to the natural or built environment. In issuing approvals, the Tribal Council may set forth conditions and mitigation requirements consistent with this Ordinance.

2.2.0 Indian Planning Commission

The Indian Planning Commission is responsible for making land use development recommendations to the Tribal Council.

2.2.1 Indian Planning Commission Recommendation

Prior to the Tribal Council's consideration, the Indian Planning Commission shall consider all applications, and prepare a recommendation to the Tribal Council for approval or disapproval of the request.

2.3.0 Chief Planning & Development Officer

The Chief Planning & Development Officer has all of the power and duties as assigned by the Tribal Council.

2.4.0 Appeals

2.4.1 Appeals to the Tribal Council

Decisions upon permit applications rendered by the Chief Planning & Development Officer may be appealed to the Tribal Council upon written notification of appeal made not less than ten (10) days following the effective date of the action. The appeal may only be filed by a party directly and adversely affected by the determination. Notice of the hearing of the Tribal Council shall be mailed not less than ten (10) days prior to the hearing to the appellant, the Chief Planning & Development Officer, and any other party of record who has made written requests for such notice.

Tribal Council shall review the Chief Planning & Development Officer's decision, including the findings of the fact and conclusions. Tribal Council may affirm, modify, amend or alter the decision of the Chief Planning & Development Officer, and shall render its decision based upon written findings of facts and conclusions. The decision of the Tribal Council shall be final.

2.4.2 Substantial Weight and Deference

In any appeal authorized by this Ordinance, and in any civil action over which the Tribal Council has jurisdiction, the decisions and determinations of the Chief Planning & Development Officer shall be accorded substantial weight and deference.

ARTICLE III – DEFINITIONS

3.1.0 Definitions

Except where specifically defined in this Article, all words used in this title shall carry their customary meaning, as defined and explained in any current edition of Webster's Unabridged Dictionary. Where doubt exists concerning the dictionary definition, the Chief Planning & Development Officer will make the final decision.

Abutting (Adjacent) - Two or more parcels sharing a common boundary of at least one (1) point.

Access - The safe, adequate, and usable ingress or egress to a property or use. This also means access to public roadways and the road system.

Accessory Building - A subordinate building which is incidental to the principal building on the same lot.

Accessory Use - A use customarily incidental and related to the principal use on the same lot.

Action - The decision made by the review authority on a land use application, including appropriate findings, environmental determination and conditions of approval, where applicable.

Alley - A public or private way, at the rear or side of property, permanently reserved as an ancillary means of vehicular or pedestrian access to abutting properties.

Alteration - A change or rearrangement of the structural members or exits in a building; an increase in the height or length or depth of the exterior walls of a building; the movement of a structure from one location to another.

Animals - Domestic animals kept either as farmstead animals for profit or household pets, but does not include game animals or animals used in religious observance, for purposes of this Ordinance.

Antenna - A device for transmitting or receiving radio, television, telephone or any other transmitted signal.

Applicant - The owner(s) or lessee(s) of property, or their agent(s), or person(s) who have contracted to purchase or lease property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agent(s) of such persons.

Attached - Any structure that has an interior wall or roof in common with another structure.

Awning - A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

Backflow Prevention Device - A safety device designed to prevent the reverse flow of polluted or contaminated water into the potable water system.

Buffer - All areas designated as buffers pursuant to Section 5.1.2 and Section 10.13.4 and/or any areas designated as buffers in any permit, subdivision approval or variance issued under this Ordinance.

Buildable Area - The net portion of the lot remaining after deducting all required setbacks, slopes, and other sensitive areas from the gross area of the lot.

Building - Any structure having a roof, designated for shelter of persons, animals or property.

Building Face - Window and wall area on one plane of a building.

Building Coverage - The percentage of lot area which may be covered by all the footprints of buildings or structures on any lot.

Building Height - The vertical distance above a reference point measured to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof. The reference point shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade.
2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in item 1 above is more than 10 feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building.

Canopy - A non-movable roof-like structure attached to a building.

Carport - A permanent roofed structure not completely enclosed, to be used for vehicle parking.

Certificate of Occupancy - A document issued and signed by the Tribal Building Official, allowing the occupancy of a building or use.

Clustered Development - The grouping or attaching of buildings in such a manner as to achieve larger aggregations of open space than would normally be possible from lot by lot development at a given density.

Compatible Uses - Uses similar in physical characteristics (height, bulk, building style), but not necessarily identical, with a mass or scale that would not cause them to be inharmonious. They have characteristics that enhance adjacent uses and minimize external impacts on them through careful design, and are incorporated into a site with attention to significant natural features. They do not interfere with use of adjacent properties or cause nuisances.

Conditional Use - A use permitted in a zone only after review by the Tribal Council and the granting of a conditional use permit imposing such performance standards, conditions, and mitigation requirements as are determined to be appropriate under the authority of this Ordinance.

Construction Sign - One construction sign, either freestanding or wall mounted, which identifies a project under construction with a maximum size of 20 square feet, a minimum setback of ten feet, non-illuminated and if freestanding, not more than 12 feet in height.

Corner Lot - A lot at the junction of and having frontage on two or more intersecting streets or roads.

Cultural Uses - Those activities which have historically occurred on the Reservation and are important to the continuance of the Tribe's identity and culture.

Day(s) - Shall always be consecutive calendar days unless otherwise stated.

Density - The number of dwelling units per gross acre, unless otherwise stated, for residential uses.

Detached - Any building or structure that does not have a wall or roof in common with any other building or structure.

Department - Planning & Development Department.

Development - The placement or erection of any solid material or structure; grading, removing, dredging, mining or extraction of any soil or material; change in the density or intensity of use of land, including, but not limited to, subdivision, and any other division of land, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; construction, reconstruction, demolition, or alteration of the size of any structure including any facility of any private, public or municipal utility; and the removal of any major vegetation. As used in this Ordinance, "structure" includes but is not limited to any building, fence, sign, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Development Permit - A permit required under this Ordinance to ensure proper use of structures, location of structures, grading and other activities than can affect environmentally sensitive lands and uses of property outside of structures.

Direct Illumination - A source of illumination on the surface of a sign or from within a sign.

Driveway - An area of a property designed to provide vehicular access to a parking area or structure contained on the subject property.

Dwelling - A building which is designed or used as a residence by the occupants.

Dwelling Unit - A building containing one or more rooms providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, cooking and sanitation, not including hotels or motels.

Emitter - Drip irrigation equipment designed to slowly deliver water from the system to the landscape area.

Evapotranspiration - The loss of water into the atmosphere from plants and soil.

Excavation - The removal of natural earth material from its original location.

Family - Two or more persons related by blood, marriage, or adoption, or a group of not more than six persons, not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

Fence - A man-made wall or barrier, or vegetation installed or planted for the purpose of enclosing space or separating parcels of land.

Filling - The depositing of any material on a site which raises the surface elevation of land or bed of a body of water or stream above its original natural elevation.

Floor Area - The dimensions of a floor area shall be measured from the interior face of exterior walls on the first story and any other story connected with a fixed stairway or elevator. The measurement includes the floor area of all accessory buildings measured similarly, but excludes the floor area required for heating and other mechanical equipment, garaging of vehicles, enclosed porches, light shafts, corridors and stairwells

Freestanding Sign - A sign erected on a free-standing frame, monument or wrapped pylon and not attached to any building.

Frontage - The side of a lot abutting a street (the front lot line), except the side of a corner lot.

Garage - A sheltered or enclosed accessory space intended for the storage of a motor vehicles or boats of the residents on the premises including carports.

Gross Acreage - The total area within the lot lines of a lot or parcel of land before public streets, easements or other areas to be dedicated or reserved for public use are

deducted from such lot or parcel, and does not include adjacent lands already dedicated for such purposes.

Gross Building or Floor Area - The total square feet of space in a building measured from the exterior walls, not including open exterior steps or ornamental features extending outside of the walks.

Guest Houses - Living quarters having no kitchen facilities located on the same premises with a main building and occupied for the sole use of members of the family, temporary guest, or persons permanently employed on the premises.

Half Story - A story under a gable, hip or gambrel roof, parts of which are not more than two (2) feet above the floor of such story.

Holiday Decoration - Temporary signage, in the nature of decorations, clearly incidental to and customarily and commonly associated with any Tribal, national, local or religious holiday.

Home Occupation - An occupation carried on within a dwelling or building accessory to a residence by members of the family dwelling therein and no more than one non-resident employee under the conditions, and in accordance with the requirements of Section 10.7.0.

Hydrozone - A landscaped area that uses plants that have similar water requirements and are served by a single valve or a set of valves with uniform scheduling.

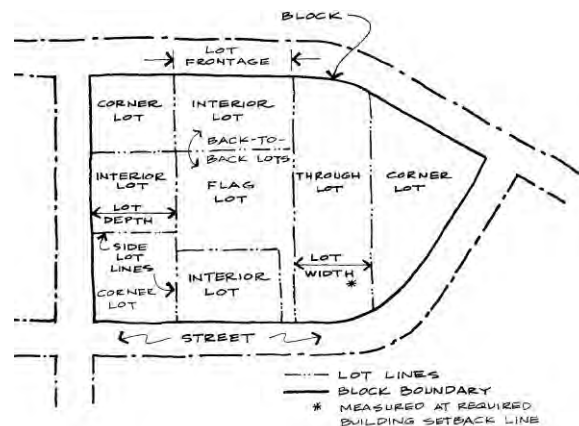
Indirect Illumination - A source of illumination directed toward a sign so that the beam of light falls upon the exterior surface of the sign.

Irrigation Efficiency - Measurement of the amount of water beneficially used divided by the amount of water applied. This is extracted from measurements and estimates of irrigation system characteristics and management practices.

Lot - A parcel, tract or area of land established by subdivision, or as otherwise permitted by law, to be used, developed or built upon. The classification of lots are:

Corner - A lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "interior lot."

Flag - A lot having access or an easement to a public or private street by a narrow, private right-of way or access easement.



Interior - A lot abutting only one street.

Through - A lot having frontage on two generally parallel streets, with only one primary access.

Lot Area - The total horizontal area within the lot lines.

Lot Coverage - That portion of the total lot area that is covered by principal and accessory buildings.

Lot Depth - The average distance between the front and rear lot lines or between the front line and the intersection of the two side lines, if there is no rear line.

Lot Frontage - The portion of the lot contiguous to the street.

Lot Line Any boundary of a lot. The classifications of lot lines are:

Front - On an interior lot, the line separating the parcel from the street. On a corner lot, the shorter lot line abutting a street. (If the lot lines on a corner lot are equal in length, the front lot line shall be determined by the Chief Planning & Development Officer.) On a through lot, the lot line abutting the street providing the primary access to the lot.

Interior - Any lot line not abutting a street.

Rear - A lot line, not intersecting a front lot line, which is most distant from and most closely parallel to the front lot line. In the case of an irregularly shaped lot or a lot bounded by only three lot lines, a line within the lot having a length of 10 feet, parallel to and most distant from the front lot line shall be interpreted as the rear lot line for the purpose of determining required yards, setbacks, and other provisions of this Ordinance.

Side - Any lot line which not a front or rear lot line.

Lot Width - The dimension of the lot line at the street, or in an irregularly shaped lot, the dimension across the lot at the building line.

Manufactured Home - A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process.

Maximum Lot Coverage The maximum percentage of the surface of the subject property that may be covered with materials which will not allow for the percolation of water into the underlying soils.

MCCA - Mountain and Canyons Conservation Area.

Mobile Home - A structure, transportable in one or more sections, which is thirty-two body-feet or more in length and is eight body-feet or more in width, and which is built on

a permanent chassis, and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, air conditioning and electrical system contained therein. The term mobile home does not include a commercial coach, recreational vehicle, motor home, manufactured home, or modular home.

Modular Home - A home that is built off site to Uniform Building Code standards rather than the Federal Manufactured Home Construction and Safety Standards.

Native - Originating naturally in a particular region or part of an area.

Net Site Area The total area within the lot lines of a lot or parcel of land after public street easements or other areas to be dedicated, sensitive areas, slopes and lands reserved for public use are deducted from such lot or parcel.

Non-Conforming Sign – An existing sign, lawful at the time of enactment of the Land Use Ordinance that does not conform to the requirements of this Ordinance.

Non-Conforming Lot, Structure or Use - A lot, use of land, or use of structure which existed or was established prior to the effective date of this Ordinance, and which is deemed under the provisions of Section 12.1.0 to be lawful non-conforming uses.

Office - A place of employment providing services other than production, distribution or sale or repair of goods or commodities.

Open Space - Undisturbed wilderness areas, parks, or that part of a development dedicated to undisturbed or landscaped area that is available for passive or active recreation.

Outdoor Advertising Structure - A structure of any kind of character erected or maintained for outdoor advertising purposes. Such structures must be constructed or erected, and its use must require a permanent location or attachment to something having a permanent location on the ground. (See Ordinance No. 13, Outdoor Advertising Displays.)

Outdoor Storage - Any material, including items for storage or sale, lease, processing and repair (including vehicles) not in an enclosed structure.

Parcel - A piece of land under one ownership that is shown as a single legal parcel.

Park - Any public or private land available for recreational, educational, cultural, or aesthetic use.

Parking Space - A space on a lot within or without a building exclusive of access drives at least nine by eighteen feet used to park a vehicle and having access to a public street or alley.

Performance Bond - A written certificate guaranteeing to pay up to a specified amount of money if specified work is not performed; or any similar mechanism whereby the Tribe has recourse to an identified fund from which to secure performance of specified work.

Person - Any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, company, joint stock association, corporation, estate, trust, organization, business, business trust, public agency, school district, State of California, and its political subdivisions or instrumentalities, receiver, syndicate or any group or combination thereof, acting as a unit, including any trustee, receiver or assignee.

Planter(s) - Designated confined planting areas located within a paved area intended to support the growth and development of trees and other plant materials.

Pole Sign - One or more masts or poles, without wrap, wholly supporting a sign separated from the ground by air.

Primary Unit or Residence - The owner occupied structure on a legal lot which also contains an accessory dwelling unit.

Primary Vehicular Access - The major street from which the majority of vehicles enter the subject property.

Principal Use - The primary or predominant activity to which the lot of building is or may be devoted to which all other uses are accessory.

Property Line (See Lot Line)

Public Access - A portion of private property subject to an easement giving the public the right to stand on or traverse this portion of the property.

Rain Sensing Override Device - A device that automatically halts the irrigation system during times of rain.

Real Estate Sign - A sign that indicates the availability of land or buildings for sale, lease, rent or other permanent or temporary disposition.

Rear Yard (See Yard, Rear)

Recreational Area - Any area used for physical activities.

Recreational Vehicle - A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or licensed for temporary living quarters for recreational or sporting purposes. The term recreational vehicle includes, but is not limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks or buses, boats and boat trailers, and all-terrain vehicles.

Recreational Vehicle Park - A parcel of land developed or operated as a unit with roads, utilities and community facilities to accommodate recreational vehicles on a transient, space rental basis.

Recycled Water - Waste water that has been treated and restored to a quality that is suitable for non-potable uses such as landscape irrigation; not intended for human consumption.

Recycling - The process by which waste products, including automobiles, are reduced to raw materials and transformed into new products.

Retention of Storm Water - The collection of water due to precipitation in a given area, and the dispersment of these waters through the natural process of groundwater recharge and evaporation or the incorporation of this collection area into a natural stream or other body of water.

Residential Property Signs - A non-commercial sign erected on a residential lot on which a house occurs.

Residential Sign - A sign to identify a residential subdivision or complex.

Right-of-Way - Land dedicated primarily to the movement of vehicles and pedestrians and providing for primary access to adjacent parcels. Secondly, the land provides space for utility lines and appurtenances and other publicly owned devices.

Roof sign - Any sign erected on, against or directly above a roof or top of or above the parapet of a building.

Rounding of Quantities - The consideration of distances, unit density, density bonus, density transfer calculations, or other aspects of development or the physical environment expressed in numerical quantities which are fractions of whole numbers. Numbers are to be rounded down to the next lowest whole number.

Satellite Dish Antenna - An apparatus capable of receiving or transmitting communications to or from a satellite.

School - An institution of learning, whether public or private, which offers instruction in those courses of study required by the California Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school, vocational or professional institution of higher education, including a community or junior college, college or university, or any special institution of education.

Second Dwelling Unit - A fully self-contained residential dwelling unit located on the same lot as a single family residence, which meets all the development standards for such a structure as enumerated in Section 4.2.0.

Side Yard - See Yard, Side

Sign - Any object having a visual appearance primarily used for or having the effect of attracting attention from the streets, sidewalks, or other outside public areas in order to identify, describe, symbolize or display a business, event, institution, location, object, organization, person, product or service. A structure or graphics upon a structure for a display of advertising or identifying the owner or occupant or use of the premises.

Sign Area - The area included within the outer dimensions of a sign. In the case of a multi-faced sign, the area of each face shall be included in the sign dimensions excluding the supporting framework.

Sign Program - A detailed graphic and narrative plan, approved by the Tribe that establishes the specific sign regulations and common aesthetic design characteristics that apply to all signs for a particular area that may include two or more separate but contiguous parcels that are managed as a single entity and share ownership and function.

Site Plan - Plan prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

Solar Energy System - Any solar collector or solar device, or structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling; for domestic, recreational, therapeutic, or service water heating; for the generation of electricity; for the production of process heat; and for the production of mechanical work. Solar energy systems include passive thermal systems, semi-passive thermal systems, active thermal systems, and photovoltaic systems.

Specific Plan - A complete development plan for the subject property which conforms to the requirements of Section 10.14.0 of this Ordinance.

Stable, Private - An accessory structure for the keeping of horses or ponies for the use of occupants of the premises.

Street Frontage - Lineal dimension in feet that the property upon which a structure is built abuts a public street or streets.

Story - That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling above it. If the floor surface is on average not more than 6 feet above the finished grade, the area between the floor surface and the ceiling above is not a story.

Street - Any public or private thoroughfare, which affords a primary means of access to abutting property.

Structure - Any man-made assemblage of materials extending above and/or below the surface of the earth and attached thereto.

Subdivision - The division or re-division of land into two or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease or transfer of ownership.

Suspended Sign - A sign that is hung from the underside of a marquee or covered walkways perpendicular to a building face.

Temporary Sign - A sign that is not permanently affixed and is only in place for a specific period of time. All devices such as banners, pennants, flags (not including flags of Tribal, national, state, or local governments), searchlights, sandwich boards, sidewalk signs, curb signs, balloons or other air or gas-filled balloons.

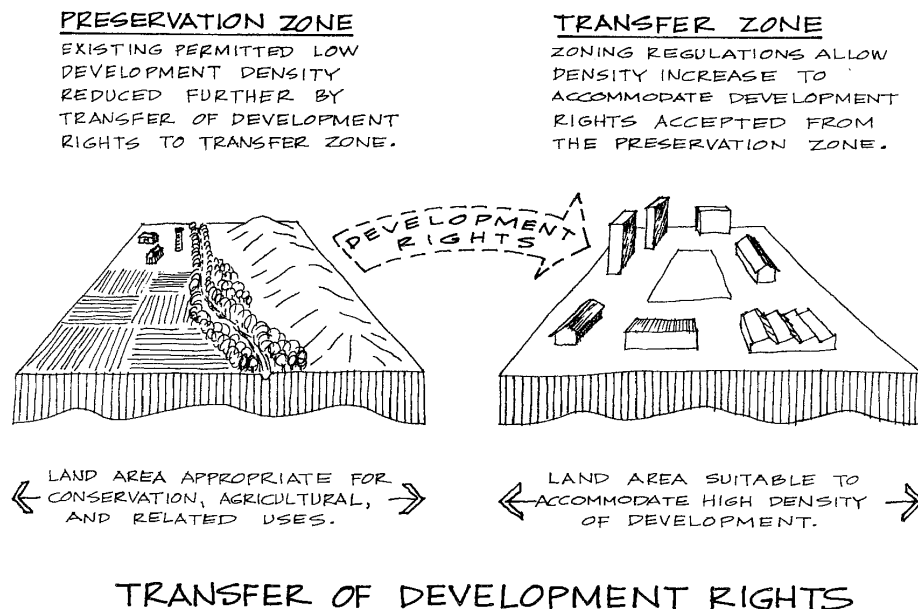
TEPA - Tribal Environmental Policy Act.

THCP - Tribal Habitat Conservation Plan.

Through Lot - See Lot, Through

Traffic Control, Directional or Warning Signs - Allowed as required or authorized by law or by Tribal or federal authority including public utility signs.

Transfer of Development Rights - The transfer of the number of units permitted on one parcel to another parcel, when the sending parcel is preserved for open space or conservation, and the receiving parcel is allowed to build the units permitted on it, in addition to the units from the sending parcel.



Tree Removal - Includes, but is not limited to, foliage, branches, limbs, trunk, crown, roots and any other underground material.

Tribal Building Official – Chief Planning & Development Officer or his/her designee.

Uniform Building Code – The building code adopted by the Tribe on which all building permit approvals are based.

Use - The purpose land, buildings, or structures now serve or for which such is occupied or intended.

Utility - A private business organization such as a public service corporation, including physical plant facilities, performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include but are not limited to: electric power, telephone, cable television, gas and transportation for persons and freight.

Variance - An adjustment made in the application of the specific regulations of this Ordinance to a particular piece of property, where the criteria, requirements and conditions of Section 10.14.0 are satisfied.

Wall Sign - Sign attached to or erected against the wall of a building with the face in a parallel plane of the building wall.

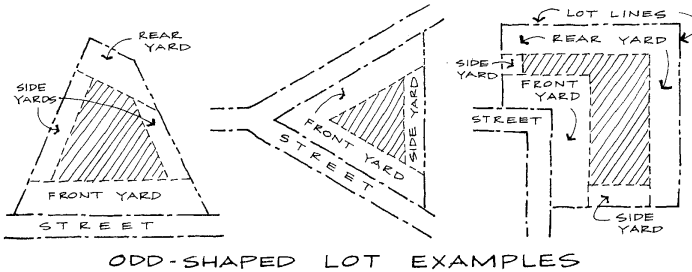
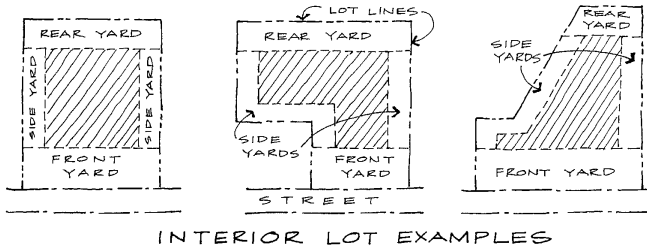
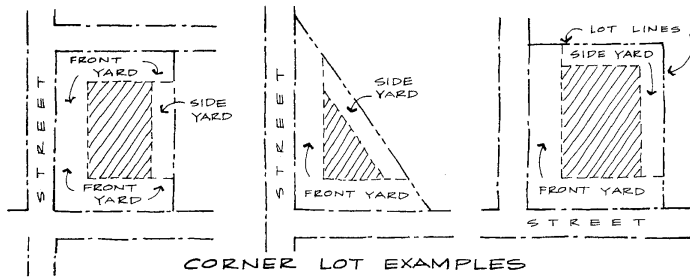
Water Waste - The consumption of water for landscaping purposes that results in excess water flow into any gutter, street, sidewalk, etc., for an extended period of time; or the consumption of water that results in pooling in a public street, sidewalk or right-of-way; or the consumption of water for landscaping purposes during peak hours where evapotranspiration minimizes irrigation efficiency, (typically between the hours of 11:00 a.m. and 7:00 p.m.).

WUCOLS - The Water Use Classification of Landscape Species, a University of California Cooperative Extension Publication.

Wind Energy Conversion System (WECS) - Any device such as a wind charger, windmill, or wind turbine that converts wind energy to a usable form of energy.

Window Sign – A sign posted, painted, or placed on any window within public view including interior signs that face a window exposed to public view to be reasonably visible from outside the window.

Yard - An open space on a parcel of land unobstructed and unoccupied from the ground upward, except for projections permitted by this Ordinance.



REQUIRED YARDS

Building (Zoning) Envelope after Required Setbacks
 (Two Dimensional)

Yard, Front - An area extending across the full width of the lot between the front lot line or the existing or future street right-of-way and a structural setback line parallel thereto. On corner lots, the shortest street frontage shall be the front yard.

Yard, Interior Side - An area extending from the required front yard or, where there is no required front yard, from the front lot line to the required rear yard or, where there is no required rear yard, to the rear lot line and from the interior side lot line to a setback line parallel thereto.

Yard, Rear - An area extending across the full width of the lot between the rear lot line and a setback line parallel thereto. On flat lots, the rear yard location shall be determined through project review.

Yard, Side of Street - An area extending from the required front yard or, where there is no required front yard, from the front lot line to the rear lot line, and from the side street lot line, or the existing or future side street right-of-way (which-ever is greater) to a structural setback line parallel thereto.

Zero Lot Line - The location of a structure on a lot in such a manner that 1 or more of the structure's sides rest directly on a lot line.

Zone - A portion of the Agua Caliente Indian Reservation designated on the Zoning Map as one, or more, of the zoning categories established by this Ordinance.

Zoning Map - The Official Tribal Zoning Map.

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ARTICLE IV – ZONING DISTRICTS

4.1.0 Zoning Districts

For the purpose of providing a uniform basis for zoning, the following zone classifications shall be applied to the lands of the Agua Caliente Indian Reservation:

| Table 1 Zoning Districts | | |
|-------------------------------------|-----------------------------|--|
| Zoning Map Symbol | Zoning District Name | Permitted Uses |
| LDR | Low Density Residential | 2 single family dwelling units per acre |
| R-R | Rural Residential | 1 single family dwelling unit per 20 acres |
| TR | Tribal Reserve | See Indian Canyons Master Plan |
| TE | Tribal Enterprise | Subject to Tribal Council determination |
| HP | Heritage Park | See Indian Canyons Master Plan |
| LUC | Land Use Contract | See appropriate city/county zoning code |
| SP | Specific Plan | See applicable Specific Plan |

4.1.1 Uses Permitted

The following land uses are permitted, conditionally permitted, or prohibited in the above zoning districts on Reservation lands.

| Table 2 Allowable Uses and Permit Requirements | | |
|---|-----------------|-----|
| Residential Uses | District | |
| | LDR | R-R |
| Accessory Structure | P | P |
| Bed & Breakfast | D | D |
| Guest House | D | D |
| Multi-family Residential | X | X |
| Noncommercial keeping of horses | D | D |
| Patio/Gazebo | P | P |
| Second Dwelling Unit | D | D |
| Single Family Dwelling | D | D |
| Swimming Pool/Spa | P | P |
| Transfer of Development Rights | P | P |

| Table 2 Continued | | |
|---|-----------------|-----|
| Allowable Uses and Permit Requirements | | |
| Other Uses | District | |
| | LDR | R-R |
| School (Tribal/Public) | C | X |
| Golf courses | C | C |
| Museums and cultural uses | C | C |
| Passive/active recreation | P | P |
| Picnic grounds | D | D |
| Tribal parks and playgrounds | D | D |
| Telecommunication facilities | C | C |
| Temporary uses | D | D |
| Tourist facilities | C | C |
| P = Permitted D = Development Permit Required C = Conditional Use Permit Required X = Prohibited | | |

4.1.2 Similar Uses Permitted

When a use is not specifically listed in this Ordinance, it shall be understood that the use may be permitted if it is determined by the Tribal Council that the use is similar to other uses listed.

It is further recognized that every conceivable use cannot be identified in the Land Use Ordinance, and anticipating that new uses will evolve over time, this Section establishes the Chief Planning & Development Officer’s authority to compare a proposed use and measure it against those listed in this Ordinance to determine similarity. If an applicant wishes to appeal the Chief Planning & Development Officer’s interpretation, such appeal shall be made to the Tribal Council, pursuant to the requirements of Section 2.4.0.

In determining “similarity” the Tribal Council shall make all of the following findings:

- A. The proposed use shall meet the stated purpose and general intent of the district in which the use is proposed to be located;
- B. The proposed use shall not adversely impact the public health, safety and general welfare of residents; and
- C. The proposed use shall share characteristics common with, and not be of greater intensity, density or generate more environmental impact, than those uses listed in the district in which it is to be located.

4.2.0 Development Standards

- A. All uses other than those specified as outdoor uses shall occur in a completely enclosed structure.
- B. There shall be no visible storage of loose rubbish, garbage, junk or their receptacles, commercial equipment, or building materials in any portion of a lot. Storage shall always be considered ancillary to the principal use. There shall be no storage on parcels otherwise vacant. Materials being used for the construction of a structure may be stored on the property only as long as a valid building permit is in effect.
- C. All Non-Residential uses shall provide for a trash enclosure. The trash enclosure shall include three walls and a gate, in a style compatible with the structure's architecture and include adequate space for a separate recyclable material container. The gate shall be maintained in working order and shall remain closed except when in use.
- D. All roof-mounted equipment, air conditioning or heating equipment, vents or ducts shall not be visible from any abutting lot, or any public street or right-of-way.
- E. All new buildings, excluding accessory uses, shall include provisions for the installation of future photovoltaic Solar Energy Systems. At a minimum, these provisions shall include a one-inch diameter electrical conduit extending from a point on the exterior wall located under the southern roof exposure, to the exterior wall location adjacent to the main electrical service panel. At each location, the conduit shall terminate at a two-gang, exterior wet location rated electric junction box.

The following specific standards shall apply in each of the zoning districts.

| Table 3 Development Standards | | |
|--|-------------|------------|
| | LDR | R-R |
| Minimum Lot Area | 18,000 s.f. | 20 acres |
| Minimum Lot Width (feet) | 100 | 150 |
| Minimum Lot Depth (feet) | 120 | 150 |
| Front/Street Side (feet) | 20 | 25 |
| Interior Side (feet) | 7 | 15 |
| Rear (feet) | 10 | 25 |
| Maximum Building Height (feet/stories) | 22/2 | 22/2 |
| Minimum Distance Between Structures (feet) | 15 | 30 |
| Maximum Building Coverage | 30% | 5% |
| Accessory Structure Maximum Height (feet) | 18 | 18 |

4.3.0 Use Specific Standards

The following Sections address specific development standards for specified structures or uses.

4.3.1 Development of Clustered Housing

Single family residential units may be allowed on lots smaller than the minimum lot size for the zone in which they are located, subject to approval of a Development Permit. In no case shall the density of the clustered units exceed the density allowed for the parcel on which they are proposed. In considering the proposal, the applicant must demonstrate that the clustering of units on the parcel will have a beneficial impact on aesthetics, preservation of native plants, and slope preservation. All proposals for clustered development must include a minimum of 40% of the site in common area open space, available to the residents of the clustered units.

4.3.2 Standards for Accessory Structures

Accessory structures are permitted in all districts, and include detached structures such as garages, greenhouses, storage sheds, studios, barns, workshops and similar structures. Accessory structures must meet the following standards:

- A. All accessory structures shall be architecturally compatible with the primary structure.
- B. Any single accessory structure, excluding any permitted second dwelling unit, shall not have a floor area in excess of fifty percent (50%) of the footprint of the primary structure, up to a maximum of 750 square feet.
- C. Accessory structures shall meet the building setback standards of the district in which it is located.
- D. Any accessory structure shall be located on the same parcel as the primary structure.
- E. The maximum height of an accessory structure shall be 18 feet.

4.3.3 Standards for the Installation of Mobile or Manufactured Homes

Mobile homes shall be installed in the following manner:

- A. Mobile or manufactured homes may be used as single family dwellings if the home is certified under the National Mobile Home Construction and Safety Standards Act of 1974.
- B. Mobile or manufactured homes shall be installed on an approved permanent foundation system in compliance with applicable codes.

- C. The Chief Planning & Development Officer shall determine that the subject lot together with the proposed mobile or manufactured home are compatible with surrounding development. This determination shall be based on an assessment of on-site design and development standards and materials, architectural aesthetics, setbacks, roof pitch and type, building height, accessory buildings, access, off-street parking, minimum square footage requirements, and any other criteria deemed appropriate by the Chief Planning & Development Officer.
- D. All mobile and manufactured homes shall have a minimum eave dimension of one foot.
- E. All siding shall be non-reflective and shall be installed from the ground up to the roof.
- F. All mobile or manufactured homes shall have a minimum width (across the narrowest dimension) of twenty (20) feet.
- G. All mobile or manufactured homes shall have a garage or carport.
- H. All mobile or manufactured homes shall be fully landscaped.

4.3.4 Second Dwelling Units

The purpose of these standards is to establish procedures and standards for the development of second dwelling units in a manner that preserves the integrity of each district, avoids adverse impacts on such areas and ensures a safe and attractive residential environment.

- A. A second unit shall require Development Permit approval. The following information shall be submitted:
 - 1. A floor plan drawn to scale of the primary unit and the proposed second dwelling unit.
 - 2. Documentation verifying that the primary unit is owner-occupied.
 - 3. The proposed method of water supply and sewage disposal for the second dwelling unit, including “can and will serve” letters from a public sewer or water district.
- B. The following standards shall apply to second dwelling units:
 - 1. No more than one second dwelling unit shall be permitted on any one lot.
 - 2. A second dwelling unit shall only be permitted on a lot in which the primary unit and all other structures thereon conform to all minimum requirements of the applicable zoning district.

3. The maximum second dwelling unit size for new units shall not exceed the following standards:

| <u>Lot Size</u> | <u>Maximum 2nd Unit Size</u> |
|---------------------|------------------------------|
| Less than one acre | 800 sq. ft. |
| One acre or greater | 1,000 sq. ft. |

4. The lot shall contain an existing primary unit at the time an application for a second dwelling unit is submitted, or the application for the second unit may be made in conjunction with the development of the primary unit.
5. A second dwelling unit shall comply with all development standards for the applicable zoning district, including, but not limited to, standards for front, rear and side yards setback requirements for a primary unit under the regulations of the applicable zoning district.
6. The total gross floor area of all covered structures shall not exceed the lot coverage area as prescribed by the applicable zoning district.
7. A second dwelling unit shall contain separate kitchen and bathroom facilities, and shall be metered separately from the primary dwelling for gas, electricity, communications, water, and sewer services.
8. In addition to the required parking for the primary unit, a minimum of one off-street parking space shall be provided on the same lot that the second dwelling unit is located on for each bedroom in the second dwelling unit, or one space for a studio unit.
9. A second dwelling unit shall have no more than two (2) bedrooms.
10. The exterior appearance and character of the second unit shall reflect that of the primary unit. The design shall take into consideration the use of the same exterior materials, roof covering, colors, and other architectural features.
11. Any manufactured home proposed as a detached second dwelling unit shall be identical in terms of siding and roof materials, roof pitch, roof eaves and color to the primary unit on the lot.
- C. Upon approval of a second dwelling unit on a lot, the lot shall not be further divided unless there is adequate land area to divide the lot consistent with the zoning designation in which it is located.
- D. All construction, structural alterations or additions made to create a second dwelling unit shall comply with current building, electrical, fire, plumbing and zoning code regulations.

4.3.5 Transfer of Development Rights

All transfer of development rights shall conform with the development standards in the district in which they are located, except as allowed in this Section. Transfers of development rights or credits may be within the same property, or may take place from one property to another. Transfer of development rights is permitted subject to the following provisions:

- A. The sending parcels, from which development rights are being removed, must:
 - 1. Remove all development rights at the same time as the receiving parcel receives the development rights.
 - 2. Be mappable, i.e., a legal description and total acreage will be recorded.
 - 3. Record a document which acknowledges that all development rights for the described parcel have been extinguished and that no further development can occur on the parcel.
- B. The receiving parcel, to which development rights are being transferred, must:
 - 1. Be mappable, i.e., a legal description and total acreage will be recorded.
 - 2. Record a document of affixture (or attachment), tying the transferred development rights to a specific parcel, in perpetuity.
 - 3. Evidence of the recordation must be supplied to the Tribal Council prior to the issuance of any ground disturbing permit on the property.
 - 4. If the receiving parcel is subject to a Land Use Contract, it shall comply with the land use provisions of the city or county in which it is located.
- C. If a property consists of both undevelopable and developable portions, the applicant may apply for the subdivision of the parcel to allow transfer of rights from the undevelopable portion to the developable portion.
- D. The recorded documents for a sending parcel shall include:
 - 1. A legal description and total acreage of the parcel or portion of the parcel.
 - 2. The total number of development rights being removed from the property.
 - 3. An acknowledgment that no further development rights shall accrue to the parcel in perpetuity.
 - 4. The number of the parcel to which the development rights are being transferred.
 - 5. The signature, name, and address of the owner of the parcel.

E. The recorded documents for a receiving parcel shall include:

1. A statement as follows: "In addition to the number of dwellings units on this parcel (include number) (legal description and total acreage attached as Exhibit A) which may be permitted by the Agua Caliente Band of Cahuilla Indians by virtue of the Tribal Land Use Ordinance, this parcel shall be permitted (number) of additional dwelling units per acre which have been transferred to this parcel pursuant to Section 4.3.5 of the Land Use Ordinance, Transfer of Development Rights. These additional dwelling units are hereby affixed to this parcel (include number) and may not be further transferred, sold, traded, or otherwise removed from this parcel."
2. The parcel number(s) of the donor parcel(s) from which the development rights or credits have been removed and transferred and affixed to this parcel.

ARTICLE V – MOUNTAINS AND CANYONS CONSERVATION AREA OVERLAY ZONE

5.1.0 Permitting Process within the Mountains and Canyons Conservation Area Overlay Zone

The Mountains and Canyons Conservation Area (MCCA) Overlay Zone has been established for all lands located in the mountains and canyons protected areas of the Tribal Habitat Conservation Plan (THCP). Any project proposed on lands within the MCCA Overlay Zone shall be subject to the provisions of this Section.

All proposed projects must first be determined to be a Covered Project under the THCP. This determination shall be made by the Chief Planning & Development Officer. All Covered Projects within the MCCA Overlay Zone shall require a Conditional Use Permit and shall be subject to the Tribal Environmental Policy Act (TEPA). The applicant may be required to prepare a biological assessment of the site if sufficient information does not exist for the applicant and the Tribe to agree upon the THCP requirements for the proposed Covered Project. As part of the Conditional Use Permit process, the regulations in this Section shall apply.

5.1.1 General Standards

These standards shall apply to all projects within the MCCA district.

- A. The proposed Covered Project's environmental impacts shall be assessed and analyzed in accordance with TEPA.
- B. A maximum of 15 percent of the habitat of Covered Species found in the MCCA may be subject to ground disturbance associated with a project, resulting in an overall minimum of 85 percent of such habitat being conserved and dedicated to the THCP Habitat Preserve.
- C. A maximum of 15 percent of Covered Species habitat shall be subject to ground disturbance.
- D. No disturbance shall be allowed within a lambing area or defined migration corridor for Peninsular Bighorn Sheep (PBS).
- E. Projects shall be conditioned to meet the standards of avoidance, minimization of impacts and mitigation as may be required by the Clean Water Act.
- F. No direct take of an individual PBS shall occur as a result of any project.

5.1.2 Peninsular Bighorn Sheep Specific Standards

The following indirect effect mitigation measures shall apply to all projects within one-half mile and the line-of-sight of lambing areas:

- A. Development shall be clustered to maintain the maximum practicable amount of open space in canyon bottom habitat and PBS foraging areas.
- B. A minimum 500-foot buffer shall be established around known PBS watering areas and associated access routes.
- C. Barriers, a minimum eight-foot high, shall be constructed in conformance with the PBS Recovery Plan where development adjoins PBS habitat. These barriers shall be constructed prior to issuance of Certificates of Occupancy and their maintenance shall be mandated by the Covenants, Conditions and Restrictions (CC&Rs) for the development, if applicable.
- D. Non-native, toxic vegetation shall be prohibited along fenced habitat interfaces and areas accessible to PBS. This requirement shall be mandated in the CC&Rs, if applicable.
- E. Native landscaping shall be installed along project boundaries that abut native habitat.
- F. Water diversions shall be regulated to preserve PBS water sources.

5.1.3 Planning Avoidance and Minimization Measures

The following avoidance and minimization measures shall be included in project plans and implemented during operation of projects in the MCCA Overlay Zone. If a development establishes a Homeowner's Association (HOA), the HOA shall be responsible for enforcing the CC&Rs addressing these and all other standards applicable to the Covered Project. The Chief Planning & Development Officer shall have oversight authority to ensure that this enforcement occurs, and shall be directly responsible for ensuring that the standards are followed on lands without CC&Rs and/or HOAs.

- A. Lighting shall be selectively placed, shielded, and directed away from conserved habitat. In addition, lighting from homes abutting conserved habitat shall be screened by planting vegetation. Large spotlight-type backyard lighting directed into conserved habitat shall be prohibited.
- B. Fuel management zones separating conserved habitat from the location of the project site shall be developed, designed, and managed to minimize impacts to native vegetation. Fuel management activities shall be conducted in accordance with the Tribe's Fire Management Plan and Fuel Reduction Plan.
- C. Invasive species such as giant reed and pampas grass shall not be used. A list of prohibited landscaping vegetation is listed in the THCP. Project applicants shall provide new homeowners with brochures explaining the importance of avoiding landscaping with invasive species.

- D. Security fences/walls for the purpose of controlling human and pet access into THCP Habitat Preserve lands shall be installed where development abuts natural habitats. The Tribe shall approve the final design of these barriers prior to commencement of construction.
- E. Signs shall be posted at potential access points in the THCP Habitat Preserve informing residents of the wildlife habitat value of the open space and to minimize intrusions. Maintenance of access controls shall be the responsibility of the HOA or, if no HOA is formed, the individual landowner. Signs shall be maintained by the HOA or, if no HOA is formed, the Tribe. If any unauthorized pedestrian or pet access results in significant degradation of conserved habitat on site, the HOA, if applicable, shall take steps to control access to the satisfaction of the Tribe.

5.2.0 Conceptual Site Analysis

The purpose of the Conceptual Site Analysis (CSA) is to create a development envelope that maximizes avoidance of the most sensitive biological resources before a design concept is developed. This review is mandatory and shall be completed prior to submittal of a CUP application. The CSA shall include a development envelope map showing, at a minimum:

- Topography;
- Natural Plant Communities, especially riparian habitat;
- Known sightings/observances of Covered Species;
- Landmarks such as rock outcroppings and large trees;
- Natural water sources such as drainages and springs; and
- Extents of Peninsular Bighorn Sheep lambing areas and migration corridors per the THCP.

The Tribe shall determine the adequacy of the Conceptual Site Analysis. Once the Tribe approves the Conceptual Site Analysis, then the applicant may submit an application for a Conditional Use Permit.

5.3.0 Construction Disturbance Avoidance and Minimization Measures

The disturbance period avoidance and minimization measures identified in Section 4.8.4.4 of the THCP shall apply to all projects in the MCCA Zone.

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ARTICLE VI – OFF STREET PARKING STANDARDS

6.1.0 Off-Street Parking

In all zoning districts whenever any building is erected, enlarged, or the use is changed, off-street parking shall be provided as set forth in this Article.

6.1.1 Paving and Landscaping Requirements

All parking stalls and maneuvering areas shall be either paved and permanently maintained with asphaltic or concrete cement surfacing, or covered with decomposed granite or other comparable surface approved by the Chief Planning & Development Officer. All areas within the parking area not used for parking stalls or maneuvering areas shall be landscaped or remain undisturbed in a natural condition.

6.1.2 Off-Street Parking Requirements

All land uses must provide parking on-site. On-street parking cannot be counted toward meeting parking requirements. Off-street parking shall be provided based on the following Table.

| Table 5 Off-Street Parking Requirements | | |
|---|---|--|
| Use | Minimum Spaces Required | Notes |
| Single Family Dwelling | 2 spaces/unit | Required parking must be provided in a carport or enclosed garage. |
| School, K-8 | 5 spaces/classroom | |
| School, 9-12 | 8 spaces/classroom | |
| School, Business and trade | 24 spaces/classroom | |
| College | 30 spaces/classroom | |
| Performance theaters, meeting halls and membership organizations. | 1 space/3 fixed seats, or one space for every 50 sq. ft. of assembly area, plus additional spaces for restaurant, retail or other uses. | |
| museums | 1 space/250 sq. ft. of gross floor area | |

6.1.3 Unspecified Uses

Where automobile parking requirements for any use are not specifically defined in this Section, such requirements shall be determined by the Chief Planning & Development Officer based upon the most comparable use specified in this Article, and other available data.

6.1.4 Limitations, Location, Use of Facilities

- A. In the event that several users occupy a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for the several uses computed separately unless it can be shown via a parking analysis that the peak parking demands are offset. In such case, the Chief Planning & Development Officer may reduce the total requirements accordingly, but in no case by more than 35 percent.
- B. Required parking facilities of two or more uses, structures, or parcels may be satisfied by the same parking facilities used jointly, to the extent that it can be shown by the owners or operators that the need for the facilities does not materially overlap (e.g., uses primarily of a daytime v. nighttime nature) and provided that such right of joint use is evidenced by added, lease contract or similar written instrument establishing such joint use.
- C. All parking shall be available for parking of residents, customers and employees only, and shall not be used for the storage or display of vehicles or materials.
- D. Preferential parking for electric and hybrid vehicles is allowed and encouraged, including the provision of electric vehicle charging systems.

6.2.0 **Accessible Parking Requirements**

- A. Accessible parking shall be provided consistent with the requirements of the Americans with Disabilities Act (ADA).
- B. Accessible parking spaces required by the ADA shall count toward fulfilling off-street parking requirements.

6.3.0 **Parking Lot Design Standards**

6.3.1 Access and Dimensions

No parking space shall be located so that a vehicle will maneuver within 25 feet of a parking entrance/vehicle entrance/parking aisle; vehicular entrance measured from the face of the curb.

Dimensional requirements for off-street parking include the following:

- A. Parking stalls shall be non-perpendicular to the parking aisle whenever possible.
- B. A minimum unobstructed inside dimension of 20 feet by 20 feet shall be maintained for a private two car garage or carport. The minimum obstructed ceiling height shall be 7 feet, 6 inches.
- C. Parking structures may be subject to dimensional adjustment, but in no case shall the stall width be less than 8 feet and 6 inches.
- D. Minimum parking dimensions shall be as follows.

**Table 6
Parking Stall Dimensions**

| A: Parking Angle; B: Stall Width; C: Stall Depth; D: Aisle Width; E: Curb Length/Car; F: Center to Center Width of Double Row and Aisle. | | | | | | | | | | | |
|--|-------|------|------|------|------|-----|-------|------|------|------|------|
| A | B | C | D | E | F | A | B | C | D | E | F |
| 0° | 9'0" | 9.0 | 15.0 | 23.0 | - | 60° | 9'0" | 21.0 | 18.0 | 10.4 | 55.5 |
| | 9'6" | 9.5 | 15.0 | 23.0 | - | | 9'6" | 21.2 | 18.0 | 11.0 | 55.6 |
| | 10'0" | 10.0 | 15.0 | 23.0 | - | | 10'0" | 21.5 | 18.0 | 11.5 | 56.0 |
| 20° | 9'0" | 15.0 | 15.0 | 26.3 | 36.5 | 70° | 9'0" | 21.0 | 19.0 | 9.6 | 57.9 |
| | 9'6" | 15.5 | 15.0 | 27.8 | 37.1 | | 9'6" | 21.2 | 19.0 | 10.1 | 58.2 |
| | 10'0" | 15.9 | 15.0 | 29.2 | 37.4 | | 10'0" | 21.2 | 19.0 | 10.6 | 58.0 |
| 30° | 9'0" | 17.3 | 15.0 | 18.0 | 41.8 | 80° | 9'0" | 20.3 | 24.0 | 9.1 | 63.0 |
| | 9'6" | 17.8 | 15.0 | 19.0 | 42.4 | | 9'6" | 20.4 | 24.0 | 9.6 | 63.2 |
| | 10'0" | 18.2 | 15.0 | 20.0 | 42.7 | | 10'0" | 20.5 | 24.0 | 10.2 | 63.3 |
| 45° | 9'0" | 19.8 | 15.0 | 12.7 | 48.3 | 90° | 9'0" | 19.0 | 24.0 | 9.0 | - |
| | 9'6" | 20.1 | 15.0 | 13.4 | 48.5 | | 9'6" | 19.0 | 24.0 | 9.5 | - |
| | 10'0" | 20.5 | 15.0 | 14.1 | 48.9 | | 10'0" | 19.0 | 24.0 | 10.0 | - |

6.3.2 Driveways and Turn-Arounds

Driveways and turn-arounds providing access to parking areas shall conform to the following provisions:

- A. A driveway for a single dwelling shall have a minimum width of nine feet, and a shared driveway serving two units shall have a width of 12 feet.

- B. Parking areas of more than seven parking spaces per lot shall be provided with adequate aisles or turn-around areas so that all vehicles may enter the street in a forward manner.
- C. Parking area of more than seven parking spaces shall be served by a driveway 20 feet in width and constructed to facilitate the flow of traffic on or off the site, with due regard to pedestrian and vehicle safety, and shall be clearly and permanently marked and defined. Parking areas of seven spaces or less shall be served by a driveway 12 feet in width.
- D. Driveways, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13'6" for their entire length and width.

6.3.3 Shared Driveways

Developments shall minimize the number of driveway intersections with streets by the use of shared driveways with adjoining lots where feasible. In no case shall driveways be closer than 24 feet as measured from the bottom of the existing or proposed apron wings of the driveway approach.

6.3.4 Sight Distance

No signs, structures or vegetation in excess of two and one-half feet in height shall be placed in the vision clearance area. The line of sight area is the triangle formed by a line connecting points 25 feet from the intersection of the property lines. In the case of an intersection involving an alley and a street, the triangle is formed by a line connecting points 25 feet from the intersection of property lines. In the case of an intersection involving an alley and a street, the triangle is formed by a line connecting points ten (10) feet along the alley and 25 feet along the street. When the angle of intersection between the street and the alley is less than 30 degrees, the distance shall be 25 feet. No signs, structures or vegetation or portion thereof shall be erected within ten (10) feet of driveways unless the same is less than two and one-half feet in height.

6.3.5 Development and Maintenance

The following parking lot development and maintenance of standards shall apply in all cases, except single-family dwellings:

- A. All required parking areas, aisles, turn-arounds and driveways shall be paved with concrete, asphaltic, decomposed granite, or comparable surfacing, subject to approval by the Tribal Engineer.
- B. All required parking areas, aisles and turn-arounds shall have provisions made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way, and abutting private property.
- C. Approaches shall be paved with concrete, asphaltic, decomposed granite, or comparable surfacing, subject to approval by the Tribal Engineer.

- D. Parking lots of more than seven spaces shall have all spaces permanently and clearly marked.

6.3.6 Landscaping

A minimum of 15 percent of the net area of all parking areas shall be landscaped as follows:

- A. Where parking areas adjoin a public right of way, a landscaped planting strip equal to the required yard setback shall be established and continuously maintained between the public right of way and parking area.
- B. Any planting, sign, or any other structure within safety sight-distance of a driveway shall not exceed 30 inches in height.
- C. Pedestrian access shall be provided throughout the landscaped areas.
- D. At least one 24 inch box tree for every four parking spaces shall be included in the development of the overall landscape program. The maximum spacing between trees in parking areas shall be 30 feet; however, appropriate clustering of trees may be permitted. Landscaping islands are required at both ends of all parking rows.
- E. All open parking areas are to provide fifty percent or more of shade coverage in ten years.
- F. Notwithstanding the provisions of Subsection E., part or all of the shade coverage requirement may be met through the installation of carport structures. The use of carport structures shall be approved through the design review process. The provision of carports shall not preclude the necessity for providing onsite landscaping. The carport design shall be integrated with the project architecture and landscaping with a view to creating an aesthetically well designed project. Carports can be used to meet all or part of the shading requirement prescribed in Subsection E.
- G. All areas in a parking lot not used for driveways, maneuvering areas, parking spaces or walks, shall be permanently landscaped with suitable materials and permanently maintained.
- H. All landscaped areas shall be a minimum interior dimension of six feet in width.
- I. Permanent and automatic irrigation systems shall be installed and permanently maintained in all landscaped areas.
- J. To increase the parking lot landscaped area, a maximum of two feet of the parking stall depth may be landscaped in lieu of asphalt while maintaining the required parking dimensions. This overhang is in addition to the required yard setbacks.

- K. The landscaping plan shall provide for a variety of plant materials with an emphasis on drought tolerant species, and shall include a legend showing common names, sizes, quantities, location, dimensions of planted area, and square footage, irrigation, and percentage of parking lot landscaping.

6.3.9 Parking Lot Lighting

Lighting of parking areas within 100 feet of property in residential zones shall be directed into or on the site and away from property lines such that the light element shall not be directly visible from abutting residential property.

6.4.0 Construction

The required parking facilities, including design standards, shall be installed prior to a release of a certificate of use and occupancy or a release of utilities, and shall be permanently maintained as a condition of use. However, the Tribal Building Official may release a temporary certificate of use and occupancy and a temporary release of utilities before the installation of said facilities provided: 1) there is proof that the owner has entered into a contract with a reputable installer for the completion of the parking, including design standards, with a specified time, and that there remains nothing for the owner to do prior to installation; or 2) the owner has posted a satisfactory performance bond to ensure the installation of said parking facilities within a specified time.

6.5.0 Alterations and Enlargements

The required parking facilities shall be constructed when an existing building or dwelling is altered or enlarged by the addition or creation of guest rooms or dwelling units, or when a use is intensified by the addition of floor space, seating capacity or change in use.

ARTICLE VII – LANDSCAPING STANDARDS

7.1.0 Purpose

The purpose and intent of this Article is to promote the use of native, desert, and other drought tolerant plants to reduce water demand on the Agua Caliente Indian Reservation. The landscape management practices established in this Article are intended to ensure maximum water efficiency and promote the natural environment of the Reservation.

7.2.0 Application

This Article applies to all new and reconstructed landscape projects on the Reservation subject to the Land Use Ordinance, including, but not limited to, the following:

- A. Private development projects, including industrial, commercial, and recreational projects; and
- B. Developer-installed single-family and multifamily projects.

7.3.0 Exemptions

The following landscape practices and/or uses are exempt from the requirements of this Article:

- A. Non-professional landscape improvements provided and installed by a resident or homeowner;
- B. Cemeteries; and
- C. Culturally significant sites as determined by the Tribal Historic Preservation Office.

7.4.0 General Regulations

Comprehensive landscape and irrigation plans shall comply with this Article and be approved by the Chief Planning & Development Officer. All comprehensive landscaping and irrigation plans associated with a Development Permit shall be stamped and signed by a licensed landscape architect certifying that the plans adhere to this Article.

7.5.0 Comprehensive Landscaping Plan

A comprehensive landscaping plan shall be submitted as part of a permit application. The proposed plant palette shall be considerate of local ecology, and the scarce water resources in the desert climate. The comprehensive landscaping plan shall meet the intent of this Article by exhibiting a generalized design layout which adequately demonstrates the desired landscaping program in terms of water conservation, location, size/scale, function, theme and other attributes, including:

- A. All landscaping plans must take into account the preservation of natural features including hills, topography, trees, shrubs, wildlife habitat, etc.
- B. Zonal planting schemes (hydrozones) shall be used to group plant material with similar water use requirements to maximize efficient water usage, and assist in calculating an accurate water budget.
 - 1. Water use requirements for each plant species, according to the appropriate WUCOLS Regional Zone, shall be provided.
 - 2. A calculated maximum water allowance must be included with the comprehensive landscaping plan. The maximum water allowance shall be calculated using the water budget formula of the appropriate water purveyor, or similar method approved by the Chief Planning and Development Officer.
- C. Turf areas shall be restricted for use under functional purposes, such as recreational areas.
- D. Fire prone areas shall incorporate the appropriate landscaping for fire safety.
- E. All decorative water features shall use a recirculating water system.

7.6.0 Irrigation Plan

An irrigation plan is required as part of the landscape documentation package for a development application. All irrigation plans shall demonstrate water use efficiency and be designed for proper installation management and maintenance, including the following:

- A. Irrigation plans shall clearly identify:
 - 1. Location and size of each water meter used in the landscape;
 - 2. Location, type, and size of each functional component of the irrigation system (controllers, main and lateral lines, valves, sprinkler heads, emitters, rain sensing override devices, soil moisture sensing devices, and backflow prevention devices);
 - 3. Point of connection to public water supply;
 - 4. Static water pressure at point of connection;
 - 5. Irrigation legend providing manufacturer name, model number, symbols for each irrigation component, and spray radius;
 - 6. Recycled water irrigation systems;

7. Calculation of landscape water budget; and
 8. Available flow rate (gallons per minute), and flow rate required.
- B. Irrigation efficiency relies on knowledge of soil types and soil infiltration rate. All irrigation systems shall be designed for maximum water use efficiency and the following precautions shall be mandatory:
1. Irrigation system designs shall not cause water runoff, low-head drainage, overspray, or consequently cause water to flow onto adjacent properties, non-irrigated areas, walks, roadways, or structures;
 2. Irrigation systems shall avoid runoff on slopes; and
 3. Overhead sprinkler irrigation systems are prohibited in median strips, islands, and planting areas less than ten feet in width.
- C. Irrigation equipment for all irrigation systems shall include the following devices and capabilities:
1. Any landscape area greater than ten thousand square feet shall install separate landscape water meters;
 2. All irrigation systems shall be equipped with an automatic control system;
 3. Separate valves shall be installed to accommodate plants that require different amounts of water. Plant material with similar water requirements shall be irrigated using the same irrigation valve;
 4. All sprinkler heads shall maintain application consistency within each control valve circuit. Sprinkler heads shall be selected appropriately for area coverage, application rate, operation pressure, adjustment capability, and maintenance feasibility;
 5. All emitters shall maintain application consistency within each control valve circuit. Emitters shall be selected appropriately for area coverage, application rate, operating pressure, adjustment capability, and maintenance feasibility;
 6. Irrigation equipment shall include scheduling capability, so that irrigation is timed to prevent water runoff while maximizing water infiltration;
 7. All irrigation systems shall be equipped with rain sensing override devices capable of regulating irrigation output in response to climate conditions; and
 8. The use of soil moisture sensing devices that allow irrigation output to adapt to soil conditions is encouraged.
- D. Irrigation plans shall comply with the ordinances and/or management plan of the appropriate water purveyor.

E. Recycled Water:

1. All new and reconstructed irrigation systems shall use recycled water if authorized facilities will be available from the water purveyor in the foreseeable future.
2. If non-potable water sources are unavailable, new and reconstructed irrigation systems shall include dual distribution systems for future use of recycled water. Any irrigation system utilizing recycled water shall meet or exceed all Tribal, local, and state codes.

- F. Any irrigation system using water from a well is required to install a water meter per the requirements of the water purveyor having jurisdiction.

7.7.0 Plant Material

The use of indigenous plant, shrub and tree types is critical to the Tribe's efforts to implement water conservation measures, and is necessary for the continuity of habitat for wildlife species, including local birds. The use of invasive species which have proven to be detrimental to flora species native to Southern California are prohibited in all landscaping plans. Likewise many plants and trees from other areas (such as the tropics or the American southeast) have much greater water requirements than native species. Planting invasive species and using extraordinary water resources to maintain such flora is prohibited under this Land Use Ordinance, as it will undermine the Tribe's goal of water conservation and preservation of the desert ecology.

The proposed plant palette shall use drought-tolerant material in consideration of the desert climate and the Tribe's water conservation efforts. Additional information regarding water requirements for plant material may be found in the WUCOLS Water Use Classification Guide.

7.7.1 Invasive Species

The use of any plant species identified as an invasive or toxic species by the California Invasive Plant Council is prohibited, because these species compete with, and displace, local native species, and reflect a misuse of the Reservation's water resources. A brief list of invasive species, which are prohibited, but commonly seen in the Coachella Valley is shown in Table 7 below.

| Table 7 Common Invasive Plant Species | | |
|--|--------------------|-------------|
| Scientific Name | Common Name | Type |
| Arundo donax | Giant Reed | Grass |
| Avena barbata | Slender Wild Oat | Grass |

| Table 7 Continued Common Invasive Plant Species | | |
|--|--|------------------------|
| Scientific Name | Common Name | Type |
| Avena fatua | Wild Oat | Grass |
| Brassica tournefortii | Saharan Mustard, African Mustard | Annual |
| Bromus madritensis ssp. Rubens | Red Brome | Grass |
| Cortaderia selloana | Pampasgrass | Grass |
| Cynodon dactylon | Bermudagrass | Grass |
| Digitalis purpurea | Foxglove | Perennial |
| Eucalyptus camaldulensis | Red Gum | Tree |
| Eucalyptus globulus | Tasmanian Blue Gum | Tree |
| Ficus carica | Edible Fig | Tree |
| Medicago polymorpha | California Burclover | Annual/Herb |
| Mesembryanthemum crystallinum | Common Iceplant | Prostrate Succulent |
| Olea europaea | Olive | Tree |
| Pennisetum setaceum | Crimson Fountaingrass, or African Fountaingrass | Grass |
| Phoenix canariensis | Canary Island Date Palm | Palm |
| Washingtonia robusta | Mexican Fan Palm | Palm |

Although commonly used, the invasive species listed in Table 7 are prohibited under this Article. An extensive list of prohibited invasive species can be found on the California Invasive Plant Council website.

7.8.0 Decorative Water Features

Any decorative water feature included in the comprehensive landscape plan shall use a recirculating water system. Solar units for power supply are encouraged, and pool and spa covers are recommended to reduce evaporation.

7.9.0 Limitations on Turf Material

Turf areas shall be used minimally and reserved for functional needs such as schools, parks, and cemeteries. The use of Bermuda grass as a ground cover in residential zones is prohibited (see invasive species list in Table 7).

7.10.0 Installation and Maintenance

Landscaping shall be permanently maintained by the developer or his/her successors. All required landscaping shall be properly installed, irrigated, and inspected prior to the issuance of a Certificate of Occupancy. All landscape construction documentation packages shall provide a regular maintenance schedule that includes the following practices:

- A. Adjustment and repair of all irrigation equipment, reset of automatic controller devices, aerating and dethatching of turf areas, mulch replenishment, fertilizing, pruning, and weeding in all landscaped areas.
- B. To ensure the irrigation system maintains proper operation through regular repairs, the originally specified equipment shall be used whenever possible.
- C. Between the summer months of May 1st and October 1st of each calendar year, irrigation for exterior lawns, gardens, trees, grass, shrubbery, or other vegetation should be suspended from the hours of 11:00 a.m. until 7:00 p.m., regardless of method.
- D. Washing down hard or paved surfaces shall be strictly prohibited.

ARTICLE VIII – SIGNAGE

8.1.0 Purpose

These regulations were adopted in recognition of the important function of signs economically and aesthetically. Through the regulation of factors such as size, location, and number of signs among other considerations, an attempt has been made to create a balance between both long-term economic viability of a business through signage and the aesthetics concerns of the community.

8.1.1 Sign Programs

All uses, except single family residential, shall submit an application for a Sign Program. The program shall consist of narrative and graphic submissions illustrating a plan that integrates signage within a project area to incorporate buildings, circulation and landscaping to form a coordinated architectural statement. All signs proposed within the project shall be depicted in the Sign Program, including monument signs, wall signs, awnings, and internal directional signs. The sign program must include:

- A. The use of the same background color.
- B. The use of the same type of cabinet supports, or method of mounting for signs, and the same type of construction material for components, such as sign copy, cabinets, returns, and supports.
- C. The use of the same form of illumination of the signs, with internally lit signs generally being preferred by the Tribe due to the lack of overspill from such lighting.
- D. Uniform sign placement specifications, letter height, and logo height.
- E. Logos may be permitted and are not subject to the color restrictions specified in the program. However, no logo should exceed 25% of the allowable sign area.

Each Sign Program shall be reviewed on a case by case basis that establishes the specific sign regulations for that particular program.

8.1.2 Prohibited Signs

- A. Except as otherwise provided in this Article, permits will not be issued for:
 - 1. Abandoned signs, including their structures and supports;
 - 2. Chalkboards, blackboards, sandwich boards, or A-frame signs;
 - 3. Signs attached to trees, plants, rocks, fences, utility poles/cabinets or other objects, the primary function of which is not to support a sign;

4. Signs simulating in color or design a traffic sign or signal or using words, symbols or characters in such a manner as to be reasonably likely to interfere with, mislead or confuse pedestrian or vehicular traffic;
 5. Balloons or other gas or air-filled balloons, spot lights, search lights, flag tapes;
 6. Painted signs on fences or roofs;
 7. Roof mounted signs;
 8. Signs on public property or public rights-of-way, except for traffic regulatory, informational signs or signs required by a governmental agency;
 9. Pole signs; and
 10. Portable signs.
- B. The following signs, if existing on lands governed by this Ordinance at the time of its adoption, shall be removed:
1. Temporary or movable signs;
 2. Prohibited signs listed under Section 8.1.2 A.;
 3. Signs in obvious disrepair that are not maintained; and
 4. Signs for businesses that no longer exist.

Any abandoned or illegal sign is hereby declared to be a danger to the health, safety, and welfare. Any sign which is partially or wholly obscured by the growth of dry vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety, and welfare of the community. Procedures for abatement shall be consistent with Tribal Ordinance No. 17 (Property Maintenance Standards).

8.1.3 Signs that Do Not Require a Permit

- A. Traffic control, directional or warning signs required or authorized by law or by Tribal or federal authority including public utility signs.
- B. Wall-mounted address signs – 1 per building – 6 square feet max.
- C. Non-commercial signs on residential property – 6 square feet max. – no illumination.
- D. Freestanding real estate signs. One freestanding non-illuminated four square foot maximum sign per property.

- E. Official flags of the Tribe, the United States, and the State of California. One each Tribal, National, State and local governmental flag properly displayed with a maximum of two flags per pole, not to exceed 22 feet in height and 100 square feet in flag area.
- F. Temporary elections signs posted on private property, subject to the permission of the property owner. One sign allowed per each property parcel, limited to 16 square feet provided the signs are erected no more than 45 days prior to and removed within seven day following an election.
- G. Memorial signs and plaques, not exceeding 4 square feet.
- H. One construction sign, either freestanding or wall mounted, which identifies a project under construction with a maximum size of 32 square feet, a minimum setback of ten feet, non-illuminated and, if freestanding, not more than 12 feet in height.
- I. Official and legal notices issued by a court or governmental agency.

8.1.4 Permanent Signs that Require a Permit

The following signs shall be reviewed and approved prior to their installation.

- A. WALL: The maximum allowable sign area for signs located on a building shall be the larger of:
 - 1. One square foot of sign per linear foot of building fronting on a street; or
 - 2. One-half square foot of sign per foot of property line adjoining street.

A wall sign may project (projecting sign) a maximum of eighteen inches from the face of a building provided the lowest portion is at least eight feet above grade. Wall signs shall not be permitted above the parapet or ridge of roof.
- B. FREESTANDING: Each development shall be allowed one freestanding identification sign in addition to permitted wall signs. Maximum allowable sign area for the freestanding sign shall be forty square feet of sign area per acre or portion thereof, unless permitted by the Tribal Council. Minimum setback for freestanding signs shall be five feet from the property line. One sign for each entrance shall be allowed if the entrances are separated by at least 300 feet. The maximum allowable sign area shall apply to each sign. Maximum height for freestanding signs shall be 8 feet, unless permitted by the Tribal Council.
- C. DIRECTIONAL REAL ESTATE SIGNS: Semi-permanent off-site signs to direct potential buyers to new residential developments shall be reviewed on a case by case basis. Permits for approved directional real estate signs shall automatically renew on a year-to-year basis, subject to revocation at any time following written notice from the Chief Planning & Development Officer.

8.1.5 Temporary Signs that Require a Permit

Approval for temporary signs must be obtained through the issuance of a sign permit. A temporary sign application must be submitted a minimum of 30 days prior to the event. Temporary sign permits shall be reviewed on a case by case basis.

Sign permits for signs within a public right-of-way shall be obtained through the local jurisdiction that regulates said public right-of-way.

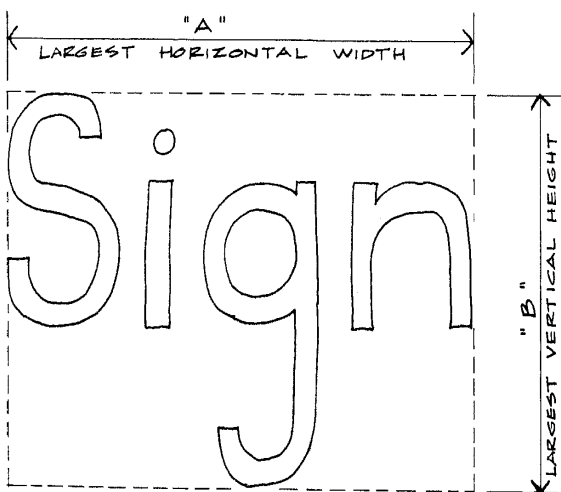
8.1.6 Outdoor Advertising Structures

All Outdoor Advertising Structures (billboards) shall be consistent with Tribal Ordinance No. 13 (Outdoor Advertising Displays).

8.1.7 Sign Construction and Maintenance

Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable regulations and the Uniform Building Code.

Every sign, including those specifically exempt from this Ordinance, in respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within 30 calendar days following notification by the Tribe. Noncompliance with such a request shall constitute a nuisance and procedures for abatement shall be consistent with Tribal Ordinance No. 17.



MEASUREMENT OF WALL SIGN AREA WHERE
THERE IS NO DEFINED SIGN BACKGROUND

"A" x "B" = SIGN AREA

ARTICLE IX – RENEWABLE ENERGY

9.1.0 Purpose

The purpose and intent of this Article is to promote the safe, effective, and efficient use of renewable energy systems to reduce the demand for non-renewable generated and utility supplied electricity on the Agua Caliente Indian Reservation.

9.2.0 Application

This Article applies to renewable energy projects on the Reservation subject to the Land Use Ordinance.

9.3.0 General Regulations

9.3.1 Small Renewable Energy Systems

The addition of small renewable energy systems (50kW or less) to an existing development intended to primarily reduce the on-site consumption of utility power are permitted in all Zoning Districts, and shall not be considered an intensification of land use. The following development standards apply:

A. Solar Energy Systems:

1. Solar energy systems are permitted on the roof of all residential and commercial structures, and shall be exempt from screening requirements.
2. All designs not conforming to the roof profile shall be approved by the Chief Planning and Development Officer.
3. All racks, manifolds, supply and return lines, necessary, if exposed to view, shall be designed or painted to compliment the building or roof surface on which they are attached.
4. Parabolic mirror and devices of a similar nature are not permitted.

B. Wind Energy Conversion Systems (WECS):

1. Only one WECS per development site shall be allowed and no WECS shall be permitted in the Indian Canyons Master Plan Area.
2. For parcels less than two (2) acres, WECS shall not exceed 30 feet in height above surrounding structures within 300 feet of the WECS, as measured from the highest point of the roof of the structure (excluding chimneys, air conditioning or heating equipment, vents, ducts, and other similar protrusions) to the bottom of the blade of the WECS at its lowest point when being operated. For parcels between two (2) and five (5) acres, tower height shall not exceed 80 feet, and for parcels greater than five (5) acres, tower height

- shall not exceed 100 feet. "Tower height" means the height above grade of the fixed position of the tower, excluding the wind turbine.
3. The lowest extension of any blade or other exposed moving component of the WECS shall be at least 15 feet above ground level or any outdoor surfaces intended for human use, such as balconies or roof gardens, within 30 feet of the base of the tower.
 4. The minimum setback from any property line shall be equal to the WECS height measured from existing grade to the top of the blade at the highest point when being operated.
 5. Decibel levels of the WECS shall not exceed the lesser of 55 decibels or 5 decibels above the lowest ambient sound level, as measured at the nearest property line, except during short term events such as utility outages and severe windstorms.
 6. The WECS shall not substantially obstruct the views of adjacent property owners or be used for displaying any advertising (including flags, streamers, or decorative items), except for reasonable identification of the turbine manufacture. Antennas may be co-located on the WECS tower subject to the approval of the Chief Planning & Development Officer.
 7. The WECS shall either be light environmental colors (such as off-white, gray, beige or tan) or darker fully-saturated colors (such as dark blue or green, maroon or rust red) or galvanized. All WECS shall have a matte or galvanized finish unless the Chief Planning & Development Officer determines that such finish adversely affects the performance of the WECS or other good cause is shown to permit any other finish.
 8. Tower lighting shall be prohibited unless required by another Tribal ordinance or Federal regulation.
 9. The WECS turbine shall have been approved by the California Energy Commission (CEC) or has been certified by a national program recognized and approved by the Commission (CEC).
 10. WECS that remain inoperable for 12 consecutive months shall be considered a public nuisance and subject to abatement through code enforcement action.

9.3.2 Commercial Renewable Energy Systems

Renewable energy systems, including accessory uses, that have a capacity greater than 50kW and/or are primarily designed and built to provide electricity to the power grid, shall be permitted in all non-residential zoning districts, subject to a Conditional Use Permit and the following development standards:

A. Solar Energy Systems:

1. Commercial solar energy systems are permitted on the roof of all structures.
2. All racks, manifolds, supply and return lines, etc., if exposed to view, shall be designed or painted to compliment the building or roof surface on which they are attached.
3. All setback, yard, and buffer requirements applicable in the zoning district in which the commercial solar energy system is located shall apply.
4. Accessory buildings or structures to the commercial solar energy system shall not exceed 30 feet in height.
5. Fencing, or other appropriate measures, shall be required to prevent unauthorized access to the commercial solar energy system.
6. Parabolic mirror and devices of a similar nature are permitted.
7. Unsafe, inoperable, or abandoned commercial solar energy systems, and commercial solar energy systems which have not generated power for 12 consecutive months, shall be considered a public nuisance and subject to abatement through code enforcement action.

B. Wind Energy Conversion Systems:

1. Height Limits

- a. Commercial WECS shall not exceed 500 feet in height, measured from existing grade to the top of the blade at the highest point when being operated.
- b. Accessory buildings or structures shall not exceed 30 feet in height, except for meteorological towers. All setback, yard, and buffer requirements applicable in the zoning district in which the accessory building or structure is located shall apply.

2. Setbacks

- a. Commercial WECS shall not be located closer than 1,200 feet from any residence, hotel, hospital, school, library or convalescent home unless the owner of such structure waives, in writing, the setback requirement. A lesser setback may be permitted where due to factors of topography or the characteristics of the proposed WECS project, the approving entity finds that the noise, aesthetic or other environmental impacts of the project on adjacent properties will not be any more significant than if the 1,200 foot setback were applied.

- b. Commercial WECS shall not be located where the center of the tower is within a distance of 1.25 times the total WECS height from any above-ground electrical transmission line of more than 12 kV.
- c. Commercial WECS shall not be located where the center of the tower is within a distance of 1.25 times the total WECS height from any public highway or road, railroad, or off-site building.
- d. Commercial WECS shall not be located where the center of the tower is within a distance of 1.25 times the total WECS height from any lot line.
- e. Notwithstanding the provisions of Subsections c., d. and e., the setbacks therein specified may be reduced to less than 1.25 times the total WECS height if the Tribal Council determines that the topography of, or other conditions related to, the adjacent property or right-of-way eliminates or substantially reduces the potential safety hazards.
- f. Commercial WECS shall not be located where the center of the tower is within a distance of five (5) rotor diameters from a lot line that is perpendicular to and downwind of, or within 45 degrees of perpendicular to and downwind of, the dominant wind direction. Such setbacks from lot lines do not apply if there is a legally enforceable agreement or waiver for a period of 25 years or the life of the permit that the adjacent landowner agrees to the elimination of the setback, or if the Tribal Council determines that the characteristics of the downwind property eliminate the ability to develop said downwind property with commercial WECS.

3. Noise

Decibel levels of the commercial WECS shall not exceed the lesser of 55 decibels or 5 decibels above the lowest ambient sound level, as measured at the nearest sensitive receptor identified in Subsection B.2.a., except during short term events such as utility outages and severe windstorms. Commercial WECS located at distances greater than 3,000 feet from any land use identified in Subsection B.2.a. may be permitted without an acoustical study, subject to the determination of the Chief Planning and Development Officer.

4. Safety and Security

- a. Fencing, or other appropriate measures, shall be required to prevent unauthorized access to the commercial WECS or WECS array.
- b. The lowest extension of the rotor of a horizontal-axis commercial WECS shall be at least 25 feet from the ground. A fence or other barrier shall be erected around a vertical-axis commercial WECS when its rotors are less than 15 feet from the ground.

5. Unsafe and Inoperable WECS

Unsafe, inoperable, or abandoned commercial WECS, and commercial WECS which have not generated power for 12 consecutive months, shall be considered a public nuisance and subject to abatement through code enforcement action.

6. Additional Requirements

- a. No advertising sign or logo shall be placed or painted on any commercial WECS. Unless otherwise approved by the Tribal Council, the Conditional use Permit may permit the placement of no more than one (1) project identification sign relating to the development.
- b. Antennas may be co-located on commercial WECS towers subject to the approval of a Conditional Use Permit.
- c. Tower lighting shall be prohibited unless required by another Tribal Code or Federal Regulation.
- d. All commercial WECS shall be either light environmental colors (such as off-white, gray, beige or tan) or darker fully-saturated colors (such as dark blue or green, maroon or rust red) or galvanized. All commercial WECS shall have a matte or galvanized finish unless the Tribal Council determines that such finish adversely affects the performance of the commercial WECS or other good cause is shown to permit any other finish.

7. Life of Permit

A Conditional Use Permit shall be valid for the useful life of the commercial WECS included in the permit. The life of the permit shall be determined at the time of approval and shall not exceed 30 years.

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ARTICLE X – DEVELOPMENT REVIEW PROCEDURES

10.1.0 Complete Application

Applications that do not include required information or that are not accompanied by required fees will be returned to the applicant as incomplete, and no further processing of the application will occur until the deficiencies are corrected. If the official responsible for accepting the application determines that the application is complete, the application will be processed. If the official responsible for accepting the application determines that the application is incomplete, the applicant will be notified of the application's deficiencies and no processing will occur. For permit applications on leased land, the Applicant will be advised at the time of submittal to contact the local Bureau of Indian Affairs Office as soon as possible to check that their proposed development project does not violate the requirements of the property lease and/or sublease.

10.2.0 Burden of Proof Persuasion

The burden of demonstrating that an application complies with applicable review and approval criteria is on the applicant. The burden is not on the Tribe or other parties to show that the criteria have not been met.

10.3.0 Multiple Permit Applications

Projects requiring multiple applications may file all applications concurrently and pay appropriate fees. Processing and environmental review will be concurrent.

10.4.0 Pre-Application Conference

Applicants or their designated representatives may request a pre-application conference prior to formal submission of a single land use permit application. While not mandatory, a pre-application conference is encouraged.

During the conference, Planning & Development Department representatives will give the applicant an overview of Departmental policies, plans, and requirements which relate to the proposed development project; shall review the appropriate procedures outlined in this Ordinance; and shall identify possible alternatives or modifications related to the proposed project which may be desirable.

The following Sections set forth the procedures, requirements and other information relevant to the processing of permits required by this Ordinance.

10.5.0 Conditional Use Permit

This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause. Limits which the Tribal Council might want to impose could include restrictions on the hours of business operation; restrictions on the

number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

10.5.1 Project Review Protocol

Each Conditional Use Permit application shall be analyzed to assure that the application is consistent with the intent and purpose of this Section, and the development standards of the zoning district in which it is to be located.

Each Conditional Use Permit shall be reviewed by the Indian Planning Commission, at which it shall make a recommendation for approval, approval with conditions, or denial to the Tribal Council. The Tribal Council shall consider the Indian Planning Commission's recommendation and may approve, approve with conditions, or deny the Conditional Use Permit.

10.5.2 Findings

The Tribal Council may approve and/or modify a Conditional Use Permit application in whole or in part, with or without conditions, only if all of the following findings are made:

- A. The proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Ordinance;
- B. The proposed use would not impair the integrity and character of the zoning district in which it is to be located;
- C. The subject site is physically suitable for the type and intensity of land use being proposed;
- D. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety; and
- E. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interest, health, safety, convenience, or welfare.

10.5.3 Use of Property before Final Decision

No permit shall be issued for any use involved in an application for approval of a Conditional Use Permit until, and unless, the same shall have become final.

10.5.4 Expiration

A Conditional Use Permit shall be exercised by the commencement of construction within two (2) years from the date of approval or the Conditional Use Permit shall become null and void. In addition, if after commencement of construction, work is discontinued for a period of one (1) year, the Conditional Use Permit shall become null and void. Projects may be built in phases if pre-approved in phases.

10.5.5 Modification

Minor modifications to an approved Conditional Use Permit may be approved by the Chief Planning & Development Officer, pursuant to Section 10.11.0, Minor Modifications. Any other modifications will require approval by the Tribal Council.

10.5.6 Time Extension

The Chief Planning & Development Officer may, upon an application being filed 30 days prior to expiration and for good cause, grant an extension not to exceed 12 months. Upon granting of an extension, the Chief Planning & Development Officer shall ensure that the Conditional Use Permit complies with all current Land Use Ordinance provisions. Extensions may be renewed for additional 12 month periods if all of the findings made under Section 9.5.2 remain valid.

10.5.7 Revocation

The Tribal Council shall hold a hearing to revoke or modify a Conditional Use Permit granted pursuant to the provisions of this Section. At least ten (10) days prior to the hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which such Conditional Use Permit was granted. Notice shall be deemed delivered two (2) days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County of Riverside (Fee land), Allottee (Trust land), and/or the project applicant.

A Conditional Use Permit may be revoked or modified by the Tribal Council if any one (1) of the following findings can be made:

- A. Circumstances have changed so that one or more of the findings contained in Section 10.5.2 can no longer be made;
- B. The Conditional Use Permit was obtained by misinformation, misrepresentation or fraud;
- C. The use for which the Conditional Use Permit was granted has ceased or was suspended for six (6) or more consecutive calendar months.
- D. One (1) or more of the conditions of the Conditional Use Permit have not been met; or

E. The use is in violation of any statute, ordinance, law, or regulation.

10.5.8 Continued Validity of Conditional Use Permits

Conditional Use Permits run with the land. Approved Conditional Use Permits shall continue to be valid upon a change of ownership of the site, ownership of the business, ownership of the service, ownership of the use or ownership of the structure which was the subject of the permit applications, except as described above regarding terms of Revocation. A Conditional Use Permit is applicable to only the property for which the permit was issued, and cannot be transferred to another property.

10.5.9 Performance Guarantee

The developer may be required to provide performance security, bonds, indemnity or other instruments for the faithful performance of any or all conditions of approval.

10.6.0 Development Permit

The Development Permit is the primary tool for the review of development projects which are otherwise permitted by this Ordinance. The Development Permit allows the Tribe to assure that proposed projects conform to development standards, provide high quality design, and promote the harmonious and orderly development of Reservation lands.

10.6.1 Application Procedures

An application for a Development Permit shall be filed in a manner consistent with the requirements contained in this Ordinance, for new development projects, or projects involving an intensification of land use (e.g., conversion of a residential structure to an office use, etc.).

10.6.2 Applicability

The Chief Planning & Development Officer shall evaluate all projects prior to action by the Indian Planning Commission and Tribal Council. The Chief Planning & Development Officer, as part of the overall project review process, shall forward the appropriate materials and submit a report to the Indian Planning Commission and Tribal Council.

10.6.3 Findings

The Tribal Council may approve and/or modify a Development Permit application in whole or in part, with or without conditions, only if all of the following findings are made:

- A. The proposed project is consistent with the Land Use Ordinance, including the development standards for the zoning district in which it is located.

- B. The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.
- C. The design of the proposed project is compatible with the character of the surrounding neighborhood.

10.6.4 Expiration

A Development Permit shall be exercised by the commencement of construction within two (2) years from the date of approval or the Development Permit shall become null and void. In addition, if after commencement of construction, work is discontinued for a period of one year, the Development Permit shall become null and void. Projects may be built in phases if pre-approved by the Tribal Council.

10.6.5 Modification

Minor modifications to an approved Development Permit may be approved by the Chief Planning & Development Officer, pursuant to Section 9.13.0, Minor Modifications. Any other modifications will require review by the Tribal Council.

10.6.6 Time Extension

The Chief Planning & Development Officer may, upon an application being filed 30 days prior to expiration and for good cause, grant an extension not to exceed 12 months. Upon granting of an extension, the Chief Planning & Development Officer shall ensure that the Development Permit complies with all current provisions of the Land Use Ordinance. Extensions may be renewed for additional 12 month periods if all of the findings made under Section 10.6.3 remain valid.

10.7.0 Home Occupation Permits

10.7.1 Purpose

The provisions of this Section allow for conducting home-based businesses, which are incidental to and compatible with surrounding residential uses. A home occupation represents a legal income producing activity by the occupant of the dwelling.

10.7.2 Application Procedures

The conduct of a home occupation requires the approval of the Chief Planning & Development Officer who may establish conditions to further the intent of this Section. No home occupation permit shall be required for an in-home education activity, including but not limited to music lessons, academic tutoring, or religious instruction, provided that no more than five (5) students are present at any one time, and the use complies with all of the operating standards outlined below. In addition, no home occupation permit nor Certificate of Occupancy shall be required for a business using

the owner(s) or any partner(s) home as its business address provided: 1) that there is no signage at the home address; 2) there are no building materials or heavy equipment stored at the home address; 3) that no manufacturing takes place at the home address; 4) the business takes place electronically, through use of the telephone, fax or internet; and 5) that in the course of doing business, no employees or customers appear at the home address to transact business.

10.7.3 Operating Standards

Home occupations shall comply with all of the following operating standards and parameters:

- A. The home occupation shall not alter the appearance of the dwelling unit or its front or side yards.
- B. There shall be no displays, sale, or delivery of merchandise, or advertising signs on the premises;
- C. There shall be no signs other than the address and name of the residents;
- D. There shall be no advertising, which identifies the home occupation by street address;
- E. Only one (1) vehicle no larger than a 1-ton truck may be used onsite or parked onsite by the occupant directly or indirectly in connection with a home occupation;
- F. There shall be no encroachment into any required parking, setback, or open space areas, by the home occupation. Likewise, the home occupation may not spill out onto the street or public right of way;
- G. Material or mechanical equipment which are not recognized as being part of a normal household or hobby use, may not be used or stored on the property, except for relatively small pieces of office equipment or tools;
- H. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. Utility consumption, including but not limited to water, gas and electric, shall not exceed that of normal residential usage;
- I. Uses which create or cause noise, dust, light, vibration, odor, gas, fumes, toxic/hazardous materials, smoke, glare, or electrical interference or other hazards, or nuisance which can be detected by adjacent or nearby residents are not allowed as home occupations.
- J. The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises, exceeding what would be allowed for a typical residence;

- K. The home occupation shall not generate vehicular traffic in excess of the customarily associated with the land use district in which it is located;
- L. If the home occupation is to be conducted on rental property, the property owner's written authorization for the proposed use shall be obtained prior to the submittal for a Home Occupation Permit; and
- M. The Chief Planning & Development Officer may require any special condition to be made part of the record of the Home Occupation Permit, as deemed necessary to carry out the intent of this Section.

10.7.4 Prohibited Home Occupations

- A. Businesses which entail the harboring, training, breeding, raising, or grooming of dogs, cats, or other animals on the premises;
- B. Carpentry in excess of minor cabinet making;
- C. Medical and dental offices, clinics, and laboratories;
- D. Mini storage;
- E. Junk yards or salvage yards;
- F. Repair or fix-it shops; plumbing shops; welding and machine shops;
- G. Storage of equipment, materials, and other accessories to the construction and service;
- H. Vehicle repair (body of mechanical) upholstery, and painting, storage; vehicle towing; and any and all types of auto or truck repair including but not limited to engine repair, exhaust system repair; and
- I. Any use determined by the Chief Planning & Development Officer as not incidental or compatible with residential activities.

10.7.5 Revocation

A Home Occupation Permit may be revoked or modified by the Chief Planning & Development Officer if any one (1) of the following findings can be made:

- A. The use or combination of uses on the property, have become detrimental to the public health, safety and welfare, generates excess traffic, or constitute a nuisance;
- B. The permit was obtained by misinformation, misrepresentation or fraud;
- C. The use for which the permit was granted has ceased or was suspended for six (6) or more consecutive calendar months;

- D. The condition of the home, or the area of which it is a part, has changed so that the use is no longer justified under the meaning and intent of this Section.
- E. One (1) or more of the conditions of the Home Occupations Permit have not been met; or
- F. The use is in violation of any statute, ordinance, law, or regulations.

10.8.0 Interpretations

10.8.1 Purpose

The purpose of these provisions is to ensure the consistent, fair and predictable interpretation and application of the Land Use Ordinance.

10.8.2 Procedure

The Chief Planning & Development Officer has the authority to make Land Use Ordinance interpretations. A written appeal of any interpretation of the provisions of this Ordinance may be filed, together with all required fees, with the Planning & Development Department pursuant to the terms of this Ordinance. The appeal shall specifically state the Land Use Ordinance provision(s) in question, and provide any information to assist in the review of the appeal.

The decision of the Chief Planning & Development Officer may be appealed to the Tribal Council.

10.9.0 Land Use Ordinance Amendments

10.9.1 Purpose

The Tribal Council may amend the provisions of this Ordinance for the public health, environmental protection, safety, general welfare and the aesthetic harmony of the Reservation.

10.9.2 Procedures, Hearings and Notice

Amendments may be proposed by the Chief Planning & Development Officer, by the Tribe's Attorney, by any member of the Indian Planning Commission or Tribal Council, and by any land owner or his/her agent.

Upon receipt in proper form of a Land Use Ordinance Amendment application, or direction of the Indian Planning Commission or Tribal Council, and following Planning & Development Department review, a hearing shall be set before the Indian Planning Commission. The Indian Planning Commission shall make a recommendation to the Tribal Council, whose decision shall be final.

10.9.3 Indian Planning Commission Action on Amendments

The Indian Planning Commission shall make a recommendation on the proposed Amendment whether to approve, approve in modified form, or disapprove based upon their findings.

Indian Planning Commission action recommending that the proposed Land Use Ordinance Amendment be approved, approved in modified form, or denied shall be considered by the Tribal Council following the Indian Planning Commission action.

10.9.4 Tribal Council Action on Amendments

Upon receipt of the Indian Planning Commission's recommendation, the Tribal Council may approve, approve with modifications, or disapprove the proposed amendment based upon its findings. Amendments to this Ordinance shall be adopted by ordinance.

10.9.5 Findings

The Tribal Council may approve and/or modify a Land Use Ordinance Amendment application in whole or in part, with or without conditions, only if the following findings are made:

- A. The proposed Amendment is internally consistent with this Ordinance; and
- B. That the proposed Amendment will not be detrimental to the environment, or to the public interest, health, safety, convenience, or welfare.

10.10.0 Minor Exceptions

10.10.1 Purpose

Provisions of this Section are meant to ensure the ability of the Tribe to make minor adjustments from the development standards contained in this Ordinance when, because of special circumstances associated with a property, such as topography, parcel shape of other geographical feature, the strict application of this Ordinance deprives the property of privileges enjoyed by other property in the vicinity.

10.10.2 Applicability

Minor Exceptions may be granted by the Chief Planning & Development Officer for up to a maximum of 10% of only the following measurable design/site considerations:

- Setbacks
- Lot Dimensions

- On-site parking, loading and landscaping
- Structure Heights

Any exception which exceeds the limitations in this Section shall require the filing of a Variance application, pursuant to Section 10.14.0. Minor exceptions may be approved by the Chief Planning & Development Officer only if no other entitlements are required. If other approvals are necessary, the Minor Exception shall be filed and processed with those applications.

10.10.3 Findings

Following his or her decision, the Chief Planning & Development Officer shall record the decision in writing and shall recite therein the findings upon which such decision is based. The Chief Planning & Development Officer may approve and/or modify an application in whole or in part, with or without conditions, only if all of the following findings are made:

- A. That there are special circumstances applicable to the property, including shape, topography, location or surroundings, such that the strict application of this Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical land use district classification;
- B. That granting the Minor Exception is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and land use district and denied to the property for which the Minor Exception is sought;
- C. That granting the Minor Exception will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;
- D. That granting the Minor Exception does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which such property is located; and
- E. That granting the Minor Exception does not exceed 10% of the standard(s) being modified, or allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

10.10.4 Precedent

The granting of a prior Minor Exception shall not serve as the basis for the granting of a new Minor Exception.

10.10.5 Burden of Proof

The burden of proof to establish the evidence in support of the findings, as required by Section 10.10.3, is solely the responsibility of the applicant.

10.10.6 Expiration

A Minor Exception shall be exercised within one (1) year from the date of approval, or the Minor Exception shall become null and void.

10.10.7 Time Extension

The Chief Planning & Development Officer may, upon an application being filed 30 days prior to expiration and for good cause, grant an extension not to exceed 12 months. Upon granting of an extension, the Chief Planning & Development Officer shall ensure the Minor Exception complies with all Land Use Ordinance provisions in effect at the time of the request for extension. Extensions may be renewed for additional 12 month periods if all of the findings made under Section 10.10.3 remain valid.

10.10.8 Use of Property before Final Decision

No permit shall be issued for any use involved in an application for approval of a Minor Exception until, and unless, the same shall have become final.

10.10.9 Modification or Revocation

A Minor Exception granted pursuant to the provisions of this Section may be modified or revoked following written notice from the Chief Planning & Development Officer. Ten days prior to modification or revocation by the Chief Planning & Development Officer, notice shall be delivered in writing to the applicant and/or owner of the property for which such Minor Exception was granted. Notice shall be deemed delivered two (2) days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County of Riverside (Fee land), Allottee (Trust land), and/or the project applicant.

A Minor Exception may be revoked or modified by the Chief Planning & Development Officer if any one (1) of the following findings can be made:

- A. That circumstances have changed so that one (1) or more of the findings contained in Section 10.10.3 can no longer be made;
- B. That one (1) or more of the conditions of the Minor Exception have not been met; or the grantee has not substantially exercised the rights granted by the Minor Exception;
- C. That the Minor Exception was obtained by misinformation, misrepresentation or fraud;
- D. That the improvement authorized by the Minor Exception has ceased or was suspended for six (6) or more consecutive calendar months;
- E. That the improvement authorized by the Minor Exception is in violation of any statute, ordinance, law, or regulation; or

- F. That the improvement authorized by the Minor Exception is detrimental to the public health, safety, or welfare or constitutes a nuisance.

10.11.0 Minor Modification

10.11.1 Purpose

The Minor Modification procedure is intended to provide a method whereby minor changes may be made to existing, previously approved land use entitlements, without any additional impact or expansion of use or structure(s).

10.11.2 Applicability

The Chief Planning & Development Officer may grant a minor adjustment to an approved permit up to a maximum of 10% governing only the following measurable design/site considerations, which in no case would result in a reduction from any minimum standard outlined in this Ordinance:

- A. On-site circulation and parking, loading and landscaping;
- B. Placement and/or height of walls, fences and structures;
- C. Reconfiguration of minor architectural features, including colors, and/or modification of finished materials that do not alter or compromise the previously approved theme; and
- D. A reduction in density or intensity of a development project.

10.12.0 Specific Plans

10.12.1 Purpose

The primary purpose of a Specific Plan is to allow for greater flexibility and provide an opportunity to focus regulations and standards on the goals of a specific geographic area. This Section establishes uniform procedures for the adoption and implementation of Specific Plans.

10.12.2 Applicability

Specific Plans provide a mechanism to tailor unique and desired development standards and implementation measures toward a specific area while preserving and enhancing areas of cultural, environmental, and/or economic significance on the Reservation. Any Specific Plan located in the mountains and canyons protected areas of the THCP will also be subject to the MCCA Overlay Zone development standards identified in Article V of this Ordinance.

10.12.3 Content of Specific Plans

A Specific Plan application shall include a text and a diagram(s) which contain, at a minimum:

- A. The distribution, location, and extent of all proposed land uses within the area covered by the plan.
- B. The proposed distribution, location, and extent and intensity of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other utilities and public services proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
- C. Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
- D. A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to implement the plan.
- E. Any other information deemed necessary by the Chief Planning & Development Officer for adequate review and consideration of the proposal.

10.12.4 Indian Planning Commission Action on Specific Plans

The Indian Planning Commission shall make a recommendation on the proposed Specific Plan whether to approve, approve in modified form, or disapprove based upon the findings contained in Section 10.12.6. Indian Planning Commission action recommending that the proposed Specific Plan be approved, approved in modified form, or denied shall be considered by the Tribal Council.

10.12.5 Tribal Council Action on Specific Plans

Upon receipt of the Indian Planning Commission's recommendation, the Tribal Council may approve, approve with modifications, or disapprove the proposed Specific Plan based upon the findings contained in Section 10.12.6. Specific Plans shall be adopted by Ordinance.

10.12.6 Findings

A Specific Plan may be adopted only if all of the following findings are made:

- A. The proposed plan would not be detrimental to the environment, or to the public interest, health, safety, convenience, or welfare;
- B. The subject property is physically suitable for the requested land use designation(s) and the anticipated development(s); and

- C. The proposed plan shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood.

10.12.7 Consistency

No public works project, plat map or other land use entitlement may be approved, adopted or amended within an area covered by a Specific Plan, unless found consistent with the adopted Specific Plan.

10.13.0 Temporary Use Permits

10.13.1 Purpose

The Temporary Use Permit allows for short-term activities that would be compatible with adjacent and surrounding uses and are not detrimental to the health, safety, or public welfare of the community.

10.13.2 Uses Permitted under Temporary Use Permits

The following temporary uses may be permitted, subject to the issuance of a Temporary Use Permit:

- A. Temporary special events;
- B. On and off-site contractors' construction yards in conjunction with an approved development project, which must be removed once the approved development project has been completed, or earlier, if so directed by the Chief Planning & Development Officer.
- C. Trailer, coach or mobile home as a temporary residence of the property owner when a valid residential building permit is in force. The permit may be granted for up to 365 days, or upon expiration of the building permit, whichever occurs first.
- D. Commercial cargo/storage containers, for a period not to exceed 60 days, unless the cargo container is used for a construction project with a valid building permit, in which case the permit may be granted for up to 365 days.
- E. Similar temporary uses which, in the opinion of the Chief Planning & Development Officer are compatible with the land use district and surrounding land uses.

10.13.3 Application Procedures

Application for a temporary use permit shall only be made by the property owner or authorized agent. The application shall be filed with the Planning & Development Department at least fifteen (15) days before the date of commencement of the proposed

use. A Temporary Use Permit may be approved, modified, conditioned, or denied by the Chief Planning & Development Officer. Decisions of the Chief Planning & Development Officer may be appealed to the Tribal Council.

10.13.4 Conditions of Approval

In approving an application for a Temporary Use Permit, the Chief Planning & Development Officer may impose conditions deemed necessary to ensure that the permit takes into account any pertinent factors affecting the operation of such temporary event, or use, which may include, but not be limited to, the following:

- A. Provision for a fixed period not to exceed 60 days, plus one 30 day extension, or for a shorter period of time as determined by the Chief Planning & Development Officer.
- B. Arrangements for temporary parking facilities, including vehicular ingress and egress.
- C. Regulation of nuisances such as the prevention of glare or direct illumination on adjacent properties, noise, vibration, crowding, smoke, dust, dirt, odors, gases, exhausts, heat, and various byproducts.
- D. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.
- E. Provisions for sanitary, and/or medical aid facilities, if required.
- F. Provisions for solid, hazardous and toxic waste collection and disposal offsite, including provisions for the removal of waste and debris from construction, renovation, and reclamation sites.
- G. Provisions for security and safety measures.
- H. Regulation of signs.
- I. Regulation of operating hours and days, including limitation of the duration of the temporary use.
- J. Submittal of performance bonds, indemnity bonds, and other surety devices, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event, that the property will be restored to its former condition, and that the Tribe will not be held liable for any actions or incidents arising from the temporary use, or related in any way to the temporary use.
- K. Any other conditions that will ensure the operation and/or phasing out of the proposed temporary use in a safe, orderly and efficient manner, and in accordance with the intent and purpose of this Section.

10.13.5 Revocation of Temporary Use Permit

A Temporary Use Permit may be revoked by, and at the discretion of the Chief Planning & Development Officer if:

- A. The use is not actively undertaken per the terms of the Temporary Use Permit;
- B. The site is not being properly maintained;
- C. The use or the site becomes a nuisance to the neighbors or to the community; or
- D. If the use or the site is undermining the health, safety, or public welfare of the community.

10.13.6 Condition of Site Following Temporary Use

Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use.

10.14.0 Variance

10.14.1 Purpose

These provisions shall ensure that Variances from Land Use Ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, unusual geological or geographical feature, the strict application of this Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical land use districts.

10.14.2 Applicability

The Tribal Council may grant a Variance from the requirements of this Ordinance for the modification of the dimensional standards of the distance between structures, lot area, lot coverage, lot dimensions, setbacks, and structure heights.

10.14.3 Findings

The Tribal Council may approve and/or modify a Variance application in whole or in part, with or without conditions, only if all of the following findings are made:

- A. That there are special circumstances applicable to the property, including size, shape, topography, geological or geographic conditions, in which the strict application of this Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical land use district classification;
- B. That granting the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and land use district and denied to the property for which the Variance is sought;

- C. That granting the Variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;
- D. That granting the Variance does not constitute a special privilege inconsistent with the limitations upon other properties (not including non-conforming properties) in the vicinity and land use district in which such property is located; and
- E. That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

10.14.4 Precedent

The granting of a prior Variance does not establish grounds for the granting of any new Variance.

10.14.5 Burden of Proof

The burden of proof to establish the evidence in support of the findings, as required by this Section, is solely the responsibility of the applicant.

10.14.6 Revocation

A Variance may be revoked or modified by the Tribal Council if any one (1) of the following findings can be made:

- A. That circumstances have changed so that one (1) or more of the findings contained in Section 10.14.3 can no longer be made;
- B. That one or more of the conditions of the Variance have not been met; or the grantee has not substantially exercised the rights granted by the Variance;
- C. That the Variance was obtained by misinformation, misrepresentation or fraud;
- D. That the improvement authorized by the Variance has ceased or was suspended for six (6) or more consecutive calendar months;
- E. That the improvement authorized by the Variance is in violation of any statute, ordinance, law, or regulation; or
- F. That the improvement authorized by the Variance is detrimental to the public health, safety, or welfare or constitutes a nuisance.

10.15.0 Chief Planning & Development Officer

The Chief Planning & Development Officer shall exercise such powers as are necessary or convenient to fulfill the duties and authority conferred upon the Chief Planning &

Development Officer by this Ordinance. The Chief Planning & Development Officer may delegate certain duties and authority to appropriate professionals within the Planning & Development Department.

10.15.1 Duties and Authority of Chief Planning & Development Officer

In addition to exercising the authority conferred by other provisions of this Ordinance, the Chief Planning & Development Officer may:

- A. Review staff recommendations and other correspondence.
- B. Conduct hearings and evaluate testimony regarding the application of this Ordinance.
- C. Make written findings of fact based upon the testimony and exhibits presented at the hearing and his own investigation of the issue under study.
- D. Approve, disapprove or condition any application or proposal over which the Chief Planning & Development Officer has authority pursuant to this Ordinance.
- E. Make administrative determinations of the meaning and intent of provisions of this Ordinance concerning matters within the authority of the Chief Planning & Development Officer. Such determinations shall be made in writing and shall be recorded at the Tribal office.
- F. The Chief Planning & Development Officer shall be empowered to require the applicant to submit such information as deemed necessary for evaluation of the application, which may include:
 1. The legal description of the property;
 2. A complete and detailed statement of the intended use of the land and the sequence and timing of the proposed development;
 3. A scaled drawing of the property indicating:
 - a. Boundaries, easements and ownerships as set forth in the legal description;
 - b. Topography at appropriate contour intervals;
 - c. Existing structures and improvements;
 - d. Vegetation, water courses and other natural features;
 - e. Proposed improvements;
 - f. Utilities plan;

- g. Circulation plans on and off the site;
 - h. Landscaping plans; and
 - i. Other plans and drawings deemed necessary for evaluation of the proposal.
- 4. Information and reports sufficient to evaluate the environmental impacts and the effectiveness of proposed conditions and mitigation measures;
 - 5. The terms, conditions, covenants and agreements regarding the intended development; and
 - 6. Other information deemed necessary for evaluation of the proposal.

10.16.0 Fees

The Tribal Council shall, by resolution, establish a schedule of fees for permits, amendments and other matters pertaining to this Ordinance. The schedule of fees may be changed or modified only by resolution of the Tribal Council. Applications cannot be accepted by the Planning & Development Department until all appropriate fees are paid.

10.17.0 Enforcement of Provisions

10.17.1 Purpose

Enforcement of the provisions of this Ordinance and any entitlements and subdivision maps approved by the Tribe shall be diligently pursued in order to provide for their effective administration, to ensure compliance with any conditions of approval, to promote the Tribe's planning efforts and for the protection of the public health, safety and welfare of the Tribe.

10.17.2 Responsibility

The Planning & Development Department shall be responsible for enforcing the conditions and standards imposed on all permits granted by the Tribe and permitted under this Ordinance. Any structure or use which is established, operated, erected, moved, altered, enlarged or maintained, contrary to the provisions of this Ordinance, is hereby declared to be unlawful and a public nuisance and shall be subject to the remedies, penalties, and/or revocation procedures set forth in this Section and Tribal Ordinance No. 17.

Any permit, certificate or license issued subsequent to the effective date of and in conflict with this Ordinance shall be null and void.

10.17.3 Remedies

- A. All remedies concerning this Ordinance shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility of correcting prohibited conditions or removing prohibited structures, signs or improvements, and shall not prevent the enforced correction or removal thereof.
- B. Any construction in violation of this Ordinance, or any condition(s) imposed on a permit or license shall be subject to the issuance of a "Stop Work Order."
- C. Any deed of conveyance, sale or contract to sell real property which has been divided, or which has resulted from a division, in violation of the provisions of this Ordinance, is voidable at the sole option of the grantee or successors.
- D. The Tribe shall not issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this Ordinance, if it finds that the development of the real property is contrary to the public health or safety.

10.17.4 Notice of Violation

Whenever the Tribe has knowledge that real property has been divided or used in violation of the provisions of this Ordinance, it shall send, by certified mail to the then current owner(s) of record of the property, a notice of intention to record a notice of violation, describing the real property in detail, naming the owner(s) thereof, and stating that an opportunity will be given to the owner(s) to present evidence.

10.17.5 Penalties

Any person, partnership, organization, firm or corporation, whether as principal, agent, employee or otherwise, found violating any provisions(s) of this Ordinance or any condition imposed on an entitlement, development permit, map or license, or found violating or failing to comply with any order made hereunder by the Tribal Council, shall be subject to a fine in the amount of one hundred dollars (\$100.00) per each day the violation persists in addition to any other civil or administrative remedies provided by law.

10.17.6 Enforcement Fees

The Tribe may impose fees on applications to cover the full costs incurred by the Tribe for the monitoring and enforcement of the requirements of this Ordinance as well as those conditions and mitigation measures imposed on an approved permit or license.

10.18.0 Sovereign Immunity

The sovereign immunity of the Tribe is not in any way waived or limited by this Ordinance, or by any civil suit commenced pursuant to this Ordinance. Such sovereign

immunity shall extend to the Tribe, its Tribal Council, and all Tribal officials, employees, staff, and agents, as to all actions taken in, or concerning the administration or enforcement of this Ordinance, and as to all actions taken pursuant to authority of any Tribal Council order authorized by this Ordinance.

10.19.0 Liberal Construction

The provisions of this Ordinance shall be liberally construed to further the purposes hereof.

10.20.0 Severability

If any part of this Ordinance is declared void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Ordinance shall not be impaired, and shall continue in full force and effect.

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ARTICLE X – SUBDIVISIONS

11.1.0 Applicability

Unless lawful non-conforming lots, or otherwise exempt pursuant to this Ordinance, all subdivisions that have not been approved under this Ordinance shall be prohibited.

11.2.0 Subdivision Application

Prior to filing a subdivision or lease plat application, an applicant is strongly encouraged to arrange a meeting with Planning & Development Department staff to discuss the proposal. Upon submitting a complete application, the Department shall transmit copies of the proposed subdivision application to appropriate departments and agencies for comment. Information may be requested to review the consistency of the subdivision application with this Ordinance and review the proposed subdivision's impact on the natural and built environment.

11.3.0 Subdivision Review

The Indian Planning Commission shall review all proposed subdivisions and make recommendations to the Tribal Council thereon with reference to approving or recommending any modifications necessary to assure conformance with the minimum requirements of utilities and service providers for roads, water and/or sewer, power, fire protection, cable and schools.

11.4.0 Minimum Subdivision Standards

The following minimum subdivision standards shall apply to all new subdivisions on the Reservation:

11.4.1 Utilities

Utility easements meeting the standards of all utility purveyors serving the subdivision shall be required in all subdivisions.

11.4.2 Water and Sewage Disposal

All subdivisions shall be served by adequate water and sewer systems meeting the standards and requirements of the water and sewer district or agency.

11.4.3 Roads

All subdivisions shall be served by an opened, constructed and maintained road to which the road system within the subdivision must connect.

11.4.4 Drainage

All subdivisions shall include a drainage plan based on the standards set forth by the Riverside County Flood Control Division Manual as the same exists or may hereafter be amended.

11.4.5 Sensitive Lands

All subdivisions impacting environmentally and culturally sensitive land shall include protection measures consistent with the standards and requirements of this Ordinance, the Tribal Habitat Conservation Plan, and the Tribal Historic Preservation Office.

11.5.0 Minor Modifications

Minor modifications to approved subdivisions may be made by the Chief Planning & Development Officer without Indian Planning Commission or Tribal Council review provided the modifications do not create new lots or adversely affect the public health, welfare and safety and are in substantial conformance with the conditions of subdivision approval.

The Chief Planning & Development Officer shall have the authority to approve boundary line adjustments which would allow for a minor adjustment of boundary lines to legal lots, including lot mergers, provided:

- A. No new lots are created
- B. No resulting lot is smaller than 75% of its original size.
- C. The resulting lots still meet the minimum lot size requirements of this Ordinance.

11.6.0 Exempt Subdivisions

The subdivision requirements of this Ordinance shall not apply to:

- A. Any lot created from or upon any property held in trust by the United States for a member of the Tribe, by virtue of a conveyance, gift or sale of land which is approved by the Secretary of the Interior under federal statutes or regulations;
- B. Any lot established by a distribution or division of land that occurs pursuant to the descent and distribution provisions of 25 U.S.C. Sec. 371, et seq., or by virtue of an Indian probate proceeding under federal statutes or regulations; or
- C. Any lot established by virtue of a partition or sale decree authorized by 25 U.S.C. Section 403(a)(1) or by virtue of a partition under 25 CFR Section 152.33.

ARTICLE XI – NON-CONFORMING STRUCTURES AND USES

12.1.0 Applicability

The following lots, uses of land, and uses of structures, which existed, or were established prior to the effective date of this Ordinance, shall be deemed to be lawful non-conforming uses, and may continue subject to the provisions of this Section:

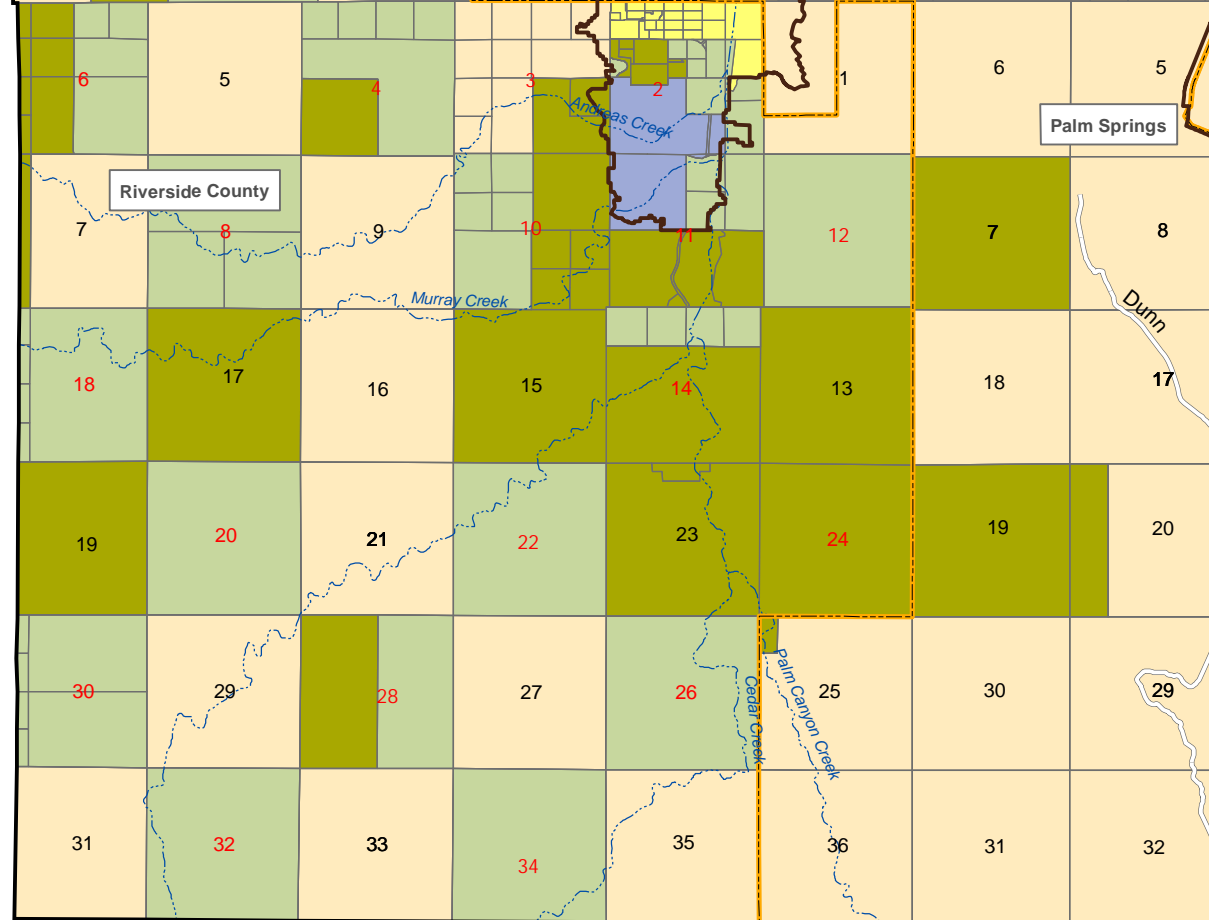
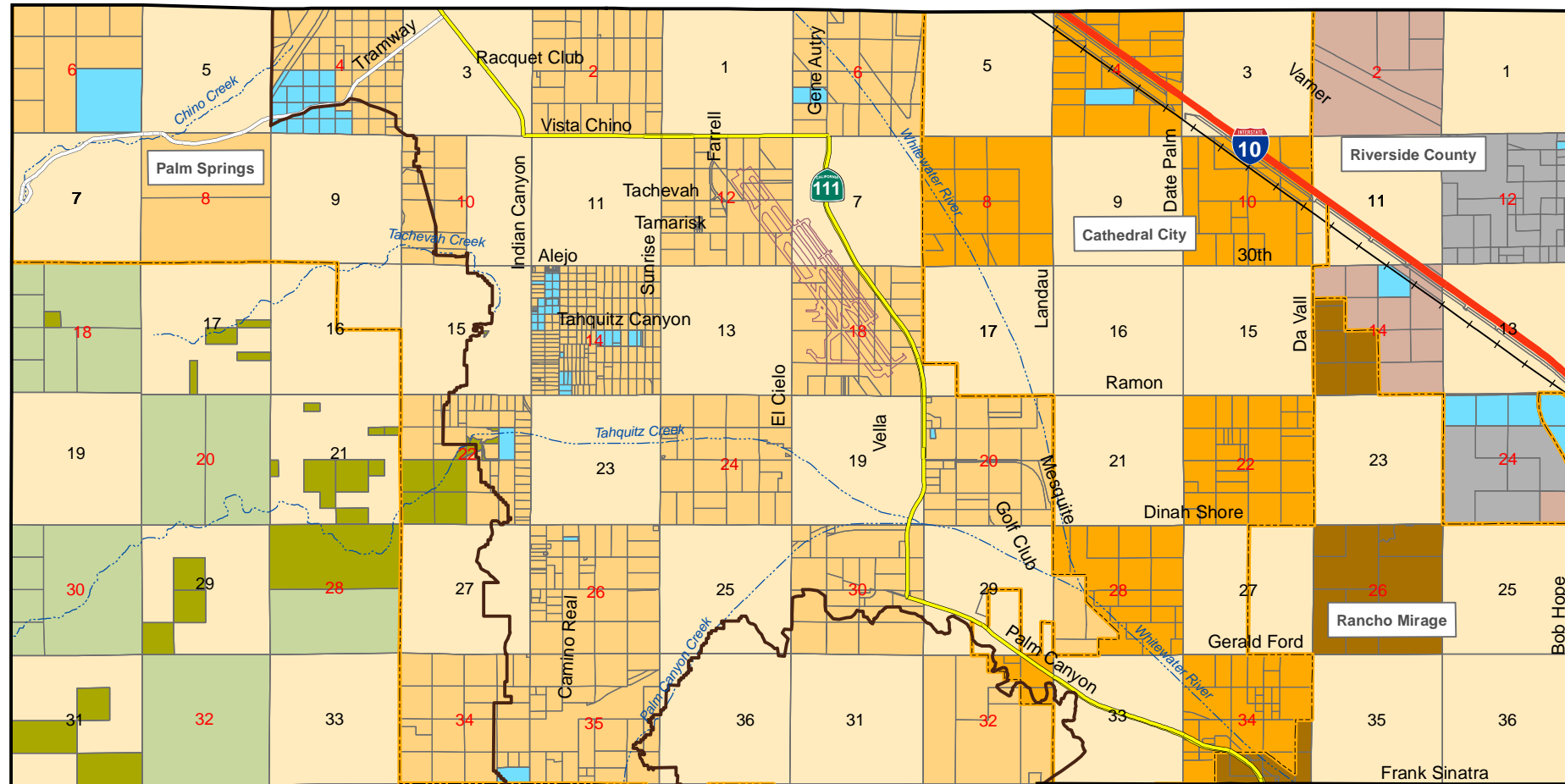
- A. Any lot, tract or parcel of land (1) on fee lands which was recognized as a legal building lot by Riverside County or the Bureau of Land Management prior to the effective date of this Ordinance, except lots established under County law through boundary line adjustments that would not be permissible under the provisions of this Ordinance, or (2) established or platted under provisions of Tribal law or federal regulations prior to the effective date of this Ordinance.
- B. Any structure or building erected or in actual use in conformity with applicable Tribal law, and any non-criminal actual use of a structure or building existing or established, prior to the effective date of this Ordinance. Any structure or building erected subsequent to the date of this Ordinance on a legal non-conforming lot or parcel shall meet all other provisions of this Ordinance except minimum lot size.

12.2.0 Replacement

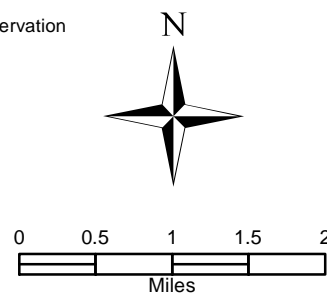
If any non-conforming structure is over 50% destroyed by fire or other catastrophe, such structure may be rebuilt provided that such reconstruction complies with the current Uniform Building Code and is completed within two years of the date of the fire or catastrophe.



AGUA CALIENTE INDIAN RESERVATION TRIBAL LAND USE ORDINANCE ZONING DISTRICTS AS OF OCTOBER 1, 2013



- Zoning Districts**
- Land Use Contract, Palm Springs
 - Land Use Contract, Cathedral City
 - Land Use Contract, Rancho Mirage
 - Land Use Contract, Riverside County
 - Specific Plan
 - Tribal Enterprise
 - Low Density Residential
 - Rural Residential
 - Tribal Reserve
 - Heritage Park
 - Off Reservation
- Mountains & Canyons Conservation Area
 - Interstate 10
 - State Highways
 - Railroads
 - Intermittent Streams
 - Whitewater River
 - Political Jurisdictions
 - 14 Reservation Sections



Agua Caliente Band of Cahuilla Indians
Planning & Development Department
5401 Dinah Shore Dr. Palm Springs CA, 92264
Geospatial Information Services
(760) 883 - 1911/Fax (760) 883-1937

