

Forest Service, USDA

§ 254.23

§ 254.20 Purpose and scope.

(a) A Forest Service official may, upon application, set aside and designate for townsite purposes up to 640 acres of National Forest System lands adjacent to or contiguous to an established community in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(b) National Forest System lands, needed by a community, may be sold under the Townsite Act, for fair market value if those lands would serve indigenous community objectives that outweigh the public objectives and values of retaining the lands in Federal ownership. Indigenous community objectives may include space for housing and for service industries, expansion of existing economic enterprises, new industries utilizing local resources and skills, public schools, public health facilities, community parks, and other recreation areas for local citizens, but would exclude such uses as commercial enterprises or new industries and housing projects that would change the character of the local community.

§ 254.21 Applications.

(a) An application to purchase National Forest System lands—

(1) Must be made by designated officials) authorized to do business in the name of a county, city, or local governmental subdivision;

(2) May be in the form of a letter, ordinance, or resolution;

(3) Must be furnished to the District Ranger or the Forest Supervisor for the National Forest area in which the lands are situated; and

(4) Must be limited to 640 acres or less adjacent to an established community.

(b) An application must be accompanied by—

(1) A description of the land desired; and

(2) A development plan, consisting of a narrative statement and map, which gives a detailed description of the intended use of the site and how essential community needs will be met by the purchase.

§ 254.22 Designation and public notice.

(a) A Forest Service official must—

(1) Ensure the application meets the requirements of § 254.21;

(2) Process an order to set aside and designate the lands for townsite purposes; and

(3) Transmit, where applicable, a copy of the designation order to the State Director, Bureau of Land Management.

(b) The designation order will segregate the lands from other forms of entry as long as the application remains in force.

(c) The designation order does not preclude compatible land adjustments under the Secretary's authority within the area set aside.

(d) A Forest Service official must prepare a public notice of the proposed townsite sale to be inserted once a week for 4 consecutive weeks in a local newspaper:

(1) The notice shall include descriptive information on the proposed townsite sale and identify the applicant and responsible Forest Service official; and

(2) A period of 45 days, from first date of publication, must be provided for accepting public comments.

§ 254.23 Studies, assessments, and approval.

(a) After initial public notice has been published, a Forest Service official must conduct the necessary studies and assessments to—

(1) Determine if the applicant has made a satisfactory showing that the land will meet essential community needs resulting from internal growth;

(2) Determine if lands applied for would serve indigenous community objectives that outweigh other public objectives and values which would be served by maintaining such a tract in Federal ownership;

(3) Determine if the sale would substantially affect or impair important scenic, wildlife, environmental, historical, archeological, or cultural values;

(4) Evaluate the applicability of public comments;

(5) Identify the extent of valid existing rights and uses; and

(6) Determine if zoning ordinances, covenants, or standards are needed to protect adjacent National Forest land and to protect or mitigate valid existing rights and uses.

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(b) Upon approval, the authorized Forest Service official shall take appropriate steps to have an assessment made of the fair market value of the land and process the conveyance pursuant to §§ 254.24, 254.25, and 254.26.

(c) Upon disapproval, a Forest Service official shall—

(1) Notify the applicant in writing of the reasons the proposal is not acceptable;

(2) Inform the applicant of alternate proposals under other authorities and/or appeal rights.

§ 254.24 Conveyance.

(a) Conveyance of the approved tract(s) may be made by a single transaction or by multiple transactions spread over a period of time in accordance with a prearranged schedule.

(b) The authorized Forest Service official shall—

(1) Execute and convey title to the townsite tract(s) by quitclaim deed;

(2) Ensure deeds are free of terms and covenants, except those deemed necessary to ensure protection of adjacent National Forest System land and/or valid existing rights and uses; and

(3) Deliver executed deeds to the governmental body upon—

(i) Adoption of zoning ordinance and development plan if found necessary; and

(ii) Notice from the authorized Forest Service Fiscal Agent that payment has been received.

§ 254.25 Survey.

The authorized Forest Service official shall conduct or provide for the necessary tract survey and boundary posting of National Forest System land.

§ 254.26 Appraisal.

Fair market value of townsite tracts shall be determined following Forest Service appraisal procedures and the Uniform Standards for Federal Acquisitions.

Subpart C—Conveyance of Small Tracts

AUTHORITY: Pub. L. 97-465; 96 Stat. 2535.

36 CFR Ch. II (7-1-02 Edition)

SOURCE: 49 FR 1185, Jan. 10, 1984, unless otherwise noted.

§ 254.30 Purpose.

These regulations set forth procedures by which the Secretary of Agriculture may resolve land disputes and management problems pursuant to Pub. L. 97-465, commonly called the Small Tracts Act, by conveying, through sale, exchange, or interchange, three categories of tracts of land: Parcels encroached on, road rights-of-way, and mineral survey fractions. Implementation of these regulations does not constitute authorization of nor consent to adverse possession against lands administered by the Secretary of Agriculture.

§ 254.31 Definitions.

For the purpose of this subpart,

An *applicant* is a person who occupies or has improvements on National Forest System land under claim of title or color of title, or who owns land abutting or underlying a road right-of-way, or who owns land interspersed with or adjacent to mineral survey fractions.

Approximately equal value is a comparative estimate of value of lands involved in an interchange where elements of value, such as physical characteristics and other amenities, are readily apparent and substantially similar.

Claim of title is a claim of land as a person's own, based on any reasonable evidence which establishes the person's actual use of the land as though the person had full title thereto from the time the person obtained ownership of abutting land.

Color of title arises from an instrument purporting to convey title to a tract of land.

Encroachments are improvements occupied or used on National Forest System land under claim of title or color of title.

Exchange is a discretionary, voluntary transaction involving mutual transfers of land or interests in land between the Secretary of Agriculture acting by and through the Forest Service and a nonfederal entity.