

Subpart A—General

§§ 292.1–292.10 [Reserved]

Subpart B—Whiskeytown-Shasta-Trinity National Recreation Area

AUTHORITY: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, Sec. 1, 33 Stat. 628; 16 U.S.C. 551, 472.

SOURCE: 38 FR 5853, Mar. 5, 1973, unless otherwise noted.

§ 292.11 Introduction.

(a) Administration of the Shasta and Clair Engle-Lewiston Units will be coordinated with the other purposes of the Central Valley Project of the Bureau of Reclamation and of the recreation area as a whole so as to provide for: (1) Public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment; and (3) the management, utilization, and disposal of renewable natural resources which in the judgment of the Secretary of Agriculture will promote or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment.

(b) The Secretary may not acquire without consent of the owner any privately owned “improved property” or interests therein within the boundaries of these units, so long as the appropriate local zoning agency shall have in force and applicable to such property a duly adopted, valid, zoning ordinance that is approved by the Secretary. This suspension of the Secretary’s authority to acquire “improved property” without the owner’s consent would automatically cease: (1) If the property is made the subject of a variance or exception to any applicable zoning ordinance that does not conform to the applicable standards contained in §§ 292.11 to 292.13; or (2) if such property is put to any use which does not conform to any applicable zoning ordinance approved by the Secretary.

(c) *Improved property* as used in §§ 292.11 to 292.13, means any building or group of related buildings, the actual construction of which was begun before February 7, 1963, together with not

more than three acres of land in the same ownership on which the building or group of buildings is situated, but the Secretary may exclude from such “improved property” any shore or waters, together with so much of the land adjoining such shore or waters, as he deems necessary for public access thereto.

(d) Sections 292.11 to 292.13 specify the standards with which local zoning ordinances for the Shasta and Clair Engle-Lewiston Units must conform if the “improved property” or unimproved property proposed for development as authorized by the Act within the boundaries of the units is to be exempt from acquisition by condemnation. The objectives of §§ 292.11 to 292.13 are to:

(1) Prohibit new commercial or industrial uses other than those which the Secretary considers to be consistent with the purposes of the act establishing the national recreation area; (2) promote the protection and development of properties in keeping with the purposes of that Act by means of use, acreage, setback, density, height or other requirements; and (3) provide that the Secretary receive notice of any variance granted under, or any exception made to, the application of the zoning ordinance approved by him.

(e) Following promulgation of §§ 292.11 to 292.13 of final form, the Secretary is required to approve any zoning ordinance or any amendment to an approved zoning ordinance submitted to him which conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment.

(f) Any owner of unimproved property who proposes to develop his property for service to the public may submit to the Secretary a development plan setting forth the manner in which and the time by which the property is to be developed and the use to which it is proposed to be put. If the Secretary determines that the development and the use of the property conforms to approved zoning ordinances, and serves the purposes of the National Recreation Area and that the property is not needed for easements and rights-of-way for access, utilities, or facilities, or for administration sites, campgrounds, or

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other areas needed for use by the United States for visitors, he may in his discretion issue to such owner a certification that so long as the property is developed, maintained, and used in conformity with approved zoning ordinances the Secretary's authority to acquire the property without the owner's consent is suspended.

§ 292.12 General provisions; procedures.

(a) *Approval of zoning ordinance and development plans.* (1) All validly adopted zoning ordinances and amendments thereto pertaining to the Shasta and Clair Engle-Lewiston Units may be submitted by the county of origin to the Secretary for written approval relative to their conformance with the applicable standards of §§ 292.11 to 292.13. Within 60 days following submission, the county will be notified of the Secretary's approval or disapproval of the zoning ordinances or amendments thereto. If more than 60 days are required, the county will be notified of the expected delay and of the additional time deemed necessary to reach a decision. The Secretary's approval shall remain effective so long as the zoning ordinances or amendments thereto remain in effect as approved.

(2) Development plans pertaining to unimproved property within the Shasta and Clair Engle-Lewiston Units may be submitted by the owner to the Secretary for determination as to whether they conform with approved zoning ordinances and whether the planned use and development would serve the Act. Within 30 days following submission of such plans the Secretary will approve or disapprove the plans or, if more than 30 days are required, will notify the applicant of the expected delay and of the additional time deemed necessary.

(b) *Amendment of ordinances.* Amendments of approved ordinances may be furnished in advance of their adoption to the Secretary for written decision as to their conformance with applicable standards of §§ 292.11 to 292.13.

(c) *Variations or exceptions to application of ordinances.* (1) The Secretary shall be given written notice of any variance granted under, or any exception made to, the application of a zon-

ing ordinance or amendment thereto approved by him.

(2) The County, or private owners of improved property, may submit to the Secretary proposed variances or exceptions to the application of an approved zoning ordinance or amendment thereto for written advice as to whether the intended use will make the property subject to acquisition without the owner's consent. Within 30 days following his receipt of such a request, the Secretary will advise the interested party or parties as to his determination. If more than 30 days are required by the Secretary for such determination, he shall so notify the interested party or parties stating the additional time required and the reasons therefore.

(d) *Certification of property.* Where improvements and land use of improved property conform with approved ordinances, or with approved variances from such ordinances, certification that the Secretary's authority to acquire the property without the owner's consent is suspended may be obtained by any party in interest upon request to the Secretary. Where the development and use of unimproved property for service to the public is approved by the Secretary, certification that the authority to acquire the property without the owner's consent is suspended may be issued to the owner.

(e) *Effect of noncompliance.* Suspension of the Secretary's authority to acquire any improved property without the owner's consent will automatically cease if: (1) Such property is made the subject of variance or exception to any applicable zoning ordinance that does not conform to the applicable standard in the Secretary's regulation, (2) such property is put to a use which does not conform to any applicable zoning ordinance, or, as to property approved by the Secretary for development, a use which does not conform to the approved development plan or (3) the local zoning agency does not have in force a duly adopted, valid zoning ordinance that is approved by the Secretary in accordance with the standards of §§ 292.11 to 292.13.

(f) *Nonconforming commercial or industrial uses.* Any existing commercial or industrial uses not in conformance with approved zoning ordinances shall

be discontinued within 10 years from the date such ordinances are approved: *Provided, however,* That with the approval of the Secretary such 10-year period may be extended by the county for a prescribed period sufficient to allow the owner reasonable additional time to amortize investments made in the property before November 8, 1965.

§ 292.13 Standards.

(a) The standards set forth in §§ 292.11-292.13 shall apply to the Shasta and Clair Engle-Lewiston Units, which are defined by the boundary descriptions in the notice of the Secretary of Agriculture of July 12, 1966 (31 FR 9469), and to a strip of land outside the National Recreation Area on either side of Federal Aid Secondary Highway Numbered 1089, as more fully described in 2(a) of the act establishing the recreation area (79 Stat. 1296).

(b) *New industrial or commercial uses.* New industrial or commercial uses will be prohibited in any location except under the following conditions:

(1) The industrial use is such that its operation, physical structures, or waste byproducts would not have significant adverse impacts on surrounding or nearby outdoor recreation, scenic and esthetic values. Industrial uses having an adverse impact include, but are not limited to, cement production, gravel extraction operations involving more than one-fourth acre of surface, smelters, sand, gravel and aggregate processing plants, fabricating plants, pulpmills, and commercial livestock feeder yards.

(2)(i) The commercial use is for purposes of providing food, lodging, automotive or marine maintenance facilities and services to accommodate recreationists and the intended land occupancy and physical structures are such that they can be harmonized with adjacent land development and surrounding appearances in accordance with approved plans and schedules.

(ii) This standard provides for privately owned and operated businesses whose purposes and physical structures are in keeping with objectives for use and maintenance of the area's outdoor recreation resources. It precludes establishment of drive-in theaters, zoos,

and similar nonconforming types of commercial entertainment.

(c) *Protection of roadsides.* Provisions to protect natural scenic qualities and maintain screening along public travel routes will include:

(1) Prohibition of new structural improvements or visible utility lines within a strip of land extending back not less than 150 feet from both sides of the centerline of any public road or roadway except roads within subdivisions or commercial areas. In addition to buildings, this prohibition pertains to above-ground power and telephone lines, borrow pits, gravel, or earth extraction areas, and quarries.

(2) Retention of trees and shrubs in the above-prescribed roadside strips to the full extent that is compatible with needs for public safety and road maintenance. Wholesale clearing by chemical or other means for fire control and other purposes will not be practiced under this standard.

(d) *Protection of shorelines.* Provisions to protect scenic qualities and reduce potentials for pollution of public reservoirs will include: Prohibition of structures within 300 feet horizontal distance from highwater lines of reservoirs other than structures the purpose of which is to service and accommodate boating or to facilitate picnicking and swimming: *Provided,* That exceptions to this standard may be made upon showing satisfactory to the Secretary that proposed structures will not conflict with scenic and antipollution considerations.

(e) *Property development.* Location and development of structures will conform with the following minimum standards:

(1) *Commercial development.* (i) Stores, restaurants, garages, service stations, and comparable business enterprises will be situated in centers zoned for this purpose unless they are operated as part of a resort or hotel. Commercial centers will be of sufficient size that expansion of facilities or service areas is not dependent upon use of public land.

(ii) Sites outside designated commercial centers will be used for resort development contingent upon case by case concurrence of the responsible county officials and the Secretary that

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such use is, in all aspects, compatible with the purposes for establishing the recreation area.

(iii) Structures for commercial purposes, inclusive of isolated resorts or motels, will not exceed two stories height at front elevation, and will be conventional architecture and will utilize colors, nonglare roofing materials, and spacing or layout that harmonizes with forested settings. Except for signs, structures designed primarily for purposes of calling attention to products or service will not be permitted.

(2) *Residential development.* (i) Locations approved for residential development will be buffered by distance, topography, or forest cover from existing or planned public use areas such as trailer parks, campgrounds, or organization sites. Separation will be sufficient to avoid conflicts resulting from intervisibility, noise, and proximity that is conducive to private property trespass.

(ii) Requirements for approval of residential areas will include: (a) Construction of access when main access would otherwise be limited to a road constructed by the United States primarily to service publicly owned recreation developments; (b) limitation of residences to single-family units situated at a density not exceeding two per acre, but any lot of less than a half-acre may be used for residential purposes if, on or before promulgation of §§ 292.11–292.13, such lot was in separate ownership or was delineated in a county-approved plat that constitutes part of a duly recorded subdivision; (c) use of set-backs, limitations to natural terrain, neutral exterior colors, nonglare roofing materials, and limitations of building heights fully adequate to harmonize housing development with the objective of the National Recreation Area as set forth in the act.

(3) *Signs and signing.* Only those signs may be permitted which: (i) Do not exceed 1 square foot in area for any residential use; (ii) do not exceed 40 square feet in area, 8 feet in length, and 15 feet maximum height from ground for any other use, including advertisement of the sale or rental of property; and (iii) which are not illuminated by any neon or flashing device. Commercial signs may be placed only on the property on

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which the advertised use occurs, or on the property which is advertised for sale or rental. Signs shall be subdued in appearance, harmonizing in design and color with the surroundings and shall not be attached to any tree or shrub. Nonconforming signs may continue for a period not to exceed 2 years from the date a zoning ordinance containing these limitations is adopted.

Subpart C—Sawtooth National Recreation Area—Private Lands

AUTHORITY: Sec. 4(a), Act of Aug. 22, 1972 (86 Stat. 613).

§ 292.14 Introduction.

(a) *Purpose.* In accordance with the provisions of the Act establishing the Sawtooth National Recreation Area (86 Stat. 612), the regulations of this subpart establish standards for the use, subdivision and development of privately owned property within the boundaries of the Sawtooth National Recreation Area. The standards are in furtherance of the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values of the Recreation Area. Unless, in the judgment of the Secretary, such property is being used, or is in imminent danger of being used, in a manner incompatible with such standards, the property or any interest therein may not be acquired by condemnation. However, private land or an interest therein, determined to be necessary for access to and utilization of public property, and for recreation and other facilities, may be condemned without regard to this restriction, subject however, to the limitation in § 292.15(j).

(b) *Amendment of regulations.* Amendments to these regulations shall be made in accordance with the Administrative Procedures Act (60 Stat. 238, 5 U.S.C. 553), including the publishing of the amendments as a notice of proposed rulemaking with final adoption after interested persons have been given an opportunity to participate in the rulemaking through submission of comments.

(c) *Definitions—(1) Cluster-type development.* Planned unit development