

structures harmoniously situated within a natural environment.

(8) *Residential outbuilding.* Nonhabitable building detached from the residence, such as a garage, woodshed or storage building.

(9) *Secretary.* Secretary of Agriculture.

(10) *Area Ranger.* The Forest Officer having administrative authority for the Sawtooth National Recreation Area.

[39 FR 11544, Mar. 29, 1974]

**§ 292.15 General provisions—procedures.**

(a) *Classification of private property.* For the purpose of establishing specific standards applicable to the several parcels of private land within the boundaries, such properties are classified and assigned to land use categories as shown on the Land Use Category Map, dated December 15, 1973, as amended July 16, 1976, on file and available for public inspection in the office of the Area Ranger, Sawtooth National Recreation Area, Ketchum, Idaho. The classification of private properties is based on evaluation of scenic, natural, historic, pastoral, wildlife, and other values.

(b) *Land use categories.* Land use categories shown on the map referred to in paragraph (a) of this section are:

(1) *Designated community.* All properties inside a designated community.

(2) *Residential.* Areas for residential development outside designated communities.

(3) *Commercial.* Areas for commercial development outside designated communities.

(4) *Agriculture.* All properties outside designated communities not placed in a residential or commercial land use category.

(5) *Mineral.* Any areas in the land use in paragraphs (b) (1) through (4) of this section, used for mineral operations.

(c) *Changes in classification.* The Secretary may make changes in the classification of private lands set forth in paragraph (a) of this section by incorporating such changes in an amendment of these regulations.

(d) *Certification of compliance with standards—(1) Present use.* Any owner of property may request in writing the

Area Ranger to examine the present use of the property and issue a certification that such present use conforms to the applicable standards established in § 292.16 for the land use category in which the property is placed. If after examination the Area Ranger determines that the present use of the property does so conform, he will issue a certification to this effect.

(2) *Planned development or change in use.* Any owner of property who proposes to change the use or develop his property for other than agricultural use may submit to the Area Ranger a use or development plan setting forth the manner in which and the time by which the property is to be developed and the use to which the property is to be put. If the Area Ranger determines that the development and use plan conforms to the applicable standards established in § 292.16 for the land use category in which the property is placed, he will issue a certification to this effect.

(3) *Notification of action.* Within 45 days after receipt of request for certification, the Area Ranger shall:

(i) Issue the certification.

(ii) Notify applicant that additional information is needed before action can be taken on the application.

(iii) Notify applicant that certification is denied, and reasons for denial.

(iv) Notify applicant that action on the request is deferred for a specified period of time for stated reasons.

(e) *Qualified certifications.* (1) Any owner of a property classified residential or commercial under paragraph (a) of this section which had been improved and was being used for residential or commercial purposes on the effective date of these regulations, but which does not conform to the standards established for properties in the land use category in which the property is placed may nevertheless be issued a certification for period not to exceed 10 years so that the improvements may be made to conform to the standards. Such certification shall specify that it is only effective so long as the property is not subdivided, and is not further improved and the improvements existing on the effective

## § 292.15

## 36 CFR Ch. II (7-1-10 Edition)

date of these regulations, are not reconstructed, altered or relocated, except to meet standards. The certification shall specify the date on which it shall terminate.

(2) If the Area Ranger determines, prior to certification, that a part or all of a property, for which a request for certification is made, is needed for access to and utilization of public property or for recreation and other facilities, he may except from the certification that part of the property needed for these purposes.

(f) *Revocation of certification.* The Area Ranger will revoke a certification when he finds that the property is being used or developed not in conformance with the terms of the certification or the applicable standards established in § 292.16 or is in imminent danger of being so used or developed. Notice of such revocation will be in writing and delivered to the owner in person or by certified mail. A partial revocation may be made when a portion of a property covered by a certification is determined to be needed for access to and utilization of public property or for recreation and other facilities.

(g) *Effect of certification.* Property for which a certification is held by the owner shall not be acquired by the Secretary by condemnation.

(h) *Effect of noncompliance with standards.* Property for which a determination has been made that it is being used or developed not in conformance with the applicable standards established in § 292.16 for the land use category in which the property is placed may be acquired by the Secretary by condemnation.

(i) *Acquisition by negotiated purchase.* (1) Any privately owned land or interest in land determined by the Secretary to be needed in furtherance of the objectives and purposes for which the Sawtooth National Recreation Area was established may be acquired by negotiated purchase subject only to the limitation in paragraph (j) of this section.

(2) Property which has been developed for use prior to the effective date of these regulations, but which is not in conformance with applicable standards may be acquired by the Secretary

through negotiated purchase and the Secretary may permit the owners, their successors or assigns to retain a right of use and occupancy of the improved property for a definite term not beyond December 31, 1988.

(j) *Limitation on acquisitions.* Acquisitions of lands or interests therein for access to and utilization of public property and for recreation and other facilities shall not exceed 5 percent of the total acreage of all private property within the Sawtooth National Recreation Area on August 22, 1972. A land acquisition plan shall be prepared by the Area Ranger and approved by the Regional Forester showing those properties needed for access to and utilization of public property or for recreation and other facilities. Said plan may be revised from time to time upon approval by the Regional Forester. Said plan shall be available for inspection by the public in the office of the Area Ranger.

(k) *Land exchanges.* Some parcels of Federal lands within the Sawtooth National Recreation Area are classified or may be subsequently classified in the overall general plan for the Recreation Area as suitable for selection through land exchange. Using existing land exchange authorities, these Federal lands may be made available for selection by parties owning land within the boundaries of the National Recreation Area to resolve some existing or potential land use conflicts. The values of the properties so exchanged shall be approximately equal, or, if they are not approximately equal, they shall be equalized by the payment of cash. Federal lands which may be located within the boundaries of designated communities will be considered for exchange only after acceptable community development plans and ordinances have been implemented.

(l) *Appeals.* Any landowner who is adversely affected by a decision of the Area Ranger under these regulations may file an appeal under the provisions of 36 CFR part 251, subpart C.

(m) *Judicial review.* The United States District Court for the District of Idaho shall have jurisdiction to review these regulations upon a compliant filed within 6 months after the effective

date of these regulations, by any affected landowner in an action for a declaratory judgment as provided in the Act of August 22, 1972 (86 Stat. 612), section 4(a).

[39 FR 11544, Mar. 29, 1974, as amended at 41 FR 29379, July 16, 1976; 54 FR 3368, Jan. 23, 1989]

#### § 292.16 Standards.

The standards established in these regulations 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 recreation values of the Recreation Area.

(a) *Applicability.* The standards set forth in this section for each land use category shall apply to the private land in each such land use category as classified by the Secretary in accordance with § 292.15.

(b) *Changes in standards.* Changes in and addition to the standards may be made from time to time through amendment of these regulations.

(c) *General standards.* The following standards apply to properties in all land use categories.

(1) Use and development of the property will be in conformance with applicable Federal, State, and local laws, regulations and ordinances.

(2) Development, improvement and use of the property will not materially detract from the scenic, natural, historic, pastoral, and fish and wildlife values of the area.

(3) There will be adequate provision for disposal of solid and liquid waste originating on or resulting from use of the property.

(4) All new utilities will be underground.

(5) No structures or other improvements will be constructed in or encroaching upon streambeds, banks and flood plains of live or intermittent streams. Streambeds, banks, and flood plains will not be disturbed, except as may be necessary to construct, operate, and maintain irrigation, fisheries, utilities, roads, and similar facilities or improvements. Any such necessary encroachment will avoid impeding water flow, sedimentation of streams or entrance of deleterious material into streams.

(d) *Designated communities.* (1) The following standards are established until replaced as provided for in paragraph (d)(2) of this section.

(i) No buildings or structures, or part thereof, erected, constructed, reconstructed, altered, moved, or used for any purpose, except in conformance with the standards established herein.

(ii) No excavation or topographic change, except that required for foundations, utilities, or roads, that would modify or change the scenic beauty of natural hillsides or mountain slope lands.

(iii) Minimum 100-foot frontage on new building sites.

(iv) All new buildings set in 10 feet from each side of property line.

(v) All new buildings set back 20 feet from front property line.

(vi) Only one single-family dwelling for each building site or lot.

(vii) No new building to exceed two stories in height as determined from ground level.

(viii) No building or structure erected with foundation pillars or stilts that exceeds 36 inches above ground level. Pillars or stilts, if used, must be enclosed.

(ix) Minimum of 750 square feet for new residences.

(x) All new buildings constructed of logs, shakes, rough lumber, rough wood, and native stone.

(xi) Mobile or semimobile homes permitted only in existing mobile home parks.

(xii) Nonreflective roofs on new buildings.

(xiii) All new steps and walks constructed of wood.

(xiv) Paints or stains to be of earth tones common to the area.

(xv) All buildings and structures, including fences, to be maintained in a useable and servicable condition or removed. Properties to be maintained in a clean and orderly condition.

(xvi) Existing plus new buildings or structures cannot occupy more than 30 percent of the land surface on a lot less than 20,000 square feet in area. On any lot larger than 20,000 square feet, existing plus new buildings cannot occupy more than 6,500 square feet. Existing properties exceeding this amount as of