

9. PERMITTING AND COMPLIANCE

9a. SCA Development Application

Application Procedures

Under the non-exclusive license agreement, or Easement Agreement, Association property owners immediately adjacent to the SCA are afforded and receive rights in the SCA that are not allowed to the general public. The initial submittal of the SCA Development Application must be provided by an Association official. The SCA Development Application should attempt to be a submittal for all individual lots that are part of the Association and fit the criteria.

WRPCO is aware that not all lots within the Association are occupied and currently pursuing SCA Development. In such cases the individual lot owners can submit a SCA Development Application as an addendum to the original Association Development Application. An elected official of the Association must approve the individuals SCA Development Application prior to submittal.

All Associations and developers will be provided with copies of the SCA Development Applications as well as information regarding the approval process upon request.

Prior to undertaking any improvements or modifications on the SCA within the project boundary, a completed SCA Development Application must be submitted to, and approved by, WRPCO.

(An example of a SCA Development Application and SCA Development Application Guidelines are included in Appendix A)

Approved SCA Development Application Requirements

Activities requiring an approved SCA Development Application shall not begin until all plans and specifications have been approved in writing by WRPCO. SCA uses are subject to the following additional requirements and specifications:

- In no case shall any work create conditions that would cause erosion on WRPCO lands, or sediment to enter waterways or the lake.
- Placement of fill or structures on or in intermittent or perennial streams or wetlands on WRPCO property under an SCA Development Application is strictly prohibited.

Non-compliance with the design guidelines will be considered a violation of this policy and may lead to the cancellation of the approved SCA development application for the entire Association, which could include removal of docks, as well as required removal of all encroachments and/or remediation of damages incurred.

9b. VIEW SHED

Under the terms of this VMP, Association property owners immediately adjacent to the SCA may apply for view shed areas in accordance with the guidelines in the SCA Development Application and Section 8(b).

To apply for the establishment of view shed areas:

- A WRPCO approved SCA Development Application must be approved and issued to the eligible property owner before undertaking any work relating to the creation of the view shed.
- An on-site visit by WRPCO may be required prior to the installation and clearing activities.
- The first step in planning the 30 foot view sheds on Association lots located immediately adjacent to the SCA is to establish where the property owner would like the view sheds to be located. On the SCA Development Application, it must be indicated where the view sheds are proposed. (Only one, 30 foot view shed is allowed per adjacent lot.)
- Each view shed must be separated by a minimum of ten (10) feet from the property lines of the immediately adjacent lot. (If the property line was extend to the shoreline).
- No vegetation lower than one (1) foot shall be removed from the view shed. This requirement does not apply to the 10 foot access path (4 feet) and buffer area (6 feet). Vegetation may only be trimmed beginning at a height of one (1) foot.
- Because saplings are vital to forest regeneration, it may be advisable to keep saplings. Before removal of saplings, WRPCO will discuss and advise on the best methods to provide for forest regeneration.
- Vegetation, greater than two (2) inches in diameter at five (5) feet tall, cannot be cut without the expressed written consent of WRPCO. However, lower branches may be trimmed through written approval.
- No ground disturbing and burning activities are allowed in the development or maintenance of the view shed; stump removal is not permitted.

Non-compliance with the design guidelines will be considered a violation of this policy and may lead to the cancellation of the approved SCA development application for the entire Association, which could include removal of docks, as well as required removal of all encroachments and/or remediation of damages incurred.

9c. ACCESS PATH APPLICATIONS

Under the terms of this VMP, Association property owners immediately adjacent to the SCA may apply to establish access paths in accordance with the guidelines in the SCA Development Application and 8(c).

Access paths for adjacent non-project property owners to SCA will be allowed, in accordance with the following rules and regulations:

- If a view shed is proposed, the path must be laid out in a view shed.
- The SCA Development Application must be approved and issued to the eligible property owner through the Association, before undertaking any work relating to the creation of the access path.
- An on-site visit by WRPCO may be required prior to the installation and clearing activities.
- To the extent possible, new access path development will follow existing access paths.
- The natural wood chip and/or bark area can be spread no more than four (4) feet wide.
- Three (3) feet on either side of the path can be mowed to ground level. The purpose of the mowing is to avoid negative impacts from nuisance plants and insects.
- The total clearing area may not exceed ten (10) feet.
- To the extent possible, any new access path development shall be located near the center of the view shed.
- Access paths will be developed and maintained in a manner that avoids, where possible, and otherwise minimizes the removal of trees.
- When feasible, access paths should not be laid out in a straight line; rather they should meander through the SCA to a reasonable extent taking into consideration topography, visual impact and natural features in an effort to reduce adverse aesthetic impacts and shoreline erosion.
- Access paths are for pedestrian use only; no motorized vehicles are permitted on the paths (with the exception of WRPCO vehicles necessary for maintenance or other official business).

- No ground disturbing and burning activities are allowed in the development or maintenance of the access path; stump removal is not permitted.
- Associations may apply for a permit to allow motorized vehicle use for the purposes of maintaining WRPCO approved Association improvements within the SCA.
- Wetland areas cannot be filled during the construction of an access path; however a boardwalk may be placed over the wetland area if WRPCO has conducted a site visit prior to construction and provides written approval to the Association..
- Only natural wood chips and/or bark may be placed within the four (4) foot section of the ten (10) foot cleared area to create an access path. No other materials including, but not limited to, stone, brick, gravel, sand, stepping stones, flagstone, and colored stones, or any other materials, may be used on the paths. (To avoid the introduction of invasive species, wood chips should originate from the localized area).
- Grass sod and/or grass seed cannot be placed on the access path.
- In limited instances where extreme topography or sensitive ecological areas warrant, steps or wooden walkways may be incorporated into an access path.
- Steps and elevated walkways (not more than two (2) feet above the contour of the ground) may be permitted. They shall be constructed of wood. An on-site review is required for steps and elevated walkways.

Non-compliance with the design guidelines will be considered a violation of this policy and may lead to the cancellation of the approved SCA development application for the entire Association, which could include removal of docks, as well as required removal of all encroachments and/or remediation of damages incurred.

9d. APPLICATION SUBMITTAL

A written application and supporting documentation must be submitted by the Associations for any proposed activity or enhancement within the SCA in advance of the start of the activity.

- Applications must be requested from WRPCO.
- Any work related to the application cannot begin until the Association receives express written approval from WRPCO.
- ***No work can begin until an application, and its related information, is submitted and receives written approval by WRPCO.***

- If assistance is needed, WRPCO will work with the Associations to complete the application.

9e. ENCROACHMENTS

Enforcement and Oversight

WRPCO manages the Petenwell and Castle Rock Reservoirs in accordance with the terms of its license and the applicable FERC rules and regulations. WRPCO is responsible to ensure that the uses and occupancies for which it grants permission are safe, maintained in good repair and comply with applicable safety and health requirements.

This responsibility includes public recreation access and protecting important natural, environmental and scenic resources.

Through the SCA Development Application approval process, WRPCO will ensure the following:

- Activities of permittees (Associations) will not endanger health, create a nuisance or otherwise be incompatible with the project's overall purposes.
- All reasonable precautions will be taken by permittees to ensure that their use of project lands and waters will occur in a manner that will protect the scenic, recreational and other environmental values of the project.

To this end, WRPCO's SCA Development Application will reserve the right of WRPCO to supervise and control the permittees shoreline use activities. In exercising this right, WRPCO will ensure that the permittees fully comply with all the requirements of the approved SCA Development Application.

- Any use of, or change in, the features or vegetation on project lands and waters without specific authorization from WRPCO is prohibited and considered a violation.
- If a licensed use violates any conditions imposed by the FERC or WRPCO under its permitting program or violates any measures required for the protection and enhancement of the project's scenic, recreation or environmental values, then WRPCO may take any lawful action necessary to correct the violation of the individual and Association.
- For a permitted use or occupancy, that action may include, if necessary, cancelling the approved SCA Development Application to use and occupy the project lands and waters, and requiring the removal of any non-complying structures and facilities.

WRPCO believes that prevention of encroachments is preferred to enforcement and restoration. Accordingly, WRPCO will work with individual property owners and Associations to educate all concerned about allowable practices and uses of the SCA.

It is WRPCO's desire to establish a partnership with the Associations for the prevention and enforcement of encroachments on the SCA. WRPCO believes that Associations can play a vital role in the education and enforcement processes. WRPCO will provide necessary information and resources to engage the Associations in the prevention and enforcement process. This could include, but is not limited to:

- Attending annual Association meetings to review SCA uses.
- Requesting the Association to designate a member as a liaison to WRPCO (if this is not already established) to direct questions and concerns about SCA uses.
- Assist the Association in establishing self policing practices.
- Providing the Association with information about best management practices and enforcement issues.
- Maintaining contact through SCA visits.

Even with Association participation in encroachment prevention, WRPCO is aware that encroachments may continue to occur and that WRPCO is ultimately responsible for identifying and curing any encroachment.

In order to identify any encroachments, and curing any encroachment identified on the SCA by adjoining property owners, WRPCO will continue to conduct SCA reviews at least twice annually; and more often if deemed necessary. During the reviews:

- WRPCO will document any encroachments, including the unauthorized removal of vegetation from the SCA by adjoining property owners.
- The encroachment will be documented and a letter which will be sent to the adjacent property owner, with copies of the letter provided to the corresponding Association.
- Copies of all encroachment letters will also be sent to the FERC Regional Office in Chicago.

Encroachment letters will vary depending on the degree of severity of the encroachment.

General encroachments, (i.e. personal items on property, unauthorized mowing, etc.) require varying degrees of enforcement based on the Association's level of cooperation and previous notification. Enforcement procedures may include the following:

- If the encroachment is not cured, the non-exclusive license agreement or easement agreements may be revoked for the individual and the entire Association.

- The non-exclusive license agreement or easement agreement will not be re-issued until the encroachment is cured and all WRPCO requirements have been satisfied.
- The decision concerning constitutes completion of restoration shall be at the sole discretion of WRPCO.

A severe encroachment, consisting of vegetation removal (primarily trees with a diameter of greater than two (2) inches, at a five (5) foot level or above) not authorized in the SCA Development Application, will require immediate curing.

- WRPCO requires any unauthorized removal of vegetation to be restored to its original or a suitable alternative condition.
- The SCA Development Application requires a review and approval of any required restoration. If the restoration work has not been conducted to WRPCO's complete satisfaction, WRPCO will consider the Association in default and revoke the Association's non-exclusive license agreement or easement agreement. This may include requiring removal of access paths to the SCA public trail and the loss of docking privileges.
- If the Association's non-exclusive license agreement or easement agreement is revoked, WRPCO will consider reinstating the non-exclusive License Agreement or easement agreement only after restoration has been completed.
- The decision as to what constitutes completion of restoration shall be at the sole discretion of WRPCO.

WRPCO will periodically adjust this enforcement process as necessary to ensure compliance with the requirements of the VMP.