

PRESIDIO TRUST**36 CFR Parts 1001, 1002, 1004 and 1005**

RIN 3212-AA00

Interim Management of the Presidio**AGENCY:** The Presidio Trust.**ACTION:** Final interim rule; request for comment.

SUMMARY: The Presidio Trust (Trust) was created by Congress in 1996 to manage most of the former U.S. Army base known as the Presidio, in San Francisco, California. The Presidio is currently under the administrative jurisdiction of the National Park Service (NPS), Department of the Interior (DOI). Pursuant to law, administrative jurisdiction of approximately 80 percent of this property will be transferred to the Trust on July 1, 1998. This rulemaking adopts the basic requirements for management of this property as a final interim rule. Public comment is invited on this interim rule. In addition, the Trust intends to publish a notice of proposed rulemaking containing more extensive and revised regulations for management of the area it will administer. Comments on this interim rule, as well as on the proposed rule, will be considered by the Trust in promulgating its final rule.

DATES: This interim rule is effective as of June 30, 1998. Comments on this rulemaking must be received by August 31, 1998.

ADDRESSES: Written comments on this rule must be sent to James E. Meadows, Executive Director, The Presidio Trust, P.O. Box 29052, San Francisco, CA 94129-0052.

FOR FURTHER INFORMATION CONTACT: James E. Meadows, Executive Director, The Presidio Trust, 10 Funston Avenue, P.O. Box 29052, San Francisco, CA 94129-0052. Telephone: 415-561-5300.

SUPPLEMENTARY INFORMATION:**Background***I. Introduction*

The Presidio Trust is a wholly-owned government corporation created pursuant to Title I of the Omnibus Parks and Public Lands Management Act of 1996, 16 U.S.C. Sec. 460bb note, Public Law 104-333, 110 Stat. 4097 (the Trust Act). Pursuant to sec. 103(b) of the Trust Act, the Secretary of the U.S. Department of the Interior is to transfer administrative jurisdiction to the Trust of all of Area B of the former Presidio Army Base, as shown on the map referenced in the statute, within one

year of the first meeting of the Trust's Board of Directors (Board), which was held on July 9, 1997. In order to facilitate planning, budgeting and other administrative functions, the Trust has requested, and the Secretary of the Interior has agreed, that such property will be transferred to the Trust's administrative jurisdiction on July 1, 1998. Notice of such transfer was published in the **Federal Register** on June 12, 1998 (63 FR 32236).

Section 104(j) of the Trust Act authorizes the Trust, "in consultation with the Secretary [of the U.S. Department of the Interior], to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities" under the Trust Act. The regulations contained in this document cover such matters for the Presidio as resource protection, public use and recreation; vehicles and traffic safety; and commercial and private operations.

Prior to promulgating these final interim regulations, the Trust consulted with the Secretary of the Interior, who serves on the Trust's Board of Directors pursuant to sec. 103(c)(1)(A) of the Trust Act, as well as with officials of the Department of the Interior, the National Park Service and the U.S. Park Police designated by the Secretary of the Interior to facilitate such consultation. The Trust anticipates that such consultation will continue during the comment period on these final interim regulations and the comment period on the more extensive and revised regulations which the Trust intends to propose in the future.

The regulations contained in this document are being promulgated as final interim regulations without a notice and comment period pursuant to 5 U.S.C. 553(a)(2) (Administrative Procedure Act exemption for matters relating to public property); 5 U.S.C. 553(d)(3) (Administrative Procedure Act exemption upon finding of good cause); and sec. 104(j) of the Trust Act (providing that the "Trust shall give notice of the adoption of such rules and regulations by publication in the **Federal Register**"). The Trust is promulgating the regulations contained in this document as final interim regulations in order to provide immediately for public safety, good order and efficient management of the property to be transferred to the Trust's jurisdiction. In light of these immediate needs, the deadline imposed by statute for transfer of administrative jurisdiction of the property, the impracticability of providing for public

comment on these regulations before they must be in effect, and the cited authorities, the Trust has found good cause under 5 U.S.C. 553(d)(3) for promulgating these final interim regulations without a notice and comment period.

The Trust is simultaneously providing for a public comment period of 60 days on these regulations. In addition, the Trust intends to publish a notice of proposed rulemaking containing more extensive and revised regulations for management of the property it will administer. Comments on this final interim rule, as well as on the proposed rule, will be considered by the Trust in promulgating its final rule. That promulgation will include a discussion of any comments received and any amendments made to these final interim regulations and the proposed regulations as a result of the comments. All comments received, including names and addresses, when provided, will be placed in the public record and made available for public inspection and copying.

II. General Principles of this Rulemaking

These final interim regulations are designed to deviate as little as necessary from the current regulations for the Presidio, which have served the public well during the approximately four-year period in which the NPS has had administrative jurisdiction of the entire Presidio. These final interim regulations are intended to serve the needs of the public during this period of transition from the NPS to the Trust for approximately 80 percent of the Presidio.

The primary regulations that have governed conduct in the Presidio for the past four years are found at 36 CFR parts 1, 2, 4, 5, and 36 CFR 7.97. These are NPS regulations applicable generally to units of the National Park system (36 CFR parts 1, 2, 4 and 5) and written specifically for the Golden Gate National Recreation Area (36 CFR 7.97). The Presidio is located within the boundaries of the Golden Gate National Recreation Area (GGNRA). Although the Trust intends to promulgate additional regulations concerning other topics, as well as more extensively revised regulations on these topics, the Trust is promulgating the regulations in this document in their present form because the conduct covered by the existing NPS regulations is of central concern to the Trust as it assumes administrative jurisdiction of Area B of the Presidio.

The Trust prepared the regulations in this document using these existing NPS regulations as a template. As these regulations were reviewed and

modified, the Trust deviated from these templates only so far as necessary to clarify issues, correct minor errors, and conform to current style standards for the Code of Federal Regulations. It is likely that the Trust will find it desirable in the future to deviate more significantly from the regulatory approach of the NPS or the DOI, particularly to promote clarity and remove provisions that are unnecessary for management of the area to be administered by the Trust. Nevertheless, for purposes of the immediate

management of this area, the Trust is maintaining, to the extent possible, the regulatory status quo in both substance and structure. The section-by-section analysis provided below explains in greater detail the minor changes that have been made to the NPS regulations and the reasons for those changes.

Pursuant to sec. 104(i) of the Trust Act, day-to-day law enforcement activities and services in the area to be administered by the Trust will be conducted primarily by the U.S. Park Police, the federal agency that provides professional law enforcement services

for units of the National Park system. Other authorized law enforcement agencies will also continue to conduct law enforcement activities and services in the area administered by the Trust.

III. Revisions Applicable to Multiple Sections

Certain changes have been required throughout the NPS regulations in order to apply them to the activities of the Trust and its management of the property to be transferred to it. The general changes in terminology are explained in the following chart:

References in the NPS regulations to the following terms	Have been changed in these regulations to the following terms
National Park Service or U.S. Department of the Interior	Presidio Trust.
Park, unit of the National Park System, or park area	Area administered by the Presidio Trust, or the boundaries thereof.
Superintendent	Board, in the context of a decision of general applicability; or Executive Board, in the context of an administrative or executive decision.
Director	Board.
Office of the superintendent	Office of the Presidio Trust.
The purposes for which a park unit is managed or was established (or similar language).	The purposes of the Presidio Trust Act.
General management plans or resource management plans	Policies of the Presidio Trust.
Park road	Presidio Trust road.
park users	visitors or tenants.

The Trust has also retained in these regulations an efficient and effective administrative vehicle used by the NPS in managing its many diverse units. For most of these units, including the GGNRA, the NPS has developed a set of policies, procedures, closures and designations known as the GGNRA Superintendent's Compendium. The current GGNRA Superintendent's Compendium is available for public inspection at the address identified above. Prior to the transfer of administrative jurisdiction to the Trust, the Trust will have adopted a similar Compendium of detailed rules, including supporting determinations, in order to allow the Trust to manage flexibly the diverse demands on the Presidio while protecting its natural and cultural resources, fulfilling the purposes of the Trust Act, and responding to changing conditions. Section 1001.7 of these final interim regulations sets out the procedure for the Trust to follow in maintaining the Compendium and making it available to the public.

These final interim regulations reorganize a limited number of the provisions in the NPS regulations in order to place regulations on the same general topic near each other. This was necessary in two instances. First, the NPS has adopted special regulations pertaining to the GGNRA at 36 CFR 7.97. Section 7.97(a) does not apply to the property to be transferred to the Trust and so has not been included in

these regulations. Section 7.97(b) concerns powerless flight and has been included in Part 1002 of these regulations with the section covering aircraft as a new § 1002.17(g). Section 7.97(c) concerns use of bicycles and has been included in Part 1004 of these regulations as § 1004.30(b), in place of the NPS regulation at 36 CFR 4.30(b), which authorized the promulgation of this special regulation on bicycles. Other references in the NPS regulations to "special regulations" have been deleted as a result of the incorporation of the applicable provisions of 36 CFR 7.97 into these final interim regulations.

The second instance where reorganization was necessary involves regulations concerning boating and water use activities. NPS regulations at 36 CFR part 3 cover these activities, but they are currently prohibited by the GGNRA Superintendent's Compendium in the area to be transferred to the Trust. As a result, these final interim regulations merely incorporate this prohibition into Part 1002 as a new § 1002.63 in order to avoid repromulgating all of 36 CFR Part 3 only to make it inapplicable in the Trust's Compendium.

In several provisions of the NPS regulations, the terms chapter, part and section are used inconsistently. For the sake of clarity, these references have been corrected in these final interim regulations. Similarly, cross-references to various provisions have been revised as appropriate. The numbering system

used in the NPS regulations has also been retained insofar as possible, with the addition of "1000" to each section number from the regulations in Chapter I (National Park Service, Department of the Interior) that is being carried over, with only minor modifications, to this Chapter X (Presidio Trust). Although this approach leaves gaps in the numbering of these final interim regulations, it is intended to reduce opportunities for confusion during the transition process.

Section-by-Section Analysis

The following analysis reviews only those sections of the final interim regulations that are not discussed in more general terms above. Because these final interim regulations are modeled on existing regulations of the NPS, this analysis focuses on differences between these regulations and the existing NPS regulations.

Part 1001 General Provisions

Section 1001.2 Applicability and Scope

Sections 1.2(a)(2) through (a)(5) of the NPS regulations were deleted because the Trust will not be administering any lands covered by these provisions (e.g., pursuant to a written instrument or in which the United States holds an interest in less than fee). Section 1.2(b) of the NPS regulations was deleted because, as discussed above, all of the

lands and waters to be transferred to the administrative jurisdiction of the Trust are federally owned.

Section 1001.3 Enforcement and Penalties

Sections 1.3(b) through (d) of the NPS regulations were deleted because they do not apply to the area to be transferred to the administrative jurisdiction of the Trust.

Section 1001.4 Definitions

This section was revised to incorporate definitions that are generally applicable to the regulations published today and to delete those definitions that were no longer needed as a result of other differences between the NPS regulations and these final interim regulations.

The terms "Board" and "Executive Director" were added, along with a provision including their designees in the definition. This is intended to provide senior officials of the Trust with the flexibility to delegate responsibilities and authority as appropriate to carry out the purposes of the Trust Act. The terms "Director," "Regional Director," "Secretary," and "Superintendent" were removed since the NPS and DOI will no longer have jurisdiction over the area covered by these final interim regulations following the transfer.

The term "printed matter" is defined in this section generally to exclude items of merchandise. This corresponds to the definition of the term used by the NPS in its Special Directive 95-11 interpreting its regulation at 36 CFR 2.52 concerning sale or distribution of printed matter, which is currently applicable to the area to be transferred to the Trust. The Trust believes it is appropriate to incorporate this definition directly into these final interim regulations for the sake of clarity and public notice.

Section 1.4(b) of the NPS regulations was not incorporated into these final interim regulations because, as discussed below, boating and water activities are prohibited in the area to be administered by the Trust.

Section 1001.10 Symbolic Signs

Rather than reprint the symbolic signs in 36 CFR 1.10, these have simply been cross-referenced in this section of the final interim regulations.

Part 1002 Resource Protection, Public Use and Recreation

Section 1002.2 Wildlife Protection

Because hunting and trapping are not permitted under current law in the area to be administered by the Trust,

§§ 2.2(b), (c) and (f) of the NPS regulations are unnecessary and have been replaced by a provision in these final interim regulations stating that hunting and trapping are prohibited.

Section 1002.3 Fishing

Under the GGNRA Superintendent's Compendium, fishing is currently prohibited in the area to be administered by the Trust. As a result, these final interim regulations merely incorporate this prohibition into § 1002.3 in order to avoid repromulgating all of 36 CFR 2.3 only to make it inapplicable in the Trust's Compendium.

Section 1002.4 Weapons, Traps and Nets

Section 2.4(a)(2)(ii) of the NPS regulations has been deleted since it refers to areas designated by special regulations and no such special regulations have been issued for the GGNRA on this subject. Section 2.4(d) of the NPS regulations has been deleted because it is not necessary for the Executive Director to have the authority to issue weapons permits in the area to be administered by the Trust.

Section 1002.5 Research Specimens

Sections 2.5(d) and (f) of the NPS regulations have been deleted because they are inapplicable to the area to be administered by the Trust. Because the enabling statute for the GGNRA does not expressly prohibit the killing of wildlife, § 2.5(e) of the NPS regulations is the currently applicable provision and has been incorporated into these final interim regulations.

Section 1002.10 Camping and Food Storage

The reference to lawfully taken wildlife in § 2.10(b)(6) of the NPS regulations has been deleted because hunting and trapping are prohibited in the area to be transferred to the Trust.

Section 1002.15 Pets

Section 2.15(b) of the NPS regulations has been deleted from these final interim regulations because hunting is not allowed in the area to be administered by the Trust.

Section 1002.17 Aircraft and Air Delivery

Sections 2.17(a)(1) and (2) of the NPS regulations have been deleted from these regulations because there are no special regulations under which locations for operating or using aircraft have been designated in the area to be administered by the Trust.

Section 1002.18 Snowmobiles

Under § 2.18(c) of the NPS regulations, snowmobiles are allowed only on routes and water surfaces designated for such use in special regulations. Because no such special regulations have been issued for the GGNRA on this subject, the remaining provisions of 36 CFR 2.18 governing the use of snowmobiles have no applicability. As a result, these final interim regulations merely state this prohibition in § 1002.18 in order to avoid repromulgating all of 36 CFR 2.18.

Section 1002.19 Winter Activities

As a result of the prohibition on snowmobiles, the second sentence of 36 CFR 2.19(b) has not been incorporated into these final interim regulations, since it relates only to activities using snowmobiles.

Section 1002.23 Recreation Fees

The National Park Service has established a variety of recreation fees for the GGNRA in accordance with 36 CFR Part 71. This section has been modified to provide that the Trust will charge the same fees for activities in the area under its administrative jurisdiction.

Section 1002.50 Special Events

In § 1002.50(a)(3), the reference to unreasonable interference with activities of the National Park Service has been retained, supplemented by a reference to activities of the Trust. Pursuant to sec. 102(c) of the Presidio Trust Act, after the transfer of administrative jurisdiction to the Trust, the National Park Service will continue to be responsible for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

Section 1002.51 Public Assemblies, Meetings

Section 2.51(e)(3) has been revised as discussed above in connection with § 1002.50(a)(3).

Section 1002.52 Sale or Distribution of Printed Matter

Section 2.52(e)(3) has been revised as discussed above in connection with §§ 1002.50(a)(3) and 1002.51(e)(3).

Part 1004 Vehicles and Traffic Safety

Section 1004.10 Travel on Presidio Trust Roads and Designated Routes

Under § 4.10(b) of the NPS regulations, off-road motor vehicle use is allowed only on routes designated for such use in special regulations. Because no such special regulations have been

issued for the GGNRA on this subject, the remaining provisions of 36 CFR 4.10 governing off-road motor vehicle use have no applicability in the area to be administered by the Trust. As a result, these final interim regulations do not incorporate the last clause of § 4.10(a), § 4.10(b) or § 4.10(c)(3).

Part 1005 Commercial and Private Operations

Section 1005.2—Alcoholic Beverages; Sale of Intoxicants

The NPS regulations at 36 CFR 5.2(b) do not apply to the GGNRA by their terms. As a result, they have not been incorporated into these final interim regulations.

Section 1005.3 Business Operations

The reference in the NPS regulations to specific authorization under special regulations has not been incorporated into these final interim regulations because no special regulations on this subject have been adopted for the GGNRA.

Section 1005.4 Commercial Passenger-Carrying Motor Vehicles

By its own terms, 36 CFR 5.4(a) does not apply to the area to be administered by the Trust. Accordingly, this subsection has not been incorporated into these final interim regulations.

Section 1005.5 Commercial Photography

This section is adapted from both 36 CFR 5.5 and 43 CFR 5.1. The requirements of 43 CFR 5.1 have been incorporated directly into § 1005.5(a) of these final interim regulations, rather than by cross-reference, in order to improve clarity and allow for clarifying revisions to terminology used in 43 CFR 5.1.

Section 1005.10 [Reserved]

Section 5.10 of the NPS regulations (concerning eating, drinking or lodging establishments) applies by its terms only to the following National Parks: Glacier, Lassen Volcanic, Mesa Verde, Mount McKinley, Mount Rainier, Olympic, Rocky Mountain, Sequoia-Kings Canyon, Yellowstone and Yosemite. It therefore does not apply to the GGNRA or to the area administered by the Trust. Accordingly, this section has not been incorporated into these final interim regulations.

Regulatory Impact

This rulemaking will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, prices, the environment, public health or

safety, or State or local governments. This rule will not interfere with an action taken or planned by another agency or raise new legal or policy issues. In short, little or no effect on the national economy will result from this final interim rule. Because this final interim rule is not "economically significant," it is not subject to review by the Office of Management and Budget under Executive Order 12866. Furthermore, this final interim rule is not a "major rule" under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 *et seq.*

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this final interim rule will not have a significant economic effect on a substantial number of small entities.

The Trust has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this final interim rule will not impose a cost of \$100 million or more in any given year on local, State, or tribal governments or private entities.

This final interim rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities between the Federal Government and the States. In accordance with Executive Order 12612, the Trust has determined that this final interim rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

The Presidio Trust has prepared an Environmental Assessment (EA) in connection with this rulemaking. The EA determined that this rulemaking will not have a significant effect on the quality of the human environment because it is neither intended nor expected to change the physical status quo of the Presidio in any significant manner.

As a result, the Trust has issued a Finding of No Significant Impact (FONSI) concerning these final interim regulations and has therefore not prepared an Environmental Impact Statement concerning this action. The EA and the FONSI were prepared in accordance with the National Environmental Policy Act of 1969 42 U.S.C. 4321 *et seq.* (NEPA), and regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA, 40 CFR Parts 1500–1508.

Both the EA and the FONSI are available for public inspection at the

offices of the Presidio Trust, 10 Funston Avenue, The Presidio, San Francisco, CA 94129, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Paperwork Reduction Act

The information collection requirements of these interim regulations, which are specified in § 1001.8, are coextensive with those of the existing NPS regulations, which have previously been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.*

Other Applicable Authorities

The Presidio Trust has drafted and reviewed these final interim regulations in light of Executive Order 12988 and has determined that they meet the applicable standards provided in secs. 3(a) and (b) of that order.

List of Subjects

36 CFR Part 1001

National parks, Penalties, Public lands, Recreation and recreation areas.

36 CFR Part 1002

National parks, Public lands, Recreation and recreation areas, Signs and symbols.

36 CFR Part 1004

Bicycles, National parks, Public lands, Recreation and recreation areas, Traffic regulations.

36 CFR Part 1005

Alcohol and alcoholic beverages, Business and industry, Civil rights, Equal employment opportunity, National parks, Pets, Public lands, Recreation and recreation areas, Transportation.

Dated: June 24, 1998.

James E. Meadows,
Executive Director.

In consideration of the foregoing, the Presidio Trust establishes new Chapter X in Title 36 of the Code of Federal Regulations consisting of Parts 1001, 1002, 1004 and 1005 as set forth below:

CHAPTER X—PRESIDIO TRUST

Part	
1001	General provisions
1002	Resource protection, public use and recreation
1004	Vehicles and traffic safety
1005	Commercial and private operations

PART 1001—GENERAL PROVISIONS

Sec.	
1001.1	Purpose.
1001.2	Applicability and scope.
1001.3	Penalties.

- 1001.4 Definitions.
- 1001.5 Closures and public use limits.
- 1001.6 Permits.
- 1001.7 Public notice.
- 1001.8 Information collection.
- 1001.10 Symbolic signs.

Authority: Pub. L. 104-333, 110 Stat. 4097 (16 U.S.C. 460bb note).

§ 1001.1 Purpose.

(a) The regulations in this chapter provide for the proper use, management, government and protection of persons, property and natural and cultural resources within the area under the jurisdiction of the Presidio Trust.

(b) The regulations in this chapter will be utilized to fulfill the statutory purposes of the Presidio Trust Act.

§ 1001.2 Applicability and scope.

(a) The regulations contained in this chapter apply to all persons entering, using, visiting, or otherwise within the boundaries of federally owned lands and waters administered by the Presidio Trust.

(b) The regulations contained in Parts 1002, 1004 and 1005 of this chapter shall not be construed to prohibit administrative activities conducted by the Presidio Trust, or its agents, in accordance with approved policies of the Presidio Trust, or in emergency operations involving threats to life, property, or resources of the area administered by the Presidio Trust.

(c) The regulations in this chapter are intended to treat a mobility-impaired person using a manual or motorized wheelchair as a pedestrian and are not intended to restrict the activities of such a person beyond the degree that the activities of a pedestrian are restricted by the same regulations.

§ 1001.3 Penalties.

A person convicted of violating a provision of the regulations contained in Parts 1001, 1002, 1004 and 1005 of this chapter, within the area administered by the Presidio Trust, shall be punished by a fine as provided by law, or by imprisonment not exceeding 6 months, or both, and shall be adjudged to pay all costs of the proceedings.

§ 1001.4 Definitions.

The following definitions shall apply to this chapter, unless modified by the definitions for a specific part or regulation:

Abandonment means the voluntary relinquishment of property with no intent to retain possession.

Administrative activities means those activities conducted under the authority of the Presidio Trust for the purpose of safeguarding persons or property,

implementing management plans and policies developed in accordance and consistent with the regulations in this chapter, or repairing or maintaining government facilities.

Airboat means a vessel that is supported by the buoyancy of its hull and powered by a propeller or fan above the waterline. This definition should not be construed to mean a "hovercraft," that is supported by a fan-generated air cushion.

Aircraft means a device that is used or intended to be used for human flight in the air, including powerless flight.

Archeological resource means material remains of past human life or activities that are of archeological interest and are at least 50 years of age. This term includes, but shall not be limited to, objects made or used by humans, such as pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, or any portion or piece of the foregoing items, and the physical site, location or context in which they are found, or human skeletal materials or graves.

Authorized emergency vehicle means a vehicle in official use for emergency purposes by a Federal agency or an emergency vehicle as defined by State law.

Authorized person means an employee or agent of the Presidio Trust with delegated authority to enforce the provisions of this chapter.

Bicycle means every device propelled solely by human power upon which a person or persons may ride on land, having one, two, or more wheels, except a manual wheelchair.

Board means the Board of Directors of the Presidio Trust or its designee.

Boundary means the limits of lands or waters administered by the Presidio Trust as specified by Congress, or denoted by presidential proclamation, or recorded in the records of a state or political subdivision in accordance with applicable law, or published pursuant to law, or otherwise published or posted by the Presidio Trust.

Camping means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel for the apparent purpose of overnight occupancy.

Carry means to wear, bear, or have on or about the person.

Controlled substance means a drug or other substance, or immediate precursor, included in schedules I, II, III, IV, or V of part B of the Controlled

Substance Act (21 U.S.C. 812) or a drug or substance added to these schedules pursuant to the terms of the Act.

Cultural resource means material remains of past human life or activities that are of significant cultural interest and are less than 50 years of age. This term includes, but shall not be limited to, objects made or used by humans, such as pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, or any portion or piece of the foregoing items, and the physical site, location, or context in which they are found, or human skeletal materials or graves.

Developed area means roads, parking areas, picnic areas, campgrounds, or other structures, facilities or lands located within development and historic zones depicted on the land management and use map for the area administered by the Presidio Trust.

Downed aircraft means an aircraft that cannot become airborne as a result of mechanical failure, fire, or accident.

Executive Director means the Executive Director of the Presidio Trust or his or her designee.

Firearm means a loaded or unloaded pistol, rifle, shotgun or other weapon which is designed to, or may be readily converted to, expel a projectile by the ignition of a propellant.

Fish means any member of the subclasses Agnatha, Chondrichthyes, or Osteichthyes, or any mollusk or crustacean found in salt water.

Fishing means taking or attempting to take fish.

Hunting means taking or attempting to take wildlife, except trapping.

Legislative jurisdiction means lands and waters under the exclusive or concurrent jurisdiction of the United States.

Manual wheelchair means a device that is propelled by human power, designed for and used by a mobility-impaired person.

Motor vehicle means every vehicle that is self-propelled and every vehicle that is propelled by electric power, but not operated on rails or upon water, except a snowmobile and a motorized wheelchair.

Motorcycle means every motor vehicle having a seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motorized wheelchair means a self-propelled wheeled device, designed solely for and used by a mobility-impaired person for locomotion, that is both capable of and suitable for use in indoor pedestrian areas.

Net means a seine, weir, net wire, fish trap, or other implement designed to

entrap fish, except a hand-held landing net used to retrieve fish taken by hook and line.

Nondeveloped area means all lands and waters within the area administered by the Presidio Trust other than developed areas.

Operator means a person who operates, drives, controls, otherwise has charge of or is in actual physical control of a mechanical mode of transportation or any other mechanical equipment.

Pack animal means horses, burros, mules or other hoofed mammals when designated as pack animals by the Executive Director.

Permit means a written authorization to engage in uses or activities that are otherwise prohibited, restricted, or regulated.

Person means an individual, firm, corporation, society, association, partnership, or private or public body.

Pet means a dog, cat or any animal that has been domesticated.

Possession means exercising direct physical control or dominion, with or without ownership, over property, or archeological, cultural or natural resources.

Practitioner means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by the United States or the jurisdiction in which such person practices to distribute or possess a controlled substance in the course of professional practice.

Presidio Trust and *Trust* mean the wholly-owned federal government corporation created by the Presidio Trust Act.

Presidio Trust Act means Title I of Public Law 104-333, 110 Stat. 4097, as the same may be amended.

Presidio Trust road means the main-traveled surface of a roadway open to motor vehicles, owned, controlled or otherwise administered by the Presidio Trust.

Printed matter means message-bearing textual printed material such as books, pamphlets, magazines and leaflets and does not include other forms of merchandise, such as posters, coffee mugs, sunglasses, audio or videotapes, T-shirts, hats, ties, shorts and other clothing articles.

Public use limit means the number of persons; number and type of animals; amount, size and type of equipment, vessels, mechanical modes of conveyance, or food/beverage containers allowed to enter, be brought into, remain in, or be used within a designated geographic area or facility; or the length of time a designated

geographic area or facility may be occupied.

Refuse means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid waste, or other discarded materials.

Services means, but is not limited to, meals and lodging, labor, professional services, transportation, admission to exhibits, use of telephone or other utilities, or any act for which payment is customarily received.

Smoking means the carrying of lighted cigarettes, cigars or pipes, or the intentional and direct inhalation of smoke from these objects.

Snowmobile means a self-propelled vehicle intended for travel primarily on snow, having a curb weight of not more than 1000 pounds (450 kg), driven by a track or tracks in contact with the snow, and steered by a ski or skis in contact with the snow.

State means a State, territory, or possession of the United States.

State law means the applicable and nonconflicting laws, statutes, regulations, ordinances, infractions and codes of the State(s) and political subdivision(s) within whose exterior boundaries the area administered by the Presidio Trust or a portion thereof is located.

Take or *taking* means to pursue, hunt, harass, harm, shoot, trap, net, capture, collect, kill, wound, or attempt to do any of the aforementioned.

Traffic means pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together while using any road, trail, street or other thoroughfare for purpose of travel.

Traffic control device means a sign, signal, marking or other device placed or erected by, or with the concurrence of, the Executive Director for the purpose of regulating, warning, guiding or otherwise controlling traffic or regulating the parking of vehicles.

Trap means a snare, trap, mesh, wire or other implement, object or mechanical device designed to entrap or kill animals other than fish.

Trapping means taking or attempting to take wildlife with a trap.

Underway means when a vessel is not at anchor, moored, made fast to the shore or docking facility, or aground.

Unloaded, as applied to weapons and firearms, means that:

(1) There is no unexpended shell, cartridge, or projectile in any chamber or cylinder of a firearm or in a clip or magazine inserted in or attached to a firearm;

(2) A muzzle-loading weapon does not contain gun powder in the pan, or the percussion cap is not in place; and

(3) Bows, crossbows, spear guns or any implement capable of discharging a

missile or similar device by means of a loading or discharging mechanism, when that loading or discharging mechanism is not charged or drawn.

Vehicle means every device in, upon, or by which a person or property is or may be transported or drawn on land, except snowmobiles and devices moved by human power or used exclusively upon stationary rails or track.

Vessel means every type or description of craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, including a buoyant device permitting or capable of free flotation.

Weapon means a firearm, compressed gas or spring-powered pistol or rifle, bow and arrow, crossbow, blowgun, spear gun, hand-thrown spear, slingshot, irritant gas device, explosive device, or any other implement designed to discharge missiles, and includes a weapon the possession of which is prohibited under the laws of the State in which the area administered by the Presidio Trust or portion thereof is located.

Wildlife means any member of the animal kingdom and includes a part, product, egg or offspring thereof, or the dead body or part thereof, except fish.

§ 1001.5 Closures and public use limits.

(a) Consistent with applicable legislation and Federal administrative policies, and based upon a determination that such action is necessary for the maintenance of public health and safety, protection of environmental or scenic values, protection of natural or cultural resources, aid to scientific research, implementation of management responsibilities, equitable allocation and use of facilities, or the avoidance of conflict among visitor use activities, the Board may:

(1) Establish, for all or a portion of the area administered by the Presidio Trust, a reasonable schedule of visiting hours, impose public use limits, or close all or a portion of the area administered by the Presidio Trust to all public use or to a specific use or activity.

(2) Designate areas for a specific use or activity, or impose conditions or restrictions on a use or activity.

(3) Terminate a restriction, limit, closure, designation, condition, or visiting hour restriction imposed under paragraph (a)(1) or (2) of this section.

(b) Except in emergency situations, a closure, designation, use or activity restriction or condition, or the termination or relaxation of such, which is of a nature, magnitude and duration that will result in a significant alteration

in the public use pattern of the area administered by the Presidio Trust, adversely affect the natural, aesthetic, scenic or cultural values of the area administered by the Presidio Trust, require a long-term or significant modification in the resource management objectives of the area administered by the Presidio Trust, or is of a highly controversial nature, shall be published as rulemaking in the **Federal Register**.

(c) Except in emergency situations, prior to implementing or terminating a restriction, condition, public use limit or closure, the Board shall prepare a written determination justifying the action. That determination shall set forth the reason(s) the restriction, condition, public use limit or closure authorized by paragraph (a) of this section has been established, and an explanation of why less restrictive measures will not suffice, or in the case of a termination of a restriction, condition, public use limit or closure previously established under paragraph (a) of this section, a determination as to why the restriction is no longer necessary and a finding that the termination will not adversely impact resources of the area administered by the Presidio Trust. This determination shall be available to the public upon request.

(d) To implement a public use limit, the Board may establish a permit, registration, or reservation system. Permits shall be issued in accordance with the criteria and procedures of § 1001.6.

(e) Except in emergency situations, the public will be informed of closures, designations, and use or activity restrictions or conditions, visiting hours, public use limits, public use limit procedures, and the termination or relaxation of such, in accordance with § 1001.7.

(f) Violating a closure, designation, use or activity restriction or condition, schedule of visiting hours, or public use limit is prohibited.

§ 1001.6 Permits.

(a) When authorized by regulations set forth in this chapter, the Executive Director may issue a permit to authorize an otherwise prohibited or restricted activity or impose a public use limit. The activity authorized by a permit shall be consistent with applicable legislation, Federal regulations and administrative policies, and based upon a determination that public health and safety, environmental or scenic values, natural or cultural resources, scientific research, implementation of management responsibilities, proper

allocation and use of facilities, or the avoidance of conflict among visitor use activities will not be adversely impacted.

(b) Except as otherwise provided, application for a permit shall be submitted to the Executive Director during normal business hours.

(c) The public will be informed of the existence of a permit requirement in accordance with § 1001.7.

(d) Unless otherwise provided for by the regulations in this chapter, the Executive Director shall deny a permit that has been properly applied for only upon a determination that the designated capacity for an area or facility would be exceeded; or that one or more of the factors set forth in paragraph (a) of this section would be adversely impacted. The basis for denial shall be provided to the applicant upon request.

(e) The Executive Director shall include in a permit the terms and conditions that the Executive Director deems necessary to protect resources of the area administered by the Presidio Trust or public safety and may also include terms or conditions established pursuant to the authority of any other section of this chapter.

(f) A compilation of those activities requiring a permit shall be maintained by the Executive Director and available to the public upon request.

(g) The following are prohibited:

(1) Engaging in an activity subject to a permit requirement imposed pursuant to this section without obtaining a permit; or

(2) Violating a term or condition of a permit issued pursuant to this section.

(h) Violating a term or condition of a permit issued pursuant to this section may also result in the suspension or revocation of the permit by the Executive Director.

§ 1001.7 Public notice.

(a) Whenever the authority of § 1001.5(a) is invoked to restrict or control a public use or activity, to relax or revoke an existing restriction or control, to designate all or a portion of the area administered by the Presidio Trust as open or closed, or to require a permit to implement a public use limit, the public shall be notified by one or more of the following methods:

(1) Signs posted at conspicuous locations, such as normal points of entry and reasonable intervals along the boundary of the affected locale.

(2) Maps available in the office of the Presidio Trust and other places convenient to the public.

(3) Publication in a newspaper of general circulation in the affected area.

(4) Other appropriate methods, such as the removal of closure signs, use of electronic media, brochures, maps and handouts.

(b) In addition to the above-described notification procedures, the Board shall compile in writing all the designations, closures, permit requirements and other restrictions imposed under discretionary authority. This compilation shall be updated annually and made available to the public upon request.

§ 1001.8 Information collection.

The information collection requirements contained in 36 CFR 1001.5, 1002.5, 1002.10, 1002.12, 1002.17, 1002.33, 1002.38, 1002.50, 1002.51, 1002.52, 1002.60, 1002.61, 1002.62, 1004.4 and 1004.11 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1024-0026. This information is being collected to provide the Executive Director data necessary to issue permits for special uses of the area administered by the Presidio Trust and to obtain notification of accidents that occur within the area administered by the Presidio Trust. This information will be used to grant administrative benefits and to facilitate prompt emergency response to accidents. In 36 CFR 1002.33 and 1004.4, the obligation to respond is mandatory; in all other sections the obligation to respond is required in order to obtain a benefit.

§ 1001.10 Symbolic signs.

(a) The signs pictured in 36 CFR 1.10 provide general information and regulatory guidance in the area administered by the Presidio Trust. Certain of the signs designate activities that are either allowed or prohibited. Activities symbolized by a sign bearing a slash mark are prohibited.

(b) The use of other types of signs not herein depicted is not precluded.

PART 1002—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

Sec.

- 1002.1 Preservation of natural, cultural and archeological resources.
- 1002.2 Wildlife protection.
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- 1002.4 Weapons, traps and nets.
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- 1002.52 Sale or distribution of printed matter.
- 1002.60 Livestock use and agriculture.
- 1002.61 Residing on Federal lands.
- 1002.62 Memorialization.
- 1002.63 Boating and water use activities.

Authority: Pub. L. 104-333, 110 Stat. 4097 (16 U.S.C. 460bb note).

§ 1002.1 Preservation of natural, cultural and archeological resources.

(a) Except as otherwise provided in this chapter, the following is prohibited:

(1) Possessing, destroying, injuring, defacing, removing, digging, or disturbing from its natural state:

(i) Living or dead wildlife or fish, or the parts or products thereof, such as antlers or nests.

(ii) Plants or the parts or products thereof.

(iii) Nonfossilized and fossilized paleontological specimens, cultural or archeological resources, or the parts thereof.

(iv) A mineral resource or cave formation or the parts thereof.

(2) Introducing wildlife, fish or plants, including their reproductive bodies, into an ecosystem within the area administered by the Presidio Trust.

(3) Tossing, throwing or rolling rocks or other items inside caves or caverns, into valleys, canyons, or caverns, down hillsides or mountainsides, or into thermal features.

(4) Using or possessing wood gathered from within the area administered by the Presidio Trust: Provided, however, that the Board may designate areas where dead wood on the ground may be collected for use as fuel for campfires within the area administered by the Presidio Trust.

(5) Walking on, climbing, entering, ascending, descending, or traversing an archeological or cultural resource, monument, or statue, except in designated areas and under conditions established by the Board.

(6) Possessing, destroying, injuring, defacing, removing, digging, or disturbing a structure or its furnishing or fixtures, or other cultural or archeological resources.

(7) Possessing or using a mineral or metal detector, magnetometer, side scan sonar, other metal detecting device, or subbottom profiler. This paragraph does not apply to:

(i) A device broken down and stored or packed to prevent its use while in the area administered by the Presidio Trust.

(ii) Electronic equipment used primarily for the navigation and safe operation of boats and aircraft.

(iii) Mineral or metal detectors, magnetometers, or subbottom profilers used for authorized scientific, mining, or administrative activities.

(b) The Board may restrict hiking or pedestrian use to a designated trail or walkway system pursuant to §§ 1001.5 and 1001.7 of this chapter. Leaving a trail or walkway to shortcut between portions of the same trail or walkway, or to shortcut to an adjacent trail or walkway in violation of designated restrictions is prohibited.

(c)(1) The Board may designate certain fruits, berries, nuts, or unoccupied seashells which may be gathered by hand for personal use or consumption upon a written determination that the gathering or consumption will not adversely affect wildlife, the reproductive potential of a plant species, or otherwise adversely affect the resources of the area administered by the Presidio Trust.

(2) The Board may:

(i) Limit the size and quantity of the natural products that may be gathered or possessed for this purpose; or

(ii) Limit the location where natural products may be gathered; or

(iii) Restrict the possession and consumption of natural products to the area administered by the Presidio Trust.

(3) The following are prohibited:

(i) Gathering or possessing undesignated natural products.

(ii) Gathering or possessing natural products in violation of the size or quantity limits designated by the Board.

(iii) Unauthorized removal of natural products from the area administered by the Presidio Trust.

(iv) Gathering natural products outside of designated areas.

(v) Sale or commercial use of natural products.

(d) This section shall not be construed as authorizing the taking, use or possession of fish, wildlife or plants for ceremonial or religious purposes, except where specifically authorized by Federal statutory law, treaty rights, or in accordance with § 1002.2 or § 1002.3.

§ 1002.2 Wildlife protection.

(a) The following are prohibited:

(1) The taking of wildlife.

(2) The feeding, touching, teasing, frightening or intentional disturbing of wildlife nesting, breeding or other activities.

(3) Possessing unlawfully taken wildlife or portions thereof.

(b) *Hunting and trapping.* Hunting and trapping are prohibited within the area administered by the Presidio Trust.

(c) The Board may establish

conditions and procedures for transporting lawfully taken wildlife through the area administered by the Presidio Trust. Violation of these conditions and procedures is prohibited.

(d) The Board may designate all or portions of the area administered by the Presidio Trust as closed to the viewing of wildlife with an artificial light. Use of an artificial light for purposes of viewing wildlife in closed areas is prohibited.

(e) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.3 Fishing.

Fishing is prohibited within the area administered by the Presidio Trust.

§ 1002.4 Weapons, traps and nets.

(a)(1) Except as otherwise provided in this section, the following are prohibited:

(i) Possessing a weapon, trap or net.

(ii) Carrying a weapon, trap or net.

(iii) Using a weapon, trap or net.

(2) Weapons, traps or nets may be carried, possessed or used:

(i) At designated times and locations in the area administered by the Presidio Trust where:

(A) The taking of wildlife is authorized by law in accordance with § 1002.2;

(B) The taking of fish is authorized by law in accordance with § 1002.3.

(ii) Within a residential dwelling. For purposes of this paragraph only, the term "residential dwelling" means a fixed housing structure which is either the principal residence of its occupants, or is occupied on a regular and recurring basis by its occupants as an alternate residence or vacation home.

(3) Traps, nets and unloaded weapons may be possessed within a temporary lodging or mechanical mode of conveyance when such implements are rendered temporarily inoperable or are packed, cased or stored in a manner that will prevent their ready use.

(b) Carrying or possessing a loaded weapon in a motor vehicle, vessel or other mode of transportation is prohibited, except that carrying or possessing a loaded weapon in a vessel is allowed when such vessel is not being propelled by machinery and is used as a shooting platform in accordance with Federal and State law.

(c) The use of a weapon, trap or net in a manner that endangers persons or property is prohibited.

(d) Authorized Federal, State and local law enforcement officers may carry firearms in the performance of their official duties.

(e) The carrying or possessing of a weapon, trap or net in violation of applicable Federal and State laws is prohibited.

(f) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.5 Research specimens.

(a) Taking plants, fish, wildlife, rocks or minerals except in accordance with other regulations of this chapter or pursuant to the terms and conditions of a specimen collection permit, is prohibited.

(b) A specimen collection permit may be issued only to an official representative of a reputable scientific or educational institution or a State or Federal agency for the purpose of research, baseline inventories, monitoring, impact analysis, group study, or museum display when the Executive Director determines that the collection is necessary to the stated scientific or resource management goals of the institution or agency and that all applicable Federal and State permits have been acquired, and that the intended use of the specimens and their final disposal is in accordance with applicable law and Federal administrative policies. A permit shall not be issued if removal of the specimen would result in damage to other natural or cultural resources, affect adversely environmental or scenic values, or if the specimen is readily available outside of the area administered by the Presidio Trust.

(c) A permit to take an endangered or threatened species listed pursuant to the Endangered Species Act, or similarly identified by the States, shall not be issued unless the species cannot be obtained outside of the area administered by the Presidio Trust and the primary purpose of the collection is

to enhance the protection or management of the species.

(d) A permit authorizing the killing of plants, fish or wildlife may be issued only when the Executive Director approves a written research proposal and determines that the collection will not be inconsistent with the purposes of the Presidio Trust Act and has the potential for conserving and perpetuating the species subject to collection.

(e) Specimen collection permits shall contain the following conditions:

(1) Specimens placed in displays or collections will bear official National Park Service museum labels and their catalog numbers will be registered in the National Park Service National Catalog.

(2) Specimens and data derived from consumed specimens will be made available to the public and reports and publications resulting from a research specimen collection permit shall be filed with the Executive Director.

(f) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

§ 1002.10 Camping and food storage.

(a) The Board may require permits, designate sites or areas, and establish conditions for camping.

(b) The following are prohibited:

(1) Digging or leveling the ground at a campsite.

(2) Leaving camping equipment, site alterations, or refuse after departing from the campsite.

(3) Camping within 25 feet of a water hydrant or main road, or within 100 feet of a flowing stream, river or body of water, except as designated.

(4) Creating or sustaining unreasonable noise between the hours of 10:00 p.m. and 6:00 a.m., considering the nature and purpose of the actor's conduct, impact on visitors or tenants, location, and other factors which would govern the conduct of a reasonably prudent person under the circumstances.

(5) The installation of permanent camping facilities.

(6) Displaying wildlife carcasses or other remains or parts thereof.

(7) Connecting to a utility system, except as designated.

(8) Failing to obtain a permit, where required.

(9) Violating conditions which may be established by the Board.

(10) Camping outside of designated sites or areas.

(c) Violation of the terms and conditions of a permit issued in accordance with this section is

prohibited and may result in the suspension or revocation of the permit.

(d) *Food storage.* The Board may designate all or a portion of the area administered by the Presidio Trust where food, lawfully taken fish or wildlife, garbage, and equipment used to cook or store food must be kept sealed in a vehicle, or in a camping unit that is constructed of solid, non-pliable material, or suspended at least 10 feet above the ground and 4 feet horizontally from a post, tree trunk, or other object, or shall be stored as otherwise designated. Violation of this restriction is prohibited. This restriction does not apply to food that is being transported, consumed, or prepared for consumption.

§ 1002.11 Picnicking.

Picnicking is allowed, except in designated areas closed in accordance with § 1001.5 of this chapter. The Board may establish conditions for picnicking in areas where picnicking is allowed. Picnicking in violation of established conditions is prohibited.

§ 1002.12 Audio disturbances.

(a) The following are prohibited:

(1) Operating motorized equipment or machinery such as an electric generating plant, motor vehicle, motorized toy, or an audio device, such as a radio, television set, tape deck or musical instrument, in a manner that exceeds a noise level of 60 decibels measured on the A-weighted scale at 50 feet; or that, if below that level, nevertheless makes noise which is unreasonable, considering the nature and purpose of the actor's conduct, location, time of day or night, purposes of the Presidio Trust Act, impact on visitors or tenants, and other factors that would govern the conduct of a reasonably prudent person under the circumstances.

(2) In developed areas, operating a power saw, except pursuant to the terms and conditions of a permit.

(3) In nondeveloped areas, operating any type of portable motor or engine, or device powered by a portable motor or engine, except pursuant to the terms and conditions of a permit.

(4) Operating a public address system, except in connection with a public gathering or special event for which a permit has been issued pursuant to § 1002.50 or § 1002.51.

(b) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

§ 1002.13 Fires.

(a) The following are prohibited:

(1) Lighting or maintaining a fire, except in designated areas or receptacles and under conditions that may be established by the Board.

(2) Using stoves or lanterns in violation of established restrictions.

(3) Lighting, tending, or using a fire, stove or lantern in a manner that threatens, causes damage to, or results in the burning of property, real property or resources of the area administered by the Presidio Trust, or creates a public safety hazard.

(4) Leaving a fire unattended.

(5) Throwing or discarding lighted or smoldering material in a manner that threatens, causes damage to, or results in the burning of property or resources of the area administered by the Presidio Trust, or creates a public safety hazard.

(b) Fires shall be extinguished upon termination of use and in accordance with such conditions as may be established by the Board. Violation of these conditions is prohibited.

(c) During periods of high fire danger, the Executive Director may close all or a portion of the area administered by the Presidio Trust to the lighting or maintaining of a fire.

(d) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.14 Sanitation and refuse.

(a) The following are prohibited:

(1) Disposing of refuse in other than refuse receptacles.

(2) Using government refuse receptacles or other refuse facilities for dumping household, commercial, or industrial refuse, brought as such from private or municipal property, except in accordance with conditions established by the Executive Director.

(3) Depositing refuse in the plumbing fixtures or vaults of a toilet facility.

(4) Draining refuse from a trailer or other vehicle, except in facilities provided for such purpose.

(5) Bathing, or washing food, clothing, dishes, or other property at public water outlets, fixtures or pools, except at those designated for such purpose.

(6) Polluting or contaminating waters or water courses within the area administered by the Presidio Trust.

(7) Disposing of fish remains on land, or in waters within 200 feet of boat docks or designated swimming beaches, or within developed areas, except as otherwise designated.

(8) In developed areas, the disposal of human body waste, except at designated locations or in fixtures provided for that purpose.

(9) In nondeveloped areas, the disposal of human body waste within 100 feet of a water source, high water mark of a body of water, or a campsite, or within sight of a trail, except as otherwise designated.

(b) The Board may establish conditions concerning the disposal, containerization, or carryout of human body waste. Violation of these conditions is prohibited.

§ 1002.15 Pets.

(a) The following are prohibited:

(1) Possessing a pet in a public building, public transportation vehicle, or location designated as a swimming beach, or any structure or area closed to the possession of pets by the Board. This paragraph shall not apply to guide dogs accompanying visually impaired persons or hearing ear dogs accompanying hearing-impaired persons.

(2) Failing to crate, cage, restrain on a leash which shall not exceed six feet in length, or otherwise physically confine a pet at all times.

(3) Leaving a pet unattended and tied to an object, except in designated areas or under conditions which may be established by the Board.

(4) Allowing a pet to make noise that is unreasonable considering location, time of day or night, impact on visitors or tenants, and other relevant factors, or that frightens wildlife by barking, howling, or making other noise.

(5) Failing to comply with pet excrement disposal conditions which may be established by the Board.

(b) Pets or feral animals that are running-at-large and observed by an authorized person in the act of killing, injuring or molesting humans, livestock, or wildlife may be destroyed if necessary for public safety or protection of wildlife, livestock, or other resources of the area administered by the Presidio Trust.

(c) Pets running-at-large may be impounded, and the owner may be charged reasonable fees for kennel or boarding costs, feed, veterinarian fees, transportation costs, and disposal. An impounded pet may be put up for adoption or otherwise disposed of after being held for 72 hours from the time the owner was notified of capture or 72 hours from the time of capture if the owner is unknown.

(d) Pets may be kept by residents of the area administered by the Presidio Trust consistent with the provisions of this section and in accordance with conditions which may be established by the Board. Violation of these conditions is prohibited.

(e) This section does not apply to dogs used by authorized Federal, State and local law enforcement officers in the performance of their official duties.

§ 1002.16 Horses and pack animals.

The following are prohibited:

(a) The use of animals other than those designated as "pack animals" for purposes of transporting equipment.

(b) The use of horses or pack animals outside of trails, routes or areas designated for their use.

(c) The use of horses or pack animals on a Presidio Trust road, except where such travel is necessary to cross to or from designated trails, or areas, or privately owned property, and no alternative trails or routes have been designated; or when the road has been closed to motor vehicles.

(d) Free-trailing or loose-herding of horses or pack animals on trails, except as designated.

(e) Allowing horses or pack animals to proceed in excess of a slow walk when passing in the immediate vicinity of persons on foot or bicycle.

(f) Obstructing a trail, or making an unreasonable noise or gesture, considering the nature and purpose of the actor's conduct, and other factors that would govern the conduct of a reasonably prudent person, while horses or pack animals are passing.

(g) Violation of conditions which may be established by the Board concerning the use of horses or pack animals.

§ 1002.17 Aircraft and air delivery.

(a) Delivering or retrieving a person or object by parachute, helicopter, or other airborne means, except in emergencies involving public safety or serious property loss, or pursuant to the terms and conditions of a permit, is prohibited.

(b) The provisions of this section, other than paragraph (c) of this section, shall not be applicable to official business of the Federal government, or emergency rescues in accordance with the directions of the Executive Director, or to landings due to circumstances beyond the control of the operator.

(c)(1) Except as provided in paragraph (c)(3) of this section, the owners of a downed aircraft shall remove the aircraft and all component parts thereof in accordance with procedures established by the Executive Director. In establishing removal procedures, the Executive Director is authorized to establish a reasonable date by which aircraft removal operations must be complete; determine times and means of access to and from the downed aircraft; and specify the manner or method of removal.

(2) Failure to comply with procedures and conditions established under paragraph (c)(1) of this section is prohibited.

(3) The Executive Director may waive the requirements of paragraph (c)(1) of this section or prohibit the removal of downed aircraft, upon a determination that the removal of downed aircraft would constitute an unacceptable risk to human life; the removal of a downed aircraft would result in extensive resource damage; or the removal of a downed aircraft is impracticable or impossible.

(d) The use of aircraft shall be in accordance with regulations of the Federal Aviation Administration as found in 14 CFR chapter I.

(e) The operation or use of hovercraft is prohibited.

(f) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

(g) The use of devices designed to carry persons through the air in powerless flight is allowed at times and locations designated by the Board, pursuant to the terms and conditions of a permit.

§ 1002.18 Snowmobiles.

The use of snowmobiles is prohibited.

§ 1002.19 Winter activities.

(a) Skiing, snowshoeing, ice skating, sledding, innertubing, tobogganing and similar winter sports are prohibited on Presidio Trust roads and in parking areas open to motor vehicle traffic, except as otherwise designated.

(b) The towing of persons on skis, sleds, or other sliding devices by motor vehicle or snowmobile is prohibited, except in designated areas or routes.

(c) Failure to abide by area designations or activity restrictions established under this section is prohibited.

§ 1002.20 Skating, skateboards and similar devices.

Using roller skates, skateboards, roller skis, coasting vehicles, or similar devices is prohibited, except in designated areas.

§ 1002.21 Smoking.

(a) The Board may designate a portion of the area administered by the Presidio Trust, or all or a portion of a building, structure or facility as closed to smoking when necessary to protect resources, reduce the risk of fire, or prevent conflicts among visitor use activities. Sng visitor use activities. Smoking in an area or location so designated is prohibited.

(b) Smoking is prohibited within all caves and caverns.

§ 1002.22 Property.

(a) The following are prohibited:

(1) Abandoning property.

(2) Leaving property unattended for longer than 24 hours, except in locations where longer time periods have been designated or in accordance with coBoard.

(3) Failing to turn in found property to the Executive Director as soon as practicable.

(b) *Impoundment of property.* (1)

Property determined to be left unattended in excess of an allowed period of time may be impounded by the Executive Director.

(2) Unattended property that interferes with visitor safety or orderly management of the area administered by the Presidio Trust, or that presents a threat to resources of the area administered by the Presidio Trust may be impounded by the Executive Director at any time.

(3) Found or impounded property shall be inventoried to determine ownership and safeguard personal property.

(4) The owner of record is responsible and liable for charges to the person who has removed, stored, or otherwise disposed of property impounded pursuant to this section; or the Executive Director may assess the owner reasonable fees for the impoundment and storage of property impounded pursuant to this section.

(c) *Disposition of property.* (1) Unattended property impounded pursuant to this section shall be deemed to be abandoned unless claimed by the owner or an authorized representative thereof within 60 days. The 60-day period shall begin when the rightful owner of the property has been notified, if the owner can be identified, or from the time the property was placed in the Executive Director's custody, if the owner cannot be identified.

(2) Unclaimed, found property shall be stored for a minimum period of 60 days and, unless claimed by the owner or an authorized representative thereof, may be claimed by the finder, provided that the finder is not an employee of the Presidio Trust. Found property not claimed by the owner or an authorized representative or the finder shall be deemed abandoned.

(3) Abandoned property shall be disposed of in accordance with law.

(4) Property, including real property, located within the area administered by the Presidio Trust and owned by a deceased person, shall be disposed of in accordance with the laws of the State

within whose exterior boundaries the property is located.

(d) The regulations contained in paragraphs (a)(2), (b) and (c) of this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.23 Recreation fees.

(a) Recreation fees shall be charged in the area administered by the Presidio Trust to the same extent that recreation fees have been established for the Golden Gate National Recreation Area in accordance with 36 CFR part 71.

(b) Entering designated entrance fee areas or using specialized sites, facilities, equipment or services, or participating in group activities, recreation events, or other specialized recreation uses for which recreation fees have been established without paying the required fees and possessing the applicable permits is prohibited.

Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

(c) The Executive Director may, when in the public interest, prescribe periods during which the collection of recreation fees shall be suspended.

§ 1002.30 Misappropriation of property and services.

(a) The following are prohibited:

(1) Obtaining or exercising unlawful possession over the property of another with the purpose to deprive the owner of the property.

(2) Obtaining property or services offered for sale or compensation without making payment or offering to pay.

(3) Obtaining property or services offered for sale or compensation by means of deception or a statement of past, present or future fact that is instrumental in causing the wrongful transfer of property or services, or using stolen, forged, expired, revoked or fraudulently obtained credit cards or paying with negotiable paper on which payment is refused.

(4) Concealing unpurchased merchandise on or about the person without the knowledge or consent of the seller or paying less than purchase price by deception.

(5) Acquiring or possessing the property of another, with knowledge or reason to believe that the property is stolen.

(b) The regulations contained in this section apply, regardless of land

ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.31 Trespassing, tampering and vandalism.

(a) The following are prohibited:

(1) *Trespassing.* Trespassing, entering or remaining in or upon property or real property not open to the public, except with the express invitation or consent of the person having lawful control of the property or real property.

(2) *Tampering.* Tampering or attempting to tamper with property or real property, or moving, manipulating or setting in motion any of the parts thereof, except when such property is under one's lawful control or possession.

(3) *Vandalism.* Destroying, injuring, defacing, or damaging property or real property.

(b) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.32 Interfering with agency functions.

(a) The following are prohibited:

(1) *Interference.* Threatening, resisting, intimidating, or intentionally interfering with a government employee or agent engaged in an official duty, or on account of the performance of an official duty.

(2) *Lawful order.* Violating the lawful order of a government employee or agent authorized to maintain order and control public access and movement during fire fighting operations, search and rescue operations, wildlife management operations involving animals that pose a threat to public safety, law enforcement actions, and emergency operations that involve a threat to public safety or resources of the area administered by the Presidio Trust, or other activities where the control of public movement and activities is necessary to maintain order and public safety.

(3) *False information.* Knowingly giving a false or fictitious report or other false information to an authorized person investigating an accident or violation of law or regulation, or on an application for a permit.

(4) *False Report.* Knowingly giving a false report for the purpose of misleading a government employee or agent in the conduct of official duties, or making a false report that causes a

response by the United States to a fictitious event.

(b) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.33 Report of injury or damage.

(a) A person involved in an incident resulting in personal injury or property damage exceeding \$300, other than an accident reportable under § 1004.4 of this chapter, shall report the incident to the Executive Director as soon as possible. This notification does not satisfy reporting requirements imposed by applicable State law.

(b) Failure to report an incident in accordance with paragraph (a) of this section is prohibited.

§ 1002.34 Disorderly conduct.

(a) A person commits disorderly conduct when, with intent to cause public alarm, nuisance, jeopardy or violence, or knowingly or recklessly creating a risk thereof, such person commits any of the following prohibited acts:

(1) Engages in fighting or threatening, or in violent behavior.

(2) Uses language, an utterance, or gesture, or engages in a display or act that is obscene, physically threatening or menacing, or done in a manner that is likely to inflict injury or incite an immediate breach of the peace.

(3) Makes noise that is unreasonable, considering the nature and purpose of the actor's conduct, location, time of day or night, and other factors that would govern the conduct of a reasonably prudent person under the circumstances.

(4) Creates or maintains a hazardous or physically offensive condition.

(b) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.35 Alcoholic beverages and controlled substances.

(a) *Alcoholic beverages.* (1) The use and possession of alcoholic beverages within the area administered by the Presidio Trust is allowed in accordance with the provisions of this section.

(2) The following are prohibited:

(i) The sale or gift of an alcoholic beverage to a person under 21 years of age, except where allowed by State law. In a State where a lower minimum age

is established, that age limit will apply for purposes of this paragraph.

(ii) The possession of an alcoholic beverage by a person under 21 years of age, except where allowed by State law. In a State where a lower minimum age is established, that age will apply for purposes of this paragraph.

(3)(i) The Board may close all or a portion of a public use area or public facility within the area administered by the Presidio Trust to the consumption of alcoholic beverages and/or to the possession of a bottle, can or other receptacle containing an alcoholic beverage that is open, or that has been opened, or whose seal is broken or the contents of which have been partially removed. Provided however, that such a closure may only be implemented following a determination made by the Board that:

(A) The consumption of an alcoholic beverage or the possession of an open container of an alcoholic beverage would be inappropriate considering other uses of the location and the purpose for which it is maintained or established; or

(B) Incidents of aberrant behavior related to the consumption of alcoholic beverages are of such magnitude that the diligent application of the authorities in this section and §§ 1001.5 and 1002.34 of this chapter, over a reasonable time period, does not alleviate the problem.

(ii) A closure imposed by the Board does not apply to an open container of an alcoholic beverage that is stored in compliance with the provisions of § 1004.14 of this chapter.

(iii) Violating a closure imposed pursuant to this section is prohibited.

(b) *Controlled substances.* The following are prohibited:

(1) The delivery of a controlled substance, except when distribution is made by a practitioner in accordance with applicable law. For the purposes of this paragraph, delivery means the actual, attempted or constructive transfer of a controlled substance whether or not there exists an agency relationship.

(2) The possession of a controlled substance, unless such substance was obtained by the possessor directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of professional practice or otherwise allowed by Federal or State law.

(c) Presence within the area administered by the Presidio Trust when under the influence of alcohol or a controlled substance to a degree that may endanger oneself or another person, or damage property or resources of the

area administered by the Presidio Trust, is prohibited.

§ 1002.36 Gambling.

(a) Gambling in any form, or the operation of gambling devices, is prohibited.

(b) This regulation applies, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1002.37 Noncommercial soliciting.

Soliciting or demanding gifts, money, goods or services is prohibited, except pursuant to the terms and conditions of a permit that has been issued under § 1002.50, § 1002.51 or § 1002.52.

§ 1002.38 Explosives.

(a) Using, possessing, storing, or transporting explosives, blasting agents or explosive materials is prohibited, except pursuant to the terms and conditions of a permit. When permitted, the use, possession, storage and transportation shall be in accordance with applicable Federal and State laws.

(b) Using or possessing fireworks and firecrackers is prohibited, except pursuant to the terms and conditions of a permit or in designated areas under such conditions as the Board may establish, and in accordance with applicable State law.

(c) Violation of the conditions established by the Board or of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

§ 1002.50 Special events.

(a) Sports events, pageants, regattas, public spectator attractions, entertainments, ceremonies, and similar events are allowed: Provided, however, There is a meaningful association between the area administered by the Presidio Trust and the events, and the observance contributes to visitor understanding of the significance of the area administered by the Presidio Trust, and a permit therefore has been issued by the Executive Director. A permit shall be denied if such activities would:

(1) Cause injury or damage to resources of the area administered by the Presidio Trust; or

(2) Be contrary to the purposes of the Presidio Trust Act; or

(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the Presidio Trust or the National Park Service; or

(4) Substantially impair the operation of public use facilities or services of

Presidio Trust concessioners or contractors; or

(5) Present a clear and present danger to the public health and safety; or

(6) Result in significant conflict with other existing uses.

(b) An application for such a permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, a statement of equipment and facilities to be used, and any other information required by the Executive Director. The application shall be submitted so as to reach the Executive Director at least 72 hours in advance of the proposed event.

(c) As a condition of permit issuance, the Executive Director may require:

(1) The filing of a bond payable to the Presidio Trust, in an amount adequate to cover costs such as restoration, rehabilitation, and cleanup of the area used, and other costs resulting from the special event. In lieu of a bond, a permittee may elect to deposit cash equal to the amount of the required bond.

(2) In addition to the requirements of paragraph (c)(1) of this section, the acquisition of liability insurance in which the United States is named as co-insured in an amount sufficient to protect the United States.

(d) The permit may contain such conditions as are reasonably consistent with protection and use of the area administered by the Presidio Trust for the purposes of the Presidio Trust Act. It may also contain reasonable limitations on the equipment used and the time and area within which the event is allowed.

(e) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

§ 1002.51 Public assemblies, meetings.

(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views are allowed within the area administered by the Presidio Trust, provided a permit therefore has been issued by the Executive Director.

(b) An application for such a permit shall set forth the name of the applicant; the date, time, duration, nature and place of the proposed event; an estimate of the number of persons expected to attend; a statement of equipment and facilities to be used and any other information required by the permit application form.

(c) The Executive Director shall, without unreasonable delay, issue a permit on proper application unless:

(1) A prior application for a permit for the same time and place has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of that particular area; or

(2) It reasonably appears that the event will present a clear and present danger to the public health or safety; or

(3) The event is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, considering such things as damage to resources or facilities of the area administered by the Presidio Trust, impairment of a protected area's atmosphere of peace and tranquillity, interference with program activities, or impairment of public use facilities.

(d) If a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial set forth.

(e) The Board shall designate on a map, that shall be available in the office of the Presidio Trust, the locations available for public assemblies.

Locations may be designated as not available only if such activities would:

(1) Cause injury or damage to resources of the area administered by the Presidio Trust; or

(2) Unreasonably impair the atmosphere of peace and tranquillity maintained in wilderness, natural, historic or commemorative zones; or

(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the Presidio Trust or the National Park Service; or

(4) Substantially impair the operation of public use facilities or services of Presidio Trust concessioners or contractors; or

(5) Present a clear and present danger to the public health and safety.

(f) The permit may contain such conditions as are reasonably consistent with protection and use of the area administered by the Presidio Trust for the purposes of the Presidio Trust Act. It may also contain reasonable limitations on the equipment used and the time and area within which the event is allowed.

(g) No permit shall be issued for a period in excess of 7 days, provided that permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(h) It is prohibited for persons engaged in activities covered under this section to obstruct or impede

pedestrians or vehicles, or harass visitors with physical contact.

(i) A permit may be revoked under any of those conditions, as listed in paragraph (c) of this section, that constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made to be followed by written confirmation within 72 hours.

(j) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit.

§ 1002.52 Sale or distribution of printed matter.

(a) The sale or distribution of printed matter is allowed within the area administered by the Presidio Trust, provided that a permit to do so has been issued by the Executive Director, and provided further that the printed matter is not solely commercial advertising.

(b) An application for such a permit shall set forth the name of the applicant; the name of the organization (if any); the date, time, duration, and location of the proposed sale or distribution; the number of participants; and any other information required by the permit application form.

(c) The Executive Director shall, without unreasonable delay, issue a permit on proper application unless:

(1) A prior application for a permit for the same time and location has been made that has been or will be granted and the activities authorized by that permit do not reasonably allow multiple occupancy of the particular area; or

(2) It reasonably appears that the sale or distribution will present a clear and present danger to the public health and safety; or

(3) The number of persons engaged in the sale or distribution exceeds the number that can reasonably be accommodated in the particular location applied for, considering such things as damage to resources or facilities of the area administered by the Presidio Trust, impairment of a protected area's atmosphere of peace and tranquillity, interference with program activities, or impairment of public use facilities; or

(4) The location applied for has not been designated as available for the sale or distribution of printed matter; or

(5) The activity would constitute a violation of an applicable law or regulation.

(d) If a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial set forth.

(e) The Board shall designate on a map, which shall be available for inspection in the office of the Presidio Trust, the locations within the area administered by the Presidio Trust that are available for the sale or distribution of printed matter. Locations may be designated as not available only if the sale or distribution of printed matter would:

(1) Cause injury or damage to resources of the area administered by the Presidio Trust; or

(2) Unreasonably impair the atmosphere of peace and tranquillity maintained in wilderness, natural, historic, or commemorative zones; or

(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the Presidio Trust or the National Park Service; or

(4) Substantially impair the operation of public use facilities or services of Presidio Trust concessioners or contractors; or

(5) Present a clear and present damage to the public health and safety.

(f) The permit may contain such conditions as are reasonably consistent with protection and use of the area administered by the Presidio Trust for the purposes of the Presidio Trust Act.

(g) No permit shall be issued for a period in excess of 14 consecutive days, provided that permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(h) It is prohibited for persons engaged in the sale or distribution of printed matter under this section to obstruct or impede pedestrians or vehicles, harass visitors with physical contact or persistent demands, misrepresent the purposes or affiliations of those engaged in the sale or distribution, or misrepresent whether the printed matter is available without cost or donation.

(i) A permit may be revoked under any of those conditions, as listed in paragraph (c) of this section, that constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation within 72 hours.

(j) Violation of the terms and conditions of a permit issued in accordance with this section may result in the suspension or revocation of the permit.

§ 1002.60 Livestock use and agriculture.

(a) The running-at-large, herding, driving across, allowing on, pasturing or grazing of livestock of any kind within the area administered by the Presidio Trust or the use of such area for agricultural purposes is prohibited, except:

(1) As specifically authorized by Federal statutory law; or

(2) As required under a reservation of use rights arising from acquisition of a tract of land; or

(3) As designated, when conducted as a necessary and integral part of a recreational activity or required in order to maintain a historic scene.

(b) Activities authorized pursuant to any of the exceptions provided for in paragraph (a) of this section shall be allowed only pursuant to the terms and conditions of a license, permit or lease. Violation of the terms and conditions of a license, permit or lease issued in accordance with this paragraph is prohibited and may result in the suspension or revocation of the license, permit, or lease.

(c) *Impounding of livestock.* (1) Livestock trespassing within the area administered by the Presidio Trust may be impounded by the Executive Director and, if not claimed by the owner within the periods specified in this paragraph, shall be disposed of in accordance with applicable Federal and State law.

(2) In the absence of applicable Federal or State law, the livestock shall be disposed of in the following manner:

(i) If the owner is known, prompt written notice of impoundment will be served, and in the event of the owner's failure to remove the impounded livestock within five (5) days from delivery of such notice, it will be disposed of in accordance with this paragraph.

(ii) If the owner is unknown, disposal of the livestock shall not be made until at least fifteen (15) days have elapsed from the date that a notice of impoundment is originally published in a newspaper of general circulation in the county in which the trespass occurs or, if no such newspaper exists, notification is provided by other appropriate means.

(iii) The owner may redeem the livestock by submitting proof of ownership and paying all expenses of the United States for capturing, advertising, pasturing, feeding, impounding, and the amount of damage

to public property injured or destroyed as a result of the trespass.

(iv) In determining the claim of the government in a livestock trespass, the value of forage consumed shall be computed at the commercial rates prevailing in the locality for the class of livestock found in trespass. The claim shall include the pro rata salary of employees for the time spent and the expenses incurred as a result of the investigation, reporting, and settlement or prosecution of the claim.

(v) If livestock impounded under this paragraph is offered at public sale and no bid is received, or if the highest bid received is less than the amount of the claim of the United States or of the officer's appraised value of the livestock, whichever is the lesser amount, such livestock, may be sold at private sale for the highest amount obtainable, condemned and destroyed, or converted to the use of the United States.

§ 1002.61 Residing on Federal lands.

(a) Residing within the area administered by the Presidio Trust, other than on privately owned lands, except pursuant to the terms and conditions of a permit, lease or contract, is prohibited.

(b) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

§ 1002.62 Memorialization.

(a) The installation of a monument, memorial, tablet, structure, or other commemorative installation within the area administered by the Presidio Trust without the authorization of the Board is prohibited.

(b) The scattering of human ashes from cremation is prohibited, except pursuant to the terms and conditions of a permit, or in designated areas according to conditions which may be established by the Board.

(c) Failure to abide by area designations and established conditions is prohibited.

(d) Violation of the terms and conditions of a permit issued in accordance with this section is prohibited and may result in the suspension or revocation of the permit.

§ 1002.63 Boating and water use activities.

Swimming, boating and the use of any water vessel are prohibited within the area administered by the Presidio Trust.

PART 1004—VEHICLES AND TRAFFIC SAFETY

Sec.

- 1004.1 Applicability and scope.
- 1004.2 State law applicable.
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- 1004.30 Bicycles.
- 1004.31 Hitchhiking.

Authority: Pub. L. 104-333, 110 Stat. 4097 (16 U.S.C. 460bb note).

§ 1004.1 Applicability and scope.

The applicability of the regulations in this part is described in § 1001.2 of this chapter. The regulations in this part also apply, regardless of land ownership, on all roadways and parking areas within the boundaries of the area administered by the Presidio Trust that are open to public traffic and that are under the legislative jurisdiction of the United States.

§ 1004.2 State law applicable.

(a) Unless specifically addressed by regulations in this chapter, traffic and the use of vehicles within the boundaries of the area administered by the Presidio Trust are governed by State law. State law that is now or may later be in effect is adopted and made a part of the regulations in this part.

(b) Violating a provision of State law is prohibited.

§ 1004.3 Authorized emergency vehicles.

(a) The operator of an authorized emergency vehicle, when responding to an emergency or when pursuing or apprehending an actual or suspected violator of the law, may:

- (1) Disregard traffic control devices;
- (2) Exceed the speed limit; and
- (3) Obstruct traffic.

(b) The provisions of paragraph (a) of this section do not relieve the operator from the duty to operate with due regard for the safety of persons and property.

§ 1004.4 Report of motor vehicle accident.

(a) The operator of a motor vehicle involved in an accident resulting in property damage, personal injury or death shall report the accident to the Executive Director as soon as practicable, but within 24 hours of the accident. If the operator is physically

incapable of reporting the accident, an occupant of the vehicle shall report the accident to the Executive Director.

(b) A person shall not tow or move a vehicle that has been involved in an accident without first notifying the Executive Director unless the position of the vehicle constitutes a hazard or prior notification is not practicable, in which case notification shall be made before the vehicle is removed from the area administered by the Presidio Trust.

(c) Failure to comply with a reporting requirement specified in paragraph (a) or (b) of this section is prohibited.

(d) The notification requirements imposed by this section do not relieve the operator and occupants of a motor vehicle involved in an accident of the responsibility to satisfy reporting requirements imposed by State law.

§ 1004.10 Travel on Presidio Trust roads and designated routes.

(a) Operating a motor vehicle is prohibited except on Presidio Trust roads and in parking areas.

(b) The following are prohibited:

(1) Operating a motor vehicle not equipped with pneumatic tires, except that a track-laying motor vehicle or a motor vehicle equipped with a similar traction device may be operated on a route designated for these vehicles by the Board.

(2) Operating a motor vehicle in a manner that causes unreasonable damage to the surface of a Presidio Trust road or route.

§ 1004.11 Load, weight and size limits.

(a) Vehicle load, weight and size limits established by State law apply to a vehicle operated on a Presidio Trust road. However, the Board may designate more restrictive limits when appropriate for traffic safety or protection of the road surface. The Board may require a permit and establish conditions for the operation of a vehicle exceeding designated limits.

(b) The following are prohibited:

(1) Operating a vehicle that exceeds a load, weight or size limit designated by the Board.

(2) Failing to obtain a permit when required.

(3) Violating a term or condition of a permit.

(4) Operating a motor vehicle with an auxiliary detachable side mirror that extends more than 10 inches beyond the side fender line except when the motor vehicle is towing a second vehicle.

(c) Violating a term or condition of a permit may also result in the suspension or revocation of the permit by the Executive Director.

§ 1004.12 Traffic control devices.

Failure to comply with the directions of a traffic control device is prohibited unless otherwise directed by the Executive Director.

§ 1004.13 Obstructing traffic.

The following are prohibited:

(a) Stopping or parking a vehicle upon a Presidio Trust road, except as authorized by the Executive Director, or in the event of an accident or other condition beyond the control of the operator.

(b) Operating a vehicle so slowly as to interfere with the normal flow of traffic.

§ 1004.14 Open container of alcoholic beverage.

(a) Each person within a motor vehicle is responsible for complying with the provisions of this section that pertain to carrying an open container. The operator of a motor vehicle is the person responsible for complying with the provisions of this section that pertain to the storage of an open container.

(b) Carrying or storing a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been opened, or whose seal is broken or the contents of which have been partially removed, within a motor vehicle in the area administered by the Presidio Trust is prohibited.

(c) This section does not apply to:

(1) An open container stored in the trunk of a motor vehicle or, if a motor vehicle is not equipped with a trunk, to an open container stored in some other portion of the motor vehicle designed for the storage of luggage and not normally occupied by or readily accessible to the operator or passengers; or

(2) An open container stored in the living quarters of a motor home or camper; or

(3) Unless otherwise prohibited, an open container carried or stored in a motor vehicle parked at an authorized campsite where the motor vehicle's occupant(s) are camping.

(d) For the purpose of paragraph (c)(1) of this section, a utility compartment or glove compartment is deemed to be readily accessible to the operator and passengers of a motor vehicle.

§ 1004.15 Safety belts.

(a) Each operator and passenger occupying any seating position of a motor vehicle in the area administered by the Presidio Trust will have the safety belt or child restraint system properly fastened at all times when the vehicle is in motion. The safety belt and child restraint system will conform to

applicable United States Department of Transportation standards.

(b) This section does not apply to an occupant in a seat that was not originally equipped by the manufacturer with a safety belt nor does it apply to a person who can demonstrate that a medical condition prevents restraint by a safety belt or other occupant restraining device.

§ 1004.20 Right of way.

An operator of a motor vehicle shall yield the right of way to pedestrians, saddle and pack animals and vehicles drawn by animals. Failure to yield the right of way is prohibited.

§ 1004.21 Speed limits.

(a) Speed limits in the area administered by the Presidio Trust are as follows:

(1) 15 miles per hour: within all school zones, campgrounds, picnic areas, parking areas, utility areas, business or residential areas, other places of public assemblage and at emergency scenes.

(2) 25 miles per hour: upon sections of Presidio Trust road under repair or construction.

(3) 45 miles per hour: upon all other Presidio Trust roads.

(b) The Board may designate a different speed limit upon any Presidio Trust road when a speed limit set forth in paragraph (a) of this section is determined to be unreasonable, unsafe or inconsistent with the purposes of the Presidio Trust Act. Speed limits shall be posted by using standard traffic control devices.

(c) Operating a vehicle at a speed in excess of the speed limit is prohibited.

(d) An authorized person may utilize radiomicrowaves or other electrical devices to determine the speed of a vehicle on a Presidio Trust road. Signs indicating that vehicle speed is determined by the use of radiomicrowaves or other electrical devices are not required.

§ 1004.22 Unsafe operation.

(a) The elements of this section constitute offenses that are less serious than reckless driving. The offense of reckless driving is defined by State law and violations are prosecuted pursuant to the provisions of § 1004.2.

(b) The following are prohibited:

(1) Operating a motor vehicle without due care or at a speed greater than that which is reasonable and prudent considering wildlife, traffic, weather, road and light conditions and road character.

(2) Operating a motor vehicle in a manner which unnecessarily causes its

tires to squeal, skid or break free of the road surface.

(3) Failing to maintain that degree of control of a motor vehicle necessary to avoid danger to persons, property or wildlife.

(4) Operating a motor vehicle while allowing a person to ride:

(i) On or within any vehicle, trailer or other mode of conveyance towed behind the motor vehicle unless specifically designed for carrying passengers while being towed; or

(ii) On any exterior portion of the motor vehicle not designed or intended for the use of a passenger. This restriction does not apply to a person seated on the floor of a truck bed equipped with sides, unless prohibited by State law.

§ 1004.23 Operating under the influence of alcohol or drugs.

(a) Operating or being in actual physical control of a motor vehicle is prohibited while:

(1) Under the influence of alcohol, or a drug, or drugs, or any combination thereof, to a degree that renders the operator incapable of safe operation; or

(2) The alcohol concentration in the operator's blood or breath is 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams or more of alcohol per 210 liters of breath. Provided however, that if State law that applies to operating a motor vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph.

(b) The provisions of paragraph (a) of this section also apply to an operator who is or has been legally entitled to use alcohol or another drug.

(c) Tests. (1) At the request or direction of an authorized person who has probable cause to believe that an operator of a motor vehicle within the area administered by the Presidio Trust has violated a provision of paragraph (a) of this section, the operator shall submit to one or more tests of the blood, breath, saliva or urine for the purpose of determining blood alcohol and drug content.

(2) Refusal by an operator to submit to a test is prohibited and proof of refusal may be admissible in any related judicial proceeding.

(3) Any test or tests for the presence of alcohol and drugs shall be determined by and administered at the direction of an authorized person.

(4) Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

(d) Presumptive levels. (1) The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (a)(1) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (a)(2) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

(2) The provisions of paragraph (d)(1) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, or a drug, or drugs, or any combination thereof.

§ 1004.30 Bicycles.

(a) The use of a bicycle is prohibited except on Presidio Trust roads, in parking areas and on routes designated for bicycle use; provided, however, that the Board may close any Presidio Trust road or parking area to bicycle use pursuant to the criteria and procedures of §§ 1001.5 and 1001.7 of this chapter. Routes may only be designated for bicycle use based on a written determination that such use is consistent with the protection of natural, scenic and aesthetic values, safety considerations and management objectives and will not disturb wildlife or the resources of the area administered by the Presidio Trust.

(b) *Designated bicycle routes.* The use of a bicycle is permitted in non-developed areas, as follows:

(1) Bicycle use is permitted on routes which have been designated by the Board as bicycle routes by the posting of signs, and as designated on maps which are available in the office of the Presidio Trust and other places convenient to the public.

(2) Bicycle speed limits are as follows:

(i) 15 miles per hour: Upon all designated routes within the area administered by the Presidio Trust.

(ii) 5 miles per hour: On blind curves and when passing other trail users.

(3) The following are prohibited:

(i) The possession of a bicycle on routes not designated as open to bicycle use.

(ii) Operating a bicycle on designated bicycle routes between sunset and sunrise without exhibiting on the bicycle or on the operator an activated white light that is visible from a distance of at least 500 feet to the front and with a red light or reflector visible from at least 200 feet to the rear.

(c) A person operating a bicycle is subject to all sections of this part that apply to an operator of a motor vehicle, except §§ 1004.4, 1004.10, 1004.11 and 1004.14.

(d) The following are prohibited:

(1) Possessing a bicycle in a wilderness area established by Federal statute.

(2) Operating a bicycle during periods of low visibility, or while traveling through a tunnel, or between sunset and sunrise, without exhibiting on the operator or bicycle a white light or reflector that is visible from a distance of at least 500 feet to the front and with a red light or reflector visible from at least 200 feet to the rear.

(3) Operating a bicycle abreast of another bicycle except where authorized by the Executive Director.

(4) Operating a bicycle while consuming an alcoholic beverage or carrying in hand an open container of an alcoholic beverage.

§ 1004.31 Hitchhiking.

Hitchhiking or soliciting transportation is prohibited except in designated areas and under conditions established by the Board.

PART 1005—COMMERCIAL AND PRIVATE OPERATIONS

Sec.

1005.1 Advertisements.

1005.2 Alcoholic beverages; sale of intoxicants.

1005.3 Business operations.

1005.4 Commercial passenger-carrying motor vehicles.

1005.5 Commercial photography.

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1005.10–1005.12 [Reserved]

1005.13 Nuisances.

1005.14 Prospecting, mining, and mineral leasing.

Authority: Pub. L. 104–333, 110 Stat. 4097 (16 U.S.C. 460bb note).

§ 1005.1 Advertisements.

Commercial notices or advertisements shall not be displayed, posted, or distributed within the area administered by the Presidio Trust unless prior written permission has been given by the Executive Director. Such permission may be granted only if the notice or advertisement is of goods, services, or facilities available within the area administered by the Presidio Trust and such notices and advertisements are found by the Executive Director to be

desirable and necessary for the convenience and guidance of the public.

§ 1005.2 Alcoholic beverages; sale of intoxicants.

The sale of alcoholic, spirituous, vinous, or fermented liquor, containing more than 1 percent of alcohol by weight, shall conform with all applicable Federal, State, and local laws and regulations. (See also § 1002.35 of this chapter.)

§ 1005.3 Business operations.

Engaging in or soliciting any business in the area administered by the Presidio Trust, except in accordance with the provisions of a permit, contract, or other written agreement with the United States, is prohibited.

§ 1005.4 Commercial passenger-carrying motor vehicles.

Passenger-carrying motor vehicles that are so large as to require special escort in order to proceed safely over Presidio Trust roads, or which in the judgment of the Executive Director are beyond the carrying capacity or safety factor of the roads, will not be permitted in the area administered by the Presidio Trust, except that, where they may satisfactorily enter and travel to the Presidio Trust headquarters they may be parked there during the period of stay.

§ 1005.5 Commercial photography.

(a) *Motion pictures, television.* Before any motion picture may be filmed or any television production or sound track may be made, which involves the use of professional casts, settings, or crews, by any person other than bona fide newsreel or news television personnel, written permission must first be obtained from the Executive Director, in accordance with the following:

(1) *Permit required.* No picture may be filmed, and no television production or sound track made on any area administered by the Presidio Trust, by any person other than amateur or bona fide newsreel and news television photographers and soundmen, unless written permission has been obtained from the Presidio Trust. Applications for permission should be submitted to the Executive Director.

(2) *Fees; bonds.* (i) No fees will be charged for the making of motion pictures, television productions or sound tracks on areas administered by the Presidio Trust. The regular general admission and other fees currently in effect in any area under the jurisdiction of the Presidio Trust are not affected by this paragraph.

(ii) A bond shall be furnished, or deposit made in cash or by certified check, in an amount to be set by the

official in charge of the area to insure full compliance with all of the conditions prescribed in paragraph (a)(4) of this section.

(3) *Approval of application.*

Permission to make a motion picture, television production or sound track on areas administered by the Presidio Trust will be granted by the Executive Director in his discretion and on acceptance by the applicant of the conditions set forth in paragraph (a)(4) of this section.

(4) *Form of application.* The following form is prescribed for an application for permission to make a motion picture, television production, or sound track on areas administered by the Presidio Trust:

Date _____
To the Executive Director of the Presidio Trust:

Permission is requested to make, in the area administered by the Presidio Trust, a

The scope of the filming (or production or recording) and the manner and extent thereof will be as follows:

Weather conditions permitting, work will commence on approximately _____ and will be completed on approximately _____. (An additional sheet should be used if necessary.)

The undersigned accepts and will comply with the following conditions:

Utmost care will be exercised to see that no natural features are injured, and after completion of the work the area will, as required by the official in charge, either be cleaned up and restored to its prior condition or left, after clean-up, in a condition satisfactory to the official in charge.

Credit will be given to the Presidio Trust through the use of an appropriate title or announcement, unless there is issued by the official in charge of the area a written statement that no such courtesy credit is desired.

Pictures will be taken of wildlife only when such wildlife will be shown in its natural state or under approved management conditions if such wildlife is confined.

Any special instructions received from the official in charge of the area will be complied with.

Any additional information relating to the privilege applied for by this application will be furnished upon request of the official in charge.

(Applicant)

For _____
(Company)

Bond Requirement \$ _____

Approved:

(Date)

(Title)

(b) *Still photography.* The taking of photographs of any vehicle, or other articles of commerce or models for the purpose of commercial advertising without a written permit from the Executive Director is prohibited.

§ 1005.6 Commercial vehicles.

(a) The term "Commercial vehicle" as used in this section shall include, but not be limited to trucks, station wagons, pickups, passenger cars or other vehicles when used in transporting movable property for a fee or profit, either as a direct charge to another person, or otherwise, or used as an incident to providing services to another person, or used in connection with any business.

(b) The use of government roads within the area administered by the Presidio Trust by commercial vehicles, when such use is in no way connected with the operation of the area administered by the Presidio Trust, is prohibited, except that in emergencies the Executive Director may grant permission to use Presidio Trust roads.

(c) The Executive Director shall issue permits for commercial vehicles used on Presidio Trust roads when such use is necessary for access to private lands situated within or adjacent to the area administered by the Presidio Trust, to which access is otherwise not available.

§ 1005.7 Construction of buildings or other facilities.

Constructing or attempting to construct a building, or other structure, boat dock, road, trail, path, or other way, telephone line, telegraph line, power line, or any other private or public utility, upon, across, over, through, or under any area administered by the Presidio Trust, except in accordance with the provisions of a valid permit, contract, or other written agreement with the United States, is prohibited.

§ 1005.8 Discrimination in employment practices.

(a) The proprietor, owner, or operator of any hotel, inn, lodge or other facility or accommodation offered to or enjoyed by the general public within the area administered by the Presidio Trust is prohibited from discriminating against any employee or maintaining any employment practice which discriminates because of race, creed, color, ancestry, sex, age, disabling condition, or national origin in connection with any activity provided for or permitted by contract with or permit from the Government or by derivative subcontract or sublease. As used in this section, the term

"employment" includes, but is not limited to, employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

(b) Each such proprietor, owner or operator shall post either the following notice or notices supplied in accordance with Executive Order 11246 at such locations as will ensure that the notice and its contents will be conspicuous to any person seeking employment:

Notice

This is a facility operated in an area under the jurisdiction of the Presidio Trust. No discrimination in employment practices on the basis of race, creed, color, ancestry, sex, age, disabling condition, or national origin is permitted in this facility. Violations of this prohibition are punishable by fine, imprisonment, or both. Complaints or violations of this prohibition should be addressed to the Executive Director, The Presidio Trust, P.O. Box 29052, San Francisco, CA 94129-0052.

(c) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§ 1005.9 Discrimination in furnishing public accommodations and transportation services.

(a) The proprietor, owner or operator and the employees of any hotel, inn, lodge, or other facility or accommodation offered to or enjoyed by the general public within the area administered by the Presidio Trust and, while using such area, any commercial passenger-carrying motor vehicle service and its employees, are prohibited from:

(1) Publicizing the facilities, accommodations or any activity conducted therein in any manner that would directly or inferentially reflect upon or question the acceptability of any person or persons because of race, creed, color, ancestry, sex, age, disabling condition, or national origin; or

(2) Discriminating by segregation or otherwise against any person or persons because of race, creed, color, ancestry, sex, age, disabling condition, or national origin in furnishing or refusing to furnish such person or persons any accommodation, facility, service, or privilege offered to or enjoyed by the general public.

(b) Each such proprietor, owner, or operator shall post the following notice at such locations as will insure that the notice and its contents will be

conspicuous to any person seeking accommodations, facilities, services, or privileges:

Notice

This is a facility operated in an area under the jurisdiction of the Presidio Trust. No discrimination by segregation or other means in the furnishing of accommodations, facilities, services, or privileges on the basis of race, creed, color, ancestry, sex, age, disabling condition or national origin is permitted in the use of this facility. Violations of this prohibition are punishable by fine, imprisonment, or both. Complaints of violations of this prohibition should be addressed to the Executive Director, The

Presidio Trust, P.O. Box 29052, San Francisco, CA 94129-0052.

(c) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within the boundaries of the area administered by the Presidio Trust that are under the legislative jurisdiction of the United States.

§§ 1005.10–1005.12 [Reserved]

§ 1005.13 Nuisances.

The creation or maintenance of a nuisance upon the federally owned lands of the area administered by the Presidio Trust or upon any private lands

within the boundaries of the area administered by the Presidio Trust under the exclusive legislative jurisdiction of the United States is prohibited.

§ 1005.14 Prospecting, mining, and mineral leasing.

Prospecting, mining, and the location of mining claims under the general mining laws and leasing under the mineral leasing laws are prohibited in the area administered by the Presidio Trust except as authorized by law.

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