

(Pub. L. 89-761, §3, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 94-549, §1(2), Oct. 18, 1976, 90 Stat. 2529.)

AMENDMENTS

1976—Pub. L. 94-549 inserted provision requiring the Secretary to publish in the Federal Register, no later than October 1, 1977, the boundaries of the lakeshore and from time to time publish any additional changes in the boundaries as they occur.

§ 460u-3. "Improved property" and "appropriate map" defined; terms and conditions for rights of use and occupancy

As used in this subchapter, the term "improved property" means a detached, one-family dwelling which meets each of the following criteria:

(1) The construction of the dwelling began before the date (shown in the table contained in this section) corresponding to the appropriate map.

(2) The property is located within the boundaries delineated on the map described in such table which corresponds to such date.

(3) The property is not located within the boundaries of any other map referred to in such table which bears an earlier date.

The term "appropriate map", means a map identified as "Boundary Map—Indiana Dunes National Lakeshore" (or "A Proposed Indiana Dunes National Lakeshore" in the case of a dwelling the construction of which was begun before January 4, 1965) which is dated and numbered as provided in the following table.

Property within boundaries of map	Construction began before
Dated October 1992, No. 626-80,039-C	October 1, 1991
Dated October 1986, No. 626-80,033-B	February 1, 1986
Dated December 1980, No. 626-91014	January 1, 1981
Dated September 1976, No. 626-91007	February 1, 1973
Dated September 1966, No. LNPNE-1008-ID	January 4, 1965

The term "improved property" also includes the lands on which the dwelling is situated which meets both of the following criteria:

(A) The land is in the same ownership as the dwelling.

(B) The Secretary has designated the lands as reasonably necessary for the enjoyment of the dwelling for the sole purpose of non-commercial residential use.

Such term also includes any structures accessory to the dwelling which are situated on the lands so designated. The maps referred to in this section shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior. The Secretary shall designate the land referred to in subparagraph (B). The amount of land so designated shall in every case be not more than three acres in area, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided*, That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters, as he may deem necessary for public access thereto or public use thereof. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to as-

sure the use of such property in accordance with the purposes of this subchapter.

(Pub. L. 89-761, §4, Nov. 5, 1966, 80 Stat. 1309; Pub. L. 94-549, §1(3), Oct. 18, 1976, 90 Stat. 2529; Pub. L. 96-612, §1(5), Dec. 28, 1980, 94 Stat. 3575; Pub. L. 99-583, §1(b), Oct. 29, 1986, 100 Stat. 3318; Pub. L. 102-430, §4(a), Oct. 23, 1992, 106 Stat. 2208.)

AMENDMENTS

1992—Pub. L. 102-430 amended table generally. Prior to amendment, table read as follows:

"Property Within Boundaries of Map	Construction Began Before
Dated October 1986, #626-80,033-B	February 1, 1986
Dated December 1980, #626-91014	January 1, 1981
Dated September 1976, #626-91007	February 1, 1973
Dated September 1966, #LNPNE-1008-ID	January 4, 1965

1986—Pub. L. 99-583 substituted provisions defining "improved property" and "appropriate map" for former provisions which read as follows: "The term "improved property", whenever used in this subchapter, shall mean a detached, one-family dwelling, construction of which was begun before January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as "Boundary Map, Indiana Dunes National Lakeshore", dated September 1976 and bearing the number 626-91007, before February 1, 1973, or, in the case of improved property located within the boundaries delineated on a map identified as "A Proposed Indiana Dunes National Lakeshore", dated September 1966, and bearing the number "LNPNE-1008-ID", which map is on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, before January 4, 1965, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of non-commercial residential use, together with any structures accessory to the dwelling which are situated on the lands so designated."

1980—Pub. L. 96-612 inserted "January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number 626-91007, before" after "begun before".

1976—Pub. L. 94-549 struck out subsec. (a) which related to the suspension of the authority of the Secretary to acquire improved property by condemnation when an appropriate zoning agency had in force a valid zoning ordinance, designated subsec. (b) as the entire provision, and in the entire provision as so designated, inserted provision including in definition of "improved property" a one-family dwelling the construction of which was begun before February 1, 1973, or in the case of improved property located within the boundaries of the map bearing the number "LNPNE-1008-ID", property the construction of which was begun before January 4, 1965, and provision which subjected all rights of use and occupancy to terms and conditions the Secretary deems appropriate.

§ 460u-4. Repealed. Pub. L. 94-549, § 1(9), Oct. 18, 1976, 90 Stat. 2533

Section, Pub. L. 89-761, §5, Nov. 5, 1966, 80 Stat. 1310, authorized Secretary to set standards for and to approve use of local zoning ordinances with regard to preservation and development of lakeshore areas and in event of nonconforming variances, to terminate suspension of his authority to acquire improved property by condemnation.

**§ 460u-5. Owner's retention of right of use and occupancy for residential purposes**

**(a) Election; conveyance or lease of right; adjustment of compensation; retained rights**

(1) Except for owners described in paragraph (2) and owners of improved property within the area on the map referred to in section 460u-3 of this title, dated December 1980, and numbered 626-91014, as area II-B, any owner or owners of record of improved property may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term (A) ending on his or her death or the death of his or her spouse, whichever occurs last, or (B) for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary. In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014 the retention of a retained right under clause numbered (A) shall only be available to homeowners of record as of October 1, 1980, who have attained the age of majority as of that date and make a bona fide written offer not later than October 1, 1985, to sell to the Secretary. Where any such owner retains a right of use and occupancy as herein provided, such right during its existence may be conveyed or leased for noncommercial residential purposes. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner.

(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.

(3)(A) In the case of improved property included within the boundaries of the lakeshore after October 1, 1991, that was not included within such boundaries on or before that date, an individual who is an owner of record of such property may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending, subject to subparagraph (B), at either of the following:

(i) A fixed term not to extend beyond October 1, 2020, or such lesser fixed term as the owner may elect at the time of acquisition.

(ii) A term ending at the death of the owner or the owner's spouse, whichever occurs later. The owner or owners shall elect the term to be reserved.

(B) Subparagraph (A)(ii) shall apply only to improved property owned by an individual who—

(i) was an owner of record of the property as of October 1, 1991;

(ii) had attained the age of majority as of that date; and

(iii) made a bona fide written offer not later than October 1, 1997, to sell the property to the Secretary.

**(b) Termination of use and occupancy; pre-October 18, 1976, standards of use and occupancy to remain in effect**

Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and occupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 460u-3 of this title.

**(c) Extension of use and occupancy rights**

With respect to improved properties acquired prior to December 28, 1980, and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than nine years upon receipt of payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dunes National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subsection.

(Pub. L. 89-761, §5, formerly §6, Nov. 5, 1966, 80 Stat. 1311; renumbered §5 and amended Pub. L. 94-549, §1(4), (9), Oct. 18, 1976, 90 Stat. 2529, 2533; Pub. L. 96-612, §1(6), (7), Dec. 28, 1980, 94 Stat. 3576; Pub. L. 99-583, §1(c), Oct. 29, 1986, 100 Stat. 3319; Pub. L. 102-430, §4(b), (c), Oct. 23, 1992, 106 Stat. 2208, 2209; Pub. L. 105-277, div. A, §101(e) [title I, §141], Oct. 21, 1998, 112 Stat. 2681-231, 2681-266.)

REFERENCES IN TEXT

The effective date of this sentence, referred to in subsec. (b), probably refers to the date of enactment of Pub. L. 94-549, which was approved Oct. 18, 1976.

PRIOR PROVISIONS

A prior section 5 of Pub. L. 89-761 was classified to section 460u-4 of this title, prior to repeal by Pub. L. 94-549, §1(9).