

at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved.

(d) Adverse provisions and absence of notice for variance as requiring disapproval of ordinances

No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provisions that he considers adverse to the protection and development, in accordance with the purposes of sections 459e to 459e-9 of this title, of the area comprising the national seashore; or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception made to, the application of such ordinance or amendment.

(e) Termination of suspension of authority for acquisition by condemnation because of non-conforming variances and uses

In the case of any property, including improved property but excluding undeveloped property in the Dune district referred to in section 459e-1(g) of this title, with respect to which the Secretary's authority to acquire by condemnation has been suspended under sections 459e to 459e-9 of this title if—

(1) such property is, after October 17, 1984, made the subject of a variance under, or becomes for any reason an exception to, any applicable zoning ordinance approved under this section; and

(2) such variance or exception results, or will result, in such property being used in a manner that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time such variance or exception took effect;

then the suspension of the Secretary's authority to acquire such property by condemnation shall automatically cease.

(f) Certificate of suspension of authority for acquisition by condemnation

The Secretary shall furnish to any party in interest upon request a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

(g) Injunctive relief; termination

Notwithstanding any other provision of sections 459e to 459e-9 of this title, the Secretary of the Interior, acting through the Attorney General of the United States, may apply to the United States District Court for the Eastern District of New York for a temporary restraining order or injunction to prohibit the use of, including construction upon, any property within the seashore in a manner that—

(1) will cause or is likely to cause significant harm to the natural resources of the seashore, or

(2) is inconsistent with the purposes for which the seashore was established.

Except to the extent the Court may deem necessary in extraordinary circumstances, no such

order or injunction shall continue in effect for more than one hundred and eighty days. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that following termination of the order or injunction, the inconsistent use is abated or the significant harm to the natural resources is mitigated.

(Pub. L. 88-587, § 3, Sept. 11, 1964, 78 Stat. 930; Pub. L. 98-482, §§ 3-5, Oct. 17, 1984, 98 Stat. 2256.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-482, § 4, substituted “by means of limitations or restrictions on the size, location or use of any commercial, residential, and other structures” for “by means of acreage, frontage, and setback requirements” and required that the standards seek to reconcile the population density of the seashore on Oct. 17, 1984, with the protection of the natural resources of the seashore.

Subsec. (e). Pub. L. 98-482, § 3, designated part of existing provisions as pars. (1) and (2), made the provisions applicable to any property, and excluded undeveloped property in the Dune district.

Subsec. (g). Pub. L. 98-482, § 5, added subsec. (g).

§ 459e-3. Retention by owner of right of use and occupancy of improved property for residential purposes

(a) Time limit; value of reserved right

Owners of improved property acquired by the Secretary may reserve for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a term that is not more than twenty-five years. The value of the reserved right shall be deducted from the fair market value paid for the property.

(b) Termination of right; compensation

A right of use and occupancy reserved pursuant to this section shall be subject to termination by the Secretary upon his determination that the use and occupancy is not consistent with an applicable zoning ordinance approved by the Secretary in accordance with the provisions of section 459e-2 of this title, and upon tender to the owner of the right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(Pub. L. 88-587, § 4, Sept. 11, 1964, 78 Stat. 931.)

§ 459e-4. Hunting and fishing regulations

The Secretary shall permit hunting, fishing, and shellfishing on lands and waters under his administrative jurisdiction within the Fire Island National Seashore in accordance with the laws of New York and the United States of America, except that the Secretary may designate zones where, and establish periods when, no hunting shall be permitted for reasons of public safety, administration, or public use and enjoyment. Any regulations of the Secretary under this section shall be issued after consultation with the Conservation Department of the State of New York.

(Pub. L. 88-587, § 5, Sept. 11, 1964, 78 Stat. 931.)