

## § 28.11

## 36 CFR Ch. I (7-1-01 Edition)

as allowed under paragraph (c)(i) of this section.

(ii) Any use of the dune, other than those outlined in paragraph (c)(1)(i) of this section, including recreational use.

(3) *Conflict with other provisions.* If a development or lot lies partially within the Dune District and partially in the Community Development District, or partially within the Dune District and partially within the Seashore District, and the standards applicable to the development, lot, or use are in conflict, the standards for the Dune District prevail for the portion of the development, lot, or use which lies within the Dune District. (d) General recreation, environmental and historic preservation and education, and natural resource protection uses and facilities consistent with the uses and facilities appropriate for each zone as set forth in the General Management Plan and Final Environmental Impact Statement are permitted on publicly-held property.

### § 28.11 Nonconforming uses.

(a) Any use or structure lawfully existing under local law as of October 17, 1984 and rendered nonconforming by adoption of the federal standards may continue, subject to the provisions of this section, and will not lose its exemption from condemnation, if otherwise eligible.

(b) *Change in nonconforming uses.* (1) No nonconforming development or use may be altered, intensified, enlarged, extended, or moved except to bring the use or structure into conformity with the approved local zoning ordinance.

(2) A nonconforming use which has been abandoned for more than one (1) year may not be resumed or replaced by another nonconforming use or structure.

(3) A nonconforming use in the Dune District may be moved to bring it into conformity with the approved local zoning ordinance.

(c) *Reconstruction of nonconforming uses.* If a nonconforming use or structure is severely damaged (as determined by fair professional insurance practices), destroyed or rendered a hazard, whether by fire, natural disaster, abandonment or neglect, no alteration,

intensification, enlargement, reconstruction, extension, or movement is allowable without compliance with the following conditions:

(1) No use or structure within the Seashore built in violation of a local ordinance when constructed may be reconstructed except in compliance with the approved local zoning ordinance.

(2) Local building permit applications for reconstruction shall be filed with the appropriate zoning authority within one (1) year of the damage, destruction, or abandonment.

(3) A commercial or industrial use may not be reconstructed without the approval of the local zoning authority and review by the Superintendent.

(4) A nonconforming use in the Community Development District or in the Seashore District (i.e. "improved property") may be reconstructed to previous dimensions. It may not be altered, enlarged, intensified, extended, or moved except to bring the use or structure into conformity with the approved local zoning ordinance.

(5) A nonconforming use in the Dune District may be reconstructed if it can conform to the approved local zoning ordinance and lie north of the crest of the dune at the time of reconstruction.

### § 28.12 Development standards.

No use allowable under § 28.10 may be developed, constructed, altered, or conducted unless it complies with the following:

(a) A single-family home is the only type of development permitted in a residential district defined by a local zoning authority.

(b) Commercial or industrial development is limited to commercial or business districts defined by a zoning authority within the Community Development District. Such development must provide a service to Fire Island and will not be likely to cause significant harm to the natural resources of the Seashore.

(c) Minimum lot size is 4,000 square feet. A subdivision must comply with the subdivision requirements of the applicable zoning authority and may not result in development of any lot which is less than 4,000 feet.

(d) Maximum lot occupancy for all development may not exceed 35 percent