

(c) The Secretarial authority to condemn any property in the Seashore is suspended for any structure or use constructed, modified, or commenced prior to October 17, 1984 if:

(1) It was built or conducted in conformity with local zoning ordinances and procedures in effect at the time of such construction or commencement or had been issued a variance under local law;

(2) It was built or conducted in conformity to the federal standards existing at the time of such construction or commencement or to these standards; and

(3) The local zoning ordinance is approved by the Secretary without exceptions, or if approved by the Secretary with exceptions, such exceptions are not pertinent or applicable to the property.

(d) The above provisions shall not be interpreted to otherwise limit or circumscribe the authority of the Secretary to condemn property as provided by the Act, or other provisions of law.

§ 28.23 Certificates of suspension of authority for acquisition by condemnation.

Upon approval of a local zoning ordinance, a private property owner may apply to the Superintendent for a Certificate of Suspension of Authority for Acquisition by Condemnation. Procedures for obtaining a certificate are as follows:

(a) A property owner shall submit an application for a certificate to:

Superintendent,
Fire Island National Seashore,
120 Laurel Street,
Patchogue, New York 11772.

(b) An application for a certificate shall contain:

(1) A current survey of the lot showing the dimension of all buildings, accessory structures, garbage and bicycle racks, all access walks, and any extensions of the upper floors beyond the developed area on the ground level;

(2) On the survey, the line of mean high water, the toe of the dune, and the crest of the dune shall be identified if they traverse the lot;

(3) A floor plan of each floor of each building showing the configuration of all rooms and cooking facilities;

(4) A vertical drawing of the structure showing actual ground level and building height; and

(5) Copies of the original and all subsequent building permit applications and permits, certificates of occupancy, certified-as-completed surveys, variances, special use permits, certificates of pre-existing use, or other documents relating to local authorization to develop or use the property. The burden rests on the applicant to show that the structure conformed to local law at the time of construction and at the time of each subsequent alteration and that the structure conforms to current federal standards.

(6) For commercial or industrial uses, the owner of the property shall submit further information describing the type, mode, and manner of operation. All local, county, state, or federal licenses and permits required for construction, occupancy, operation of the commercial activity shall be submitted. Any change in use as described in § 28.10(a)(1)(iii) will require application for a new certificate.

(c) Upon receipt of the application, the Superintendent shall conduct a site inspection of both the interior and exterior of the property.

(d) After review of the materials submitted by the applicant and other pertinent information, and completion of the site inspection, the Superintendent shall determine whether the Secretary's authority to acquire by condemnation is suspended, and if so, shall furnish to any eligible party in interest a Certificate of Suspension of Authority for Acquisition by Condemnation.

(e) A Certificate of Suspension of Authority for Acquisition by Condemnation may be revoked at any time that the Secretary's authority to condemn is reinstated or that it becomes evident to the Superintendent that the Certificate was initially issued by mistake or on misinformation.

§ 28.24 Information collection.

The collection of information contained in §§ 28.13, and 28.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*