

(c) *Building* means an enclosed structure having a roof supported by columns, walls, or cantilevers. (If a structure is separated by a party wall without openings, it is considered two separate "buildings.")

(d) *Developed property* means any property which has been altered from its natural state by the construction or erection of materials located in, upon, or attached to something located in or upon the ground. Such alterations may include a building, deck, swimming pool, storage shed, patio, dock, tennis court, septic system or leaching field, walkway, groin, fence or sign (except dune protection fences and signs), road, retaining wall, grading, artificial fill, or other structure or material excluding live vegetation.

(e) *Development* means any activity, action, alteration, structure or use which changes undeveloped property into developed property.

(f) *Exception to a zoning ordinance* means any development or change in use of developed property which is not authorized by the zoning ordinance or the variance procedures of the zoning authority or, if authorized by the zoning authority, fails to conform to the ordinance approved by the Secretary or to the Federal standards.

(g) *Guest house* means an accessory structure on the same lot as the principal building that does not contain cooking facilities and is used for the temporary accommodation of guests of a resident living in the principal building.

(h) *Improved property* is developed property defined by the Act to mean any building, the construction of which was begun prior to July 1, 1963, together with such amount of land on which said building is situated as the Secretary considers reasonably necessary to the use of said building not, however, to exceed 2 acres in the case of a residence and 10 acres in the case of a commercial use. The Secretary may exclude from such "improved property" any beach or waters, as well as land adjoining such beach or waters, which the Secretary deems necessary for public access thereto.

(i) *Local ordinance* means a State, town, or village law applicable to the development or use of real property.

(j) *Lot* means a parcel of land which meets the minimum acreage and frontage requirements of the zoning authority and is occupied or capable of being legally occupied by one (1) principal building or main building, and the accessory structures or uses including such open spaces as are required by these standards, but in no case does a lot include lands below the toe of the natural foredune line.

(k) *Non-conforming use* means any use or development that, if commenced after the effective date of these standards, fails to conform to these standards; or, if commenced prior to October 17, 1984, failed to conform to Federal standards in effect at the time of construction or fails to conform to these standards, whether or not the use or development was first commenced in compliance with the local ordinance.

(l) *Single-family home* means a building which contains no more than one kitchen or cooking facility. An exterior barbecue does not constitute a cooking facility for the purposes of this regulation.

(m) *Undeveloped property* means property which has not been altered from its natural state with the exception of dune protection measures such as snow fencing, beach nourishment, dune grass planting, or other approved biological or ecological sand-enhancing or stabilization methods.

(n) *Zoning authority* means the Town of Brookhaven, the Town of Islip, the Village of Saltaire, the Village of Ocean Beach and/or any other legally incorporated village or political subdivision hereafter created and the officials authorized by local ordinance to make rulings and determinations on zoning in said towns and villages.

[56 FR 42790, Aug. 29, 1991, as amended at 62 FR 30235, June 3, 1997]

§ 28.3 Boundaries: The Community Development District; The Dune District; The Seashore District.

(a) *Generally*. The boundaries of the Seashore are described in the Act, as amended, and are delineated on the official boundary maps OGP-0002, dated June 1964, and amended by OGP-0004, dated May 1978. The maps are available for inspection at the Seashore headquarters. There are three districts: The

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Community Development District, the Seashore District, and the Dune District.

(b) *The Community Development District.* (1) The seventeen communities which comprise the Community Development District are set out below with their respective west/east boundaries.

(i) Lighthouse Shores—Kismet Park

West Boundary: 100 feet west of the west line of West Lighthouse Walk.

East Boundary: 80 feet east of the east line of Pine Street.

(ii) Seabay Beach

West Boundary: Approximately 94 feet west of the west line of Seabay Walk.

East Boundary: Approximately 94 feet east of the east line of Seabay Walk.

(iii) Saltaire

West Boundary: 185 feet west of the west line of West Walk.

East Boundary: 85 feet east of the east line of East Walk.

(iv) Fair Harbor

West Boundary: 333 feet west of the west line of Cedar Walk.

East Boundary: The east line of Spruce Walk.

(v) Dunewood

West Boundary: The east line of Spruce Walk.

East Boundary: 85 feet east of the east line of East Walk.

(vi) Lonelyville

West Boundary: 85 feet east of the east line of East Walk.

East Boundary: 100 feet east of the east line of Raven Walk.

(vii) Atlantique

West Boundary: 80 feet west of the west line of Sea Breeze Walk.

East Boundary: 80 feet east of the east line of East End Walk.

(viii) Robbins Rest

West Boundary: The west line of Compass Walk.

East Boundary: 113 feet east of the east line of Sextant Walk.

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(ix) Fire Island Summer Club—
Corneille Estates

West Boundary: 100 feet west of west line of Schooner Walk.

East Boundary: 100 feet east of east line of Frigate Roadway.

(x) Ocean Beach

West Boundary: 7 feet west of the west line of Surf Road.

East Boundary: 2 feet east of the east line of Surf View Walk.

(xi) Seaview

West Boundary: East line of Surf View Walk.

East Boundary: 200 feet east of Laurel Avenue.

(xii) Ocean Bay Park

West Boundary: 90 feet west of the west line of Superior Street.

East Boundary: 100 feet East of the east line of Cayuga Street.

(xiii) Point O'Woods

West Boundary: 100 feet east of the east line of Cayuga Street.

East Boundary: Western boundary of Sunken Forest Preserve.

(xiv) Cherry Grove

West Boundary: The west line of West Walk.

East Boundary: Approximately 100 feet east of the east line of Ivy Walk.

(xv) Fire Island Pines

West Boundary: Approximately 150 feet west of the west line of Sandy Walk.

East Boundary: Approximately 120 feet east of Sail Walk.

(xvi) Water Island

West Boundary: The west line of Charach Walk.

East Boundary: Approximately 100 feet east of the east line of East Walk.

(xvii) Davis Park

West Boundary: 90 feet west of the west line of Eider Duck Walk.

East Boundary: 90 feet east of east line of Whalebone Walk.

(2) The northern boundary of the communities listed in paragraph (b)(1) of this section is the mean high water line on the south shore of the Great South Bay.

(3) The southern boundary of the communities listed in paragraph (b)(1) of this section is the mean high water line on the south shore of Fire Island.

(c) *The Seashore District.* The Seashore District is comprised of all portions of the lands and waters within the boundary of the Seashore which are not included in the Community Development District with the exception of the headquarters facilities at Patchogue and the William Floyd Estate at Mastic.

(d) *The Dune District.* The Dune District extends from the mean high water line to 40 feet landward of the primary natural high dune crest, as defined on Fire Island National Seashore Map #OGP-0004 and on Suffolk County Property Maps, section numbers 491-498 (Islip), 002 (Ocean Beach), 002-004 (Saltaire), and 985.70-987 (Brookhaven), as mapped in November 1976 or as subsequently remapped. Map overlays of the Dune District are available for inspection in the Office of the Superintendent of the Seashore. The Dune District overlaps portions of the Community Development District and the Seashore District.

§28.4 Severability.

The invalidation of any provision of this part 28 by any court of competent jurisdiction shall not invalidate any other provision thereof.

Subpart B—Federal Standards and Approval of Local Ordinances

§28.10 Permitted and prohibited uses.

(a) *The Community Development District—(1) Permitted uses.* (i) The construction, alteration, expansion, movement, reconstruction, and maintenance of a detached building which is used principally as a single-family home, church, school, or community facility; as an accessory structure; or as an office for a professional occupation, as defined in approved local ordinances is permitted. Reconstruction of non-conforming uses is permitted in accordance with §28.11. A professional office may be maintained only incidental to a residential use and shall be utilized by a person residing on the premises.

(ii) A commercial or industrial use in continuous and unchanged operation

since September 11, 1964 is permitted. Any change in use of a commercial or industrial use since September 11, 1964 including construction, expansion, or conversion of an existing structure or a change in type, mode or manner of operation constitutes a new commercial or industrial use and may be permitted subject to the approval of the local zoning authority and review by the Superintendent.

(iii) A commercial or industrial use initiated after September 11, 1964 constitutes a new commercial or industrial use and may be permitted with the approval of the local zoning authority and review by the Superintendent. Any change in use of a commercial or industrial use approved by a local zoning authority after September 11, 1964, including construction, expansion, or conversion of an existing structure, or a change in type, location, mode or manner of operation, shall constitute a new commercial or industrial use and may be permitted with approval of the local zoning authority and review by the Superintendent.

(2) *Prohibited uses.* (i) The construction or expansion of an apartment building or other building with multiple dwelling units or conversion of an existing building into a multiple family home is prohibited.

(ii) The construction or expansion of a guest house with cooking facilities, or conversion of an existing structure to a guest house with cooking facilities is prohibited.

(iii) The subdivision of land into lots which are less than 4000 feet, or that do not meet the requirements of the applicable approved zoning ordinance is prohibited.

(iv) The rezoning of an area zoned residential to commercial or industrial without review by the Secretary is prohibited.

(b) *The Seashore District—(1) Permitted uses.* (i) The alteration, expansion, movement, and maintenance of privately-held "improved property" used as a single-family home or as an accessory structure is permitted. Reconstruction is permitted in accordance with §28.11.

(ii) Any use consistent with the purposes of this Act, which is not likely to cause significant harm to the natural