

CLWUP – 2a
(CZM #1)
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VIRGIN ISLANDS DEVELOPMENT LAW

SECTION 1. Establishment of the Virgin Islands Development Law

Title 29 V.I.C. is hereby amended to add a new chapter 3 to be entitled "The Virgin Islands Development Law" (VIDL) and to renumber the remaining sections accordingly.

SUBCHAPTER I. Title and General Provisions

Section 221. Title

This chapter and the regulations issued pursuant to the authority hereinafter granted by this chapter shall be known and referred to as the Virgin Islands Development Law.

Section 222. Legislative Findings, Goals, Objective and Intent

(a) Findings

The Legislature hereby finds and declares that:

- (1) the coastal zone, constitutes a distinct and valuable natural resource of vital importance to the people and economy of the Virgin Islands;
- (2) the protection of the natural and scenic resources of the coastal zone is of vital concern to present and future residents of the Virgin Islands;
- (3) title to certain submerged and filled lands surrounding the Virgin Islands has been conveyed in trust to and is held in trust by the Government of the Virgin Islands for the benefit of the people of the Virgin Islands;
- (4) the shorelines and trustlands of the Territory provide a constant source of food and recreation to, and enhance all aspects of the lives of the people of the Virgin Islands, and the public has made frequent, uninterrupted and unobstructed use of the shorelines and trustlands throughout Danish and American sovereignty;
- (5) the impacts of development on the trustlands of the Virgin Islands is of paramount importance to the people of the Virgin Islands;
- (6) the preservation of the ecological balance of the coastal zone and the prevention of its deterioration and destruction is vital to the promotion of public safety, health and welfare, and to the protection of public and private property, wildlife, ocean resources and the natural environment;
- (7) improper development of the coastal zone and its resources has resulted in land use conflicts, erosion, sediment deposition, increased flooding, gut and drainage fillings, decline in productivity of the marine environment, point and non-point

source pollution and other adverse environmental effects in and to the lands and waters of the coastal zone, and has adversely affected the beneficial uses of the shorelines and trustlands by the people of the Virgin Islands;

- (8) the present system of regulatory controls in the Virgin Islands affecting the coastal zone consists of fragmented laws and regulations which, when taken together, do not constitute a comprehensive or adequate response to the needs of the people of the Virgin Islands to protect and to effect the best use of, the resources of the coastal zone;
- (9) a two-tier system of development regulation does not provide an effective means of managing the impacts on the integrated ecological units of the Virgin Islands coastal zone;
- (10) there exists no comprehensive program for the overall management, conservation and development of the resources of the coastal zone, for the prevention of encroachment on natural areas in the coastal zone by urbanized developments and for the avoidance of irreversible commitments of coastal zone resources that provide short-term benefits at the cost of adverse effects on the long-term productivity and amenity of the coastal zone environment; and
- (11) an integral component of the Comprehensive Plan mandated by 3 VIC 402 (c) is a Comprehensive Land and Water Use Plan along with its implementation mechanisms.

(b) **Goals**

The Legislature hereby determines that the basic goals of this law are to:

- (1) protect, maintain, preserve, enhance and restore, the overall quality of the environment in the coastal zone, the natural and man-made resources therein, and the scenic and historic resources of the coastal zone for the benefit of residents of and visitors to the Virgin Islands;
- (2) promote economic development and growth in the coastal zone while managing:
 - (A) the impacts of human activity, and
 - (B) the use and development of renewable and nonrenewable resources so as to maintain and enhance the long-term productivity of the coastal environment;
- (3) assure priority for water-dependent and water-related development and uses over other types of development and uses along the Territory's shorelines by reserving areas suitable for industrial marine facilities,

commercial marine facilities and recreation;

- (4) assure the orderly, balanced utilization and conservation of the resources of the coastal zone, taking into account the social and economic needs of the residents of the Virgin Islands;
- (5) preserve, protect and maintain the trustlands and other submerged and filled lands of the Virgin Islands so as to promote the general welfare of the people of the Virgin Islands;
- (6) preserve what has been a tradition and protect what has become a right of the public by ensuring that the public, individually and collectively, has and shall continue to have the right to use and enjoy the shorelines and to maximize public access to and along the shorelines consistent with constitutionally protected rights of private property owners;
- (7) promote and provide affordable and diverse public recreational opportunities in the coastal zone for all residents of the Virgin Islands through acquisition, development and restoration of areas consistent with sound resource conservation principles;
- (8) conserve ecologically significant resource areas for their contribution to marine productivity and value as wildlife habitats, and preserve the function and integrity of reefs, marine meadows, salt ponds, mangroves, and other significant natural areas;
- (9) maintain or increase coastal water quality through control of erosion, sedimentation, runoff, siltation and sewage discharge;
- (10) consolidate the existing regulatory controls applicable to uses of land and water in the coastal zone into a single unified process consistent with the provisions of this chapter, and coordinate therewith the various regulatory requirements of the United States Government; and
- (11) promote public participation in decisions affecting planning and development in the United States Virgin Islands.

(c) Objective

The primary objective of the Virgin Islands Development Law is to establish criteria and standards to properly manage the development of land and water that will achieve the goals of the Comprehensive Land and Water Use Plan (CLWUP) for the Territory.

(d) Intent

It is the intent of the Legislature of the United States Virgin Islands that the criteria and

standards established by the Virgin Islands Development Law reflect and express a sense of community value toward the Territory's physical environment, including the appearance and arrangement of uses for the conducting of business and industry, and the building of homes and other activities necessary for the Territory's well-being.

Section 223. Land Use Policies

- (a) It is further the intent of the Legislature of the United States Virgin Islands to promote and implement the "Guidelines for the Development of a Long-Range Comprehensive Plan for the United States Virgin Islands" adopted by Executive Order No. 333-1991 on May 17, 1991. The goal for land and water use in these guidelines is to: "[a]chieve a quality living environment through a well-planned mix of compatible land and water uses, while preserving the integrity of the natural environment." The objectives to attain this goal are:
- (1) establish a system for the effective management and utilization of land resources;
 - (2) preserve and conserve land resources for economic, social and community uses;
 - (3) achieve a pattern and intensity of development which best utilizes land resources; and
 - (4) achieve, through preservation, conservation and redevelopment practices, an enhancement of the positive qualities and character of established communities in the Virgin Islands.
- (b) It is further the intent of the Legislature of the United States Virgin Islands that the Zoning Districts established by this law be implemented in accordance with the CLWUP, whereby the location of each district has been made with reasonable consideration to the character of the district and its particular suitability to accommodate new growth and development.

Section 224. Purpose and Scope

The purpose of this law is to establish standards, procedures and minimum requirements to achieve the following general intentions and purposes of the Government of the United States Virgin Islands.

- (a) To establish regulatory procedures and standards for review and approval of all proposed development in the Territory.
- (b) To foster and preserve public health, safety, comfort and welfare; and to aid in the harmonious, orderly, aesthetically pleasing and socially beneficial development of the Territory, in accordance with the Comprehensive Land and Water Use Plan.
- (c) To adopt a development review process that is:

- (1) efficient, and fiscally prudent in terms of time and expense;
 - (2) effective, in terms of addressing the natural resource and public facility impacts of any proposed development, while also protecting and improving the quality of life in the Territory;
 - (3) equitable, in terms of consistency with established regulations and procedures, respecting the rights of all property owners, and considerate of the interests of the residents of the Territory;
 - (4) sustainable, in terms of its ability to maintain the quality of life valued by the community;
 - (5) adequate, in terms of its ability to address existing deficiencies in the process; and
 - (6) politically viable, in terms of its acceptability to policy makers.
- (d) To implement the Comprehensive Land and Water Use Plan for the Territory by:
- (1) establishing regulations and conditions governing the construction, erection, and use of buildings and other structures and the use of land and water;
 - (2) securing safety from natural and/or man-made hazards;
 - (3) lessening automobile congestion of the streets;
 - (4) providing for adequate light and air;
 - (5) preventing the overcrowding of land and water;
 - (6) avoiding undue concentration of population and facilitating the adequate provision of transportation, potable water, sanitary sewage disposal, schools, parks, and other public services of the Territory;
 - (7) dividing the land and water of the Territory into Zoning Districts, defining certain terms, designating the uses and intensities thereof that are permitted in the different districts, and providing lot size and other dimensional and density requirements;
 - (8) establishing performance standards that apply to all new development, as well as the redevelopment of all land and water in the Territory;
 - (9) expanding the authority of the Coastal Zone Management Commission (CZMC), including the powers and duties of said Commission;

- (10) continuing the Board of Land Use Appeals and redefining its powers, duties, and appeals procedures;
- (11) defining the functions of the Virgin Islands Department of Planning and Natural Resources with respect to the administration and enforcement of this law; and
- (12) providing penalties for violations of this law.

Section 225. Establishment of Zoning Districts

The Territory of the Virgin Islands of the United States, consisting of the islands of St. Thomas, St. Croix, and St. John, and all of the other islands within the jurisdiction of the Territorial Government, are hereby divided into seven (7) land-based districts and five (5) water-based districts (not all of which are necessarily found on each of the islands), as follows:

- Intensity District A -- Agriculture
- Intensity District 1 -- Conservation
- Intensity District 2 -- Low Intensity
- Intensity District 3 -- Moderate Intensity
- Intensity District 4 -- High Intensity
- Intensity District 5 -- Urban
- Intensity District 6 -- Industrial
- Intensity District 1W -- Waterfront: Conservation
- Intensity District 2W -- Waterfront: Low Intensity
- Intensity District 3W -- Waterfront: Moderate Intensity
- Intensity District 4W -- Waterfront: High Intensity
- Intensity District 6W -- Waterfront: Industrial

There is no Intensity District 5W.

Section 226. Establishment of Zoning Maps

- (a) The boundaries and identification of the Zoning Districts established by this law are shown on the Zoning District Maps, which are filed in the Office of the Lieutenant Governor, with copies in the offices of the Department of Planning and Natural Resources. Such maps are hereby declared to be part of this law as fully as if set out herein.
- (b) No building, land, or water shall be used, and no building shall be erected or altered except in conformity with the standards herein prescribed for the district designated and identified on the Zoning District Map in which such building, land, or water is located.
- (c) The Zoning District Maps shall consist of two (2) identical sets at the time of the adoption of this law. One (1) copy shall be identified as the "original copy" and shall be kept in the Office of the Lieutenant Governor. The second copy shall be identified as the "amendment copy" and shall be kept up-to-date by the Department with all subsequent

amendments and changes in zoning district boundaries and zoning designations by substituting an amended map for the original map in the "amendment copy". Any law amending any zoning district map shall be identified by number and date of adoption in the applicable database and on the maps so amended.

(d) Interpretation of Zoning District Maps

- (1) Zoning district boundaries are shown as heavy solid lines on the Zoning District Maps and may be superimposed on lighter lines designating estate boundaries, platted lot lines, streets, and other physically identifiable ground features, unless specific distances in feet or angles, bearings, radii, or other references to a boundary line located are specified.
- (2) Zoning district boundary lines, when located in streets or other public rights-of-way or guts shall be interpreted as being located in the centerline of such rights-of-way. When distances expressed as linear footage are shown between a zoning district and a street, the distance shall be interpreted as being between said boundary line and the center line of said street, unless otherwise specified.
- (3) Boundary lines between zoning districts that are interrupted on the Zoning Map(s) to show street names or other identification numbers shall be interpreted as extending through such identification, unless otherwise specified.
- (4) When the exact location of a zoning district boundary line is not clear, it shall be determined by the Commissioner, with due consideration given to the location as indicated by the scale of the Zoning District Maps. When, for any reason, the streets or alleys as they actually exist on the ground differ from the depiction of said streets and alleys as they are shown on the Zoning District Map(s), the Commissioner may apply the district designations on the Map(s) to the streets on the ground in such manner as to conform to the intent and purpose of this law.
- (5) Where a zoning district boundary line shown on the Zoning District Map(s) divides a lot of record at the time of the adoption of this law, the standards applying to the District that allows the higher intensity of land use activity shall be construed as extending to not more than seventy-five (75) feet beyond the district boundary line.

Section 227. Construction and Interpretation of Language and Definitions

(a) Rules for Construction and Interpretation of Language

The following rules of construction and interpretation apply to the text of this law.

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this law

and any caption, illustration, summary table, or illustrative table, the text shall control.

- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for" includes "arranged for", "designed for", "constructed for", "erected for", "maintained for" or "occupied for".
- (7) The word "person" includes an individual, a corporation, a partnership, an incorporated or unincorporated association, or any other similar entity.
- (8) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:
 - (A) "and" indicates that all the connected items, conditions, provisions, or events shall apply;
 - (B) "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination; and
 - (C) "either/or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (9) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (10) Any meanings or interpretations of words or terms defined in V.I.C. Title 29, sections 221-298, shall be construed to have the meanings and definitions defined in this section. This legislative intent applies to any conflict involving statutory law, administrative rules or regulations published by the territory of the U.S.V.I.

(b) **Definitions**

The following terms or words shall be used in the application, implementation, use, enforcement, and judicial interpretation of V.I.C. Title 29, sections 221-298, United States Virgin Islands Development Law.

- 1) **Abandonment:** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.
- 2) **Abutting:** Having a common border with or being separated from such common border by an alley or easement.
- 3) **Access:** A way or means of approach to provide vehicular or pedestrian physical entrance to a property or a body of water.
- 4) **Accessory Building or Use:** A building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent, or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and (4) is located on the same zoning lot as the principal building or principal use. Accessory buildings include but are not limited to an automobile storage garage, laundry room, garden shelter, hobby room and mechanical room.
- 5) **Accessory Structure:** (See Structure, Accessory)
- 6) **Acre, Gross:** A tract of land consisting of forty-three thousand, five hundred sixty (43,560) square feet. As it relates to density, it is the quotient of the total number of dwelling units divided by the overall size of a site in acres.
- 7) **Action:** A vote by a quorum of Committee members, Commission members, or members of the Board of Land Use Appeals upon a motion, proposal, resolution or order, whether or not resulting in a collective decision or determination by a majority of those voting members present. "Action" also means a decision by the Commissioner when exercising his authority under this law.
- 8) **Addition:** (to an existing building): Any construction that increases the size of a building such as a porch, attached garage or carport, or a new room or wing.
- 9) **Adjacent:** That which lies near or close to, not widely separated or necessarily touching.
- 10) **Adjoining:** That which is joined or united, and actually touching.
- 11) **Administrative Hearing:** An oral proceeding before a hearing officer consisting of argument, trial or both.
- 12) **Agency:** Any department, agency, authority, commission or instrumentality of the Government of the Virgin Islands.
- 13) **Aggrieved Person:** Any person, including the applicant, who, in connection with

any decision or action of the Committee or Commissioner, either appears in person or through representatives at a public hearing of the Committee on said application, or prior to said decision or action informs the Committee or Commissioner in writing of the nature of his concern, or who for good cause is unable to do any of the foregoing, or who is a property owner within five hundred (500) feet of a proposed major development or two hundred fifty (250) feet of a proposed minor development.

- 14) **Agricultural Structure:** A facility designed primarily for the storage of agricultural products, plants, animals, feed or other agricultural products or components.
- 15) **Agriculture or Agricultural Use:** The production, keeping, or maintenance, for sale, lease, or personal use, of plants or animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of animals; bees and apiary products; trees and forest products; fruits of all kinds, including bananas, nuts, and berries; vegetables; nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program.
- 16) **Airport:** Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.
- 17) **Alley:** A generally narrow vehicular or pedestrian right-of-way, affording a secondary means of access to abutting or adjacent property, but not intended for general traffic circulation.
- 18) **Alterations:** Any change, addition, or modification of type of occupancy; any change in the structural members of a building such as walls, partitions, columns, beams, girders; or any change which may be referred to herein as "altered" or "reconstructed".
- 19) **Amusement Park:** A facility, primarily outdoors, that may include various devices for entertainment, including rides, booths for the conduct of games or sales of items, buildings for shows and entertainment, restaurants and souvenir sales. The term Amusement Park shall in no way be construed to include video/game arcades.
- 20) **Anchor Store/Tenant:** The largest retail establishment or major tenant within a shopping center, which draws customers, and thereby generates business for surrounding stores or tenants.
- 21) **Anchoring:** The temporary securing of a vessel to the bottom of a water body

solely by the resistance of an anchor or anchors which are dropped from the vessel, and which are carried aboard as regular equipment when underway.

- 22) **Annex:** To add on, append, or attach one building to another or one piece of property to another.
- 23) **Anti-Transpirant:** A protective coating, generally applied to plant materials prior to or immediately after transplanting, that reduces water loss through the leaf surface.
- 24) **Apartment House:** A building containing three or more dwelling units, each with one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit.
- 25) **Appeal:** A written request for a review of any decision, determination or interpretation of any provision of this law or any regulations promulgated thereunder by the Commission or any of its Committees, the Commissioner, or the Board of Land Use Appeals.
- 26) **Applicant:** Any person who has a valid, existing legal interest and, on his own behalf or through an authorized agent or representative, submits an application for development.
- 27) **Aquaculture:** The regulation and cultivation of water plants and animals for human use or consumption.
- 28) **Aquifer:** A formation on, group of formations, or part of a formation that contains sufficient saturated permeable material to yield economical quantities of water to wells and springs.
- 29) **Aquifer Recharge Area:** A body of permeable materials that collects precipitation or surface water and transmits it to the aquifer.
- 30) **Arcade:**
- Game/Video:** Any establishment, room, place, or business location in which there are available to the public more than three (3) coin or token operated amusement devices or where a fee is charged for the operation of such devices.
- Structural:** A permanently covered continuous area or passageway at ground level, open to a street, plaza, open space, or building, which is accessible and open to the public.
- 31) **Archaeological site:** A location wherein exists material evidence of past human life and culture that is older than fifty (50) years, including burials of human beings.

- 32) **Archaeological specimen:** Any item, relic, remain, object artifact or other evidence of prehistoric, historic or cultural, archaeological or anthropological nature that has scientific, historic or cultural value as an object of antiquity.
- 33) **Architecturally Integrated Development:** A group of buildings or structures, including the site and landscape development that produces a distinctive character.
- 34) **Area, Buildable:** (See Buildable Area)
- 35) **Area, Minimum Building:** Total of all roofed or undercover area of the principal building.
- 36) **Areas of Particular Concern (APC):** Areas recommended by the Coastal Zone Management Commission and approved by the Legislature that require special and more detailed planning analyses, and the preparation of special plans and implementation mechanisms, and as delineated in the Coastal Zone Management Program of the U.S. Virgin Islands.
- 37) **Areas of Potential Effects:** The geographic area or areas within which an undertaking may cause changes in the character or use of an identified historic property.
- 38) **Areas of Preservation and Restoration (APR):** Areas recommended by the Coastal Zone Management Commission and approved by the Legislature for which specific procedures are established to preserve or restore their conservation, recreation, ecological or aesthetic values.
- 39) **Area of Shallow Flooding:** A designated "AO" or "AH" Zone on the Territory's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- 40) **Area of Special Flood Hazard:** The land in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year.
- 41) **Arterial Road:** A principal or minor vehicular right-of-way, which connects urban areas and major traffic generators to collector roads and provides for the highest level of travel mobility.
- 42) **Arterial, Major:** A highway designed to carry heavy volumes of traffic to minor arterial and collector road routes within the highway traffic system (e.g. Veterans Drive on St. Thomas and Melvin Evans Highway on St. Croix).

- 43) **Arterial, Minor:** A highway designed to carry moderate volumes of traffic between collector road and major arterial routes within the highway traffic system (e.g. Julian Jackson Highway on St. Thomas and Queen Mary Highway (Centerline Road) on St. Croix).
- 44) **Assessment:** An estimation or determination of the significance, importance, or value of land, buildings, or a proposed development activity.
- 45) **Automobile Laundry (Car Wash):** A building, or portion thereof, containing facilities for washing automobiles utilizing mechanical devices.
- 46) **Automobile Service Station:** A building or structure designed or used for the retail sale or supply of fuels (stored only as prescribed by existing legal regulations), lubricants, air, water and other operating commodities for motor vehicles or boats; and which may include space and facilities for the installation of such commodities on or in such vehicles, and space or facilities for the maintenance or servicing of motor vehicles or boats. This term does not refer to establishments where the primary use of the premises is for body repair, painting, refinishing, steam cleaning and rust proofing, or high speed washing of motor vehicles or boats.
- 47) **Automotive Repair Shop:**

Minor Repair: A retail sales and service establishment that shall include only those repairs able to be effected within one working day, such as brake repair, engine tune-ups, oil changes, lubrications, front end alignments, and the like. No outdoor sales, repair or service work shall be allowed. Repair services of a major nature, including but not limited to engine or transmission overhauls or bodywork shall not be included within this definition. Outdoor storage or display of vehicles, parts, equipment, or tires shall not be included within this definition. The service or repair of trucks or other similar vehicles which exceed a one-ton rated capacity shall be prohibited. No body-damaged vehicle or vehicle components exposed to view from a public roadway shall be permitted.

Major Repair: A retail sales and service establishment that provides for the painting, repainting, or retouching and/or major mechanical repairs and adjustments of motor vehicles such as engine overhauls, transmission overhauls, and the like which usually require more than one (1) working day for service. No outdoor sales, repair or service work shall be allowed. Outdoor storage or display of vehicles, parts, equipment, or tires shall be prohibited. No body-damaged vehicle or vehicle components exposed to view from a public roadway shall be permitted.

Paint or Body Shop: A building or other structure used for painting, repainting, or retouching, and/or major non-mechanical repairs and

adjustments of motor vehicles.

- 48) **Auto Wrecking:** The collecting and dismantling or wrecking of used motor vehicles or trailers, or the storing, selling, or dumping of dismantled, partially dismantled, obsolete, or wrecked motor vehicles or their parts.
- 49) **Awning:** Any roof-like structure cantilevered, or otherwise entirely supported from a building for the purpose of decoration or shielding a doorway or window from the elements.
- 50) **Bakery:** An establishment engaged primarily in the retail sale directly to the consumer of products such as breads, cakes, pies, pastries, etc., which are baked or produced and sold on premises.
- 51) **Bar and/or Rum Shop:** Any premises wherein alcoholic beverages are sold at retail for consumption on the premises, and minors are excluded therefrom by law. It shall not mean premises wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of said beverages comprises less than twenty-five percent (25%) of the gross receipts.
- 52) **Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year, the one hundred-year flood.
- 53) **Base Flood Elevation:** The height above mean sea level expected to be reached by the one hundred-year flood.
- 54) **Beach:** An area of sand, gravel, pebbles, coral rubble or similar unconsolidated material that extends from the line of low tide, landward to where there is a clearly defined change from the unconsolidated material to consolidated material.
- 55) **Bed and Breakfast Inn:** A dwelling, or portion thereof, where overnight lodging rooms and a morning meal are provided. The operator of the inn shall live on the premises or on an adjoining lot.
- 56) **Bedroom:** A room other than a kitchen, dining room, living room, bathroom, or closet, which is marketed, designed, or otherwise likely to function primarily for sleeping.
- 57) **Billboard:** A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises or any use of premises wherein it is displayed or posted.
- 58) **Block:** The property abutting one side of a street and lying between the two (2) nearest intersecting streets, or between the nearest such street and unsubdivided acreage, watercourse or body of water; or between any of the foregoing and any other barrier to the continuity of development.

- 59) **Board:** The Board of Land Use Appeals
- 60) **Boarding House:** A building where lodging or lodging and meals are provided for compensation. The operator of the boarding house shall live on the premises or on an adjoining lot.
- 61) **Breakwater:** A structure of rock, concrete, or other material, either fixed or floating, designed to protect beaches, property, and harbor areas from wave action.
- 62) **Breezeway:** A roofed, open-sided passageway connecting two (2) separate structures, or two (2) separate portions of the same structure, or another building.
- 63) **Buffer, Perimeter Landscape:** A continuous area of land, required to be set aside along the perimeter of a lot, in which landscaping is used to provide a transition between uses and/or to reduce the environmental, aesthetic, and other impacts of one type of land use or activity upon another.
- 64) **Buffer Area:** A landscaped area intended to separate and obstruct the view of two adjacent land uses or properties from one another and limit impacts such as noise, light, odor and other negative elements.
- 65) **Buildable Area:** The space remaining after the minimum open space requirements of this law have been met.
- 66) **Building:** Any structure having a roof, supported by columns or walls and intended for the shelter, housing, or enclosure of any person, animal, process or goods.
- 67) **Building, Accessory:** (See Accessory Building)
- 68) **Building, Elevated:** (See Elevated Building)
- 69) **Building, Nonconforming:** (See Nonconforming Building or Use)
- 70) **Building, Principal:** A building in which is conducted the principal use of the lot on which it is situated.
- 71) **Building Front:** The exterior wall of a building that faces a front lot line of the lot, which faces a roadway.
- 72) **Building Height:** (See Height of Building)
- 73) **Building Line:** A line established, in general, parallel to the front street line between which and the front street line no part of a building shall project, except

as otherwise provided in this law.

- 74) **Building Permit:** The document or certificate issued by the Commissioner which verifies adherence to all applicable development regulations and gives permission to the applicant to proceed with the actions for which the permit was requested.
- 75) **Building Site:** A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.
- 76) **Building Support Structure:** Any structure that supports floor, wall or column loads, and transmits them to the foundation. The term shall include beams, grade beams, or joists, and includes the lowest horizontal structural member exclusive of piles, columns, or footings.
- 77) **Bulk:** The term used to describe the size of buildings or other structures, and their relationship to each other and to open areas and lot lines.
- 78) **Bulkhead:** A structure of timber, concrete, steel, rock or similar substance erected parallel to a shoreline for erosion control purposes.
- 79) **Business Service:** An establishment primarily engaged in rendering services to other business establishments on a fee or contract basis, not involving the sale of any goods or commodities available on the premises, and not dispensing a personal service. Business service establishments include activities such as real estate, insurance, accounting or bookkeeping, financial institutions, management or consulting firms, or other similar uses.
- 80) **Canopy:** A rooflike structure made of any material, which projects from the wall of a building and overhangs a public right-of-way.
- 81) **Capital Improvement:** Any new or expanded physical facilities that are relatively large in size and expensive, and with relative long-term usefulness, such as schools, highways, public sewer and water systems, parks or the purchase of land for a public building or use.
- 82) **Capital Improvement Program:** A government schedule of permanent improvements budgeted to match the government's financial resources. The Capital Improvement Program is usually projected five years in advance and updated annually.
- 83) **Carrying Capacity:** The maximum number of units that can be accommodated by a facility without reducing the efficiency of that facility. Carrying capacity is used to measure the ability of a facility to accommodate more units. For

example, the carrying capacity of a roadway is the maximum number of vehicles that can pass over a given section of a lane in one direction during a given time period. For recreation areas, the carrying capacity is the number of persons that can utilize the elements (play equipment, basketball courts, benches, etc.) at any given point in time.

- 84) **Car Wash:** (See Automobile Laundry)
- 85) **Carport:** Space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls.
- 86) **Casino:** One or more locations or rooms in which casino gaming is conducted in accordance with the provisions of Virgin Islands Code, Title Thirty-two, Chapter 21.
- 87) **Casino Simulcasting:** The simultaneous transmission by picture of horse races conducted at race tracks to casinos, and parimutuel wagering at those gambling establishments on the results of those races.
- 88) **Cay:** A small off-shore island.
- 89) **Cellar:** A portion of a building having more than one-half (1/2) of its height below ground level.
- 90) **Cemetery:** A place for the burial or interment of the dead.
- 91) **Census of Population and Housing:** The official count of the population, its age, sex, and social and economic characteristics, conducted on a decennial basis by the Bureau of the Census of the U.S. Department of Commerce.
- 92) **Certificate of Occupancy:** The official certification that a premise conforms to the provisions of this law (and the Building Code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure or portion thereof cannot be occupied.
- 93) **Channel, Drainage:** A large natural or constructed waterway, ordinarily lined to speed, control, and conduct the flow of stormwater runoff (not to be confused with a sea or bay channel).
- 94) **Church/House of Worship:** A building or structure wherein persons regularly assemble for religious worship, is specifically designed and used for such purpose, and is maintained and controlled by a religious body organized to sustain public worship.
- 95) **Cistern:** A facility used to store water. Although it is not considered a structure,

for purposes of this law, the overflow invert shall be at or above the base flood elevation.

- 96) **Clinic:** An establishment where patients who are not lodged overnight are admitted for examination and treatment by one (1) person or group of persons licensed as a physician, dentist, chiropractor, therapist, or other similar health related professional.
- 97) **Club, Private:** (See Private Club)
- 98) **Club:** Buildings or facilities owned or operated by a corporation, association, person or persons for a social, educational, fraternal, civic, religious, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.
- 99) **Clubhouse:** A building used to house a club or social organization, not conducted for private profit and not an adjunct to, operated by, or in connection with a public tavern, bar, cafe or other public place.
- 100) **Cluster Development:** A division of land into lots for use as single and/or two-family attached and/or detached building sites, where said lots are arranged into groups having area and yard measurements less than that required in the tables of dimensional and density requirements for various Intensity Districts.
- 101) **Coastal High Hazard Area:** The area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a Flood Insurance Rate Map as Zone "V1- 30", "VE", or "V".
- 102) **Coastal Waters:** The sea, as that term is defined herein, as well as those waters adjacent to the shorelines, which contain a measurable quantity or percentage of seawater including, but not limited to, harbors, bays, lagoons.
- 103) **Coastal Zone:** All land and water areas of the Territory of the Virgin Islands extending to the outer limits of the territorial sea.
- 104) **Coastal Zone Management Program:** The Program prepared by the Virgin Islands Department of Planning and Natural Resources for the management of the Coastal Zone of the Virgin Islands and submitted by the Governor of the Virgin Islands to the U.S. Department of Commerce pursuant to section 306, subsection (c), paragraph 4 of the Federal Coastal Zone Management Act of 1972 (P.L. 92-583).
- 105) **Collector Road:** A road that provides for traffic movement between major or minor arterial and local or residential streets, and direct access to adjacent properties. This road serves the internal traffic movement within a geographic sub area.

- 106) **Commercial Dock:** A dock or pier that is used to produce income, and which includes any dock or pier not described herein as a private dock.
- 107) **Commercial Dredging:** The extraction of sand or any material that could be used as aggregate from the coastal waters which is sold in its original state, or as some derivative material, or which does not come within the definition of non-commercial dredging.
- 108) **Commercial Use:** The use of any structure or property for a purpose directly related to the sale of goods, or the furnishing of services of any kind for profit by the owner, lessee, or licensee.
- 109) **Commercial Vehicle:** Any vehicle of any nature that is used for hire or for profit.
- 110) **Commission:** The Virgin Islands Coastal Zone Management Commission as continued and expanded by this law.
- 111) **Commissioner:** For the purposes of this law, the appointed government official responsible for and authorized to be in charge of the Department of Planning and Natural Resources, or his authorized representative.
- 112) **Common Area:** The total area not designed for rental to tenants and which is available for common use by all tenants or groups of tenants and their guests, including such areas as parking lots and their appurtenances, lobbies, malls, sidewalks, landscaped areas, public rest rooms, truck and service facilities, etc.
- 113) **Community Center:** A place, structure, area, or other facility used for and providing social, fraternal, religious and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.
- 114) **Community Garage:** (See Garage, Community)
- 115) **Compatible Use:** A use that is capable of existing in harmony with other uses situated in its immediate vicinity.
- 116) **Completeness (of a Permit Application):** The information, reports, and documents submitted by the applicant that address or discuss each of the areas required by the application form and/or as a result of the preapplication meeting. Completeness does not mean that the information, reports, and documents submitted are sufficient or adequate to assess the impact of the proposed development on the environment, but simply that the requested information, reports, and documents have been submitted.

- 117) **Comprehensive Land and Water Use Plan:** The official formulation of the uses of land and water, including the assumptions and rationale for arriving at the determinations. This plan is intended to serve as a policy guide for decision-making relative to zoning and development in the United States Virgin Islands.
- 118) **Concept Plan:** A preliminary plan for the development of property, indicating contour lines; any significant existing natural features, such as rock outcropping and stands of trees; proposed building layouts with approximate square footage of floor area; proposed off-street parking areas and, if required, off-street loading areas; and the proposed internal (to the lot) circulation system.
- 119) **Condominium:** A form of ownership of property where the purchaser normally acquires title to a part of a building and/or a portion of land, and an undivided interest in the common areas and facilities; as distinguished from a cooperative, where the purchaser usually acquires stock that represents his interest in the property. Where the building so acquired consists of bedrooms with individual baths or combined bedrooms and living rooms with individual baths and/or has separate entrances for each unit, each unit shall be considered a separate dwelling unit or a separate hotel room for the purposes of this law.
- 120) **Confectionery:** An establishment engaged solely in the preparation and production of candy products for direct retail sale to the consumer on premises.
- 121) **Conservation Areas:** Environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance, or character.
- 122) **Consistency:** The obligation of federal agencies under section 307 of the Coastal Zone Management Act (P.L. 92-583), to ensure that their activities and the activities that they support are compatible with the policies of the Virgin Islands Coastal Zone Management Program.
- 123) **Construction:** The erection, alteration, or extension of a structure.
- 124) **Contiguous:** Lands are contiguous if they actually adjoin each other and share a common boundary for a distance of at least fifty percent (50%) of the length of such common boundary. Lands separated by water bodies, streets, alleys, roadways, other rights-of-way, or lands which share less than a fifty percent (50%) common boundary are not considered to be adjoining and, therefore, shall not be considered as lying contiguous to each other.
- 125) **Contour:** A line drawn on a map or chart connecting points of the same elevation.
- 126) **Convalescent Home:** (See Nursing, Rest, or Convalescent Home)

- 127) **Convenience Store:** Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared food, such as salads, for off-site consumption.
- 128) **Conversion:** The change of land use or purpose to which a structure or building is put.
- 129) **Corner Lot:** (See Lot, Corner)
- 130) **Court:** An open, unoccupied space on the same lot, and fully enclosed on at least three (3) adjacent sides by walls of the buildings.
- 131) **Covenant:** A written agreement between individuals dealing with density, size, height of buildings, setbacks, yard requirements, right-of-ways, easements and other matters concerning the use of property.
- 132) **Coverage, Ground:** (See Lot Coverage)
- 133) **Cul-de-sac:** A minor street having only one (1) means of vehicular access to another street and terminating at its other end in a circular-shaped turn around. This definition of cul-de-sac shall in no way be interpreted to include a dead-end street.
- 134) **Cultural property:** A structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance to the Virgin Islands.
- 135) **Culvert:** A transverse drainage pipe or drainage structure that channels under a street, driveway or other obstruction in the drainage way.
- 136) **Curb Cut:** An indentation or depression through or into a raised curb forming a driveway or walkway.
- 137) **Curb Level:** The level of the established curb in front of a building measured at the center of such front. Where no curb elevation has been established, the mean elevation of the finished lot grade immediately adjacent to a building shall be considered the "curb level."
- 138) **Data Recording Techniques:**
- (1) The data recording techniques outlined in the Secretary of the Interior's "Standard and Guidelines for Archaeology and Historic Preservation"; and
 - (2) Any other data recording technique adopted by the State Historic Preservation Office.

- 139) **Data Recovery Operation:** An undertaking authorized by a valid permit from the State Historic Preservation Officer, which may include:
- (1) The disturbance or removal of submerged antiquities or other historic or cultural properties that lie within any navigable waters that are within three miles of the mean low-tide watermark of any shoreline of the United States Virgin Islands; and
 - (2) The disturbance and removal of any archaeological or paleontological specimens from a historical, cultural or archaeological site.
- 140) **Dead-End Street:** A street having only one (1) means of vehicular access with the other end simply terminating, and no provision made for the turning of motor vehicles, other than using driveways on property to facilitate these movements.
- 141) **Decision (of the Commission, one of its Committees, or the Commissioner):** Written notification to an applicant that his permit application has been approved or denied.
- 142) **Dedication:** The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of a less than fee-simple interest, including an easement.
- 143) **Deed:** A written instrument under seal by which an estate in real property is conveyed by the grantor to the grantee.
- 144) **Density:** The number of persons residing or the amount of dwelling units or gross floor area developed per unit of land area.
- 145) **Department:** The Department of Planning and Natural Resources (DPNR). The term is used interchangeably with the term "Commissioner" and shall be applied according to the text.
- 146) **Deputy State Historic Preservation Officer:** A representative of the State Historic Preservation Officer, designated to act on his behalf.
- 147) **Derelict Vessel:** A vessel that has been abandoned, forsaken or disabled beyond repair.
- 148) **Determination (of the Board of Land Use Appeals):** Written notification to the issuing authority and the aggrieved party that the decision of the Committee or Commissioner has been affirmed or nullified.
- 149) **Developer:** Any person, firm, partnership, association, corporation, company, or organization of any kind, engaged in any type of man-made change of improved or unimproved land.

- 150) **Development:** Any activity involving, requiring or consisting of the placement, erection, enlargement or removal of any fill, solid material or structure on land, in or under the water; discharge or disposal of any dredged material or of any liquid or solid waste; grading, dumping, removing, dredging, mining, or extraction of any materials, including mineral resources; bulkheading; driving of pilings; clearing of vegetation or alteration of land for any purpose or use; production of livestock; subdivision of land; construction, reconstruction, removal, demolition or alteration of the size of any structure; removal of coral; the construction of roads or streets; alteration of the shoreline; or any other land disturbing activity. Development shall not be defined or interpreted to include any improvements made in the interior of any structure or any gardening or maintenance landscaping activities.
- 151) **Development, Substantial:** With regard to projects that have been initiated, substantial development shall constitute at least ten percent (10%) of the total expected cost to complete the project as it was approved. Development shall also be considered to be substantial if the developer of an approved project has secured financing for the project and can demonstrate, in writing, his financial commitments to the project in question.
- 152) **Discharge to Groundwater:** Treated or untreated wastewater, stormwater leachate, leachate from a solid waste facility, or leaked product generated by the construction or operation of an installation and discharging directly or indirectly to groundwater.
- 153) **District, Zoning or Intensity:** Any portion of the islands of St. Croix, St. John or St. Thomas and all other properties within the jurisdiction of the U.S. Virgin Islands within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited as set forth in this law, and within which certain yards and other open spaces are required, and within which certain lot areas are established, and within which a combination of such aforesaid conditions are applied.
- 154) **Dock:** A floating or stationary structure whose primary purpose is the berthing of vessels.
- 155) **Dormitory:** A building whose primary purpose is to provide sleeping quarters and sanitary facilities and not more than one common kitchen for the convenience of the occupants.
- 156) **Drainage:** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation, and/or prevention or alleviation of flooding.

- 157) **Drainage Channel:** (See Channel, Drainage)
- 158) **Dredge, Non-Commercial:** (See Non-Commercial Dredging)
- 159) **Dredging, Commercial:** (See Commercial Dredging)
- 160) **Drive-In or Drive-Through Facility:** An establishment that, by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive services or obtain goods, while remaining in their motor vehicles.
- 161) **Driveway:** A private road that gives access to property abutting a private or public thoroughfare.
- 162) **Dual Front:** A building designed or constructed so as to present the appearance of having two (2) fronts.
- 163) **Dwelling:** A building occupied or intended to be occupied exclusively for residential purposes.
- 164) **Dwelling, Attached:** A single family dwelling having any portion of each of two (2) walls in common with adjoining single family dwelling units.
- 165) **Dwelling, Detached:** A dwelling that does not adjoin any other dwelling unit.
- 166) **Dwelling, Multiple-Family:** A building or portion thereof, used or designed as a residence for three (3) or more families living independently of each other, and each with facilities that are used or intended to be used for living, sleeping, and cooking in said building. This definition includes apartment houses but does not include hotels, trailers or mobile home camps or parks or tourist camps.
- 167) **Dwelling, Row:** A group of three (3) or more attached single or two family dwellings.
- 168) **Dwelling, Seasonal:** A dwelling unit not used for permanent residence and not occupied for more than six (6) months in any calendar year.
- 169) **Dwelling, Semi-Detached:** A single family or two family dwelling having any portion of one wall in common with an adjoining single family or two family dwelling unit.
- 170) **Dwelling, Single Family:** A building designed for or occupied exclusively by one (1) family.
- 171) **Dwelling, Two-Family:** A building, designed for or occupied exclusively by two (2) families living independently of each other.

- 172) **Dwelling Unit:** Any room or group of rooms located within a building, and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, and cooking by one (1) family.
- 173) **Dwelling Unit, Efficiency:** (See Efficiency Dwelling Unit)
- 174) **Easement:** A right in the owner of one parcel of land, by reason of such ownership, to use the land of another for a special purpose not inconsistent with those rights enjoyed by the property owner.
- 175) **Easement, Maintenance:** A type of easement which authorizes another party (usually the Government or a public utility) the right to maintain their facilities which pass over or run under the property upon which the easement is to be granted.
- 176) **Ecosystem:** A characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among species, and between them and their environment.
- 177) **Efficiency Dwelling Unit:** A dwelling unit consisting of one (1) room exclusive of bathroom, kitchen, hallway, closets, or dining alcove, whether or not directly off the principal room.
- 178) **Effluent:** Liquid sewage discharged by a collection network, various sewage treatment units, or a sewage treatment plant; also, the liquid, solid, or gaseous product discharged or emerging from a process.
- 179) **Elevated Building:** A non-basement building constructed in such a manner as to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.
- 180) **Elevation:** The vertical distance above or below a fixed reference level; or a flat scale drawing of the front, rear, or side of a building or structure.
- 181) **Emergency:** An unexpected situation that poses an immediate danger to life, health, or property and demands immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.
- 182) **Eminent Domain:** The authority of the U.S. Virgin Islands Government or Federal Government to take, or to authorize the taking of private property for public use with just compensation to the owner.
- 183) **Enforcement Action:** A Notice of Violation issued by the Commissioner to enforce any provision of the Virgin Islands Development Law. This definition

excludes written or oral warnings.

- 184) **Enlargement:** An addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use.
- 185) **Environment:** The physical, social and economic conditions that exist within the area that may be affected by a proposed project.
- 186) **Environmental Assessment and Impact Study:** An informational report prepared by the applicant and made available to public agencies and the public in general that, when required by this law, shall be considered by the Committee prior to its approval or disapproval of an application for a major development permit. Such report shall include detailed information about the existing natural and cultural environment in the area of a proposed development; the impacts that a proposed development is likely to have on natural and cultural resources; an analysis and description of the ways in which the significant adverse impacts of such development are proposed to be mitigated and minimized; and an identification and analysis of feasible alternatives to such development.
- 187) **Erected:** Includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, paving, and the like shall be considered within the definition of "erected".
- 188) **Erosion:** The detachment and movement of soil or rock fragments by water, wind, and/or gravity.
- 189) **Essential Services:** The erection, construction, alteration, or maintenance by public utilities, or Government departments and agencies of underground, surface or overhead gas, communication, electrical, steam, fuel or water transmission or distribution systems, collection, supply, or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or government departments for the general public health, safety, convenience, and welfare.
- 190) **Establishment:** An economic unit, generally at a single physical location, where business is conducted or services are offered.
- 191) **Evidence:** Any map, table, chart, contract, or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent and must support the position maintained.
- 192) **Excavation:** Any disturbance or removal of soil or sand from terrestrial and

marine environments.

- 193) **Facade:** The front of a building, particularly that part of a building facing a street or courtyard.
- 194) **Face or Surface of a Sign:** That side of a sign upon, against, or through which a message is displayed or illustrated on the sign.
- 195) **Family:** One (1) person or group of two (2) or more persons living together and interrelated by bonds of kinship, marriage, mutual consent, or legal adoption, occupying the whole or part of a dwelling as a separate housekeeping unit with a common set of cooking facilities. The persons thus constituting a family may also include foster children, gratuitous guests and domestic servants.
- 196) **Fastland:** Land above and landward of the line of mean high tide, but not including landfill. Fastland is all that land which is not submerged and filled land as herein defined.
- 197) **Feasible:** Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
- 198) **Federal Activity:** Any functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities; and any federal development project involving the planning, construction, modification or removal of public works, facilities, or other structures; and the acquisition, utilization, or disposal of land or water resources, as well as federal agency activities requiring a federal permit and federal assistance to entities other than the Territorial Government.
- 199) **Federal Assistance:** Assistance provided under a federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other forms of financial aid.
- 200) **Federal License or Permit:** Any authorization, certification, approval, or other form of permission that any federal agency is empowered to issue to an applicant. The term also includes renewals and major amendments of federal license and permit activities not previously reviewed under the Coastal Zone Management Act and activities previously reviewed under said Act, which amendment or renewal will cause effects substantially different than those originally reviewed.
- 201) **Fence:** Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
- 202) **Fill:** Earth or any other substance or material, placed for the purposes of raising the ground elevation of a site.

- 203) **Filled Lands:** (See Submerged and Filled Lands).
- 204) **Final Plat:** The final map of a proposed subdivision that is presented to the Department of Planning and Natural Resources, if approved, is filed and recorded with the Recorder of Deeds in the Office of the Lieutenant Governor.
- 205) **Financial Institutions:** Establishments including, but not limited to, banks and trust companies, credit agencies, investment companies, brokers and dealers of securities and commodities, and other similar uses.
- 206) **Flea Market:** An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used for sale to the public, but not to include private garage sales.
- 207) **Flood, Base:** (See Base Flood)
- 208) **Flood, One Hundred Year:** The highest level of flooding that, on average, is likely to occur once every one hundred (100) years (i.e. that has a one percent (1%) chance of being flooded each year).
- 209) **Flood, Regulatory:** A flood that is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular water course. The regulatory flood generally has a flood frequency of approximately one hundred (100) years, as determined from an analysis of floods on a particular water course and other water courses in the same general area.
- 210) **Flood Hazard, Special Area:** (See Area of Special Flood Hazard)
- 211) **Flood Hazard Boundary Map (FHBM):** An official map of the Territory, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone "A".
- 212) **Flood Insurance Rate Map (FIRM):** An official map of the Territory, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the U.S. Virgin Islands.
- 213) **Flood Insurance Study:** The official report provided by the Federal Emergency Management Agency which contains flood profiles, as well as the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- 214) **Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

- 215) **Flooding, Shallow Area:** (See Area of Shallow Flooding).
- 216) **Floodplain Area having Special Flood Hazard:** That maximum area of the floodplain that, on average, is likely to be flooded once every one hundred (100) years (i.e. that has a one percent (1%) chance of being flooded each year).
- 217) **Floodplain or Flood-Prone Area:** A land area adjoining a river, stream, watercourse, ocean, bay or pond, which is likely to be flooded.
- 218) **Floodway:** The channel of any watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- 219) **Floor:** The top surface of an enclosed area in a building (including basement), i.e., the top of a slab in concrete slab construction or the top of wood flooring in wood frame construction. The term does not include cisterns or the floor of a garage used primarily for the parking of vehicles and where openings are installed to allow the free passage of water.
- 220) **Floor Area:** The sum of the gross horizontal areas of all of the floors of all buildings on the lot, measured from the exterior faces of exterior walls or from the center line of walls separating two buildings.
- 221) **Floor Area, Usable:** Any floor area within the outside wall of a building, exclusive of areas in cellars, basements, unfinished attics, garages, open porches, and accessory buildings.
- 222) **Funeral Home:** A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.
- 223) **Gade:** The Danish name for street.
- 224) **Garage:** A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, or storing motor vehicles internally and enclosed within the building.
- 225) **Garage, Community:** A garage used for the storage of vehicles for occupants of lots in the same or adjacent block or blocks, and provides only incidental services to such vehicles as are stored therein.
- 226) **Garage, Parking:** A building, or portion of building, or area beneath a building or structure, except those described as a private garage, used only for the parking of automotive vehicles.

- 227) **Garage, Private:** An accessory building used primarily for the storage of self-propelled vehicles for the use of occupants of a lot on which such building is located with a capacity of not more than three (3) motor vehicles. The foregoing definition shall be construed to permit the storage on any one (1) lot within such garage, for the occupants thereof, of not more than one (1) commercial vehicle.
- 228) **Garage, Public:** Any premises, except those described as a private or community garage, used principally for the storage of automobiles or other motor vehicles, for remuneration, hire, or sale, where any such vehicle may also be equipped for operation or repaired.
- 229) **Governmental Use:** Public land areas and facilities which are utilized for administration and operation of government business which house personnel, records, equipment and the like belonging to the territorial or federal government, special district, or agency.
- 230) **Grade, Highest Adjacent:** (See Highest Adjacent Grade)
- 231) **Grade:** The established grade of the street or sidewalk as prescribed by the Department of Public Works. Where no such grade has been established, the grade shall be the average computed by a licensed land surveyor at the sidewalk at the property line. Where no sidewalk exists, the grade shall be established in the same manner on the street adjacent to the property line.
- 232) **Greenbelt:** A parcel or parcels of land set aside and restricted from development or dedicated to the public for the purpose of enhancing the quality of life in the area.
- 233) **Greenhouse:** An enclosed building, permanent or portable, which is used for the growth of small plants.
- 234) **Groin:** Shall have the same meaning as "jetty," or a structure of rock, concrete, steel, or other material designed to modify or control sand movement along a shore, or a barrier built out from the shoreline whose purposes include the protection of the land from erosion and control of sand movement.
- 235) **Gross Acre:** (See Acre, Gross)
- 236) **Gross Floor Area:** The sum of the total areas taken on a horizontal plane of a floor or several floors of a building measured between the outside face of the exterior walls, exclusive of areas open and unobstructed to the sky.
- 237) **Ground Cover:** Plants, other than turf grass, normally reaching an average maximum height of not more than twenty-four (24) inches at maturity.
- 238) **Ground Coverage:** (See Lot Coverage)

- 239) **Ground Floor Area:** The square footage area of a building within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, exterior stairways, secondary stairways, and drive-through teller lanes or walk-up windows of financial institutions only. Ground floor area is the total area used in determining the percentage of lot coverage.
- 240) **Groundwater:** Water that fills all of the unblocked voids of underlying material below the ground surface which is the upper limit of saturation, or water which is held in the unsaturated zone by capillarity.
- 241) **Group Home:** A dwelling maintained or used to provide the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.
- 242) **Guesthouse:** (See Hotel and Guesthouses)
- 243) **Gut:** A natural or constructed waterway or any permanent or intermittent stream.
- 244) **Gutter:** A constructed waterway, usually along a street curb, to collect and conduct street surface water.
- 245) **Habitable Room:** A room occupied by one or more persons for living, eating or sleeping purposes. It does not include toilets, laundries, serving and storage pantries, corridors, cellars, and spaces that are not used frequently or during extended periods. It also does not include kitchens or kitchenettes.
- 246) **Hazard Area, Coastal:** (See Coastal High Hazard Area)
- 247) **Health Care Facility:** An establishment primarily engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists, and other health practitioners; medical and dental laboratories; out-patient care facilities; blood banks; and oxygen and miscellaneous types of medical supplies and services.
- 248) **Health Club:** Gymnasiums (except those associated with educational institutions) private clubs (athletic, health, or recreational), reducing salons, and weight control establishments.
- 249) **Hearing Officer:** A person appointed by the Commissioner to conduct an administrative proceeding.
- 250) **Hedge:** A landscape barrier consisting of a continuous, dense planting of shrubs.
- 251) **Height of Building:** The vertical distance from the lowest finished floor, not

including a cellar or cistern, to the highest point of the roof surface of a flat roof; the deck line for a mansard roof; or the mean height level between the eaves and ridge for hip, gabled, and gambrel roofs.

- 252) **Heliport (Limited Uses):** Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency services.
- 253) **Heliport (Unlimited Use):** Any landing area used by helicopters which includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service, storage, tie-down areas, hangars, and other necessary buildings and open spaces.
- 254) **Highest Adjacent Grade:** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- 255) **Highway:** A major roadway or thoroughfare with intersections at grade and providing direct access to abutting property, primarily designed for through traffic, on a continuous route, and not having access control.
- 256) **Historic District:** A geographically defined area possessing a significant concentration or continuity of landmarks, improvements, or landscaped features united by historic events or by physical development, and which area has been designated as an historic district; said district may have within its boundaries noncontributing buildings or other structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual character of the district.
- 257) **Historic Property:** Any and all terrestrial and marine archaeological sites included in or eligible for inclusion in the Virgin Islands Registry of Historic Places, including any and all artifacts, objects and other remains related to and located on such sites.
- 258) **Home Occupation:** Any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly subordinate to the use of the dwelling for dwelling purposes, and does not change the character thereof. A home occupation includes the consultation by such professionals as a physician, dentist, lawyer, architect, engineer, clergyman or real estate broker, and excludes such uses as a cafe, and animal hospital. A home occupation will not display or advertise any commodity or service for sale on the premises, nor will it involve the employment of more than one (1) person, other than a member of the immediate household.
- 259) **Homeowners Association:** A private, nonprofit corporation of homeowners of a fixed area constituted for the purpose of owning, operating, and maintaining various common properties.

- 260) **Horticulture:** The science and art of cultivating flowers, fruits, vegetables, or ornamental plants.
- 261) **Hospital:** A facility providing primary health services and medical or surgical care to persons, primarily inpatients suffering from illness, disease, injury, deformity, other abnormal physical or mental condition, chemical or substance dependency or abuse, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities, and training facilities.
- 262) **Hostel:** A lodging place, inn, or supervised shelter primarily catering to specific age groups (e.g., youth hostel, elder hostel).
- 263) **Hotels and Guesthouses:** Any building containing guest rooms used, or intended to be used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor, or otherwise. It does not include buildings in which sleeping accommodations are provided for persons who are harbored or detained to receive medical, charitable, or other care or treatment, or provided for persons who are involuntarily detained under legal restraint.
- 264) **House, Apartment:** (See Apartment House)
- 265) **House, Boarding:** (See Boarding House)
- 266) **Houseboat:** Any type of watercraft used as a floating abode that fails to meet the definition of a vessel as defined in this law, or that is used solely for a permanent or temporary abode and not for transportation and navigational purposes. This term does not include boats, yachts, or sailing craft with hulls designed, built and used primarily for transportation and navigational purposes.
- 267) **Household:** (See Family)
- 268) **Human Remains:** A human body or human skeletal remains that was buried, entombed or sepulchered.
- 269) **Illuminated Sign:** Any sign that has characters, letters, figures, designs or outlines illuminated by electric lights, or from a remote position.
- 270) **Impacts, Cumulative:** Impacts on the environment that result from the incremental impacts of an action when added to other past, present and reasonably foreseeable future actions.
- 271) **Impacts, Secondary:** Impacts on the environment which result from a consequence of an initial development.

- 272) **Impervious Surfaces:** Those surfaces which do not absorb water and consist of all buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt on a lot.
- 273) **Improvement:** Any permanent addition to real property that is designed to make the property more useful or to increase its value, such as buildings or paved driveways.
- 274) **Improvement, Substantial:** (See Substantial Improvement)
- 275) **Include:** To contain or comprise without limitation, to consider as part of a whole, or to take into account.
- 276) **Incompatible Use:** A use that is incapable of existing in harmony with other uses situated in its immediate vicinity.
- 277) **Industrial Park:** A planned, coordinated development of a tract of land with two (2) or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site circulation, parking, utility needs, building design and orientation, and open space.
- 278) **Industry, Heavy:** A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in the storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.
- 279) **Industry, Light:** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including process, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
- 280) **Infill Development:** The addition of new housing or other buildings on scattered vacant sites in a built-up area.
- 281) **Infrastructure:** The roads, sewage system (including collection lines, treatment plants, and outfalls), water system (including distribution lines, wells, and desalination plants), police and fire protection services, health care facilities, schools, electricity system, and solid waste disposal facilities of the U.S. Virgin Islands.
- 282) **Institutional Use:** A non-profit corporation or establishment for public use.
- 283) **Intent:** The objective toward which any section of this law strives or for which it exists.

- 284) **Interpretation:** Within the context of this law, shall mean a finding or determination made by the Commissioner as to the meaning or intent of any word, phrase, or section contained herein.
- 285) **Intersection:** The point at which two or more roadways join at an angle, whether or not one crosses the other.
- 286) **Intervention:** The procedure by which a third person not originally a party to the administrative proceeding, but claiming an interest in the subject matter, comes into the case in order to protect his rights or enter his claim.
- 287) **Irrigation System:** A permanent, artificial system designed to transport and distribute water to plants.
- 288) **Jetty:** Shall have the same meaning as "Groin," or a structure of a rock, concrete, steel or other material designed to modify or control sand movement along a shore whose purpose include the protection of the land from erosion and control of sand movement.
- 289) **Junk Yard:** A lot, land, or structure, or part thereof, used primarily for the collection, temporary storage, and sale of waste paper, rags, scrap metal, or discarded metal, other than that used for building materials.
- 290) **Kindergarten, Pre-School:** A school designed to provide day-time care or instruction for four (4) or more children from ages two (2) to five (5) years, and operated on a regular basis for the purpose of serving as an orientation for elementary school by accustoming the children to a new social environment through varied experiences planned to develop manipulative skills, motor coordination, and social awareness.
- 291) **Kitchen:** A space used or designed to be used for the preparation of food.
- 292) **Kitchen, Central:** A common space used or designed to be used for the preparation of a large quantity of food to the tenant population of the establishment in which such kitchen is located.
- 293) **Laboratory:** A place devoted to experimental study, such as testing and analyzing. The manufacturing of any product or products is not considered to be part of this definition.
- 294) **Land Clearing:** The exposure of earth by the removal of vegetative cover of any kind.
- 295) **Land Use:** The employment of a site or holding so as to derive revenue or other benefit from it; also the delineation by the Department of the utilization to which

land may be put so as to promote the most advantageous development of the U.S. Virgin Islands.

- 296) **Landfill:** The depositing of soil, sand, gravel, shell, or other materials on or in any land area, or the artificial alteration of water levels for land reclamation purposes.
- 297) **Landscape Plan:** A detailed drawing to scale illustrating the type, size, location and number of plants to be placed in a development.
- 298) **Landscaping:** Shall consist of any of the following or combination of material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms; and non-living durable material commonly used in the landscape, such as, but not limited to, rocks, pebbles, mulch, sand, walls or fences, benches, fountains, paving for pedestrian use (but excluding paving for vehicles), exterior landscape accent lighting fixtures, and any other item of exterior landscape furniture.
- 299) **Laundromat:** An establishment providing washing, drying or dry cleaning machines on the premises for rental use to the general public.
- 300) **Laundry:** A retail sales and service establishment that provides for the drop-off of clothing, linens, and the like to be washed, dry cleaned, ironed, mended, or repaired with no machines or equipment for the dyeing of same, and specifically no machines or equipment available for self-service directly by the consumer.
- 301) **Livestock:** Domestic animals, such as horses, cattle, pigs, or sheep, but not to include poultry, kept for their services or raised for food and other products.
- 302) **Loading Space:** An off-street space on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
- 303) **Local Road or Street:** A roadway or street having the single purpose of providing access to adjacent properties. Average speeds and volumes are low, and trips are usually of a short duration to connect with either a major or minor collector road.
- 304) **Long-Term Anchoring:** Any anchoring for more than fourteen (14) days within a six-month period in any one location. For the purposes of this definition, location means any bay or harbor within the Territorial waters of the Virgin Islands.
- 305) **Lot:** A plot, parcel, or tract of land occupied or proposed to be occupied by a building and the accessory building or uses customarily incidental to it, including at least such open spaces as are required by this law and such open spaces as are

arranged and designed to be used in connection with such building and having its principal frontage on a street or place or with access thereto.

- 306) **Lot, Building:** Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling unit grouping and its accessory buildings, together with such open spaces as are required under the provisions of this law, having not less than the minimum area and width required by this law for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of this law to be adequate as a condition of the issuance of a development permit.
- 307) **Lot, Corner:** A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street and any two (2) chords of which form an angle of one hundred twenty (120) degrees or less. The point of intersection of the street lot lines is the "corner". In the case of a corner lot with curved street lines, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.
- 308) **Lot, Interior:** A lot other than a corner lot.
- 309) **Lot of Record:** A lot that is part of a subdivision recorded in the Office of the Recorder of Deeds or a lot or parcel described by metes and bounds, the description of which has been so recorded.
- 310) **Lot, Through:** An interior lot having frontages on two (2) parallel streets as distinguished from a corner lot, which has frontages on two (2) perpendicular streets.
- 311) **Lot, Zoning:** A single tract of land located within a single block, which (at the time of filing for a development permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A "zoning lot or lots" may or may not coincide with a lot of record.
- 312) **Lot Area:** The area contained within the boundary lines of a lot.
- 313) **Lot Coverage:** The maximum percentage of the lot that may be occupied by buildings or structures, including accessory buildings or structures.
- 314) **Lot Frontage:** The extent to which a lot extends along a street.
- 315) **Lot Line, Front:** In the case of a lot abutting upon one street, the front lot line shall mean the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this law, have the option of selecting any street lot line as the front lot line, providing that such choice, in the opinion of the Commissioner, will not be injurious to the existing or the desirable future

development of adjacent properties.

- 316) **Lot Line, Rear:** Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular, triangular or gore shaped lot, a line ten (10) feet in length entirely within the lot, parallel to and at the maximum distance from the front lot line of the lot, shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Chief Building Inspector shall designate the rear lot line.
- 317) **Lot Width:** The mean horizontal distance between the side lines, measured at right angles to the side lot line. Where side lot lines are not parallel, the lot width shall be considered as the average distance between such side lot lines.
- 318) **Major Permit:** The permit required for development as provided in section 246 of this law.
- 319) **Mangrove Ecosystem:** An area where the predominant single vegetation type is red mangrove (*Rhizophora mangle*), white mangrove (*Langunculeria racemosa*) or black mangrove (*Avicenia nitida*).
- 320) **Manufactured Home:** A prefabricated structure, transportable in one or more sections that is designed to be used as a dwelling with a permanent foundation and connected to the required utilities.
- 321) **Marina:** A harbor facility for vessels and houseboats, where storage, supplies, repairs, and/or other marine-related goods and/or services are available.
- 322) **Marquee:** (See Canopy)
- 323) **Mean High Water:** The average height of the high waters over a nineteen (19) year period, or for shorter periods of observation, the average height of the high water after corrections are applied to eliminate known variations and to produce the result of the equivalent of a mean nineteen (19) year value. Alternatively, mean high water may be defined as the average height of the high waters as established and accepted by the U.S. Army Corps of Engineers.
- 324) **Mean High Water Line:** The intersection of the tidal plane of mean high water with the shoreline.
- 325) **Mean Low Water:** The average height of the low waters over a nineteen (19) year period, or for shorter periods of observation, the average height of the low waters after corrections are applied to eliminate known variations and to produce the result of the equivalent of a mean nineteen (19) year value. Alternatively, mean low water may be defined as the average height of the low waters as established and accepted by the U.S. Army Corps of Engineers.

- 326) **Mean Low Water Line:** The intersection of the tidal plane of mean low water with the shoreline.
- 327) **Mean Sea Level (MSL):** The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the Flood Insurance Rate Map (FIRM) are referenced. For purposes of this law, the term is synonymous with National Geodetic Vertical Datum (NGVD).
- 328) **Mezzanine:** A floor level between two (2) main floors of a building, usually immediately above the ground floor.
- 329) **Ministorage or Miniwarehouse:** A building or group of buildings consisting of individual storage units not exceeding four-hundred (400) square feet that are leased or owned for the storage of business and household goods or contractor's supplies. These facilities shall not be used for any wholesale or retail operations.
- 330) **Minor Permit:** The permit required for development as provided in section 246 of this law.
- 331) **Mitigation:** The method use to alleviate or lessen the impact of development.
- 332) **Mixed Use Zoning:** Zoning that permits a combination of typically separated uses within a single development. A planned area development is an example of mixed use zoning. Mixed use in an urban context (such as Charlotte Amalie, Christiansted, or Frederiksted) refers to usually a single building with more than one (1) type of activity taking place within its confines. An example of such a type of development could have commercial uses on the ground floor, offices above them, and residential units above the offices. Other combinations of uses may also occur in this type of setting.
- 333) **Mobile Home:** Any dwelling, trailer or unit designed and constructed for living or sleeping purposes that is equipped with wheels or similar devices for the purpose of transporting the unit, and such unit shall be considered a mobile home whether or not the wheels have since been removed and whether or not ultimately set on jacks, masonry blocks or other foundation, with or without skirtings.
- 334) **Mobile Home Park:** A site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.
- 335) **Mobile Home Space:** That portion of land in a mobile home park allotted or designed for accommodation of one (1) mobile home.
- 336) **Modular Home:** A dwelling unit having components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a

permanent foundation.

- 337) **Moor:** To attach a ship, boat, vessel, or other water craft to a stationary underwater device, mooring buoy, buoyed anchor, or dock.
- 338) **Mooring:** The place where a buoyant vessel or houseboat is seasonally attached, fixed, or fastened to a mooring buoy or other similar device that is permanently fastened to a stationary underwater device and which is not carried aboard a vessel as regular equipment when underway.
- 339) **Mooring Buoy:** A floating device or object which is permanently fastened to submerged land or seabed, and to which a vessel may be attached by use of its anchor chain or mooring lines.
- 340) **Mooring Piling:** A post, pillar, piling, or stake used for the purpose of berthing buoyant vessels either temporarily or for a finite period, whether or not used in conjunction with a dock.
- 341) **Mulch:** Non-living, organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.
- 342) **Multiple-Family Dwelling:** (See Dwelling, Multiple-Family)
- 343) **Museum:** An establishment operated as a repository or a collection site of natural, historic, scientific, or literary curiosities, or objects of interest or works of art, not including the regular sale or distribution of the objects collected.
- 344) **National Register:** The National Register of Historic Places, which is the federal listing of historic properties established pursuant to 36 CFR 60.
- 345) **National Register Criteria:** The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for listing in the National Register of Historic Places.
- 346) **Natural Resources Reclamation Fund:** The fund created under Act No. 3404 of the U.S. Virgin Islands Legislature and expressly continued herein.
- 347) **Navigation Buoys:** Floating objects anchored in coastal waters to guide mariners or define areas reserved for swimmers or other specialized uses, and/or to mark the position of submerged objects.
- 348) **Navigable Waters:** All waters belonging to the Government of the United States Virgin Islands that are navigable in fact.
- 349) **Net Developable Area:** (See Buildable Area)

- 350) **Net Floor Area:** The area actually occupied, not including accessory unoccupied areas such as corridors, stairs, closets, thickness of walls, columns, toilet rooms, mechanical areas, or other similar features.
- 351) **New Construction:** Structures for which the "start of construction" commenced on or after the effective date of this law.
- 352) **Night Club:** An establishment that has a capacity for at least thirty (30) persons seated at tables and a bar, employs a bartender and maintains table service, dancing, and/or live entertainment for the guests.
- 353) **Non-Commercial Dredging:** The extraction from the coastal waters of sand or aggregate for use as land fill or disposal without being sold or otherwise used in the exchange of goods or services.
- 354) **Nonconforming Building or Use:** Any building or use of land that does not conform at the effective date of this law to the use, standards, and requirements for the district in which it is situated.
- 355) **Nonconforming Lot:** A lot that does not conform, on the effective date of this law, to the requirements set forth in the appropriate Table of Dimensional and Density Requirements for the specific use intended.
- 356) **Nonconforming Situation:** A situation that occurs when, on the effective date of this law, any existing lot or structure, or use of an existing lot or structure, does not conform to one or more of the standards or requirements applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage or square footage requirements, because structures exceed maximum height limitations, or because the relationship between existing buildings and the land (in matters such as density and setback requirements) is not in conformity with this law.
- 357) **Notice of Violation:** A written notice issued by the Commissioner that accuses a respondent of violation of this law. A notice of violation may assess a civil penalty.
- 358) **Notify:** To inform by either hand delivery or certified mail (except where otherwise specified).
- 359) **Nuisance:** The use of property or a course of conduct that interferes with the legal rights of others and which causes damage, annoyance, inconvenience, or tend to injure the health, safety, or morals of the Territory's residents.
- 360) **Nursery:** An enterprise, establishment, or portion thereof that conducts the retailing or wholesaling of plants grown on the site, as well as accessory items

(but not power equipment such as gas or electric lawn mowers and farm implements) directly related to their care and maintenance. The accessory items normally sold include items such as pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, and shovels.

- 361) **Nursing, Rest, or Convalescent Home:** A home for the care of five (5) or more children, aged, infirmed, or terminally ill persons, or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or for the treatment of injury.
- 362) **Occupancy:** The physical placement of a structure on land, or the utilization of land on a temporary or permanent basis. This shall include existing structures built prior to the enactment of this law, or built prior to Act No. 3667, which do not have authorization by virtue of either a permit issued by the U. S. Department of the Interior or the Department of Planning and Natural Resources.
- 363) **Office:** A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.
- 364) **Office Park:** A tract of land that has been planned, developed, and operates as an integrated facility for at least three (3) separate office buildings and supporting ancillary uses, with special attention given to circulation, parking, aesthetics, and compatibility
- 365) **Off-Shore Cay:** Any feature above sea level subject to the jurisdiction of the Territory of the U. S. Virgin Islands excluding the islands of St. Croix, St. John, St. Thomas, and Water Island.
- 366) **Off-Street Parking:** The minimum off-street, on-site parking of vehicles that shall be provided under the terms of this law.
- 367) **On-Site:** Located on the lot in question, except in the context of on-site detention, when the term means within the boundaries of the development site as a whole.
- 368) **One Hundred (100) Year Flood:** (See Flood, One Hundred Year)
- 369) **One Hundred (100) Year Storm:** A shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent (1%) chance of being equaled or exceeded in any given year.
- 370) **Open Space:** That space on the same lot as the principal building that is either landscaped with shrubs or planted with grass, or set aside in its preexisting state to preserve, conserve or enhance the natural or scenic resources of the area and excludes that portion of the lot which is utilized for off-street parking purpose. Open space also includes any undeveloped areas of the property utilized to satisfy

setback requirements.

- 371) **Open Space, Common:** An area within or related to a development, not 7n individually owned lots or dedicated for public use, but which is designed and intended for the common use and enjoyment of the residents of a development.
- 372) **Open Storage:** (See Storage, Open)
- 373) **Outdoor Sale:** The selling of any goods, material, merchandise, or vehicles for more than twenty-four (24) hours, in an area open to the sky and/or visible from adjacent properties or rights-of-way.
- 374) **Outfall Pipes:** (See Small Intake and Outfall Pipes)
- 375) **Out Parcel:** A tract of land of any size or dimension that is not included in a land development proposal or site plan, and is specifically indicated as such on the proposal or plan.
- 376) **Paleontological Materials:** Fossils and other paleontological specimens, both plant and animal found in archaeological contexts.
- 377) **Paleontological Materials:** Fossils and other paleontological specimens, both plant and animal, found in archaeological contexts.
- 378) **Parcel:** A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.
- 379) **Park:** An area open to the general public and reserved for recreational, educational, cultural, or aesthetic use.
- 380) **Parking Lot:** An off-street facility used for the storage or parking of motor vehicles to provide an accessory service to a commercial, industrial, or residential use.
- 381) **Parking Space:** An area of not less than nine (9) feet wide by eighteen (18) feet long, for each automobile or motor vehicle, such space being exclusive of necessary driving aisles, entrances, or exits, and being fully accessible for the storage or parking of permitted vehicles.
- 382) **Party Wall:** A wall used or adapted for joint service between two (2) buildings or units.
- 383) **Permit:** Any license, certificate, approval, or other entitlement for development or use granted by any public agency.
- 384) **Person:** Any individual, organization, partnership, association, corporation, or

other entity, including any utility, the Government of the U.S. Virgin Islands, the Government of the United States, any department, agency, board, authority, independent or semi-independent instrumentality or commission of such governments, and any officer or governing or managing body of any of the foregoing.

- 385) **Personal Services:** Establishments primarily engaged in providing services involving the care of a person or his personal goods or apparel. Examples include: beauty parlors, shops, or salons; barbershops; reducing or slenderizing studios; electrolysis services; manicurists; and the like.
- 386) **Pier:** A structure of timber or other material built onto or over the trust lands or other submerged and filled lands.
- 387) **Planned Residential Development:** A development of land that is under unified control and is planned and developed primarily for housing purposes either as a whole in a single development operation or in a programmed series of development stages. The development may include streets, other circulation facilities, utilities, buildings, open spaces, and other site features and improvements.
- 388) **Plant Communities:** A natural association of plants that are dominated by one or more prominent species.
- 389) **Plant Nursery:** (See Nursery)
- 390) **Plant Species, Controlled:** Those plant species that tend to become nuisances because of their undesirable growth habits but which, if properly cultivated, may be useful or functional as elements of landscape design.
- 391) **Plat:** A map, plan, or layout of a subdivision of land, indicating the location and boundaries of individual properties.
- 392) **Plat, Final:** That map, plan, or layout of a subdivision of land that is filed after completing the improvements, accompanied by certifications that the improvements have been satisfactorily completed and are recorded.
- 393) **Playground:** An active recreational area with a variety of facilities including equipment for younger children as well as court and field games.
- 394) **Plot:** A parcel of ground containing more than one (1) lot upon which a building and its accessory buildings have been or may be erected.
- 395) **Porch, Open:** A roofed open structure projecting from the outside wall of a building without window, sash, or any other form of permanent enclosure.

- 396) **Potable Water:** Water that is intended for drinking, cooking, or domestic purposes, subject to compliance with Territorial or federal drinking water standards.
- 397) **Preliminary Plat Plan:** The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this law
- 398) **Pre-School Facility:** An educational center or establishment including a kindergarten, that provides primarily instruction, supplemented by daytime care, for four (4) or more children between the ages of two (2) and seven (7) years, and which operates on a regular basis.
- 399) **Preserve Areas:** Vegetative areas required by law to be preserved.
- 400) **Premises:** Land or water area and all buildings and structures thereon.
- 401) **Principal Building:** (See Building, Principal)
- 402) **Principal Use:** (See Use, Principal)
- 403) **Private Clubs:** Organizations that are privately owned and operated by their members and not operated for profit, and which maintain recreational, dining, and/or athletic facilities for the exclusive use of the members and their guests and uses accessory or incidental thereto.
- 404) **Private Dock:** A dock or pier that is used for the private leisure purposes of the residents of a single-family, two-family or multiple-family dwelling unit located on a contiguous shoreline parcel and is not involved in an income producing activity.
- 405) **Private Garage:** (See Garage, Private)
- 406) **Professional Archaeologist:** A person who has a graduate degree in archaeology, anthropology or a closely related discipline or field of study, who has at least one year of full-time professional supervisory or management experience and at least four months supervised post-graduate field and analytical experience, and who has a demonstrated ability to complete archaeological research as evidenced by a master of arts or master of science degree and dissertation. A professional archaeologist must be certified in the appropriate area of expertise by the Society for Professional Archaeologists and meet the standards specified in Title 36 Code of Federal Regulations.
- 407) **Professional Service:** An establishment primarily engaged in rendering services by a person, in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others,

either advising or guiding them in serving their interest or welfare through the practice of an art founded thereon.

- 408) **Public Agency:** The Government of the United States, the Government of the U.S. Virgin Islands or any department, agency, board, authority, independent or semi-independent instrumentality, or commission of either government, and any officer or governing or managing body of any of the foregoing.
- 409) **Public Building:** Any building held, used, or controlled exclusively for public purposes by any department or branch of government without reference to the ownership of the building or of the realty upon which it is situated.
- 410) **Public Garage:** (See Garage, Public)
- 411) **Public Improvement:** Any improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as vehicular and pedestrian circulation systems, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility, and energy services.
- 412) **Public Notice:** The legal advertisement given of an action or proposed action of the Government of the U.S. Virgin Islands or its designee.
- 413) **Public Use:** The use of any land, water, or building by a public agency for the general public.
- 414) **Public Utility:** Any person, firm, corporation, governmental department, or board, duly authorized to furnish under government regulations to the public, electricity, gas, communications, transportation, or water.
- 415) **Quarrying and Associated Activities:** Operations that primarily involve surface mining or quarrying of non-metallic minerals such as dimension stone, crushed and broken stone, including riprap, and sand and gravel pits. Well operations and primary preparation plants of quarried material for construction and other special uses are also included in this definition.
- 416) **Rafts:** Structures that are anchored or moored in the Territorial waters of the U.S. Virgin Islands and serve as supports for swimmers or other uses.
- 417) **Ramp:** (1) A sloping walkway, roadway, or passage used to join and provide a smooth transition between two levels of different elevations; or (2) driveways leading to parking aisles.
- 418) **Ramp, Boat:** Structures (usually paved surfaces) requiring less than 100 cubic yards of fill material and that facilitate the placement into or removal from the water of small boats capable of being carried on trailers which are pulled by other

vehicles.

- 419) **Recreation Area:** Any privately or publicly-owned passive or active park, playground, golf course, access easement, beach or similar facility or area.
- 420) **Recreational Facility:** A place designed and equipped for the conduct of sports and leisure-time activities.
- 421) **Registered Property:** Property having historical, cultural or archaeological value to the United States Virgin Islands that has been placed in the Virgin Islands Registry on either a permanent or temporary basis.
- 422) **Registry:** The Virgin Islands Registry of Historic Places maintained for the purpose of recording historical, cultural and archaeological properties deemed worthy of preservation. Properties located in the United States Virgin Islands that are listed in the National Register of Historic Places shall be automatically listed in the Virgin Islands Registry.
- 423) **Residence:** (See Dwelling)
- 424) **Residential Use:** Use of land or structure thereon, or portion thereof, as a dwelling place for one (1) or more families or households, but not including occupancy of a transient nature such as in hotels, motels, or time-sharing uses.
- 425) **Respondent:** The person alleged to be in violation of this law.
- 426) **Rest Home:** (See Nursing, Rest, or Convalescent Home)
- 427) **Restaurant:** (See Retail Food Establishment)
- 428) **Restrictive, More (Less):** A regulation imposed by this law is more (less) restrictive than another if it prohibits or limits development to a greater (lesser) extent or by means of more (less) detailed specifications.
- 429) **Re-subdivision:** The changing of an existing lot or lots of any subdivision plat previously filed and recoded in the Office of the Recorder of Deeds.
- 430) **Retail Food Establishment:** Any fixed or mobile place or facility at or in which food or beverage is offered or prepared for retail sale or for service. The definition includes restaurants, fast food restaurants, carry out restaurants.
- (A) **Restaurant:** An establishment whose primary business is the sale of food and beverages to patrons for consumption on the premises and whose method of operation includes any of the following:
- (i) Patrons place their order at their table from which

displays (menus) describe the food and beverage available to them.

- (ii) Preparation, service and consumption of food and beverages take place at the establishment.
- (iii) Outside table dining maybe permitted in areas permanently designated for such use, shall be in keeping with the exterior architectural theme of the building, and in no way shall permit the consumption of food or beverages within automobiles.
- (iv) Food and beverages are regularly served to patrons while seated at their table by an employee of the establishment.

(B) **Carry-Out Restaurant.** Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation includes any of the following characteristics:

- (i) Food and beverages are ordered from a limited menu posted in sign form within the primary food service building or on the premises.
- (ii) Foods, frozen desserts, or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.
- (iii) The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
- (iv) The kitchen is in excess of fifty percent (50%) of the total floor area.

(C) **Drive-In Restaurant.** Any establishment where provision is made on the premises for the sale of foods, frozen desserts or beverages to the consumer in automobiles or primarily within a completely enclosed building accommodating at least ninety percent (90%) of the establishment's permitted seating capacity and whose design, method of operation, or any portion of whose business includes

any of the following characteristics:

- (i) Food and beverages are ordered from a limited menu posted in sign form within the primary food service building or on the premises.
- (ii) Foods, frozen desserts, or beverages may be served directly to the customer in a motor vehicle by any means that eliminates the need for the customer to exit the motor vehicle.
- (iii) The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is permitted.
- (iv) The kitchen is in excess of fifty percent (50%) of the total floor area. A restaurant that provides drive-in facilities of any kind in connection with regular restaurant activities shall be deemed a drive-in restaurant for purposes of this law.

(D) **Fast Food Restaurant:** Any establishment whose principal business is sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes any of the following characteristics:

- (i) Food and beverages are ordered from a limited menu posted in sign form within the primary food service building or on the premises.
- (ii) Foods, frozen desserts, or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.
- (iii) The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited and such prohibition is strictly enforced by the restaurateur.
- (iv) The kitchen is in excess of fifty percent (50%) of the total floor area.

- 431) **Retail Sales and Service:** The selling of goods in small quantities directly to the consumer in establishments that provide a service or offer a product to the general public.
- 432) **Retail Sales Area:** The area in square feet devoted exclusively to the sale or display of goods or commodities.
- 433) **Right-of-Way:** A street, alley, or other thoroughfare or easement, whether physically accessible or not, that has been permanently established or dedicated for the passage of persons or vehicles.
- 434) **Rip-Rap Revetments:** A facing made of irregularly placed stones or pieces of boulders or other structures placed on a soil or rock embankment to prevent scouring by weather or water.
- 435) **Roadside Stand:** An area and/or structure, abutting but not within any right-of-way or easement, with no space for customers within the structure itself which has been constructed for the display and sale of goods and commodities.
- 436) **Roadway:** (See Street, Public)
- 437) **Rooming Unit:** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- 438) **Rum Shop:** (See Bar)
- 439) **Scared Site:** A site that is eligible for inclusion in the National Register because of its association with the culture or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community.
- 440) **Salt Pond:** A salt water embayment or lagoon separated from coastal waters by any barrier.
- 441) **Sand Dunes:** Naturally occurring accumulations of sand in ridges or mounds landward of the line of mean high tide on a beach.
- 442) **Scenic Corridor:** A strip of land on each side of a roadway that is generally visible to the public traveling on such route and possessing natural aesthetic significance in the community.
- 443) **Scenic Easement:** An easement, the purpose of which is to limit development in order to protect a view or scenic area.

- 444) **School:** A place for systematic instruction in any branch or branches of knowledge.
- 445) **Screening:** A device or materials used to conceal one element of a development from other elements or from adjacent development. Screening may include walls, beams, or plantings that must be of sufficient mass to be opaque or that shall become opaque after twelve (12) months and shall be maintained in an opaque condition.
- 446) **Sea:** The Atlantic Ocean, the Caribbean Sea and all coastal waters including harbors, bays, coves, channels, estuaries, salt ponds, marshes, sloughs and other areas subject to tidal action through any connection with the Atlantic Ocean or the Caribbean Sea, excluding streams, tributaries, creeks and flood control and drainage channels.
- 447) **Seasonal High Water Line:** The line formed by the intersection of the rising shore and the elevation of one hundred and fifty percent (150%) of the local mean tidal range above mean high water.
- 448) **Seating Capacity:** The actual number of people that can be accommodated in an area based upon the number of seats, or one (1) seat per twenty (20) inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined by the Virgin Islands Building Code.
- 449) **Self-Service Laundry:** (See Laundromat)
- 450) **Setback:** The horizontal distance between the front line, sideline, or rear line of the lot to the front, side, or rear of the building or structure, respectively. Setbacks shall be measured perpendicular to and parallel with property or right-of-way lines. Where any building or structure is not built parallel to any property line, the setback distance shall be measured perpendicular from that part of the building or structure that is closest to the relevant property line.
- 451) **Setback, Center Line:** (See Street Center Line Setback)
- 452) **Shallow Flooding, Area of:** (See Area of Shallow Flooding)
- 453) **Ships Chandler:** A dealer of specific ship and nautical equipment and supplies; however, not to include boat or yacht sales.
- 454) **Shopping Center:** A group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit related in its location, size and type of shops to the trade area which the unit serves.
- 455) **Shoreline:** The area along the coastline of the U.S. Virgin Islands from the

seaward line of low tide, running inland a distance of fifty (50) feet, or to the extreme seaward boundary of natural vegetation which spreads continuously inland, or to a natural barrier, whichever is the shortest distance. Whenever the shoreline is extended into the sea by or as a result of filling, dredging or other man-made alteration activities, the landward boundary of the shoreline shall remain at the line previously established.

- 456) **Short-Term Anchoring:** Any anchoring for up to fourteen (14) cumulative days within any six month period in any one location. For the purposes of this definition location means any bay or harbor within the territorial waters of the Virgin Islands.
- 457) **Shrubs:** Self-supporting woody plants which normally grow to a minimum height of three (3) feet and maximum height of eight (8) feet in the Virgin Islands.
- 458) **Sign:** Anything whatsoever placed, erected, constructed, posted, or affixed in any manner on the ground or to any post, fence, building, or structure for out-of-doors advertising.
- 459) **Sign, Business:** A sign that directs attention to a business, commodity, service, activity or product sold, conducted or offered upon the premises where the sign is located.
- 460) **Sign, Directional:** Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way", and "exit".
- 461) **Sign, Ground:** Any sign, other than a pole sign, in which the entire bottom is in contact with or is close to ground and is independent of any other structure.
- 462) **Sign, Gross Area of:** The "gross area" of a sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such a sign. However, such perimeter shall not include any structural elements lying outside the limits of such a sign and not forming an integral part of the display. If a sign to be erected is intended to have messages on both sides of its surface area that can be viewed by the public, then the total area on both sides shall be included in the calculation of the gross area.
- 463) **Sign, Identification:** A sign on the premises bearing the name of a residential development, the name of a group housing project or of a school, college, park, church or other public or quasi-public facility, or a professional or firm nameplate, and bearing information identifying, but not describing, occupancy of the premises on which such sign is located.
- 464) **Sign, Illuminated:** (See Illuminated Sign)
- 465) **Sign, Occupancy:** A sign on the premises bearing the name or address of the

piece of property, the name of the owner or resident and/or any permitted home occupation, and bearing information pertaining only to the premises on which such sign is located.

- 466) **Sign, Outdoor Advertising:** Any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character, placed for outdoor advertising purposes on the ground or on any wall, rock, post, fence, building or other structure. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner.
- 467) **Sign, Pole:** A sign that is mounted on a free standing pole or other support so that the bottom edge of the sign face is six (6) feet or more above grade.
- 468) **Sign, Portable:** A sign that is not permanently affixed to a building structure nor to the ground.
- 469) **Sign, Projecting:** A sign that is wholly or partly dependent upon a building for support, and that projects more than twelve inches from such building.
- 470) **Sign, Temporary:** A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed to be displayed for a short period of time.
- 471) **Sign, Wall:** A sign fastened to, or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign and that does not project more than twelve inches from such building or structure.
- 472) **Significant Natural Area:** Land and/or water areas of major environmental value, including fish or wildlife habitat areas, valuable biological or natural productivity areas, and unique or fragile ecological units or ecosystems that require special treatment and protection.
- 473) **Single-Family Dwelling:** (See Dwelling, Single-Family)
- 474) **Single Ownership:** Ownership by one or more persons in any form of ownership of a lot or lots partially or entirely in the same ownership.
- 475) **Site Plan:** A graphic and textual presentation of a development proposal in accordance with the appropriate sections of this law.
- 476) **Slope:** (See Grade).
- 477) **Small Intake and Outfall Pipes:** Pipes with an inside diameter not exceeding

eight (8) inches extending from any fastlands or landfill into the sea.

- 478) **Small Private Pier:** A pier that does not exceed eighty (80) feet in length, is not closer than thirty (30) feet to an adjacent pier, does not exceed five hundred (500) square feet in area, and whose use is private.
- 479) **Small Scale Scientific Experiment:** Any scientific experiment that involves or utilizes less than five hundred (500) square feet in area and is made of or uses non-toxic materials.
- 480) **Soil:** The surface layer of the earth, supporting plant life.
- 481) **Soil Removal:** Removal of any kind of soil or earth matter, including top soil, sand, gravel, clay, rock or similar materials or combination thereof, except common household gardening.
- 482) **Soil Survey:** The "Soil Survey of the Virgin Islands of the United States," prepared by the Soil Conservation Service of the U.S. Department of Agriculture in 1970, and any subsequent revisions or updates to said study.
- 483) **Special Flood Hazard, Area of:** (See Area of Special Flood Hazard)
- 484) **Spill:** The unpermitted release or escape of a Regulated Substance directly or indirectly to soils, surface waters, or groundwaters.
- 485) **Start of Construction:** The first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms.
- 486) **State Historic Preservation Officer:** The official of the Government of the United States Virgin Islands who is appointed or designated pursuant to section 101(b)(1) of the National Historic Preservation Act to administer the state historic preservation program.
- 487) **Storage, Open:** The safekeeping of any goods or products in an unoccupied space, open to the sky, for eventual removal not expected within seventy-two (72) hours, or for continuous replacement by same or similar goods or products.
- 488) **Street, Public:** A street affording the principal means of access to abutting property, and dedicated to or maintained by the U.S. Virgin Islands Government or the United States Government; affording the principal means of access to abutting property and with a right-of-way or easement.

- 489) **Street Center Line:** A line midway between the street right-of-way lines or the surveyed and platted center line of a street which may or may not be the line midway between the existing right-of-way lines or pavement.
- 490) **Street Center Line Setback:** The minimum distance measured from the street center line required for the preservation of existing right-of-way and future right-of-way expansion.
- 491) **Street Intersection:** (See Intersection)
- 492) **Street Line:** The dividing line between any street, road or other thoroughfare and the adjacent lots.
- 493) **Street Trees:** Landscape plantings located along or within rights-of-way, that are conducive to the aesthetics and safety of said rights-of-way.
- 494) **Structural Alteration:** Any material or dimensional changes in the structural elements of a building such as bearing walls, columns, beams, and roofs.
- 495) **Structural Trim:** The molding, battens, capping, nailing strips, latticing, and platforms that are attached to a structure.
- 496) **Structure:** Anything constructed or erected which requires permanent location on or in the coastal zone or attachment to something having location on or in the coastal zone. A building is always a structure; a structure may or may not be a building.
- 497) **Structure, Accessory:** A detached, subordinate structure, located on the same lot, the use of which is customarily incidental to that of the main building or to the principal use of the land.
- 498) **Subdivision:** The division or separation of a parcel of land into two (2) or more lots or parcels by means of mapping, platting, conveyance, change, or rearrangement of boundaries. All subdivisions are also developments and shall be in conformance with the Subdivision Regulations of the U.S. Virgin Islands.
- 499) **Submerged Antiquities:** Any artifact, object or specimen of archaeological significance that has remained unclaimed for more than fifty (50) years and is located at or below the mean low-tide watermark in the waters of the United States Virgin Islands. The term does not include vessels, refuse or submerged sites of former habitation.
- 500) **Submerged and Filled Lands:** All lands in the U.S. Virgin Islands permanently or periodically covered by tidal waters up to, but not above, the line of mean high tide, seaward to a line three (3) geographical miles distant from the coastline of

the U.S. Virgin Islands, and all artificially made, filled, or reclaimed lands, salt ponds and marshes, that were formerly, permanently, or periodically covered by tidal waters.

- 501) **Substantial Completion (of Construction):** Any reconstruction, alteration or new construction of a structure in which the cumulative amount of work performed equals or exceeds eighty percent (80%) of the work required by approved plans for such structure.
- 502) **Substantial Development:** (See Development, Substantial)
- 503) **Substantial Improvement:** Any combination of repairs, reconstruction, alteration, or improvements to a structure taking place during the life of a structure, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure. The market value of the structure shall be: (1) the appraised value of the structure prior to the start of the initial repairs or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.
- 504) **Sufficiency (of a Permit Application):** The information, reports, and documents are adequate to assess the impact of the proposed development on the environment.
- 505) **Swale:** A drainage channel formed by the convergence of intersecting slopes.
- 506) **Swimming Buoys:** (Same as Navigation Buoys.) Floating objects anchored in coastal waters to guide mariners or defined areas reserved for swimmers or other water-related uses, and/or to mark the position of submerged objects.
- 507) **Swimming Pool:** Any structure designed for swimming, wading or other aquatic recreational purposes, capable of containing a body of water eighteen (18) inches or more in depth and forty (40) square feet or more of water surface area.
- 508) **Tavern:** An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises, and where sandwiches and snacks are available for consumption on the premises.
- 509) **Temporary Use:** (See Use, Temporary)
- 510) **Terrace:** An open porch without a permanent roof.
- 511) **Territorial Sea:** Waters of the U.S. Virgin Islands extending from the shoreline or off-shore cays to points three (3) nautical miles off shore.
- 512) **Theater:** A building or part of a building, devoted to showing motion pictures, or for dramatic, musical, or live performances.

- 513) **Time-Share:** The use of any residential dwelling unit under which the exclusive right of use, occupancy or possession of such unit circulates among various occupants in accordance with a fixed time schedule on a periodically occurring basis for a period of time established by such schedule.
- 514) **Topography:** The science of drawing accurately on a map lines that represent particular and consistent elevation levels on the land area depicted on said drawing; also, the actual physical surface's relief characteristics.
- 515) **Tower:** A structure that is relatively high for its length and width either standing alone or forming part of another building.
- 516) **Tract:** Used interchangeably with the term "lot," particularly in the context of subdivisions, where one "tract" may be subdivided into several lots.
- 517) **Trailer:** A separate vehicle, not driven or propelled by its own power, but drawn by some independent power; to include any portable or movable structure or vehicle including trailers designed for living quarters, offices, storage, or for moving or hauling freight, equipment, animals, or merchandise of any kind, including boats, boat trailers, swamp buggies, half tracks, and the like.
- 518) **Trailer, House:** (See Mobile Home)
- 519) **Trailer Camp or Park:** (See Mobile Home Park)
- 520) **Trees:** Self-supporting woody plants which normally grow to a minimum height of fifteen (15) feet in the U.S. Virgin Islands.
- 521) **Trim:** (See Structural Trim)
- 522) **Trip:** A single or one-way vehicle movement.
- 523) **Trip End:** The origin or destination of a trip. Each trip has two ends which constitute a two-direction vehicle movement at the origin or destination of the trip.
- 524) **Trip Generation:** The total number of trip ends produced by a specific land or water use.
- 525) **Trustlands:** All submerged and filled lands conveyed pursuant to Public Law 93-435, 88 Statutes 1210, by the United States to the Government of the U.S. Virgin Islands to be administered in trust for the benefit of the people of the U.S. Virgin Islands.
- 526) **Underground Facilities for Transportation of Wastewater from Industrial**

- Chemical Products:** Includes piping, sewer lines, and ducts or other conveyances designed to transport industrial pollutants and contaminants.
- 527) **Underground Storage Facility:** Any enclosed structure, container, tank, or other enclosed stationary device used for the storage or containment of pollutants or contaminants. Nothing in this definition is intended to include septic tanks, enclosed transformers, or other similar enclosed underground facilities.
- 528) **Understory:** The assemblage of natural, low-level, woody, herbaceous, and ground cover species which exist or are proposed to be planted in the area beneath the canopy of a tree.
- 529) **Underwater Transmission Lines or Cables:** Submerged transmission lines transmitting electricity or communication.
- 530) **Unseaworthy:** A vessel itself, or its appliances or appurtenances that are not safe or adequate for the purposes for which they are intended or ordinarily used.
- 531) **Use:** The purpose or activity for which land, water or structure thereon, is designed, arranged or intended, or for which it is occupied or maintained and shall include any manner of performance of such activity with respect to the Performance Standards of this law.
- 532) **Use, Accessory:** (See Accessory Building or Use)
- 533) **Use, Agricultural:** (See Agricultural Use)
- 534) **Use, Commercial:** (See Commercial Use)
- 535) **Use, Non-Conforming:** (See Non-Conforming Building Use)
- 536) **Use, Principal:** The main use of land, water or buildings as distinguished from a subordinate or accessory use.
- 537) **Use, Temporary:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.
- 538) **Undertaking:** Any project, activity or program that has been reviewed and approved by the State Historic Preservation Officer, and that can change the character or use of historic properties located in the affected area.
- 539) **Unmarked Burial Grounds:** A location where human skeletal remains are discovered or believed to exist, but for which there exists no written historical documentation or grave markers.

- 540) **Utility, Public:** (See Public Utility)
- 541) **Variance:** A grant of relief from any dimensional and density or setback requirements of this law that permits development in a manner otherwise prohibited by this law, and where specific enforcement would result in unnecessary hardship.
- 542) **Vegetation, Native:** Any plant species indigenous to the U.S. Virgin Islands.
- 543) **Vehicle:** Any self-propelled conveyance designed and used for the purpose of transporting or moving persons, animals, freight, merchandise, or any substance, and shall include passenger cars, trucks, buses, motorcycles, scooters, and recreational vehicles.
- 544) **Vehicular Use Area:** That portion of a lot that is used by vehicles for access, circulation, parking and loading and unloading. It comprises the total of internal traffic circulation areas, loading and unloading areas, and parking areas.
- 545) **Vessel:** Every description of watercraft or other artificial contrivance, used or capable of being used as a means of transportation on water.
- 546) **Vested Rights:** A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for.
- 547) **Video Sales and Rental:** Commercial establishments engaged in the sale and rental of video equipment, tapes and accessories for home entertainment.
- 548) **Vicinity Map:** A drawing that sets forth the relationship of a proposed subdivision or use to the other nearby developments or landmarks and facilities and services within a prescribed area in order to better locate and orient the area in question.
- 549) **Virgin Islands:** Comprises all land areas and waters, including submerged land to the three-mile limit from the low-tide watermark, under the jurisdiction of the Government of the United States Virgin Islands.
- 550) **Wall, Breakaway:** (See Breakaway Wall)
- 551) **Warehouse:** A building used primarily for the storage of goods and materials.
- 552) **Water Table:** The surface between the vadose zone and the groundwater, which is that surface of a body of unconfined groundwater at which the pressure is equal to that of the atmosphere.
- 553) **Waters, Coastal:** (See Coastal Waters)

- 554) **Water-dependent Development or Use:** Any development or activity which is conducted in or on the coastal waters; or which is conducted on land, but in order to be viable, must be located along the shoreline. Examples include sea-water distillation facilities, marine port facilities, mooring and anchoring, and fishing.
- 555) **Waterway Width:** With respect to any dock or pier to which the measure is applied, the straight line distance from the point at which the center line of the dock or pier intersects the mean high water line, measured to the nearest point on the mean low water line of the opposite shore of the waterway.
- 556) **Well:** A pit or hole sunk into the earth to reach a resource of potable water supply to be used for domestic purposes. For the purpose of this law, irrigation wells and private wells to serve up to fourteen (14) dwelling units are not included in this definition.
- 557) **Wellfield:** A tract of land that contains a number of wells for supplying water.
- 558) **Wetlands:** An area that is inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances, supports a prevalence of vegetation typically adapted for life in saturated soil conditions.
- 559) **Wharf:** A structure built onto or over the trustlands or other submerged and filled lands so that vessels can receive and discharge cargo, products, goods, passengers, etc.
- 560) **Wholesale:** The sale of goods or commodities usually in bulk or large quantities and usually at a lower cost to a retailer for resale. Such sales activity takes place in establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.
- 561) **Yacht Club:** A building or other facility, including dockage, used for the organized gathering of members and guests for the purpose of furthering their interest in small sailing or mechanically propelled vessels used for pleasure cruises or racing.
- 562) **Yard:** An open space of generally uniform width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.
- 563) **Yard, Front:** A yard extending along the full width of the lot and lying between the front line of the lot and side lot lines of the principal building.

- 564) **Yard, Rear:** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
- 565) **Yard, Side:** A yard between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot line, as the case may be, except that on a corner lot the side yard adjacent to a street shall extend the full depth of the lot.
- 566) **Zero Lot Line:** A development approach allowable only as part of an approved planned area or cluster development in which a building is sited on one (1) or more lot lines with no yard. Conceivably, three (3) of the four (4) sides of the building could be on the lot lines. The intent is to allow more flexibility in site design and to increase the amount of open space on the lot.
- 567) **Zone:** Area within which certain uses of land or water are permitted and certain others are prohibited; yards and other open spaces are required; lot areas, building height limits, and other requirements are established; and all of the foregoing being identical for the zone in which they apply (see also, "District").
- 568) **Zone of Protection:** The total area contributing water to a well under a given set of circumstances. The Zone of Protection changes over time in response to changes in the water table or potentiometric surface, well pumpage, and other withdrawals in the vicinity. It is determined by the construction of a flow net based on potentiometric surface contours.
- 569) **Zone of Protection Map:** A map or series of maps showing the location on the ground of the outer limits of the Zone of Protection for present and future public potable water supply wells and wellfields.
- 570) **Zoning District:** (See District, Zoning or Intensity)

Section 228. Zoning Administration

(a) Zoning Administrator; powers and duties

The Commissioner of the Department of Planning and Natural Resources shall be the Zoning Administrator for the United States Virgin Islands, and the Director of the Division of Comprehensive Coastal Zone Protection shall be the Assistant Zoning Administrator for the Virgin Islands and shall serve as the Commissioner's designee under this section. The Commissioner of the Department of Planning and Natural Resources shall administer the zoning provisions of this law and shall have the following duties:

- (1) To receive into the Department of Planning and Natural Resources all

applications for amendment to zoning maps, to make an investigation relative thereto and to forward a report with recommendations thereon to the Legislature.

- (2) To receive into the Department of Planning and Natural Resources all applications for a Planned Residential Development.
- (3) To initiate, direct, and review, from time to time, a study of the provisions of this Comprehensive Land and Water Use Plan, and to make reports thereon.
- (4) To promulgate Rules, Regulations and Procedures from time to time, relating to the Development Law.
- (5) To take appeal from any decision of the Board of Land Use Appeals when his decision has been overruled by the Board.
- (6) To maintain permanent and current records relative to amendment, administration and enforcement of the zoning regulations, including but not limited to all zoning maps, plans, applications, thereof, and shall provide an information service for the public on all matters relating to zoning in the Virgin Islands.
- (7) To examine all applications for building and development permits for the use of land and water and to determine that application and plan submitted conforms to all provisions of this subchapter prior to the issuance of any building, development or other applicable permit.
- (8) To make recommendations to the Legislature of the Virgin Islands with respect to changes, which he deems desirable in the law in order that it may prove a more effective instrument in helping to achieve the goals of the Virgin Islands Comprehensive Land and Water Use Plan.

(b) **General Provisions**

(1) **Conflict with Other Laws and Legal Documents**

This subchapter is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this law are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this law shall govern.

(2) **Permitted Uses**

No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or structure or land be used, designed or arranged for any purpose other than is permitted in the district in which the building or structure or land is located, provided that this law shall not prohibit the continuance of an existing use.

(3) **Minimum Requirements**

The requirements set forth in this law shall be considered to be minimum standards for the purpose of promoting the general public health, safety and welfare of the people of the United States Virgin Islands.

(4) Permits in Conflict with this Law

An approved permit issued prior to the effective date of this law, including grading and excavation, that is in conflict with the provisions of this subchapter shall become void unless actual construction work is underway within one (1) year after the effective date of this law. No extension of permits in conflict with the provisions of this subchapter granted prior to the adoption of this law shall be allowed.

(5) Construction Begun Prior to the Effective Date of this Law

Nothing in this law shall be deemed to require any change in plans, construction, or designated use of any building or structure upon which, prior to the effective date of this law, actual construction was lawfully begun and has been diligently carried on, and provided further that such building or structure shall be substantially completed within two (2) years from the effective date of this law.

(6) Nonconforming Lots

Any lot in a single ownership, which ownership was of record at the time of the adoption of this law, and that does not meet the requirements for yards, courts or other open space, may be utilized, provided the requirements for yard areas, width, depth, and open space are within seventy-five percent (75%) of that required by the terms of this law. The purpose of this provision is to permit reasonable utilization of recorded lots, which lack adequate width or depth, as long as standards can be satisfied.

(7) Erection of More Than One Principal Structure on a Lot

More than one structure containing a permitted or permissible principal use may be erected on a single lot, provided that yard, area, and other requirements of this law shall be met for each structure as though it were on a separate lot.

(8) Permitted Building Area

The principal buildings on any lot or parcel of land shall be erected within the area bounded by the building lines established by setback or yard requirements. An accessory building may be erected within any building area established for the principal building and in required yard areas as may be provided for in this law.

(9) Exceptions to Height Requirements

The height limitations contained in the dimensional and density tables shall not apply to

energy generating facilities utilizing renewable resources, steeples, belfries, cupolas, antennas, water tanks, ventilators, smoke stacks, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy; however, the heights of these structures or appurtenances thereto shall not exceed any height limits prescribed by airspace height zones.

(10) Airspace Height Zones

No structure in the Territory shall exceed any height limitations prescribed by the Federal Aviation Administration or airport zoning regulations within the flight approach zone of airports.

(11) Exceptions to Setback Requirements

In all zoning districts, every part of every required setback shall be open and unobstructed at and above ground level, except as provided for herein or as otherwise permitted in this law.

- (A) Sills shall not project over twelve (12) inches into a required setback.
- (B) Movable awnings shall not project over two (2) feet into a required setback, provided that where the yard is less than four (4) feet in width the projection shall not exceed one-half (0.5) the width of the yard.
- (C) Chimneys, pilasters, roof overhangs, unenclosed balconies and stairways shall not project over three and one-half (3.5) feet into any required side yard.

(12) Accessory Uses and Structures

No accessory uses or structures shall be located in any required setback except as provided for below:

- (A) In Intensity Districts 1, 2, and 3, accessory uses and structures shall not be located in required front or side yards, but may be located in required rear yards, not less than five (5) feet from the rear lot line; provided however, that accessory structures for the housing of persons, such as a cottage, shall not be located in any required minimum front, rear, or side yard setback.
- (B) On double frontage lots or corner lots, accessory uses and structures shall not be located in any required setback abutting the public right-of-way, but may be located not less than five (5) feet from the lot lines of one, but not both required setbacks that abut upon an adjacent lot.
- (C) In all zoning districts, fences, walls, and hedges shall be permitted subject to the requirements of any landscaping rules and regulations promulgated

pursuant to section 276 of this law.

(D) In all zoning districts, rooftop air conditioning and ventilating units shall be so screened as to not be visible from the immediate public right-of-way.

(13) Restoration of Unsafe Buildings

Nothing in this law shall prevent the strengthening or restoring to a safe condition any part of any building declared unsafe by the Department of Planning and Natural Resources or as required by any lawful order.

(14) Building Grades

Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building, but in such a manner as to not cause run-off of surface water to cause injury to adjacent properties.

(15) Guts and Drainage Channels

Any encroachment upon or development of guts or drainage channels is prohibited, unless approved by the Commissioner.

(16) Visibility at Intersections

No wall, fence, sign, shrubbery or trees shall be erected, maintained or planted on any lot, which obstructs or interferes with the visibility of drivers of vehicles on a curve or at any street intersection.

(17) Buildings to be Moved to New Lots

Any building that has been wholly or partially erected shall not be moved and/or placed upon any premises until a permit for such removal shall have been obtained from the Department of Planning and Natural Resources. When moved onto new premises, such building shall conform to all the provisions of this law.

(18) Building Permits Required

No building or other structure shall be constructed, reconstructed, enlarged, converted, erected, moved, added to, structurally altered or demolished without a permit issued by the Department of Planning and Natural Resources. No building permit shall be issued except in conformity with the provisions of this law. This subchapter is intended to supplement, not repeal the provisions of Title 29, Chapter 5 of the Virgin Islands Code.

(19) Heliports

Notwithstanding any law to the contrary, no helicopter landing pad, landing or heliport shall be established without the prior approval of the Department of Planning and Natural Resources and the Virgin Islands Port Authority.

(20) Airports

All airports, airfields, runways, hangers, becons, and other facilities involved with aircraft operations, where permitted, shall be developed in accordance with the rules and regulations of the Federal Aviation Administration and the Virgin Islands Port Authority which agencies shall approve the preliminary plans submitted to the appropriate agencies of the Government of the Virgin Islands, including the Department of Planning and Natural Resources. Such plans shall be submitted to and approved by the Legislature before they become effective. Land beneath all aircraft approach lanes, as established by appropriate aeronautical authorities or airport zoning, which is not part of the airport, shall be so developed as not to endanger safe flight conditions to and from an established airport. This provision is supplemental to any adopted airport zoning plan or law.

(21) Lots, yards and open spaces

No space which for the purpose of a building or dwelling group has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this law may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with yard, court or other open space requirement of or for any other building.

(22) Permitted height, density or bulk

No structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit, density provisions or bulk provisions herein established for the established land use in the intensity district in which the structure is located, except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain a building and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, individual domestic radio, television aerials and wireless masts, water tanks or similar structures may be erected above the height limits prescribed in this law. For the purposes of this section, with the exception of structures in Intensity District 6, no structure may be erected to exceed by more than fifteen (15) feet the height limit of the established land use in the district in which it is located; nor shall such structure have a total area greater than ten (10) percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial purpose other than a use incidental to the principal use of the building.

(23) Lot limitations

For all residential land uses, only the permitted principle dwelling shall be placed on a zoning lot or lot of record, with the exception of parcels of record or excepted parcels which may be so arranged or subdivided as to provide for more principal structures when the land areas allocated to each structure is equal to or greater than the lot area required for the designated land use, and structure and land complies with all other requirements of the land use designation and the district in which it is located. This requirement shall not apply to planned residential developments.

(24) Accessory buildings for Residential Use Designations

For residential use designations, accessory buildings, except as otherwise provided in this law, shall be subject to the following requirements:

(A) Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this subchapter applicable to main buildings.

(B) Where utility easements exists, no accessory buildings shall be built over them.

(C) An accessory building not exceeding one (1) story of fifteen (15) feet in height, may occupy not more than twenty-five (25) percent of a required rear yard plus forty (40) percent of any non-required rear yard, provided that in no instance shall the accessory building exceed the ground floor area of the main building.

(D) Group accessory buildings (such as community garages) may be erected in the rear yard if approved as to location by the Department of Planning and Natural Resources.

(E) When an accessory building is located on a corner lot, the side lot line of which is substantially an extension or continuation of the front lot line of the lot to its rear, said accessory building shall not project beyond the front yard line required on the lot in the rear of such corner lot.

(25) Dwellings in other than main structure

No residential structure other than the main structure shall be erected upon the rear of a lot or upon a lot with other dwellings. This shall not apply to planned residential developments.

(26) Dwellings for Non-Residential Designated Uses

No dwelling shall be erected on any area designated for industrial uses; however, the sleeping quarters of a watchman or caretaker may be permitted.

(27) Usable Open Space

In addition to any and all other requirements set forth in this section for the provision of front, side or rear yards, off-street parking and/or loading, there shall be provided for all multi-family residential designated uses such additional open space as is set forth herein which shall be used for landscaping and which may be not be used for off-street parking or loading purposes.

In addition to any and all other requirements set forth in this law regarding the use of open space, there shall be provided in all multifamily residential developments of nine (9) units or more, recreational facilities which shall occupy at least five (5) percent of that area required for open space on the zoning lot.

SUBCHAPTER II. Tables of Permitted Uses and Dimensional and Density Requirements

Section 229. Use Provisions

Land, buildings and water may be used only for those uses set forth in the Tables of Permitted Uses and other uses similar to those set forth in the Tables of Permitted Uses and Dimensional and Density Requirements. The Commissioner shall have the discretion to determine similar uses.

Section 230. Interpretation of Dimensional and Density Requirements Tables

The column headings of the Tables of Dimensional and Density Requirements shall be interpreted to mean the following:

- (a) **Principal Uses Permitted:** The primary land, buildings and water uses which are allowed on a property, as distinguished from an accessory or subordinate use.
- (b) **Maximum Units/Lot:** The highest or greatest amount of dwellings, rooms, or beds, as appropriate to the use, which are allowed on each plot, parcel, or tract of land occupied or proposed to be occupied by a structure or use and its accessory structures or uses.
- (c) **Maximum Units/Acre:** The highest or greatest amount of dwellings, rooms, or beds, as appropriate to the use, which are allowed on each gross acre (43,560 square feet) of property.
- (d) **Minimum Lot Sizes Per Principal Use:** The least amount of property which may be approved for the development, construction, or improvement of the principal use and accessory uses permitted thereon, subject to compliance with performance standards established in this law and any rules and regulations promulgated thereunder.

- (e) **Minimum Lot Width Per Principal Use:** The minimum mean horizontal distance between the side lines when measured at right angles to the side lot line; or where side lot lines are not parallel, the minimum lot width shall be considered as the average distance between such side lot lines.
- (f) **Minimum Front Setback:** The least distance from the front lot line of a property that development, construction or improvement may be permitted.
- (g) **Minimum Side Setback:** The least distance from the side lot line(s) of a property that development, construction or improvement may be permitted.
- (h) **Minimum Rear Setback:** The least distance from the rear lot line of a property that development, construction or improvement may be permitted.
- (i) **Maximum Building Height:** The maximum height of building permissible for a given use in a given district.
- (j) **Maximum Lot Coverage:** The maximum percentage of the lot, which may be occupied by buildings or structures, including accessory buildings or structures.

Section 231. Intensity District A: Agriculture

(a) **General Description of Character and Intent of District**

This district includes areas that are currently or have, in the past, been employed in agricultural production. It also includes those areas:

- with soils suited for agriculture production;
- with significant volume of ground water;
- with rich vegetation; and
- that contribute to recharging of aquifers.

Intensity District A is established as an exclusive district in which agricultural uses and those uses that are a necessary and integral part of large-scale agricultural operations are the principal uses of land.

The purpose of this district is as follows:

- (1) to preserve a maximum amount of the limited supply of agricultural land necessary to the conservation of the territory's economic resources, and not necessarily only to the maintenance of the agricultural economy of the territory, but also for the assurance of adequate, healthful and nutritious food for future residents of this territory and its neighbors;
- (2) to prevent or minimize land use conflicts or injury to the physical or economic

well-being of urban, suburban, or other non-agricultural uses by agricultural uses. As a matter of public interest, discourage discontinuous urban development patterns that unnecessarily increase the costs of community services to community residents;

- (3) to provide for a minimum parcel standard which is appropriate for areas where soil capability and physiographic characteristics are such that a breakdown of land into units less than twenty-five (25) acres would adversely affect the physical and economic well-being of the agricultural community and the community at large. Agricultural land has definite public values such as open space, and the protection of areas essential to recharging aquifers; and
- (4) to prevent or minimize the negative interaction between various agricultural uses.

(b) **Principal Permitted Uses**

(1) **Agriculture and Aquaculture**

Establishments primarily engaged in the production of crops, plants, vines, trees or animals.

Crop Farming
Floriculture
Horticulture
Dairy Farming
Livestock Production
Fish Hatcheries
Plant Nurseries

(2) **Agricultural Product Processing & Storage**

Establishments primarily engaged in the processing of food products or by-products.

Fruit Packing
Canneries
Milk Plants
Warehouses
Fruit and Vegetable Cold Storage

(3) **Dwellings**

Buildings occupied or intended to be occupied for residential purposes and supporting activities.

Single-family dwellings

Two-family dwellings

(4) **Recreation**

Passive recreational areas
Community Park

(5) **Limited Public Utilities and Facilities**

Auxiliary facilities which provide electricity, sanitary services, water and other related services for public consumption and burial of the dead.

INTENSITY DISTRICT A
Table of Dimensional and Density Requirements

INTENSITY DISTRICT A	Maximum Units/Lot	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
Principal Uses Permitted		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
Food Crop Production	-	25.0 Acres	200	-	-	-	-	-
Dairy Farming	-	150.0 Acres	200	-	-	-	-	-
Livestock Production	-	25.0 Acres	200	25	25	25	-	-
Agricultural Product Processing	-	25.0 Acres	200	-	-	-	-	-
One & Two-Family Dwelling	2.0	25.0 Acres	200	15	15	15	25	5
Agricultural Structures	-	25.0 Acres	200	25	25	25	35	15
* Recreational Facilities	-	-	-	-	25	-	-	-
Limited Public Utilities	-	-	-	-	-	-	-	-

* The Commissioner may grant a minor permit for construction of recreational facilities or public utilities subject to reasonable standards as he deems appropriate.

Section 232. Intensity District 1: Conservation

(a) General Description of Character and Intent of District

This district is located in undeveloped and sparsely developed areas that are environmentally constrained, lack adequate infrastructure and are not subdivided for residential or commercial development. Very limited residential development is accommodated in this district. Those areas with soils especially well suited to agriculture are also included and performance standards restrict development in certain natural resource areas, while providing protective measures to ensure that the natural functions of environmentally sensitive areas such as salt ponds, very steep slopes, wetlands, beaches, flood plains, mangroves, and aquifer recharge areas are maintained.

(b) Principal Permitted Uses

(1) Agriculture and Aquaculture

Establishments primarily engaged in the production of crops, plants, vines, and trees; and the operation of hatcheries or preserves. Processing of food products or by-products is also permitted in this district.

Food crop production activities
Fish hatcheries
Horticultural activities
Livestock production
Plant Nurseries

(2) Dwellings

Buildings occupied or intended to be occupied for residential purposes and supporting activities.

Single-family dwellings
Two-family dwellings
Multiple-family dwellings
Cluster residential development
Group homes
Plant Nurseries
Bed and breakfast inns

(3) Limited Public Utilities and Facilities

Auxiliary facilities which provide electricity, sanitary services, water and other related services for public consumption and burial of the dead.

Sewage lift stations
Sewage pumpout facilities
Electrical substations
Warning systems (sirens)

(4) **Recreation**

Active or passive recreational areas.

Ball Parks
Neighborhood Parks
Playgrounds
Community Parks

(5) **Houses of Worship**

Churches, mosques, synagogues and other houses of worship

INTENSITY DISTRICT 1
Table of Dimensional and Density Requirements

INTENSITY DISTRICT 1	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks(feet)			Max. Bldg.	Max. Lot
Principal Uses Permitted		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
* Food Crop Production	-	-	-	-	-	-	-	-
*Horticultural Activities	-	-	-	-	-	-	-	-
**Livestock Production	-	5.0 Acres	200	25	25	25	-	-
Fish Hatcheries	-	2.0 Acres	150	25	25	25	25	50
One & Two-Family Dwellings	2.0	1.0 Acre	100	20	15	20	25	10
Multiple Family Dwellings	2.0	2.0 Acres	150	50	30	50	35	15
Cluster Residential Development	4.0	3.0 Acres	200	20	15	20	25	-
<i>Mobile home parks.</i>	10.0	3.0 Acres	200	15	15	15	35	30
Group Homes	2.0	1.0 Acre	100	20	15	20	25	10
Bed and Breakfast Inns	8 (rooms)	1.0 Acre	100	20	15	20	25	10
Sewage Lift Stations	-	0.5 Acre	100	25	30	25	20	10
Sewage Pumpout Facilities	-	2,000 sq.ft.	40	15	10	15	15	40
Electrical Substations	-	0.5 Acre	100	25	30	25	25	10
Recreational Facilities	-	2.0 Acres	150	50	50	50	25	10
House of Worship	-	1.0 Acre	100	50	30	50	35	25
Agricultural Structures	-	-	-	50	50	50	15	5

* The Commissioner may grant a minor permit for food crop production or horticultural activities subject to reasonable standards as he deems appropriate.

** Such facilities may be operated on smaller sub-parcels provided that setback requirements on the larger parcel are satisfied.

Section 233. Intensity District 2: Low Intensity

(a) General Description of Character and Intent of District

This district is located primarily in sparsely developed and undeveloped areas. It also includes outlying subdivisions that are located outside the service areas of existing sewer and water lines. These areas are generally serviced by collector roadways and lots typically front on local streets. District 2 is intended to accommodate low density residential neighborhoods with active and passive recreational facilities and neighborhood-oriented commercial activities. This district also encourages small-scale crop farming and provides for a range of public services.

(b) Principal Permitted Uses

(1) Agriculture and Aquaculture

Establishments primarily engaged in the production of crops, plants, vines, and trees; and the operation of hatcheries or preserves. No processing of food products or by-products is permitted in this district. Livestock production is permitted in this district provided that it meets the minimum area requirement.

Food crop production activities

Horticultural activities

Fish hatcheries

Livestock production

Plant Nurseries

(2) Dwellings

Buildings occupied or intended to be occupied for residential purposes and supporting activities.

Single-family dwellings

Two-family dwellings

Multiple-family dwellings

Planned residential development

Cluster residential development

Group homes

Bed and breakfast inns

Mobile home parks

(3) **Schools**

Any public or private institution of learning in the following categories.

Primary

Secondary

Special education/nursery

(4) **Retail Trade**

Establishments primarily engaged in providing finished products generally to individuals.

Retail commercial establishments selling principally convenience goods, including but not necessarily limited to grocery items and drug store merchandise.

Eating and drinking places including bars, taverns, and restaurants are not allowed in this district.

(5) **Personal and Professional Services**

Establishments primarily engaged in providing services generally to individuals.

Barber shops

Beauty salons

Dentists

Doctors

(6) **Limited Government Services and Public Utilities and Facilities**

Government agencies and entities that provide administrative and public safety functions to the community. Auxiliary facilities that provide electricity, sanitary services, water and other related services for public consumption and burial of the dead.

Postal substations

Libraries

Public safety substations

Sewage lift stations

Sewage pumpout facilities

Electrical substations

Health services

Warning systems (sirens)

(7) **Recreation**

Active or passive recreational areas.

Ball parks

Neighborhood parks

Playgrounds

(8) **Houses of Worship**

Churches, mosques, synagogues and other houses of worship

INTENSITY DISTRICT 2
Table of Dimensional and Density Requirements

INTENSITY DISTRICT 2	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
Principal Uses Permitted		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
*Food Crop Production	-	-	-	-	-	-	-	-
*Horticultural Activities	-	-	-	-	-	-	-	-
Fish Hatcheries	-	2.0 Acres	150	25	25	25	25	50
Livestock Production	-	5.0 Acres	-	25	25	25	-	-
Agricultural Structures	-	-	-	50	50	50	35	5
One & Two-Family Dwellings	4.0	0.5 Acre	100	15	15	15	25	30
Multiple-Family Dwellings	4.0	1.0 Acre	150	50	30	50	35	25
Planned Residential Development	6.0	5.0 Acres	200	25	15	15	35	25
Cluster Residential Development	6.0	1.5 Acres	150	15	15	15	25	-
Group Homes	4.0	0.5 Acre	100	15	15	15	25	25
<i>Mobile home parks</i>	10.0	3.0 Acres	200	15	15	15	35	30
Primary Schools	-	5.0 Acres	200	25	25	25	35	25
Secondary Schools	-	5.0 Acres	200	25	25	25	35	25
Pre-Schools & Nurseries	-	0.5 Acre	100	15	15	15	25	30
Retail Trade	-	0.5 Acre	100	25	25	25	25	25
Bed and Breakfast Inns	8.0(rooms)	0.5 Acre	100	15	15	15	25	30
Personal and Professional Services	-	0.5 Acre	100	25	25	25	25	25

* The Commissioner may grant a minor permit for food crop production or horticultural activities subject to reasonable standards as he deems appropriate.

Continued

**INTENSITY DISTRICT 2
Table of Dimensional and Density Requirements**

INTENSITY DISTRICT 2	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
Principal Uses Permitted		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
Postal Substations	-	1.0 Acre	150	25	25	25	25	25
Public Safety Substations	-	0.5 Acre	100	25	25	25	25	25
Libraries	-	0.5 Acre	100	15	15	15	25	25
Sewage Lift Stations	-	0.5 Acre	100	25	30	25	25	25
Sewage Pumpout Facilities	-	2,000 sq.ft.	40	15	10	15	15	40
Electrical Substations	-	0.5 Acre	100	25	30	25	25	25
Public Health Services	-	0.5 Acre	100	25	25	25	25	25
Recreational Facilities	-	2.0 Acres	200	50	50	50	25	10
Houses of Worship	-	1.0 Acre	150	50	30	50	35	25

Section 234. Intensity District 3: Moderate Intensity

(a) General Description of Character and Intent of District

This district is located primarily in areas that are serviced by public sewer and potable water lines, and are accessed by minor arterial and collector roadways. Large residential subdivisions and some commercial development typically occur in these areas. This district accommodates medium-density residential activities, limited office development, active and passive recreational facilities, smaller scale hotels, as well as neighborhood oriented commercial facilities.

(b) Principal Permitted Uses

(1) Dwellings

Buildings occupied or intended to be occupied for residential purposes and supporting activities.

Single-family dwellings

Two-family dwellings

Multiple-family dwellings

Attached housing (townhouses, patio homes, etc.)

Bed and breakfast inns

Planned residential development

Group homes

Mobile home parks

(2) Hotels and Guest Houses

Any building used, or intended to be used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests. Large hotels and guesthouses (more than twenty acres in size) are not permitted in this district. Casino establishments and Casino simulcasting are permitted in this district in hotels approved in accordance with Title Thirty-two, Chapter Twenty-one, Section 435 of this Code. Such structures shall have a maximum height requirement of three (3) stories in historic districts and six (6) stories in all other districts.

Hostels
Hotels/Guesthouses

(3) **Schools**

Any public or private institution of learning.

Primary
Secondary
Special education
Nursery
Art
Business trades

(4) **Retail Trade**

Establishments primarily engaged in providing finished products generally to individuals. This district does not permit the operation of automobile sales, service or repair establishments, including the sale of petroleum products.

Retail establishments principally selling goods, including but not necessarily limited to grocery items and drug store merchandise.

Retail establishments selling general merchandise, including but not necessarily limited to any goods, apparel and accessories, furniture and home furnishings, home electrical equipment and appliances, hardware stores, and department stores.

Eating and drinking places, not including bars, taverns, drive-in, fast order or carry-out food establishments.

Neighborhood shopping centers selling goods to meet the daily needs of the surrounding neighborhood.

(5) **Personal and Professional Services**

Establishments primarily engaged in providing services generally to individuals.

Barber shops
Beauty salons
Dentists
Doctors
Funeral & crematory services
Shoe repair shops
Opticians

*Memorial parks, memorial gardens,
memorial nature preserves or park and perpetual care parks*

(6) Business Services

Establishments primarily engaged in rendering services to business establishments on a contract or fee basis.

*Advertising agencies
Legal services
Accounting services
Finance, insurance and real estate services
Employment services
Dental/medical laboratories*

(7) Government Services and Limited Public Utilities and Facilities

Government agencies that provide executive, legislative, judicial, regulatory, and administrative functions. Auxiliary facilities that provide electricity, sanitary sewer facilities, potable water, and other related services for public consumption and burial of the dead.

*Court houses
Government offices
Postal Services
Public safety facilities
Libraries
Sewage lift stations
Sewage pumpout facilities
Electrical substations
Warning systems (sirens)
Radio/Television Transmittal Towers and
Stations*

(8) Recreation/Recreational Services

Active or passive recreational areas or establishments engaged in providing amusement or entertainment services. Night clubs are not permitted in this district.

*Ball parks
Urban parks
Playgrounds
Health clubs
Motion picture (indoors)*

(9) **Houses of Worship**

Churches, mosques, synagogues and other houses of worship

INTENSITY DISTRICT 3
Table of Dimensional and Density Requirements

INTENSITY DISTRICT 3 Principal Uses Permitted	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
One & Two-Family Dwellings	8.0	10,000 sq.ft.	75	15	10	10	25	30
Multiple-Family Dwellings	8.0	0.5 Acre	100	25	15	15	40	20
Attached Dwelling	8.0	0.5 Acre	100	15	10	10	25	30
Planned Residential Development	10.0	5.0 Acres	200	15	15	15	40	25
Cluster Development	10.0	30,000 sq.ft.	100	15	10	10	35	-
Group Homes	8.0	10,000 sq.ft.	75	15	10	10	25	30
<i>Mobile home parks.</i>	10	3.0 Acres	200	15	15	15	35	30
Hotels/Guesthouses	10(rooms)	1.0 Acres	150	25	15	20	40	20
* Bed and Breakfast Inns	10(rooms)	10,000 sq.ft.	100	15	10	10	25	30
**Hostels	20(beds)	0.5 Acre	100	25	15	15	25	30
Primary Schools	-	5.0 Acres	200	25	25	25	40	25
Secondary Schools	-	5.0 Acres	200	25	25	25	40	25
Special Education Facilities	-	0.5 Acre	100	25	15	15	35	20
Pre-Schools & Nurseries	-	10,000 sq.ft.	100	15	10	10	35	25
Art Schools/Business & Trade School	-	0.5 Acre	100	25	15	15	35	20
Retail Trade	-	0.5 Acre	100	25	15	15	25	20
***Neighborhood Shopping Centers	-	2.0 Acres	200	30	20	20	25	25
Personal & Professional Service	-	10,000 sq.ft.	100	25	15	15	25	20
Memorial parks, memorial gardens, memorial nature preserves or parks and perpetual care parks.	-	0.5 Acres	150	25	15	15	35	30
Business Services	-	10,000 sq.ft.	100	25	15	15	25	20
Office Parks	-	2.0 Acres	200	30	20	20	35	20
Court Houses/Government Offices	-	2.0 Acres	200	30	20	20	35	20
Public Safety Facilities	-	0.5 Acre	100	25	15	15	35	20

* Six stories are permitted, except within the Historic Districts, which allows three (3) stories maximum.

** Hostels shall be limited to twenty (20) beds per facility

*** Neighborhood shopping centers shall be limited to a maximum of five (5) acres per shopping center.

Continued

**INTENSITY DISTRICT 3
Table of Dimensional and Density Requirements**

INTENSITY DISTRICT 3	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
Principal Uses Permitted		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
Libraries	-	10,000 sq.ft.	100	25	15	15	25	25
Sewage Lift Stations	-	10,000 sq.ft.	100	25	15	15	25	25
Sewage Pumpout Facilities	-	2,000 sq.ft.	40	15	10	15	15	40
Electrical Substations	-	10,000 sq.ft.	100	25	15	15	25	25
Recreational Facilities	-	0.5 Acre	100	25	15	15	30	10
Motion Pictures (indoor)	-	0.5 Acre	100	25	25	25	35	30
Health Services	-	10,000 sq.ft.	100	25	15	15	25	25
Houses of Worship	-	0.5 Acre	100	25	15	15	35	25

Section 235. Intensity District 4: High Intensity

(a) **General Description of Character and Intent of District**

This district is located in moderate to densely developed areas that are planned to function as secondary town centers outside the traditional towns. They are located primarily on major and minor arterial highways and are comprised of moderate to high density residential development and a full range of commercial activities. Typically, these areas are serviced by both sewer and potable water facilities.

(b) **Principal Permitted Uses**

(1) **Dwellings**

Buildings occupied or intended to be occupied exclusively for residential purposes and supporting activities.

Single-family dwellings

Two-Family dwellings

Attached housing (townhouses, patio homes, etc.)

Multiple-family dwellings

Bed and breakfast inns

Boarding houses

Group homes

(2) **Hotels and Guest Houses**

Any building used, or intended to be used, rented or hired out to be occupied, or which are occupied, for sleeping purposes by guests. Casino establishments and Casino simulcasting are permitted in this district in hotels approved in accordance with Title Thirty-two, Chapter Twenty-one, Section 435 of the V.I. Code. Such structures shall have a maximum height requirement of three (3) stories in historic districts and six (6) stories in all other districts.

Hotels/Guesthouses

Hostels

(3) **Schools**

Any public or private institution of learning.

Primary

Secondary

Special education

Nursery

Art

Business trades

Vocational

(4) **Retail Trade**

Establishments primarily engaged in providing finished products generally to individuals.

Retail establishments principally selling goods, including but not necessarily limited to, grocery items and drug store merchandise.

Retail establishments selling general merchandise, including but not necessarily limited to, any goods, apparel and accessories, furniture and home furnishings, home electrical equipment and appliances, hardware stores, and department stores.

Eating and drinking places.

Establishments selling new or used automobiles and trucks, tires for motor vehicles, and other motor vehicular accessories.

Automotive repair and service stations or garages, including the sale of petroleum products (but not including motor vehicle junkyard or the open storage of abandoned motor vehicles).

Neighborhood and regional shopping centers

(5) **Personal and Professional Services**

Establishments primarily engaged in providing services generally to individuals.

Barber shops

Beauty salons

Dentists

Doctors

Funeral & crematory services

Memorial parks, memorial gardens,

memorial nature preserves or parks and perpetual care parks

Shoe repair shops

Opticians

(6) **Business Services**

Establishments primarily engaged in rendering services to business establishments on a contract or fee basis.

Advertising agencies
Legal services
Accounting services
Finance, insurance, and real estate services
Employment services
Dental/medical laboratories.

(7) **Government Services and Limited Public Utilities and Facilities**

Government agencies that provide executive, legislative, judicial, regulatory and administrative functions to the community. Auxiliary facilities that provide electricity, sanitary sewers, water, and other related services for public consumption and burial of the dead.

Postal services
Courthouses
Government offices
Public safety facilities
Consulates
Libraries
Sewage lift stations
Sewage pumpout facilities
Electrical substations
Warning systems (sirens)

(8) **Recreation/Recreational Services**

Active or passive recreational areas or establishments engaged in providing amusement or entertainment services.

Ball parks
Urban parks
Playgrounds
Night clubs
Health clubs
Motion picture (indoors)

(9) **Light Manufacturing**

The processing or assembling of materials or substances into finished products, conducted entirely within enclosed buildings and not having offensive characteristics.

Bakeries
Canvas goods
Beverages

Leather goods
Jewelry and precious metals manufacture and assembly
Glassmaking
Water distillation
Watch assembly

(10) **Light industrial/storage/distribution**

Establishments engaged in mechanized personal, business, and repair services.

Dry cleaners
Warehousing/motor freight terminal
Wholesale trade and distribution

(11) **Houses of Worship**

Churches, mosques, synagogues and other houses of worship

INTENSITY DISTRICT 4
Table of Dimensional and Density Requirements

INTENSITY DISTRICT 4	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
Principal Uses Permitted		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
One & Two-Family Dwellings	20.0	4,000 sq.ft.	40	10	5	5	25	40
Attached Dwelling	20.0	6,000 sq.ft.	-	10	-	10	25	40
Multiple-Family Dwellings	25.0	6,000 sq.ft.	75	25	15	20	40	35
Boarding Houses	20 (rooms)	0.5 Acre	100	25	15	15	25	35
Group Homes	20.0	4,000 sq.ft.	75	10	5	5	25	40
Hotels/Guesthouses	40(rooms)	1.0 Acre	150	25	20	50	45	35
Bed and Breakfast Inns	16(rooms)	4,000 sq.ft.	40	10	5	5	25	40
Hostels	30(beds)	0.5 Acre	100	25	20	50	25	30
Primary Schools	-	2.0 Acres	200	25	25	25	45	30
Secondary Schools	-	5.0 Acres	200	25	25	25	45	30
Special Education Facilities	-	3,000 sq.ft.	40	25	15	15	35	35
Pre-Schools & Nurseries	-	3,000 sq.ft.	40	25	15	15	35	35
Art Schools/Business Trade Schools	-	10,000 sq.ft.	100	25	25	25	35	35
Vocational Schools	-	5.0 Acres	200	50	50	50	35	35
Retail Trade	-	6,000 sq.ft.	75	25	15	20	35	30
New & Used Car Sales & Services	-	1.0 Acre	125	50	25	50	25	15
Auto Repair & Service Stations	-	10,000 sq.ft.	100	25	15	20	25	15
Neighborhood/Regional Shopping Centers	-	2.0 Acres	200	30	20	20	35	20
Personal & Professional Services	-	6,000 sq.ft.	75	25	15	20	35	30
<i>Memorial parks, memorial gardens, memorial nature preserves or parks and perpetual care parks</i>	-	10,000. sq. ft.	100	25	15	20	30	30
Business Services	-	6,000 sq.ft.	75	25	15	15	35	30

Continued

**INTENSITY DISTRICT 4
Table of Dimensional and Density Requirements**

INTENSITY DISTRICT 4 Principal Uses Permitted	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
		Area	Width (feet)	Front	Side	Rear	Heigh t (feet)	Coverage (Percent)
Office/Parks	-	2.0 Acres	200	30	20	20	45	30
Post Offices	-	1 Acre	150	50	25	50	25	20
Court Houses/Government Offices	-	1 Acre	150	50	25	50	35	25
Public Safety Facilities	-	10,000 sq.ft.	75	25	15	20	35	25
Consulates	-	10,000 sq.ft.	75	25	15	20	25	25
Libraries	-	10,000 sq.ft.	100	25	15	20	35	30
Sewage Lift Stations	-	5,000 sq.ft.	75	20	10	10	25	25
Sewage Pumpout Facilities	-	2,000 sq.ft.	40	15	10	15	15	40
Electrical Substations	-	5,000 sq.ft.	75	20	10	10	25	25
Health Services	-	10,000 sq.ft.	75	25	15	20	35	25
Recreational Facilities	-	10,000 sq.ft.	75	25	15	20	25	10
Night Clubs/Health Clubs	-	10,000 sq.ft.	100	25	30	25	25	25
Motion Pictures (indoor)	-	10,000 sq. ft.	100	25	25	25	35	25
Houses of Worship	-	10,000 sq.ft.	100	25	30	25	35	30
Light Manufacturing	-	0.5 Acre	100	30	20	20	35	25
Sewage Treatment Plant	-	2.0 Acre	150	75	75	75	25	25
Motor Freight Terminals	-	0.5 Acre	100	30	20	20	35	25
Warehousing/Wholesale/ Distribution	-	0.5 Acre	100	30	20	20	35	25

Section 236. Intensity District 5: Urban

(a) General Description of Character and Intent of District

This district is located in the traditional towns, characterized by high intensity residential, commercial and other central business district functions that provide a full range of pedestrian-oriented commercial activities and urban services. This district does not include highway-oriented commercial activities, such as supermarkets and shopping centers.

(b) Principal Permitted Uses

(1) Dwellings

Buildings occupied or intended to be occupied exclusively for residential purposes and supporting activities.

Single-family dwellings
Two-family dwellings
Attached Housing (townhouses, patio homes, etc.)
Multiple-family dwellings
Bed and breakfast inns
Boarding houses
Group homes

(2) Hotels and Guest Houses

Any building used, or intended to be used, rented, or hired out to be occupied for sleeping purposes by guests. Casino establishments and Casino simulcasting are permitted in this district in hotels approved in accordance with Title Thirty-two, Chapter Twenty-one, Section 435 of the V.I. Code. Such structures shall have a maximum height requirement of three (3) stories in historic districts and six (6) stories in all other districts.

Hotels/Guesthouses
Hostels

(3) Schools

Any public or private institution of learning.

Primary
Secondary
Special education
Nursery

*Art/Business trades
Vocational*

(4) **Retail Trade**

Establishments primarily engaged in providing finished products generally to individuals.

Retail establishments principally selling goods, including but not necessarily limited to grocery items and drug store merchandise.

Retail establishments selling general merchandise, including but not necessarily limited to dry goods, apparel and accessories, furniture and home furnishings, home electrical equipment and appliances, hardware stores, and department stores.

Eating and drinking places, not including drive-in food establishments.

Retail establishments selling merchandise including, but not necessarily limited to, jewelry, gifts, toiletries, photographic equipment and liquor.

(5) **Personal and Professional Services**

Establishments primarily engaged in providing services generally to individuals.

*Barber shops
Beauty salons
Dentists
Doctors
Funeral & crematory services
Shoe repair shops
Opticians*

(6) **Business Services**

Establishments primarily engaged in rendering services to business establishments on a contract or fee basis.

*Advertising agencies
Legal services
Accounting services
Finance, insurance and real estate services
Employment services Dental/medical laboratories*

(7) **Government Services and Limited Public Utilities**

Government agencies that provide executive, legislative, judicial, regulatory and administrative functions to the community. Auxiliary facilities that provide electricity, sanitary sewer services, water and other related services for public consumption.

Postal services

Courthouses

Government offices

Public safety

Consulates

Libraries

Sewage lift stations

Sewage pumpout facilities

Electrical substations

Warning systems (sirens)

(8) **Recreation/Recreational Services**

Active or passive recreational areas or establishments engaged in providing amusement or entertainment services.

Amusement parks

Ball parks

Urban parks

Playgrounds

Night clubs

Health clubs

(9) **Houses of Worship**

Churches, mosques, synagogues and other houses of worship

(10) **Miscellaneous Light Industry**

Establishments engaged in certain mechanized personal services and limited food production.

Laundry/Dry Cleaning
Laundromat
Bakeries

INTENSITY DISTRICT 5
Table of Dimensional and Density Requirements

INTENSITY DISTRICT 5 Principal Uses Permitted	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
One & Two-Family Dwellings	24.0	3,000 sq.ft.	30	*5	5	5	35	40
Attached Dwelling	24.0	4,000 sq.ft.	-	*5	-	5	35	40
Multiple-Family Dwellings	30.0	4,000 sq.ft.	40	*5	10	15	40	40
Boarding Houses	20 (rooms)	10,000 sq.ft.	75	10	10	15	35	35
Group Homes	24.0	3,000 sq.ft.	30	*5	5	5	35	40
Hotels/Guesthouses	60 (rooms)	0.5 Acre	100	15	-	10	45	40
Bed and Breakfast Inns	16 (rooms)	3,000 sq.ft.	30	*5	5	5	35	40
Hostels	30 (beds)	10,000 sq.ft.	75	10	10	15	35	35
Primary Schools	-	1 Acre	125	25	10	10	45	40
Secondary Schools	-	5 Acres	200	25	25	25	45	40
Special Education Facilities	-	3,000 sq.ft.	30	*5	5	5	35	40
Pre-Schools & Nurseries	-	3,000 sq.ft.	30	*5	5	5	35	40
Art Schools/Business	-	10,000 sq.ft.	75	10	10	15	35	45
Trade Schools	-	.5 Acre	100	10	15	25	45	40
Vocational Schools	-	-	20	*5	-	10	35	50
Retail Trade	-	-	20	*5	-	10	35	50
Personal & Professional Services	-	-	20	*5	-	10	35	50
Business Services	-	5,000 sq.ft.	100	20	20	20	25	60
Auto Service Stations	-	5,000 sq.ft.	100	20	20	20	25	60
Minor Automotive Repair	-	5,000 sq.ft.	100	20	20	20	25	60
Establishment	-	10,000 sq.ft.	75	*5	-	10	45	40
Post Offices	-	10,000 sq.ft.	75	*5	-	10	45	40
Court Houses/Government Offices	-	10,000 sq.ft.	75	*5	-	10	45	40
Public Safety Facilities	-	-	100	30	20	20	35	50
Miscellaneous Light Industry	-	-	100	30	20	20	35	50

* No front setback required if sidewalk exists.

Continued

**INTENSITY DISTRICT 5
Table of Dimensional and Density Requirements**

INTENSITY DISTRICT 5 Principal Uses Permitted	Maximum Units/Acre	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
		Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
Consulates	-	10,000 sq.ft.	75	*5	-	10	45	40
Libraries	-	5,000 sq.ft.	75	*5	10	10	35	40
Sewage Lift Stations	-	5,000 sq.ft.	75	20	10	10	25	25
Sewage Pumpout Facilities	-	2,000 sq.ft.	40	15	10	15	15	40
Electrical Substations	-	5,000 sq.ft.	75	20	10	10	25	25
Recreational Facilities	-	-	20	-	-	10	35	50
Night Clubs	-	10,000 sq.ft.	75	*5	-	10	35	50
Health Clubs	-	10,000 sq.ft.	75	*5	-	10	35	50
Houses of Worship	-	10,000 sq.ft.	75	*5	-	-	35	50

* No front setback required if sidewalk exists.

Section 237. Intensity District 6: Industrial

(a) General Description of Character and Intent of District

This district is comprised of the primary industrial, heavy commercial and major utility areas and the activities associated with them.

(b) Primary Permitted Uses

(1) Light Manufacturing

The processing or assembling of materials or substances into finished products, conducted entirely within enclosed buildings and not having offensive characteristics.

Bakeries

Canvas goods

Beverages

Leather goods

Jewelry and precious metals manufacture and assembly

Pharmaceutical products manufacture

Glassmaking

Water distillation

Watch assembly

(2) Heavy Manufacturing

The processing or assembling of materials or substances into finished products. These uses generally produce nuisances, making them incompatible with other land uses.

Alumina & related products

Cement/concrete products

Dyeing and finishing of textiles

Petroleum products

Paper products

(3) Mining/Quarrying

The extraction of naturally occurring solids, liquids or gases.

Quarries

(4) **Wholesale/Storage/Distribution**

Establishments engaged in the storage, trucking or transfer of household or commercial goods of any nature; or establishments engaged in the sale of large quantities of goods.

Equipment and machinery

Warehouse

Apparel

Spirits

Tobacco

Pharmaceutical products

Freight transportation

Janitorial supplies

Health supplies

Water delivery

(5) **Industrial Services**

Establishments engaged in mechanized personal, business and repair services.

Automobile repair shops

Towing & wrecking services

Laundromat & dry cleaning services

Electrical and electronic equipment services

Construction services

Crematorium

Septic cleaning & installation services

(6) **Public Utilities**

Activities that provide electricity, sanitary sewer services, water and other related services for public consumption.

Electrical generating plants

Water distillation plants

Sewage treatment plants

Solid waste collection

Solid waste disposal/incineration facilities

Propane/gasoline/other petroleum products

Port facilities

(7) **Limited Retail/Recreational**

Establishments engaged in the sale of prepared food for consumption; establishments providing dancing and/or entertainment for patrons; establishments engaged in the sale of building and hardware supplies; and establishments engaged in the sale of automobiles and vehicular parts. Other general retail establishments are not permitted in this district.

(8) **Schools**

Public or private institutions of learning.

Vocational and Technical Schools

(9) **Houses of Worship**

Churches, mosques, synagogues and other houses of worship

INTENSITY DISTRICT 6

Table of Dimensional and Density Requirements

INTENSITY DISTRICT 6 Principal Uses Permitted	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
	Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
Light Manufacturing	10,000 sq.ft.	125	20	20	20	35	50
Heavy Manufacturing Operations	2.0 Acres	200	50	25	50	50	35
Mining	25.0 Acres	500	100	100	100	35	5
Wholesaling/Warehousing Distribution	5,000 sq.ft.	100	20	20	20	35	60
Motor Freight Terminals	0.5 Acre	125	25	25	25	35	40
Automotive Repair Services	5,000 sq.ft.	100	20	20	20	25	60
Auto Service Stations	5,000 sq.ft.	100	20	20	20	25	60
Industrial Sales & Service Establishments	5,000 sq.ft.	100	20	20	20	25	60
Electrical Generating Plants	5.0 Acres	200	50	50	50	50	50
Water Distillation & Sewage Treatment Plants	5.0 Acres	200	50	25	25	50	50
Smoke Stacks	-	-	-	-	-	150	-
Solid Waste Disposal Facilities	20.0 Acres	500	100	100	100	25	5
Limited Retail/Recreational	5,000 sq.ft.	100	20	20	20	25	30
Vocational Schools	5.0 Acres	200	25	20	20	50	40
Houses of Worship	5,000 sq.ft.	100	20	20	20	35	60

Section 238. Intensity District 1W: Waterfront/Conservation

(a) General Description of Character and Intent of District

This district is comprised of all Territorial waters and submerged lands not otherwise zoned. These areas include but are not limited to inlets, bays, harbors, and nearshore and outer Territorial waters. These areas also include navigational lanes, and ecologically sensitive areas such as sea grass beds and coral reefs.

(b) Principal Permitted Uses

(1) Recreation

Active or passive recreational activities.

*Swimming
Diving and snorkeling*

(2) Navigation

*Commercial or recreational navigation
Short-term anchoring*

(3) Natural Resource Extraction

Areas used by fishermen for the removal of marine life for food consumption.

*Commercial fishing
Non-commercial fishing
Aquaculture*

(4) Research Projects

Small scale scientific experiments and research projects conducted by government agencies, educational institutions or other similar organizations.

(5) Docks

Public access docks, private docks, ramps and similar facilities.

(c) Dimensional and Density Requirements

See section 273, Waterfront Intensity District Performance Standards for development requirements of submerged lands in this district.

Section 239. Intensity District 2W: Waterfront Low Intensity

(a) General Description of Character and Intent of District

This water district is located in areas that are designated for the accommodation of limited vessel storage for full-time commercial fishermen and research institutions, research facilities and public access docks.

(b) Principal Permitted Uses

(1) Recreation

Active or passive recreational activities.

*Swimming areas
Diving and snorkeling*

(2) Navigation

*Commercial or recreational navigation
Short-term anchoring*

(3) Natural Resource Extraction

Areas used by fishermen for the removal of marine life for food consumption.

*Commercial fishing
Non-commercial fishing
Aquaculture*

(4) Research Projects

Small scale scientific experiments and research projects conducted by government agencies, educational institutions or other similar organizations.

(5) Docks and Vessel Storage

Public access docks, private docks, ramps and storage of vessels for full-time commercial fishermen and educational institutions.

(c) Dimensional and Density Requirements

See section 273, Waterfront Intensity District Performance Standards for development requirements of submerged lands in this district.

Section 240. Intensity District 3W: Waterfront Moderate Intensity

(a) General Description of Character and Intent of District

This waterfront district designation primarily accommodates the storage of vessels in the Territorial waters of the Virgin Islands (mooring and anchoring areas).

(b) Principal Permitted Uses

(1) Recreation

Active or passive recreational activities.

*Swimming areas
Diving and snorkeling*

(2) Navigation

*Commercial or recreational navigation
Short-term anchoring*

(3) Natural Resource Extraction

Areas used by fishermen for the removal of marine life for food consumption.

*Commercial fishing
Non-commercial fishing
Aquaculture*

(4) Research Projects

Small scale scientific experiment and research projects conducted by government agencies, educational institutions or other similar organizations.

(5) Vessel Storage and Launching Areas

*Public access docks, private docks, ramps and similar facilities Mooring and long-term anchoring of vessels up to one hundred fifty (150) feet in length
Sewage pump-out facilities*

(c) Dimensional and Density Requirements

See section 273, Waterfront Intensity District Performance Standards for development requirements of submerged lands in this district.

Section 241. Intensity District 4W: Waterfront High Intensity

(a) General Description of Character and Intent of District

This waterfront district designation accommodates a full range of water related activities including sales, repair and outfitting of pleasure craft; marina development; and servicing of vessels. This designation will generally be associated with land based facilities that accommodate the wider range of activities found in these areas.

(b) Principal Permitted Uses

(1) Navigation

Commercial or recreational navigation
Short-term anchoring

(2) Natural Resource Extraction

Areas used by fishermen for the removal of marine life for food consumption.

Commercial fishing
Non-commercial fishing

(3) Research Projects

Research projects conducted by educational institutions or other similar organizations.

(4) Marinas, Boat Yards, Vessel Storage and Launching Areas

Mooring and long-term anchoring of vessels up to one hundred fifty (150) feet in length
Marinas
Boat yards
Public and private docks and ramps
Marine related sales and service establishments

Note: The following dimensional and density requirements apply to the fast land portion of this intensity district.

INTENSITY DISTRICT 4W

Table of Dimensional and Density Requirements

INTENSITY DISTRICT 4W	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
	Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
Sewage pumpout facilities	2,000 sq.ft.	40	15	10	15	15	40
Marinas	10,000 sq.ft.	100	20	20	20	25	50
Boat Yard	0.5 Acre	100	25	15	20	35	35
Marine-Related Sales and Service	5,000 sq.ft.	50	20	20	20	25	40
Dry Dock Storage Facilities	10,000 sq.ft.	100	20	20	20	50	40

Section 242. Intensity District 6W: Waterfront Industrial

(a) General Description of Character and Intent of District

This district designation is associated with industrial port facilities and the land based activities associated with them.

(b) Principal Permitted Uses

(1) Navigation

Commercial or recreational navigation
Short-term anchoring

(2) Natural Resource Extraction

Areas used by fisherman for the removal of marine life for food consumption.

Commercial fishing
Non-commercial fishing

(3) Research projects

Research projects conducted by educational institutions or other similar organizations.

(4) Boat Yards, Vessel Storage and Launching Areas

Mooring and long-term anchoring of vessels up to one hundred fifty (150) feet in length
Boat yards
Public and private docks and ramps
Marine related service establishments

(5) Marine Port Facilities

Marine terminals (freight and passenger)
Inspection services
Warehousing
Seaplane terminals (ramps)
Marine salvage yards

(6) Public Utilities

Activities that provide electricity, sanitary sewer services, water and other related services for public consumption.

Electrical generating plants

Water production plants

Sewage treatment plants

Note: The following Dimensional and Density Requirements apply to the fast land portion of this Intensity District.

INTENSITY DISTRICT 6W
Table of Dimensional and Density Requirements

INTENSITY DISTRICT 6W Principal Uses Permitted	Minimum Lot Sizes Per Principal Use		Minimum Setbacks (feet)			Max. Bldg.	Max. Lot
	Area	Width (feet)	Front	Side	Rear	Height (feet)	Coverage (Percent)
Sewage pumpout facilities	2,000 sq.ft.	40	15	10	15	15	40
Marine Salvage Yard	0.5 acre	100	20	20	20	25	25
Boat Yard	0.5 Acre	100	25	15	20	35	35
Marine Terminal (passenger)	10,000 sq.ft.	100	15	10	15	25	40
Marine Terminal (freight)	1.0 Acre	150	20	20	20	35	40
Marine-Related Sales and Service	5,000 sq.ft.	50	20	20	20	25	40
Dry Dock Storage Facilities	10,000 sq.ft.	100	20	20	20	50	40

SUBCHAPTER III. Permits and Administration

Section 243. Coastal Zone Management Commission

- (a) There is hereby continued without hiatus from existing law within the Department of Planning and Natural Resources a Coastal Zone Management Commission, composed of the Commissioner of the Department of Planning and Natural Resources, who shall be a non-voting ex officio member, the Director of the Comprehensive and Coastal Zone Planning Division, who shall be a non-voting ex officio member, and fifteen (15) other members appointed by the Governor with the advice and consent of the Legislature. Of the fifteen (15) appointed members, five (5) shall reside on St. Croix, five (5) shall reside on St. Thomas and five (5) shall reside on St. John. Ex officio members of the Commission may appoint a designee to serve at his or her pleasure who shall have all the powers and duties of such member pursuant to this law. The Commission shall annually elect a Chairman from among its members. Eight (8) voting members of the Commission shall constitute a quorum for the transaction of all business of the Commission; provided, however, that no fewer than two (2) members from each island must be in attendance. A quorum may be established by the number of members physically present at the meeting place or those participating by appropriate conferencing mechanisms. A majority of those voting members physically present shall decide on all matters before the Commission.
- (b) There is hereby continued without hiatus from existing law within the Commission three (3) Committees: one of such Committees shall consist of the members who reside on St. Croix, one of such Committees shall consist of the members who reside on St. Thomas, and one of such Committees shall consist of members who reside on St. John. Each Committee shall exercise the full authority of the Commission over the issuance of major permits within the jurisdiction of the Commission pertaining solely to the respective resident island of the Committee or to any off-shore cay which is within five (5) miles from that island; provided, however, Coastal Zone Permits pertaining to more than one of the major islands or to an off-shore cay less than three (3) miles from two major islands shall be decided by the Committees with concurrent jurisdiction. Each Committee shall annually elect a Chairman from its members. A quorum of each Committee shall consist of three (3) of its members who are physically present at the meeting place or those participating by appropriate conferencing mechanisms. A majority of those present shall decide on all matters before a Committee.

A majority vote of a quorum shall be necessary to move any issue or take any official action. If, after the first time an item has appeared on the agenda and the Committee has not voted either in favor of or against the item, it may be reconsidered two (2) more times. If, after the third time an official vote has been taken and the majority of the quorum vote either in favor of or against the item has still not been achieved, the item shall be considered to be denied.

- (c) Appointed members of the Commission shall serve a term of two (2) years and may be reappointed. Upon the conclusion of the term of any appointed member of the Commission, such person shall continue to serve until a new member has been appointed. The appointed members of the Commission shall receive a sum in accordance with applicable laws for each day or part thereof spent in the performance of their duties. Every member of the Commission shall be reimbursed for necessary travel, subsistence and other expenses actually incurred in the discharge of his or her duties as a member of the Commission. Appointed members of the Commission may be removed by the Governor for cause.
- (d) In addition to all powers specifically assigned to the Commissioner and to the Commission by this law, the Commissioner and the Commission shall have the primary responsibility for the implementation of the provisions of this law. The Department of Planning and Natural Resources is hereby designated as the territorial coastal zone management agency for the purpose of exercising powers set forth in the Federal Coastal Zone Management Act of 1972 or any amendment thereto or any other federal act heretofore or hereafter enacted that relates to the management of the coastal zone, except for those activities or programs presently being carried out by another agency of the Government of the Virgin Islands, or those assigned by the Governor to another agency of the Government of the Virgin Islands. In addition to other authority, the Commissioner and the Commission may grant or issue any certificate or statement required pursuant to any federal law that an activity of any person is in conformity with the provision of this law.
- (e) The Commission shall have the following duties and responsibilities:
 - (1) Prepare and submit to the Legislature of the Virgin Islands for adoption any additional plans and undertake any plans and studies it deems necessary and appropriate to better accomplish those objectives, intentions, purposes, scope, goals and policies of this law that are within its jurisdiction.
 - (2) Establish fees and other charges necessary to carry out the functions of the Commission required by this law and the purposes and goals of this law.
 - (3) Approve or deny major permit applications.
 - (4) Revoke, in writing, a major permit previously issued under a mistake of fact or contrary to the provisions of law.
 - (5) Issue cease and desist orders or any other appropriate written order to prevent illegal or unpermitted development or actions.
 - (6) Institute any appropriate actions or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of any building, structure, land or water; restrain, correct or abate such violation so

as to prevent the occupancy or use of any building, structure, land or water; or prevent any illegal act, conduct, business, or use in or about such premises.

Section 244. Regulations

The Commissioner and the Commission shall, in the manner required by law, and from time to time, after public hearings, adopt or modify existing rules and regulations as deemed necessary to carry out the provisions of the Virgin Islands Coastal Zone Management Program (VICZMP); provided any such rules and regulations, pursuant to this law may be amended or repealed by the Legislature in accordance with the provisions of subsection (b), section 913 of Title 3 of the Virgin Islands Code. The Commissioner and the Commission shall also, in the manner required by law and after public hearings, adopt or modify such existing rules and regulations pertaining to the application, content and issuance of major and minor permits as it deems necessary. Such regulations shall include but are not limited to the following:

- (a) Procedures for the submission, review and approval or denial of permit applications, and the form of applications for permits.
- (b) Information to be required in the application, include without limitation, proof of legal interest in the property, proof of authority to sign the application, drawings, maps, data, and charts concerning land and water uses and areas in the vicinity of the proposed development, and for major permits, a completed Environmental Assessment and Impact Study and appropriate supplementary data reasonably required to describe and evaluate the proposed development and to determine whether the proposed development complies with statutory criteria under which it might be approved;
- (c) The payment of reasonable application, processing, permit and other fees necessary for the proper administration of the permitting process. The funds received under this paragraph shall be placed in the Natural Resources Reclamation Fund as described and provided for in this subchapter;
- (d) Establishment of the standards for development to be conducted completely or substantially seaward of the line of mean high tide, including but not limited to swimming or navigation buoys, moorings for vessels, small intake and outfall pipes, small private piers, small boat ramps or slips, and underwater transmission lines or cables;
- (e) Standards, in addition to those set forth in this law, for determining whether a project requires a major permit;
- (f) Requirements for the conduct and continuance of public hearings and the methods of providing public notice on major project permits. A public notice shall, at a minimum, state the nature and location of the proposed development, the time and place of the public hearing, and shall be advertised in a newspaper of general circulation, and, in addition, be given to the applicant, any person who requests such notification in writing,

any person who the Commissioner determines would be affected by or may be interested in such development, and the owner(s) of all lot(s) within five-hundred (500) feet of the site of a proposed major development. Joint public hearings may be held in conjunction with any such hearing required by any federal agency;

- (g) Requirements for the notification, in writing, of any person who the Commissioner determines would be affected by or interested in any minor development, and the owner(s) of all lots within two hundred fifty (250) feet of the site of a proposed minor development;
- (h) Requirements for monthly newspaper notices of minor permit applications for single and two-family residences;
- (i) Contents of permits;
- (j) Notifications of decisions on applications;
- (k) Notices of completion and certificates of acknowledgment of compliance;
- (l) Amendment, modification and revocation of permits;
- (m) Transfer or assignment of permits; and
- (n) Regulations governing the filing, content, review and processing of applications for permits that include development or occupancy of trust lands or other submerged or filled lands; provided, however, that all applications for permits that include development or occupancy of trust lands or other submerged or filled lands shall include:
 - (1) A complete and exact written description of the proposed site, including charts, maps, access, photographs, topographic charts, submerged land contours, and subsurface profiles in accordance with the scope and complexity of the work and the site;
 - (2) A complete and exact written description of the proposed occupancy or development for which the permit is sought, defining construction methods. This description must include the details of supervisory and control procedures and credentials of the personnel responsible for the execution of the work; and
 - (3) A written statement of alternatives, if any, to the proposed development.

Section 245. Areas of Particular Concern and Areas for Preservation and Restoration

- (a) The Commissioner may recommend, after reasonable notice and public hearings, designation of areas of particular concern and areas for preservation and restoration and submit such recommendations to the Legislature for adoption. In recommending the

designation of areas of particular concern and areas for preservation and restoration, criteria for selection and implementing actions shall be included in a report prepared and adopted by the Commissioner.

- (b) The Commissioner shall utilize the criteria from the following categories in selecting areas to be recommended for designation as areas of particular concern, which may include areas for preservation and restoration.
 - (1) Significant Natural Areas - These are areas of unique, scarce, or fragile natural habitat or physical features; areas of high natural productivity; or essential habitat for living resources, endangered species including fish and wildlife and various levels of the food chain critical to their well being. Examples of significant areas are unique or remnant plant and animal species of special interest; natural areas that provide scientific and educational value; and areas necessary for nesting, spawning, rearing of young, or resting during migration. Also included are areas needed to protect, maintain, or replenish coastal lands and resources.
 - (2) Culturally Important Areas - These are coastal lands and waters where sites of historic and archaeological significance, cultural or traditional value, or scenic importance are located.
 - (3) Recreation Areas - Coastal lands and waters of substantial recreational value and/or opportunity. Examples include areas well suited for public parks, beaches, boat launching and mooring, and other recreational activities.
 - (4) Prime Industrial and Commercial Areas - Those coastal lands and waters with existing or potential geologic and topographic amenability to industrial and/or commercial development, especially those requiring a water front location.
 - (5) Developed Areas - Those urbanized or highly populated and intensively developed areas, where shoreline utilization and water uses are highly competitive or in conflict.
 - (6) Hazard Areas - Coastal locations that, if developed, would pose a hazard because of periodic flooding, storms, erosion or land settlement.
 - (7) Mineral Resources - Coastal areas with existing or potentially important mineral resources, particularly sand deposits for commercial extraction.

Section 246. Development Permit Requirements

(a) Major and Minor Permits, When Required

- (1) On or after the effective date of this law, any person wishing to undertake development, except as provided in subsection (c) of this section, shall obtain a

major or minor development permit, in addition to obtaining any other permits required by law, prior to performing or undertaking any such development project.

- (2) Major development permits shall be issued by the appropriate Committee of the Commission for all approved applications for major development projects in accordance with the requirements of this subchapter.
- (3) Minor development permits shall be issued by the Commissioner for all approved applications for minor development projects in accordance with the requirements of this subchapter. All single or two family residences on any parcel of record are to be considered a minor permit, unless the Commissioner determines that the proposed activity is likely to have significant adverse environmental consequences. If the Commissioner determines the proposed activity is likely to have significant adverse environmental consequences, the applicant shall be notified and the application shall be forwarded to the Commission.
- (4) No person shall develop or occupy the trust lands or other submerged or filled lands of the Virgin Islands without securing a permit from the Department of Planning and Natural Resources and a lease from the appropriate agency for the development or occupancy of the trust lands or other submerged or filled lands. The provisions of this subsection shall be in addition to all other requirements of this law and shall apply to all applications for, and issuance of, permits for development or occupancy of the trust lands or other submerged or filled lands, and for modifications or renewals of permits or leases for such development or occupancy issued prior to the effective date of this law.
- (5) A development, shall be deemed a major development and subject to any of the requirements (the requirements are to be considered singularly, not cumulatively) of section 247 of this chapter if it meets or exceeds any of the following criteria:

Major Permit Threshold Table

Intensity District	Acreage	Nonresidential Floor Area	Dwelling Units	Subdivision of Lots
A	N/A	N/A	N/A	N/A
1	10 Acres	N/A	20	10
2	10 Acres	2,000 S.F.	25	20
3	15 Acres	25,000 S.F.	30	25
4	N/A	60,000 S.F.	40	25
5	N/A	25,000 S.F.	25	20
6	N/A	N/A	N/A	N/A
1W	N/A	N/A	N/A	N/A
2W	N/A	N/A	N/A	N/A
3W	N/A	N/A	N/A	N/A
4W	1 Acre	10,000 S.F.	N/A	N/A
6W	3 Acres	25,000 S.F.	N/A	N/A

- (6) The following uses or activities shall also be subject to all major permit requirements if:
- (A) The development causes the demolition without replacement of more than ten (10) units of affordable housing within the meaning of the Affordable Housing Act (29 V.I.C. section 930 et seq.);
 - (B) The development causes the filling of any submerged lands;
 - (C) The development involves the proposed development of a parcel exceeding ten (10) acres and the average gradient of the parcel exceeds thirty-five (35) percent;
 - (D) The development involves the proposed development of a parcel exceeding ten (10) acres and for which there exists no public potable water and sewer facilities; or
 - (E) The development involves heavy manufacturing, quarrying/mining, solid waste disposal facilities and sewage treatment plants in Intensity District 6, regardless of their proposed size.
- (7) The following types of development to be conducted completely or substantially seaward of the mean high water line shall be subject to the minor permit application process: swimming or navigation buoys, moorings for vessels, small

intake or outfall pipes, small private piers, small boat ramps or slips and small scale scientific experiments. All other development proposed to be conducted completely or substantially seaward of the line of mean high tide shall be subject to the major permit process.

- (8) An applicant shall not avoid the requirements of a major permit application by submitting piecemeal applications for development of the same or adjacent lot(s). The Department is prohibited from accepting or processing any application for minor development which, when considered cumulatively with all other minor permits issued to the applicant for development within the prior four (4) years on the same or adjacent lot(s) in the ownership of the applicant, his agent(s), close family members, corporation, partnership or joint venture in which he has an interest, would constitute a major permit application.

(b) **Permits, Terms and Conditions**

- (1) Any development permit that is issued shall be subject to the terms and conditions imposed by the appropriate Commissioner or the Committee to ensure that such development will be in accordance with the provisions of this law.

- (2) **Reapplication**

If an application for a permit is denied by the Commissioner or the appropriate Committee of the Commission, the applicant may not submit another application for development of the same property sooner than one hundred twenty (120) calendar days after the date of the denial decision or if there is an appeal, one hundred twenty (120) calendar days after written notification of the Board's determination.

- (3) **Commencement and Expiration**

Any development approved pursuant to this law shall be commenced, performed and completed in compliance with the provisions of the permit for such development issued by the Commissioner, the Commission or an appropriate Committee of the Commission. Any development authorized by a permit shall be commenced within twelve (12) months from the date such permit is issued. Failure to commence substantial development within such period shall cause the permit to lapse and render it null and void, except that two (2) and only two extensions may be granted by the Commissioner, the Commission or an appropriate Committee of the Commission for reasonable cause shown, for a period not to exceed twelve (12) months for each extension. A permit shall be considered issued on the date it is signed by the Commissioner or the Chairman of the appropriate Committee or Commission.

- (4) **Evidence of Ownership or Legal Interest**

Upon filing an application, the applicant shall be required to provide written evidence of his or her legal interest in and the right to perform development upon all property on which work would be performed if the application is approved, including submission of all relevant legal documents. Where the applicant is not the owner of the property, the owner must co-sign the application before it will be accepted for filing. Where the applicant is leasing property from the Virgin Islands Government, the co-signature of the appropriate Virgin Island Government official may not be required. The applicant shall have the burden of demonstrating to the satisfaction of the Commissioner, the current validity of the legal interest upon which he or she bases any part of the application before such application can be deemed to be complete.

(c) When a Permit is Not Required or May be Waived

- (1) Notwithstanding any provision of law to the contrary, no permit shall be required for work related to the repair or maintenance of any use or structure, when such work shall not result in an addition to, enlargement or expansion of such use or structure, as determined by the Commissioner after receipt of a request for such development.
- (2) When immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster or serious accident; or in other cases of emergency or exigency, the permit requirements may be waived by the Commissioner or the appropriate Committee of the Commission. The applicant shall notify the Commissioner or the Committee, in writing, of the type and location of the work, the length of time necessary to complete the work, and the name of the person or public agency conducting the work.

Section 247. Major Project Review Procedures

- (a) The Commissioner shall establish and publish three (3) major project application periods for each calendar year, provided however, that no application period may begin sooner than sixteen (16) weeks after the commencement of the previous application period. The Commissioner shall establish and publish in a newspaper of general circulation and post in a public place a schedule of monthly pre-application meetings in each district. No application shall be accepted without a prior pre-application meeting. Applications for major project permits shall be accepted only during the first ten (10) working days of each application period.
- (b) Any person wishing to undertake a major project shall obtain a major project permit in addition to obtaining any other permits required by law from any public agency prior to performing or undertaking any development, in accordance with the procedures of this section.

- (c) Prior to the submission of any application for a major project permit, the applicant shall attend a pre-application meeting scheduled by the Commissioner. The purpose of such meeting shall be to afford the applicant an opportunity to discuss the proposed development with the Department and receive guidance with regard to required submittals. No application shall be accepted without a pre-application meeting having been held, except when waived by the Commissioner.
- (d) Upon submission of any application for a major development permit, the Commissioner shall determine whether the application is complete. If the Commissioner determines that such application is complete he shall establish a completion date and notify the applicant thereof. If the Commissioner determines that such application is not complete he shall notify, in no more than ten (10) working days after the last day of the application submission period, the applicant of the deficiencies in such application. Within three (3) working days after receipt of the notice of deficiency or ten (10) calendar days after the notice of deficiency has been mailed, whichever is sooner, the applicant shall submit the necessary materials requested in the notice of deficiency.
- (e) Upon determination by the Commissioner that an application for a major project permit is complete, the Commissioner shall, within three (3) working days, transmit a copy thereof to all relevant public agencies or relevant divisions of the Department of Planning and Natural Resources for review and comment. Such agencies and/or divisions shall review and submit their comments on the application to the Commissioner within twenty (20) working days of receipt thereof.
- (f) After an application is complete, the Commissioner shall, within twenty-five (25) working days, notify the applicant if the information submitted is insufficient to analyze the potential impacts of the proposed project and what additional information is required. The applicant shall submit the required information within fifteen (15) working days of the Commissioner's request. Failure to submit the required information shall render the application withdrawn from consideration for that application period.
- (g) The Commissioner shall schedule a public hearing to be conducted by the appropriate Committee of the Commission on such application, said hearing to be commenced within sixty (60) working days after the application has been deemed complete. Any person may submit written comments within ten (10) working days after the conclusion of the hearing; and the committee shall meet within ten (10) working days after the close of the comment period to act on the application.
- (h) The Commissioner shall present a staff report, based on the information provided by the applicant and such additional investigation as the Committee deems necessary, apprising the Committee of the beneficial and adverse impacts of the proposed development on the environment. In preparing this report the Commissioner shall take into consideration the cumulative impacts of the proposed development and related projects.
- (i) The Commissioner may request that the applicant provide such additional information as

is necessary to enable the Commissioner to prepare a staff report.

- (j) The appropriate Committee of the Commission shall act upon a major project permit application within twenty (20) working days after the conclusion of the public hearing required by this subsection and shall issue the permit if the application complies with all requirements of this law.
- (k) Failure of the appropriate Committee of the Commission to act within the time limit specified in subsection (i) above, shall constitute an action taken and shall be treated as a final permit solely for purposes of obtaining administrative and judicial review in accordance with this law.
- (l) A copy of the decision of the appropriate Committee of the Commission on an application for a major project permit shall be transmitted in writing to the applicant and to any person who requests a copy thereof.
- (m) Any decision to approve or deny by the appropriate Committee of the Commission shall become final, after the forty-fifth (45th) working day following a decision, unless an appeal is filed with the Board of Land Use Appeals within such time. If such an appeal is filed, the operation and effect of the Committee's decision shall be stayed pending a determination on appeal.
- (n) If an application for a permit is denied by the appropriate Committee of the Commission, the applicant may not submit another application for a permit sooner than one hundred twenty (120) calendar days after the date of final decision or, if there is an appeal, one hundred twenty (120) calendar days after written notification of the determination of the Board of Land Use Appeals.
- (o) The applicant has the burden of proof to demonstrate compliance with the requirements of this law. Any application that does not comply with all of the requirements of this law shall be denied.
- (p) Every transporter of sand, gravel, aggregate, and minerals from the trustlands or other submerged or filled lands, shall produce a major project permit upon demand, and a lease as proof of authorization for such transport. To enforce this requirement, the Commissioner or his duly authorized representative shall have the right to stop any motor vehicle or vessel transporting sand, gravel, aggregate, minerals on the public roads, highways or Territorial waters of the Virgin Islands for the purpose of ascertaining whether the material being transported has been taken from the trustlands or other submerged or filled lands and whether a major project permit or a lease has been issued authorizing its removal pursuant to this law.

Section 248. Impact on the Public Trustlands

- (a) The purpose of this section is to enable the Commission, on behalf of the government as

trustee of the people of the Virgin Islands, to consider and analyze the impact of the proposed development on trustlands. It is the intention of the Legislature that the Commission pay special attention to any direct and indirect potential impact on trustlands, and that all efforts be made to alleviate or mitigate any adverse impact on trustlands. It is further the intention of the Legislature that no permit application shall be approved for any proposed development that impacts on trustlands, unless the appropriate Committee finds that the proposed development will produce a net benefit to the people of the Virgin Islands.

- (b) In determining whether a proposed development will produce a net benefit for the people of the Virgin Islands, as required by this section, the appropriate Committee of the Commission shall make its decision after following the procedures set forth in this section.
- (c) In evaluating impacts on the public trustland, the Committee shall take into consideration the following:
 - (1) The Territory of the Virgin Islands is economically dependent on its coast, which has been the source of the trade and commerce on which the Territory historically has grown prosperous.
 - (2) Tourism, which now constitutes a key element of the current economic base, could not survive without the beaches, harbors and other coastal resources of the Territory.
 - (3) Certain coastal resources of the Territory serve as a protective buffer that helps insulate the lives and property of the people of the Virgin Islands from the worst hazards of storms and tsunamis.
 - (4) The coastal resources also provide the people of the Virgin Islands with opportunities for fishing, swimming, recreation and scenic enjoyment that add significantly to the quality of life in the Territory.
 - (5) Certain submerged lands of the Territory were conveyed in 1974 by the Government of the United States to the Government of the Virgin Islands in trust for the people of the Virgin Islands.
 - (6) The Government of the Virgin Islands is responsible to ensure that the submerged lands of the Virgin Islands can be accessed, enjoyed and used productively by present and future generations.
 - (7) The Committee is acting as an agent of the Trustee in administering this program.
- (d) Because major development at any location within the Territory may have direct or indirect impacts on the ability of the people of the Virgin Islands to access, see, and enjoy their coastal resources, and in order that the Committee may ascertain the nature of those

impacts and balance the beneficial and detrimental aspects thereof, the applicant shall provide the following information in connection with any major development application:

(1) **Water Impacts**

An explanation of how the runoff or effluent from the proposed development, or change in existing ground or surface water flow, will improve or degrade the quality of water used by the people of the Virgin Islands as beneficiaries of the public trustland.

(2) **Employment Impacts**

An explanation of how the jobs created, eliminated or modified by the proposed development will help or hinder the people of the Virgin Islands in obtaining employment in water-dependent sectors of the economy, such as commerce, navigation, fishing and tourism, which have been the traditional occupations of public trustland beneficiaries.

(3) **Self-Determination Impacts**

An explanation of how the ownership, control, use and management of the proposed development will impact on the right of the people of the Virgin Islands to control their coastal resources which is an integral factor in fulfilling their right to self-determination. The explanation should describe how the sectors of the economy that utilize or benefit from the trustlands, such as commerce, trade, navigation, fishing and tourism, are affected by the proposed development.

(4) **Recreation Impacts**

An explanation of how the proposed development will increase or decrease the ability of the people of the Virgin Islands to exercise their rights to use their beneficial interest in the public trust land for recreational purposes.

(5) **Productivity Impacts**

An explanation of the extent to which the proposed development will enhance or restrict the ability of the Government of the Virgin Islands to exercise its responsibilities as Trustee to administer the resources of the public trust land in a manner that is both economically and ecologically productive.

(6) **Sustainability Impacts**

An explanation of how the proposed development will or will not provide sustainable benefits that will enable the Government of the Virgin Islands to exercise its responsibility to present and future beneficiaries, including:

- (A) the extent to which either or both the beneficial and adverse impacts of the proposed development fall disproportionately on either the current residents of the Virgin Islands or the future residents of the Virgin Islands; and
- (B) the extent to which the impacts of the proposed development are reversible or irreversible.

(7) **Access Impacts**

An explanation of how the proposed development will increase or decrease the accessibility of coastal resources to the people of the Virgin Islands.

(8) **Historical and Cultural Impacts**

An explanation of how the proposed development will impact upon the historical and patrimonial assets of the people of the Virgin Islands, including an explanation of whether compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA).

- (e) In exercising its responsibility to balance beneficial and adverse impacts to determine whether the proposed development will produce a net benefit for the public trust land for the people of the Virgin Islands, and this section, the Committee shall make written findings:
 - (1) Identifying those beneficial and adverse impacts to which it gave consideration; and
 - (2) Setting forth the reasons why it found the balance of impacts to be beneficial or detrimental. The Committee need not make its decision on a quantitative analysis, but may reach its conclusion on a qualitative assessment of all relevant impacts.

Section 249. Environmental Assessment and Impact Studies

- (a) In addition to the requirements set forth above, every application for a major permit shall be accompanied by an Environmental Assessment and Impact Study (EAIS). The Commissioner shall adopt appropriate guidelines for the preparation of an EAIS.
- (b) Every EAIS for a project shall include a consideration of the following factors:
 - (1) the purpose of the project;
 - (2) the environmental effects;

- (3) the significance of environmental effects;
- (4) the technical and economic feasibility of mitigation;
- (5) the need for follow-up;
- (6) short and long-term capacity for regeneration;
- (7) alternative means of carrying out the project;
- (8) methods by which nonpoint source pollution will be mitigated or avoided;
- (9) any other matters required by the Commissioner.

Section 250. Minor Permit Procedures

- (a) Upon submission of an application for a minor permit, the Commissioner shall determine whether such application is complete. If the Commissioner determines that such application is not complete, he shall notify, in no more than ten (10) working days after receipt thereof, the applicant of the deficiencies in such application.
- (b) Upon receipt of an application for a minor permit which is deemed complete, the Commissioner shall, within fifteen (15) working days, give written notice of the filing of such application to any person or property owner within two hundred fifty (250) feet of the property to be developed and request comments within thirty (30) working days thereafter. In addition, the Commissioner may give such notice to any person who he determines would be affected by or any person interested in such development. Applications for development of single and two-family homes are not subject to this notification requirement; except, however, the Department shall publish monthly, in a newspaper of general circulation, a notice of all applications for single and two-family residences in each district.
- (c) The Commissioner shall act upon an application for a minor permit within sixty (60) working days after the application has been deemed complete. Failure of the Commissioner to act within such time shall constitute an action taken and shall be deemed an approval of such application. A copy of the decision of the Commissioner on an application for a minor permit shall be transmitted in writing to the applicant and to any person who has requested a copy thereof.

Section 251. Criteria for Approval of Applications and Issuance of Permits

- (a) A minor permit shall be issued if the Commissioner finds, based on substantial evidence in the record, that the project complies with each of the following criteria.

- (1) The proposed project is consistent with the goals, policies, requirements, and performance standards of this law and other applicable laws.
 - (2) The project, as proposed, incorporates mitigation measures to eliminate or substantially lessen all adverse environmental impacts of the development.
 - (3) The proposed project incorporates non-point source pollution abatement measures consistent with standards in the Virgin Islands Environmental Protection Handbook and applicable Virgin Islands Environmental Protection Laws found in Title 12 of the Virgin Islands Code.
 - (4) The applicant has presented certification from the Bureau of Internal Revenue and Department of Finance that the applicant has filed and paid all taxes, penalties and interest; and if applicable, from the Office of the Lieutenant Governor that the applicant has filed its required annual report or has satisfactorily arranged to pay the taxes or file the required reports.
- (b) A major permit shall be issued if the appropriate Committee of the Commission makes findings, based on substantial evidence in the record, that the development complies with each of the following criteria.
- (1) The development is consistent with the goals, policies, requirements and performance standards of this law and other applicable laws.
 - (2) The development will produce a net benefit for the people of the Virgin Islands as required by section 248 of this subchapter.
 - (3) The proposed project incorporates non-point source pollution abatement measures consistent with standards in the Virgin Islands Environmental Protection Handbook and applicable Virgin Islands Environmental Protection Laws found in Title 12 of the Virgin Islands Code.
 - (4) The development has been conditioned to require that it incorporate such mitigation measures as will be necessary to eliminate or substantially lessen any and all adverse environmental impacts identified.
 - (5) Such public facilities as may be needed to ensure that the development complies with all standards of this law have been dedicated to the Government of the U.S. Virgin Islands.
 - (6) The development is consistent with the Comprehensive Land and Water Use Plan.
 - (7) The applicant has presented certification from the Bureau of Internal Revenue and Department of Finance that he has filed and paid all taxes, penalties and interest; and if applicable, from the Office of the Lieutenant Governor that the applicant

has filed its required annual report or has satisfactorily arranged to pay the taxes or file the required reports.

(c) **Public Access Requirements**

- (1) The Commissioner or the appropriate Committee of the Commission shall require that public access from the nearest public roadway to the shoreline be dedicated in land subdivisions or in new development projects requiring a development permit.
- (2) Factors to be considered in requiring such dedication of public access include:
 - (A) whether it is consistent with public safety or protection of fragile coastal zone resources;
 - (B) whether adequate public access exists nearby;
 - (C) whether existing or proposed uses or development would be adversely affected;
 - (D) consideration of the type of shoreline and its appropriate potential recreational, educational, and scientific uses; and
 - (E) the likelihood of trespass on private property resulting from such access and availability of reasonable means for avoiding such trespass.
- (3) Nothing in this subsection shall be construed as restricting existing public access nor shall it excuse the performance of duties and responsibilities of public agencies as provided by law to acquire or provide public access to the shoreline.
- (4) The provisions of this subsection shall not be construed as allowing free use of private facilities on land adjoining any beach or shoreline, but only as requiring that access to the beach or shoreline be granted to the general public as a condition precedent to the grant of a development permit.

(d) The applicant has the burden of proof to demonstrate compliance with these requirements. Any application that does not comply with all of these requirements shall be denied.

(e) **Supplementary Criteria for Development or Occupancy of Trust Lands or Other Submerged or Filled Lands**

- (1) In addition to the findings required above, the Commissioner or the appropriate Committee of the Commission shall deny an application for a permit that includes development or occupancy of trust lands or other submerged or filled lands, unless it makes all of the following findings:

- (A) that the application is consistent with the goals, policies, requirements, and performance standards of this law and all other applicable laws;
 - (B) that the granting of such permit will clearly serve the public good, will be in the public interest, and will not adversely affect the public health, safety, and general welfare or cause significant adverse environmental effects;
 - (C) that the occupancy and/or development to be authorized by such a permit will enhance the existing environment or will result in minimum damage to the existing environment;
 - (D) that there is no feasible alternative to the contemplated use or activity which would reduce the adverse environmental impact upon the trust lands or other submerged or filled lands;
 - (E) that there will be compliance with applicable Virgin Islands Environmental Protection Laws found in Title 12 of the Virgin Islands Code;
 - (F) that the occupancy and/or development will be supervised and controlled to prevent adverse environmental effects; and
 - (G) that in the case of the granting of an occupancy or development permit, an occupancy or development lease for the filled land is not sufficient or appropriate to meet the needs of the applicant for such permit.
- (2) A permit that includes an occupancy or development lease for trust lands or other submerged or filled lands shall be issued for a definite term, shall not constitute a property right and shall be renewable only if the requirements of this subchapter for the approval and issuance of such permits are satisfied.
- (3) A permit that includes an occupancy or development lease for trustlands or other submerged or filled lands shall only be granted for a particular parcel of filled lands for a lease period of not more than twenty (20) years; provided that nothing in this subsection shall prohibit a lessee or permittee from executing a new lease with the Department at the end of the twenty (20) year period. Any lease executed at the end of the lease period shall meet the requirements of this chapter and shall be approved by the Governor and ratified by the Legislature, or in the event the Legislature is not in session, by the appropriate Committee of the Legislature.
- (4) Any permit that includes an occupancy or development lease for trustlands or other submerged or filled lands, which the appropriate Committee of the Commission recommends for approval pursuant to this section, together with the recommended terms and conditions thereof, shall be forwarded by the Committee

to the Governor within thirty (30) days following the Committee's decision on the application for the permit or the Board's determination on appeal to cause the granting of such a permit, for the Governor's approval or disapproval. The Governor's approval of any such permit or lease must be ratified by the Legislature, or in the event that the Legislature is not in session, by the appropriate Committee of the Legislature. Upon approval and ratification of such permit, the occupancy and development proposed in connection therewith shall not commence until the permittee has complied with the requirements of the United States Army Corps of Engineers pursuant to Title 33 of the United States Code. For purposes of this section, any such permit shall be considered to be issued upon Legislative ratification of the permit and the issuance of an Army Corps of Engineers permit.

- (5) Permits for occupancy or development of trust lands or other submerged or filled lands shall provide for the payment by the permittee or lessee of a rental fee, and if the permit provides for or authorizes the dredging or removal of sand, gravel, coral or aggregate, it shall provide for the payment of a reclamation fee. The Commission shall, in the manner required by law for the adoption of rules and regulations, and after public hearings, establish a schedule of reasonable fees for the administration of this paragraph.

Section 252. Coordination with Other Permit Requirements

Where the development or occupancy of trust lands or submerged or filled lands, or other development requires separate and distinct approval from the United States or U.S. Virgin Islands Government or any agency, department, commission, or bureau thereof, the permit required by this law shall be contingent upon receipt of all other such permits and approvals, and no such development or occupancy shall commence prior to receipt of all of such permits and approvals.

Section 253. Finality of Decision

- (a) Any decision to approve or deny an application by the Commissioner or the appropriate Committee of the Commission shall become final after the forty-fifth (45th) working day following a written decision, incorporating the conditions, if any, unless an appeal is filed with the Board of Land Use Appeals within such time. If such an appeal is filed, the operation and effect of the Commissioner's or the Committee's action shall be stayed pending a determination on appeal.
- (b) If an application is denied, the applicant must wait one hundred twenty (120) calendar days before submitting another, except when a shorter time period is granted by the Commissioner.

Section 254. Certificate of Occupancy

- (a) No land or water area shall be occupied or used and no building hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until a Certificate of Occupancy has been issued by the Commissioner, stating that the premises, building, or other development complies with all provisions of this law; except that in the case of an alteration which does not require vacating the premises or where parts of the premises are finished and ready for occupancy before the completion of the alteration, or in the case of a new structure, before its completion, a Conditional Certificate of Occupancy may be issued.
- (b) No change of use or no alteration shall be made in a nonconforming use of a building or land or water area without a Certificate of Occupancy having first been issued by the Commissioner that such change, extension or alteration is in conformity with the provisions of this law, as provided by subchapter V, section 275.
- (c) A Certificate of Occupancy shall be issued within ten (10) working days after the Commissioner or Commission has determined that the development is in conformity with the provisions of this law and all conditions of required permits.

Section 255. The Natural Resources Reclamation Fund

The Natural Resources Reclamation Fund is hereby continued without hiatus, from existing law. The Commissioner of Finance is directed to maintain and provide for the administration of this fund as a separate and distinct fund in the Treasury, and to authorize disbursements therefrom, upon the certification of the Commissioner, to meet expenses incurred in the administration and enforcement of the provisions of this law and in the discharge of the Commission's duties thereunder. The fund shall consist of all fees and fines paid pursuant to the provisions of this law, and such other funds as may from time to time be appropriated thereto by the Legislature; provided however, that ten percent (10%) of the funds shall be set aside for the purchase of land for conservation and preservation purposes.

SUBCHAPTER IV. Environmental Performance Standards

Section 256. Purpose and Intent

The purpose of this subchapter is to set forth standards for the protection of natural resources in the Territory. The intent is to ensure the health, safety, and general welfare of the residents of and visitors to the United States Virgin Islands. Additionally, it is the intent of this subchapter to meet the goals, policies, standards and objectives of the Comprehensive Land and Water Use Plan of the Territory, as well as regulations of federal agencies, for the protection of certain natural resources.

Section 257. Mangrove Ecosystem Protection Standards

- (a) The surviving viable mangrove ecosystems in the Virgin Islands serve vital physical and biological functions, which promote the public health, safety, welfare and economic well-being of the people of the Virgin Islands. Mangroves are a highly productive and unusually diverse wildlife habitat, providing critical nursery habitat for birds, commercial seafood and marine life. Mangroves trap sediment thereby protecting adjacent bays, coral reefs and other marine resources from turbidity and water quality degradation.
- (b) No part of a subsurface sewage treatment or disposal system shall be permitted within a mangrove ecosystem or within one hundred fifty (150) feet of a mangrove ecosystem.
- (c) No more than twenty percent (20%) of any lot in a mangrove ecosystem may be developed.
- (d) No anchorage for live-aboard vessels is permitted within a mangrove ecosystem or within two hundred fifty (250) feet of a mangrove ecosystem.
- (e) Marinas (recreational marine crafts), boat docks and launching ramps may be permitted within a mangrove ecosystem subject to the following conditions.
 - (1) No fueling facilities or underground petroleum storage tanks shall be permitted.
 - (2) No live-aboard vessels shall be permitted without Coast Guard approved Type 3 sanitation devices, and pumpout facilities shall be provided for live-aboards.
 - (3) No repair work, such as the scraping, finishing or refinishing of hulls or the painting of boats shall be permitted.
 - (4) No sale of food or drinks at the docking area or areas shall be permitted.
 - (5) Such facilities shall be used only for the docking of small power boats and sailboats.

Section 258. Beach Protection Standards

- (a) Beaches are the most dynamic marine environment and therefore may be unsuitable for permanent construction because structures tend to interfere with natural sand movement along beaches. In addition, structures themselves may be threatened by placement on beaches. Interference with natural beach processes may negatively affect off-shore reefs, adjacent beaches and the opportunity of the people of the Virgin Islands to enjoy the recreational amenities provided by beaches.
- (b) No development shall be permitted within one hundred (100) feet of the mean high waterline on a beach, except for the provision of access ways to the beach and the

construction of small private piers.

Section 259. Salt Pond Protection Standards

- (a) Salt ponds are important as wildlife habitat and as natural catchment and settling basins. Salt ponds frequently protect bays, coral reefs and other marine resources from storm water runoff and resultant turbidity and water quality degradation.
- (b) No part of a subsurface sewage treatment or disposal system shall be permitted within a salt pond or within one hundred fifty (150) feet of a salt pond.
- (c) No development shall be permitted within a salt pond or within one hundred fifty (150) feet of a salt pond.

Section 260. Off-Shore Cay Protection Standards

- (a) The undeveloped off-shore cays represent an important natural resource. Cays provide valuable nesting sites for bird life. They are the last remaining local rookeries for several species. Several off-shore cays are extremely important to numerous bird and reptile species because they are free of mongoose, which permits group nesting by birds and the survival of certain reptiles no longer found on the larger islands. Many cays have valuable and unspoiled reefs. The views and vistas afforded by these cays are an important visual resource. Further, the cays are very susceptible to man-induced stress due to their small size.
- (b) Except as required for access to coastal waters, no development shall be permitted within fifty (50) feet of the mean high waterline for any off-shore cay.
- (c) No part of a subsurface sewage treatment or disposal system shall be permitted within one hundred fifty (150) feet of the mean high water line of any off-shore cay.

Section 261. Wetlands Protection Standards

- (a) The few remaining wetlands in the Virgin Islands are limited and critical for marine life and wildlife habitat.
- (b) No part of a subsurface sewage treatment or disposal system shall be permitted within a wetland or within one hundred fifty (150) feet of a wetland.
- (c) No development shall be permitted within a wetland or within one hundred fifty (150) feet of a wetland.

Section 262. Regulations

- (a) The Commissioner and the Commission is hereby authorized and directed to promulgate rules and regulations governing the protection and development of:
- (1) Coastal High Hazard Areas
 - (2) Steep Slopes
 - (3) Flood Plains
 - (4) Alluvial Soils
 - (5) Endangered Species Habitat, Nesting and Roosting Areas
 - (6) Existing Vegetation
 - (7) Wellfields and Groundwater Recharge Areas

These regulations shall establish standards for development of, on and adjacent to the natural resources identified herein.

- (b) No such rules and regulations, as provided for above, shall be promulgated unless public hearings are held by the Commission after appropriate notice as provided in this law and in accordance with title 3, section 913 of the V.I Code.

SUBCHAPTER V. Other Performance Standards

Section 263. Residential Performance Standards

(a) **Purpose**

The purpose of these provisions is to describe those supplemental standards, which apply to residential land uses. These standards regulate building placement, dwelling unit type and use. These standards shall be applied in addition to those standards imposed by other sections of this law. These supplemental standards are intended to reduce the negative impacts resulting from building placement and dwelling unit type and use.

(b) **General Residential Uses**

It is the intent of this section to describe allowable dwelling unit types and other standards that apply to all residential uses within the Territory.

(c) **Density**

Unless otherwise provided in this law, the maximum allowable density of dwelling units shall be that density indicated in subchapter II of this law for the area shown on the official zoning map, which is also a part of this law.

- (1) Residential uses may not exceed the maximum allowable density for the

designated land use, except as provided in sections 267 or 268 of this subchapter.

- (2) For purposes of this section, density shall be considered gross density. Gross density is the total number of dwelling units divided by the total land in the development. Land needed for drainage, parkland dedication, circulation, recreation facilities, etc., is not subtracted from the total land area available. However, land in public rights-of-way shall not be used in density calculations. For a developed or partially developed area for which redevelopment is proposed, gross density shall be calculated as follows:
 - (A) The area included in the initial subdivision of land (plat or replat) or an addition to an existing subdivision shall form the base area for density calculations; or
 - (B) Where (A) above is not known, gross density shall be calculated based on the area of the parcel or the total area of continuous parcels under common ownership.
- (3) In determining the number of persons occupying a particular unit, the following table of persons per unit shall be used.

Efficiency apartment	one and one-half(1½) persons
1 bedroom apartment	two (2) persons
2 bedroom apartment	three (3) persons
3 or more bedrooms	four (4) persons
Hotel rooms	one and one-half(1½) persons

(d) **Dwelling Unit Type**

Subject to the requirements of the Virgin Islands Building Code, any dwelling unit type shall be allowed within the Territory. Any dwelling unit type or combination of dwelling unit types shall be permitted on any parcel or group of lots when the structures can be so located in full compliance with the provisions of this law. Dwelling unit types are as follows:

- (1) Single- or two-family structure: any residential building containing one (1) or two (2) dwelling units, and not attached to any other dwelling units by any means.
- (2) Multiple-family structure: any residential building containing three (3) or more separate dwelling units, provided however, that within Intensity District 1, no multiple-family structure shall contain more than four (4) dwelling units, and within Intensity District 2, no multiple-family structure shall contain more than six (6) dwelling units.

(e) **Building Placement**

There are hereby established certain minimum building placement standards for the protection of the health, safety, and welfare of the general public. These standards shall

apply to all residential uses.

- (1) The minimum distance between principal buildings on the same lot shall be twelve (12) feet.
- (2) Distance for setbacks shall be measured at the narrowest space between the exterior wall of any structure, whether a principal building or accessory building, and the property line, and shall not include any roof overhang (eave). In no instance shall any roof overhang be allowed to extend beyond a property line.
- (3) For buildings which exceed twenty-five (25) feet in height, the minimum distance from an adjacent building or property line shall be increased by two (2) feet for each story above two.

Section 264. Supplemental Standards for Special Residential Uses

(a) **Purpose**

It is the purpose of this section to set forth standards for the protection of the health, safety and welfare of both the community at large and the residents of a facility. These standards are supplemental and are in addition to those standards set forth elsewhere in this law.

(b) **Special Residential Uses**

Special residential uses are those uses with care facilities including, but not necessarily limited to, group care homes, emergency shelters, residential treatment facilities or nursing, rest or convalescent homes.

(c) **Standards for Special Residential Uses**

- (1) No special residential use as defined in this section shall be located closer than one thousand two hundred (1,200) feet, measured from property lines, from another such facility when located in an area designated as Intensity District 1 or 2 on the Official Zoning Map.
- (2) Special residential uses as defined in this section, when located in Intensity Districts 3, 4, or 5 on the Official Zoning Map shall be subject to the following standards:
 - (A) No special residential use shall be located closer than six hundred (600) feet, measured from property lines, from another such facility.
 - (B) If the facility is located within a residential neighborhood, it shall be designed, constructed and maintained to conform to the character of that

neighborhood. This requirement applies to density, lot size, construction materials, landscaping or other factors affecting the neighborhood character. This provision is intended to prevent disruption of a neighborhood due to the introduction of a dissimilar structure.

- (C) Notwithstanding any other provisions of this law, no signs denoting the name and/or purpose of a special residential use shall be allowed in a residential neighborhood.
- (D) The total occupancy of a structure designed for special residential use shall not exceed one occupant per one hundred and fifty (150) square feet. For homes on a local street, occupancy shall not exceed two (2) persons per number of bedrooms.

Section 265. Supplemental Standards for Home Occupations

(a) Purpose

It is the intent in this section to: (1) allow for and to regulate the establishment of home occupations in residential neighborhoods; (2) regulate the operation of home occupations so that the adjacent neighborhood residents will not be substantially adversely impacted by their operations; and (3) govern the Department's role in the review of business license applications to ensure compliance with the Virgin Islands Code.

(b) Standards

A home occupation is allowable as an accessory use in a dwelling unit in any residential area. All provisions of this law pertaining to residential uses shall be met. In addition, all of the following standards shall apply.

- (1) The operation of a home occupation must be clearly subordinate to the use of the dwelling as a residence.
- (2) No outdoor display or storage of materials, goods, supplies, or equipment shall be permitted.
- (3) There shall be no changes to the exterior of the building nor any visible evidence that the residence also contains a home occupation.
- (4) A home occupation use shall not generate nuisances such as on-street parking, noise, electrical interference, or hazards.
- (5) A home occupation shall not involve the employment of more than one person within the dwelling, other than a member of the immediate household.

- (6) Not more than twenty-five percent (25%) of the gross floor area of the dwelling unit may be utilized for a home occupation.
- (7) A home occupation shall not display or advertise, on the premises, any commodity or services for sale.

Section 266. Mobile and Manufactured Housing

(a) Purpose

It is the intent of this section to allow for and regulate the use of manufactured housing in the Territory. Manufactured housing is important in the provision of low- and moderate-cost housing. Therefore, standards in this section are provided both to recognize the valid place of manufactured housing and to set forth necessary criteria on location and use of such housing.

(b) Classifications of Mobile Housing

Travel trailers, mobile homes and other recreation vehicles that are to be placed on a site for longer than ninety (90) days are subject to the provisions of these standards. For purposes of this section, mobile homes are classified as:

- (1) Type A Mobile Homes - New mobile homes certified as meeting HUD Mobile Home Construction and Safety Standards, or used mobile homes certified as meeting either the HUD standards specified above or appropriate and lawful prior code, found on inspection to be in excellent condition and safe and fit for residential occupancy.
- (2) Type B Mobile Homes - Used mobile homes, whether or not certified as meeting HUD codes, found on inspection to be in excellent, good, or fair condition, as defined by the HUD Mobile Home Construction and Safety Standards.

(c) Classifications of Mobile Home Developments

- (1) A mobile home community is a development containing five (5) or more mobile homes with continuing local general management. It has special facilities for common use by the occupants, and may include such items as common recreational buildings and areas, common open space, laundries, and the like. This may also include a condominium ownership arrangement.
- (2) A mobile home park is a parcel of land under single ownership on which five (5) or more mobile homes are occupied as residences. This does not include the use of mobile homes as allowable accessory uses.

- (3) A mobile home subdivision is designed and/or intended for the sale of lots for residential occupancy by mobile homes.

(d) **Standards for Manufactured Housing**

Manufactured housing, other than mobile homes, is an allowable dwelling unit type in any area designated for residential land use on the Official Zoning Map. Such housing is subject to the provisions of the Virgin Islands Building Code and all standards in this law that apply to residential land uses.

(e) **Standards for Type A Mobile Homes**

Type A mobile homes are allowed only in a mobile home development as provided for in subsection (g) below.

(f) **Standards for Type B Mobile Homes**

Type B mobile homes are allowed only in a mobile home development as provided for in subsection (g) below. In order for a Type B mobile home to be moved to a new location it must meet the following standards.

- (1) Permission to relocate shall be obtained from the Department.
- (2) Upon inspection, the Type B mobile home shall be found to be in excellent or good condition prior to the move. Criteria for determining condition shall be the same as those applied to housing inspections. After moving or relocation of the Type B mobile home, a second inspection shall be required to verify that the mobile home remains in no less than good condition. A Certificate of Occupancy shall not be issued until such conditions are met.

(g) **Standards for Mobile Home Developments**

A mobile home development shall be allowed where all applicable standards of this law are met for a residential land use. In addition, the following standards shall apply.

- (1) A mobile home development is allowed only in those districts designated for residential land use on the Official Zoning Map. A mobile home development shall not exceed the densities established for residential uses within the district proposed for the development.
- (2) The following are site design standards for a mobile home park or a mobile home community.
 - (A) The minimum land area shall be three (3) acres.
 - (B) Every mobile home shall be located at least eight (8) feet from any

internal abutting street.

- (C) The minimum distance between a mobile home (including allowable accessory buildings) and an adjacent mobile home (including accessory buildings) shall be fifteen (15) feet. This distance shall be measured at the narrowest space between structures, either the living unit itself or an accessory building (e.g., carport, storage building).
 - (D) Any utilities, streets, sidewalks, and fire protection mechanisms, for a mobile home park or a mobile home community shall be designed and developed in accordance with all subdivision standards and any applicable regulations provided by this law.
- (3) A mobile home subdivision shall be designed and developed in accordance with all standards applicable to general subdivisions.
 - (4) The conversion of mobile home development to a subdivision may be allowed if the platted lots meet the standards established by this law.

Section 267. Planned Residential Development

(a) Goal

With strict limitations in most zoning laws for yards and other open spaces, some imaginative developments that would prove beneficial to the community could not be constructed as they would not meet the strict letter of the law. To allow for sound and imaginative development to take place, planned residential development permits construction that meets the spirit of the law if not its strict letter. Additionally, bonuses in the form of increased residential densities are granted in planned residential developments to encourage innovative design and land planning.

(b) Purpose and Intent

Planned residential developments, as permitted by this section, are intended to provide an opportunity for alternative variety and creative or unique design arrangements and relationships of buildings and uses of land that are built as a single entity under unified control, when the plan of development has been approved in the manner prescribed herein.

To ensure that a planned residential development conforms to the character and nature of the district in which it is located, achieve a maximum of coordination between the planned development and neighboring land uses, promote the intent and purposes of this chapter, and encourage the most appropriate use of land within the area of the planned development, specific and additional standards are established.

(c) **Tract Requirements**

- (1) A tract, under single ownership or control, of an area and dimensions not less than those prescribed by the appropriate Table of Dimensional and Density Requirements for the Intensity Districts in which the planned residential development is proposed, shall be required. The tract may be divided by an existing public street, which may be retained as a part of the plan for the development. The minimum yard setback requirements of the appropriate Table of Dimensional and Density Requirements shall apply only to the periphery of the tract.
- (2) Access from the tract to existing public roads shall be provided by interior streets, not closer than intervals of two hundred (200) feet, and no dwelling unit's driveway shall ingress or egress directly onto a collector or arterial street incorporated into or created within a planned residential development.
- (3) The gross density of the project shall not exceed six dwelling units per acre in District 2 or ten dwelling units per acre in District 3.

(d) **Permitted Uses**

- (1) The residential housing types permitted within a planned residential development are single-family detached dwellings, single-family attached dwellings, and multiple-family dwellings.
 - (A) Single-family and two-family detached dwellings shall constitute not more than fifty percent (50%) of the total number of dwelling units to be constructed in the planned residential development.
 - (B) Single-family attached dwellings shall constitute not more than twenty percent (20%) of the total number of dwelling units to be constructed in the planned residential development.
 - (C) Multiple-family dwellings shall constitute not less than forty percent (40%) of the total number of dwelling units to be constructed in the planned residential development.
 - (D) Only single-family or two-family detached dwellings or open space shall abut any tract boundary line which is a common line with the boundary line of another parcel or lot of less than five (5) acres in area, which contains a single-family or two-family detached dwelling, and which pre-dates the planned residential development.
 - (E) The arrangement of the various dwelling types and open space shall be such as to provide an appropriate transition from one dwelling unit type to

another dwelling unit type. Particular attention shall be devoted to the transition from pre-existing single-family or two-family dwellings in the neighborhood of the planned residential development to other dwelling unit types within the development to minimize visual or functional conflict between the two dwelling unit types.

(2) Neighborhood commercial and institutional uses are permitted in a planned residential development under the following conditions.

(A) Two thousand (2,000) square feet of such uses with a maximum lot coverage of thirty (30%) percent, may be constructed for each one hundred (100) dwelling units within the development. Where a development qualifies for only one or two such areas, they shall be on a contiguous parcel. The commercial uses shall be limited to the extent that no individual store or shop may exceed three thousand (3,000) square feet of gross floor area. In Districts 2 and 3, the retail trade and personal and professional services permitted in those districts shall be retained; and their development shall be governed by appropriate Table of Dimensional and Density Requirements and by any applicable standards established by this law or by any rules and regulations promulgated hereunder. Additionally, no neighborhood commercial or institutional use may be constructed until at least fifty percent (50%) of the total permitted dwelling units have received certificates of occupancy.

(B) For each one hundred (100) dwelling units within the development, any one of the following principal land uses may be included on a minimum lot of one-half (1/2) acre, and a maximum lot coverage of twenty-five percent (25%).

Health Care Facility
House of Worship
Club House
Nursing Home
Home for the Elderly
Day Care

(e) **Common Open Space**

(1) Not less than thirty percent (30%) of the gross land area of a planned residential development shall be dedicated for common open space. Such common open space shall be for the use of residents of the development other than required public improvements or private streets, and shall be reserved by a restrictive covenant in favor of the residents of the development, or by a grant of an easement, providing that it shall be set aside in perpetuity for the use of residents of the development, or shall be deeded to a homeowners' association. Any of the foregoing shall be implemented by written instrument filed at the appropriate

office of the Recorder of Deeds. If a conveyance to a homeowners' association is the instrument selected, the homeowners shall so organize the association so that it may not be dissolved, or in the event of dissolution, bankruptcy or foreclosure, the successor in interest shall not dispose of the common open space by sale or otherwise (except to an organization created and established to own and maintain it as common open space) without first offering to dedicate it to the Territory.

- (2) All flood plain areas, wetlands, salt ponds, mangrove ecosystems, beaches, lands with slopes of forty-five percent (45%) or more, and lands not included within lots to be conveyed or utilized for required public improvements, shall be included within the common open space, provided the landowner can still make reasonable use of the property; and at least ten percent (10%) of the gross land area of the Planned Residential Development must be common open space other than flood plain, wetlands, salt ponds, mangrove ecosystems, beaches, land with slopes of forty-five percent (45%) or more, or common parking areas; and at least one-half of that ten percent (10%) or five percent (5%) of the gross area shall be common open space free of structures or other improvements.
- (3) Where the Commissioner or the appropriate committee of the Commission finds that the strict application of the common open space requirement established by paragraph (2) above would result in the inability of the applicant to reasonably develop his property, the Commissioner or the Committee may modify the provisions of that paragraph to ensure that the property owner may make reasonable use of his property in a manner that is most protective of the natural environmental features identified in paragraph (2) above.
- (4) Any area to be dedicated for common open space shall be so located and configured to meet the goals and policies established by this law. In determining the acceptability of proposed common open space, the Commissioner or Committee shall consider present and future territorial needs and plans, and may require a portion of the common open space to be designated as community space, provided, however, that not more than twenty-five percent (25%) of the required common open space area shall be established as community space.
 - (A) Common open space areas may be used as community space, environmental resource conservation areas, pedestrian walkways, dedicated soil absorption fields, and drainage control areas.
 - (B) For purposes of this section, the term "community space" means land and buildings in the ownership of a homeowners' association which, is or can be, developed or used as parks, playgrounds or recreation areas, swimming pools, equestrian trails and centers, tennis courts, basketball courts, or similar facilities which are used for the benefit of the residents of the development.
 - (C) For purposes of this section, the term "playground" shall mean the primary

location for outdoor play for children from the ages of approximately 5 to 14, generally containing play equipment such as climbers, swings, balance beams, horizontal ladders or more modern creative play equipment, and a play lot for younger children.

- (5) The developer shall seed all common open space areas with appropriate grass or other approved vegetation during the course of construction unless the Commissioner or appropriate Committee approves or directs the maintaining of all, or a portion of, such common open space in the natural state or with minor specified improvements, in which case the developer will make only those specified improvements.
- (6) No single area of less than one-half (0.5) acre in size shall be dedicated for common open space; unless, due to special conditions that are peculiar to the particular parcel of land or to the purpose for which the land is to be used, dedication of a smaller area is authorized by the Commissioner or appropriate Committee.

(f) **Application Procedure**

- (1) All applicants for a planned residential development are required to attend a pre-application meeting scheduled by the Department. A conceptual plan of the proposed development must be submitted at the pre-application meeting.
- (2) All applications for planned residential development shall contain at least the following information:
 - (A) all information required for a permit application as provided in subchapter III of this law or any rules and regulations promulgated thereunder.
 - (B) a proposed schedule of development and a written statement from the developer, setting forth the reasons why, in his opinion, the development would be in the public interest and would be consistent with the Comprehensive Land and Water Use Plan of the Virgin Islands;
 - (C) a copy of the proposed articles of incorporation for the homeowners' association;
 - (D) a copy of a study indicating the method of providing potable water and sewage treatment and the feasibility thereof; and
 - (E) copies of any grants of easements or other restrictions proposed to be imposed on the use of the land.
- (3) All applications shall be processed in accordance with the procedures established for minor or major permit applications as provided in this law.

(g) In the event that a site is proposed for a planned residential development which is outside the sanitary sewer service area and, due to the proposed lot sizes, subsurface soil conditions or other constraints, on-site sewage disposal is inappropriate, the applicant shall submit to the Commissioner or the Committee, for approval, plans for sewage disposal utilizing a U.S. Environmental Protection Agency approved package treatment plant.

(h) **Planned Residential Development; Affordable housing**

- (1) A development permit for planned residential affordable housing development may be granted to construct affordable housing on a specific lot, parcel, tract, or geographic area only in conjunction with an approved plan and agreement for housing development in accordance with this section. Applications for planned residential development for affordable housing shall receive priority processing by the Legislature, the Department and agencies involved in the review and approval of land development proposals.
- (2) In order to encourage and facilitate the development of affordable housing, persons desiring to construct affordable residential housing may elect to file an application for a planned residential affordable housing development permit; provided, that such person agrees to make an agreed number of units in such proposed development available as affordable housing units; and provided, further, that the applicable requirements of this section are met.
- (3) Applications for a planned residential development permit for affordable housing shall be submitted by the applicant to the Virgin Islands Department of Planning and Natural Resources as provided in this section. An affordable housing development plan shall be submitted along with the planned residential development permit application. A copy of such plan shall also be delivered to the Virgin Islands Housing Finance Authority. Prior to the final approval of a planned residential affordable housing development permit, the applicant shall deliver to the Department of Planning and Natural Resources, an executed affordable housing development agreement, in the form prescribed by the VIHFA, in which the applicant agrees to provide affordable housing units within said proposed development in accordance with the terms of the preliminary approval. The agreement shall be in recordable form and shall be signed by the applicant and by any other persons whose signatures or consents are required in order to impose the applicant's obligations under the agreement as a covenant running with land. Upon issuance of the development permit, the affordable housing development agreement shall be signed by the Commissioner and the Director of VIHFA and a copy thereof recorded in the office of the Recorder of Deeds. A copy of the recorded agreement, certified by the Recorder of Deeds, shall be furnished to the Commissioner and VIHFA for their respective records.

- (4) After receipt of a completed application and after due public notice, the Department shall hold a public hearing regarding the proposed development wherein all interested persons shall have the opportunity to be heard regarding the proposed affordable housing development. After the public hearing, the Department shall submit to the Legislature, the Governor and the Virgin Islands Housing Finance Authority a report containing its recommendations on the proposed affordable housing development. Failure of the Department to report its recommendations to the Legislature, the Governor and the VIHA within thirty (30) days after the public hearing shall be treated as a favorable recommendation of the application. The report shall include findings and recommendations and a decision approving, disapproving or proposing a modification of such planned residential affordable housing development proposal. Following submission of the report, the Legislature shall approve, disapprove, or modify and approve the proposed development. Where the Department recommends denial of a request for a planned residential affordable housing development permit, the Legislature may permit the application with appropriate modifications to be resubmitted as provided in this section and a new public hearing thereon shall be conducted.

Section 268. Cluster Residential Development

(a) Purpose and Intent

The purpose and intent of this section is to permit, subject to the approval of the Commissioner or the appropriate Committee, the creation of dwellings on smaller lots than would otherwise be permitted within certain districts for the purpose of creating open space in usable dimensions and quantities; preserving and conserving natural features and vegetative cover; and encouraging a high quality of lot layout, planning, and land design that will stabilize and enhance the character of the district of which they are a part; and to preserve the health, welfare, and safety of the residents of the Territory. Furthermore, area and dimensional specifications are reduced under this section only as a means of allowing residential developers to improve the feasibility of providing public water and sewer, creating attractive and usable open space, preserving and conserving natural features, and increasing the amenities of the development.

(b) Tract Requirements

- (1) A tract under single ownership or control of an area not less than three (3) acres in Intensity District 1, one and a half (1.5) acres in Intensity District 2, and thirty thousand (30,000) square feet in Intensity District 3 shall be required for a cluster development. The tract may be divided by an existing public street, which may be retained as a part of the plan for the development. The minimum yard setback requirements of the Table of Dimensional and Density Requirements shall apply only to periphery of the tract.
- (2) Access from the tract to existing public roads shall be provided by local streets, not closer than intervals of two hundred (200) feet, and no dwelling unit's

driveway shall ingress or egress directly onto a collector or arterial road incorporated into or created within a cluster residential development.

- (3) Every dwelling unit shall be provided with acceptable potable water, sewage treatment and storm drainage systems in all Districts.
- (4) All improvements within a cluster development shall be installed in accordance with this law and all applicable regulations promulgated thereunder.

(c) Dimensional and Density Requirements for Single-Family and Two-Family Detached Dwellings in Cluster Developments

Every lot created for residential use pursuant to the provisions of this subsection shall be developed in accordance with the requirements established in the table below.

**Dimensional and Density Requirements
for Detached Dwellings in Cluster Developments**

Min. Lot Area	Intensity District 1	Intensity District 2	Intensity District 3
	10,000 sq. ft.	6,000 sq.ft.	4,000 sq.ft.
Min. Fr. S.bk	15 ft.	10 ft.	10 ft.
Min. Sd. S.bk	15 ft.	15 ft.	15 ft.
Min. R. S.bk	15 ft.	15 ft.	15 ft.
Max. Building Height	35 ft.	35 ft.	35 ft.
Max. Lot Coverage	30%	35%	40%
Maximum Units Per Acre	4	6	10

Min. Fr. S.bk = Minimum Front Setback
 Min. Sd. S.bk = Minimum Side Setback
 Min. R. S.bk = Minimum Rear Setback

(d) Dimensional and Density Requirements for Semi-Detached and Attached Single-Family Dwellings in Cluster Developments

Every lot created for residential use pursuant to the provisions of this subsection shall be developed in accordance with the requirements established in the table below.

**Dimensional and Density Requirements for
Semi-Detached and Attached Dwellings in Cluster Developments**

Min. Lot Area	Intensity District 1	Intensity District 2	Intensity District 3
	10,000 sq.ft.	6,000 sq.ft.	4,000 sq.ft.
Min. Fr. S.bk	15 ft.	15 ft.	10 ft.
Min. R. S.bk	15 ft.	15 ft.	15 ft.
Max. Building Height	35 ft.	35 ft.	35 ft.
Max. Lot Coverage	35%	35%	40%
Maximum Units Per Acre	4	6	10

Min. Fr. S.bk = Minimum Front Setback
 Min. R. S.bk = Minimum Rear Setback

(e) **Common Open Space**

- (1) Not less than thirty percent (30%) of the gross land area of a cluster development shall be dedicated to common open space. Such common open space shall be for the use of residents of the development other than required public improvements or private streets, and shall be reserved by a restrictive covenant in favor of the residents of the development, or by a grant of an easement, providing that it shall be set aside in perpetuity for the use of residents of the development, or shall be deeded to a homeowners' association. Any of the foregoing shall be implemented by written instrument filed at the appropriate office of the Recorder of Deeds. If a conveyance to a homeowners' association is the instrument selected, the homeowners shall so organize the association so that it may not be dissolved, or in the event of dissolution, bankruptcy or foreclosure, the successor in interest shall not dispose of the common open space by sale or otherwise (except to an organization created and established to own and maintain it as common open space) without first offering to dedicate it to the Territory.
- (2) All flood plain areas, wetlands, salt ponds, mangrove ecosystems, beaches, lands with slopes of forty-five percent (45%) or more, and lands not included within lots to be conveyed or utilized for required public improvements, shall be included within the common open space, provided the landowner can still make reasonable use of the property; and at least ten percent (10%) of the gross land area of the cluster development must be common open space other than flood plain, wetlands, salt ponds, mangrove ecosystems, beaches, land with slopes of forty-five percent (45%) or more, or common parking areas; and at least one-half of that ten percent (10%) or five percent (5%) of the gross area shall be common open space free of structures or other improvements.
- (3) Where the Commissioner or the appropriate committee of the Commission finds that the strict application of the common open space requirements established by paragraph (2) above will result in the inability of the applicant to reasonably develop his property, the Commissioner or the Committee may modify the provisions of that paragraph to ensure that the property owner may make reasonable use of his property in a manner that is most protective of the natural environmental features identified in paragraph (2) above.
- (4) Any area to be dedicated for common open space shall be so located and configured to meet the goals and policies established by this law. In determining the acceptability of proposed common open space, the Commissioner or Committee shall consider present and future territorial needs and plans, and may require a portion of the common open space to be designated as community space, provided, however, that not more than twenty-five percent (25%) of the required open space shall be established as community space.
 - (A) Common open space may be used as community space, parks, playgrounds, environmental resource conservation areas, pedestrian walkways, dedicated soil absorption fields, and drainage control areas.

- (B) For purposes of this section, the term "community space" means land and buildings in the ownership of a homeowners' association which is, or can be, developed or used as parks, playgrounds or recreation areas, swimming pools, equestrian trails and centers, tennis courts, basketball courts, and similar facilities, children's nursery or day care center, or, similar facilities which are used for the benefit of the residents of the development.
- (C) For purposes of this section the term "playground" shall mean the primary location for outdoor play for children from the ages of approximately 5-14, generally containing play equipment such as climbers, swings, balance beams, horizontal ladders or more modern creative play equipment, and a play lot for younger children.
- (5) The developer shall seed all common open space areas with appropriate grass or other approved vegetation during the course of construction unless the Commissioner or appropriate Committee approves or directs the maintaining of all, or a portion of such, common open space in the natural state or with minor specified improvements, in which case the developer will make only those specified improvements.
- (6) No single area of less than one-half (0.5) acre in size shall be dedicated for common open space; unless, due to special conditions that are peculiar to the particular parcel of land or to the purpose for which the land is to be used, dedication of a smaller area is authorized by the Commissioner or appropriate Committee.

(f) **Application Procedures**

Application procedures for cluster residential developments shall be the same as those set forth for planned residential developments in section 267 above.

Section 269. Nonresidential Performance Standards

(a) **Purpose**

This section contains Performance Standards that apply to nonresidential uses. Nonresidential land uses regulated in this section include commercial, office, light and heavy industry, and certain public/semi-public uses. These standards regulating building standards shall apply in addition to those standards imposed by other sections of this law. These supplemental standards are established for those land uses having characteristics, which, without them, may have negative impacts.

(b) **Categories of Uses**

The following categories of uses shall be subject to the standards contained in this section:

- (1) Schools; Government Services and Limited Public Utilities;
- (2) Business Services;
- (3) Retail Trade;
- (4) Light Industrial/Storage/Distribution;
- (5) Hotels and Guesthouses; and
- (6) Recreation/Recreational Services.

(c) **Performance Standards**

The development of a nonresidential use shall be allowed only in full compliance with these standards and other relevant sections of this law.

(1) **Location**

Nonresidential development in Intensity Districts 2 and 3 shall be located adjacent to a major or a minor arterial or collector roadway; ingress to and egress from the development shall be from such roadway.

(2) **Building Placement**

(A) Certain minimum standards are hereby established for the placement of nonresidential buildings in order to protect the health, safety, and welfare of the general public.

- (i) Distance from the property line shall be measured at the narrowest space between the structure (whether the main living unit or an accessory use) and the property line, and shall not include roof overhang (eaves). In no instance shall any roof overhang be allowed to extend beyond a property line.
- (ii) When a building exceeds twenty-five (25) feet in height, the minimum distance from an adjacent building or property line shall be increased by two (2) feet for each story above two (2) unless the applicant provides evidence that there is a recorded maintenance easement from the adjacent property owner.
- (iii) No placement of nonresidential structures in Districts 2 or 3 shall extend more than two hundred fifty (25) feet from the boundary

adjoining a major or minor arterial or collector roadway.

- (B) Nonresidential development in the downtown section as defined by the Central Business District may build up to the right-of-way line of the abutting roadway. There are no building setbacks from an abutting right-of-way in the Central Business District. For the purpose of this section, the term Central Business District means the traditional business core of a community, characterized by a high concentration of activities within a relatively small area. The Central Business District is usually the office, financial, retail, and service center of a city, providing both employment opportunity for a large number of people and a significant share of the tax base.
- (C) Where any lot in Intensity Districts 2 or 3 is proposed for nonresidential development, and said lot abuts any other lot already being used for a residential purpose, a landscaped buffer shall be required along the property line boundary between the nonresidential and all residential uses. The buffer shall be no less than fifteen (15) feet wide and consist of at least three (3) rows of plantings that shall be installed in a staggered manner ten (10) feet on center. The plant species selected shall attain a height of at least six (6) feet at maturity.
- (D) In order to minimize any negative effects, such as dirt, litter, noise, glare of lights, signs, unsightly building or parking areas, odor, immoral activity or danger from fires or explosives that a more obnoxious, intensive or nuisance use may impose on its residential neighbor, the following nonresidential uses in Intensity District 4 shall meet the requirements established in the table below:

Nonresidential Use Category	Landscaped Buffer Area Width (feet)	Minimum Distance from Primarily Residential Area (setback) (feet)	Maximum Permitted Noise Levels (decibels)
Shopping Center	15	250	75
Auto Repair and Service Stations	15	250	65
Limited Public Utilities	15	150	55
Night Clubs	15	500	70
Light Storage/ Distribution	15	500	65
Memorial Parks, memorial gardens, memorial nature preserve or park, perpetual care park	15	300	--

For the purposes of this paragraph and subparagraph (E) below, the term

residential area means any land area that is primarily used for residential purposes. Primarily residential is determined when sixty percent (60%) of the activities within a five hundred (500) foot radius are of residential use.

The maximum permitted noise level shall be measured along all lot lines of the nonresidential use.

- (E) In order to minimize any negative effects, such as dirt, litter, noise, glare of lights, signs, unsightly building or parking areas, odor, immoral activity or danger from fires or explosives that a more obnoxious, intensive or nuisance use, may impose on its residential neighbor, any night club/health club, bar or tavern development adjacent to a residential area in Intensity District 5 shall meet the following requirements:

Nonresidential Use Category	Landscaped Buffer Area Width (feet)	Minimum Distance from Primarily Residential Area (setback) (feet)	Maximum Permitted Noise Levels (decibels)
Night Clubs, Bars, or Taverns	15	200	70

- (F) The buffer areas required in subparagraphs (D) and (E) above, shall meet the requirements set forth in subparagraph (C) of this section, except the width thereof shall be as provided in the appropriate tables.
- (G) Access driveways to any nonresidential development in Intensity Districts 2, 3, or 4 shall be at least seventy-five (75) feet apart from each other, measured from centerline to centerline. However, where driveways are each one-way and each being no more than twelve (12) feet wide, the two driveways shall be counted as a single unit of access for the purposes of this law.

(d) **Supplemental Standards for Drive-Through Facilities**

(1) **Purpose**

Supplemental standards are provided for uses with drive-through facilities to ensure protection from potential traffic hazards. These standards are to be applied in addition to all other applicable standards of this law.

(2) **Standards**

- (A) For purposes of this paragraph, a driveway unit for a drive-through facility shall consist of one ingress and one egress lane, each being no more than twelve (12) feet wide.
- (B) Each driveway unit shall be separated by a minimum distance of

eighty-five (85) feet. Where driveway lanes are each one-way and each no more than twelve (12) feet wide, such driveway lanes shall be counted as a single driveway unit.

- (C) Approach lanes for the drive-through facilities shall have the following minimum widths: one lane - twelve (12) feet; two or more lanes - ten (10) feet per lane.
- (D) Minimum distance for stacking of automobiles in the drive-through station lanes (measured from the commercial station at the building location):
 - (i) One drive - through station = 110 feet
 - (ii) Two drive - through stations = 110 feet
 - (iii) Three drive - through stations = 95 feet
 - (iv) Four drive - through stations = 80 feet
 - (v) Five or more drive - through stations = 65 feet
- (E) Alleys or driveways in residential areas adjacent to drive-through facilities shall not be used for circulation of customer traffic.
- (F) Entrance and stacking lanes for drive-through stations shall not cross or pass through off-street parking areas. Entrances and stacking lanes for drive-through stations shall not cross or be crossed by pedestrian accessways.

Section 270. Off-Street Parking and Loading Standards

(a) Purpose and Intent

Off-street parking areas are required for all uses of land and water so that all uses will have adequate parking for the occupants, employees, visitors, customers, and/or patrons and they will not have to rely on the public rights-of-way for this function.

Off-street loading areas are required for all uses except residential to provide adequate space off of the Territory's rights-of-way for the temporary parking of motor vehicles (primarily trucks) while loading or unloading.

(b) General Requirements

- (1) No building or structure in any district shall be erected, constructed or enlarged, nor shall any building, structure, land or water be used, designed or arranged for any purpose without provisions for such off-street parking and/or loading facilities as required by this law, nor shall any off-street parking nor loading area, whether required by this law or voluntarily provided, be developed other than in the manner set forth in this law.

- (2) Access aisles and parking spaces shall be configured as follows:
 - (A) Single lane (one-way) access aisles shall have a minimum width of sixteen (16) feet.
 - (B) Double lane (two-way) access aisles shall have a minimum width of twenty-two (22) feet.
 - (C) Each parking space shall have dimensions of not less than nine (9) feet wide and eighteen (18) feet long.
 - (D) On corner or through lots, parking spaces may not be included within the area of the required setbacks lying adjacent to either street.
- (3) Required loading spaces shall not be construed as supplying off-street parking.
- (4) All parking spaces and access aisles shall be paved or otherwise surfaced with an all-weather surface, and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. No surface water from any parking area shall be permitted to drain onto adjoining property.
- (5) All parking spaces shall be reserved for the sole use of the occupants of the building and the visitors thereto. However, parking spaces provided to meet the off-street parking requirements for retail, service and industrial establishments may be utilized to meet the off-street parking requirements for churches, theaters, stadiums, auditoriums, and other places of assembly whose hours of operation are not normally concurrent with those of the retail, service or industrial establishments. Evidence of such use shall be provided by a recorded agreement that provides for off-street parking as long as off-street parking is required for such use in accordance with the provisions of this section.
- (6) In the event of a use not specifically mentioned herein, the requirement for off-street parking facilities shall be the same as that provided for the use most similar to the use not mentioned as determined by the Commissioner.

(c) **When Required**

Off-street parking and loading spaces shall be provided prior to the issuance of a certificate of occupancy, or at the time any building, structure, or use of land or water is altered or enlarged in any manner to increase the amount of off-street parking or loading spaces required by this law. However, when the use of any building, land or water existing at the time of adoption of this law is changed to another use, such other use shall comply with the requirements of this section.

(d) **Waiver or Modification of Parking Requirements**

The Historic Preservation Commission and its district committee are hereby authorize, in their discretion, to waive or modify the parking and loading requirements established by this section for those portion of any Central Business District which are designated as a Historic and Architectural Control District pursuant to the provisions of this chapter when, in the opinion of the Historic Preservation Commission said waiver or modification will not be contrary to the intent and purposes of this law.

(e) **Obligation to Retain Off-Street Parking and Loading Spaces**

The requirements for off-street parking and loading spaces shall be a continuing obligation of the permittee and/or owner as long as the use continues. It shall be unlawful for any permittee and/or owner of any building, land or water use activity affected by the off-street parking and loading requirements to discontinue, change, reduce or dispense with, or cause the discontinuance, change, or reduction of the required off-street parking or loading space. It shall be unlawful for any person or permittee to use such building, land, or water without providing such area as is required and permitted to fulfill the off-street parking and loading requirements. Whenever off-street parking is required and cannot be provided within the principal building or on the same lot as the principal building, and is located on another parcel provided for and utilized for off-street parking, said parcel shall be owned by the owner of the principal building and shall be restricted by a recorded agreement or covenant to off-street parking to serve the principal building or use as long as off-street parking is required in accordance with the provisions of this law.

(f) **Permitted Reductions in Off-Street Parking Requirements**

Off-street parking space required under these standards may be reduced at the time the capacity or use of a building, land or water is changed in such a manner that the new use or capacity would require less space than before the change. However, such reduction may not be below the requirements set forth in these standards.

(g) **Location of Off-Street Parking and Loading Areas**

The required off-street parking and loading areas shall be located on the same lot or parcel of land they are intended to serve. However, if the required off-street parking spaces cannot reasonably be provided, in whole or in part, on the same lot on which the principal building is located, such required off-street parking may be located on another lot or parcel of land within five hundred (500) feet of the lot to be served, provided:

- (1) the applicant can demonstrate control or ownership of such parking areas by a recorded agreement which provides that the parking area shall never be disposed of or used for any other purposes, except in conjunction with the sale of the building which the parking area serves, so long as the parking area is required to

satisfy the requirements of this section; and

- (2) the applicant agrees to bear the expense of recording the agreement and agrees that said agreement shall forever bind his heirs, successors, and assigns.

(h) **Limitations on Vehicular Parking**

Except as otherwise provided in this section, off-street parking spaces required herein may be occupied by the occupants, employees, or patrons of the property or by visitors, or by self-propelled delivery vehicles incidental to the principal use, but not by vehicles being repaired, stored, or displayed for sale or hire.

(i) **Collective Off-Street Parking Provisions**

Except as provided in subsection (b)(5) above, nothing in these standards shall be construed to prevent the collective provision of off-street parking facilities for two (2) or more structures or uses, provided that the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately; and provided also that the requirements set forth above as to maximum distances between parking facilities and principal structures or uses served shall apply to each structure or use participating in the collective provisions for parking.

(j) **Joint-Use Parking Requirements**

(1) **Houses of Worship**

Parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums, and other places of public assembly, retail, service and industrial establishments located within five hundred (500) feet of the lot on which the house of worship is located, as measured along lines of the public access, and whose hours of operation are normally not concurrent with those of the house of worship, may be used to meet not more than fifty percent (50%) of the off-street parking requirements of said house of worship.

(2) **Other Places of Public Assembly**

Parking spaces already provided to meet the off-street parking requirements for retail, service and industrial establishments located within five hundred (500) feet of the lot on which the place of public assembly is located, as measured along lines of public access, and whose hours of operation are normally not concurrent with places of public assembly, may be used to meet not more than fifty percent (50%) of the total requirements of parking spaces for such places of public assembly.

(3) **Mixed Use Developments**

- (A) Except as provided in subparagraph (B) below in the case of mixed uses (such as a retail/office complex), the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as otherwise specified in this subsection.
- (B) In developments which contain a mix of residential and office uses, the total number of parking spaces required is equal to the sum of seventy-five percent (75%) of each of the parking requirements computed separately, if the gross floor area dedicated to the residential use is equal to or greater than eighty percent (80%) of the total gross floor area of the office use and the total gross floor area dedicated to office use is equal to or greater than eighty percent (80%) of that dedicated to residential use.

(k) **Development and Maintenance of Off-Street Parking Areas**

Off-street parking shall be developed and maintained by the permittee in accordance with the following requirements:

(1) **Minimum Distances and Setbacks**

No part of any parking area for more than five (5) vehicles shall be closer than ten (10) feet to any dwelling, school, hospital, or other institution for human care. If not on the same lot with a principal structure, the parking area shall not be located within the front yard or side yard required for such lot.

If not on the same lot with a principal structure, the parking area shall not be closer to any street line than the least depth of the yard, which would be required for said principal structure.

(2) **Bumper Guard Requirements**

There shall be provided a bumper guard of either wood, metal, or concrete not more than two (2) feet in height and securely anchored into the ground on all sides of the parking area where there is required a protective fence or wall. Any required bumper guard shall be located at such distance so that automobiles will not strike the protective fence or wall. As an alternative, a concrete beam not less than four (4) inches high serving the same purpose may be provided.

(3) **Off-Street Parking Area Surfacing Requirements**

In order to provide a durable and dustless surface, any off-street parking area for more than five (5) vehicles shall be surfaced with an impervious material such as asphalt, bituminous, concrete, or other properly bound pavement; or with porous

material such as porous asphalt over a gravel base, lattice concrete blocks, or other approved permeable material. Such area shall be graded and drained so as to dispose of all surface water accumulation.

(4) **Lighting**

Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises used for residential purposes in any district.

(5) **Entrance, Exit, and Maneuvering Space**

(A) **Vehicular Drives**

Vehicular drives providing entry from or exit to the street system from any off-street parking area shall have a minimum pavement width of twenty-two (22) feet. However, for vehicular drives for single- and two-family residences, the left turn radius on the side of the driveway exposed to entry or exit by left-turning vehicles shall be a minimum of fifteen (15) feet.

(B) **Maneuvering Space**

Maneuvering spaces shall be sufficient to permit vehicles to enter and leave the parking lot in a forward motion. Where vehicular backup areas are necessary, they shall be designed with a minimum fifteen (15) foot turning radii and shall be fifteen (15) feet in width and depth.

(6) **Screening and Landscaping**

All off-street parking areas shall be screened and landscaped in accordance with this law and any rules and regulations promulgated hereunder.

(7) **Other Design Requirements**

(A) Off-street parking areas for all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing up unreasonable distances, or making other dangerous or hazardous turning movements.

(B) Circulation areas for off-street parking lots shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles, and without adversely interfering with the normal functioning of the parking lot.

(C) In nonresidential and multiple-family dwelling off-street parking areas, the

parking spaces shall be appropriately demarcated with painted lines or other markings.

- (D) Nonresidential and multiple-family off-street parking areas shall be properly maintained in all respects. They shall be kept in good condition (free from pot holes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

(l) **Plan Requirement**

A parking and loading plan shall be submitted with every development permit application for any building or use that is required to provide off-street parking and loading spaces. The plan shall accurately depict the required number and location of parking spaces, other spaces in excess of the requirements, access aisles, driveways, vehicle turn-around or backup areas, areas designated for trash collection, off-street loading spaces (if required), the relationship of the off-street parking facilities to the structure or uses they are intended to serve, as well as the relationship to the street system into which the motor vehicles utilizing the parking areas will be discharged.

(m) **Minimum Required Off-Street Parking Spaces**

The minimum number of required off-street parking spaces shall be determined from the following table. Requirements for any use not specifically mentioned shall be the same as the use most similar to the proposed use, as determined by the Commissioner. When units of measurement determining the required off-street parking spaces result in a fractional space, then such fraction equal to or greater than one-half (0.5) shall be interpreted as one (1) off-street parking space.

(n) **Determination of Seating Capacity at Places of Assembly**

In stadiums, sport arenas, houses of worship, and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities.

TABLE OF OFF-STREET PARKING REQUIREMENTS

<u>Use</u>	<u>Parking Requirement</u>
Single Family Dwelling Units	2 spaces.
Two-Family Dwelling Units	1.5 spaces per dwelling unit.
Attached Dwelling Units	1.5 spaces per dwelling unit except that any one bedroom unit shall require only 1 space.

Multiple-Family Dwelling Units	1 space per efficiency unit or one bedroom unit or 1.5 spaces per unit for all other units.
Group Homes	3 spaces for each 5 beds, except for uses exclusively serving children under 16 years of age, in which case 1 space for every 3 beds shall be required.
Dormitories and Boarding Houses	1 space per every 2 bedrooms.
Hotels and Similar Uses Providing Overnight Accommodation	1.5 spaces for every 2 rooms available for rent, plus additional space for restaurants or other facilities as provided in this table.
Retail Commercial Establishments Convenience Stores/Grocery Stores/ Super Markets/Drug Store/	1 space per 200 square feet of gross floor area or fraction thereof. General Merchandise
Business, Personal and Professional Services	1 space per every 2 employees plus 1 space per 400 square feet of gross floor area or fraction thereof.
Restaurants, Bars and Private Clubs	1 space per 200 square feet of gross floor area or fraction thereof for eating and drinking places, plus additional space for places of assembly as provided in this table.
Auto Service Station	1 space per 500 square feet of impervious surface, or fraction thereof, plus sufficient space to accommodate vehicles at pumps without interfering with other parking spaces.
Auto Repair/Maintenance/ Tire Replacement	1 space per 200 square feet of impervious surface or fraction thereof.
Auto Sales	1 space per 200 square feet of gross floor area or fraction thereof.
Pre-Schools/Day Care	1 space per every 2 employees, plus a student drop-off and pick-up area.
Elementary Schools	2 spaces per Classroom, plus a student drop-off and pick-up area.

Secondary Schools	3 spaces per Classroom.
Post-Secondary Educational	5 spaces per classroom; 1 Institution space for every 10 bedrooms in dormitories; plus additional space for other uses as provided in this table.
Business/Trade/Vocational Schools	1 space per 200 square feet of gross floor area or fraction thereof.
Hospitals/Health Care Facilities	2 spaces per bed, or 1 space per 200 square feet of gross floor area, whichever is greater.
Nursing, Rest or Convalescent Homes	3 spaces for every 5 beds.
Penal/Correctional Facilities	1 space for every 2 employees on maximum shift.
Post Offices	1 space per 200 square feet of gross floor area or fraction thereof.
Government Offices/Court Houses	1 space per 200 square feet of gross floor area or fraction thereof.
Public Safety Facilities	1 space per 200 square feet of gross floor area or fraction thereof.
Places of Assembly	1 space for every 4 seats
Libraries	1 space per 500 square feet of gross floor area or fraction thereof.
Veterinarians/Kennels/ Animal Hospital	1 space per 300 square feet of gross floor area or fraction thereof.
Sanitary Landfill	1 space for every 2 employees on maximum shift.
Dry Cleaners/Laundromat	1 space per 200 square feet of gross floor area or fraction thereof.
Manufacturing/Assembling/ Fabrication Operation	1 space for every 2 employees on maximum shift, or 1 space per 400 square feet of gross floor

area, whichever is greater.

Mining/Quarrying Operations	1 space for every 2 employees on maximum shift.
Agricultural Operations	1 space for every 2 employees on maximum shift.
Greenhouse/Nursery Operations	1 space per 2 employees plus 1 space per 600 square feet of lot area used for storage, display, or sales.
Warehousing/Storage/Wholesale	1 space for every 2 employees on maximum shift, but not less than 1 space per 2,000 square feet of gross floor area or fraction thereof.

(o) **Off-Street Loading and Unloading Space Requirements**

- (1) On the same lot with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale stores, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly involving the receipt and distribution of vehicles, materials or merchandise, by tractor trailers or similarly large vehicles, there shall be provided and maintained on the lot adequate space for standing, turning, loading, and unloading services to avoid interference with the public use of the streets and alleys.
- (2) No loading and unloading spaces are required for structures with less than fourteen hundred (1400) square feet of gross floor area.
- (3) One (1) loading and unloading space is required for structures with more than fourteen hundred (1400) but less than twenty thousand (20,000) square feet of gross floor area.
- (4) One (1) loading and unloading space shall be provided for each twenty thousand (20,000) square feet of gross floor area. For areas in excess of twenty thousand (20,000) square feet or of any multiple of twenty thousand (20,000) square feet, one (1) additional space shall be required for each such excess area greater than fourteen hundred (1400) square feet but less than twenty thousand (20,000) square feet of gross floor area.
- (5) Each loading and unloading space required by this subsection shall be not less than twelve (12) feet wide by fifty (50) feet long and shall have a height clearance of not less than fifteen (15) feet.

- (6) Loading and unloading areas shall be located and designed such that the vehicles intended to use them can maneuver safely and conveniently to and from the roadway serving the property, and the loading, unloading and maneuvering operations can be completed without obstructing or interfering with any roadway traffic, any off-street parking space, parking lot aisle and front or side yard setbacks.
- (7) No area allocated to loading and unloading facilities may be used to satisfy the area's requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area's requirements for off-street loading and unloading facilities.

Section 271. Recreational and Open Space Standards

- (a) For purposes of these standards, efficiency dwelling units shall be deemed to house an average of one and one-half (1.5) persons; one-bedroom dwelling units, two (2) persons; two-bedroom units, three (3) persons; and three (3) or more bedroom units, four (4) persons. In residential subdivisions, each lot that is large enough to develop only a single- or two-family dwelling unit shall be deemed to house an average of five (5) persons.
- (b) All residential developments and residential subdivisions shall provide recreational areas in the form of miniparks in an amount equal to .0025 acres (108.9 square feet) per person expected to reside in that development as determined in accordance with subsection (a) of this section. For purposes of this section, a minipark is a small recreational area developed and maintained for the benefit of the residents of the development.
- (c) It is recognized that miniparks must be of a certain minimum size to be usable and that such miniparks will not serve the intended purpose unless properly maintained. Therefore, residential developments that are small enough so that the amount of required minipark space does not attain at least two thousand (2,000) square feet are exempt from the provisions of these standards. However, as used in the foregoing sentence, the term development refers to the entire project developed on a single tract or contiguous multiple tracts under single ownership, regardless of whether the development is constructed in phases or stages. In addition, residential subdivisions of fifteen (15) lots or less shall also be exempt from the provisions of these standards.
- (d) An applicant for a permit for residential development or subdivision shall not avoid the requirements of this section by submitting piecemeal applications for development of the same or adjacent lot(s). The Department is prohibited from accepting or processing any application for residential development or subdivision which, when considered cumulatively with all other residential permits issued to the applicant for development within the prior ten (10) years on the same or adjacent lot(s) in the ownership of the applicant, his agent(s), close

family members, corporation, partnership or joint venture in which he has an interest, does not comply with this section.

- (e) The purpose of miniparks is to provide adequate active recreational facilities to serve the residents of the development. The following are illustrative of the types of facilities that shall be deemed to serve active recreational needs and therefore, to count toward satisfaction of the minipark requirements of these standards: tennis courts, racquetball courts, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, swings, slides, and play apparatus.
- (f) Each residential development shall satisfy its minipark requirement by installing the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However, unless it appears that less than five percent (5%) of the residents of any development are likely to be children under 12, then at least fifteen percent (15%) of the minipark must be satisfied by the construction of a tot lot. For purposes of this subsection, tot lot means an area equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for adult supervision.
 - (1) The total acreage of miniparks required shall be divided into miniparks of not less than two thousand (2,000) square feet nor more than thirty thousand (30,000) square feet.
 - (2) Miniparks shall be attractively landscaped and shall be developed with sufficient natural or man-made screening or buffer areas to minimize any negative noise impacts upon adjacent residences as required by any rules and regulations promulgated pursuant to Section 276 of this law.
 - (3) Each minipark shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by the residents of the development.
 - (4) Each minipark shall be developed on an area of the lot that is suitable for the purpose intended by these standards.
- (g) Except as provided in the standards established in this section, every residential development shall be developed so that not less than five percent (5%) of the total area of the development remains permanently as usable open space.
- (h) For purposes of this section, usable open space means an area that:
 - (1) is not encumbered with any principal structure;
 - (2) is not devoted to use as a roadway, parking area, or sidewalk;
 - (3) is left (as of the date development began) in its natural or undisturbed state, except for the cutting of trails for walking or jogging, or is landscaped and used

for picnic areas or similar passive recreational activities;

- (4) is practicably accessible to the residents of the development out of which the required open space is taken; and
 - (5) consists of land no more than twenty-five percent (25%) of which lies within a floodway as those terms are defined in section 227(b)(217) of this law.
- (i) Recreation facilities and usable open space required to be provided by the applicant in accordance with these standards shall not be dedicated to the public but shall remain under the homeowners' association or similar organization.
 - (j) For purposes of this section, any area that satisfies the requirement of subsection (b) of this section shall be used and deemed to satisfy the requirements of subsection (g) above (open space). If the area required by subsection (b) is less than the amount necessary to satisfy the requirements of subsection (g), the applicant shall dedicate such additional areas as necessary to meet the requirements of subsection (g).
 - (k) Homeowners' associations or similar legal entities are responsible for the maintenance and control of common areas, including recreational facilities and open space, and shall be established in such a manner that:
 - (1) provision for the establishment of the association or a similar entity is a condition of final permit approval and is made before any lot in the development is sold or any building certified for occupancy;
 - (2) the association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities; and
 - (3) the association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.

Section 272. Sign Standards

(a) Purpose

The purpose of these standards is to control the construction, placement, maintenance and illumination of signs to protect the safety and welfare of the residents of the United States Virgin Islands and to promote the aesthetic character of the Territory through a system of consistent and non-discriminatory sign standards and requirements. These standards are intended to perform the following functions, including but not limited to:

- (1) enabling the identification of directions, streets and places of residence, business, and industry;

- (2) encouraging signs that are appropriate to the zoning district in which they are located and consistent with the category of uses to which they pertain;
- (3) reducing the size and number of signs to the minimum number necessary to identify a business or industrial location;
- (4) establishing appropriate sign sizes that relate to the scale of the lot and building on which the sign is to be placed or to which it pertains;
- (5) regulating signs in such a manner so as not to interfere with, obstruct the vision of, or distract motorists or pedestrians;
- (6) precluding signs from conflicting with the principal permitted use of the site or adjoining sites;
- (7) requiring signs to be constructed, installed, and maintained in a safe, prudent, and satisfactory manner; and
- (8) preserving the aesthetic beauty of the United States Virgin Islands.

(b) **Regulations**

The scope of these regulations shall include, but not be limited to: the construction, erection, alteration, installation, placement, reconstruction, repair, use, location, relocation, size, illumination, quantity, maintenance, and modification of all signs installed subsequent to the effective date of this law. The rules and regulations shall set forth the procedural requirements for submittal of permit applications, including a schedule for permit fees.

(c) **Applicability**

- (A) Except as otherwise provided in paragraphs (e) and (f), no sign may be constructed, erected, altered, moved, illuminated or enlarged by a property owner or his authorized agent without a sign permit issued by the Department of Planning and Natural Resources.
- (B) Notwithstanding any other provisions to the contrary contained herein, all signs located in the Historic and Architectural Control Districts shall conform to the requirements of those districts.

(d) **Commencement and Expiration**

Any sign approved pursuant to this section shall be commenced, performed and completed in compliance with the provisions of the sign permit. Any sign authorized by a permit shall be commenced within six (6) months from the date such permit is issued. Failure to commence construction of the sign within such

period shall cause the permit to lapse and render it null and void, unless an extension has been granted pursuant to subsection (g) of this section. A permit shall be considered issued on the date it is signed by the Commissioner.

(e) **Exceptions**

The following types of signs are excepted from the provisions of this section:

- (1) signs not exceeding four (4) square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as signs giving property identification names or numbers of occupants, signs on mailboxes or newspaper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals;
- (2) signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification, and informational signs, and traffic, directional, or regulatory signs;
- (3) official signs of a noncommercial nature erected by government agencies and semi-autonomous bodies;
- (4) flags, pennants, or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device;
- (5) integral decorative or architectural features or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights;
- (6) signs directing and guiding traffic on private property that do not exceed four (4) square feet each and that bear no advertising matter;
- (7) bulletin boards, identification signs, and directional signs for houses of worship that do not exceed one per abutting street and sixteen (16) square feet in area, and are not internally illuminated;
- (8) signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs;
- (9) signs proclaiming religious, political, or other noncommercial messages that do not exceed one per abutting street, and sixteen (16) square feet in area and are not internally illuminated.

(f) **Signs Exempted from Permit Requirements**

The following signs are permitted without a sign permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this section:

- (1) signs containing the message that the real estate on which the sign is located is for sale, lease, or rent, together with information identifying the owner or agent. Such signs may not exceed four (4) square feet in area, and shall be removed immediately after sale, lease or rental;
- (2) Construction site identification signs that identify the project, owner or developer, architect, engineer, contractor and subcontractor, funding source, and other related information including, but limited to sale or leasing information. One such sign not exceeding thirty two (32) square feet may be erected per site, such sign shall not be erected prior to the issuance of a building permit, and shall be removed within ten (10) days after the issuance of the final certificate of occupancy;
- (3) Signs attached temporarily to the interior of a building window or glass door. Such signs may not cover more than seventy-five percent (75%) of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within fourteen (14) days after placement;
- (4) Signs erected in connection with the observance of holidays. Such signs shall be removed within ten (10) days following the holiday;
- (5) Signs erected in connection with elections or political campaigns. Such signs shall be removed within seven (7) days following the election or conclusion of the campaign. No such sign may exceed twenty-two (22) square feet in area;
- (6) Signs indicating that a special event as a grand opening, fair, carnival, circus, festival, or similar event is to take place on the lot where the sign is located. Such signs may be erected not sooner than two weeks before the event and must be removed not later than three (3) days after the event.
- (7) Temporary signs not covered in the foregoing categories, so long as:
 - (i) Not more than one such sign may be located on any lot;
 - (ii) No such sign may exceed four (4) square feet in surface area;
 - (iii) Such sign may not be displayed for longer than fourteen (14) days.
- (8) Private or commercial nameplate identification signs, combination name

plate and street identification signs, or trespass signs when such signs do not exceed two (2) square feet;

- (9) Signs for events of an island-wide or territory-wide nature, which are authorized by the Legislature or the Governor. Such signs shall be removed within forty-eight (48) hours after the conclusion of the event.
- (10) Changing the face of an existing sign or performing maintenance to an existing sign, provided that no structural changes are made.

(g) **Sign Permits Applications, Plans, Fees**

(1) **Application Procedure**

The following procedure shall govern the application and issuance of all sign permits required pursuant to this section.

- (A) All applications for a sign permit of any kind along with proposed sign plans and specifications shall be submitted to the Department in accordance with the application submittal procedures.
- (B) Any application for a sign permit shall be made by the owner or lessee of the property or his authorized agent.
- (C) Every application for a sign permit shall include the following in triplicate:
 - (i) the names, addresses, and telephone numbers of the owner and/or lessee, the authorized agent and the sign installer/erector;
 - (ii) a legal description of the property where the sign is proposed to be located;
 - (iii) the type of sign surface area;
 - (iv) the value of the proposed sign;
 - (v) drawing showing the design and location of the sign, and an indication of the material to be used to construct the sign;
 - (vi) its color, how it is proposed to be affixed to the property; and
 - (vii) any other pertinent information deemed necessary by the Commissioner to ensure compliance with these standards.

(D) Application Completeness/Determination

Within ten (10) days of receiving an application for a sign permit, and its plans and specifications, the Commissioner shall review it for completeness. If the Commissioner finds that the application is complete, then it shall then be processed. If the Commissioner finds that it is incomplete, then he shall notify the applicant of the specific deficiencies of the application.

(E) Permit Decision

Within thirty (30) working days after an application for a sign permit has been deemed complete, the Commissioner shall issue the sign permit, if the application complies with the requirements of this section, or deny the application if it fails in any way to conform with any of the requirements of this section. If an application is denied, the Commissioner shall notify the applicant, in writing, of the denial, with appropriate references to the applicable provisions with which the application is inconsistent.

(2) Plans and Specifications

All applications for sign permits shall be accompanied by detailed plans and specifications. Plans and specifications for any proposed sign shall be prepared and submitted in triplicate to accompany the application. Such plans and specifications shall be drawn to scale and, at a minimum, include the following:

- (A) sign dimensions, design and structure;
- (B) lot frontage on all public rights of way;
- (C) maximum and minimum height of the sign, as measured from the finished grade;
- (D) the location of the sign in relation to property lines, public rights of way, easements, buildings and any other existing signs on the property;
- (E) dimensions of the sign's supporting members;
- (F) for illuminated signs, the type, placement, intensity of illumination;
- (G) all construction and electrical specifications, if any, of the proposed sign; and
- (H) color scheme, material and letter style.

(3) **Application Fees**

Every application for a sign permit shall be accompanied by the requisite application fee as established by the rules and regulations promulgated under this law.

(h) **Specific Standards**

(1) **Sign Design and Construction**

- (A) All signs erected after the effective date of this law shall comply with all applicable provisions of the Virgin Islands Building Code.
- (B) No sign shall be erected or installed so as to obstruct any fire escape, required exits, or window or door opening intended as a means of egress from a building.
- (C) No sign shall be installed that interferes with any opening required for ventilation.
- (D) No sign shall be erected that creates a potentially unsafe situation because of its proximity to electrical conductors.
- (E) Signs and their supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for potable water, wastewater, gas, electricity, or communications equipment or lines. The placement of any sign shall not interfere with any storm water drainage facility or channel.
- (F) No visible angle or other supporting structure for the support of projecting or canopy signs are permitted, except for structures designed to be an integral part of the sign.
- (G) No sign shall have any moving parts.

(2) **Sign Landscaping**

The purpose of this paragraph is to establish aesthetic standards that will lead to an attractive appearance along public rights-of-way through the use of landscaping.

- (A) In addition to any other required landscape regulations, a landscaped area shall be provided and maintained in a neat and orderly manner at every sign that has its base in the ground.

- (B) Said landscaped area shall contain a minimum of one (1) square foot for each square foot of sign surface area.

(3) **Sign Maintenance**

All signs and all components thereof shall be maintained in a state of good repair at all times. The owner or lessee of any property on which a sign is located and those responsible for the maintenance of the sign shall be equally responsible for keeping the sign and its immediate environs in a clean, safe, and sanitary condition. Failure to comply with the above requirements shall cause the immediate removal of the sign in accordance with these standards.

(4) **Sign Dimensions, Height and Number Requirements**

(A) **Ground Signs**

- (i) In Intensity Districts A, 1, 2 and 3, the maximum surface area for a ground sign shall not exceed twenty-four (24) square feet per side.
- (ii) In all other districts, except 1W, 2W and 3W, the maximum surface area for a ground sign shall not exceed forty-eight (48) square feet per side.
- (iii) No ground signs shall be permitted in Intensity Districts 1W, 2W and 3W.
- (iv) In all districts in which ground signs are permitted, the maximum height shall be four (4) feet as measured from the ground to the highest point of the sign.

(B) **Pole Signs**

- (i) In Intensity Districts A, 1, 2 and 3, the maximum surface area for a pole sign shall not exceed sixteen (16) square feet per side, and the maximum height shall be seven (7) feet as measured from the ground to the highest point of the sign.
- (ii) In Intensity Districts 1W, 2W and 3W, the maximum surface area for a pole sign shall not exceed ten (10) square feet per side, and the bottom of the sign shall be no more than five (5) feet above the surface of the water measured at mean high tide.
- (iii) In Intensity Districts 4, 5, 6, 4W and 6W, the maximum surface area for a pole sign shall not exceed twenty (20) square feet per side, and the maximum height for land-

based signs in these districts shall be fifteen (15) feet as measured from the ground to the highest point of the sign. For signs located in the water, the bottom of the sign shall be no more than five (5) feet above the surface of the water as measured at mean high tide.

- (C) Ground and pole signs located on land shall have a minimum ten (10) foot setback from any property line adjacent to a public right-of-way, unless for ground signs the bottom is at least ten (10) feet above grade. No portion of any sign shall project into a public right-of-way.

(D) **Projecting Signs**

Projecting signs may be erected or installed in Intensity Districts 4, 5 and 6 subject to the following requirements:

- (i) No sign shall project more than four (4) feet beyond the surface of the structure to which it is attached.
- (ii) The surface area for projecting signs shall conform to the requirements contained in the table below:

Building Height (Stories)	Surface Area Limits
1	12 square feet
2	24 square feet
3	36 square feet
4 or more stories	48 square feet

For purpose of determining a sign's area, the total area is that within the smallest parallelogram, triangle, circle or semicircle, or combinations thereof, which completely enclose the perimeter of the overall sign, including the border, but excluding the structural supports.

- (iii) There shall be a clearance of at least nine (9) feet above the ground and bottom of the sign and no sign shall overhang into a vertical projection of a public right-of-way.
- (iv) Any building located on a corner lot may have one (1) projecting sign on the corner of the building, or one (1) projecting sign on each wall forming the corner of the building.
- (v) No business shall have a projecting sign and a wall sign on

the same street frontage.

(E) Portable Signs

Portable signs are hereby prohibited, except as provided for in subsection (e) above, when temporary in nature.

(F) Wall Signs

Wall signs are permitted in Intensity District 2, 3, 4, 5, 6, 4W and 6W. The surface area for wall signs shall conform to the requirements contained in the table below:

Building Height (Stories)	Surface Area Limits
1	12 square feet
2	24 square feet
3	36 square feet
4 or more stories	48 square feet

For the purposes of determining a sign's area, the total area is that within the smallest parallelogram, triangle, circle or semi-circle, or combinations thereof which will completely enclose the perimeter of the overall sign, including the border, but excluding the structural supports.

(G) Double-Faced Signs

Double-Faced signs are permitted in Intensity Districts 3, 4, 5, 6, 4W and 6W. The thickness between the principal facades of any double faced sign shall not exceed twenty-two (22) inches when such sign is of solid construction. Double-Faced signs shall be prohibited for all residential uses.

(H) Temporary Signs

Temporary signs as specifically enumerated below are permitted in all districts and are subject to the provisions of this paragraph.

(i) Public entertainment and/or special events signs shall be permitted for a maximum of fourteen (14) calendar days prior to the commencement of the event and shall be removed within three (3) days after the event's conclusion.

(ii) No temporary sign shall be located within one hundred

(100) feet of another temporary sign.

- (iii) No temporary sign shall be installed within the public right-of-way or any required landscaped area.
- (iv) The total sign surface area shall not exceed sixty (60) square feet.

(I) Directional Signs

- (i) Directional signs may be located in any zoning district, provided they are located entirely on the property for which they are providing directional information.
- (ii) Directional signs shall not exceed three (3) square feet. A maximum of fifteen (15) square feet of directional sign area is permitted per business.
- (iii) Directional signs shall include only directional information (i.e. one-way routes, location of places, parking and delivery areas, etc.), and no commercial messages.

(J) Political Signs

Temporary political signs may be erected in any district without a permit, subject to the following requirements:

- (i) They may be displayed for sixty (60) days prior to an election, referendum or runoff and must be removed within fourteen (14) days following the election, referendum or runoff.
- (ii) When they are located on residential, office or institutional properties, political signs shall have a cumulative surface area (that is both sides of a sign surface area) of no more than six (6) square feet per property; such signs on commercial or industrial properties shall have a cumulative surface area of no more than twenty (22) square feet per property.
- (iii) No political sign shall be placed within any public right-of-way. Any political sign placed in the public right-of-way in violation of this provision may be removed immediately by the Commissioner or his duly authorized representative, the police department, or other authorized agent without prior

notification to the candidate for public office.

(K) Real Estate Signs

- (i) Real estate signs such as for sale, lease or rent signs may be erected or installed in any district without a permit as temporary signs; and all such signs shall be removed immediately after sale, lease, or rental.
- (ii) No more than one (1) real state sign may be displayed per street frontage on property, and each sign may not be more than four (4) square feet.

(L) Construction Project Signs

Construction project signs are permitted in any district. One sign shall be permitted per construction or development site. Signs shall not exceed a total surface area of sixty four (64) square feet and shall be installed so that the top of the sign is no more than ten (10) feet above ground level, and shall require a sign permit to be issued prior to installation or erection.

(M) Subdivision Sale Sign

- (i) Subdivision sale signs are permitted in any district. A sign permit shall be required for all such signs with a surface area greater than four (4) square feet but not greater than thirty-two (32) square feet. The total surface area of such sign shall not exceed thirty-two (32) square feet.
- (ii) Subdivision sale shall be located within the subdivision or development for which they are intended to serve.
- (iii) Subdivision sale signs shall be maintained in a good state of repair and removed from the premises within ten (10) days after the sale of the last lot in the subdivision.

(N) Shopping Center Signs

- (i) Shopping center signs are permitted in Intensity Districts 3, 4 and 4W.
- (ii) One ground sign shall be permitted per shopping center. Such signs shall not exceed a total surface area of one hundred (100) square feet per side, and a maximum height of fifteen (15) feet measured from the ground to the highest

point of the sign.

- (iii) Notwithstanding the provisions of Paragraph (N)(2) above, any shopping center development with a street frontage exceeding one hundred fifty (150) feet shall be permitted two (2) ground signs. One sign shall be utilized by the primary tenant of the shopping center, and the surface area thereof shall not exceed sixty (60) square feet per side. The surface area of the second ground sign shall not exceed one hundred (100) square feet per side, with twenty percent (20%) of its surface area devoted to the identification of the shopping center complex and the remaining eighty percent (80%) devoted to a listing of the shopping center's tenants. The maximum height limitations for each sign shall be fifteen (15) feet measured from the ground to the highest point of the sign.

(5) Sign Location Requirements

- (A) No sign shall be attached to a gutter, drainpipe, or fire escape, nor shall any sign be installed that impedes access to a roof.
- (B) No sign shall be located in any location where, by reason of its position, it obstructs the view of any authorized traffic signal, sign, or other traffic control device.
- (C) All signs shall pertain to a permitted use on the property upon which they are installed.
- (D) No retail service, or industrial use shall have more than two (2) signs per public right-of-way.
- (E) No sign may be placed upon any roof. However, this provision shall not apply to displays, including lighting erected in connection with the observation of holidays on the roofs of residential structures.
- (F) No sign shall be attached, affixed or otherwise placed on any tree in the United States Virgin Islands.

(6) Sign Illumination

- (A) The types of illuminated signs that are allowed under the terms of these standards include, but are not limited to:
 - (i) reflective signs, where the sign itself is neither lighted internally nor has an external source of light specifically

directed at it, but depends on the general lighting of the area for its illumination;

- (ii) internally illuminated signs, where the sign message area is constructed of any translucent material and has internal lighting; and
 - (iii) external illumination signs which are illuminated by spotlights, with the lighting specifically directed to the wording of the sign.
- (B) The light from any illuminated sign shall be so shaded and shielded that the light intensity or brightness will not be objectionable to surrounding properties.
 - (C) All external illumination shall be directed toward the sign and shielded so that only the sign for which the lighting is intended shall be illuminated.
 - (D) Neither the direct nor reflective light shall create a traffic hazard to operators of motor vehicles.
 - (E) No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, brightness, color, or direction, except signs indicating time, date or weather conditions.
 - (F) No searchlight may be used for advertising purposes.
 - (G) Property sale, lease, rental, and construction project signs shall not be illuminated.
 - (H) No colored lights shall be permitted at any location or in any manner that could create confusion with or be construed to be traffic control devices.
 - (I) No sign within one hundred fifty (150) feet of a residential area may be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

(7) Miscellaneous Sign Restrictions

No sign shall hereinafter be erected, installed, operated, used, or maintained which:

- (A) due to its position, shape, color, format, size, or illumination obstructs the view of or may be confused with an official traffic sign, signal or other sign erected by governmental agencies;
- (B) contains display lights resembling the flashing lights customarily

associated with emergency situations, such as those used by police, fire, ambulance, or any other emergency vehicle;

- (C) uses, in a manner which may confuse motor vehicle operators, the words "stop", "warning", "turn" or similar words implying the existence of danger or the need to stop or maneuver;
- (D) obstructs the view of motor vehicle operators entering a public roadway from any parking area, service drive or other thoroughfare.

(i) **Nonconforming Signs**

- (1) A nonconforming sign is any sign erected pursuant to the requirement of law in effect prior to the effective date of this law, which, because of the standards set forth herein, is no longer in compliance with the law.
- (2) Notwithstanding any other provisions of law, all nonconforming signs within the Territory shall come into compliance with the requirements of this section within two (2) years of the effective date of this law.

(j) **Enforcement and Penalties**

(1) **Violations**

It shall be unlawful for any person to:

- (A) install, create, erect, or maintain any sign in a way that is inconsistent with any permit or plan governing such sign or the lot on which the sign is located;
- (B) install, create, erect, or maintain any sign requiring a permit without such a permit;
- (C) fail to remove any sign that is installed, created, erected, or maintained in violation of this law, or for which the sign permit has lapsed; or
- (D) continue any such violation.

(2) **Inspection**

- (A) The Department may conduct or require an inspection of any sign construction or installation to ensure compliance with these standards and other pertinent laws.
- (B) Any sign not in compliance with these standards or other provisions of this law may be removed by the Department.

(3) **Removal, Penalties and Fines**

- (A) Except as otherwise provided in paragraph (4) below, and prior to the removal of any sign by the Department, the Commissioner shall notify the property owner or lessee of the alleged violation. The property owner or lessee shall be given twenty-four (24) hours to voluntarily remove or bring the sign into compliance with this law.
- (B) Failure of the property owner or lessee to remove or bring the sign into compliance with this law, after due notice and an opportunity to be heard, shall result in the Department removing the non-complying sign at the expense of the property owner or lessee.
- (C) In addition to removing the non-complying sign, the Commissioner may impose an administrative fine, not to exceed five hundred dollars (\$500.00) per day, for each day after the property owner or lessee fails to comply with the Commissioner's order. Penalties provided for in section 288 (b) shall not apply to violations of this section.

(4) **Revocation**

If the work involving the erection of any sign is found, upon inspection, not to be proceeding in accordance with the drawings and specifications contained in the sign permit application, and/or is proceeding in violation of these standards, or any other applicable laws of the Territory, the owner, lessee, or his authorized agent shall be notified of the violation in writing by the Department. If the owner or his authorized agent fails or refuses to make corrections within five (5) working days of the notification of violation, the Department shall revoke the permit.

(5) **Nullification**

If work has not commenced within ninety (90) days from the issuance of a sign permit, the permit shall become null and void. If construction of a sign has commenced pursuant to a sign permit, but is later suspended for a period of at least sixty (60) days, such permit shall become null and void. If any sign permit has been declared null and void and the owner, lessee, developer, or tenant decides to reinstate action on the construction or installation of the sign, a new permit must be obtained.

(k) **Extensions**

- (1) Any permittee may apply for an extension of the time limitations imposed by this subsection.

- (2) The Department shall not grant more than two (2) extensions for or in connection with any permit.
- (3) All requests for extensions of the time limits, and all approvals or denials of extensions shall be in writing.

(1) **Administrative Review**

Any enforcement action taken by the Commissioner pursuant to this section may be reviewed as provided for in Section 289 of this law. Any decision of the Commissioner, pursuant to this section, may be appealed to the Board of Land Use Appeals as provided for in section 290 of this law.

Section 273. Waterfront Intensity District Performance Standards

(a) **Purpose and Intent**

The purpose of these provisions is to describe those standards that apply to the Waterfront Intensity Districts. These standards shall be applied in addition to those standards imposed by other sections of this law. These standards are intended to reduce the negative impacts resulting from development in water, filled land or submerged land areas within the Territory.

(b) **Standards for Review**

- (1) Construction on the submerged or filled land portion of any waterfront district must demonstrate that the activity is a water dependent activity and no other reasonable alternatives exist which would allow the proposed project to be constructed or undertaken.
- (2) Any applicant for development of submerged or filled land shall acquire a lease from the appropriate Government agency, prior to the issuance of a major or minor permit.
- (3) The Commission or Commissioner must find that the project is consistent with any Areas of Particular Concern management plans, if appropriate, or complies with other relevant provisions of this law.
- (4) Any mining of submerged land shall be subject to the major project review procedures of this law.
- (5) No dredging to obtain navigable water depths in conjunction with private residential, single dock applications shall be permitted.

(6) Private residential docks shall accommodate not more than two (2) vessels.

(c) **Requirement for Marina Sewage Pumpout Facilities**

(1) No marina shall permit liveaboards within its facility unless adequate sewage pumpout facilities are provided for such liveaboards.

(2) Notwithstanding any other provision of law, all marinas with liveaboards within the Territory shall come into compliance with the requirements of this subsection within two (2) years of the effective date of this law.

(d) **Cost/Benefit Assessment Standard**

In evaluating a request for lease and/or application for development in the submerged or filled land portion of the waterfront districts, a balancing test will be utilized to determine whether the social, economic and/or environmental benefits exceed the costs or impacts of the lease or development. The Commissioner or the Committee must conclude, prior to issuing a permit for development of the submerged or filled land portion of any Waterfront District, that the benefits exceed the costs or impacts of a development. The following criteria shall be utilized in reaching a determination.

(1) **General Benefit/Cost Criteria**

(A) Any benefit that is balanced against the costs of a particular project shall be related to the affected submerged or filled land area.

(B) In evaluating the benefits and costs of each request or application, specific consideration and weight shall be given to the quality and nature of the specific submerged or filled land area and/or the specific coastal waters at the site. Projects in the less developed areas shall be subject to a higher standard than those in the more developed or higher intensity Waterfront Districts.

(C) For projects in waterfront districts with adopted management plans, consistency with the management plans will be weighed heavily when determining whether the project is in the public interest.

(2) **Benefits Categories**

The following categories represent the areas of benefits that must be considered during the balancing assessment:

(A) public access (such as public access docks or ramps or beach access);

(B) marine services (such as provision or repair of sewage pumpout facilities);

- (C) improvement and enhancement of public health, safety, welfare or law enforcement;
- (D) improved public land management (such as donation of land, deed of easements or imposition of restrictive covenants);
- (E) improvement and enhancement of navigation (such as marking navigation channels);
- (F) improvement and enhancement of water quality (such as removal of toxic sediments);
- (G) enhancement or restoration of natural habitat and function (such as establishing vegetation for shoreline stabilization);
- (H) enhancement or protection of endangered or threatened species; and
- (I) cumulative benefits.

(3) **Cost Categories**

The following categories represent the areas of cost or impact that must be considered during the balancing assessment:

- (A) reduction or degradation of water quality;
- (B) reduction or degradation of natural habitat and function;
- (C) destruction, harm or harassment of endangered or threatened species and/or habitat;
- (D) preemption or interference with public use;
- (E) increase in navigational hazards and congestion;
- (F) reduction or degradation of aesthetic qualities; and
- (G) cumulative adverse impacts.

- (4) In reaching a determination the Commissioner or the Committee must set forth the reasons why it found the cost benefit assessment to be beneficial or detrimental. The Commissioner or the Committee need not make its decision on a quantitative analysis, but may reach its conclusion on a qualitative assessment of all relevant categories.

(e) Standards and Criteria for Docking Facilities

- (1) No dock shall extend seaward of the mean high waterline more than eighty (80) feet in Intensity Districts 1W, 2W and 3W, two hundred (200) feet in Intensity District 4W, and five hundred (500) feet in Intensity District 6W; or twenty percent (20%) of the waterway width at that particular location, whichever is less.
- (2) Private residential single docks shall conform to the following specific design standards and criteria.
 - (A) Main access docks shall be limited to a maximum width of five (5) feet, and a maximum surface area of five hundred (500) square feet.
 - (B) The dock decking design and construction will insure maximum light penetration, with full consideration for safety and practicality.
 - (C) The dock will extend out from the shoreline no further than to a maximum depth of fifteen (15) feet below mean low water.
 - (D) When the water depth is fifteen (15) feet below mean low water at an existing bulkhead the maximum dock length from the bulkhead shall be twenty-five (25) feet.
 - (E) Wave break devices, when necessary, shall be designed to allow for maximum water circulation and shall be built in such a manner as to be part of the dock structure.
 - (F) The terminal platform surface shall be no larger than one hundred sixty (160) square feet in area.
 - (G) No docking facility shall be constructed so as to interfere with a designated navigational channel.
- (3) The Commissioner is hereby authorized and directed to promulgate rules and regulations to determine the placement and specific design standards for commercial, industrial and other revenue/income generating dock facilities in order to ensure compliance with the goals, policies, intentions and objectives of this law. However, no such rules and regulations shall be promulgated unless public hearings are held by the Commissioner after appropriate notice, as provided for in this law and in accordance with Title 3, section 913 of the V.I.C..

(f) Anchoring Restrictions

Anchoring of vessels in seagrass beds or coral reefs is prohibited.

Section 274. Subdivision of Land

(a) Purpose

The purpose of this section is to provide for the establishment of regulations to:

- (1) govern the subdivision of land;
- (2) provide for the orderly development of streets and roads within subdivisions so as to provide an adequate, safe and convenient system for present and future traffic needs;
- (3) provide for the orderly development of drainage, water supply, sewage disposal, recreation, open space, and other public requirements and facilities within subdivisions;
- (4) protect life and property from floods and other natural hazards;
- (5) conserve the natural and historic resources of the Territory and ensure appropriate development with regard to these resources; and
- (6) ensure public access to the shoreline consistent with private property rights.

It is the intent of this subchapter to require the approval by the Department of Planning and Natural Resources of any proposed subdivision of land coming within the area encompassed by the proposed subdivision.

(b) Subdivision Regulations

- (1) The Commissioner of the Department of Planning and Natural Resources shall administer the provisions of this subsection, and may issue from time to time such rules and regulations pursuant to title 3, Section 913 of the Virgin Islands Code, not inconsistent with the provisions of this section, as may be necessary to effectuate the purposes of the same. Such regulations may include the form and development of subdivisions, streets, and surrounding areas and for water, drainage and sanitary facilities. Regulations may also establish fees for the filing of applications with the Division of Comprehensive Coastal Zone Planning. Before adopting or amending any regulations, the Commissioner shall hold public hearings after giving not less than fifteen (15) days public notice of the time, place and nature thereof.
- (2) Rules and regulations established pursuant to this section shall provide design and review standards for subdivision plans to ensure:

- (A) conformity to acceptable subdivision design standards with regard to creation of lots, traffic circulation and safety, placement of utilities, and provisions for community needs;
- (A) accuracy of land survey and placement of survey monuments;
- (B) conformity to established engineering standards for design and construction of roads, storm drainage systems, sanitary sewer systems, and potable water distribution systems;
- (C) compliance with the requirements of this law and all other relevant territorial and federal Laws;
- (D) availability of facilities and services with sufficient capacity to serve the proposed subdivision;
- (E) provision of open space and protection of natural resources through the efficient and sensitive design and layout of the subdivision; and
- (F) provision of at least one acre of the entire subdivision for recreational purposes to benefit the residents of the subdivision.

(c) Subdivision plans

- (1) Upon filing of an application with the Commissioner for approval of a preliminary plat or general subdivision plan, in conjunction with a development permit, the subdivider shall submit to the Commissioner such plans and data as may be required by the Commissioner, pursuant to rules and regulations established pursuant to this section, as necessary to provide information as to the nature and scope of the project.
- (2) Before the Commissioner grants final plat approval to a new sub-division in which a sub-divided parcel, as shown on the Preliminary Sub-division Plan submitted for the Commissioner's approval is contiguous to existing potable water lines, as shown on the Water Distribution Maps of the Virgin Islands Water and Power Authority at the time of the Commissioner's approval of the Preliminary Sub-division Plan, the subdivider shall install and connect potable water lines to the contiguous plots in the subdivision, or satisfy the Commissioner that all costs and expenses incidental to the installation and connection of potable water lines to the contiguous plots in the subdivision, have been paid.

- (3) Upon disapproval of a preliminary plat or general subdivision plan, or final plat by the Commissioner, the sub-divider may request administrative review pursuant to Section 290 of this law.

Section 275. Supplemental Standards

(a) Purpose

The purpose of this section is to establish standards for accessory uses and non-conforming situations that are permitted by or resulting from the provisions of this law.

(b) Accessory Uses

(1) General Limitations Upon Accessory Uses

- (A) An accessory use shall be located upon the same lot with a principal use, unless otherwise set forth in this subsection.
- (B) An accessory use shall be subordinate to the principal use and shall be a use or activity that is incidental to the principal use.
- (C) An accessory use shall not materially or substantially change or alter the character of the activity of the principal use it serves.

(2) Accessory Uses in Hotels and Multiple-Family Dwellings

In any hotel or multiple-family dwelling, limited commercial activities are permitted, subject to the following conditions.

- (A) The commercial activities permitted will be those customarily found in hotels including, but not limited to, perfume, liquor, clothes, jewelry, pharmacy, restaurant, snack bar, sports concession, and small grocery shops.
- (B) The commercial activities will be contained within the confines of the main structure with the exception of a restaurant, snack bar, or sports concession, which may be in separate buildings.
- (C) They shall be intended primarily for the convenience and use of the residents of the hotel or multiple-family dwelling.

(3) Accessory Uses in Agricultural Development

- (A) Accessory uses shall include structures such as barns, sheds, storage structures and employee housing facilities. Such employee housing

facilities may consist of a dormitory structure(s) which complies with all housing, sanitary, health and safety standards, and is used exclusively to accommodate on-site workers.

- (B) A roadside stand not greater than five hundred (500) square feet in gross floor area shall be permitted for the sale of agricultural produce grown primarily in the United States Virgin Islands.

(c) Nonconforming Situations

(1) General Standards for Nonconforming Situations

- (A) Unless otherwise specifically provided in this law, nonconforming situations that were otherwise lawful on the effective date of this law may be continued.
- (B) Within twelve (12) months after the effective date of this law, the Commissioner shall prepare a complete record of all nonconforming uses of lands, buildings or structures existing at the effective date of this law and shall notify the owners of record of said lands, buildings or structures. Such record shall contain the names and addresses of the owners of record of such nonconforming uses, the legal description of the land, and the nature and extent of such use. Such list shall be available at all times in the Office of the Commissioner.

(C) Certification Procedure

- (i) The owner(s) of record of a property in a nonconforming use shall, within sixty (60) days after notification by the Commissioner, sign and return to the Commissioner one copy of the notification if he agrees that the property, ownership and the nonconforming use are accurately described in the notification. Upon receipt of the signed notification, the Commissioner shall make the appropriate corrections and certify the nonconforming use.
- (ii) If the owner of record of a property in a nonconforming use finds that the Commissioner has erred in any respect, he shall provide the correct information by affidavit to the Commissioner. Upon receipt of the affidavit, the Commissioner shall make the appropriate corrections and certify the nonconforming use.
- (iii) If the owner of record of a property in a nonconforming use and the Commissioner cannot agree on the content of the certification for the nonconforming use, the Commissioner's decision shall prevail, and the owner may appeal the

Commissioner's decision to the Board of Land Use Appeals as provided for in section 290 of this law.

(iv) The certification required above shall include a designation of the location, nature and extent of the nonconforming use, and such other details as may be deemed necessary by the Commissioner.

(D) Any nonconforming use that has not been certified by the Commissioner within the above described time frame, and said owners given proper notification, shall be deemed to be in violation of this law.

(E) If the Commissioner finds, upon reviewing any notification for certification, that the existing use is in violation of any other law, or that the building has been constructed or altered for the existing use or any other use without full compliance with the building code or zoning law in effect at the time of construction or alteration, then the building, use or situation in question shall not be certified, and shall be declared to be in violation of this law.

(2) Nonconforming (Substandard) Lots

(A) This paragraph applies only to undeveloped nonconforming lots. A lot is undeveloped if it neither has any structures upon it nor is being put to any productive use such as agriculture or recreation.

(B) A nonconforming lot may be developed pursuant to the requirements set forth in section 228 of this law.

(3) Extension, Enlargement or Change of Use of Nonconforming Situations

(A) A nonconforming use may be extended throughout the building it occupies, provided no structural alterations or changes are made therein, except those required by law or regulation or such as may be necessary to secure or ensure the continued safety and advantageous use of the building during its natural lifetime, including the incorporation of health, sanitary and safety standards.

(B) No building occupied by a non-conforming use shall be extended or enlarged in any manner except as may be required by law or regulation, or if it is changed to a conforming use.

(C) A nonconforming use of land may be extended throughout the lot it occupies, but not closer to adjacent properties than would be allowed for a

permitted use in the zoning district, except that in the case of activities devoted to extracting soil, rock or other minerals from the land, a minimum distance of five hundred (500) feet from adjoining properties shall be maintained.

- (D) The volume, intensity or frequency of use of a property where a nonconforming situation changes to another nonconforming situation may not be increased.

(4) **Repair, Maintenance and Reconstruction of Nonconforming Situations**

- (A) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Renovation or reconstruction of property where nonconforming situations exist are permitted and may be done only in accordance with a permit issued, pursuant to the requirements of this law, for such renovation or reconstruction activity.
- (B) Nothing in this subparagraph shall prohibit, within a period of twelve months from the date of destruction of a nonconforming building by fire, explosion, act of God, or act of the public enemy, the securing of a permit for the renovation or reconstruction of said building where its valuation immediately prior to such destruction has not been reduced by more than fifty percent (50%) as a result of such destruction.

For purposes of this subparagraph, the term "valuation" shall mean either the assessed valuation for property tax purposes, or the valuation determined by a certified real estate appraiser.

(5) **Abandonment or Discontinuance of Nonconforming Situations**

- (A) When a nonconforming use is abandoned or discontinued for a consecutive period of one hundred and eighty (180) days, the property involved may thereafter be used only for conforming purposes.
- (B) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for one hundred and eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained.
- (C) When a structure or operation made nonconforming by this law is vacant or discontinued on the effective date of this law, the one hundred and

eighty (180) day period, set forth in subparagraphs (A) and (B) above, for purposes of this section begins to run on the effective date of this law.

(6) Completion of Nonconforming Developments

All nonconforming developments for which a permit has been issued, or on which construction was begun, prior to the effective date of this law, may be completed in accordance with the provisions set forth in section 228 of this law.

Section 276. Additional Regulations

In accordance with the requirements set forth in Title 3, section 913 of the Virgin Islands Code for the promulgation of rules and regulations, the Commissioner is also authorized and directed to promulgate rules and regulations for:

- (a) the maximum amount of impervious surface permitted for land and water uses in each of the Intensity Districts;
- (b) the provision of landscaped areas and standards for the design and development thereof for nonresidential development and residential development other than single- and two-family dwellings;
- (c) the establishing of standards to regulate flood plain areas; and
- (d) the development of storm water management facilities capable of managing the storm water runoff created by the development they are intended to serve and that is in compliance with applicable territorial and federal storm water requirements.

SUBCHAPTER VI. Antiquities and Cultural Properties

Section 277. State Historic Preservation Officer

- (a) The Commissioner of the Department of Planning and Natural Resources shall be the State Historic Preservation Officer, and the Director of the Division for Archaeology and Historic Preservation shall be the Deputy State Historic Preservation Officer for the United States Virgin Islands. The Division for Archaeology and Historic Preservation shall be the State Historic Preservation Office, which shall be administered by the State Historic Preservation Officer.
- (b) The Commissioner shall be responsible for implementing this subchapter of the Virgin Islands Development law and the Historic Preservation Act (P.L. 89-665, as amended), and shall adhere to relevant federal and local rules, regulations and executive orders, including the “Standards and Guidelines for Archaeology and Historic Preservation”, established by the Secretary of the United States Department of Interior.

- (c) The Commissioner shall Implement a plan for the comprehensive survey and identification of all terrestrial and marine archaeological sites, structures, sacred sites, shipwrecks, cemeteries, unmarked human burial sites, ossuaries, objects, artifacts and areas of value in archaeology, history, architecture, engineering and culture of the Virgin Islands, both on land and sea; and maintain a listing of such sites to be referred to as the Virgin Islands Registry of Historic Places; and maintain collections appropriate for the requirements of this subsection.
- (d) The Commissioner shall develop educational programs for the purpose of making available to the public information pertaining to historic, terrestrial and marine archaeological sites, buildings, shipwrecks, sacred sites, structures, cemeteries, unmarked human burial sites, ossuaries, objects, artifacts and other properties significant to the Virgin Islands.
- (e) The Commissioner shall have mandatory consultation among and between the government and all federally funded government agencies before any agency initiates alterations to or transfers of historic properties or archaeological sites and shall comply in all respects with Section 106 of the National Historic Preservation Act of 1966 and any amendments thereto.
- (f) The Commissioner shall receive proposals concerning terrestrial and submerged land undertakings by any person to determine whether there may be an adverse effect on any cultural resources located on public land.
- (g) The Commissioner shall issue or deny permits for use, access to, and development of property, land or body of water containing historic, cultural or archaeological resources, and for the excavation or removal of any archaeological specimen for cultural exchange, scientific identification or any other purpose.
- (h) The Commissioner shall employ or appoint professionally qualified staff who meet the criteria set forth in 36 CFR, Part 61 to assist in the performance of his duties under this section.

Section 278. Permits; Rules and Regulations

- (a) All persons, except for archaeologists within the Division for Archaeology and Historic Preservation who wish to, or are required to conduct subsurface or underwater archaeological excavations, tests, probing, or other investigations which result in the removal or contextual disturbance of in situ materials or artifacts in Virgin Islands lands or coastal waters, will be required to obtain a permit from the Commissioner. All archaeological investigations must be conducted by professional archaeologists in conformity with standards set by the Register of Professional Archaeologists (ROPA) and outlined in Title 36 of the Code of Federal Regulations.
- (b) Before issuing a permit, the Commissioner shall determine whether:

- (1) The applicant meets the criteria set forth in the “Standards and Guidelines for Archaeology and Historic Preservation” established by the Secretary of the United States Department of Interior, guidelines established by the Commissioner; and any rules and regulations promulgated hereunder; whether the applicant is appropriately qualified, as evidenced by training, education and experience, and is willing to utilize appropriately qualified organizations in the Virgin Islands to complete the proposed work; and whether the applicant possesses demonstrable competence in theoretical and methodological design, and in the collection, handling, conservation, analysis, evaluation, and reporting of archaeological data, based on the type and scope of the work proposed;
 - (2) The proposed work is to be undertaken for the purpose of furthering scientific and cultural knowledge in the public interest;
 - (3) The proposed work, including time, scope, funding, location and purpose, is consistent with any management plan, regulation, rule or policy applicable to the property involved; and
 - (4) The permit is in the best interest of the Government.
- (c) Only institutions, organizations or corporations organized for scientific, research, or land-use planning purposes may be issued a permit under this subsection, and only after submitting a research plan that meets the standards established by the Commissioner regarding professional qualifications, techniques and methodology for recovery, analysis and dissemination of data, and proper conservation and permanent storage and documentation of specimens and records.
- (d) Permits may be issued for such periods of time as the Commissioner deems appropriate.
- (e) The Commissioner shall establish rules and regulations for the issuance of permits under this section and shall formulate uniform requirements and specifications to be included in the permit applications.

Section 279. Rights of the Government of the United States Virgin Islands

- (a) The Government of the Virgin Islands retains the exclusive right to and control over all historical, cultural and archaeological properties and archaeological specimens located on public lands and waters, including submerged lands.
- (b) The Government of the Virgin Islands retains the exclusive right to and control over all historical, cultural and archaeological properties located on public lands leased to others. In all cases where such property is leased, it shall be subjected by covenant or otherwise to such rights of access for inspection, and other conditions or restrictions of operations, maintenance, repairs or restoration, alterations, or modifications as the Commissioner may prescribe for the purpose of protection and preservation of the property.

- (c) The Government of the Virgin Islands reserves to itself the exclusive right and privilege to conduct or to permit qualified professional archaeologists to conduct field archaeological operations on properties owned by the Government of the Virgin Islands in order to protect and preserve historical, cultural, and archaeological sites and objects, and scientific and educational information, and to retain to itself artifacts recovered under such permits.

Section 280. Excavation

No excavation, development, or similar activity may be undertaken until a permit is first obtained from the Commissioner. All excavations, scientific investigations, recovery operations or data recording techniques shall be conducted under the general supervision of the Commissioner, and in such a manner as to maximize the historical, cultural, archaeological, architectural, scientific and education information recovered and preserved.

Section 281. Responsibility of government agencies

- (a) Each Government agency having direct or indirect jurisdiction over a proposed government or government assisted or approved development or undertaking shall, in accordance with government policy and prior to the approval of the expenditure of any funds for the undertaking, consider the effects of the undertaking on any historical, cultural or archaeological property that is included in, or eligible for inclusion in the Virgin Islands Registry of Historic Places. Each such agency shall afford the State Historic Preservation Office fifteen (15) working days to comment and make recommendations with regard to such development or undertaking, and shall cooperate with the State Historic Preservation Officer in the investigation, recording preservation or mitigation of any adverse impact upon such properties. Each Virgin Islands Government agency shall, as early in the planning process as possible consult with the State Historic Preservation Officer to determine if its proposed development or undertaking will adversely affect any property listed in or eligible for listing in the Virgin Islands Registry or National Register.
- (b) Each Government agency shall immediately present to the State Historic Preservation Officer, both verbally and in writing, a full professional report citing the finding of any historical, cultural or archaeological property (including human burial sites or remains) discovered on land belonging to the Government.
- (c) Each Government agency shall assume financial and administrative responsibility for the preservation of all historical, cultural and archaeological properties under its control, including appropriate regular maintenance, and shall exercise caution to ensure that any historic, cultural or archaeological property under its control is not advertently or inadvertently transferred, sold, significantly degraded, substantially altered, or destroyed.
- (d) All Government agencies shall comply in full with the requirements of the National Historic Preservation Act of 1966, as amended, and the “Standards and Guidelines for

Historic Preservation,” established by the Secretary of the United States Department of Interior, whenever they engage in any undertaking for which there is federal involvement.

Section 282. Temporary classification pending investigation

A historical, cultural, or archaeological property which the Commissioner has reason to believe may be worthy of preservation may be included in the Virgin Islands Registry of Historic Places on a temporary basis for not more than one (1) year, during which time the Commissioner shall investigate the property and make a determination as to whether it may be placed in the registry permanently. If the property is on private land, the owner shall be immediately notified of the temporary classification. If at the expiration of one (1) year from the time the temporary classification was imposed, the owner is not notified of the Commissioner’s decision, the temporary classification shall lapse, and shall not be renewed for at least five (5) years.

Section 283. Notification and permit requirements on private land

- (a) Upon discovery of any archaeological or historical site, or human burial site or remains upon private lands, the owner or his representative shall immediately notify the State Historic Preservation Office verbally and in writing.
- (b) All development permits for commercial purposes on private land shall require review and recommendation by the State Historic Preservation Office; provided said office shall not take more than fifteen (15) days to consider the effect of the proposed undertaking on properties, which are listed or eligible for listing in the Registry.
- (c) If during its review of the application, the State Historic Preservation Office has reason to believe that the proposed undertaking or development will alter, disturb, destroy or otherwise adversely affect a property in the Registry, it may require the applicant to undertake, at the applicant’s expense, a Phase I Cultural Resources Survey to determine whether any historical or cultural properties are present on the property. For purposes of this subsection, a Phase I Cultural Resources Survey is defined as a field and documentary investigation sufficient to locate, evaluate and determine the boundaries and potential significance of all archaeological, historical and cultural sites present on a given property.
- (d) In cases where the State Historic Preservation Office determines that a property that is listed or eligible for listing in the Virgin Islands Registry of Historic Sites may be disturbed, altered, destroyed or otherwise adversely affected by the proposed development or other similar undertaking, the office may set permit conditions best calculated to ensure the preservation of the property. Such conditions may include, but not be limited to:
 - (1) Providing technical assistance to the owner who is willing to restore, preserve and maintain the historical or cultural property;

- (2) Acquiring the property or an easement or other right therein by gift or purchase;
 - (5) Acquiring the property for the Territory through eminent domain;
 - (4) Either conducting a field archaeological operation or requiring that one be conducted, as specified in this chapter, that will scientifically investigate, document, analyze and record all historical or cultural properties and objects on the site to the maximum extent possible.
- (e) It shall be a violation of this section for any person to remove, injure or destroy components of known or newly discovered historical or archaeological landmarks or cultural properties situated on private property or controlled by a private owner without the owner's prior permission. Where the owner of a historical, cultural or archaeological property has submitted his acceptance in writing for the inclusion of that property in the Registry, the provisions of this section shall apply to that property.
 - (f) All Government agencies shall comply in full with the requirements of the National Historic Preservation Act of 1966, as amended, and the "Standards and Guidelines for Historic Preservation.
 - (g) Nothing in this section shall be construed to prevent ordinary maintenance or repair of any existing feature in or on an archaeological or historical property on private land.

Section 284. Procedures upon discovery of human burial sites

- (a) Each human burial in the Territory, interred in any marked or unmarked site, is accorded the protection of this law and shall receive appropriate and respectful treatment and disposition.
- (b) Any person who discovers a human burial site shall immediately cease and desist any activity that may disturb that site or any object or artifact associated with it, and shall immediately report the discovery to the State Historic Preservation Office. The remains, objects, or artifacts discovered shall not be disturbed further without a permit from the Commissioner.
- (c) Upon notification of the discovery of a human burial site, the Commissioner shall notify the medical examiner responsible for the appropriate administrative jurisdiction in a timely manner.
- (d) It shall be a violation of this section for any person to knowingly, willfully, and intentionally disturb, excavate, remove or destroy any human remains buried, entombed, or sepulchered in the Territory, or knowingly willfully and intentionally procure, direct or employ any other person to disturb, excavate, remove or destroy any human remains buried, entombed or sepulchered in the Territory; except by authority of a written permit issued by the Commissioner.

- (e) Within one (1) year after the effective date of this section, the State Historic Preservation Office shall adopt uniform and comprehensive rules and regulations relating to the reporting procedures, procedures to request permission to disturb human remains, and the standards to accompany the granting of permission to disturb human remains and burial sites.
- (f) If the human remains are on private property, and
 - (1) The State Historic Preservation Office does not respond to a request for permission to disturb in a timely manner; or
 - (2) The property owner rejects the response submitted by the State Historic Preservation Office; the property owner shall, at his own expense, re-inter with appropriate dignity all human remains, objects, and artifacts associated with the site in a location not subject to further disturbance, pending the approval and verification by the State Historic Preservation Office.
- (g) If the burial site is located on public land and action is necessary to protect the burial site from immediate destruction, the Commissioner may cause a professional archaeologist to excavate the site and remove objects, artifacts and human remains associated with the site for subsequent re-interment, following scientific study, at the expense of the applicant.
- (h) Re-interment shall be made within one (1) year of discovery, unless additional time is needed for scientific analysis. Approval for delay in re-interment must be granted in writing by the Commissioner.

Section 285. Confidentiality of site location

Any information in the custody of a public official concerning the location of archaeological resources, the preservation of which is in the interest of the Territory, shall remain confidential unless the Commissioner certifies in writing that the dissemination of such information will further the purpose of this chapter, and will not create a risk of loss of archaeological resources.

Section 286. Special permit required for excavation on private land

- (a) It shall be a violation of this section for any person to excavate with the use of mechanical earth-moving equipment or by manual means an archaeological site for the purpose of collecting or removing archaeological specimens when such archaeological site is on private land, including privately owned submerged land, in the Territory, unless such person has first obtained a permit for such excavation issued by the Commissioner pursuant to this section.
- (b) A permit may be issued under this section when:

- (1) The applicant submits written authorization for the excavation from the owner of the land;
- (2) The applicant furnishes satisfactory evidence of being qualified to perform such archaeological excavation by experience, training and knowledge as defined in this chapter;
- (3) The applicant submits a satisfactory plan of excavation for the archaeological site and states therein the method by which such excavation shall be undertaken; and
- (4) The applicant agrees in writing that upon completion of the excavation, he will submit to the State Historic Preservation Office a complete report of the excavation, which shall contain relevant maps, documents, drawings, and photographs, together with a detailed description of the archaeological specimens removed as a result of such excavation. Failure to file the complete report shall be grounds for refusing the issuance of a future permit to such person.
- (5) All archaeological specimens collected or removed from the archaeological site as a result of the excavation shall be maintained according to the conditions outlined in the permit.

Section 287. Archaeological Preservation Fund

- (a) There is hereby established as a separate and distinct fund within the Treasury of the Virgin Islands, a special fund designated "The Archaeological Preservation Fund." The Commissioner of Finance shall maintain and provide for the administration of this fund, and no monies shall be made available for expenditure therefrom except as provided in this section.
- (b) The Archaeological Preservation Fund shall be composed of:
 - (1) Fees and fines collected pursuant to this subchapter;
 - (2) Public or private monetary grants, gifts, donations, or bequests; and
 - (3) All sums appropriated thereto, from time to time, by the Legislature.
- (c) Monies shall be disbursed from the Archaeological Preservation Fund by the Commissioner of Finance, upon authorization by the Commissioner to carry out the duties and mandates of this subchapter.

SUBCHAPTER VII. Administrative Provisions

Section 288. Enforcement and Penalties

- (a) **Enforcement**

The remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other right or remedy available at law or in equity whether under common law or statutory law, criminal or civil.

(1) Citizen Suits

- (A) Any person, may maintain a civil action for appropriate injunctive relief, including declaratory and equitable relief to restrain any violation of this law; provided however, that the person shall first give written notice to the Commissioner and the Attorney General within thirty (30) days prior to the commencement of such action. If the Commissioner and/or the Attorney General takes action to restrain the violation, a person may not maintain the civil action. On a prima facie showing of a violation of this law, preliminary equitable relief shall be issued to restrain any further violation thereof. No bond shall be required for an action under this subsection.
- (B) Any person may maintain an action to compel the performance of the duties specifically imposed upon the Commissioner, the Commission or its appropriate Committee by this law; provided, however, that no such action shall be brought prior to thirty (30) working days after written notice has been given to the Commissioner, the Commission or its appropriate Committee, by complaint specifying the duties which the complainant alleges have not been performed. No bond shall be required for an action under this subsection.

(2) Inspection and Entry

- (A) The Commissioner, the Commission, its appropriate Committee or their authorized representative, upon presentation of their credentials, shall have the right to enter upon or through and inspect any parcel of property, premises or body of water at all reasonable hours for the purpose of performing their official duties under this chapter or enforcing any rule, regulation, order or permit issued thereunder, and to access and copy any records required to be maintained.
- (B) The Commissioner, the Commission, its appropriate Committee, or their designee shall regularly monitor a permittee's compliance with the terms and conditions of its development permit.
- (C) The permittee shall allow entry for the purpose of inspecting and ascertaining compliance with the terms and conditions of its development permit, and shall allow access to and examination of such records as the Commissioner, the Commission, or its appropriate Committee in the performance of their duties hereunder, may require permittee to maintain.

Such records may be copied and submitted to the Commissioner, the Commission or its appropriate Committee upon request.

(3) **Public Access to Information**

Any records, reports or other information obtained under this section, and any permits, permit applications, public comments relating thereto, and related documentation shall be available to the public for inspection and copying; provided that upon a showing satisfactory to the Commissioner, the Commission or its appropriate Committee, by any person that such records, reports permits, permit applications, documentation or information, or any part thereof would if made public, divulge methods or processes entitled to protection as trade secrets of such person, the Commissioner, the Commission or its appropriate Committee shall consider, treat and protect such documents, information or part thereof, as confidential; except that such documentation, information or part thereof may be disclosed or transmitted to other officers, employees or authorized representatives for carrying out the purposes of this law or when relevant in any proceeding related thereto.

(4) **Revocation or suspension of permits**

Violation of any term or condition of any development permit issued or approved pursuant to this law shall be grounds for revocation or suspension thereof. Violation of any term or condition of any occupancy or development permit or lease issued prior to the effective date of this law shall, to the maximum extent permitted by law, be grounds for revocation or suspension thereof.

(5) **Administrative Proceedings**

Whenever the Commissioner, the Commission or its appropriate Committee upon inspection or investigation or on the basis of information available to them, has reason to believe that a violation of any provision of this law or of any rule or regulation or of any order of the Commissioner or Commission pursuant thereto has occurred or any person has undertaken or is threatening to undertake any activity that may require a permit pursuant to this law without first securing such a permit, or that may be inconsistent with any permit previously issued, the Commissioner, the Commission or appropriate Committee may issue a Notice of Violation with written orders directing such person to cease and desist its activities. The Notice of Violation shall specify the provisions of this law, rules and regulations or order of the Commissioner or Commission alleged to be violated, the facts alleged to constitute a violation thereof and may order the performance of such necessary corrective actions as the Commissioner, the Committee or the Commission deems necessary to ensure compliance with the provisions of this law including, without limitation, immediate removal of any fill or other material, suspension of the permit, or the setting of a schedule within which steps must be taken to obtain a permit pursuant to this law. The Notice of

Violation may also assess a civil penalty in accordance with subsection (b) of this section. Said order shall be served by certified mail or personal service upon the person being charged with the actual or threatened violation of this law and shall be effective upon issuance. A cease and desist order may be issued verbally upon any violation of this law, rule or regulation or order of the Commissioner. All verbal cease and desist orders shall be followed by a written order.

(6) **Injunctive Relief**

In addition to any other remedy provided herein or at law or equity, the Commissioner, the Commission or its appropriate Committee, through the Attorney General or the Attorney General, on his own may institute a civil action in the Territorial Court of the Virgin Islands for an injunction or other appropriate relief, including revocation of a development permit issued hereunder, or an order to prevent any person from violating the provisions of this law, including occupying or developing the trust lands or other submerged or filled lands, or to enforce any cease and desist order or any regulations issued hereunder. It shall not be necessary to first revoke any permit prior to seeking injunctive relief. Recourse to and exhaustion of the administrative remedies prescribed in this section shall not be a condition precedent to enforcement under this subsection.

(b) **Penalties**

- (1) Civil Penalties. Any person who violates any provision of this law, or any regulation or order issued hereunder shall be subject to a civil fine not to exceed thirty thousand (\$30,000) dollars per day per violation. Civil penalties charged pursuant to this section may be assessed administratively by the Commissioner, the Commission or its appropriate Committee; provided, said person has been given the opportunity for a hearing on the record and that in making the civil assessment, the Commissioner, the Commission or its appropriate Committee has made findings of fact and conclusions of law. The Commissioner, the Commission or its appropriate Committee may compromise, modify, or remit, with or without conditions, any administrative penalty, which may be imposed under this section. The factors to be taken into account in assessing a penalty, may include, the nature, circumstances, extent and gravity of the alleged violation; the respondent's degree of culpability and history of prior offenses; and such other matters as justice may require.
- (2) Criminal Penalties. Any knowing or willful violation of this law or any regulation or order issued hereunder shall constitute a misdemeanor. Any person convicted of such a violation shall be fined a sum not to exceed thirty thousand dollars (\$30,000), or imprisoned for not more than one year, or both.
- (3) Additional Civil Penalties. In addition to any other penalties provided by law, any person who intentionally and knowingly performs any development in

violation of this law shall be subject to a civil fine of not less than one thousand dollars (\$1,000), nor more than ten thousand dollars (\$10,000) per day for each day during which such violation occurs.

- (4) Exemplary Damages. In addition to the foregoing and to deter further violations of the provisions of this law, the Attorney General, the Commissioner, the Commission or appropriate Committee may maintain an action for exemplary damages, the amount of which is left to the discretion of the court, against any person who has intentionally and knowingly violated any provision of this law.
- (5) The Commissioner and the Commission are hereby authorized and directed to promulgate all rules and regulations it deems necessary to implement the provisions of this section.
- (6) All fines collected under the provisions of this subsection, except for fines collected for violations of Subchapter VI, shall be deposited into the Natural Resources Reclamation Fund provided for in section 255 (Natural Resources Reclamation Fund) of this law.

Section 289. Administrative Review of Enforcement Actions

- (a) The following actions of the Commissioner, the Commission or its appropriate Committee shall not be subject to administrative review:
 - (1) Actions regarding a resolution, directive, or other action of the Commissioner that relates solely to the internal policy, organization, procedure of the Department of Planning and Natural Resources and that are not enforcement actions.
 - (2) A decision to issue or not to issue a complaint, summons or similar accusation, except as specifically allowed by section 288 (a)(1)(B).
 - (3) A decision to initiate or not initiate an inspection or investigation.
 - (4) A decision to settle or compromise a civil penalty or otherwise settle an enforcement action.
 - (5) An action brought in the appropriate court for a criminal violation of this law by the Office of the Attorney General.
 - (6) An action brought by the Commissioner, the Commission or its appropriate Committee for injunctive relief pursuant to section 288(a)(6) of this law.

(b) Appeal of Enforcement Actions

A respondent may appeal an enforcement action brought by the Commissioner,

the Commission or its appropriate Committee within twenty-five (25) working days of service of the order initiating the action. The appeal must be timely filed with the Commissioner in order to preserve a right for administrative review. The appeal shall be governed solely by the provisions of this section and the rules and regulations established by the Commissioner and the Commission pursuant to subsection (c) of this section.

(c) Procedures on Appeal

The Commissioner and the Commission shall prepare a form of application for filing of appeals and shall adopt, in the manner required by law, rules and regulations governing the submission and review of enforcement actions on appeal and the notice and procedures for administrative review. The rules and regulations shall provide for hearing by an impartial officer; procedures for timely and adequate notice; the right to be represented by counsel; and a determination or decision based solely upon the record that identifies the evidence relied upon and specifies the reasons for the decision. Until said rules and regulations are promulgated, the current rules and regulation established under the Coastal Zone Management Act shall be continued and shall apply hereto to the furthest extent practicable.

(d) Case Docketing

Each appeal, provided that it has been timely filed and otherwise conforms to the requirements of this section, is assigned a docket number and, thereafter, the proceeding shall be referred to by this number. The hearing officer shall promptly send written notice of date, time and place of the hearing to the parties.

(e) Hearing Officer

The Commissioner shall designate a person to serve as a Hearing Officer. The Hearing Officer shall have all powers and responsibilities necessary to preside over the parties and the proceeding, to hold pre-hearing conferences, to conduct the hearing, and to make a decision in accordance with this section and any rules and regulations promulgated pursuant to this section. The Commissioner may establish rules and regulations setting forth the duties of the hearing officer, procedures for the conduct of hearings, pre-hearing motions and conferences, the content of orders and that provide for the issuance of written orders of the hearing officer within thirty (30) days of a hearing.

(f) Disqualification of Hearing Officer

(1) The hearing officer may withdraw from a particular case when the hearing officer believes that his impartiality might reasonably be questioned, or believes that his personal bias, prejudice, or knowledge of a disputed evidentiary fact might influence his decision.

- (2) The Commissioner shall not knowingly assign an individual to serve alone or with others as a hearing officer who is subject to disqualification under this subsection.
- (3) Any party to a proceeding, in good faith, may request that the hearing officer be disqualified upon discovering facts establishing grounds for disqualification under this subsection.
- (4) Within ten (10) working days of the request, the hearing officer shall determine whether to grant the request, stating facts and reasons for the determination. The party requesting disqualification may file an appeal of the hearing officer's decision within ten (10) working days to the Commissioner. The Commissioner shall make a determination within ten (10) working days as to whether the hearing officer should be disqualified. The determination of the Commissioner becomes the final administrative decision for the purpose of judicial review.
- (5) Any individual serving or designated as a hearing officer is subject to disqualification for bias, prejudice, or interest in the outcome of a proceeding, or any cause for which a judge in a court of law may be disqualified.
- (6) A hearing officer is subject to disqualification if he engages in financial or business dealings that tend to reflect adversely on his impartiality, exploits his position or involves him in frequent financial or business dealings with attorneys or other persons who are likely to come before him.
- (7) Nothing in this subsection prohibits an individual who is an employee of the Virgin Islands Government from serving as a hearing officer.

Section 290. Board of Land Use Appeals

(a) Composition

There is hereby continued a without hiatus a Board of Land Use Appeals composed of nine (9) members appointed by the Governor with the advice and consent of the Legislature. Of the nine (9) members, four (4) shall reside on St. Croix, four (4) shall reside on St. Thomas, and one (1) shall reside on St. John. The Board shall annually elect a Chairman from among its members. Five (5) voting members of the Board shall constitute a quorum for the transaction of all business of the Board. A majority of those voting members present shall determine all matters before the Board. This section effectively amends Title 3, Section 125 of this Code.

(b) Membership Terms

Members of the Board shall serve a term of two (2) years and may be reappointed. Upon the conclusion of the term of any member of the Board, such person shall continue to serve until a new member has been appointed. The members of the Board shall receive a

sum in accordance with applicable laws for each day or part thereof spent in the performance of their duties. Every member of the Board shall be reimbursed for necessary travel, subsistence and other expenses actually incurred in the discharge of his duties as a member of the Board. Appointed members of the Board may be removed by the Governor for cause.

(c) **Budget**

The Board of Land Use Appeals shall continue to be under the office of the Attorney General for budgetary and administrative purposes only. The Attorney General shall submit an annual budget for the Board of Land Use Appeals, as submitted by the Board, to the Governor.

(d) **Specific Powers of the Board to Grant Variances**

The Board may grant variances from the strict application of any land dimension requirements or any setback requirements established in this law or in any rules and regulations promulgated thereunder when by reason of exceptional narrowness, shallowness, shape or substandard size of specific parcels of property, or by reason of exceptional topographic conditions or other extraordinary situations or conditions of specific parcels of property, the strict application of this law or amendment thereto would result in a practical difficulty or unnecessary hardship upon the owner of said property, provided:

- (1) That such variance can be granted without substantial impairment of the intent, purpose and integrity of this law and of the Virgin Islands Development Plan;
- (2) That such variance shall not permit a use of land or water not authorized by the provisions of this law, or an increase in the height or volume of a building or structure, or an increase in the density of development beyond that permitted by this law; and
- (3) That there must be a finding by the Board that all of the following conditions exist:
 - (A) That, if the owner complied with the provisions of this law, he would not be able to make any reasonable use of his property;
 - (B) That the difficulties or hardship are peculiar to the property in question in contrast with those of other properties in the same district;
 - (C) That the hardship was not the result of the applicant's own action; and
 - (D) That the hardship is not merely financial or pecuniary.

(e) **Public Hearing**

A public hearing on an application for a variance shall be held by the Board within sixty (60) working days after the application is filed with the Board, and an action shall be taken by the Board within thirty (30) working days after the conclusion of such public hearing. The Board shall notify the appropriate Committee, the Commissioner, and the applicant for the variance of its ruling by certified mail. Such notice shall be sent within ten (10) working days of the Board's action.

Section 291. Board Review of Permit Decisions

(a) There is hereby established a procedure to allow for administrative review by the Board of Land Use Appeals of permit decisions of the Commissioner, the Commission or its Committees taken pursuant to this law.

(b) This section does not apply to the following:

(1) Actions regarding a resolution, directive, or other action of the Commissioner, the Commission or its Committees that relate solely to the internal policy, organization, procedure of the Department of Planning and Natural Resources or the Commission and is not a decision to approve or deny a permit.

(2) An enforcement action taken under this law.

(3) An action brought in the Territorial or District Court for injunctive relief by the Attorney General.

(c) **Appeal of Permit Decision**

Any aggrieved person may file an appeal of a final permit decision of the Commissioner, the Commission or its Committees within forty-five (45) working days of that decision. The appeal must be timely filed with the Board in order to preserve a right for administrative review. The appeal shall be governed solely by the provisions of this section and any rules and regulations promulgated hereto.

(d) **Procedures on Appeal**

The Board shall prepare a form of application for such appeals and shall adopt in the manner required by law, rules and regulations governing the submission and review of permit decisions for appeal and the notice and procedures for administrative review. Such rules and regulations shall be such as to afford an aggrieved person:

(1) timely and adequate notice;

(2) a hearing or other opportunity to confront adverse witnesses and present oral

evidence on his own behalf;

- (3) the right to be accompanied, represented and advised by counsel; and
- (4) a determination based solely upon the record that identifies the evidence relied upon and specifies the reasons for the determination.

(e) **Powers of the Board to Conduct Administrative Hearings**

The Board is authorized to:

- (1) Rule on a request to participate as a party in the proceeding by allowing, denying, or limiting the participation (the ruling shall consider the views of the parties and shall be based upon whether the requester can be expected to contribute materially to the disposition of the proceedings);
- (2) Schedule and regulate the course of the hearing and the conduct of the participants;
- (3) Administer oaths and affirmations to witnesses;
- (4) Rule on motions, procedural requests, and similar matters;
- (5) Question witnesses;
- (6) Rule on requests for appearance of witnesses or production of documents or requests for admissions and take appropriate action upon failure of a party to effect the appearance and production of a witness or document ruled relevant and necessary to the proceedings;
- (7) Take official notice of any matter not appearing in evidence that is among traditional matters of judicial notice; or technical or scientific facts within the general specialized knowledge of the Department of Planning and Natural Resources or the Coastal Zone Management Commission, or its Committees, as expert bodies; or the record of other proceedings before the Board; or any reasonably available public document on condition that the parties are advised of the matter noticed;
- (8) Prepare and submit a determination or other appropriate disposition document and certify the record;
- (9) Issue subpoenas for the appearance of witnesses or production of documents;
- (10) Preside over the parties and the proceeding, to conduct the hearings, and to make a determination in accordance with this section and any rules and regulations promulgated pursuant to this section.

(f) **Ex Parte Communications**

Except as may be specifically authorized by this law, Board members involved in a proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding while the proceeding is pending, with any party or individual that has a direct or indirect interest in the outcome of the proceeding, without notice and opportunity for all parties to participate in the communication.

(g) **Disqualification of Board Members**

- (1) A Board member may withdraw from a particular case when he believes that his impartiality might reasonably be questioned, or believes that his personal bias, prejudice, or knowledge of a disputed evidentiary fact might influence his decision.
- (2) Any party to a proceeding, in good faith, may request that a Board member be disqualified upon discovering facts establishing grounds for disqualification under this subsection. Within ten (10) working days of the request, the Board shall determine whether to grant the request, stating facts and reasons for the determination. The party requesting disqualification may file an appeal of the Board's determination within ten (10) working days in the Territorial Court of the Virgin Islands.
- (3) Any individual serving as a Board member is subject to disqualification from the hearing for bias, prejudice, or interest in the outcome of a proceeding, or any cause for which a judge of court may be disqualified.
- (4) A Board member that engages in financial or business dealings that tend to reflect adversely on his impartiality, or exploits his position, or involves him in frequent financial or business dealings with attorneys or other persons who are likely to come before the Board is subject to disqualification.
- (5) Nothing in this subsection prohibits an individual who is an employee of the Virgin Islands Government from serving as a Board member.

(h) **Determination of the Board**

The Board, by a majority vote of its members, shall either, affirm, remand or nullify the decision of the Commissioner, the Commission or its appropriate Committee. If the Board finds that the decision is arbitrary, capricious, or erroneous, the Board shall remand the application to the Commissioner or Committee with instructions to approve, with conditions, or deny the permit.

- (1) The Board shall issue its written determination upon the record within thirty (30) working days of an administrative hearing, setting forth:
 - (A) findings of fact and conclusions, and the reasons or basis for them on all matters of fact, law, or discussion presented in the record, and the rulings on any proposed findings or conclusions presented by the parties;
 - (B) a statement of facts noticed or relied upon in the determination; and,
 - (C) such other matters as the Board considers appropriate, provided that these matters are based exclusively upon the evidence of record in the proceeding and on matters officially noticed in that proceeding.
- (2) The Board may at the termination of the hearing enter an oral determination, subject to later issuance of a written determination under paragraph (1) of this section.
- (3) The Board shall serve a written determination upon each of the parties personally or by mail, return receipt requested, and shall promptly certify the record including the original copy of the order as complete and accurate.
- (4) All hearings shall be recorded and transcribed and these costs are to be paid by the Board.
- (5) The determination of the Board becomes final and effective upon the date of service.

Section 292. Judicial Review - Writ of Review

Pursuant to Title 5, Chapter 97 of the Virgin Islands Code, a petition for writ of review may be filed in the Territorial Court of the Virgin Islands for review of all decisions and findings of the Board of Appeals, on appeal or upon application for a variance after a hearing, and all final decisions of a hearing officer, upon appeal of an enforcement action of the Commissioner, the Commission or its appropriate Committees.

Section 293. Amendments

(a) Scope of Amendments

Any provision of this chapter, as well as the boundaries of the various zoning districts established herein, may be amended or repealed by the Legislature of the Virgin Islands after due public notice and hearing, where parties in interest and citizens shall have an opportunity to be heard, subject to the provisions of this section.

(b) Limitation on Map Amendments

Amendments to the zoning maps may be granted once every two years. Notwithstanding the above, amendments to correct errors on the original Zoning Map or to accomplish a specific legislatively adopted public purpose (i.e. develop affordable housing) may be considered at any time by the Legislature.

(c) **Initiation of Amendments**

Amendments to the zoning maps may be initiated either by petition to the Commissioner by any property owner or to the Legislature by the Department of Planning and Natural Resources.

(d) **Procedure for Amendments**

(1) The Commissioner is hereby authorized and directed to establish an application form for the filing of petitions for amendments to the zoning maps.

(2) The Commissioner is authorized and directed to establish a biennial schedule for the receipt and review of map amendment petitions from property owners or on the Department's initiative. Such schedule shall be published by public notice in a newspaper of general circulation and shall establish:

- (A) monthly preapplication meetings;
- (B) periods for receipt of petitions;
- (C) dates for public hearings; and
- (D) dates for submittal of recommendations to the Legislature.

(3) Petitions for amendment to the Zoning Map shall be submitted to the Department of Planning and Natural Resources in accordance with the schedule established by the Commissioner. Any map amendment petition for a more intensive Zoning designation in any area that meets or exceeds the threshold provided in the table below, shall be accompanied by an Environmental Assessment and Impact Study (EAIS).

MAP AMENDMENT THRESHOLDS

Intensity District	Parcel Size
A	3 acres
1	2 acres
2	1 acre

(4) The EAIS required by subsection (d)(3) above shall include a consideration of the following impacts:

- (A) the purpose of the rezoning;
 - (B) the environmental (physical, social and economic) effects of the rezoning and intended development;
 - (C) the significance of those effects;
 - (D) alternatives to the rezoning; and
 - (E) any other matter that the Commissioner may require.
- (5) Upon receipt of the petition, the Commissioner shall schedule a hearing, wherein parties in interest shall have the opportunity to be heard. After the public hearing the Commissioner shall prepare a report containing the Department's analysis and recommendations on the proposed amendment.
- (6) The Commissioner shall submit the petitions and the Department's analyses and recommendations on proposed map amendments to the Legislature as part of the biennial review required by section 295 of this law.
- (7) The Legislature shall conduct its own public hearing, in accordance with section 297 of this law, on the proposed amendments.
- (8) A statement of the recommendation of the Department approving, disapproving, or proposing a modification of such petition shall be read at any public hearing held by the Legislature. The report regarding such petition shall include the reasons for the recommendation and shall be incorporated into the records of any public hearing held thereon.
- (9) The Legislature shall not act on any petition that is accompanied by a recommendation that was prepared and dated more than one hundred and eighty (180) days prior to the date scheduled for legislative consideration of the petition. In the event a recommendation was prepared and dated more than one hundred and eighty (180) days prior to the Legislature's hearing, the Legislature shall grant the Department at least thirty (30) days, prior to the hearing, to update or prepare a new recommendation.
- (10) The Legislature shall notify the Department of all amendments or changes to the text of this law or the zoning district maps within five (5) working days of every such change. Within five (5) working days of notification from the Legislature of amendments or changes to the text of this law or the zoning district maps, the Department shall notify the Office of the Tax Assessor and the Department of Finance of every such change. Within sixty (60) days of notification of any zoning changes, the Office of the Tax Assessor shall reassess the affected properties.

(e) Text Amendment

Every proposed amendment to this law, except for map amendments as provided above, shall be referred to the Department of Planning and Natural Resources for study and comment. The Legislature shall grant the Department at least forty-five (45) working days to prepare such comment and recommendation. The Department's comment and recommendation shall be submitted to the Legislature at least thirty (30) days prior to any hearing on the proposed amendment and shall be included as a part of the record on the proposed amendment.

(f) Reconsideration of Denied Applications

Whenever a petition, submitted pursuant to the provisions of this section, is denied by the Legislature or Governor, the Department of Planning and Natural Resource shall not hold further hearings on a renewal application for the same matter by the same applicant or applicants, their successors or assigns, for a period of twelve (12) months after the date of the ultimate denial.

In case the Department of Planning and Natural Resources recommends denial of a request for a change in zoning or any amendment to this law, the Legislature shall not act upon any law covering the same request if filed with the Legislature more than ninety (90) days after the date of the recommendation of denial, unless said proposed law has been referred to the Department of Planning and Natural Resources for its further consideration. The Department of Planning and Natural Resources may reaffirm its original recommendation without holding further hearings, if it finds and determines that there is no material change in conditions, or may hold further hearings on the proposed law. The Department of Planning and Natural Resources shall transmit its recommendation to the Legislature.

Whenever the Department of Planning and Natural Resources, after hearing all the evidence presented upon any application under the provisions of this section, denies same and refuses to recommend to the Legislature the passage of a law making such changes as are proposed, the Department of Planning and Natural Resources shall not hold further hearings on a renewal application for the same matter by the same applicant or applicants, their successors or assigns, for a period of twelve (12) months after denial thereof, except and unless the Department of Planning and Natural Resources shall find and determine from the information supplied by a request for a rehearing, that changed conditions have occurred relating to the application and that a reconsideration is justified. If the rehearing is denied, the application shall not be reopened for at least twelve (12) months from the date of the original action by the Department of Planning and Natural Resources.

(g) Commencement of Construction after rezoning

Notwithstanding any other law, after receiving a necessary zoning change from the Legislature, the owner of property that plans a development on such property as the

reason for such zoning change shall begin construction within thirty-six (36) months after receiving all the necessary permits pursuant to the Virgin Islands Code; if construction has not commenced within the aforesaid time period, the owner will again have to obtain the approval of the Legislature as provided under this section; provided further, that if the property abuts a shoreline, the owner of such property shall also grant, provide and maintain public easements to the shoreline abutting such property that are easily accessible to the general public.

Section 294. Public Hearings

(a) General Procedures for Public Hearings

Public notice of any hearing as required by this law to be conducted by the Commissioner, the Commission or the Board of Land Use Appeals shall be deemed given when:

- (1) a notice setting forth the general purpose of any such hearing and the time and place thereof shall have been published in a newspaper of general circulation in the island district of the property to be affected, at least twice at intervals of not less than two (2) days; the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days before such hearing;
- (2) the applicant, appellant or petitioner as well as the owners of those properties within five-hundred (500) feet of the property line or perimeter of the lot proposed for a variance or proposed to be developed or changed by a petition for zoning map amendment have been notified by certified mail of the general purpose of any such hearing and the time and place thereof at least fifteen (15) days prior to the date of such hearing and have been invited to give testimony; and
- (3) a notice setting forth the general purpose of any such hearing and the time and place thereof has been posted on the property in question.

(b) Transcription of Testimony

In any hearing before the Commissioner, the Commission or the Board of Land Use Appeals, all testimony, objections thereto and thereon shall be taken down by a reporter employed by the respective Commissioner, Commission or Board for that purpose, or recorded by a recording machine set up for that purpose.

(c) Appearance of Parties

Upon any hearing before either the Commissioner, the Commission or the Board of Land Use Appeals, any party may appear in person or be represented by an agent or attorney.

Section 295. Biennial Review

- (a) The Department shall review the Virgin Islands Development Plan, the Official Zoning Maps and this law, and shall report on the same to the Legislature once every two (2) years, commencing two years after the effective date of this law. Specifically, the Department shall:
 - (1) analyze the extent to which development has occurred in the Territory as compared to the projected growth at the time of the last review of same;
 - (2) recommend any changes in the Comprehensive Land and Water Use Plan and Official Zoning Maps of the Territory which would be required in order to accommodate the expected ten year growth of the Territory for agricultural, residential, industrial, commercial and other land and water uses; and
 - (3) analyze the continued validity of all standards imposed by this law in terms of changed conditions, since the last review of same.
- (b) Notwithstanding any other provision of this law, any map amendment petition initiated by the Department, pursuant to section 282(c) (Initiation of Amendments) above shall only be considered by the Legislature concurrent with the biennial review required herein.

Section 296. Continued Planning

In addition to the standards established herein, the Department is hereby authorized and directed to prepare legislation, programs and strategies for adoption by the Legislature for the following growth management techniques: Adequate Public Facilities Systems; Capital Improvement Programming; Impact Taxes; Incentive/Bonus Zoning; Preferential Assessment; and Special Assessment for the purposes of further implementing this law and the Virgin Islands Development Plan.

Section 297. Public Hearing by Legislature

The Legislature, after due public notice and hearing, shall decide on all petitions for amendments to the zoning map.

- (a) Public notice of any hearing required by this section, to be conducted by the Legislature, shall be deemed to have been given when:
 - (1) a notice setting forth the general purpose of any such hearing and the time and place thereof shall have been published in a newspaper of general circulation in the island district of the property to be affected, at least twice at intervals of not less than two (2) days; the first not more than fifteen (15) nor less than two (2)

days before such hearing; and

- (2) the petitioner and the owner(s) of any lots within five hundred (500) feet of the property line or perimeter of the lot proposed to be changed by a petition for zoning map amendment have been notified by certified mail of the general purpose of any such hearing and the time and place thereof at least fifteen (15) days prior to the date of such hearing and have been invited to give testimony.

(b) Transcript of Proceeding

In the hearing before the Legislature, all testimony, objections thereof and thereon shall be taken down by a reporter employed by the Legislature for that purpose.

(c) Appearance of Parties

At the hearing before the Legislature, any party or owner(s) may appear in person or be represented by an agent or an attorney.

SUBCHAPTER VIII. Effective Date

The provisions of this law shall become effective one (1) year after the date of its enactment.

SECTION 2. Repeal of the Virgin Islands Zoning and Subdivision Laws

Title 29 V.I.C. Chapter 3, sections 221-242 inclusive and 272-278 inclusive, the V.I. Zoning and Subdivision Laws are hereby repealed in their entirety upon the effective date of this Law.

SECTION 3. Repeal of Coastal Zone Management Act of 1978

Title 12 V.I.C. Chapter 21, sections 901-914 inclusive, the V.I. Coastal Zone Management Act of 1978, is hereby transferred in its entirety and amended herein upon the effective date of this Law.

SECTION 4. Repeal of Earth Change Law

Title 12 V.I.C. Chapter 13, sections 531-539 inclusive, are hereby repealed in their entirety upon the effective date of this Law.

SECTION 5. Repeal of Regulation of Billboard

Title 29 V.I.C. Chapter 9, sections 501-511 inclusive, are hereby repealed in their entirety upon the effective date of this Law.

SECTION 6. Repeal of Antiquities and Cultural Properties Act of 1998

Title 29 V.I.C. Chapter 17, sections 950-964 inclusive, are hereby repealed in their entirety upon the effective date of this Law.

SECTION 7. Repeal Clause

All existing codes and laws applying to the Territory of the U.S. Virgins Islands; general laws applying only to the U.S. Virgin Islands or any general law which the Territorial Legislature is authorized to supersede, nullify, or amend; and any part of any such codes or laws in conflict with or inconsistent with any provisions contained herein are hereby repealed, save and except such codes and laws which provide higher standards than those provided herein.

SECTION 8. Severability

If any provision of this law or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or application of this law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

SECTION 9. Inclusion of Law

It is the intent of the Legislature of the Virgin Islands and it is hereby ordained that the provisions of this law are hereby made a part of the U.S. Virgin Islands Code, Title 29, and any section or subsection may be renumbered or relettered to accomplish such intent.