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Virgin Islands Code/TITLE 12 CONSERVATION /Chapter 21. Virgin Islands Coastal Zone Management / § 906.  
Specific policies applicable to the first tier of the coastal zone

**§ 906. Specific policies applicable to the first tier of the coastal zone**

Consistent with the basic goals set forth in section 903(b) of this chapter, and except as may otherwise be specifically provided in this chapter, the policies set forth in this section shall apply to all proposed developments in the first tier of the coastal zone, and no such development shall be approved which is inconsistent with such goals and policies.

(a) Development policies in the first tier shall be as follows:

(1) to guide new development to the maximum extent feasible into locations with, contiguous with, or in close proximity to existing developed sites and into areas with adequate public services and to allow well-planned, self-sufficient development in other suitable areas where it will have no significant adverse effects, individually or cumulative, on coastal zone resources;

(2) to give highest priority to water dependent uses, particularly in those areas suitable for commercial uses including resort hotels and related facilities, industrial uses including port and marine facilities, and recreation; to give secondary priority to those uses that are water-related or have special siting needs; and to discourage uses which are neither water-dependent, water-related nor have special siting needs in areas suitable for the highest and secondary priority uses;

(3) to assure that new or expanded public capital improvement projects will be designed to accommodate those needs generated by development or uses permitted consistent with the Coastal Land and Water Use Plan and provisions of this chapter;

(4) to assure that all new subdivisions, in addition to the other requirements contained in this chapter and in the Virgin Islands Zoning and Subdivision Law, are physically suitable for the proposed sites and are designed and improved so as to avoid causing environmental damage or problems of public health;

(5) to encourage waterfront redevelopment and renewal in developed harbors in order to preserve and improve physical and visual access to the waterfront from residential neighborhoods and commercial downtown areas;

(6) to assure that development will be sited and designed to protect views to and along the sea and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas;

(7) to encourage fishing and carefully monitor mariculture and, to the maximum extent feasible, to protect local fishing activities from encroachment by non-related development;

(8) to assure that dredging or filling of submerged lands is clearly in the public interest; and to ensure that such proposals are consistent with specific marine environment policies contained in this chapter. To these ends, the diking, filling or dredging of coastal waters, salt ponds, lagoons, marshes or estuaries may be permitted in accordance with other applicable provisions of this chapter only where there are no feasible, less environmentally-damaging alternatives and, where feasible, mitigation measures have been

provided to minimize adverse environmental effects, and in any event shall be limited to the following: (i) maintenance dredging required for existing navigational channels, vessel berthing and mooring areas; (ii) incidental public service purposes, including but not limited to the burying of cables and pipes, the inspection of piers and the maintenance of existing intake and out-fall lines; (iii) new or expanded port, oil, gas and water transportation, and coastal dependent industrial uses, including commercial fishing facilities, cruise ship facilities, and boating facilities and marinas; (iv) except as restricted by federal law, mineral extraction, including sand, provided that such extraction shall be prohibited in significant natural areas; and (v) restoration purposes;

(9) to the extent feasible, discourage further growth and development in flood-prone areas and assure that development in these areas is so designed as to minimize risks to life and property;

(10) to comply with all other applicable laws, rules, regulations, standards and criteria of public agencies.

(b) Environmental policies in the first tier shall be as follows:

(1) to conserve significant natural areas for their contributions to marine productivity and value as habitats for endangered species and other wildlife;

(2) to protect complexes of marine resource systems of unique productivity, including reefs, marine meadows, salt ponds, mangroves and other natural systems, and assure that activities in or adjacent to such complexes are designed and carried out so as to minimize adverse effects on marine productivity, habitat value, storm buffering capabilities, and water quality of the entire complex;

(3) to consider use impacts on marine life and adjacent and related coastal environment;

(4) to assure that siting criteria, performance standards, and activity regulations are stringently enforced and upgraded to reflect advances in related technology and knowledge of adverse effects on marine productivity and public health;

(5) to assure that existing water quality standards for all point source discharge activities are stringently enforced and that the standards are continually upgraded to achieve the highest possible conformance with federally-promulgated water quality criteria;

(6) to preserve and protect the environments of offshore islands and cays;

(7) to accommodate offshore sand and gravel mining needs in areas and in ways that will not adversely affect marine resources and navigation. To this end, sand, rock, mineral, marine growth and coral (including black coral), natural materials, or other natural products of the sea, excepting fish and wildlife, shall not be taken from the shorelines without first obtaining a coastal zone permit, and no permit shall be granted unless it is established that such materials or products are not otherwise obtainable at reasonable cost, and that the removal of such materials or products will not significantly alter the physical characteristics of the area or adjacent areas on an immediate or long-term basis; or unless the Commission has determined that a surplus of such materials or products exists at specifically designated locations;

(8) to assure the dredging and disposal of dredged material will cause minimal adverse affects to marine and wildlife habitats and water circulation;

(9) to assure that development in areas adjacent to environmentally-sensitive habitat areas, especially those of endangered species, significant natural areas, and parks and recreations areas, is sited and designed to prevent impacts which would significantly degrade such areas;

(10) to assure all of the foregoing, development must be designed so that adverse impacts on marine productivity, habitat value, storm buffering capabilities and water quality are minimized to the greatest feasible extent by careful integration of construction with the site. Significant erosion, sediment transport, land settlement or environmental degradation of the site shall be identified in the environmental assessment report prepared for or used in the review of the development, or described in any other study, report, test results or comparable documents.

(c) Amenity policies in the first tier shall be as follows:

(1) to protect and, where feasible or appropriate, enhance and increase public coastal recreational uses, areas and facilities;

(2) to protect and enhance the characteristics of those coastal areas which are most valued by the public as amenities and which are scarce, or would be significantly altered in character by development, or which would cause significant environmental degradation if developed;

(3) to preserve agricultural land uses in the coastal zone by encouraging either maintenance of such present agricultural use or use as open-space areas;

(4) to incorporate visual concern into the early stages of the planning and design of facilities proposed by siting in the coastal zone and, to the extent feasible, maintain or expand visual access to the coastline and coastal waters;

(5) to foster, protect, improve, and ensure optimum access to, and recreational opportunities at, the shoreline for all the people consistent with public rights, constitutionally-protected rights of private property owners, and the need to protect natural resources from overuse;

(6) to ensure that development will not interfere with the public's right of access to the sea where acquired through customary use, legislative authorization or dedication, including without limitation the use of beaches to the landward extent of the shoreline;

(7) to require, in the discretion of the appropriate Committee of the Commission, that public access from the nearest public roadway to the shoreline be dedicated in land subdivisions or in new development projects requiring a major coastal zone permit. Factors to be considered in requiring such dedication of public access include (i) whether it is consistent with public safety or protection of fragile coastal zone resources; (ii) whether adequate public access exists nearby; (iii) whether existing or proposed uses or development would be adversely affected; (iv) consideration of the type of shoreline and its appropriate potential recreational, educational, and scientific uses; and (v) the likelihood of trespass on private property resulting from such access and availability of reasonable means for avoiding such trespass. Dedicated accessways shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for providing off-street parking areas and for maintenance and liability of the accessway, shoreline and beach areas. 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. This provision shall not be construed as requiring free use of private facilities on land adjoining any beach or shoreline but only as requiring access to the beach or shoreline to the general public as a condition precedent to the grant of a coastal zone permit.

(Added Oct. 31, 1978, No. 4248, § 1, Sess. L. 1978, p. 293.)

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