

## § 902. Definitions

For the purposes of this chapter, and unless the context otherwise requires:

(a) “Act or action” means to render a decision to approve or disapprove a CZM application or to allow for a single deferment of a determination on a CZM application for a period not to exceed 30 days.

(a) “Aggrieved person” means any person, including the applicant, who, in connection with a decision or action of the Commission on an application for a major coastal zone permit either appeared in person or through representatives at a public hearing of the Commission on said application, or prior to said decision or action informed the Commission in writing of the nature of his concern, or on an application for a minor coastal zone permit informed the Commissioner in writing prior to said decision or action of the nature of his concern, or who for good cause was unable to do any of the foregoing.

(b) “Areas of particular concern” means areas in the coastal zone that require special and more detailed planning analyses and the preparation of special plans and implementation mechanism.

(c) “Board” means the Board of Land Use Appeals established in Title 29, chapter 3 of this Code.

(d) “Coastal dependent development or use” means any development or use which requires a site on, or adjacent to, the sea to be able to function effectively.

(e) “Coastal Land and Water Use Plan” means the comprehensive plan for the development of the first tier of the coastal zone which is intended to serve as a policy guide for decision-making relative to development activities within this tier.

(f) “Coastal waters” means sea, as that term is defined in subsection (x) herein, as well as those waters adjacent to the shorelines which contain a measurable quantity or percentage of seawater, including, but not limited to, sounds, bays, lagoons, bayous, ponds and estuaries.

(g) “Coastal zone” means all land and water areas of the Territory of the United States Virgin Islands extending to the outer limits of the territorial sea, specified on the maps identified in section 908, subsection (a) of this chapter, and is composed of two parts, a first tier and a second tier.

(h) “Coastal Zone Management Program” means the program prepared by the Virgin Islands Planning Office~~Division of Comprehensive and Coastal Zone Planning~~ for the management of the Coastal Zone of the Virgin Islands and submitted by the Governor of the United States 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).

(i) “Coastal zone permit” means a permit for any development within the first tier of the coastal zone that is required pursuant to section 906 of this chapter.

(j) “Commission” means the Coastal Zone Management Commission as created by section 904 of this chapter.

(k) “Commissioner” means the Commissioner of ~~Conservation and Cultural Affairs~~Planning and Natural Resources.

(k) “Days” means days on which government offices are open not, including weekends, holidays, or weather-related closures.

(l) "Development" means the placement, erection, 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, removing, dredging, mining, or extraction of any materials, including mineral resources; subdivision of land pursuant to Title 29, chapter 3 of this Code; construction, reconstruction, removal, demolition or alteration of the size of any structure; or removal or harvesting of vegetation, including coral. Development shall not be defined or interpreted to include activities related to or undertaken in conjunction with the cultivation, use or subdivision of land for agricultural purposes which do not disturb the coastal waters or sea, or any improvement made in the interior of any structure.

(m) "Emergency" means 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.

(n) "Environment" means the physical, social and economic conditions which exist within the area which will be affected by a proposed project.

(o) "Environmental Assessment Report" means an informational report prepared by the permittee available to public agencies and the public in general which, when required by this chapter, shall be considered by the Commission prior to its approval or disapproval of an application for a major coastal zone permit. Such report shall include detailed information about the existing environment in the area of a proposed development, and about the effects which a proposed development is likely to have on the environment; an analysis and description of ways in which the significant adverse effects of such development might be mitigated and minimized; and an identification and analysis of reasonable alternatives to such development.

(p) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(q) "Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

(r) "First tier" means that area extending landward from the outer limit of the territorial sea, including all offshore islands and cays, to distances inland as specified in the maps incorporated by reference in section 908, subsection (a) of this chapter.

(s) "Major coastal zone permit" means a permit required for development within the coastal zone, which development is not "minor development" as defined in section 910, subsection (c) of this chapter.

(t) "Minor coastal zone permit" means the permit required for development defined in section 910, subsection (c) of this chapter.

(u) "Permit" means any license, certificate, approval, or other entitlement for use granted or denied by any public agency.

(v) "Person" means any individual, organization, partnership, association, corporation or other entity, including any utility, the Government of the United States Virgin Islands, the Government of the United States, any department, agency, board, authority or commission of such governments, including specifically the Virgin Islands Port Authority and the Virgin Islands Water and Power Authority, and any officer or governing or managing body of any of the foregoing.

(w) "Public Agency" means Government of the United States, the Government of the United States Virgin Islands or any department, agency, board, authority, or commission of either government, including specifically the Virgin Islands Port Authority and the Virgin Islands Water and Power Authority, and any officer or governing or managing body of any of the foregoing.

(x) "Sea" means 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.

(y) "Second tier" means the interior portions of the Islands of St. Thomas, St. John and St. Croix, including all watersheds and adjacent land areas not included in the first tier.

(z) "Shorelines" means the area along the coastline of the United States Virgin Islands from the seaward line of low tide, running inland a distance of fifty 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 shore is extended into the sea by or as a result of filling, dredging or other man-made alteration activities, the landward boundary of the shorelines shall remain at the line previously established.

(aa) "Significant natural area" means land and/or water areas within the coastal zone of major environmental value, including fish or wildlife habitat areas, valuable biological or natural productivity areas; and unique or fragile coastal ecological units or ecosystems which require special treatment and protection.

(bb) "Structure" means anything constructed or erected which requires location or placement on or in the ground, the submerged land, or coastal waters, or which is attached to something located in or on the ground, the submerged lands, or coastal waters.

(cc) "Submerged and filled lands" means all lands in the United States 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 geographical miles distant from the coastline of the United States Virgin Islands, and all artificially made, filled in, or reclaimed lands, salt ponds and marshes which were formerly permanently or periodically covered by tidal waters.

(dd) "Trust lands" means all submerged and filled land conveyed pursuant to Public Law 93-435, 88 Statutes 1210, by the United States to the Government of the United States Virgin Islands to be administered in trust for the benefit of the people of the United States Virgin Islands.

(ee) "Vested rights" means the rights obtained by a person to complete development without having to obtain a coastal zone permit where, prior to the effective date of this chapter, such person has obtained the necessary permit or permits, issued by the appropriate public agency(ies), which would have been sufficient to legally authorize such development prior to said effective date.

### § 903. Findings and goals

(a) The Legislature hereby finds and declares that:

- (1) the coastal zone, and the lands and waters thereof, constitute a distinct and valuable natural resource of vital importance to the people and economy of the United States 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 United States Virgin Islands;
- (3) title to certain submerged and filled lands surrounding the United States Virgin Islands has been conveyed in trust to and is held in trust by the Government of the United States Virgin Islands for the benefit of the people of the United States Virgin Islands;
- (4) the shorelines provide a constant source of food and recreation to, and enhance all aspects of the lives of, the people of the United States Virgin Islands, and the public has made frequent, uninterrupted and unobstructed use of the shorelines throughout Danish and American sovereignty;
- (5) to promote the public safety, health and welfare, and to protect public and private property, wildlife, ocean resources and the natural environment, it is necessary to preserve the ecological balance of the coastal zone, and to prevent its deterioration and destruction;
- (6) there has been uncontrolled and uncoordinated development of the shorelines and attempts to curtail the use of the shorelines by the public;
- (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, 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 coastal zone by the people of the United States Virgin Islands;
- (8) the present system of regulatory controls in the United States Virgin Islands affecting the coastal zone consists of fragmented or overlapping laws and regulations which are not properly coordinated and which when taken together do not constitute a comprehensive or adequate response to the needs of the people of the United States Virgin Islands to protect, and to effect the best use of, the resources of the coastal zone; and
- (9) 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 which provide short-term benefits at the cost of adverse effects on the long-term productivity and amenity of the coastal zone environment.

(b) The Legislature hereby determines that the basic goals of the United States Virgin Islands for its coastal zone are to:

- (1) protect, maintain, preserve and, where feasible, 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 of the United States Virgin Islands;

- (2) promote economic development and growth in the coastal zone and consider the need for development of greater than territorial concern by managing: (1) the impacts of human activity and (2) 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 coastal-dependent development over other development in the coastal zone by reserving areas suitable for commercial uses including hotels and related facilities, industrial uses including port and marine facilities, and recreation uses;
- (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 United States Virgin Islands;
- (5) preserve, protect and maintain the trust lands and other submerged and filled lands of the United States Virgin Islands so as to promote the general welfare of the people of the United States Virgin Islands;
- (6) preserve what has been a tradition and protect what has become a right of the public by insuring 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 United States 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;
- (11) promote public participation in decisions affecting coastal planning conservation and development.

§ 904. Coastal Zone Management Commission

(a) There is hereby created within the Department of ~~Conservation and Cultural Affairs~~Planning and Natural Resources a Coastal Zone Management Commission composed of the Commissioner of ~~Conservation and Cultural Affairs~~Planning and Natural Resources, who shall be a ~~non-voting~~ member, ex officio, the ~~Director Assistant Commissioner~~ of the ~~Virgin Islands Planning Office~~Division of Comprehensive and Coastal Zone Planning who shall be a ~~non-voting~~ member, ex officio, and fifteen other members appointed by the Governor with the advice and consent of the Legislature. Of the fifteen appointed members, five shall reside on St. Croix, five shall reside on St. Thomas and five 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 chapter. The Commission shall elect a Chairman from among its members. Eight voting members of the Commission shall constitute a quorum for the transaction of all business of the Commission. A majority of those voting members present shall decide on all matters before the Commission. The Commission may adopt such other rules as it deems necessary to conduct its business.

(b) There are created within the Coastal Zone Management Commission three Commission 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 Coastal Zone Permits within the jurisdiction of the Commission pertaining solely to the respective resident island of the Committee. Each Committee shall elect a Chairman from its members not less frequently than once a year. If a CZM Commission Committee is unable to form a quorum with members who reside within the respective District, then a quorum may be formed with 2 members of the respective Commission Committee along with 1 ex officio member or 1 member from the existing Commission Committee members from any of the other districts in the territory. This committee shall be known as a "Proxy Committee" formed at times when an insufficient number of members of the Commission Committee is available to serve but the necessary functions of the Commission Committees still need to be carried out. The Proxy Committee shall have the same powers as a Commission Committee of such district, including holding hearings and making decisions. If the CZM Commission Committee chairman is not present for the respective district or has not been appointed, the Proxy Committee shall elect a chairman and continue to hold hearings and continue to act on all pending matters heard by such Proxy Committee until final action is issued. A quorum of each Coastal Zone Management Committee shall consist of three of its members. A majority of those present shall decide on all matters before a Commission Committee. A tie vote shall not constitute a majority.

(c) Appointed members of the Commission shall serve a term of ~~four years~~two 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 the sum of ~~\$50~~\$100 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 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 the Commission by this chapter, the Commission shall have the primary responsibility for the implementation of the provisions of this chapter. The

Department of ~~Conservation and Cultural Affairs~~Planning and Natural Resources as directed by the Commission 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 any other agency of the Government of the United States Virgin Islands or which the Governor may assign to any other agency. In addition to other authority, 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 provisions of this chapter.

(e) The Commission shall prepare and submit to the Legislature of the United States Virgin Islands for adoption any additional plans and undertake any studies it deems necessary and appropriate to better accomplish the purposes, goals and policies of this chapter.

(f) The Commission shall evaluate progress being made towards the implementation of the provisions of this chapter and shall submit a report to the Governor and Legislature on an annual basis.

(g) The Commission shall promulgate rules and regulations necessary to carry out the provisions of this chapter; provided, however, that no such rules or regulations shall be promulgated unless public hearings are held by the Commission after appropriate notice as hereinafter provided. Any rules and regulations promulgated pursuant to this chapter may be modified, amended or revised by the Legislature in accordance with the provisions of subsection (b), section 913, Title 3 of this Code.

(h) Division of Coastal Zone Management. There is hereby established within the Department of ~~Conservation and Cultural Affairs~~Planning and Natural Resources a Division of Coastal Zone Management, the powers and duties of which are, without limitation, to assist the Commission and Commissioner in administering and enforcing the provisions of this chapter.

§ 905. General provisions

(a) Nothing in this chapter shall be construed as amending or altering in any way the existing zoning designations of lands within the United States Virgin Islands or the Zoning District Maps adopted pursuant to Title 29, chapter 3, of this Code.

(b) Every use permitted under an existing zoning designation of lands pursuant to sections 227 and 228, Title 29, chapter 3, of this Code shall be permitted provided the use is consistent with the provisions of sections 903, 906 and 910 of this chapter.

(c) This chapter is not intended, and shall not be construed as authorizing the Commission, Commissioner or any public agency acting pursuant to this chapter to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use without the payment of just compensation therefor. This chapter is not intended to increase or decrease the rights of any owner of property under the Revised Organic Act of the United States Virgin Islands or Constitution of the United States.

(d) In carrying out the provisions of this chapter, conflicts between the policies of this chapter shall be resolved in the manner which is the most protective of significant coastal resources.

(e) No provision of this chapter is a limitation on any of the following:

(1) except as otherwise specifically limited by territorial or federal law, on the power of any public agency to adopt and enforce additional regulations, not in conflict with this chapter, imposing further conditions or restrictions on land or water uses or other activities which might adversely affect coastal zone resources;

(2) on the power of the Government of the United States Virgin Islands to declare, prohibit and abate nuisances or to bring an action in the name of the people of the United States Virgin Islands to enjoin any waste or the pollution of resources of the coastal zone; and

(3) on the right of any person to maintain an appropriate action for relief against a private nuisance or for any other private relief.

(f) Nothing herein contained shall be construed to abridge or alter vested rights obtained in a development in the first tier coastal zone prior to the effective date of this chapter or any occupancy permit or lease of trust lands or other submerged or filled lands issued prior to the effective date of this chapter, except to the extent provided in said occupancy permit or lease.

(g) No person who has obtained all necessary and required permits to construct or undertake development in the coastal zone and who, prior to the effective date of this chapter, has commenced construction of such development in good faith, shall be required to secure approvals for such development pursuant to this chapter; provided, however, that notwithstanding subsections (g) and (h) of this section, no substantial change may be made in any such development without prior approval having been obtained in accordance with the provisions of this chapter.

(h) Nothing herein contained shall be construed to repeal, alter, abrogate, annul or in any way limit, diminish, impair or interfere with any of the following, but shall be held and construed as auxiliary and supplementary thereto:

(1) any easements, covenants or other agreements between parties to the extent that such easements, covenants, or agreements impose greater restrictions upon the use or alteration of land or water in the coastal zone than the requirements of this chapter;

(2) any, or all rights the public has acquired by whatever means to use, traverse, enjoy or occupy lands or waters or both in the coastal zone as of the effective date of this chapter by reason of express or implied dedication or otherwise;

(3) the Commissioner's authority to administer and enforce any other provision of law related to, involving or affecting the coastal zone; and

(4) any laws of the United States Virgin Islands relating to air or water quality, air or water pollution, oil spill prevention or earth change.

(5) [Repealed.]

(i) All public agencies of the Government of the United States Virgin Islands shall cooperate with the Commission, its Committees, and Commissioner in the administration and the enforcement of this chapter. All public agencies of the Government of the United States Virgin Islands currently exercising regulatory authority in the coastal zone shall administer such authority consistent with the provisions of this chapter and the rules and regulations promulgated hereunder.

§ 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.

§ 907. The Coastal Land and Water Use Plan

The Coastal Land and Water Use Plan, identified as Document Numbers LWUP-1–4, inclusive, are hereby approved and shall be implemented. This plan shall be used to the maximum extent feasible as the long-range guide by the Commission, Commissioner, [Virgin Islands Planning Office Division of Comprehensive and Coastal Zone Planning](#) and any other agency of the Government of the United States Virgin Islands, in reviewing and recommending zoning amendments, capital improvement programs or projects, public land acquisition or disposition, designating areas of particular concern, and other development activities within the first tier of the coastal zone, but excluding development activities requiring a coastal zone permit under section 910 of this chapter. The Coastal Land and Water Use Plan is not intended to change any of the existing zoning district maps, or place any limitations on any of the uses permitted in the zoning districts established pursuant to Title 29, chapter 3, of this Code.

§ 908. Coastal zone boundary maps

The boundaries and identification of the coastal zone, including the first and second tier established by this chapter, are shown on the Coastal Zone Management Plan Maps, identified as Document Number STCZM-1 to 5, SCCZM-1 to 11, SJCZM-1 to 4, and OICZM-1, inclusive, which are filed in the Office of the Lieutenant Governor (with copies in the offices of the Commissioner and the ~~Virgin Islands Planning Office~~Division of Comprehensive and Coastal Zone Planning), and shall be interpreted by the Commissioner. Such maps are hereby declared to be part of this chapter as if fully set forth herein.

§ 909. Areas of particular concern

The Commission may recommend, after reasonable notice and public hearings, designation of areas of particular concern within the first tier of the coastal zone every five years where the impact of development on sensitive ecological and cultural resources will be immediate and direct. The Commissioner shall ~~and~~ submit such recommendations to the Legislature for adoption. In recommending the designation of areas of particular concern, criteria for selection and implementing actions shall be included in a report prepared and adopted by the Commission.

§ 910. Coastal zone permit

(a) When required, terms and conditions.

(1) On or after the effective date of this chapter, any person wishing to perform or undertake any development in the first tier of the coastal zone, except as provided in subsection (b) of this section, shall obtain a coastal zone permit in addition to obtaining any other permit required by law from any public agency prior to performing or undertaking any development.

(2) A permit shall be granted for a development if the appropriate Committee of the Commission or the Commissioner, whichever is applicable, finds that (A) the development is consistent with the basic goals, policies and standards provided in sections 903 and 906 of this chapter; and (B) the development as finally proposed incorporates to the maximum extent feasible mitigation measures to substantially lessen or eliminate any and all adverse environmental impacts of the development; otherwise the permit application shall be denied. The applicant shall have the burden of proof to demonstrate compliance with these requirements; and (C) 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 from the Office of the Lieutenant Governor that the applicant has filed its required annual report or has satisfactorily made agreement to pay the taxes or file the required reports.

(3) Any coastal zone permit that is issued shall be subject to terms and conditions imposed by the appropriate Committee of the Commission or the Commissioner, whichever is applicable, in order to ensure that such development will be in accordance with the provisions of this chapter. To this end, any of the development provisions in section 299 of Title 29, chapter 3, of this Code may be made more or less restrictive by the appropriate Committee of the Commission in the case of a major coastal zone permit and more restrictive by the Commissioner in the case of a minor coastal zone permit.

(4) In connection with any land subdivision or major coastal zone permit issued for development adjacent to the shoreline, the appropriate Committee of the Commission may require the dedication of an easement or a fee interest in land for reasonable public access from public highways to the sea in accordance with section 906, subsection (c), paragraph (7) of this chapter.

(b) When ~~not required or~~ may be waived.

(1) Notwithstanding any provision in this chapter to the contrary, ~~no coastal zone permit shall be required the requirement for a coastal zone permit~~ pursuant to this chapter for activities related to the repair or maintenance of an object or facility located in the coastal zone, where such activities shall not result in an addition to, or enlargement or expansion of, such object or facility a coastal zone permit may be waived.

(2) Where 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, the requirement of obtaining a permit under this section may be waived by the appropriate Committee of the Commission or the Commissioner upon notification to the Commissioner 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.

(3) Whenever activities, not to exceed 21 days, are related to the development of temporary structures, the requirement for obtaining a coastal zone permit may be waived.

(4) Whenever activities related, but not limited to, the removal of vegetation on a portion of a property (never in its entirety) by hand for investigative purposes, or for debris removal, the requirement for obtaining a coastal zone permit may be waived.

(c) Standards for major and minor coastal zone permits. A major coastal zone permit shall be issued by the appropriate Committee of the Commission for all approved applications for development except:

(1) a development which is to be conducted completely or substantially seaward of the line of mean high tide and is designated by the appropriate Committee of the Commission pursuant to subsection (e), paragraph (5) of this section; or

(2) a development which is to be conducted completely landward of the line of mean high tide and satisfies one of the following criteria:

(A) the development consists of a subdivision, or the construction of one or two single-family residences or a duplex ~~on any parcel of record on the effective date of this chapter whose value in its entirety does not exceed \$500,000 or land disturbance does not exceed 5,000 square feet;~~ or

(B) the development consists entirely of improvements to an existing structure, which improvements cost the developer less than ~~two hundred thousand dollars (\$200,000)~~ fifty-two thousand dollars (\$52,000); or

(C) the development consists of one or more structures valued in their entirety at less than ~~four hundred thousand dollars (\$400,000)~~ seventy-five thousand dollars (\$75,000); or

(D) the development consists of any other development, except the extraction of minerals, valued at less than sixty-six thousand dollars (\$66,000); or

(E) the development consists of the extraction of minerals valued at less than ~~sixty-six thousand dollars (\$66,000)~~ seventeen thousand dollars (\$17,000), in which case a minor coastal zone permit shall be issued by the Commissioner; ~~provided, however, that if the Commissioner, upon reviewing any minor permit application submitted pursuant to subsection (d), paragraph (3) of this section, determines that the proposed activity is likely to have significant adverse environmental consequences he shall, upon giving notice to the applicant, forward such application to the appropriate Committee of the Commission for review as a major coastal zone permit.~~

(3) If the Commissioner, upon reviewing any minor permit application submitted pursuant to subsection (c), paragraph (2) of this section, determines that the proposed activity is likely to have significant adverse environmental consequences, he shall, within 10 days of deeming the application complete, and upon giving notice to the applicant, forward such application to the appropriate Committee of the Commission for review as a major coastal zone permit.

(d) Coastal zone permit procedures.

(1) Upon submission of any application for a coastal zone permit, which application shall specify the type of permit being sought, the Commissioner shall determine whether such application is complete. If the Commissioner determines that such application is not complete, he shall promptly notify, ~~in no event~~

more than 15 days after receipt thereof, the applicant of the deficiencies in such application. in no event more than five (5) days for a minor permit application or 15 days for a major permit application, after receipt thereof. If the Commissioner fails to notify the applicant, the applicant may demand a determination on the completeness of the application, which must be completed within five (5) days..

(2) Upon determination by the Commissioner that an application for a major coastal zone permit is complete, the Commissioner shall promptly transmit a copy thereof to all relevant public agencies for review and comment within ~~fifteen (15)~~thirty days of the receipt thereof, and shall schedule a public hearing to be conducted by the appropriate Committee of the Commission on such application, said hearing to be held within ~~forty-fivesixty~~ days of the receipt of such completed application.

(3) Upon receipt of an application for a minor coastal zone permit which is deemed complete by the Commissioner, the Commissioner shall promptly give written notice of the filing of such application to any person who requests such notification in writing. In addition, the Commissioner shall give such notice to any person who he determines would be affected by or any person interested in such development. Upon a request from any such person, the Commissioner shall transmit a copy of the application and shall request comments thereon within ~~fifteen (15)~~thirty days thereafter.

(4) The appropriate Committee of the Commission shall act upon a major coastal zone permit application within ~~twenty-one (21)~~thirty days after the conclusion of the public hearing required by paragraph (2) of this subsection, and the Commissioner shall act upon a minor coastal zone permit application within ~~thirty (30)~~sixty days after ~~the determination of completeness of an application receipt thereof~~. Failure of the appropriate Committee of the Commission or the Commissioner to act within any time limit specified in this paragraph shall constitute an action taken and shall be deemed an approval of any such application, however, notwithstanding the foregoing, any Committee of the Commission may request a thirty-day extension of the time period to act on a permit by providing reasonable written grounds for such extension to the Commissioner or CZM Director, who shall not unreasonably withhold approval of such request. A copy of the decision of the appropriate Committee of the Commission or the Commissioner, whichever is applicable, on an application for a coastal zone permit shall be transmitted in writing to the applicant and to any person who requests a copy thereof.

(5) Any action by the appropriate Committee of the Commission or the Commissioner shall become final after the ~~forty-fifth~~thirtieth (30th) 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 or the Commissioner's action shall be stayed pending a decision on appeal.

(6) If an application for a permit is denied by the appropriate Committee of the Commission pursuant to subsection (a), paragraph (2) of this section, or by the Board of Land Use Appeals pursuant to section 914 of this chapter, the applicant may submit another application for a coastal zone permit no sooner than ~~one hundred twenty~~ninety (90) days after the date of such denial

(7) Any development approved pursuant to this chapter, including any action by the Board of Land Use Appeals, shall be commenced, performed and completed in compliance with the provisions of the permits for such development granted or issued by the appropriate Committee of the Commission, the Commissioner, the Board of Land Use Appeals or any other public agency. Any development or construction approved by a coastal zone permit shall be commenced within ~~twelve~~thirty-six (36) months from the date such permit is issued. Failure to commence development or construction within

such period shall cause the permit to lapse and render it null and void unless an extension is granted by the appropriate Committee of the Commission or the Commissioner.

(e) Regulations. The Commission shall, in the manner required by law and after public hearings, adopt such supplementary regulations pertaining to the issuance of coastal zone permits as it deems necessary. The Commission may thereafter, in the manner required by law, and from time to time, after public hearings, modify or adopt additional regulations or guidelines as deemed necessary to carry out the provisions of this chapter; provided, any such rules, regulations, or guidelines issued by the Commission pursuant to this chapter may be modified, amended or revised by the Legislature in accordance with the provisions of subsection (b), section 913 of Title 3 of this Code. Such regulations shall include but are not limited to the following:

- (1) procedures for the submission, review and denial or approval of coastal zone permit applications, and the form of application for coastal zone permits. The Commissioner shall devise a temporary application form which shall be used upon enactment of this chapter until such time as rules and regulations are adopted;
- (2) information to be required in the application, including without limitation, proof or legal interest in the property, 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 coastal permits, a completed environmental assessment report as defined in section 902, subsection (o) of this chapter 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;
- (3) any person who must alter trust lands or submerged or filled lands in order to compile the data required by this section must obtain prior written authorization from the appropriate Committee of the Commission for such alteration;
- (4) the payment of a reasonable filing fee for the processing by the appropriate Committee of the Commission or the Commissioner of any application for a coastal zone permit. The funds received under this paragraph shall be placed in the Natural Resources Reclamation Fund as described and provided for in section 911, subsection (f), paragraph [(4)] of this chapter;
- (5) designation of the types of development to be conducted completely or substantially seaward of the line of mean high tide requiring a minor coastal zone permit, including but not limited to swimming or navigation buoys, moorings for vessels, small intake and outfall pipes, small private pipes, small boat ramps or slips, and underwater transmission lines or cables;
- (6) standards in addition to those set out in subsection (c) of this section for determining whether a development requires a minor coastal zone permit or a major coastal zone permit;
- (7) requirements for the conduct and continuance of public hearings and the methods of providing public notice on major coastal zone permits. A public notice shall at a minimum state the nature and location of the proposed development, and 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 interested in such development, and the owner(s) of any/all lot(s) within or adjacent to

the site of the proposed development. Joint public hearings may be held in conjunction with any such hearing required by any federal agency;

(8) contents of coastal zone permits;

(9) notifications of denial of applications;

(10) notices of completion and certificates of acknowledgment of compliance;

(11) amendment, modification and revocation of coastal zone permits;

(12) transfer or assignment of coastal zone permits;

(13) Any rules and regulations or procedures necessary for persons or entities to request a waiver.

(f) The Commissioner as Zoning Administrator. The Commissioner, pursuant to the provisions of Title 29, section 235, subsection (a), unnumbered paragraph 2 of this Code, as amended, shall perform the duties of the Zoning Administrator with respect to the administration and enforcement of the Zoning Law within the first tier of the coastal zone. However, the Commissioner, when performing the duties of the Zoning Administrator under this subsection, must comply with all of the requirements of Title 29 of this Code.

(g) Coordination with other permit requirements. Where the development or occupancy of trust lands or other submerged or filled lands, or other development in the coastal zone, requires separate and distinct approval from the United States Government or any agency, department, commission or bureau thereof, the coastal zone permit 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.

§ 911. Additional requirements for development or occupancy of trust lands or other submerged or filled lands

(a) Permit required prior to development or occupancy.

(1) No person shall develop or occupy the trust lands or other submerged or filled lands of the United States Virgin Islands without securing a coastal zone permit which includes, in addition to the elements of a section 910 permit, a permit or lease for the development or occupancy of the trust lands or other submerged or filled lands.

(2) The provisions of this section shall be in addition to all other requirements of this chapter 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 chapter.

(b) Applications and procedures.

(1) The Commission shall, in the manner required by law, adopt regulations governing the filing, content, review and processing of applications for coastal zone permits that include development or occupancy of trust lands or other submerged or filled lands; provided, however, that all applications for coastal zone permits that include development or occupancy of trust lands or other submerged or filled lands, shall include:

(A) an environmental assessment report, as defined in section 902, subsection (o) of this chapter, of the prevailing environmental conditions of the site and adjacent properties. The report must clearly indicate probable effects, including adverse effects, to the general environment should the proposed alteration be implemented;

(B) a complete and exact written description of the proposed site, including charts, maps, photographs, topographic charts, submerged land contours, and subsurface profiles in accordance with the scope and complexity of the work and the site;

(C) 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 this function;

(D) a written statement of alternatives, if any, to the proposed alteration.

(2) The applicant for a coastal zone permit that includes development or occupancy of trust lands or other submerged or filled lands shall have the burden of proof in demonstrating that it meets the requisite criteria established by this section.

(3) The appropriate Committee of the Commission or the Commissioner may recommend such reasonable terms and conditions to be included in any coastal zone permit that includes an occupancy or development permit or lease issued pursuant to this section as it deems necessary to ensure that such occupancy and development will be in accordance with the provisions of this chapter.

(c) Additional findings necessary. The appropriate Committee of the Commission or the Commissioner shall deny an application under section 910 hereof for a coastal zone permit which includes

development or occupancy of trust lands or other submerged or filled lands, unless it or he makes all of the following findings:

- (1) that the application is consistent with the basic goals of section 903 and with the policies and standards of section 906 of this chapter;
- (2) that the grant 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;
- (3) 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;
- (4) that there is no reasonably 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;
- (5) that there will be compliance with the United States Virgin Islands territorial air and water quality standards;
- (6) that the occupancy and/or development will be adequately supervised and controlled to prevent adverse environmental effects; and
- (7) that in the case of the grant of an occupancy or development lease, an occupancy or development permit for the filled land is not sufficient or appropriate to meet the needs of the applicant for such lease. The burden of proving such insufficiency or inappropriateness shall be upon the applicant.

(d) Terms of occupancy and development permits and leases.

(1) A coastal zone permit that includes an occupancy or development permit shall be issued for a definite term, shall not constitute a property right and shall be renewable only if the requirements of this section for the approval and issuance of such permits are satisfied.

(2) A coastal zone permit that includes an occupancy or development lease shall only be granted for a particular parcel of filled land for a lease period of not more than ~~20-30~~ years; provided, that nothing in this subsection shall prohibit a lessee or permittee from executing a new lease at the end of the ~~20-30~~ 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.

(e) Approval by Governor and ratification by Legislature of coastal zone permits that include development or occupancy of trust lands or other submerged or filled lands. Any coastal zone permit which the appropriate Committee of the Commission or the Commissioner recommends for approval pursuant to this section, together with the recommended terms and conditions thereof, shall be forwarded by the Committee or Commissioner to the Governor for the Governor's approval or disapproval within ~~fifteen (15) thirty~~ days following the Committee's or Commissioner's final action on the application for the coastal zone permit or the Board's decision on appeal to grant such a permit. The Governor's approval of any such permit or lease must be ratified by the Legislature of the United States Virgin Islands. Upon approval and ratification of such permit, occupancy and any 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.

(f) Rental and reclamation fees.

(1) Coastal zone permits issued pursuant to this section shall provide for the payment by the permittee or lessee of a rental fee. The payment of rental fees may be waived when determined to be in the public interest.

(2) Coastal zone permits issued pursuant to this section which provide for or authorize the dredging and/or removal of sand, gravel, coral or aggregate shall provide for the payment of a reclamation fee.

(3) 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 section.

(4) Rental and reclamation fees paid pursuant to this section shall be paid to the Commissioner and covered into the Natural Resources Reclamation Fund, which fund is hereby continued by this paragraph, 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 chapter and in the discharge of the Commission's duties thereunder. The Fund shall consist of permit and other fees and fines paid pursuant to the provisions of this chapter, and such other funds as may from time to time be appropriated thereto by the Legislature. However, if the balance in the Natural Resources Reclamation Fund equals ~~\$325,000~~~~\$275,000~~, all monies which would otherwise be covered into such Fund shall be deposited in the General Fund.

(5) Repealed.

(g) Modification and revocation. In addition to any other powers of enforcement set forth in section 913 of this chapter, the Governor may modify or revoke any coastal zone permit that includes development or occupancy of trust lands or submerged or filled lands approved pursuant to this section upon a written determination that such action is in the public interest and that it is necessary to prevent significant environmental damage to coastal zone resources and to protect the public health, safety and general welfare. Such written determination shall be delivered both to the permittee and to the Legislature, together with a statement of the reasons therefor. It shall state the effective date of such modification or revocation, and shall provide a reasonable time in which the permittee or lessee either may correct the deficiencies stated in such written determination or may establish, to the Governor's satisfaction, that any or all of the deficiencies or reasons stated therein are incorrect. If the permittee shall fail to correct or establish the inaccuracy of such deficiencies or reasons within the time provided in such written determination, the modification or revocation of such occupancy permit shall be effective as of the date stated therein; provided, however, that the Legislature, shall ratify the Governor's action within thirty days after said effective date. The failure of the Legislature, either to ratify or rescind the Governor's action within said thirty-day period shall constitute a ratification of the Governor's action.

(h) Transporting of sand or other aggregate. Every transporter of sand, gravel, coral, aggregate, minerals or other natural products of the sea, excepting fish and wildlife, from the trust lands or other submerged or filled lands shall display a coastal zone permit and an occupancy permit or lease as proof of authorization for such transport. The contents of such permit or lease and the manner of its display shall be prescribed by the Commission by regulation. To enforce this requirement, the Commissioner or his

duly authorized representative shall have the right to stop any motor vehicle transporting sand, gravel, coral, aggregate, minerals or other natural products of the sea, excepting fish and wildlife, on the public roads and highways of the United States Virgin Islands for the purpose of ascertaining whether the material being transported has been taken from the trust lands or other submerged or filled lands and whether a coastal zone permit or occupancy permit or lease has been issued authorizing its removal pursuant to this chapter.

§ 912. Planning program

(a) Setting of boundaries, establishment of titles, identification of access and amendments. The Commission, with the assistance of the Planning Office, the Attorney General and other public agencies, shall conduct a comprehensive survey of the shorelines of the United States Virgin Islands to establish the landward boundaries of such shorelines in accordance with this chapter; shall conduct a comprehensive study to determine the existing status of title, ownership and control, in accordance with the provisions of this chapter, of all land within or adjoining the shorelines; and shall prepare surveys, maps and charts showing existing routes of public access to the shorelines.

(b) Continued planning. To ensure that the provisions of this chapter are regularly reviewed and the recommendations for revisions of, or amendments to, the Virgin Islands Coastal Zone Management Program will be reviewed and developed, and to supplement the activities of other public agencies in matters relating to the planning for and management of the coastal zone and to provide for continued territorial coastal planning and management, the [Virgin Islands Planning Office Division of Comprehensive and Coastal Zone Planning](#) shall undertake on a continuing basis such activity and research as is necessary to maintain a continued involvement in the coastal zone management process and shall be responsible, with the assistance of the Commission, for comprehensive planning in the coastal zone, for review of all amendments to the Virgin Islands Coastal Zone Management Program, and for recommending the designation of areas of particular concern.

(c) Amendments. Any provisions of this chapter, including the boundaries of the coastal zone and the use designations on the Land and Water Use Plan, may be amended or repealed by the Legislature of the United States Virgin Islands. The procedures and requirements for such amendment shall be the same as provided in Title 29, section 238 of this Code for amendments to the Zoning Law. All proposed amendments not initiated by the Commission shall be referred by the Planning Office to the Commissioner for comment prior to public hearing.

§ 913. Enforcement, penalties and judicial review

(a) General. The provisions of this section shall be cumulative and not exclusive and shall be in addition to any other remedies available at law or equity.

(b) Enforcement.

(1) Any person may maintain an action for declaratory and equitable relief to restrain any violation of this chapter. On a prima facie showing of a violation of this chapter, preliminary equitable relief shall be issued to restrain any further violation hereof. No bond shall be required for an action under this subsection.

(2) Any person may maintain an action to compel the performance of the duties specifically imposed upon the Commission or the Commissioner of any public agency by this chapter; provided, however, that no such action shall be brought prior to thirty days after written notice has been given to the Commission, its Committees, the Commissioner, or such public agency by the complainant specifying the duties which the complainant alleges have not been performed. No bond shall be required for an action under this subsection.

(3) The appropriate Committee of the Commission and the Commissioner shall regularly monitor a permittee's compliance with the terms and conditions of its coastal zone permit.

(4) The Commission, its Committees and the Commissioner shall have the power to enter at reasonable times upon any lands or waters in the coastal zone for which a coastal zone permit has been issued, and the permittee shall permit such entry for the purpose of inspecting and ascertaining compliance with the terms and conditions of said coastal zone permit, and to have access to such records as the Commission, its Committees or the Commissioner in the performance of its or his duties hereunder may require permittee to maintain. Such records may be examined and copies shall be submitted to the Commission or Commissioner upon request.

(5) Violation of any term or condition of any coastal zone permit issued or approved pursuant to this chapter 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 chapter shall, to the maximum extent permitted by law, be grounds for revocation or suspension thereof.

(6) When the Commission or Commissioner has reason to believe that any person has undertaken, or is threatening to undertake, any activity that may require a coastal zone permit without securing a coastal zone permit, the Commissioner or his duly authorized representatives shall have the power to enter at reasonable times upon any lands or waters in the coastal zone to determine whether such violation exists. If it is found that unauthorized activities are being undertaken, inconsistent with the CZM Act, ~~or that may be inconsistent with any coastal zone permit previously issued,~~ the Commission or Commissioner may issue a written order directing such person to cease and desist. The cease and desist order shall state the reasons for the Commission's or Commissioner's decision and may be subject to such terms and conditions as the Commission or Commissioner deems necessary to insure compliance with the provisions of this chapter including, without limitation, immediate removal of any fill or other material, suspension of the coastal zone permit, or the setting of a schedule within which steps must be taken to obtain a coastal zone permit pursuant to this chapter. Said order shall be served by certified mail or hand delivery upon the person being charged with the actual or threatened violation of this

chapter, and shall be effective upon issuance; provided, however, that such order shall grant the opportunity for a hearing.

(7) In addition to any other remedy provided herein or at law or equity, the Attorney General, the Commission or Commissioner may institute a civil action in the District Court of the United States Virgin Islands for an injunction or other appropriate relief, including revocation of a permit issued hereunder, or an order to prevent any person from violating the provisions of this chapter, 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.

(c) Penalties.

(1) Any person who violates any provision of this chapter, or any regulation or order issued hereunder, shall be subject to a civil fine of not to exceed ten thousand (\$10,000) dollars.

(2) Any violation of this chapter or any regulation or order issued hereunder shall constitute a misdemeanor. Any person convicted of such a violation shall be fined in accordance with the provisions of subsection (c), paragraph (1) hereinabove, or imprisoned not more than one year, or both.

(3) In addition to any other penalties provided by law, any person who intentionally and knowingly performs any development in violation of this chapter shall be subject to a civil fine of not less than one thousand dollars nor more than ten thousand dollars per day for each day during which such violation occurs.

(4) In addition to the foregoing and in order to deter further violations of the provisions of this chapter, the Attorney General, the Commission or Commissioner 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 provisions of this chapter.

(5) All civil penalties permitted herein shall be assessed by the appropriate court; provided, however, that at such time, if any, that the Commission may promulgate rules and regulations establishing a procedure for the administrative assessment of civil penalties, it or the Commissioner shall have the alternative of proceeding by means of court assessment or such administrative procedure. The Commission is hereby authorized to promulgate all rules and regulations it deems necessary to implement the alternatives allowed by this paragraph.

(6) All fines collected under the provisions of this subsection (c) shall be deposited into the Natural Resources Reclamation Fund provided for in section 911, subsection (f), paragraph (4) of this chapter.

(d) Judicial review—Writ of review. Pursuant to Title 5, chapter 97 and Appendix V, Rules 10 and 11 of this Code, a petition for writ or review may be filed in the District Court of the United States Virgin Islands in the case of any person aggrieved by the granting or denial of an application for a coastal zone permit, including a permit or lease for the development or occupancy of the trust lands or other submerged or filled lands, or the issuance of a cease and desist order, within forty-five days after such decision or order has become final provided that such administrative remedies as are provided by this chapter have been exhausted.

## § 914. Board of Land Use Appeals

(a) Administrative appeals or coastal zone permit applications. Notwithstanding any provision of law to the contrary, any aggrieved person may file an appeal of ~~an~~ the final action by the Commission, its Committees, or the Commissioner taken pursuant to section 910 or 911 of this chapter within thirty (30) ~~forty-five~~ days thereof with the Board of Land Use Appeals, and such appeal shall be governed solely by the provisions of this section.

(b) 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 applications for appeal and the notice and procedures for conduct of public hearings on such an appeal. In addition to public notice, personal notice of such a public hearing on an appeal shall be served on the Commission or its Committees, the Commissioner, the applicant for the coastal zone permit and the aggrieved person, if they be different, any person who has requested in writing to be notified of such public hearing date, and any person who testified at the public hearing held by the appropriate Committee of the Commission to consider the original application.

(c) Public hearings. A public hearing on an appeal shall be held by the Board within ~~forty-five (45)~~ sixty days after the appeal is filed with the Board, and a decision shall be rendered by the Board within thirty days after the conclusion of such public hearing. The Board shall notify the Commission or its Committee, the Commissioner, the applicant for the coastal zone permit and the aggrieved person, if they be different, of its decision by certified mail. Notice to all other persons who received notice of the public hearing on appeal may be by regular mail. Such notice shall be sent within four working days of the Board's decision.

(d) Actions of the Board. The Board, by majority vote of its authorized members, shall either affirm or reverse the Commission's or its appropriate Committee's or the Commissioner's action and shall either approve or deny an application for a coastal zone permit. If the Board grants an application for a coastal zone permit, the Board shall impose such reasonable terms and conditions on such permit as it deems necessary to achieve the objectives and purposes of this chapter. The Board shall set forth in writing and in detail the reasons for its decision and findings of fact upon which its decision is based. If the Board reverses a Committee's or the Commissioner's action on a coastal zone permit, it must make all of the findings required by section 910, subsection (a), paragraphs (2), (3) and (4) of this chapter. A copy of the Board's action shall be available for public inspection at the Board's offices during ordinary business hours. The Board's action shall be final after four working days following its decision.