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VIRGIN ISLANDS CODE, TITLE 29, CHAPTER 3, SUBCHAPTERS I AND II

U.S. Virgin Islands Development Code



PRE-ADOPTION DRAFT

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Prepared by the Center for Planning Practice, Rutgers, The State University of New Jersey, and Duncan Associates for the Department of Planning and Natural Resources, U.S. Virgin Islands

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Chapter 3 Virgin Islands Development Code

Subchapter 1

Article 1

Section 1.100

Subsection 1.101 (Heading)

Paragraph A (Heading)

Subparagraph (1) (Heading)

SUBCHAPTER 1 | ADMINISTRATIVE AND PROCEDURAL PROVISIONS

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Article 1 Legal Framework

1.100 Official Name (Title)

The official name of this chapter (Chapter 3 of Title 29) is the “Virgin Islands Development Code.” For convenience, it is referred to throughout this document as the “development code.”

1.200 Applicability¹

The regulations of this development code apply to all development, public or private, within the Territory of the U.S. Virgin Islands unless otherwise expressly stated.

1.300 Effective Date

The provisions of this development code become effective on and compliance with its provisions is mandatory beginning [INSERT EFFECTIVE DATE], except as otherwise expressly stated.

1.400 Objective²

The objective of this development code is to establish regulations, standards, and procedures for the development of land, water, buildings, and structures in the U.S. Virgin Islands.

1.500 Purposes³

The purposes of this development code are to:

- 1.501 Promote the public health, safety, morals, or general welfare of the Territory and its present and future residents;
- 1.502 Protect agricultural resources;
- 1.503 Conserve and manage natural resources, both living and non-living, and the mineral resource base;
- 1.504 Protect ecosystems, including natural areas, features, and functions;
- 1.505 Support the protection and preservation of the historic and cultural resources of the Territory for future generations, including prehistoric and historic archaeological sites, submerged sites, cemeteries, sacred sites, historic buildings and structures, properties listed on the Virgin Islands Register of Historic Buildings, Sites, and Places, and areas of cultural significance for the Territory.
- 1.506 Ensure coordination with development in Historic and Architectural Control districts
- 1.507 Make adequate provision for traffic, parking, public utilities, educational and recreational facilities, and other public facilities;
- 1.508 Promote safe conditions for motorists, pedestrians, and bicyclists along public streets, driveways, sidewalks, and bikeways;
- 1.509 Provide adequate light and area;
- 1.510 Minimize conflicts among the uses of land, water, buildings, and structures and limit or prohibit their improper use;

¹ Applicability statement is new

² Objective statement is new; replaces existing code §221–222, §272.

³ Purposes are new; replace existing code §222.

- 1.511** Ensure a balanced distribution of residential and nonresidential uses, buildings, and structures by regulating and limiting lot occupancy, residential density, and nonresidential intensity;
- 1.512** Promote the construction of affordable housing;
- 1.513** Protect the amenities of the U.S. Virgin Islands that make the Territory attractive to tourists or for tourism;
- 1.514** Encourage economic development that is consistent with the amenities and natural environment of the U.S. Virgin Islands;
- 1.515** Promote efficiency, economy, and coordination among territorial departments and divisions in the development process; and
- 1.516** Implement the Territorial Comprehensive Plan at such time as the plan is adopted by the Legislature.

1.600 **Scope⁴**

The scope of this development code includes provisions that:

- 1.601** Establish zoning districts and policies for their extent and location;
- 1.602** Divide the Territory into zoning districts through the official zoning map;
- 1.603** Regulate building bulk and provide dimensional requirements for yards and other open spaces;
- 1.604** Establish off-street parking and loading requirements;
- 1.605** Establish land use and development review and approval procedures;
- 1.606** Authorize the enactment of a form-based code for specified areas, as needed;
- 1.607** Establish ~~a~~ the Virgin Islands Territorial Planning Commission and define its powers and duties;
- 1.608** Establish a Board of Land Use Appeals and define its powers and duties;
- 1.609** Establish the functions and duties of the Planning Office in relation to comprehensive planning and administering and enforcing land development regulations;
- 1.610** Define and describe the elements of the Territorial Comprehensive Plan;
- 1.611** Establish the position of Zoning Administrator and define the administrator's powers and duties;
- 1.612** Establish the position of Land Use Hearing Examiner and define the examiner's powers and duties;
- 1.613** Establish standards for the construction of public improvements in connection with the subdivision and development of land;
- 1.614** Establish regulations for the subdivision of land and the orderly development of the motorized and nonmotorized transportation network; and
- 1.615** Provide for the enforcement of this development code, including the establishment of fees and penalties and prosecution of violations.

⁴ Scope section has been revised and expanded

1.700 Minimum Requirements; Compliance with Other Applicable Regulations

- 1.701** The provisions of this development code are the minimum requirements deemed necessary to carry out the code's stated objective and purposes.
- 1.702** In addition to the requirements of the development code, all uses and development must comply with all other applicable governmental regulations.

1.800 Rules of Language and Ordinance Construction⁵

The language of the development code must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in this development code have the specific meanings assigned, unless the context expressly indicates another meaning. Words that are not expressly defined in this development code have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

1.801 Computation of Time

- 1.801.A** References to "days" are to calendar days unless otherwise expressly stated. Reference to "business days" are references to regular working days of the government of the U.S. Virgin Islands, excluding Saturdays, Sundays, holidays, and administrative leave days observed by the Virgin Islands.
- 1.801.B** The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or official government holiday, that day is excluded.
- 1.801.C** A day concludes at the close of business, and any materials received after that time will be considered to have been received the following day.

1.802 Tenses and Usage

- 1.802.A** Words used in the singular include the plural. The reverse is also true.
- 1.802.B** Words used in the present tense include the future tense. The reverse is also true.
- 1.802.C** The words "must," "will," "shall" and "may not" are mandatory.
- 1.802.D** The word "may" is permissive, and "should" is advisory, not mandatory or required.
- 1.802.E** When used with numbers, "up to x," "not more than x" and "a maximum of x" all include "x."

1.803 Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- 1.803.A** "and" indicates that all connected items or provisions apply; and
- 1.803.B** "or" indicates that the connected items or provisions may apply singularly or in combination.

⁵ The provisions of this section are almost all new, with the exception of a few that were previously included in §227. In the first draft of Module 1, these rules were located in their own Article 2.

1.804 Headings and Illustrations

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this development code. In case of any difference of meaning or implication between the text of this development code and any heading, drawing, table, figure, or illustration, the text controls.

1.805 Current Versions and Citations

All references to other regulations refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, development code requirements for compliance are no longer in effect.

1.806 Lists and Examples

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

1.807 Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the U.S. Virgin Islands to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this development code expressly prohibit such a delegation.

1.808 Public Officials and Agencies

All employees, public officials, bodies and agencies to which references are made are those of the U.S. Virgin Islands unless otherwise expressly stated.

1.900 Conflicting Provisions**1.901 Conflict with Other Governmental Regulations⁶**

If the provisions of this development code are inconsistent with one another, or if they conflict with any other applicable governmental regulations, statutes or law, the more restrictive provision will control unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.

1.902 Conflict with Private Agreements and Covenants

This development code is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction, or other agreement between private parties. However, if the provisions of this development code impose a greater restriction than imposed by a private agreement or covenant, the provisions of this development code control.

1.1000 Transitional Provisions⁷

The provisions of this section address the transition from the previous zoning ordinance and subdivision regulations to this development code.

1.1001 Construction Begun Before Development Code Adoption

Nothing in this development code requires any change in plans, construction or designated use of any building or structure upon which actual construction was lawfully be-

⁶ Section has been substantively revised

⁷ Section is entirely new; intended to clarify ordinance transition issues.

gun before the effective date specified in Sec. [1.300](#), provided that construction is commenced within the time frame required by the building permit and is diligently pursued to completion.

1.1002 Permits Issued Before Development Code Adoption

Any building, development, or structure for which a permit number was accepted for processing before the effective date specified in Sec. [1.300](#) may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development, or structure does not fully comply with provisions of this development code. If building is not commenced and completed within the time allowed under the original permit or any extension granted, then the building, development, or structure may be constructed, completed and occupied only if it complies with the regulations of this development code.

1.1003 Applications Submitted Before Development Code Adoption

Development applications that were submitted in complete form and pending approval on the effective date specified in Sec. [1.300](#) must be reviewed wholly under the terms of the Virgin Islands Zoning and Subdivision Law in effect immediately before the effective date specified in Sec. [1.300](#).

1.1004 Special Exceptions and Variances Approved Before Development Code Adoption

All special exceptions and variances approved before the effective date specified in Sec. [1.300](#) remain valid for the time period specified by the decision-making body in its approval of the special exception or variance.

1.1005 Violations Continue

1.1005.A Any violation of the previous Virgin Islands Zoning and Subdivision Law will continue to be a violation under this development code and be subject to penalties and enforcement provisions of this development code.

1.1005.B If the use, development, construction, or other activity that was a violation under the previous development code complies with the express terms of this development code, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date specified in Sec. [1.300](#).

1.1005.C The adoption of this development code does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous ordinance that occurred before the effective date specified in Sec. [1.300](#).

1.1006 Nonconformities

1.1006.A Any nonconformity under the previous development code will also be a nonconformity under this development code, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist.

1.1006.B If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this development code, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.

1.1100 Zoning Map⁸**1.1101 Establishment**

The location and boundaries of the zoning districts established by this development code are shown on a geographic coverage layer entitled “Zoning” that is maintained as part of the Territory’s geographic information system (GIS) under the direction of the Commissioner of Planning and Natural Resources. This “Zoning” geographic coverage layer constitutes the official zoning map. The official zoning map—together with all notations, references, data and other information shown on the map—is adopted and incorporated into this development code.

1.1102 Maintenance and Updates

The Commissioner of Planning and Natural Resources is responsible for directing revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of respective zoning map amendments (rezonings). No unauthorized person may alter or modify the official zoning map. The Commissioner of Planning and Natural Resources may authorize printed copies of the official zoning map to be produced and maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

1.1103 District Boundaries

When the zoning map shows a zoning district boundary as following a particular feature, or reflects a clear intent that the boundary follows the feature, the boundary will be construed as following that feature as it actually exists.

1.1104 Interpretations of District Boundaries

Where any uncertainty exists about a zoning boundary, the actual location of the boundary will be determined by the Commissioner of Planning and Natural Resources using the following rules of interpretation:

1.1104.A A boundary shown on the zoning map as approximately following a shoreline will be construed to follow such shorelines, and in the event of change in the shoreline will be construed to have moved with the actual shoreline.

1.1104.B A boundary shown on the zoning map as approximately following the centerline of a river, stream, or similar watercourse will be construed as following the actual centerline of the watercourse. If, subsequent to the establishment of the boundary, the centerline of the watercourse should move as a result of natural processes, such as flooding, erosion, or sedimentation, the boundary will be construed as moving with the centerline of the watercourse.

1.1104.C A boundary shown on the zoning map as approximately following a ridge line or topographic contour line will be construed as following the actual ridge line or contour line. If, subsequent to the establishment of the boundary, the ridge line or contour line should move as a result of natural processes, such as erosion, slippage, or subsidence, the boundary will be construed as moving with the ridge line or contour line.

1.1104.D A boundary shown on the zoning map as approximately following a lot boundary will be construed as following the lot boundary as it actually existed at the time the zoning boundary was established.

⁸ Section consists of a combination of existing (edited) and new material.

- 1.1104.E** A boundary shown on the zoning map as approximately following a street will be construed as following the centerline of the street.
- 1.1104.F** A boundary shown on the zoning map as approximately parallel to, or as an apparent extension of, a feature described above will be construed as being actually parallel to, or an extension of, the feature.
- 1.1104.G** Zoning boundaries that do not coincide with a property line, lot boundary, landmark, or particular feature will be determined with a scale.

1.1105 Split-Zoned Lots

- 1.1105.A** The zoning map may not be amended to classify a single lot into 2 or more base (i.e., non-overlay) zoning districts. This provision does not apply to overlay zoning districts.
- 1.1105.B** The split zoning of any newly created lot into more than one base zoning district classification is prohibited. This provision does not apply to overlay zoning districts.
- 1.1105.C** The following regulations apply to existing lots that are classified in 2 or more base zoning classifications:
 - 1.1105.C.1** For existing and proposed uses and structures, the more restrictive provisions of the applicable zoning districts apply to the entire lot except when one base zoning district applies to at least 75% of the total lot area and the remainder of the lot is less than 5,000 square feet in area. The regulations of the zoning district that applies to the larger portion of the lot apply to the entire lot.
 - 1.1105.C.2** Building setbacks do not apply along base zoning district boundary lines that split a lot under single ownership.
 - 1.1105.C.3** If any use, building, or structure rendered nonconforming by the split-zoned lot provisions of this section is accidentally damaged or destroyed it may be reestablished, as long as the reestablishment does not increase the extent of nonconformity.

1.1200 Severability

If any portion of this development code is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the development code and in no way affects the validity of the remainder of the development code.

Article 2 Territorial Comprehensive Plan⁹

2.100 Supporting Studies

In preparing the Territorial Comprehensive Plan, the Planning Office must prepare supporting studies that are relevant to required or optional plan elements. In undertaking these studies, the Planning Office may use studies conducted by others concerning the future development of the Territory. Such studies must include descriptions and analyses of the natural and manmade environment of the Territory, the population, labor force, and economic characteristics, and projections of population and employment for a period of 20 years, in 5-year increments, for the Territory as a whole, and for St. Thomas, St. John, and St. Croix individually.

2.200 Required Plan Elements

The Territorial Comprehensive Plan must include at least the following elements:

2.201 Issues and Opportunities Element

An issues and opportunities element that serves as a source of direction in preparing other required or optional elements of the plan and that includes:

- 2.201.A a vision statement, which is an overall image in words that describes what the Territory wants to be and how it wants to look at some point in the future;
- 2.201.B a description of the major trends and forces considered by the Territory in formulating the vision statement;
- 2.201.C an analysis of the major opportunities and advantages as well as disadvantages for growth and development that affect the Territory, including specific areas within its jurisdiction;
- 2.201.D an account of the major problems currently or potentially facing the Territory during the next 10-year period;
- 2.201.E a statement summarizing how the public participated in the preparation of the issues and opportunities element; and
- 2.201.F a summary of the anticipated implications of the Territory's selected vision for other required or optional elements of the Territorial Comprehensive Plan, including the potential changes in implementation measures.

2.202 Land-Use Element

A land-use element that translates the vision statement contained in the issues and opportunities element into physical terms, to the extent possible, provides a general pattern for the location, distribution, and characteristics of the future land uses within the Territory over a 20-year planning period, and serves as the element of the Territorial Comprehensive Plan upon which all other elements, other than the issues and opportunities element, is based, and upon which the zoning map will be based, and that includes:

- 2.202.A areas or specific buildings or sites of local architectural, scenic, cultural, historic, or archaeological interest;
- 2.202.B an inventory, in both narrative and tabular form, of the amount, type, intensity, or net density of existing land uses;

⁹ The provisions in this article are entirely new.

- 2.202.C** an identification, in map form, of land areas in the Territory that are served by public water and sewer lines;
- 2.202.D** 20-year projections, in 5-year increments of residential, commercial, industrial, and other land uses that are based on population and employment projections. Such land use projections must be based on stated assumptions, for residential uses, of net densities, for commercial and industrial uses, of intensities (e.g., employees per acre or floor area ratios) and, for other land uses, of public service standards, expressed as public service standards (e.g., acres of parkland per 1,000 persons), other ratios of land absorption or intensity, or other spatial requirements);
- 2.202.E** an existing land-use map or map series at a suitable scale based on the land use inventory;
- 2.202.F** a future land-use plan map or map series at a suitable scale that shows for the 20-year planning period the general locations of future land uses by net density, intensity, or other classifications and the boundaries of the area to which sewer and water services are expected to be provided within time frames specified in the land-use or community facilities element;
- 2.202.G** a statement, with supporting analysis, of land-use goals, policies, and guidelines regarding the general distribution, location, and characteristics of future land uses, including land uses in areas that may be redeveloped, and that explains how the pattern of development shown on the future land-use plan map or map series will achieve those goals, policies, and guidelines; and
- 2.202.H** an analysis of the inconsistency of existing zoning districts, if any, with the future land-use plan map or map series. The land use element must specify the process by which the development code and the official zoning map must be amended to conform to the Territorial Comprehensive Plan.

2.203 Transportation Element

A transportation element that considers all pertinent modes of transportation, including mass transit, air, water, private vehicle, and pedestrian, accommodates the special needs of the transportation disadvantaged, and establishes the framework for the acquisition, preservation, protection of existing and future rights of way from building encroachment. The transportation element must be developed in cooperation with the Department of Public Works and other affected agencies and must include the following components:

- 2.203.A** a thoroughfare component that contains the general locations and extent of existing and proposed streets and highways by type, function and character of improvement, includes recommendations on street or highway standards, building line setbacks, and control of access, and addresses bicycle and pedestrian traffic, including standards for bicycle, sidewalk, and traffic facilities;
- 2.203.B** a mass transit component that contains the general locations of mass transit routes and service areas and identifies existing and proposed terminals and related transportation facilities or services; and

- 2.203.C** a port and aviation component that identifies, provides for, or contains, the locations of existing and proposed ports, harbors, airports, and related transportation facilities, including any proposed improvements or expansions.

2.204 Community Facilities Element

A community facilities element that provides for community facilities that are necessary or desirable to support the future land use pattern proposed in the land-use element. The element must be designed to meet the projected needs of the Territory, establish levels of service for such community facilities, and must contain a description and assessment of each community facility, or proposed capital improvement projects for new or expanded facilities to meet projected needs, including costs. The community facilities element must address the following facilities and must be developed in cooperation with the territorial department or agency having jurisdiction over the facility:

- 2.204.A** water, including sources, treatment, pumping, and primary distribution;
- 2.204.B** wastewater, including treatment and primary collection;
- 2.204.C** stormwater, including major drainageways and outfall locations;
- 2.204.D** solid waste,
- 2.204.E** public elementary and secondary schools;
- 2.204.F** parks and recreation;
- 2.204.G** libraries;
- 2.204.H** general government facilities for the Territory; and
- 2.204.I** electricity and other utilities and facilities not addressed above.

2.205 Housing Element

A housing element that documents the present and future needs for housing within the Territory, including affordable housing and special needs housing and the extent to which private- and public-sector programs are meeting those needs, identifies barriers to the production and rehabilitation of housing, including affordable housing, assesses the condition of the housing stock within the Territory and methods to maintain it, including rehabilitation and code enforcement, and develops sound strategies, programs, and other actions to address needs for housing, including affordable housing. The housing element must be developed in cooperation with the Virgin Islands Housing Authority or the Virgin Islands Housing Finance Authority. It must include an assessment of the condition of the existing housing stock and a statement of territorial housing goals, policies, and guidelines, including numerical goals for the production of new and rehabilitated housing units for low- and moderate-income households and special needs housing and projections of total need by housing type and density ranges for at least 10 years into the future.

2.206 Implementation Element

A long-range program of implementation of specific public actions to be taken in connection with required elements, except for the issues and opportunity element, which includes the following:

- 2.206.A** a time frame for identified actions describing the sequence in which such actions will occur and which covers a period not less than 5 and not more than 20 years;
 - 2.206.B** an identification of the territorial departments or agencies responsible for carrying out the action and, where applicable, not-for-profit and for-profit organizations having interest in carrying out the action;
 - 2.206.C** a schedule of proposed capital improvements that includes a description and location map of each proposed improvement, an identification of the territorial department or agency to be responsible for the improvement, the year the improvement is proposed for construction or installation, an estimate of costs, and sources of public and private revenue available or potentially available for covering such costs;
 - 2.206.D** a description of any new programs or changes in existing programs operated by any territorial department or agency and an annual estimate of costs and sources of public and public and private revenue available or potentially available for covering such costs;
 - 2.206.E** a description of any necessary changes or amendments to the Virgin Islands Code; and
 - 2.206.F** any other actions necessary to carry out the plan element.
- 2.207 Optional Elements**
The Territorial Comprehensive Plan may include elements in addition to the required elements described in Sec. [2.200](#), as required by the Territory.

2.300 Plan Adoption

- 2.301** Upon receiving a recommendation from the Virgin Islands Territorial Planning Commission and Planning Office on the Territorial Comprehensive Plan, or a revision or amendment to it, the Legislature must convene its own public hearing, in accordance with the Legislature's rules of procedure.
- 2.302** Following the close of its public hearing, the Legislature may act to adopt the proposed Territorial Comprehensive Plan, or a revision or amendment to it, approve it with modifications, or not approve it. The Legislature may also return the proposed Territorial Comprehensive Plan, or a revision or amendment to it, to the Virgin Islands Territorial Planning Commission and Planning Office with a written explanation of the reasons for doing so.

Article 3 Review and Decision-making Bodies

3.100 Virgin Islands Territorial Planning Commission

3.101 Establishment

There is established a Virgin Islands Territorial Planning Commission that consists of 15 members to be appointed as follows:

3.101.A Commissioners from the following departments: Department of Planning and Natural Resources; Department of Public Works; Department of Agriculture; Department of Tourism; Department of Health; and the Department of Sports, Parks, and Recreation. A commissioner serving on the Virgin Islands Territorial Planning Commission may not be represented by an official designee.

3.101.B Nine public members to be appointed by the Governor, with the advice and consent of the Legislature, for terms of 4 years and until their respective successors are appointed and qualified, except that for the first 9 appointments, 2 will be for a term of one year, 2 for a term of 2 years, 2 for a term of 3 years, and 3 for a term of 4 years. The public membership must include at least one resident from St. Thomas, St. John, and St. Croix.

3.101.C Before making any new appointment or reappointment, the Governor must give notice on the Territory's website and in newspapers of general circulation of vacant positions for the public members of the Virgin Islands Territorial Planning Commission and must maintain a public list of persons interested in serving on the Commission from which the Governor shall make new appointments and reappointments. Thereafter, any person interested in serving on the Virgin Islands Territorial Planning Commission must file a form with the Governor providing the following information:

- 3.101.C.1** Name
- 3.101.C.2** Address of Residence
- 3.101.C.3** Telephone Number
- 3.101.C.4** Email (if available)
- 3.101.C.5** Statement of education, prior volunteer or work-related experience, or other civic involvement that would be relevant to serving on the Virgin Islands Territorial Planning Commission.

3.102 Compensation

Members of the Territorial Planning Commission shall serve without compensation, but may be reimbursed for any documented expenses incurred on behalf of their work on the Territorial Planning Commission.

3.103 Term Limits of Public Members

The Governor must appoint a successor before the expiration of the term of a Planning Commissioner who is a public member. No commissioner who is a public member will serve more than 2 full terms as a member of the commission. If there is a vacancy for

any cause, the Governor must make an appointment that will become effective immediately for the unexpired term.

3.104 Meetings

All commissioners of all departments and agencies, the Lieutenant Governor, and chief executive officer of the U.S. Virgin Islands Economic Development Authority are entitled to receive notice of and attend meetings of the Virgin Islands Territorial Planning Commission and, upon request, receive all official documents of the commission.

3.105 Organization and Selection of Chair

The Virgin Islands Territorial Planning Commission must meet for the purpose of organization as soon as practicable after the appointment of its members. The Governor must select a chair, who will serve at the pleasure of the Governor, from among the public members and the members of the commission must annually select a vice-chair from among the public members. Eight members of the commission constitute a quorum, and no matter requiring action by the full commission may be undertaken except upon the affirmative vote of not less than 8 members. The commission will meet at the call of its chair or upon the written request of at least 8 members. All meetings of the commission must be open to the public.

3.106 Powers and Duties

The Virgin Islands Territorial Planning Commission has the following powers and duties:

- 3.106.A** Review the Virgin Islands Territorial Comprehensive Plan or amendments thereto, including area plans or subplans, for the Territory prepared by the Planning Office, hold public hearings on the plan, and make recommendations to the Planning Office on the content of the plan or amendments;
- 3.106.B** Review any functional plan or amendments to any functional plan prepared by any territorial department or agency or area or subterritorial plan or amendments thereto prepared by the Planning Office, hold public hearings on such plan, and make recommendations to the ~~department, agency, or~~ Planning Office and the Legislature on the content of the plan ~~or and any proposed~~ amendments to the plan;
- 3.106.C** Provide advice and recommendations on any matter referred to it by the Governor, the Legislature, or any territorial department, agency, or the Planning Office.
- 3.106.D** Keep minutes of its proceedings.
- 3.106.E** Engage in a program of public information and communication regarding its activities;
- 3.106.F** Promote interest in long-range planning for the Territory;
- 3.106.G** Make, and from time to time modify, and repeal, bylaws and rules for the conduct of its business subject to the approval of the Governor; and
- 3.106.H** Prepare a biennial report on its activities to the Governor and Legislature, to be submitted by March 1st of each even-numbered year.

3.107 Quorum and Voting

A quorum consists of 8 members of the [Virgin Islands](#) Territorial Planning Commission. The chair must be counted as any other member when establishing a quorum. Final action on any matter requires a majority vote of 8 of the 15 members of the Commission.

3.108 Conflict of Interest

A member of the [Virgin Islands](#) Territorial Planning Commission may not vote or participate as a member in any matter before the commission if the member has any interest in this matter, whether such interest is direct or indirect, financial or otherwise. In any case, where the question of a member's interest is raised, the chair has sole authority to rule on whether the member should be disqualified.

3.109 Recommendations

The [Virgin Islands](#) Territorial Planning Commission may take no final action on any matter before it without first obtaining a recommendation from the Director of the Planning Office. In the event that the director does not provide a recommendation, the commission may then take final action.

3.110 Finances

The expenditures of the Virgin Islands Territorial Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Legislature, which shall provide the funds, equipment and accommodations for that work by the commission.

3.200 Board of Land Use Appeals**3.201 Powers and Duties**

The Board of Land Use Appeals has the powers and duties assigned to it under this development code, including the power to hear and decide non-use variances, appeals of administrative decisions, and special permits that are expressly authorized under this development code.¹⁰

3.202 Meetings

All meetings of the Board of Land Use Appeals must be in public at the call of the Chair and at such other times as the Board of Land Use Appeals may determine. Records of the Board of Land Use Appeals may be examined in the offices of the Board of Land Use Appeals during normal business hours. Executive meetings of the Board of Land Use Appeals may be held, but any record of such meetings must also be available for public inspection.

3.203 Rules of Procedure

The Board of Land Use Appeals may adopt, from time to time, such rules and regulations as it deems necessary to carry out its powers and duties. Except as otherwise expressly provided in this development code, this includes procedure for conduct of public hearings, forms to be used in the submission of applications, dates and times when hearings will be held, and the forms for the Board's written reports and findings.

3.204 Hearings

The Board of Land Use Appeals must fix a reasonable time for hearings, giving due notice as required by this development code.

¹⁰ This language appears in the current code, but the Board of Land Use Appeals has no permitting authority.

3.205 Agenda

The agenda for any meeting of the Board of Land Use Appeals to be prepared by the Secretary of the Board of Land Use Appeals and must be made available to the public in hard copy and electronic form on the Territorial Government's website at least 15 days before the meeting at which matters listed on the agenda are scheduled to be considered.

3.206 Decisions

Decisions of the Board of Land Use Appeals take effect when rendered. A copy of the decision must be filed in the office of the Lieutenant Governor of the Virgin Islands.

3.207 Final Actions

The action of the Board of Land Use Appeals is final unless an appeal is taken to the District Court of the Virgin Islands within 30 days of the date upon which the applicant was officially notified of the Board of Land Use Appeals' final action. No case may be reopened and no application may be accepted for the same appeal involving the same property upon which the Board of Land Use Appeals has taken final action for at least one year from the date of final action of the Board of Land Use Appeals.

3.208 Rehearing

The Board of Land Use Appeals is authorized to grant a rehearing if the application for such rehearing includes new evidence that was not considered by the Board of Land Use Appeals at the original hearing. An application for rehearing must be made to the Board of Land Use Appeals within 30 days of the date upon which the applicant was notified of the Board of Land Use Appeals' original action. Only one application for a rehearing may be made in any case.

3.209 Minutes and Findings

The Board of Land Use Appeals must keep minutes of its proceedings, recording the action of the Board of Land Use Appeals and the vote of each member upon each action or, if absent or failing to vote, indicating such fact. It must also keep records of its examinations and other official actions, all of which must be filed promptly at the office of the Board of Land Use Appeals and must be open to public examination at reasonable hours. All findings and actions of the Board of Land Use Appeals must be in writing and must set forth the reasons for the action taken irrespective of what action was taken. Findings must be complete, detailed and in specific terms setting forth the reasons for the decisions and must go beyond such generalities as "in the interest of public health, safety and general welfare." In all cases, a statement of the facts upon which such action is based must appear in the minutes.

3.210 Assistance

3.210.A The Board of Land Use Appeals may call upon other governmental departments for assistance in the performance of its duties and it is the duty of such departments to render such assistance as may be reasonably required.

3.210.B When this development code requires a recommendation from the Planning Office and when such a recommendation is requested by the Board of Land Use Appeals, the Planning Office must submit an advisory opinion to the Board of Land Use Appeals at least 4 business days before the public hearing. The findings of the Planning Office must be read into the record at such public hearing.

- 3.210.C** The failure of the Planning Office to submit its recommendation to the Board of Land Use Appeals before the public hearing does not preclude the Board of Land Use Appeals from reaching a decision on any matter before it.

3.300 Zoning Administrator

3.301 Appointment

The Commissioner of Planning and Natural Resources is the Zoning Administrator. The Commissioner of Planning and Natural may appoint an Assistant Zoning Administrator to act on his or her behalf.

3.302 Powers and Duties

The Zoning Administrator has the following powers and duties:

- 3.302.A** Administer and enforce this development code and chapters 5 and 7 of Title 6, Virgin Islands Code;
- 3.302.B** Maintain permanent and current records relative to adoption of this development code and of chapters 5 and 7 of Title 6, Virgin Islands Code, and for their administration and enforcement;
- 3.302.C** Provide information to the public on all matters relating to zoning and subdivision regulation in the Virgin Islands;
- 3.302.D** Review, receive, and decide all applications for zoning, or other permits for the use and development of land as authorized by this development code and determine that the application and plan submitted conforms to all provisions of this development code;
- 3.302.E** Issue zoning permits and certificates of use and occupancy;
- 3.302.F** Make use interpretations in accordance with Sec. [11.104](#) and issue written interpretations in accordance with Sec. [4.1600](#);
- 3.302.G** Make recommendations to the Planning Office and the Legislature with respect to amendments and changes to the development code deemed desirable in order that it may prove a more effective instrument in helping carry out adopted planning and land use policies;
- 3.302.H** Inspect and examine any building, structure, place, or premises to and to order, in writing, the remedying of any condition found to exist therein or thereat in violation of any provision or regulation of this development code.

3.400 Land Use Hearing Examiner¹¹

3.401 Establishment

To facilitate the conduct of hearings required by this development code, the Government of the U.S. Virgin Islands has established the position of Land Use Hearing Examiner.

3.402 Appointment and Removal

- 3.402.A** The Governor may appoint one or more Land Use Hearing Examiners to conduct hearings for development permits and plans under this development code. Should the Governor appoint more than one hearing examiner,

¹¹ New

the terms of office may be appropriately staggered and applications for development permits may be equally assigned to hearing examiners by a confidential rotation system.

3.402.B Each Land Use Hearing Examiner may be appointed for a definite term of office, not to exceed 4 years, and may be appointed at the conclusion of any term.

3.402.C A Land Use Hearing Examiner may be removed by the Governor only for cause.

3.403 Qualifications

3.403.A A Land Use Hearing Examiner must be appointed solely with regard for the qualifications for the duties of the office.

3.403.B A Land Use Hearing Examiner must have at least an undergraduate degree in urban planning or related professional field, with at least 5 years of professional experience in planning; or may have a degree in architecture, engineering, or law and have been licensed to practice in the Territory for at least 5 years.

3.403.C A Land Use Hearing Examiner may not hold other appointive or elective office in the U.S. Virgin Islands during his/her term.

3.403.D A Land Use Hearing Examiner may not be an employee of the Government of the U.S. Virgin Islands.

3.404 Compensation

The Land Use Hearing Examiner may be compensated for his/her services from the general revenue funds of the Government. The Legislature, with the recommendation of the Governor, must set the compensation.

3.405 Powers and Duties

The Zoning Administrator, the Board of Land Use Appeals, the Director of the Planning Office, the [Virgin Islands](#) -Territorial Planning Commission, and the Legislature may refer any matter delegated to them by this development code to the Land Use Hearing Examiner. The examiner has the power to conduct hearings on development permits or plans, where such hearings are required by this development code, create a record, and make written findings and recommendations on such permits or plans to the Administrator, Board, Director, Commission, or Legislature, respectively, on matters referred by them, but has no authority to issue development permits or adopt or approve plans.

3.406 Recusal

The Land Use Hearing Examiner is authorized to recuse himself or herself in any matter and to refer the matter to the requesting party so that appointment or selection of another hearing examiner can be considered.

3.500 Planning Office

3.501 Powers and Duties¹²

The Planning Office has the specific powers and duties assigned to it under this development code, including the following:

¹² List of powers and duties has been revised.

- 3.501.A** Prepare the Territorial Comprehensive Plan for review by the [Virgin Islands](#) Territorial Planning Commission and adoption by the Legislature;
- 3.501.B** Prepare updates to the Territorial Comprehensive Plan at least once every 10 years;
- 3.501.C** Carry on a continuous review of the effectiveness and appropriateness of the development code and recommend to the Legislature such changes that will help implement and ensure consistency with the Territorial Comprehensive Plan;
- 3.501.D** Maintain a geographic information system for the Territory and an official zoning map as a layer in the geographic information system;
- 3.501.E** Create and publish forms to be used in the submission of land use and development applications;
- 3.501.F** Assign responsibility to a secretary or assistant secretary to carry out the official business of the office;
- 3.501.G** Schedule and provide required notice of public hearings;
- 3.501.H** Publish agendas for scheduled meetings;
- 3.501.I** Provide technical advice and recommendations to the Legislature, the [Virgin Islands](#) Territorial Planning Commission, the Board of Land Use Appeals, the Zoning Administrator, and other agencies;
- 3.501.J** Notify the Office of the Tax Assessor and the Director of Finance of all zoning map amendments;
- 3.501.K** Provide at least four hours of training on an annual basis to the Board of Land Use Appeals¹³;
- 3.501.L** Undertake special studies and plans, as needed; and
- 3.501.M** Promote understanding of planning and land development regulation.

3.600 Technical Review Committee¹⁴

3.601 Establishment

There is established a Technical Review Committee (TRC) to review applications for preliminary subdivision plans, final subdivision plats, minor subdivisions, resubdivisions, planned area developments, and site plans before approval of such developments is granted. The purpose of the Technical Review Committee is to ensure coordination among the Territory's departments and divisions in the evaluation of such developments and providing recommendations and advice to the territorial official responsible for approving the development.

3.602 Composition

Membership on the Technical Review Committee is made up of the following officials or their authorized representatives:

- 3.602.A** The Zoning Administrator;

¹³ This is a new provision

¹⁴ Entirely new

- 3.602.B** The Director of the Division of Building Permits;
 - 3.602.C** The Director of the Division of Fish and Wildlife;
 - 3.602.D** The Director of the Division of Environmental Protection;
 - 3.602.E** The Director of Division of Coastal Zone Management;
 - 3.602.F** The Director of the Division of Environmental Enforcement;
 - 3.602.G** The Director of the Planning Office/Director of the Division of Comprehensive and Coastal Zone Planning;
 - 3.602.H** The Director of Virgin Islands Historic Preservation Office;
 - 3.602.I** The Commissioner of Public Works;
 - 3.602.J** The Commissioner of Agriculture; and
 - 3.602.K** The Director of Fire Services.
- 3.603** The Director of the Planning Office serves as the chair of the Technical Review Committee and is responsible for calling meetings to review developments under this section, and providing application material to Technical Review Committee members.
- 3.604** The Technical Review Committee must meet as needed to perform its duties and responsibilities. The comments and recommendations of Technical Review Committee members, either together or individually, will be advisory to the territorial official responsible for approving the subject development, except where this development code assigns approval responsibility to the Technical Review Committee.

Article 4 Development Review and Approval Procedures

4.100 General Procedural Provisions¹⁵

4.101 Applicability

The general procedural provisions of this section apply to all the procedures in this article unless otherwise expressly stated.

4.102 Preapplication Consultations

4.102.A Preapplication consultations are required whenever the provisions of this development code expressly state that they are required. They are encouraged in all cases.

4.102.B Required preapplication consultations must be scheduled with Planning Office staff.

4.103 Application Submittal

4.103.A Form of Application

Applications required under this development code must be submitted in a form and in such numbers as required by the Zoning Administrator. The Zoning Administrator must develop checklists of application submittal requirements and make those checklists available to the public. Application forms and checklists of required submittal information are available in the Planning Office.

4.103.B Completeness and Accuracy Review

4.103.B.1 An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information, and is accompanied by the required filing fee. The Director of the Planning Office must review the application for completeness within 10 working days after the date of submission.

4.103.B.2 If an application is determined to be incomplete, the Zoning Administrator must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies in the application that will prevent competent review of the application. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 60 days, the application will be considered withdrawn.

4.103.B.3 No further processing of incomplete applications will occur, and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next available processing cycle.

¹⁵ This section is entirely new. It establishes a series of general regulations that apply to all procedures.

4.103.B.4 The Zoning Administrator may require that applications or plans be revised before being placed on the agenda of a review or decision-making body or official if the Zoning Administrator determines that:

- (a) the application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with development code standards; or
- (b) the application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with development code standards.

4.103.C Application Sufficiency and Acceptance

Applications deemed complete will be considered to be in the processing cycle and will be reviewed by the Zoning Administrator and other staff and other review and decision-making bodies in accordance with applicable review and approval procedures of this development code.

4.103.D Application Filing Fees; Authority of Commissioner to Establish by Regulation

Application filing fees are required for processing development review and permit applications. The fees help offset the cost of providing personnel costs for plan and permit reviews and field inspections. The Commissioner of Planning and Natural Resources is authorized to establish application filing fees by regulation pursuant to Title 3, Chapter 35 of the Virgin Islands Code and must evaluate fees for their adequacy at least once every 3 years. Fees are not required with applications initiated by the Legislature. Application fees are nonrefundable.¹⁶

4.103.E Application Processing Cycles

The Zoning Administrator may, after consulting with review and decision-making bodies, promulgate processing cycles for applications. Processing cycles may establish:

- 4.103.E.1** deadlines for receipt of complete applications;
- 4.103.E.2** dates and times of regular meetings;
- 4.103.E.3** the scheduling of agency and staff reviews and reports; and
- 4.103.E.4** time-frames for review and decision-making.

4.104 Notice of Public Hearings

The following public hearing notice provisions apply to all public hearings before the Planning Office and Board of Land Use Appeals unless otherwise expressly stated.

4.104.A Mailed Notice

When the provisions of this development code require that mailed notice be provided, the applicant must send notices to all property owners within 250 feet of the subject property. Notices must be sent certified mail at least

¹⁶ It is recommended that the Planning Office complete a study on permit fees that would include proposals for a new fee structure as part of this development code. Existing subdivision review fees are included in [Appendix A: Fee Schedule](#).

15 days prior to the date of such hearing. If the applicant owns property within 250 feet of the subject property, it is not necessary to send a separate notice to the applicant for that property.

4.104.B Newspaper Notice

When the provisions of this development code require that newspaper notice be provided, the applicant is responsible for ensuring that notice is published in a newspaper of substantial circulation in the area, in a form prescribed by the Planning Office, at least twice, at intervals of not less than 2 days apart. The first notice must be published no more than 15 days and no fewer than 10 days before the hearing. The second notice must be published no fewer than 2 days before the hearing.

4.104.C Electronic Notice

If requested in writing and if receipt can be verified, the applicant must provide an electronic notice, in a form prescribed by the Planning Office, to parties at least 15 calendar days before the hearing.

4.104.D Posted Notice

When the provisions of this development code require that posted notice be provided, the applicant must post at least one notice sign provided by the Planning Office on each public street abutting the subject property, in a location plainly visible to passersby or at a location on the property closest to a public street. The notice must be posted at least 15 calendar days before the public hearing.

4.104.E Notice on Department of Planning and Natural Resources Website

The Department of Planning and Natural Resources shall publish notice of a public hearing on its website at least 15 calendar days before the public hearing.¹⁷

4.104.F Content of Notice

All required public hearing notices must:

- 4.104.F.1** indicate the date, time and place of the public hearing or date of action that is the subject of the notice;
- 4.104.F.2** describe any property involved in the application by street address or by general description;
- 4.104.F.3** describe the general nature, scope and purpose of the application or proposal; and
- 4.104.F.4** indicate where additional information on the matter can be obtained.

4.104.G Continuations and Postponements

- 4.104.G.1** A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for specified date and time and that date and time is announced at the time of the continuance.

¹⁷ This paragraph is new.

- 4.104.G.2** If a public hearing is tabled, deferred or postponed for an indefinite period of time from the date of the originally scheduled public hearing, new public notice must be given before the rescheduled public hearing. If the applicant requests a postponement, the applicant must pay all costs of renotification.

4.105 Public Hearings

A public hearing involving a development proposal must be held on the island where the development is proposed. In the event that the development proposal is proposed on Water Island or a cay, the hearing must be held on the closest island.¹⁸ Interested parties and citizens must be given an opportunity to appear and be heard at required public hearings, subject to reasonable rules of procedure. Individuals and groups may represent themselves or be represented by an attorney or other authorized agent.

4.106 Action by Review Bodies and Decision-Making Bodies

- 4.106.A** Review and decision-making bodies and officials may take any action that is consistent with:

- 4.106.A.1** this development code;
- 4.106.A.2** any rules or by-laws that apply to the review or decision-making body; and
- 4.106.A.3** the notice that was given.

- 4.106.B** Review and decision-making bodies are authorized to defer action or continue a public hearing in order to receive additional information or further deliberate.

4.107 Conditions of Approval

When decision-making bodies approve applications with conditions, the conditions must:

- 4.107.A** be provided to the applicant in writing;
- 4.107.B** relate to a situation created or aggravated by the proposed use or development;
- 4.107.C** be roughly proportional to the impacts of the proposed use or development;
- 4.107.D** be included in writing with any zoning permit issued by the Zoning Administrator;
- 4.107.E** be satisfied before a certificate of use and occupancy is issued by the Zoning Administrator.

4.108 Review and Decision-Making Criteria; Burden of Proof or Persuasion

In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria. Applications must address relevant review and decision-making criteria.

¹⁸ First two sentences are new.

4.200 Development Code Text Amendments

4.201 Authority to File

Amendments to the text of this development code may be initiated only by the Planning Office.

4.202 Hearing and Recommendation—Planning Office

4.202.A The Planning Office must hold a public hearing on each proposed text amendment.

4.202.B Notice of the public hearing must be provided by newspaper, in accordance with Sec. [4.104](#).

4.202.C Following the close of the hearing, the Planning Office must forward a report and recommendation to be considered by the Legislature.

4.203 Hearing and Final Action—Legislature

4.203.A After conclusion of the Planning Office’s public hearing, the Legislature must convene its own public hearing on the proposed text amendment, in accordance with the Legislature’s rules of procedure.¹⁹

4.203.B Following the close of its public hearing, the Legislature may act to approve the proposed text amendment, approve the proposed text amendment with modifications, or deny the proposed text amendment. The Legislature may also return the application to the Planning Office for further consideration, together with a written explanation of the reasons for doing so.

4.204 Review Criteria

In reviewing and making decisions on development code text amendments, the Planning Office and Legislature must consider at least the following criteria:

4.204.A whether the proposed development code text amendment corrects an error or inconsistency in the development code or meets the challenge of a changing condition;

4.204.B whether the proposed development code text amendment is in substantial conformance with the Territorial Comprehensive Plan and other relevant, adopted plans and policies; and

4.204.C whether the proposed development code text amendment is in the best interests of the Territory as a whole.

4.300 Zoning Map Amendments (Rezoning)

4.301 Authority to File

Amendments to the official zoning map may be initiated only by a petition of the subject property owner or by the Planning Office.

¹⁹ Are notice requirements for Legislature’s hearing the same as for Planning Office and BLUA?

4.302 Corrective Zoning Map Amendment²⁰

The Director of the Planning Office may initiate a corrective zoning map amendment in accordance with the procedures of this section when the director determines any of the following:

- 4.302.A** There is an error in the geographic information system layer for the zoning map so that it does not accurately reflect the Act of the Legislature in establishing the zoning district classification of a lot, parcel, or tract, including an error in or lack of a parcel identification number;
- 4.302.B** The nature of the zoning district classification affecting a lot, parcel, or tract is unclear;
- 4.302.C** There is an error in the description of the lot, parcel, or tract as submitted by an applicant for a zoning map amendment that was not previously detected during the amendment process;
- 4.302.D** There has been a movement of the reference point (e.g., rights-of-way, utility easements, monuments, and boundary markers) for the zoning district boundary; or
- 4.302.E** A zoning district boundary line that was intended to follow a topographic or physical feature of land or water does not do so.

4.303 Hearing and Recommendation—Planning Office

- 4.303.A** The Planning Office must hold a public hearing on each proposed zoning map amendment.
- 4.303.B** Notice of the public hearing must be provided by mail, newspaper and posting in accordance with Sec. [4.104](#).
- 4.303.C** Following the close of the hearing, the Planning Office must forward a report and recommendation to be considered by the Legislature. Failure of the Planning Office to submit its report and recommendation by the time of the Legislature's public hearing will be construed by the Legislature as a recommendation for approval of the amendment.

4.304 Hearing and Final Action—Legislature

- 4.304.A** After conclusion of the Planning Office's public hearing, the Legislature must convene its own public hearing on the proposed zoning map amendment, in accordance with the Legislature's rules of procedure.²¹
- 4.304.B** Following the close of its public hearing, the Legislature may act to approve the proposed zoning map amendment, approve the proposed zoning map amendment with modifications, or deny the proposed zoning map amendment. The Legislature may also return the application to the Planning Office for further consideration, together with a written explanation of the reasons for doing so.

²⁰ This section is new and is intended to deal with various types of unintended errors, mistakes, and changes in conditions that would justify changes in the zoning map, which exists as a layer in a geographic information system.

²¹ Are notice requirements for Legislature's hearing the same as for Planning Office and BLUA?

4.305 Review Criteria

In reviewing and making decisions on proposed zoning map amendments, the Planning Office and Legislature must consider at least the following criteria:

- 4.305.A** whether the proposed rezoning is consistent with the Territorial Comprehensive Plan and with other adopted plans and policies affecting the area proposed to be rezoned;
- 4.305.B** whether there have been changes in patterns of development, land use, or the supply of land that would justify the rezoning;
- 4.305.C** whether public facilities and services will be adequate to serve development allowed by the proposed rezoning;
- 4.305.D** whether the proposed rezoning is consistent with the purpose of the prospective zoning district;
- 4.305.E** whether the proposed rezoning is compatible with the zoning and use of nearby property; and
- 4.305.F** if the rezoning involves the establishment or amendment of a form-based floating zone, whether an urban design element for the subject area has previously been adopted by the Legislature.

4.306 Reconsideration of Denied Application²²

If the Legislature acts to disapprove a zoning map amendment, the Planning Office may not accept another petition for the same zoning map amendment or substantially the same amendment for at least 90 days from the date of action by the Legislature. All subsequent zoning map amendment petitions must be processed in accordance with the zoning map amendment procedures of this section and include all required information, including applicable fees.

4.307 Notification of Zoning Amendments by the Planning Office

The Planning Office must notify the Office of the Tax Assessor and the Department of Finance of all amendments or changes to development code text or the official zoning map within 15 days of every such change.²³

4.400 Site Plan Review²⁴**4.401 Intent**

The site plan approval procedure of this section is intended to provide a coordinated inter-departmental site plan review process for certain type of proposed developments.

²² This provision has been revised. Also, the following two provisions have been deleted (not carried forward in this draft): (1) Notwithstanding any other law, after receiving a necessary zoning change from the Legislature, the owner of the subject property must begin construction within 36 months after receiving all the necessary permits. If construction has not begun within that time, within the owner will again have to obtain the approval of the Legislature as provided under this section and (2) if the property abuts a shoreline, the owner of such property must also grant, provide and maintain public easements to the shoreline abutting such property that are easily accessible to the general public.

²³ Existing provision *requiring* the Office of Tax Assessor to reassess affected properties within 60 days of a zoning change has been deleted.

²⁴ This proposed procedure is new. It would serve as a more broadly applicable replacement for the existing group dwelling permit procedure. The site plan review procedure here is different that the requirement for a site plan as part of a building and zoning permit application.

4.402 Applicability

The site plan review procedure of this section applies only when expressly authorized or required under this development code.²⁵

4.403 Authority to File

Applications for site plan approval may be initiated only by the owner of the subject property or by the owner's authorized agent.

4.404 Application Filing

Complete applications for site plan approval must be filed with appropriate personnel in the Planning Office and include the following information:

4.404.A legal description of the subject property;

4.404.B ownership and mailing address of all owners of the subject property; and

4.404.C all submittal materials required by the Zoning Administrator for site plan review, which may include elevation drawings or photographs of existing and proposed buildings, site plans including landscaping, and other materials that will help the Technical Review Committee conduct a competent review and support its decision.

4.405 Review and Decision

The Technical Review Committee has review and recommendation authority on site plan applications. The Director of the Planning Office has final decision-making authority. No public hearings are required. In making a final decision, the Director of the Planning Office must take one of the following actions:

4.405.A approve the site plan;

4.405.B identify those revisions or modifications that would allow approval of the site plan;

4.405.C approve the site plan with conditions; or

4.405.D disapprove the site plan.

4.406 Review Criteria

In order to be approved, a site plan must comply with all of the following criteria:

4.406.A the plan must comply with this development code and all other applicable regulations. However, this provision is not intended to prohibit an applicant from seeking a variance or other form of relief authorized under this development code;

4.406.B the proposed use must be allowed in the zoning district in which it is located;

4.406.C the plan must provide for the safe, efficient and convenient movement of pedestrians on the subject site; and

4.406.D vehicular ingress and egress and on-site vehicular circulation must ensure safe, efficient, and convenient movement of traffic.

²⁵ As an alternative, we could list the types of development or threshold criteria (e.g., project size, scale, intensity) triggering site plan review in this section.

4.407 Lapse of Approval

4.407.A An approved site plan will lapse and have no further effect 2 years after it is approved, unless:

4.407.A.1 a zoning permit has been issued; and

4.407.A.2 a building permit has been issued (if required)

4.407.B A site plan also lapses upon revocation of a building permit for violations of conditions of approval or upon expiration of a building permit.

4.500 Zoning Variances**4.501 Intent**

Zoning variances are intended to address unnecessary hardships resulting from strict application of zoning-related standards.

4.502 Applicability; Authorized Zoning Variances

The Board of Land Use Appeals is authorized to grant a zoning variance to any regulation in this development code in accordance with the variance procedures of this section, except that the variance procedures may not be used to:

4.502.A permit a principal use in a zoning district that is not otherwise allowed in that zoning district (i.e., “use variances”);

4.502.B waive, modify, or amend any definition or use classification;

4.502.C waive, modify, or otherwise vary any of the review and approval procedures of this development code;

4.502.D waive, vary, modify, or otherwise override a condition of approval or requirement imposed by the Legislature; or

4.502.E waive, vary, or modify any of the subdivision design and improvement standards of [Article 20](#) or [Article 21](#).

4.503 Authority to File

Applications for zoning variances may be initiated only by the owner of the subject property or by the owner’s authorized agent.

4.504 Application Filing

Complete applications for a zoning variance must be filed with appropriate personnel in the Planning Office.

4.505 Hearing and Final Decision

4.505.A The Board of Land Use Appeals must hold at least one public hearing on a proposed zoning variance.

4.505.B Notice of the public hearing must be provided by mail, newspaper and posting in accordance with Sec. [4.104](#).

4.505.C Following the close of the hearing, at the same or subsequent meeting, the Board of Land Use Appeals must take action to approve, approve with conditions or deny the proposed zoning variance. The Board’s decision must be supported by written findings of fact. In the case of approval, the Board’s findings must include a written description of the unnecessary hardship

that would be created if the subject property was subject to strict compliance with this development code.

- 4.505.D** The concurring vote of two-thirds of the total membership of the Board of Land Use Appeals is required to approve a zoning variance.

4.506 Review Criteria²⁶

- 4.506.A** Zoning variances may be approved by the Board of Land Use Appeals only when it finds substantial evidence that strict application of one or more standards or requirements of this development code would result in practical difficulties or unnecessary hardships and they find that such variance can be granted without substantial impairment of the intent, purpose and integrity of this development code and of the Territorial Comprehensive Plan.

- 4.506.B** Before granting a variance on the basis of practical difficulties or unreasonable hardship, the Board of Land Use Appeals must find that all of the following conditions exist:

- 4.506.B.1** that if the owner complied with the provisions of this development code, the owner would not be able to make any reasonable use of their property;
- 4.506.B.2** that the practical difficulties or unnecessary hardships are peculiar to the property in question in contrast with those of other properties in the same zoning district;
- 4.506.B.3** that the hardship was not the result of the owner's action; and
- 4.506.B.4** that the hardship is not merely financial or pecuniary.

4.507 Lapse of Approval

- 4.507.A** An approved zoning variance will lapse and have no further effect 2 years after it is granted by the Board of Land Use Appeals unless all of the following occur:

- 4.507.A.1** a zoning permit has been issued (if one is required); and
- 4.507.A.2** a building permit has been issued (if one is required); and
- 4.507.A.3** a final certificate of use and occupancy has been issued.

- 4.507.B** The Board of Land Use Appeals may extend the expiration period by up to one year. Requests for extensions must be submitted to the Zoning Administrator before the variance lapses and must be considered in a public hearing that is noticed in the same manner as the original variance request. A filing fee to cover the cost of notification and processing is required.

- 4.507.C** A zoning variance also lapses upon revocation of a building permit for violations of conditions of approval or upon expiration of a building permit.

²⁶ These are existing, edited criteria.

4.508 Transferability

Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership or management.

4.509 Amendments

A request for changes in conditions of approval of a zoning variance must be processed as a new variance application, including the requirements for fees, notices and hearings.

4.510 Appeals

Any person aggrieved by a zoning variance decision of the Board of Land Use Appeals may appeal the decision to the District Court of the Virgin Islands.

4.600 Use Variances²⁷**4.601 Authority to File**

A use variance is permission in writing by the Legislature to allow a principal use that is not permitted in a particular zoning district for a specific property. A use variance may be initiated only by a petition of the subject property owner and only after the Zoning Administrator has made a determination in writing, pursuant to Sec. [11.104](#), that the proposed principal use is not permitted in a particular zoning district for a specific property.

4.602 Hearing and Recommendation—Planning Office

4.602.A The Planning Office must hold a public hearing on each proposed use variance. Notice of the public hearing must be provided by mail, newspaper, and posting in accordance with Sec. [4.104](#).

4.602.B Following the close of the hearing, the Planning Office must forward a report and recommendation to be considered by the Legislature. Failure of the Planning Office to submit its report and recommendation by the time of the Legislature's public hearing will be construed by the Legislature as a recommendation for approval of the use variance.

4.601 Hearing and Final Action—Legislature

4.601.A After conclusion of the Planning Office's public hearing, the Legislature must convene its own public hearing on the use variance, in accordance with the Legislature's rules of procedure.

4.601.B Following the close of its public hearing, the Legislature may act to approve the proposed use variance, approve the proposed use variance with conditions, or deny the proposed use variance. In making its decision, the Legislature must make written findings on the record based on review criteria of Sec. [4.602](#). The Legislature may also return the application to the Planning Office for further consideration, together with a written explanation of the reasons for doing so.

4.602 Review Criteria

In reviewing and making decisions on proposed use variances, the Planning Office and Legislature must consider and apply all of the following criteria based on the record:

4.602.A whether the proposed use variance is the result of unnecessary hardship;

²⁷ The use variance provisions have been revised.

- 4.602.B** whether the property in question cannot be reasonably used in a manner consistent with the existing zoning district;
- 4.602.C** whether the plight of the owner is due to circumstances unique or peculiar to the property in question and not to the general conditions in the neighborhood; and
- 4.602.D** whether the use to be authorized by the variance will not alter the essential character of the neighborhood in which the property is located.

4.700 Subdivisions Generally

All subdivisions except those that meet the criteria for processing as a minor subdivision (See Sec. [4.800](#)) are subject to a 3-step review and approval process. First, a sketch plan and preapplication meeting is required in accordance with Sec. [4.900](#). Next, a preliminary plan and engineering plans must be reviewed and approved in accordance with Sec. [4.1000](#). If the preliminary plan and engineering plans are approved, the applicant must then apply for approval of a final plat for the subdivision or for a phase of the subdivision, in accordance with Sec. [4.1100](#).

4.800 Minor Subdivisions

4.801 Criteria

The Planning Office is authorized to process subdivisions as minor subdivisions only if they meet all of the following criteria:

- 4.801.A** The proposed subdivision is located along an existing public road and involves no opening, widening, or extensions of any street or road;
- 4.801.B** No more than 5 lots are involved after the original property has been completely subdivided and the lots created are of such size as to preclude their further subdivision;
- 4.801.C** The owner of the parcel being so subdivided does not hold title or an interest in title to adjacent properties;
- 4.801.D** The proposed subdivision conforms to the applicable subdivision regulations and the applicable zoning district provisions; and
- 4.801.E** A surveyor licensed in the U.S. Virgin Islands has surveyed the proposed subdivision and monuments have been set for subdivision boundary corners and lot corners.

4.802 One-Step Approval Process

Subdivisions that the Planning Office deems eligible for processing as minor subdivisions require only review, approval and recording of a final plat in accordance with Sec. [4.1100](#).

4.900 Subdivision Sketch Plans and Preapplication Meetings

4.901 Applicability

Sketch plans and preapplication meetings are required for all subdivisions that do not meet the minor subdivision criteria of Sec. [4.800](#).

4.902 Intent

This phase of the subdivision approval process is intended to provide an opportunity to discuss early and informally the purpose and effect of these regulations regarding the proposed subdividers and the criteria and standards contained herein.

4.903 Process

The subdivider shall prepare a generalized sketch plan of the proposed subdivision and schedule and attend a preapplication meeting with the Planning Office before submitting preliminary subdivision and engineering plans for the proposed subdivision. No formal application or fee is required.

4.1000 Subdivision Preliminary Plans and Engineering Plans

4.1001 Applicability

4.1001.A Review and approval of the subdivision preliminary plan and engineering plans constitutes the second step of the subdivision approval process. The step is required for all subdivisions that do not meet the minor subdivision criteria of Sec. [4.800](#).

4.1001.B After the sketch plan and preapplication meeting stage of the subdivision review and approval process, the subdivider shall submit to the Planning Office a preliminary plan and engineering plans for the proposed subdivision. The purpose of the preliminary plan is to show on a map all of the facts and data pertinent to the proposed subdivision that will enable the Planning Office to determine whether the proposed layout of the land is satisfactory from the standpoint of the public health, safety and welfare.

4.1002 Plan Submittal

Complete applications and preliminary plan and engineering drawings must be submitted to the Planning Office in a form and in such numbers as is required by subdivision preliminary plan submittal requirements published by the Planning Office and made available to the public. The Planning Office is authorized to reject preliminary plan submittals that it finds to be poorly drawn or illegible or lacking any of the information required for preliminary subdivision plans.²⁸

4.1003 Review and Action

4.1003.A The Planning Office shall review and determine, based on the conformity of the submitted documents to the intent and requirements of these regulations, taking into account any recommendations from other concerned agencies, whether the preliminary plan and engineering plans shall be approved, approved with modifications, or disapproved.

4.1003.B In conducting its review, the Director of the Planning Office shall convene, if necessary, a meeting of the Technical Review Committee.²⁹

4.1003.C If approved, or approved with modifications, the Commissioner of Planning and Natural Resources shall express to the subdivider the approval as: "Approval" or "Conditional Approval," and state the approval in writing, or, in the case of conditional approval, describe any required modifications or

²⁸ The subdivision regulations may be modified to allow submission in electronic form. DPNR may want to invest in a system that allows all plans to be submitted in electronic rather than paper format.

²⁹ The option for a meeting of the technical advisory committee is new language.

conditions in writing. If the subdivision is disapproved, the Commissioner of Planning and Natural Resources shall express in writing to the subdivider the reasons for such disapproval. The Planning Office shall approve, approve with modifications, or disapprove the preliminary plan and engineering plans application within 30 days after filing, unless such time is extended by written agreement with the subdivider.³⁰

4.1004 Effect of Approval

Approval or conditional approval of a preliminary plan shall not constitute approval of the final plat; rather it shall be deemed an expression of the layout submitted on the preliminary plat as a guide to the preparations of the final plat. When the requirements of these regulations are fulfilled, and the conditions of the conditional approval (including any modifications required) are met, the final plat may be filed with the Planning Office for approval.³¹

4.1005 Lapse of Approval

An approved subdivision preliminary plan and engineering plans shall be effective for a maximum period of 12 months, within which time the subdivider shall file the final plat with the Planning Office. If the subdivider applies in writing for an extension of 6 months, the Planning Office may grant the extension in writing. Whenever a final plat is submitted for less than the entire area covered by the preliminary plan, approval of the preliminary plan shall be extended by the Planning Office for an additional 12 months.

4.1100 Subdivision Final Plats

4.1101 Applicability

4.1101.A Review and approval of the subdivision final plat constitutes the third required step of the subdivision approval process. The step is required for all subdivisions that do not meet the minor subdivision criteria of Sec. ~~4.800~~.

4.1101.B After approval or conditional approval of the preliminary plan and engineering plans from the Planning Office, the subdivider shall prepare and submit to the Planning Office a final plat of the subdivision and as-built drawings of the required improvements to conform to applicable provisions of ~~Article 20~~ or ~~Article 21~~.

4.1102 Plat Submittal

Complete applications and final plat drawings must be submitted to the Planning Office in a form and in such numbers as is required by final plat submittal requirements published by the Planning Office and made available to the public. The Planning Office is authorized to reject a final plat that it finds to be poorly drawn or illegible or lacking any of the information required for final plats.

4.1103 Review and Action

4.1103.A The Planning Office shall review the final plat to determine that it conforms substantially to the preliminary plan as approved by the Planning Office and

³⁰ This section has been modified to make it clear that the Commissioner of Planning and Natural Resources must convey in writing approval, conditional approval, or disapproval to the subdivider.

³¹ This section has been shortened. The subdivision regulations are proposed to be amended to require a posting of a bond to ensure the completion and approval of all proposed public improvements according to the preliminary plan and engineering plan before the final plat can be approved and recorded.

incorporates any conditions or modifications that had been stipulated in writing in the conditional approval of the preliminary plan.

- 4.1103.B** If desired by the subdivider, the final plat may constitute that portion of the preliminary plat that the subdivider proposes to develop at the time, provided that such portions conforms to all of the requirements of these regulations.
- 4.1103.C** Parcels not contiguous shall not be included in one final plat, nor shall more than one plat be made on the same sheet. Contiguous parcels owned by more than one person may be included in a single final plat provided that all owners join in required statements of dedication and all required plat certificates and acknowledgments.
- 4.1103.D** The Planning Office shall approve or disapprove the final plat within 30 days after it has been filed and notify the subdivider in writing. If the Planning Office approves the final plat, the Commissioner of Planning and Natural Resources shall sign the copy of the final plat intended for filing with the Cadastral Section of the Office of the Tax Assessor and recording with the Office of the Recorder of Deeds. If the Planning Office disapproves the final plat, the Commission of Planning and Natural Resource shall state the grounds for disapproval in writing to the subdivider. The Planning Office shall not disapprove the final plat if the subdivider has done everything that these regulations require and has complied with the conditions and modifications specified in writing in the conditional approval of the preliminary plan and engineering plans.

4.1104 Recordation

The subdivider shall file the original drawing of the final plat with the Cadastral Section of the Office of the Tax Assessor within 5 working days of receipt from the Planning Office of approval of the final plat. The Cadastral Section shall furnish the subdivider with a receipt for the original drawing of the final plan upon filing. The Public Surveyor shall compare the original submitted drawing of the final plat with a copy of the final plat as approved by the Planning Office to determine that the submitted plat is identical in every detail to the plat approved by the Planning Office and notify the subdivider and Planning Office in writing if the final plat is or is not acceptable for recording. Only upon receiving final approval from the Planning Office shall the Cadastral Section forward the original copy of the final plat to the Office of the Recorder of Deeds for recording.

4.1105 Effect of Approval; Dedications

Approval of a subdivision shall not constitute an acceptance by the Virgin Islands Government of the roads, streets, alleys, or other lands or public improvements as indicated for dedication on the final plat. Dedication of any of these lands for public use of any nature shall be according to law. Offers for dedication of roads and other public improvements shall be addressed to the Commissioner of Public Works, as provided for in Title 20, Chapter 9, Virgin Islands Code. The Commissioner of Public Works shall not accept any streets or other public improvements until the Department of Public Works staff has conducted 1 or more inspections of the roads and other public improvements as shown in the preliminary plan and engineering plans to determine if they comply with what was proposed in the those plans and has prepared a written report on the inspection(s). If they comply, the Commissioner shall authorize the release of the performance or

surety bond for the subdivision. Offers for dedication for conservation and development of natural resources shall be addressed to the Commissioner of Sports, Parks, and Recreation as provided for in Title 3, Chapter 18, Virgin Islands Code.³²

4.1106 Revisions

No changes, erasures, modifications, or revisions shall be made on any final plat of a subdivision after final approval has been given by the Planning Office and the final plat has been signed by the Commissioner of Planning and Natural Resources. When filed with the Cadastral Section of the Office of the Tax Assessor, the original signed drawing of the final plat shall be checked against a copy approved by the Planning Office. If a minor survey error or a minor drafting error, the same procedure shall be followed as for a minor survey error or a minor drafting error on a recorded final plat.

4.1200 Resubdivisions

Resubdivision of land or changes to a recorded final plat shall be considered a new subdivision and shall comply with all of the following:

4.1201 With Planning Office approval in writing, lot lines may be revised from those shown on the recorded final plat. After Planning Office approval of the change, a revised plat with differences from the recorded plat clearly indicated, shall be submitted to the Planning Office for approval and, if approved, signed by the Commissioner of Planning and Natural Resources, and then to the Cadastral Section of the Office of the Tax Assessor for verification and subsequent recording with the Office of the Recorder of Deeds. The revised plat must meet the following conditions.

4.1201.A New corner monuments for revised lot lines must be set.

4.1201.B No lot or parcel of land shall be created or sold that is less than the minimum requirements as established by these regulations, the zoning provisions of the development code, or any other applicable regulations or ordinances.

4.1201.C Unless supported by complete engineering data, drainage easements shall not be changed.

4.1201.D Street locations and street rights-of-way (or street easements) shall not be changed.

4.1201.E The revised plat shall not be altered in any way that will adversely affect the character of the recorded plat.

4.1202 If it is discovered that there is a minor survey error or drafting error in a recorded final plat, the subdivider shall be required to file a revised final plat with an affidavit witnessed by 2 land surveyors licensed in the Virgin Islands concerned the change to be approved by the Planning Office. At least 1 of the surveyors shall be an impartial observer having no personal or monetary concern in the subdivision and that surveyor shall present a written statement, duly notarized attesting that such is the case. If, however, the correction of the error results in such major alterations that the corrected plat no longer meets the design standards and criteria of these regulations, then the subdivider must submit a revised plat correcting these deficiencies, following the procedures set forth in these regulations for review of a final plat.

³² Our research indicates that there is no longer a Commissioner of Conservation and Cultural Affairs. Consequently, we have replaced this position with the Commissioner of Sports, Parks, and Recreation and changed the citation.

- 4.1203** The subdivider must submit a copy of all final plat revisions to the Planning Office for its review. When the resubdivision complies with applicable requirements of these regulations, the subdivider shall submit a final plat to the Planning Office for its approval and, if approved, the final plat shall be signed by the Commissioner of Planning and National Resources.

4.1300 Building Permits; Zoning Permits³³

4.1301 When Required

Building permits are required in accordance with Title 29, Chapter 5, Sec. 294 of the Virgin Islands Code. Building permit applications must be submitted to the Zoning Administrator. A building permit application that has been determined to be complete and sufficient for processing (See Sec. [4.103.B](#)) must be acted upon by the Commissioner of Planning and Natural Resources within 60 days.

4.1302 Zoning Permit a Prerequisite to Building Permit Issuance

A building permit may not be issued by the Commissioner of Planning and Natural Resources until the Zoning Administrator has issued a zoning permit in accordance with the provisions of this development code or has otherwise determined in writing that a zoning permit is not necessary.

4.1303 Port Authority Review of Certain Applications

A copy of an application for a building permit in any of the zoning districts defined in chapters 5 and 7 of Title 6, Virgin Islands Code, must be submitted to the Virgin Islands Port Authority at the same time it is submitted to the Zoning Administrator provided such zoning district is one to which the building permit provisions of either of said chapters applies.

4.1304 Application Submittal Requirements

All applications for building and zoning permits must contain the following information. The Zoning Administrator may waive any item of required information if it is determined to be irrelevant or unnecessary to determine that all provisions of this development code have been met.

4.1304.A Site Plan

A site plan of the property, in duplicate, to a scale not to exceed 20 feet to 1 inch, prepared by a registered engineer, architect or land surveyor, or a draftsman pursuant to the authority of such draftsman under 27 V.I.C. §291(8), illustrating the proposed development of the property and including the following:

- 4.1304.A.1** Topographical features showing present grades and any proposed grades if present grades are to be altered. When required by the Zoning Administrator, contours not greater than 5 feet must be shown;
- 4.1304.A.2** Property boundary lines and dimensions including any distinguishing platted lot lines within the property;
- 4.1304.A.3** Location and dimensions of buildings, including height in stories and feet, and total square feet of ground area coverage of all existing and proposed buildings;

³³ This section contains existing and new material.

- 4.1304.A.4** Location and dimensions of all driveways and entrances;
- 4.1304.A.5** Minimum yard dimensions and, where relevant, relation of yard dimensions to the height of any side of a building or structure;
- 4.1304.A.6** Location and dimensions of parking stalls, access aisles, and total area of lot coverage of all parking areas and driveways;
- 4.1304.A.7** Location and dimensions, including height clearance, of all off-street loading areas;
- 4.1304.A.8** Location, designation and total area of all usable open space, including use of any paved areas as distinguished from sodded or other landscaped areas;
- 4.1304.A.9** Location and height of fences, walls (including retaining walls), and screen planting, and the type or kind of building materials or planting used;
- 4.1304.A.10** Proposed surface drainage;
- 4.1304.A.11** Location of easements or other rights-of-way;
- 4.1304.A.12** Location and designation of any open storage space;
- 4.1304.A.13** The use of existing and proposed buildings, including: the number of dwelling units in any building and the number of bedrooms in each dwelling unit in any building occupied or proposed to be occupied by more than 2 dwelling or units.
- 4.1304.A.14** A summary schedule of all existing or proposed dwelling types;
- 4.1304.A.15** In residential buildings, the location of any existing or proposed commercial accessory uses as permitted by this development code;
- 4.1304.A.16** For any commercial or mixed commercial-residential building that is subject to a floor area ratio (FAR) factor: the total floor area and the location and floor area of the commercial part of the building;
- 4.1304.A.17** Any information pertaining to a conditionally permitted use that is necessary to determine that the conditions for that use are met,
- 4.1304.A.18** Any information required by Chapter 5 or 7 of Title 6, Virgin Islands Code, pertaining to building permit;
- 4.1304.A.19** Two copies of a location map at a scale not to exceed 1 inch = 200 feet, showing the uses of all property across the street or alley from or adjoining the boundary of the subject property, including the following:
 - (a)** All streets, alleys or other public rights-of-way, public parks and places and all lots and lot lines, streams, guts, waterways and easements;

- (b) All structures and the principal use of each structure, including the kind of residential, business, commercial, industrial or waterfront use; and
- (c) All parking areas as may be significant to the application in question.

4.1304.B Other Information as Requested

The Zoning Administrator may also require additional information to determine that the application is in compliance with this development code. Such information may include floodplains, elevations, profiles, perspectives or any other material deemed necessary to conduct a competent review for compliance.

4.1304.C Written Statement

The applicant must submit a written and signed statement affirming that the application and the information submitted with the application are true and correct.

4.1400 Certificates of Use and Occupancy³⁴

- 4.1401** To ensure completion of development or use in the manner approved, a development may not be occupied and a use may not commence until the Commissioner of Planning and Natural Resources and Zoning Administrator, as applicable, have issued a certificate of use and occupancy following a determination that the work has been completed in conformance with the applicable zoning and building permits.
- 4.1402** The certificate of use and occupancy must state that the premises or building complies with all provisions of this development code and of Chapter 5, Title 29 of the Virgin Islands Code. When the alteration does not require the vacating of 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 temporary certificate of use and occupancy may be issued.
- 4.1403** The Zoning Administrator may issue the temporary certificate of use and occupancy for the relevant portion of the building, structure, or premises that is conditioned upon further specified work being completed by a date certain as stated on the temporary certificate. The date stated may not be more than 365 days into the future. No more than one temporary certificate of use and occupancy may be issued.
- 4.1404** No change or extension of use and no alteration may be made in a nonconforming use of a building or land without a certificate of use and occupancy having first been issued by the Zoning Administrator that such change, extension or alteration is in conformity with the provisions of this development code.
- 4.1405** Application for a certificate of use and occupancy may be made at the time application is made for a building permit or zoning permit. A certificate of use and occupancy must be issued by the Commissioner of Planning and Natural Resources and Zoning Administrator, as applicable, within 10 days after the erection or alteration of a building is completed if they determine the development to be in conformity with the provisions of this

³⁴ This section contains existing and new language.

development code and of Chapter 5, Title 29 of the Virgin Islands Code. The Zoning Administrator may not issue a certificate of use and occupancy without having first inspected the applicable property.

- 4.1406** All officials of the U.S. Virgin Islands vested with the authority to issue permits or grant approvals must adhere to and require conformance with this development code and may issue no permit or grant approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this development code.
- 4.1407** Any permit or approval issued or granted in conflict with the provisions of this development code is void.
- 4.1408** The Zoning Administrator must keep a permanent record of all zoning permits and temporary and final certificates of use and occupancy and must provide copies of such permits and certificates to any person upon written request.
- 4.1409** The Zoning Administrator must post notice of the issuance of a zoning permit and temporary and final certificate of use and occupancy on the website of the Department of Planning and Natural Resources within 3 days of their issuance. The notice must include the permit or certificate number, the address for which the permit is issued, the name of the applicants, the use for which the permit or certificate was issued, and the date of issuance.

4.1500 Appeals of Administrative Decisions

4.1501 Applicability; Authorized Appeals

The Board of Land Use Appeals is authorized to hear and decide appeals where it is alleged there has been an error in any order, requirement, decision or determination made by the Zoning Administrator or the Commissioner of Planning and Natural Resources in the administration, interpretation or enforcement of this development code.

4.1502 Right to Appeal

Appeals of administrative decisions may be filed by any person aggrieved by a decision or action of the Zoning Administrator or the Commissioner of Planning and Natural Resources. The Board of Land Use Appeals is authorized to make determinations about whether individuals filing appeals are "aggrieved by the decision or action."

4.1503 Application Filing

4.1503.A Complete applications for appeals of administrative decisions must be filed with appropriate personnel in the Planning Office.

4.1503.B Appeals of administrative decisions must be filed within 30 days of the date of the decision being appealed.

4.1504 Effect of Filing

Upon the filing of an appeal, a party to the appeal may petition the Board of Land Use Appeals for the issuance of a stay of all proceedings in furtherance of the action from which the appeal is made. The Board of Land Use Appeals may, at its discretion and on such conditions for the security of the adverse party as are proper, grant a stay, unless the Zoning Administrator certifies to the Board of Land Use Appeals after notice of appeal has been filed that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. If the certification is made, proceedings may not be stayed except by a restraining order, which after notice to the official and due cause

shown, may be granted by the Board of Land Use Appeals or by a court of competent jurisdiction.

4.1505 Record of Decision

Upon receipt of a complete application of appeal, the Zoning Administrator or the Commissioner of Planning and Natural Resources, as applicable, must transmit to the Board of Land Use Appeals all papers constituting the record upon which the action appealed is taken.

4.1506 Hearing and Final Decision

4.1506.A The Board of Land Use Appeals must hold a public hearing on the appeal.

4.1506.B Notice of the public hearing must be provided by newspaper, in accordance with Sec. [4.104](#).

4.1506.C Following the close of the hearing, at the same or subsequent meeting, the Board of Land Use Appeals must take action on the appeal. The board's decision must be supported by written findings of fact.

4.1506.D In exercising the appeal power, the Board of Land Use Appeals has all the powers of the official from whom the appeal is taken, and the Board of Land Use Appeals may reverse the appeal or affirm the appeal, in whole or in part, or modify the decision being appealed.

4.1506.E In acting on the appeal, the Board of Land Use Appeals must grant to the Zoning Administrator's or Commissioner's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.

4.1506.F The concurring vote of two-thirds of the total membership of the Board of Land Use Appeals is required to reverse any order, requirement, decision or determination of the Zoning Administrator or Commissioner of Planning and Natural Resources.

4.1506.G Any person who appeals to the Board of Land Use Appeals must be notified of the Board of Land Use Appeals' decision on his appeal by certified mail within 3 days after such decision is rendered.

4.1507 Review Criteria

An appeal may be sustained only if the Board of Land Use Appeals finds that the Zoning Administrator or other administrative official erred.

4.1508 Rehearing by Board of Land Use Appeals

The Board of Land Use Appeals may grant a rehearing on any appeal of administrative decision if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing or when the Board of Land Use Appeals determines that good cause has been shown for a rehearing. The request for a rehearing must be made within 30 days after the Board of Land Use Appeals' decision and must follow all procedures of this section, including payment of any required filing fees.

4.1509 Appeals

Any person aggrieved by a decision of the Board of Land Use Appeals may appeal the decision to the District Court of the Virgin Islands.

4.1600 Written Interpretations³⁵**4.1601 Authority to File**

Requests of written interpretations of the development code may be initiated by any person.

4.1602 Application Filing

Applications for written interpretations of this development code must be submitted to the Planning Office. At a minimum a request for a development code interpretation must include:

4.1602.A The section of the development code that needs interpretation or clarification;

4.1602.B The subject matter or nature of the request; and

4.1602.C Facts relevant to the nature of the request.

4.1603 Zoning Administrator's Review and Decision

4.1603.A Following receipt of a complete application for a written interpretation, the Zoning Administrator has the authority to issue or decline to issue a requested interpretation. The basis for declining may include, but is not limited to, a finding that the subject development code section affords only one reasonable interpretation and the interpretation does not support the request or that the request is frivolous. If the Zoning Administrator declines to issue a written interpretation, the applicant must be notified in writing.

4.1603.B If the Zoning Administrator elects to issue a written interpretation, the Zoning Administrator must: (1) review and evaluate the application and any other relevant documents; (2) consult with other staff, as necessary; (3) request additional information or documentation, as necessary, and (4) render a written interpretation within 30 calendar days following receipt of a complete application.

4.1603.C The Zoning Administrator's decision becomes effective on the date the decision is mailed to the applicant.

4.1604 Official Record of Interpretations

An official record of interpretations must be kept on file by the Zoning Administrator. The record of interpretations must be available for public inspection during normal business hours.

4.1605 Appeals

Appeals of the Zoning Administrator's written interpretation may be taken to the Board of Land Use Appeals in accordance with procedures of Sec. [4.1500](#).

³⁵ This is a new procedure.

Article 5 Nonconformities³⁶

5.100 General³⁷

5.101 Scope

The regulations of this article govern nonconformities, which are lots, uses and structures that were lawfully established but—because of the adoption of new or amended regulations—no longer comply with one or more requirements of this development code.

5.102 Intent

Occasionally, lots, uses, and structures that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) have been made nonconforming because of changes in the zoning regulations that apply to the subject property (e.g., through zoning map amendments or text amendments). The regulations of this article are intended to clarify the effect of such nonconforming status and avoid confusion with “illegal” buildings and uses (those established in violation of applicable zoning regulations). The regulations of this article are also intended to:

5.102.A recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;

5.102.B promote maintenance, reuse and rehabilitation of existing buildings; and

5.102.C place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties.

5.103 Authority to Continue

Any nonconformity that existed on the effective date specified in Sec. 1.300 or any situation that becomes nonconforming upon adoption of any amendment to this development code may be continued in accordance with the regulations of this article unless otherwise expressly stated.

5.104 Determination of Nonconformity Status

5.104.A The Zoning Administrator is authorized to determine whether adequate proof of nonconforming status has been provided by the owner of the property.

5.104.B The burden of proving that a nonconformity exists (as opposed to a violation of this development code) rests entirely with the owner of the property.

5.104.C A preponderance of the evidence must be provided and be sufficient to show that the nonconformity was lawfully established prior to the adoption of the development code or amendments to it. Evidence must also indicate that the nonconformity has been continuous and that it has not lost its nonconforming status. Examples of reliable evidence include: business licenses;

³⁶ This article has been completely updated/revised

³⁷ This draft does not carry forward existing provisions requiring the Zoning Administrator to prepare a comprehensive inventory of nonconformities and send notice to all owners of nonconforming property. If such an inventory or record of nonconformities does exist, the provision will be reinserted.

building permits; zoning permits; utility billing records; and assessment, tax or rent records.

5.104.D The Zoning Administrator must maintain a record of nonconformities as such information becomes available.

5.104.E Appeals of the Zoning Administrator's decision on nonconforming status determinations may be appealed to the Board of Land Use Appeals in accordance with Sec. [4.1500](#).

5.105 Repairs and Maintenance

5.105.A Nonconformities must be maintained to be safe and in good repair.

5.105.B Incidental repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless otherwise expressly prohibited by this development code. No structural alterations may be made, except those required to ensure the safety of the building or those otherwise allowed by law or ordinance.

5.105.C Nothing in this article is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized government official.

5.106 Change of Tenancy or Ownership

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership, or management.

5.200 Nonconforming Lots

5.201 Description

5.201.A A nonconforming lot is a lawfully created parcel of land that does not comply with all applicable minimum lot area or lot width standards of the zoning district in which the lot is located.

5.201.B All nonconforming lots are subject to nonconformity determination provisions of Sec. [5.104](#).

5.202 Use of Nonconforming Lots

5.202.A Any nonconforming lot in a residential zoning district may be used as a building site for a single detached house. If the nonconforming lot is classified in a zoning district that allows 2 dwelling units and 2 dwelling units can be placed on the lot in full compliance with applicable setback requirements, then the nonconforming lot may be used as a building site for 2 dwelling units.

5.202.B In nonresidential zoning districts, a nonconforming lot may be used as a building site and developed with a use allowed in the subject zoning district. If the zoning allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable lot area and lot width standards, while others would not, then only the uses or intensities that comply with applicable standards are permitted.

5.203 Lot and Building Standards

5.203.A Development on nonconforming lots must comply with the lot and building standards of the subject zoning district unless otherwise expressly stated.

5.203.B Nonconforming lots may not be adjusted in size or shape to create nonconformity or increase the degree of nonconformity for lot area, lot width, setbacks or other applicable lot and building standards. Lot area or shape adjustments that decrease the extent of nonconformity are allowed.

5.300 Nonconforming Structures

5.301 Description

5.301.A A nonconforming structure is any building or structure, other than a sign, that was lawfully established but no longer complies with the lot and building standards of the zoning district in which it is located.

5.301.B All nonconforming structures are subject to nonconformity determination provisions of Sec. [5.104](#)

5.302 General

Nonconforming structures may remain, subject to the regulations of this section.

5.303 Alterations and Expansions

Structural alterations, including enlargements and expansions, are permitted if the proposed structural alteration or expansion complies with all applicable lot and building standards. A building with a nonconforming front setback, for example, may be expanded to the rear as long as the rear expansion complies with applicable rear setback standards and all other applicable lot and building standards. On the other hand, a multi-dwelling building that is nonconforming with regard to density (i.e., contains more dwelling units than allowed by the underlying zoning) may not be expanded to add additional dwelling units.

5.304 Use

A nonconforming structure may be used for any use allowed in the zoning district in which the structure is located.

5.305 Moving

A nonconforming structure may be moved in whole or in part to another location only if the movement or relocation eliminates, reduces or does not increase the extent of nonconformity. A nonconforming structure may be moved to another lot only if the structure would comply with the zoning regulations that apply to that (relocation) lot.

5.306 Loss of Nonconforming Status

5.306.A Intentional Damage or Destruction

When a nonconforming structure is intentionally destroyed or damaged by causes within the control of the property owner or tenant, all nonconforming structure rights are lost and re-construction of the nonconforming structure is prohibited.

5.306.B Accidental Damage or Destruction

When a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner, the structure may be restored or repaired provided that no new nonconformities are created and

that the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 12 months of the date of occurrence of such damage. If a permit is not obtained within that time period, all nonconforming rights are lost.

5.400 Nonconforming Uses

5.401 Description

- 5.401.A** A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. Lawfully established uses that do not comply with any applicable separation (or spacing) distance requirements (e.g., those that require one land use to be located a certain minimum distance from another land use) are also deemed nonconforming uses.
- 5.401.B** All nonconforming uses are subject to nonconformity determination provisions of Sec. [5.104](#).

5.402 Change of Use

- 5.402.A** A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.
- 5.402.B** The Zoning Administrator is authorized to approve a nonconforming use substitution—substituting one nonconforming use for another nonconforming use that is no more intensive and creates no greater adverse impacts than the previous nonconforming use. In order to approve a zoning permit for a nonconforming use substitution, the Zoning Administrator must determine, based on information provided by the applicant, that the substituted use will cause no net increase in adverse impacts on the surrounding area than the previous nonconforming use of the property. In making such a determination, the Zoning Administrator must consider all of the following factors, as applicable:
- 5.402.B.1** traffic to and from the site;
 - 5.402.B.2** parking availability on- or off-site;
 - 5.402.B.3** hours of operation;
 - 5.402.B.4** outdoor display, storage and work activities; and
 - 5.402.B.5** other factors likely to substantially affect the immediate area in which the use is located.
- 5.402.C** A nonconforming open-air use may not be changed to any other nonconforming open-air use.

5.403 Expansion of Use

Expansion of a nonconforming use into another part of the same building as that building existed on the date that the use became nonconforming is allowed, subject to all of the following conditions:³⁸

- 5.403.A** any extension or enlargement of a nonconforming use will be considered lawful only if it is completed in a manner required by law or regulation or changed to a conforming use.
- 5.403.B** no structural alterations or changes are made therein except those required by law or regulation or such as may be necessary to secure or insure the continued advantageous use of the building during its natural lifetime.
- 5.403.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; and
- 5.403.D** in the case that nonconforming use is devoted to extracting soil, rock or other minerals from land, a minimum distance of 100 feet from adjoining properties must be maintained.

5.404 Remodeling and Improvements

A building in which a nonconforming use is located may be remodeled or otherwise improved as long as the remodeling or improvements do not violate the other regulations of this article.

5.405 Moving

A nonconforming use may be moved in whole or in part to another location only if the movement or relocation eliminates, reduces or does not increase the extent of nonconformity. A nonconforming use may be moved to another lot only if the use would comply with the zoning regulations that apply to that (relocation) lot.

5.406 Loss of Nonconforming Status

5.406.A Abandonment

- 5.406.A.1** Once a nonconforming use is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the zoning district in which it is located.
- 5.406.A.2** A nonconforming use is presumed abandoned when the use is discontinued or ceases for a continuous period of one year or more.
- 5.406.A.3** A nonconforming open-air use is presumed abandoned when the use is discontinued for a continuous period of 6 months or more.
- 5.406.A.4** The presumption of abandonment may be rebutted upon showing, to the satisfaction of the Zoning Administrator, that during such period the owner of the land or structure has been:

³⁸ This is an existing provision.

- (a) maintaining the land and structure in accordance with all applicable requirements and did not intend to discontinue the use;
- (b) actively and continuously marketing the land or structure for sale or lease for that particular nonconforming use; or
- (c) engaged in other activities that affirmatively prove there was not intent to abandon.

5.406.A.5 Any period of discontinued use caused by government action, unintended fire or natural disaster will not be counted in calculating the length of discontinuance.

5.406.B Change to Conforming Use

If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

5.406.C Intentional Destruction

When a building containing a nonconforming use is intentionally damaged by causes within the control of the owner, re-establishment of the nonconforming use is prohibited.

5.406.D Accidental Damage or Destruction

When a building containing a nonconforming use is accidentally destroyed or damaged by causes that are not within the control of the property owner or tenant, the building may be restored or repaired provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 12 months of the date of occurrence of such damage. If a permit is not obtained within that time period, all nonconforming rights are lost.

Article 6 Violations and Penalties³⁹

6.100 General

This article applies to all provisions of this development code unless otherwise expressly stated.

6.200 Responsibility for Enforcement

The Zoning Administrator has primary responsibility for enforcement of this development code.

6.300 Responsibility for Penalties

The following persons may be jointly and severally responsible for violations of this development code and subject to enforcement:

6.301 The owner or general agent of a building or premises where a violation of any provision of this development code has been committed or may exist;

6.302 Any tenant or occupant who has control over, or responsibility for, use or development of the subject property; or

6.303 Any architect, engineer, builder, contractor, agent, or any other person who knowingly participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this development code.

6.400 Violations

All buildings and land used or developed, and all buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered, must comply with all applicable provisions of this development code. Failure to comply with applicable provisions constitutes a violation of this development code. Express violations include, but are not limited to, the following:

6.401 using land or buildings in violation of the requirements of this development code;

6.402 erecting a building or other structure in any way not consistent with the requirements of this development code;

6.403 engaging in the development of land in any way not consistent with the requirements of this development code;

6.404 developing land inconsistent with the standards and procedures of this development code;

6.405 engaging in the use or alteration of a building or land, or any other activity requiring one or more permits or approvals under this development code without obtaining all such permits or approvals;

6.406 failing to comply with any permit or approval granted under this development code;

6.407 failing to comply with any condition imposed on a permit or approval;

6.408 obscuring, obstructing, removing or destroying any notice required to be posted or otherwise given under this development code;

6.409 failing to comply with any lawful order related to this ordinance issued by an authorized government official; or

³⁹ Provisions of this article are new unless otherwise stated.

- 6.410** disobeying, omitting, neglecting, or refusing to comply with or resist the enforcement of any of the provisions of this development code.

6.500 Remedies and Enforcement Powers

6.501 Applicability

The government may use any lawful remedy or enforcement powers, expressly including those described in this section.

6.502 Remedies Cumulative

The remedies and enforcement powers established in this development code are cumulative, and the government may exercise them in any order.

6.503 Withhold Permit or Other Development Authorization

6.503.A The Zoning Administrator may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements on property upon which there is an uncorrected violation of a provision of this development code or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the government. This enforcement power may be applied regardless of whether the current property owner or applicant is responsible for the violation in question.

6.503.B The Zoning Administrator may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this development code. This provision may be applied regardless of whether the property for which the permit or other approval is sought is the property in violation. For purposes of this section, a “person” is defined as any individual or business entity with more than a 20% interest in the subject property.

6.504 Permits with Conditions

Instead of withholding or denying a permit or other authorization, government officials may grant such authorization subject to the condition that the violation be corrected within a specified period of time.

6.505 Stop Work

6.505.A Whenever a structure or part thereof is being constructed, reconstructed, altered, or repaired, or other development is occurring, in violation of this development code, the Zoning Administrator may order the work to be immediately stopped.

6.505.B The stop work order must be in writing and directed to the person doing the work.

6.505.C The stop work order must state the specific work to be stopped, the specific reasons for the ordered stoppage, and the conditions under which the work may be resumed.

6.506 Forfeiture and Confiscation of Signs

Any sign installed or placed on public property, except in compliance with the regulations of the Department of Public Works, will be subject to forfeiture to the public and confiscation. In addition to other remedies and penalties of this section, the government has the right to dispose of signs illegally placed on public property and to recover from

the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

6.507 Injunctive Relief

The government may seek an injunction or other equitable relief in court to stop any violation of this development code.

6.508 Abatement

The government may seek a court order to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed before the violation.

6.509 Criminal⁴⁰

Any person who violates this development code is deemed guilty of a misdemeanor, and, upon conviction, may be fined not less than \$10.00 and not more than \$100.00 for each offense. Each day that a violation exists constitute a separate offense. If the offense be found to be willful on conviction thereof, the person will be subject to the following penalties: a fine of no less than \$100.00 or more than \$250.00 for each day that such violation continues; imprisonment for 10 days for each day such violation continues, or by both, in the discretion of the court. Each day that a violation exists constitute a separate offense.

6.510 Civil⁴¹

Any such person who, having been served with an order to remove any violation, fails to comply with said order within 15 days after such service, or who continues to violate any provision of this development code in the respect named in such order, will be subject to a civil penalty of \$250.00. Each day that a violation exists constitute a separate offense.

6.511 Remedial Action

Any person who violates this development code by alteration or modification of a structure to increase the number of dwelling units or living spaces within the structure, or by allowing any such alteration or modification to continue or to be used, is required to remove all fixtures, electrical and plumbing connections, furnishings, partitions and non-load bearing walls used in the violation.

6.600 Other Remedies and Enforcement Powers

The government may seek such other remedies and use other enforcement powers, as allowed by law.

6.700 Continuation of Previous Enforcement Actions

Nothing in this development code will be interpreted to prohibit the continuation of previous enforcement actions, undertaken by the government under previous, valid ordinances and laws.

⁴⁰ Existing

⁴¹ Existing

SUBCHAPTER 2 | ZONING DISTRICTS

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Article 7 Residential, Commercial and Industrial Districts

7.100 The Districts

7.101 Residential

The Territory's residential, commercial and industrial zoning districts are listed below. For convenience these districts are often referred to in this development code as "R," "C" and "I" districts, respectively.

Table 7-1: Residential, Commercial and Industrial Districts

Map Symbol	District Name
RESIDENTIAL	
R-1	Low-density Residential-1
R-2	Low-density Residential-2
R-3A ⁴²	Low-density Residential-3A
R-3B ⁴³	Low-density Multiple Residential-3B
R-3C ⁴⁴	Moderate-density Multiple Residential-3C
R-4	Moderate-density Multiple Residential-4
R-5	High-density Multiple Residential-5
COMMERCIAL	
CN-1 ⁴⁵	Neighborhood Commercial-1
CN-2 ⁴⁶	Neighborhood Commercial-2
CC ⁴⁷	Community Commercial
CBD ⁴⁸	Central Business
CS ⁴⁹	Service Commercial
INDUSTRIAL	
IL ⁵⁰	Light Industrial
IH ⁵¹	Heavy Industrial
IW ⁵²	Waterfront Industrial

7.200 Purposes

7.201 Residential⁵³

The Territory's residential zoning districts are primarily intended to create, maintain and promote a variety of housing opportunities for individual households and to maintain and promote the desired physical character of individual areas of the Territory. In addition, the regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed. While the R district regulations are intended to accommodate residential use types, some nonresidential uses are also allowed.

⁴² This is a new proposed district.

⁴³ This is a new proposed district.

⁴⁴ This is the existing R-3 district.

⁴⁵ This is a renamed version of existing B-4 district.

⁴⁶ This is a renamed version of existing B-3 district.

⁴⁷ This is a renamed version of existing B-2 district.

⁴⁸ This is a renamed version of existing B-1 district.

⁴⁹ This is a renamed version of existing C district.

⁵⁰ This is a renamed version of existing I-2 district.

⁵¹ This is a renamed version of existing I-1 district.

⁵² This is a renamed version of existing W-2 district.

⁵³ The district purpose statements are new/substantially reworked.

7.201.A R-1, Residential District

The R-1 district is primarily intended to accommodate single-household and two-household uses in detached buildings on large (20,000 square feet or larger) lots and to help preserve the character of areas in which such development patterns are predominate. It is intended for application in areas without access to centralized water and sewer systems but with adequate sewage treatment systems, as approved by the Territory.

7.201.B R-2, Residential District

The R-2 district is primarily intended to accommodate single-household and two-household uses in detached buildings on medium-sized (10,000 square feet or larger) lots and to help preserve the character of areas in which such development patterns are predominate. It is intended for application in areas without access to centralized water and sewer systems but with adequate sewage treatment systems, as approved by the Territory.

7.201.C R-3A, Residential District

The R-3A district is primarily intended to accommodate single-household and two-household uses in detached, semi-detached and attached buildings on small to medium-sized (6,000 square feet or larger) lots and to help preserve the character of areas in which such development patterns are predominate. It is intended for application in areas with access to centralized water and sewer systems.

7.201.D R-3B, Residential District

The R-3B district is primarily intended to accommodate single-household, two-household and low-density multiple-household uses in detached, semi-detached, attached and multi-unit buildings on small to medium-sized lots (6,000 square feet or larger) lots and to help preserve the character of areas in which such development patterns are predominate. It is intended for application in areas with access to centralized water and sewer systems.

7.201.E R-3C, Residential District

The R-3C district is primarily intended to accommodate single-household, two-household and moderate-density multiple-household uses in detached, semi-detached, attached and multi-unit buildings on small to medium-sized lots (6,000 square feet or larger) lots and to help preserve the character of areas in which such development patterns are predominate. It is intended for application in areas with access to centralized water and sewer systems.

7.201.F R-4, Residential District

The R-4 district is primarily intended to accommodate single-household, two-household and moderate-density multiple-household uses in detached, semi-detached, attached and multi-unit buildings on small lots (3,000 square feet or larger) lots and to help preserve the character of areas in which such development patterns are predominate. It is intended for application in areas with access to centralized water and sewer systems.

7.201.G R-5, Residential District

The R-5 district is primarily intended to accommodate multiple-household uses in detached multi-unit buildings on medium-sized lots (10,000 square feet or larger) lots and to help preserve the character of areas in which such

development patterns are predominate. It is intended for application in areas with access to centralized water and sewer systems.

7.202 Commercial⁵⁴

The Territory's commercial mixed-use zoning districts are primarily intended to accommodate commercial and mixed-use buildings and development.

7.202.A CN-1, Neighborhood Commercial District-1

The CN-1 district is primarily intended to accommodate low-intensity neighborhood shopping and convenience services within and near residential areas. The CN-1 district is also appropriate for mixed-use buildings with nonresidential uses on the ground floor and residential dwelling units on upper floors.

7.202.B CN-2, Neighborhood Commercial District-2

The CN-2 district is primarily intended to accommodate existing, small-neighborhood-serving business including mixed-use live-work spaces that are found interspersed among some residential areas of the Territory.

7.202.C CC, Community Commercial District

The CC district is primarily intended to accommodate community serving retail, office and entertainment uses that draw customers from an island- or Territory-wide trade area. The CC district is also appropriate for mixed-use buildings with nonresidential uses on the ground floor and residential dwelling units on upper floors. The district is appropriate for uses that are automobile-oriented, such as supermarkets and multi-tenant commercial strip centers. It is intended for application in areas with access to centralized water and sewer systems.

7.202.D CB, Central Business District

The CB, Central Business district is primarily intended to accommodate visitor- and tourist-serving uses within the central business district areas of Charlotte Amalie, Christiansted and Frederiksted. The CB district is also appropriate for mixed-use buildings with nonresidential uses on the ground floor and residential dwelling units on upper floors. It is intended for application in areas with access to centralized water and sewer systems.

7.202.E CS, Service Commercial District

The CS, Service Commercial district is primarily intended to accommodate heavy commercial and industrial service uses in areas that will minimize adverse operational and visual impacts on residential and tourist-oriented areas. It is intended for application along major and minor arterial roads in areas with access to centralized water and sewer systems.

7.203 Industrial⁵⁴

The Territory's industrial zoning districts are primarily intended to high-impact commercial service uses, manufacturing uses and industrial uses in areas that will minimize adverse operational and visual impacts on residential and tourist areas.

7.203.A IL, Light Industrial District

The IL district is primarily intended to accommodate low- to moderate-impact commercial service, manufacturing and industrial uses. It is intended

⁵⁴ The district purpose statements are new/substantially reworked.

for application in areas with access to centralized water and sewer systems.

7.203.B IH, Heavy Industrial District

The IH district is primarily intended to accommodate moderate- to high-impact commercial service, manufacturing and industrial uses. It is intended for areas with access to centralized water and sewer systems.

7.203.C IW, Waterfront Industrial District

The IW district is waterfront-dependent marine-related commercial service, manufacturing and industrial uses.

7.300 Allowed Uses

Uses are allowed in residential zoning districts in accordance with [Table 10-1](#). Uses are allowed in commercial, industrial and special purpose districts in accordance with [Table 10-2](#).

7.400 Lot and Building Standards

The lot and building standards established in [Table 7-2](#), [Table 7-3](#), and [Table 7-4](#) of this section apply to all principal and accessory uses allowed in R, C and I districts, respectively, except as otherwise expressly stated in this development code. These regulations are not to be construed as a guarantee that maximum allowed densities and development yields can be achieved on every lot. Other factors, such as topography, the presences of protected resources, off-street parking requirements, landscaping requirements, and other factors may work to further limit actual development potential. General exceptions to these standards and rules for measuring compliance can be found in [Article 23](#).

Table 7-2: Residential District Lot and Building Standards

Lot/Building Standard	R-1	R-2	R-3A ⁵⁵	R-3B ⁵⁵	R-3C ⁵⁶	R-4	R-5
Lot Size							
Minimum Lot Area (square feet)	20,000 ⁵⁷	10,000	6,000	3,000	6,000	3,000	10,000
Minimum Lot Width (feet)	100	75	40	40	None	40	None
Density							
Maximum Density (dwelling units per acre)	4.0	8.7	14.5	24.0	32.0 ⁵⁸	48.0 ⁵⁸	64.0 ⁵⁸
Maximum Density (lodging rooms per acre)	NA	NA	NA	NA	40.0 ⁵⁹	60.0 ⁵⁹	80.0 ⁵⁹
Setbacks							
Minimum Front Setback (feet)	15	15	15	15	None	None	None
Minimum Interior Side Setback (feet)	15	10	5	5	None	None	None
Minimum Street Side (corner) Setback (feet) ⁶⁰	15	10	5	5	None	None	None
Minimum Rear Setback (feet)	15	10	10	10	None	None	None
Height, Building Coverage and Open Space							
Maximum Building Height (stories)	2	2	2	3	6	3	8
Maximum Building Coverage (% of lot)	25	30	30	30	30	50	30
Minimum Usable Open Space (% of lot)	None	None	None	None	35	None	35

⁵⁵ New proposed districts

⁵⁶ Renamed version of existing R-3 district

⁵⁷ Proposed minor reduction in the minimum lot area requirement for R-1, from 21,780 to 20,000 sq. ft.

⁵⁸ This is a proposed "density conversion" of the existing persons per acre limitation using 2.5 persons per dwelling unit (note: "actual" is 2.65 persons per unit).

⁵⁹ This is a proposed "density conversion" of the existing persons per acre limitation using 2.0 persons per lodging room.

⁶⁰ Unsure if this is a correct interpretation of existing regulations

Table 7-3: Commercial District Lot and Building Standards

Lot/Building Standard	CN-1	CN-2	CC	CB	CS
Lot Size					
Minimum Lot Area (square feet)					
Residential	6,000	3,000	5,000	20,000	NA
Nonresidential/Mixed-use	None	None	None	None	None
Maximum Lot Area (square feet)	10,000	None	None	None	None
Minimum Lot Width (feet)	40 ⁶¹	None	None	None	None
Density/Intensity					
Maximum Density (dwelling units per acre) ⁶²	32.0	48.0	32.0	64.0	NA
Maximum Density (lodging rooms per acre)	40.0 ⁶³	60.0 ⁶³	40.0 ⁶³	80.0 ⁶³	NA
Maximum Floor Area Ratio	None	None	1.0	2.0	None
Setbacks					
Minimum Front Setback (feet)	None	None	None	None	None
Minimum Interior Side Setback (feet)					
Abutting Nonresidential Zoning	None	None	None	None	None
Abutting Residential Zoning ⁶⁴	5	5	None	None	None
Minimum Street Side (Corner) Setback (feet) ⁶⁵	None	None	None	None	None
Minimum Rear Setback (feet)					
Abutting Nonresidential Zoning	5	5	None	None	None
Abutting Residential Zoning ⁶⁴	20	10	None	None	None
Height, Building Coverage and Open Space					
Maximum Building Height (stories)					
Residential/Mixed-use	2	3	3	3	3 ⁶⁶
Nonresidential	2	2	3	3	3 ⁶⁶
Maximum Building Coverage (% of lot)					
Residential/Mixed-use	50	60	40	40	NA
Nonresidential	50	60	100	100	100
Minimum Usable Open Space (% of lot)					
Residential/Mixed-use	None	None	30	30	NA
Nonresidential	None	None	None	None	None

Table 7-4: Industrial District Lot and Building Standards

Lot/Building Standard	IL	IH	IW
Setbacks			
Minimum Front Setback (feet) [1]	None	100[1]	25[1]
Minimum Interior Side Setback (feet)	20[2]	100[1]	25[1]
Minimum Street Side (Corner) Setback (feet) ⁶⁷	None	100[1]	25[1]
Minimum Rear Setback (feet)	20[2]	100[1]	25[1]
Height and Building Coverage			
Maximum Building Height (feet)	35	50	35
Maximum Building Coverage (% of lot)	60	35	40

[1] Specified setback required only abutting residential zoning district.

⁶¹ This (existing) minimum lot width seems odd in the context of all the other districts. Is it appropriate?

⁶² These represent proposed “density conversions” of the existing persons per acre limitation, using 2.5 persons per dwelling unit (note: “actual” is 2.65 persons per unit).

⁶³ This is a proposed “density conversion” of the existing persons per acre limitation using 2.0 persons per lodging room.

⁶⁴ Setback is currently tied to zoning or use.

⁶⁵ Unsure if this is a correct interpretation of existing regulations

⁶⁶ Height limit of the existing C (proposed CS) district is currently 35 feet.

⁶⁷ Unsure if this is a correct interpretation of existing regulations

7.500 Other Regulations

Uses and development in R, C and I districts may be subject to other regulations and standards, including the following:

7.501 Nonconformities

See [Article 5](#).

7.502 Accessory Uses and Structures

See [Article 13](#).

7.503 Parking and Loading

See [Article 14](#).

7.504 Landscaping and Screening

See [Article 15](#).

Article 8 Special Purpose Districts

8.100 The Districts

The Territory's special purpose zoning districts are listed below. When this development code refers to "special purpose" zoning districts, it is referring to all of these districts.

Table 8-1: Special Purpose Districts

Map Symbol	District Name
A-1	Agricultural
A-2	Agricultural
P	Public
W ⁶⁸	Waterfront
S	Special

8.200 Purposes

As the name implies, "special purpose" zoning districts are tools for dealing with special situations or accomplishing special planning and zoning goals.

8.300 Descriptions⁶⁹

8.301 A-1, Agricultural District

The A-1 district is intended to provide for the continuation of large-scale, intensive agricultural activities with a minimum lot or parcel area of 40 acres to ensure that the impacts of agricultural activity are contained within the district boundaries. Typical uses include dairying and livestock enterprises, forestry, aquaculture, and mariculture.

8.302 A-2, Agricultural District

The A-2 district is primarily intended to accommodate small-scale, less intensive agricultural uses, including the growing of fruits and vegetables with a minimum lot or parcel area of 2 acres.

8.303 P, Public District

The P district is primarily intended to accommodate a wide range of public and quasi-public uses distributed throughout the Territory (e.g., park and recreation facilities, schools, transportation facilities, public buildings and facilities, museums, hospitals, cultural facilities and public infrastructure facilities) and similar compatible uses. It is intended for application to lands that are owned by the Territorial government and other governmental agencies.

8.304 W, Waterfront District

The W, district is primarily intended to help protect the waterfront and marine environment, two of the Virgin Islands' most important assets.

8.305 S, Special District

The S, district is primarily intended to accommodate publicly financed affordable and workforce housing projects.

8.400 Allowed Uses

Uses are allowed in special purpose zoning districts in accordance with [Table 10-2](#).

⁶⁸ Renamed version of existing W-1 district.

⁶⁹ District description and intent statements are new/substantially reworked.

8.500 Lot and Building Standards

The lot and building standards of [Table 8-2](#) apply to all principal and accessory uses allowed in special purpose districts, except as otherwise expressly stated in this development code. These regulations are not to be construed as a guarantee that maximum allowed densities and development yields can be achieved on every lot. Other factors, such as topography, the presences of protected resources, off-street parking requirements, landscaping requirements, and other factors may work to further limit actual development potential. General exceptions to these standards and rules for measuring compliance can be found in [Article 23](#).

Table 8-2: Special Purpose District Lot and Building Standards

Lot/Building Standard	A-1	A-2	P	W	S
Lot Size					
Minimum Lot Area (sq. ft.)	40 Acres	87,120	NA	10,000	2,000[1]
Minimum Lot Width (feet)	400 ⁷⁰	250 ⁷⁰	NA	100	
Density/Intensity					
Maximum Density (dwelling units per acre)	0.05	1	NA	2	32 ⁷¹
Maximum Density (person per acre)	NA	NA	NA	NA	80
Setbacks					
Minimum Front Setback (feet)	50	25	NA	25	NA
Minimum Interior Side Setback (feet)	100	50	NA	10[1]	NA
Minimum Street Side (Corner) Setback (feet) ⁷²	100	50	NA	25	NA
Minimum Rear Setback (feet)	100	50	NA	20[1]	NA
Height, Building Coverage and Open Space					
Maximum Building Height (stories)	3	3	2	3	3
Maximum Building Coverage (% of lot)	NA	NA	NA	40	50
Minimum Usable Open Space (% of lot)	NA	NA	NA	30	NA

[1] Applies only to residential.

[2] Subject to height limit of most restrictive abutting district.

8.600 Other Regulations

Uses and development in special purpose districts may be subject to other regulations and standards, including the following:

8.601 Nonconformities

See [Article 5](#).

8.602 Accessory Uses and Structures

See [Article 13](#).

8.603 Parking and Loading

See [Article 14](#).

8.604 Landscaping and Screening

See [Article 15](#).

⁷⁰ Proposed new standard; intended to prevent proliferation of extremely narrow, deep parcels

⁷¹ This is a proposed “density conversion” of the existing persons per acre limitation using 2.5 persons per dwelling unit (note: “actual” is 2.65 persons per unit).

⁷² Unsure if this is a correct interpretation of existing regulations

Article 9 Overlay Districts

9.100 PAD, Planned Area Development Overlay⁷³

9.101 Purpose

The PAD, Planned Area Development Overlay district is intended to accommodate and promote creative and unique site designs that are sensitive to the land's features and adapts to the natural topography, giving flexibility in the establishing the relationships of buildings and uses to the site.

9.102 Unified Control

No application for PAD overlay zoning approval will be accepted or approved unless all of the property included is under unified control at the time of application filing.

9.103 Procedures and Administration

9.103.A Establishment of a PAD overlay district requires concurrent approval of a zoning map amendment and site plan in accordance with Sec. 4.300 and Sec. 4.400. The boundaries of all approved PAD overlays must be shown on the zoning map and identified by the map symbol "PAD" as well as the file number and date of approval.

9.103.B All development and construction with a PAD overlay must comply with the site plan and construction phasing plan approved with the PAD overlay zoning map amendment.

9.103.C Permits for construction pursuant to an approved PAD site plan must be obtained in accordance with the construction phasing plan approved by the Legislature at the time of zoning and site plan approval. If permits are not obtained within the times required by the phasing plan, the site plan approval will be deemed to have lapsed and be of no further effect. No additional permits for construction may be issued until the property owner has submitted a new site plan or revised construction phasing schedule and such plan or schedule has been approved in accordance with the procedures applicable to the original PAD approval.

9.103.D The Virgin Islands Planning Office is authorized to approve minor amendments to approved PAD plans, provided that such minor amendments are in compliance with all regulations of this section and the general intent of the approved PAD site plan. Any other amendments require approval in accordance with the procedures applicable to the original PAD.

9.104 Development Standards

9.104.A Required Minimum Area

A planned area development shall have a minimum area of 5 acres.

9.104.B Underlying Zoning

PAD overlay zoning districts may be approved only with underlying base district zoning of A-1, A-2, R-1, or R-2.

⁷³ This section appears in the existing code and is unchanged.

9.104.C Uses Allowed

Any principal or accessory use allowed in the underlying zoning district is permitted in a PAD. In addition, uses allowed in R-3A, R-3B, R-3C, R-4, R-5, CN-1, and CN-2 districts are allowed if expressly approved as part of the PAD site plan, provided such uses shall not occupy more than 5% of the gross area of the PAD.

9.104.D Required Parking

Off-street parking and off-street loading must be provided in accordance with [Article 14](#).

9.104.E Permitted Density**9.104.E.1 A-1, A-2 and R-1**

In the A-1, A-2 and R-1 districts the maximum residential density may not exceed the maximum density allowed in the R-2 district.

9.104.E.2 R-2

In the R-2 district the maximum residential density may not exceed the maximum density allowed in the R-3C district.

9.104.F Permitted Building Coverage

The total building coverage for a planned area development shall not exceed than 30% of the gross area of the planned area development.

9.104.G Maximum Height Limit

No residential structure shall exceed a height of 86 feet.

9.104.H Common Open Space

9.104.H.1 The planned area development shall contain common open space in an amount not less than 40% of the gross area. Common open space shall be used for recreation and outdoor living space not including off-street parking, all of which uses shall include space for landscaping.

9.104.H.2 The Planning Office shall stipulate such provisions for the ownership and maintenance of the common open space as will insure its continuity and conservation.

9.104.H.3 The Planning Office may require that land be deeded to the Government for public schools and for recreation and/or park purposes. Deeded land is to be fully credited as common open space.

9.104.I Paving of Private Interior Streets

The Planning Office may require that all private interior streets be paved at the expense of the developer in accordance with the specifications set forth by it.

9.105 Planned Area Affordable Housing Developments

Affordable housing proposed by private persons or by the government may be developed as PADs in accordance with the provisions of this section.

9.105.A Intent and Purpose

- 9.105.A.1** There is a critical shortage of decent, safe, sanitary and affordable housing in the United States Virgin Islands. One of the factors contributing to the shortage of affordable housing is outmoded and rigid zoning and subdivision laws and building codes. The Government can encourage the provision of affordable housing by making land use and building regulations more flexible and by providing other incentives for the production of such housing. Savings in housing development costs can be achieved through higher density and reductions in frontage and setback requirements and lot coverage requirements. Savings can also be achieved by expediting the land use and building approval process and by making the process more predictable.
- 9.105.A.2** It is the intent of this section to provide a specialized procedure that will, through incentives and in consideration of specific housing development proposals, facilitate construction of affordable housing in the United States Virgin Islands.
- 9.105.A.3** A development permit for planned area 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 affordable housing development. Any person seeking approval of an affordable housing development and who agrees to make a portion of the housing units within such development affordable within the meaning of this section may request development approval as a PAD. Applications for PAD approval for affordable housing shall receive priority processing by the Legislature, the Planning Office and the Zoning Administrator and all governmental departments and agencies involved in the review and approval of land development proposals.

9.105.B Approval Criteria

In approving a planned area affordable housing development, the Legislature shall clearly set forth the requirements, standards, and conditions applicable to the affordable housing development for which approval is granted. A planned area affordable housing development approval specifying the land use and building requirements applicable to such development shall be granted by the Legislature only if the Planning Office finds and determines that the proposed development:

- 9.105.B.1** will provide affordable housing which will remain affordable for at least the term of the applicable affordable housing development agreement;
- 9.105.B.2** will provide safe, sanitary and high quality dwelling units with amenities sufficient to meet the needs of eligible home buyers or renters and which are aesthetically compatible with the environment;

9.105.B.3 will not unreasonably compromise or substantially impair any otherwise applicable environmental, water or land use and building policies and standards; and

9.105.B.4 will significantly promote the health, safety and general welfare of residents of the United States Virgin Islands by helping to reduce the shortage of housing affordable to low- and moderate-income households and providing additional jobs for residents of the United States Virgin Islands.

9.105.C Expedited Review and Incentives

9.105.C.1 In order to encourage and facilitate the development of affordable housing, persons desiring to construct residential housing may elect to file an application for a planned area 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 Sec. [9.103](#) are met.

9.105.C.2 Applications for a planned area development permit for affordable housing shall be submitted by the applicant to the Virgin Islands Planning Office. An affordable housing development plan shall be submitted along with the planned area development permit application. A copy of such plan shall also be delivered to the Legislature, the Planning Office or the VIHFA and the Authority. Prior to the final approval of a planned area 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 Department or 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 the land. Upon issuance of the development permit, the affordable housing development agreement shall be signed by the Zoning Administrator and the Department or the 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 Zoning Administrator, the Authority and the Department or the VIHFA for their respective records.

9.105.C.3 The Virgin Islands Department of Planning and Natural Resources and all other agencies and departments having jurisdiction in the matter shall give priority treatment to planned area affordable housing development permit applications. Completed applications shall be reviewed and set for public

hearing within 60 business days of submission. The Department of Planning and Natural Resources shall promulgate rules and regulations specifying the information and data required to be submitted in connection with the review of planned area affordable housing development applications.

9.105.D Procedure

9.105.D.1 Applications for planned area development permits for affordable housing shall be submitted to the Virgin Islands Department of Planning and Natural Resources. Prior to submission of a final application, applicants are encouraged to schedule a pre-application conference with the Virgin Islands Department of Planning and Natural Resources and the Department to review applicable zoning and affordable housing program requirements and incentives.

9.105.D.2 The Department of Planning and Natural Resources, after required public notice has been provided shall hold a public hearing regarding the proposed development wherein all interested persons shall have the opportunity to be heard regarding the proposed housing development. After the public hearing, the Department of Planning and Natural Resources shall submit to the Legislature, the Governor, the Department or the VIHFA and the Zoning Administrator a report containing its recommendations on the proposed affordable housing development.

9.105.D.3 The public hearing and report shall be undertaken only after a complete application has been received by the Department of Planning and Natural Resources. Completed applications shall be reviewed by the Department of Planning and Natural Resources and scheduled for a public hearing within 60 business days of the receipt thereof. Only complete applications are required to be reviewed within the prescribed 60 day period.

9.105.D.4 Failure of the Department of Planning and Natural Resources to report its recommendations to the Legislature, the Governor, the Department or the VIHFA and the Zoning Administrator after the public hearing shall be treated as a favorable recommendation of the application. The report shall include findings and recommendations and the reasons for approval, disapproval or modification of the proposed development. A statement of the recommendations of the Department of Planning and Natural Resources and approving, disapproving or proposing a modification of such planned area affordable housing development proposal shall be read at the public hearing. A proposal disapproved by said department may be adopted by the Legislature.

9.105.D.5 After the public hearing and following submission of the report, the Legislature shall approve, disapprove, or modify

and approve the proposed development and shall accordingly authorize the issuance or denial of, as appropriate, the development permit.

9.105.E Reconsideration of Applications

In case the Department of Planning and Natural Resources recommends denial of a request for a planned area 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 as herein required.

9.105.F Development Standards

9.105.F.1 Planned area affordable housing developments are subject to the development standards of Sec. [9.104](#), provided that the Legislature is authorized to establish different maximum density, building coverage, common open space and building setback requirements for such developments.

9.105.F.2 Notwithstanding Sec. [9.104](#) or any other law, the Government of the Virgin Islands Housing Finance Authority shall be exempted from the requirements of paving streets and installing utility systems, including electrical, telephone, water and gas lines, as a precondition to Government's subdividing land for use or sale in the Affordable Housing Program under this section.⁷⁴ However, upon the Government's completion of a subdivision, under the provisions of this section, the Government shall, within 180 days after the last home is constructed, complete the paving of streets and install utility systems and all monies generated from the sales of lots or housing units in the subdivision shall be deposited in a separate account and used or expended for the sole purpose of paving the streets and installing utility systems, including electrical, telephone, water and gas lines in the subdivision. Once the Government has completed the required construction of streets and installation of required public improvements, the balance of the monies remaining from the sales of the lots or housing units shall be deposited into the Land Bank Fund as established under Title 33, Chapter 111, of the Virgin Islands Code.

9.200 FBC, Form-Based Code Floating Zones

9.201 General

This section establishes the general authority and basic procedure for establishment of FBC, Form-Based Code floating zones.

⁷⁴ One reviewer suggested that exempting the VIHFA as a precondition to subdividing land for use or sale under the Affordable Housing Program is problematic in that people could purchase homes without the necessary infrastructure and this would create a situation where a mortgage company would not give mortgages. It is not clear why this section is here and consideration should be given to eliminating it.

9.202 Purpose

FBC, Form-Based Code floating zones are intended to help implement a specific urban form within a specified area, as described in the adopted urban design element for that area.

9.203 Minimum Land Area

An FBC floating zone must apply to a minimum contiguous area of at least 5 acres. Areas of less than 5 acres may be included in an FBC floating zone only if they abut and extend an existing an FBC floating zone.

9.204 Procedure

9.204.A FBC floating zone regulations must be established in accordance with the development code text amendment procedures of Sec. 4.200.

9.204.B An FBC floating zone district classification may be applied to property only in accordance with the zoning map amendment procedures of Sec. 4.300.

9.204.C The planning office's recommendation to apply an FBC floating zone must be accompanied by:

9.204.C.1 a map showing the recommended boundaries of the FBC floating zone;

9.204.C.2 an explanation of the overall purpose of the proposed FBC floating zone;

9.204.C.3 an explanation of the process used to create the FBC floating zone regulations and define the proposed boundaries of the proposed district, specifically including the process used to engage and communicate with property owners within the proposed districts.

9.204.C.4 all regulations and guidelines that will apply to property within the boundaries of the FBC floating zone.

9.205 Districts Established

The adopted form-based code floating zones are listed in Table 9-1.

Table 9-1 Form-Based Code Floating Zones

<u>Map Symbol</u>	<u>District Name</u>	<u>Regulations</u>
<u>RESERVED</u>	<u>RESERVED</u>	<u>RESERVED</u>

9.300 /IC, Island Character Overlays Generally**9.301 Purpose**

This section established the general authority and procedure for establishment of island-specific overlay district regulations, which are referred to as /IC (Island Character) overlays. /IC overlays are intended to:

9.301.A recognize and protect the physical character of individual islands or portions of islands that exhibit unique development constraints and building patterns;

9.301.B encourage investment in the form of construction and development that conform to the size, orientation and setting of existing buildings within the overlay area;

9.301.C foster development and redevelopment that are compatible with the scale and physical character of buildings in the overlay through the use of development/design standards; and

9.301.D promote economic, natural and cultural assets.

9.302 Selection Criteria

An /IC overlay must be a geographically defined area that has a significant concentration, linkage or continuity of sites that are united by physical development patterns, constraints or architecture. To be eligible for /IC zoning, the area must comply with all of the following criteria:

9.302.A the area must possess natural, urban design, architectural or other physical development characteristics that create an identifiable setting, character and association; and

9.302.B the designated area must be a contiguous area of at least 25 acres. Areas of less than 25 acres may be designated if they abut and extend an existing /IC overlay, or if deemed necessary by the Legislature to address specific circumstances.

9.303 Uses

Uses allowed by the underlying zoning district are allowed in all /IC overlays unless expressly modified when the specific island character overlay is adopted.

9.304 Development/Design Standards

In establishing an /IC overlay, the Legislature is authorized to adopt island-specific development and design standards to guide development and redevelopment within the subject /IC overlay.

9.305 Procedure for Establishment

9.305.A /IC district regulations must be established in accordance with the development code text amendment procedures of Sec. 4.200.

9.305.B Once district regulations are created, an /IC overlay may be applied to property in accordance with the zoning map amendment procedures of 4.300. The Planning Office's recommendation to apply an /IC overlay must be accompanied by a report containing the following information:

9.305.B.1 a map showing the recommended boundaries of the /IC overlay;

9.305.B.2 a description of the general pattern of development and why such an overlay is needed;

9.305.B.3 any recommended overlay-specific development and design standards applicable to development and redevelopment within the overlay; and

9.305.B.4 an explanation of the planning and zoning implications related to the designation of the proposed area and application of the overlay-specific development and design standards.

9.305.C Overlays Established

The adopted /IC overlays are listed below.

Map Symbol	District Name	Regulations
RESERVED	RESERVED	

SUBCHAPTER 3 | USE REGULATIONS, CLASSIFICATIONS AND STANDARDS

Article 10	Allowed Uses	10-1
10.100	Use Tables	10-1
10.200	Understanding the Use Tables	10-1
10.300	Residential Districts Use Table	10-2

Article 10 Allowed Uses

10.100 Use Tables

Principal uses are allowed in residential zoning districts in accordance with [Table 10-1](#). Principal uses are allowed in commercial, industrial and special purpose zoning districts in accordance with [Table 10-2](#).

10.200 Understanding the Use Tables

10.201 Use Classification System

For the purpose of this development code, uses are classified into use categories and subcategories. These are described and defined in [Article 11](#). Use categories and subcategories are identified in the first column of [Table 10-1](#) and [Table 10-2](#). In some cases, specific use types are listed in addition to the use subcategories.

10.202 Permitted Uses

Uses identified with a “P” in [Table 10-1](#) and [Table 10-2](#) are permitted as-of-right in the subject zoning district, subject to compliance with all other applicable standards of this development code.

10.203 Permitted Uses, Subject to Use-specific Standards

Uses identified with a “P/S” in [Table 10-1](#) and [Table 10-2](#) are permitted as-of-right in the subject zoning districts if they comply with all applicable use-specific standards and all other applicable standards of this development code.

10.204 Ancillary Uses

Uses identified with an “A” are allowed as ancillary uses comprising a minor and subordinate component of the primary use.

10.205 Prohibited Uses

Uses identified with an “-” are expressly prohibited. Uses that are not listed in [Table 10-1](#) or [Table 10-2](#) are also prohibited.

10.206 Use Standards

The “standards” column of [Table 10-1](#) and [Table 10-2](#) identifies use-specific standards that apply to some uses. Additional use regulations and standards may also be imposed through overlay zoning districts.

10.207 Accessory Uses

Uses classified as customary accessory uses, such as home occupations accessory to a household living use, are not regulated by [Table 10-1](#) and [Table 10-2](#). Accessory uses are permitted in conjunction with allowed principal uses, provided they comply with all applicable regulations of [Article 13](#).

10.300 Residential Districts Use Table

Table 10-1: Principal Uses Allowed In Residential Districts

USE CATEGORY	R-1	R-2	R-3A	R-3B ⁷⁵	R-3C ⁷⁵	R-4	R-5	Standards
Use Subcategory								
^L Specific Use Type								
P = permitted as of right; P/S = permitted subject to conditions; A= allowed accessory use; – = Not allowed								
RESIDENTIAL								
Household Living								
^L Attached Dwelling	S	S	P	P	P	P	P	12.1200
^L Detached Dwelling	P	P	P	P	P	P	P	
^L Semi-detached Dwelling	S	S	P	P	P	P	P	12.1200
^L Group Dwelling	S	S	P	P	P	P	P	12.1200
^L Multiple Dwelling	–	–	–	–	P	P	P	
Group Living (except as identified below)								
^L Nursing Home, Rest Home	P/S	P/S	P/S	P/S	P	P	P	12.2600
^L Religious Living Quarters ⁷⁶	P	P	–	–	–	–	–	
PUBLIC/CIVIC								
College/University	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.900
Day Care	P	P	P	P	P	P	P	
Detention/Correctional Facility (except as identified below)	–	–	–	–	–	–	–	
^L Youth Correctional Institution	–	–	–	–	–	P	–	
Fraternal/Labor/Membership/Organization	–	–	–	–	P	–	P	
Hospital	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.1800
Library/Cultural Exhibit	–	P	P	P	P	P	P	
Park/Recreation/Open Space (except as identified below)	P	P	P	P	P	P	P	
^L Athletic Fields/Playfields	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.300
^L Community Centers	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.1000
^L Country Clubs/Golf Clubs	P/S	P/S	P/S	P/S	P	–	P	12.1100
^L Playgrounds	–	–	–	–	P	P	P	
^L Tennis Courts	–	P	P	P	P	P	P	
Post Offices								
Religious Assembly	P/S	P/S	P	P	P	P	P	12.2900
Safety Services	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.1400
School	P	P	P	P	P	P	P	
Utilities and Services								
^L Electric Substations, Radio/Television Towers, and Telephone Relay Towers	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.1300
^L Sewage Lift Stations and Pressure Control Stations	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.3100
^L Sewage Treatment Plants	P/S	P/S	P/S	P/S	P/S	P/S	P/S	12.3100
^L Water Storage	–	–	–	–	–	–	P	
COMMERCIAL								
Artist Work, Sales, and Display Space	P	P	P	P	P	P	P	
Communications Service Establishments	–	–	–	–	A	–	A	
Eating and Drinking Establishments	–	–	–	–	A	–	A	
Entertainment and Spectator Sports (except as identified below)	–	–	–	–	–	–	–	
^L Amphitheaters	–	–	–	–	P	P	P	
^L Auditoriums	–	–	–	–	P	P	P	
^L Convention Center	–	–	–	–	P	P	P	
^L Stadiums	–	P	P	P	P	–	P	
Funeral and Interment Services (except as identified below)	–	–	–	–	–	–	–	
^L Cemetery/Columbarium/Mausoleum	–	–	–	–	–	P	P	12.2200
Lodging (except as identified below)	–	–	–	–	–	–	–	
^L Apartment Hotel	–	–	–	–	P	P	P	

⁷⁵ New district

⁷⁶ Existing R-1 and R-2 district conditions have been eliminated.

USE CATEGORY									
Use Subcategory									
Specific Use Type	R-1	R-2	R-3A	R-3B ⁷⁵	R-3C ⁷⁵	R-4	R-5	Standards	
P = permitted as of right; P/S = permitted subject to conditions; A= allowed accessory use; – = Not allowed									
Hotels, Motels and Guesthouses	–	–	–	–	P	–	P		
Marina (Recreational Craft) (except as identified below)	–	–	–	–	P/S	–	P/S	12.2000	
Yacht Club	–	–	–	–	P	–	P		
Office, General or Professional	–	–	–	–	–	P/S	–	12.2100	
Travel agency or ticketing office	–	–	–	–	A	–	A		
Parking, Non-Accessory (except as identified below)	–	–	–	–	–	–	–		
Garage, Community	–	–	–	–	P/S	P/S	P/S	12.1500	
Personal Instruction Services	–	–	–	–	A	–	A		
Art School/Instruction	P	P	P	P	P	P	P		
Dance Schools/Studio	P	P	P	P	P	P	P		
Music School/Instruction	–	–	–	–	P	–	P		
Dive School/Snorkeling Instruction	–	–	–	–	P	–	P		
Water Skiing/Water Sports Instruction	–	–	–	–	P	–	P		
Household Repair or Laundry Service, Consumer (except as identified below)	–	–	–	–	–	–	–	12.1900	
Laundry and Dry Cleaning Depot	–	–	–	–	P/S	–	P/S	12.1900	
Tailoring and Alterations	–	–	–	–	–	P	–		
Taxidermy Service	–	P	–	–	–	P	–		
Retail Sales (except as identified below)	–	–	–	–	A	–	A		
Water Sports Equipment	–	–	–	–	P	–	P		
INDUSTRIAL									
Warehousing, Wholesaling and Freight Movement (except as identified below)	–	–	–	–	–	–	–		
Warehousing, Storage and Light Industrial	–	–	–	–	–	–	P	12.3200	
AGRICULTURAL									
Agriculture, Livestock & Poultry	–	–	–	–	–	–	–		
Agriculture, Crops, Fruits & Vegetables	P	P	–	–	–	–	–		
Community Garden⁷⁷	P	P	P	P	P	P	P		
Forestry	P	–	–	–	–	–	–		
Horticulture, Nurseries and Greenhouses	P/S	P/S	–	–	–	–	–	12.1600	

10.400 Commercial, Industrial and Special Purpose Districts Use Table

Table 10-2: Principal Uses Allowed in Commercial, Industrial and Special Purpose Districts

USE CATEGORY																			
Use Subcategory																			
Specific Use Type	CN-1	CN-2	CC	CBD	CS	IL	IH	IW	W	P	S								Conditions
P = permitted as of right; P/S = permitted subject to conditions; A= allowed accessory use; – = Not allowed																			
RESIDENTIAL																			
Household Living																			
Attached Dwelling	–	P	P	P	–	–	–	–	P	–	P								
Detached Dwelling	–	P	P	P	–	–	–	–	P	–	P								
Semi-Detached Dwelling	–	P	P	P	–	P	–	–	P	–	P								
Group Dwelling	–	P	P	P	–	–	–	–	P	–	P								
Multiple Dwelling	–	P	P	P	–	–	–	–	P/S	–	P	12.200							
Mobile Homes	–	–	–	–	–	–	–	–	P	–	–								
Group Living																			
Apartment House	–	–	–	–	–	–	–	–	P	–	–								

⁷⁷ New proposed use

USE CATEGORY													
Use Subcategory													
Specific Use Type													
	CN-1	CN-2	CC	CBD	CS	IL	IH	IW	W	P	S		Conditions
P = permitted as of right; P/S = permitted subject to conditions; A= allowed accessory use; – = Not allowed													
Boarding House	–	P	–	–	–	–	–	–	–	–	–		
Children’s Home	–	–	–	–	–	–	–	–	–	–	P		
Convalescent, Rest, Nursing & Retirement Home	–	–	–	–	–	–	–	–	–	–	P		
Dormitories	–	–	–	–	–	–	–	–	–	P	–		
Religious Living Quarters	–	P	–	–	–	–	–	–	–	–	P		
PUBLIC/CIVIC													
Airport-Related Facilities	–	–	–	–	–	–	–	–	–	P	–		
College/University	–	–	–	–	–	–	–	–	–	P	–		
Day Care	–	P	P	–	–	–	–	–	–	P	P		
Detention and Correctional Facilities	–	P	P	–	–	–	–	–	–	P	–		
Fraternal, Labor, Membership Organization	P	P	P	P	P	P	–	P	P	P	–		
Hospital	–		P	P	–	–	–	–	–	P	–		
Library/Cultural Exhibit	–	P	P	P	–	–	–	P	P	P	P		
Military Bases & Reservations	–	–	–	–	–	P	P	–	–	P	–		
Post Offices	P	P	P	P	P	–	–	–	–	P	–		
Religious Assembly	–	P	P	P	–	–	–	–	–	–	P		
Park/Recreation/ Open Space	P	P	P	P	P	P	P/S	P	P	P/S	P/S	12.700, 12.1000, 12.2200	
Safety Services	–	P	P	P	P	P	–	–	–	P	P		
Schools	–	P	P	P	–	–	–	–	–	P	P		
Utilities and Services													
Distillation Plant (Water)	–	–	–	–	–	–	P	P	P	P	–		
Electrical Power Generation Plant	–	–	–	–	–	–	P	–	–	–	–		
Electrical Substation	–	P	P	P	P	P	P	–	–	P	–	12.1300	
Sewage Lift Station & Pressure Control Station	–	–	P	P	P	P	P	P	P	P	–	12.3100	
Sewage Treatment Plants	–	–	–	–	–	P	P	P	P	P	–	12.3100	
Water Pressure Control Stations	–		P	P	P	P	P	P	P	P	–		
Water Storage Tanks	–	–	–	–	–	P	P	P	–	P	–	12.3300	
Wireless Communication Facilities	–	P	P	P	P	P	P	–	–	P	–		
COMMERCIAL													
Animal Services													
Sales & Grooming (Pet Store)	P		P	P	P	P	–	–	–	–	–		
Shelter or Boarding Kennel	–	–	–	–	P	P	P	–	–	P	–		
Veterinary Clinic or Hospital	P	–	P	P	P	P	–	–	–	–	–		
Artist Work, Sales and Display Space	P	P	P	P	P	–	–	–	A	–	P		
Building Maintenance Services	–	P	P	P	P	P	P	–	–	–	–		
Business Equipment, Sales and Service	–	P	P	P	P	P	P	–	–	–	–		
Business Support Services	P	P	P	P	P	P	–	–	–	–	–		
Communication Service Establishments	–	P	P	P	P	–	–	–	–	–	–		
Construction Sales, Service and Storage	–	–	–	–	P	P	P	–	–	–	–		
Eating and Drinking Establishments													
Bar or Tavern (Drinking Places)	P	P	P	P	P	–	–	–	P	P/S	–	12.600	
Restaurants (Eating Places)	P	P	P	P	P	P	P	P	P	P	–	12.600, 12.2700	
Food Trucks (Eating Places)	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>–</u>	12.600, 12.2700	
Entertainment & Spectator Sports Establishments													
Amphitheater	–	–	–	–	–	–	–	–	P	P	–		
Amusement Parks	–	–	–	–	–	–	–	–	P	P/S	–	12.100	
Arenas & Field Houses	–	P	–	–	–	–	–	–	–	P	–		
Armories	–	–	–	–	P	P	P	P	–	P	–		
Auditoriums	–	–	–	–	–	–	–	–	P	P	–		
Casinos	–	–	P/S	P/S	–	–	–	–	P/S	–	–	12.800	
Cinema	–	–	–	–	–	–	–	–	P	P	–		

USE CATEGORY	CN-1	CN-2	CC	CBD	CS	IL	IH	IW	W	P	S	Conditions
Use Subcategory												
Specific Use Type												
P = permitted as of right; P/S = permitted subject to conditions; A= allowed accessory use; – = Not allowed												
LConvention Centers	–	–	P	P	–	–	–	–	–	P	–	
LDance Halls	P	P	P	P	P	–	–	–	–	–	–	
LRace Track, Indoor	–	–	P	P	–	–	–	–	P	P	–	
LStadiums	–	–	–	–	–	–	–	–	–	P	–	
Financial Services	P	P	P	P	P	–	–	–	–	–	–	
Funeral Services		P	P	P	P	–	–	–	–	–	–	
Lodging	–	–	P	P	–	–	–	–	P	–	–	
Marinas												
LBoat Access Sites	–	–	–	–	–	–	–	P	P	–	–	
LFishing	–	–	–	–	–	P	P	P	P	P	–	
LYacht Club	–	–	–	–	–	–	–	–	P	–	–	
Offices, General or Professional	P	P	P	P	P	P	–	P	–	P		
Office or Clinic, Medical	P	P	P	P	P	P	–	–	–	P	P/S	12.2100
Parking, Non-Accessory	–	P	P	P	P	P	–	–	P	–	P/S	12.1500
Personal Instruction Services & Schools	–	P	P	P	P	P	P	P	P	P	P	
Personal Services	P	P	P	P	P	–	–	P	A	–	–	
Retail Sales	P	P	P	P	P	P	P	P	A	P/S	–	12.600
Sports and Recreation, Participant	P	P	P	P	P	–	–	–	P/S	–	–	12.500 , 12.2800
Vehicle Sales and Service	–	P	P/S	–	P	P	P	–	–	–	–	12.400
INDUSTRIAL												
Freight Movement	–	–	–	–	–	P	P	P	–	–	–	
Junk/Salvage Yard	–	–	–	–	–	–	P	P	–	–	–	
Manufacturing and Industrial Services, Artisan	–	–	P	–	P	P	P		–	–	–	
Manufacturing and Industrial Services, Limited	–	–	–	–	P	P	P	P	–	–	–	
Manufacturing and Industrial Services, General	–	–	–	–	–	P	P	P	–	–	–	
Manufacturing and Industrial Services, Intensive	–	–	–	–	–	–	P	P	–	–	–	
Mining/Quarrying	–	–	–	–	–	–	P	–	–	–	–	
Transportation-Related Uses	–	–	–	–	–	P	P	P	P	P	–	
Warehousing, Wholesaling and Storage, Intensive	–	–	–	–	–	–	P	P	–	–	–	
Warehousing, Wholesaling and Storage, General	–	–	–	–	–	P	P	A	–	–	–	
Waste-Related Uses	–	–	–	–	–	–	P	P	–	P	–	
AGRICULTURAL												
Agriculture, Livestock & Poultry	–	–	–	–	–	–	–	–	–	–	–	
Agriculture, Crops, Fruits & Vegetables	–	–	–	–	–	–	–	–	–	P	–	
Community Garden ⁷⁸	–	–	–	–	–	–	–	–	–	P	–	
Fish & Marine Products (Hatcheries; Pond)	–	–	–	–	–	–	–	P	P	P	–	
Forestry	–	–	–	–	–	–	–	–	–	P	–	
Horticulture, Nurseries and Greenhouses	–	–	P	–	P	–	–	–	P	P	P/S	12.1600

⁷⁸ New proposed use

Article 11 Use Classification System

11.100 General

This section contains a description of the use classification system used to classify principal uses in this development code.

11.101 Use Categories

This development code classifies principal land uses into 5 major groupings, which are referred to as use categories:

11.101.A Residential

11.101.B Public and Civic

11.101.C Commercial

11.101.D Industrial

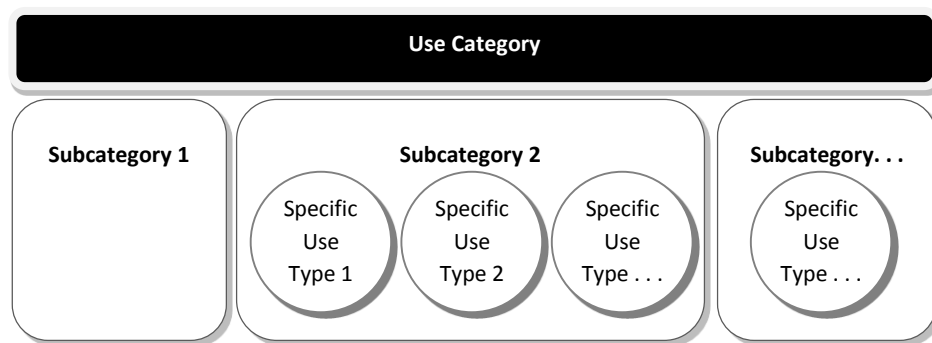
11.101.E Agricultural

11.102 Use Subcategories

Each use category is further divided into more specific “subcategories.” Use subcategories classify principal land uses and activities based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

11.103 Specific Uses

Some use subcategories are further broken down to identify specific use, business or activity types that are regulated differently than the parent subcategory as a whole.



11.104 Determination of Use Categories and Subcategories

11.104.A The Zoning Administrator is authorized to classify uses on the basis of the use category and subcategory descriptions of this section.

11.104.B When a use cannot be readily classified into a use category/subcategory or appears to fit into multiple categories/subcategories, The Zoning Administrator is authorized to determine the most similar, and thus most appropriate, use category/subcategory based on the actual or projected characteristics of the principal use or activity in relationship to the use category and subcategory descriptions provided in this section. In making such determinations, the Zoning Administrator is authorized to consider:

11.104.C the types of activities that will occur in conjunction with the use; and

- 11.104.C.1** the types of equipment and processes to be used;
- 11.104.C.2** the existence, number and frequency of residents, customers or employees; and
- 11.104.C.3** parking demands associated with the use and other factors deemed relevant to a use determination.
- 11.104.D** If a use can reasonably be classified in multiple categories, subcategories or specific use types, the Zoning Administrator shall categorize the use in the category, subcategory or specific use type that provides the most exact, narrowest and appropriate match.
- 11.104.E** If the Zoning Administrator is unable to determine the appropriate use category for a proposed use, the Zoning Administrator may deny the permit request. This decision may be appealed in accordance with Sec. 4.1500.

11.200 Residential Use Category

The residential use category includes uses that provide living accommodations to one or more persons. The group includes two use subcategories: household living and group living.

11.201 Household Living

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging. (See also “dwelling” definitions in [Article 22](#))

11.202 Group Living

Residential occupancy of a dwelling by other than a “household,” typically providing communal kitchen/dining facilities. Examples of group living uses include but are not limited to fraternities, sororities, religious quarters, nursing homes, senior housing, and assisted living housing.

11.300 Public and Civic Use Category

The public and civic use category includes uses that provide public or quasi-public services. The public and civic use category includes the following use subcategories:

11.301 Airports & Flying Fields

All uses and activities related to airports and flying fields including the movement, maintenance, and storage of airplanes and equipment; airport operations; air terminals; administrative offices; fuel services; passenger waiting areas; food and concessions; ground transportation commonly associated with airports, such as car rental facilities, taxis, buses and limousines; flying schools; storage and cargo; health and public safety facilities; immigration processing; and aircraft-related sales.

11.302 College/University

Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the state or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, conservatories and seminaries. Business and trade schools are classified in “Business Support Services subcategory.”

- 11.303 Day Care**
Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.
- 11.304 Detention and Correctional Facilities**
Facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision by peace officers, except when on an approved leave. Examples include prisons, jails, probation centers and juvenile detention homes.
- 11.305 Fraternal, Labor, Membership/Organization**
The use of a building or parcel by a fraternal, labor or membership-based, not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests.
- 11.306 Hospital**
Uses providing medical or surgical care to patients and offering inpatient (overnight) care.
- 11.307 Library/Cultural Exhibit**
Facilities that preserve and exhibit objects in one or more of the arts and sciences, including art museums and exhibitions, library collection of books, manuscripts, etc., for study and reading, and natural science museums and displays, including aquariums.
- 11.308 Park/Recreation/Open Space**
Recreational, social, or multi-purpose uses associated with public parks, public open spaces, public community centers, public play fields, public or private golf courses, or other public recreation areas or buildings. This subcategory also includes botanical gardens, camping grounds, nature preserves, and zoos.
- 11.309 Post Offices**
Facilities owned or managed by the United States Postal Service where mail is collected, sorted and distributed. May also include for-profit retail postal and package handling services.
- 11.310 Religious Assembly**
Religious services involving public assembly such as customarily occur in synagogues, temples, mosques and churches.
- 11.311 Safety Services**
Public safety services that provide fire, police or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations and ambulance services.
- 11.312 Schools**
Public and private schools at the primary, elementary, junior high, or high school level that provide state-mandated basic education as well as special education.
- 11.313 Utilities and Services**
Infrastructure facilities and service equipment that serve a large geographical area or a subarea. Typical uses with relatively minor impacts on surrounding areas include water and sewer pump stations; water towers and reservoirs; water conveyance systems; stormwater facilities and conveyance systems; telephone switching equipment and emergency communication broadcast facilities. Large utilities that typically have substantial land-use impacts on surrounding areas include but are not limited to electrical substations; water and wastewater treatment facilities, major water storage facilities

and electric generation plants. Also included are utility-scale solar energy and utility-scale wind energy facilities.

11.400 Commercial Use Category

The commercial use category includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use category includes the following use subcategories.

11.401 Animal Services

The following are animal services use types:

11.401.A Riding Stables

Boarding facilities for horses and similar large animals.

11.401.B Sales and Grooming

Sales and grooming of dogs, cats and similar small animals. Typical uses include pet stores, dog bathing and clipping salons and pet grooming shops.

11.401.C Shelter or Boarding Kennel

Animal shelters and kennel services for dogs, cats and small animals. Typical uses include boarding kennels, pet resorts/hotels, dog training centers and animal rescue shelters.

11.401.D Veterinary

Typical uses include pet clinics, dog and cat hospitals and animal hospitals.

11.402 Artist Work, Sales and Display Space

Floor space devoted to the production, showing, or sale of art. Typical uses include art galleries, artist and photography studios, but not including art museums. Art museums are classified in the "Libraries and Cultural Exhibits" use subcategory.

11.403 Building Maintenance Services

Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance and window cleaning services. Also includes exterminator services for residential, commercial or industrial applications.

11.404 Business Equipment Sales and Services

Sales, rental, or repair of office, professional and service equipment and supplies to companies rather than to individuals. Excludes vehicle and heavy equipment sales or service. Typical uses include office equipment and supply firms, small business machine repair shops and hotel equipment and supply firms.

11.405 Business Support Services

Provision of clerical, employment, protective, or minor processing services to firms rather than individuals. Typical uses include employment agencies, transcription services, answering services, duplicating and copying and blueprint services.

11.406 Communication Service Establishments

Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Excludes services classified as "major utilities and services" and "Minor Utilities." Typical uses include recording studios, television and radio studios, telecommunication service centers and telegraph service offices.

11.407 Construction Sales, Service and Storage

Construction and development activities and related storage on parcels other than construction or development sites. Typical uses include tool and equipment rental or sales, and building contracting/construction businesses. Uses that involve office or administrative functions only, with no on-site equipment or vehicle storage, are classified as offices.

11.408 Eating and Drinking Establishments

Provision of prepared food and/or beverages for on- or off-premises consumption.

11.408.A Drinking Establishments

An establishment that is primarily engaged in serving alcoholic liquor for consumption on the premises and in which the serving of prepared food and meals constitutes less than 65% of the establishment's gross income. Taverns and nightclubs may offer live entertainment and dancing.

11.408.B Restaurants

An establishment primarily engaged in serving prepared food to the public and in which sales of such prepared foods and meals constitutes at least 65% of the establishment's gross income. Specific uses include cafeterias, cafes, coffee shops, delicatessens, doughnut shops, refreshment stands, sit-down restaurants, and sandwich shops.

11.408.C Food Truck

A licensed motor vehicle or other mobile food dispensation unit that is parked temporarily and in which food items are sold to the general public.

11.409 Educational or Scientific Research Services

Any establishment that conducts educational, scientific, high-technology or medical research not involving the mass production, distribution or sale of products. Research services do not produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.

11.410 Entertainment and Spectator Sports

Provision of cultural, entertainment, athletic and other events to spectators, generally in large capacity facilities, such amusement parks, arenas, convention centers, theaters, cinemas, auditoriums, fairgrounds, sports stadiums and race courses and tracks.

11.411 Financial Services

All uses related to consumer and commercial finance including brokerage offices, banks, credit services (including payday loan and title loan operations). Typical uses include banks, savings and loans, consumer investment businesses, and pawn shops.

11.412 Funeral and Interment Services

Provision of services involving the care, preparation or disposition of human dead. The following are funeral and interment services use types:

11.412.A Cemetery/Columbarium/Mausoleum

Land or facilities used for burial of the dead, including pet cemeteries.

11.413 Household Repair or Laundry Service, Consumer

Provision of repair, dry cleaning or laundry services to individuals and households, but not to firms. Excludes vehicle and equipment repair. Typical uses include laundry/dry cleaning drop-off stations (with no dry cleaning on the premises), self-service laundries,

appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.

11.414 Lodging

Provision of lodging services on a temporary basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are lodging use types:

11.414.A Apartment Hotel

A lodging use that furnishes services for the use of its tenants which are ordinarily furnished by hotels, but the privileges of which are not available to individual who are not overnight guests.

11.414.B Hotel or Guesthouse

An establishment in which short-term lodging is offered for compensation and that may or may not include the service of one or more meals to guests. A bed & breakfast is considered a guesthouse.

11.415 Marina

Facilities that provide moorage, launching, storage, supplies and a variety of services for recreational and commercial watercraft. Marinas are differentiated from docks/moorages by their larger scale, the provision of significant landside services and/or the use of a solid breakwater.

11.415.A Yacht Club

A boat docking/moorage facility for members and their guests.

11.416 Office, General or Professional

Professional, governmental, executive, management or administrative offices of private organizations or government agencies. Typical uses include administrative offices, law offices, architectural firms, insurance companies, ~~and~~ government offices and electronic data storage centers. Also includes travel agencies, tax preparation office and similar consumer service businesses.

11.416.A Electronic Data Storage Center

A work site used as a facility for the storage of and the operation of computer hardware, equipment for processing, storage and/or routing of electronic data, or other high technology uses.

11.417 Office or Clinic, Medical

Personal health services including prevention, diagnosis and treatment, rehabilitation services provided by physicians, dentists, nurses and other health personnel and medical testing and analysis services. Typical uses include medical and dental offices, including chiropractic offices, physical and massage therapy offices, psychologist and psychiatrist offices, health maintenance organizations, blood banks, plasma centers and government-operated health centers. Excludes use types more specifically classified, such as hospitals.

11.418 Parking, Non-Accessory

Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public at-large. A facility that provides both accessory parking and non-accessory parking is classified as non-accessory parking.

11.418.A Garage, Community

A garage used for the storage of vehicles for occupants of lots in the same or adjacent blocks and providing only incidental services to the stored vehicles.

11.419 Personal Instruction Services & Schools

Informational, instructional, personal improvement services and facilities, including driving schools, beauty and barber schools, dance schools, martial arts studios,

11.420 Personal Services

Uses that provide a variety of services associated with personal grooming and various treatments. Typical uses in this subcategory include day spas, hair salons, barber shops, beauty shops, nail salons, yoga studios, therapeutic massage studios, tattoo and body piercing establishments.

11.421 Retail Sales

Businesses involved in the sale, lease or rent of new or used products, merchandise to consumers. Typical uses include drug stores, grocery stores, department stores and apparel stores.

11.422 Sports and Recreation, Participant

Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis). Examples include bowling alleys, health clubs, skating rinks, bingo halls, casinos, billiard parlors, driving ranges and miniature golf courses, shooting and archery ranges, and batting cages.

11.422.A Casino

A facility as defined in Chapter 21, Section 402(6), Title 32 of the Virgin Islands Code.

11.423 Vehicle Sales and Service

Sales of motor vehicles or services related to motor vehicles. The following are vehicle sales and service use types:

11.423.A Car Wash

A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam cleaning device, or other mechanical device—or it may provide space, water and equipment for hand washing, cleaning or detailing of automobiles, whether by the customer or the operator.

11.423.B Gas Station

Uses engaged in retail sales of personal automobile and vehicle fuels including electric vehicle charging stations.

11.423.C Heavy Equipment Sales/Rentals

Sale, retail or wholesale and/or rental from the premises of heavy construction equipment, trucks and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers and tractor trailer sales.

11.423.D Light Equipment Sales/Rentals

Sale, retail, wholesale, or rental from the premises of autos, noncommercial trucks, motorcycles, trailers of less than 10,000 lbs. gross cargo weight, recreational vehicles and boat dealers, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies and

recreational vehicle sales and rental agencies. For the purposes of this zoning ordinance, the sales or display for sale of more than 2 vehicles on a single parcel is classified as a "light equipment sales/rental" use.

11.423.E Motor Vehicle Repair, Limited

A vehicle repair establishment that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. Customers generally wait in the car or at the establishment while the service is performed. Examples include quick lube services. Also includes vehicle repair establishments that provide replacement of passenger vehicle parts or repairs that do not involve body work or painting or require removal of the engine head or pan, engine transmission or differential. Examples include tire, muffler and transmission shops.

11.423.F Motor Vehicle Repair, General

Any vehicle repair activity other than "limited motor vehicle repair." Examples include repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to passenger vehicles.

11.423.G Vehicle Storage and Towing

Storage of operating motor vehicles or vehicle towing services. Typical uses include towing services, private parking tow-aways (tow lots), impound yards and fleet storage yards. Includes the use of a site for temporary storage of motor vehicles for a period of not more than 15 days, not including temporary storage facilities for vehicles that are to be sold, rented, salvaged, dismantled, repaired or returned to owners upon payment of towing and storage fees.

11.500 Industrial Use Category

The industrial use category includes uses that produce goods from extracted materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. It also includes uses that store or distribute materials or goods in large quantities. The industrial use category includes the following use subcategories:

11.501 Junk/Salvage Yard

An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junk or salvage yard includes an auto wrecking yard, but does not include waste-related uses or recycling facilities.

11.502 Auto Wrecking

The collecting and dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

11.503 Manufacturing and Industrial Services, Artisan

On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage, and occupying no more than 3,500 square feet of gross floor area. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.

11.504 Manufacturing and Industrial Services, General**11.504.A Production**

Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and fabricated metal product manufacturing. Also includes medical, scientific or technology-related research establishments that produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.

11.504.B Services

Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "household repair or laundry services."

11.505 Manufacturing and Industrial Services, Limited

Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food processing and manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties. Also includes "artisan manufacturing/production" type uses that do not comply with the enclosed building, floor area and/or outside operations/storage criteria that apply to artisan manufacturing/production uses.

11.506 Manufacturing and Industrial Services, Intensive

Manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. Also includes smelting, animal slaughtering and oil refining.

11.507 Mining/Quarrying

The extraction of mineral or aggregate resources from the ground for off-site use. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil and gas drilling.

11.508 Transportation-Related Uses

This subcategory includes uses devoted to freight and passenger transportation including terminals, marine docks, and associated offices, depots, and incidental retail sales and services. Uses include ambulance services, bus garages & maintenance; bus

terminal; sightseeing bus depots and ticket sales; marine railway; marinas (recreational crafts); marine terminals (freight & passenger); sea plane ramps and terminals; and taxicab services.

11.509 Warehousing, Wholesaling and Storage

11.509.A Limited

Wholesale sales of goods and materials in association with a retail sales (storefront) business. Typical uses include businesses involved in retail and wholesale sales of materials and equipment to other businesses and to the general public.

11.509.B Intensive

Storage, wholesale sales and distribution of freight, materials, and equipment. Typical uses include storage warehouses, moving and storage firms, trucking or cartage operations, truck staging or storage areas, wholesale sales of materials and equipment to parties other than the general public.

11.509.C Residential Storage Warehouses

Storage or warehousing service within a building for individuals to store personal effects and for businesses to store materials for operation of an industrial or commercial enterprise elsewhere. Incidental uses in a residential storage warehouse may include the repair and maintenance of stored materials by the tenant; but in no case may storage spaces in a residential storage warehouse facility function as an independent retail, wholesale, business, or service use. Spaces may not be used for workshops, hobby shops, manufacturing, or similar uses. Human occupancy is limited to that required to transport, arrange and maintain stored materials.

11.510 Waste-Related Uses

Waste-related uses are characterized by the receiving of solid or liquid wastes from other users and sites for transfer to another location; by the collection of sanitary wastes, or other approved waste materials for on-site disposal; or by the manufacture or production of goods or energy from the composting of organic material. Typical uses include sanitary landfills and the following uses:

11.510.A Demolition Debris Landfill

A facility or site used for the disposal of demolition waste, construction materials, used building materials, brush, wood waste, soil, rock, concrete and inert solids soluble in water.

11.510.B Solid Waste Separation Facility

A facility where mixed municipal solid waste is separated into recovered materials and other components either manually or mechanically and further processed for transporting to other facilities, including a solid waste disposal area.

11.510.C Recycling Service

Any building, portion of building or area in which recyclable material is collected, stored, or processed for the purpose of marketing the material for use as raw material in the manufacturing process of new, reused or reconstituted products.

11.510.C.1 Limited

A recycling facility in which recyclable materials are temporarily stored or collected, or processed by manual separation. (Note: consumer-oriented collection boxes for newspapers, cans and glass items are considered an accessory use and may be allowed in any zoning district.)

11.510.C.2**General**

A recycling facility that, in addition to any activity permitted as part of a limited recycling service, engages in processing of recyclable materials such as cleaning, bundling, compacting or packing of recyclable materials.

11.510.D Transfer Station

A facility for the transfer and packing of solid waste from smaller collecting vehicles to larger transport vehicles.

11.600 Agricultural Use Category

The agricultural use category includes the following subcategories:

11.601 Agriculture, Crop

The use of land for growing, raising, or marketing of plants to produce food, feed, or fiber commodities. Examples of crop agriculture include cultivation and tillage of the soil and growing and harvesting of agricultural or horticultural commodities. Crop agriculture does not include personal (household) gardens, or landscaping for aesthetic purposes.

11.602 Agriculture, Animal

The use of land for raising animals to produce food or fiber commodities. Examples of animal agriculture include dairying and the raising of livestock, bees, fur-bearing animals, and poultry.

11.603 Aquaculture

The raising and farming of aquatic organisms and aquatic plants under controlled conditions, typically in fish hatcheries, ponds or tanks.

11.604 Community Garden

Land used for vegetable, fruit or flower gardening by individuals or groups who may or may not own or lease the subject land.

11.605 Forestry

Land used for growing of trees and harvesting of timber.

11.606 Horticulture, Nurseries and Greenhouses

A principal use involving propagation and growth of plants in containers or in the ground for wholesale sales and distribution.

Article 12 Use-specific Standards

12.100 Amusement Parks

Public and private amusement parks are allowed in A-1, A-2, and P districts, subject to all of the following conditions:

- 12.101 a permit for construction and operation must be obtained from the proper departments of the Government of the United States Virgin Islands;
- 12.102 when located in a P district, a permit for construction and operation must be obtained from the Department of Conservation and Cultural Affairs;
- 12.103 the minimum lot area requirement is 10 acres;
- 12.104 all structures must be set back at least 200 feet from abutting R-zoned lots;
- 12.105 buildings and structures may not occupy more than 25% of the lot area allocated to the amusement park use;
- 12.106 buildings and structures may not exceed 30 feet in height;
- 12.107 all amusement enterprises located within 200 feet of any abutting R-zoned property must close no later than 10:00 P.M.;
- 12.108 all lighting must be designed and maintained so that it does not shine directly upon or cause glare on abutting R-zoned property;
- 12.109 the entire amusement park area must be surrounded by a fence; and
- 12.110 all vehicle entrances must take access from a main travelled highway, not a residential street.

12.200 Apartment Houses, Hotels and Guesthouses (Dwelling, Multifamily)

Apartment houses, hotels and guesthouses are allowed in the W district, subject to all of the following conditions:

- 12.201 the minimum lot area requirement is 3 acres;
- 12.202 residential density may not exceed 16 dwelling units per acre;⁷⁹ and
- 12.203 residential buildings may not exceed 40 feet in height;⁸⁰

12.300 Athletic Fields and Playfields

Athletic fields and playfields are allowed in the R-1, R-2, R-3C, R-4, and R-5 districts, subject to all of the following conditions:

- 12.301 the minimum lot area requirement is 5 acres;
- 12.302 fields must be surrounded by a fence or planted area;
- 12.303 all buildings, structures, and play areas (e.g., baseball fields, football fields and tennis courts) must be set back at least 50 feet from the property line;
- 12.304 buildings and structures may not exceed a gross floor area of 2,500 square feet;

⁷⁹ This is a proposed "density conversion" of the existing persons per acre limitation using 2.5 persons per dwelling unit (note: "actual" is 2.65 persons per unit). As written, this does not apply to hotel units. Is this correct?

⁸⁰ This is a proposed conversion the existing 3-story height limit, based on first floor at 16' and higher floors at 12'.

- 12.305** all play areas must be treated and maintained to be dust-free;
- 12.306** all lighting must be designed and maintained so that it does not shine directly upon or cause glare on abutting R-zoned property; and
- 12.307** all activities must cease at 11:00 p.m.

12.400 Car Washes

Car washes are allowed in the CC district, subject to all of the following conditions:

- 12.401** the minimum lot area requirement is 5,000 square feet;
- 12.402** all buildings must be set back at least 50 feet from the street line and at least 10 feet from side property lines;
- 12.403** adequate drainage must be provided upon the property so as not to permit water to flow upon abutting property; and
- 12.404** adequate parking and queuing space must be provided on the property for the storage of cars that are being washed, have been washed and are waiting to be washed—car storage on a public street is prohibited.

12.500 Bowling Alleys and Roller Skating

Bowling alleys and roller skating are allowed in the W district, subject to all of the following conditions:

- 12.501** the minimum lot area is one acre;
- 12.502** building coverage may not exceed 30% of the lot area;
- 12.503** minimum side and rear building setbacks of 25 feet must be provided, with minimum building setbacks of 50 feet from all abutting R-zoned properties;
- 12.504** bowling alleys and roller skating rink are prohibited in W districts designated as swimming areas; and
- 12.505** all lighting must be designed and maintained so that it does not shine directly upon or cause glare on abutting R-zoned property.

12.600 Cafes, Retail Concessions, and Restaurants

Cafes, retail concessions and restaurants are allowed in P districts if publicly owned and operated, or if publicly owned and privately operated under continuous supervision of a public agency, or if privately owned and operated under a contract with and under constant supervision of a public agency.

12.700 Camps

Recreation camps, day camps, overnight camps are allowed in the P district if publicly owned.

12.800 Casino Establishments and Casino Simulcasting

Casino establishments and casino simulcasting are allowed in R-3C, R-5, CBD, CC, and W, St. Croix districts when one of the 4 types of casino licenses is issued by the Casino Control Commission. Each type of casino license (1, 2, 3, and 4) is subject to all of the following conditions:

- 12.801** maximum building height may not exceed 40 feet⁸¹ within the Historic districts or 76 feet⁸¹ in all other areas; and
- 12.802** the number of hotel rooms, casino square footage and indoor public space square footage is subject to compliance with the provisions of Title 32, section 435 of the Virgin Islands Code.

12.900 Colleges and Universities

Public and private colleges; universities; art, music, professional or other schools providing an educational curriculum above the level of public secondary schools are allowed in R-1, R-2, R-3C, R-4, and R-5 districts, subject to all of the following conditions:

- 12.901** uses are limited to educational, administrative, operational and maintenance buildings, student unions, auditoriums, chapels, research or testing laboratories, libraries, gymnasiums, stadia, athletic fields, playgrounds, student and faculty dormitories, fraternity or sorority houses or other residences of officials, caretakers or guards. Book or stationery stores, eating establishments or other facilities for the convenience of students, faculty, employees or visitors are allowed in buildings where there are no separate outside entrances to such uses facing any adjoining residential property;
- 12.902** the minimum lot area requirement is 10 acres;
- 12.903** building coverage by campus buildings may not exceed 30% of any one contiguous area of campus; and
- 12.904** minimum building setbacks of 25 feet must be provided from all property lines, with minimum building setbacks of 50 feet from all abutting R-zoned properties.

12.1000 Community Centers

Community centers are allowed in R and S districts, subject to all of the following conditions:

- 12.1001** the minimum lot area requirement in the R-1 district is one acre;
- 12.1002** building coverage may not exceed 30% of the lot area; and
- 12.1003** in the R-1 district, minimum side and rear building setbacks of 25 feet must be provided, with minimum building setbacks of 50 feet from all abutting R-zoned properties.

12.1100 Country Clubs and Golf Clubs

Country clubs and golf clubs are allowed in A-1, A-2, R-1, and R-2 districts, subject to all of the following conditions:

- 12.1101** the minimum lot area requirement is 40 acres;
- 12.1102** building coverage may not exceed 5% of the lot area;
- 12.1103** buildings may not exceed 28 feet in height⁸²; and
- 12.1104** golf shops, cafes, snack bars and swimming pools are allowed ancillary uses if located at least 200 feet from any abutting R-zoned property.⁸³
- 12.1105**

⁸¹ This is a proposed conversion the existing story-based height limit, based on first floor at 16' and higher floors at 12'.

⁸² This is a proposed conversion the existing 2-story height limit, based on first floor at 16' and higher floors at 12'.

⁸³ This provision has been revised to remove the allowance for overnight guest accommodations.

12.1200 Dwellings, Attached, Semi-Detached and Group

Attached, semi-detached and group dwellings are allowed in R-1 and R-2 districts, subject to all of the following conditions:

12.1201 the minimum lot area requirements of the subject zoning district apply; and

12.1202 buildings may not exceed 40 feet in height.⁸⁴

12.1300 Electric Substations, Radio/Television Towers, and Telephone Relay Towers

Electric substations, radio and television transmittal towers, and telephone relay towers are allowed in A-1, A-2, R-1, R-2, R-3C, R-4, and R-5 districts, subject to all of the following conditions:

12.1301 the minimum lot area requirement is 6,000 square feet;

12.1302 building coverage may not exceed 30% of the lot area;

12.1303 minimum building setbacks of 25 feet must be provided from all lot lines, with minimum building setbacks of 50 feet from all abutting R-zoned properties;

12.1304 transformers must be located within buildings;

12.1305 the lines between substations and the street must be underground; and

12.1306 substations must be screened from view of any abutting R-zoned property by a solid fence or landscape planting screen that provide year-round visual screening.

12.1400 Fire Stations, Police Stations and Postal Substations

Fire stations, police stations, and postal substations are allowed in R and S districts, subject to all of the following conditions:

12.1401 the minimum lot area requirement is 15,000 square feet;

12.1402 building coverage may not exceed 30% of the lot;

12.1403 minimum building setbacks of 25 feet must be provided from all property lines, with minimum building setbacks of 50 feet from all abutting R-zoned properties;

12.1404 vehicles may not be washed outside of an enclosed building; and

12.1405 parking and storage of nongovernment vehicles is prohibited in the front yard area.

12.1500 Garage, Community

Community garages are allowed in R-3C, R-4, R-5 and S districts, subject to all of the following conditions:

12.1501 community garages must be located in the rear yard area and set back at least 3 feet from all property lines;

12.1502 community garage buildings may not cover more than 40% of the rear yard area; and

12.1503 the number of garage spaces may not exceed the number of dwelling units on the lot.

12.1600 Greenhouses and Plant Nurseries

Nurseries and greenhouses for the growing of plant materials and their sale are permitted in R-1, R-2 and S districts, subject to the following conditions:

⁸⁴ This is a proposed conversion the existing 3-story height limit, based on first floor at 16' and higher floors at 12'.

- 12.1601** the minimum lot area requirement is 3 acres;
- 12.1602** building coverage may not exceed 30% of the lot area;
- 12.1603** minimum street setbacks of 50 feet must be provided, with a minimum setback from all other property lines of 100 feet;
- 12.1604** all sales must be conducted in a building, or if conducted from an open lot, a minimum setback distance of 20 feet must be provided from the street line;
- 12.1605** storage of fertilizer within 200 feet of any property line is prohibited; and
- 12.1606** equipment parking and storage areas (e.g., carts, tractors and similar vehicles) must be set back at least 200 feet from any side or rear property line.

12.1700 Gymnasiums and Athletic Clubs

Gymnasiums and athletic clubs are allowed in R-1, R-2, R-3C, R-4, and R-5 districts as part of a permitted public, private or parochial school or community center.

12.1800 Hospitals

Hospitals are allowed in all R districts, subject to all of the following conditions:

- 12.1801** the minimum lot area requirement in the R-1 district is 15 acres;
- 12.1802** the minimum lot area requirement in the R-2 district is 10 acres;
- 12.1803** the minimum lot area requirement in R-3A, R-3B, R-3C, R-4 and R-5 districts is 5 acres;
- 12.1804** building coverage may not exceed 30% of the lot area;
- 12.1805** minimum building setbacks of 25 feet must be provided from all property lines, with minimum building setbacks of 50 feet from all abutting R-zoned properties;
- 12.1806** power generation plants and laundry facilities must be set back at least 100 feet from R-zoned property; and
- 12.1807** in addition to customary accessory uses, the following accessory uses are allowed within the hospital complex when located inside of a building with no outside separate entrances to such facilities: drug stores, gift shops, eating establishments or such other goods or services providing a convenience for patients, employees and visitors.

12.1900 Laundry and Dry Cleaning; Depot, Self-Service, and Self-Service and Depot⁸⁵

Laundry and dry cleaning; depot, self-service, and self-service and depot are allowed uses in R-3C and R-5 districts when located on the first floor or in the basement of any apartment building or hotel.

12.2000 Marinas (Recreational Marine Crafts)

Marinas are allowed in R-3C and R-5 districts, subject to all of the following conditions:

- 12.2001** such facilities may be used only for the docking of small power boats and sailboats;
- 12.2002** no repair work, such as the scraping or finishing or refinishing of hulls or the painting of boats, is allowed;
- 12.2003** a maximum of 2 fuel pumps is allowed; and

⁸⁵ Title doesn't seem right—too many “self-services” and “depots”

12.2004 no sale of food or drinks at the docking area or areas is allowed⁸⁶.

12.2100 Medical Offices and Clinics

12.2101 Medical offices and clinics are allowed in R-4 and S districts, subject to all of the following conditions:

12.2101.A the minimum lot area requirement is 5,000 square feet;

12.2101.B building coverage may not exceed 40% of the lot area;

12.2101.C all buildings must be set back at least 25 feet from the street line and at least 10 feet from all other property lines.

12.2102 Medical clinics and offices are allowed in the R-3C and R-5 districts, subject to all of the following conditions:

12.2102.A if in separate buildings, medical clinics and offices must meet the requirements that apply in R-4 and S districts (above) and be limited to a maximum height of 28 feet⁸⁷; and

12.2102.B if in apartment buildings, hotels or multi-unit residential buildings, medical clinics and offices must be located on the ground (first) floor of the building and may occupy no more than 10% of the ground floor area.

12.2200 Memorial Parks, Memorial Gardens, Memorial Nature Preserves or Parks, Perpetual Care Parks

Memorial parks, memorial gardens, memorial nature preserves or parks, and perpetual care parks are allowed in R-4, R-5, CN-2, IH, and S districts, subject to all of the following conditions:

12.2201 a permit for their construction and operation must be obtained from the proper departments of the Government of the Virgin Islands;

12.2202 all mausoleums and wall crypts must be set back at least 300 feet from abutting R-zoned property;

12.2203 all lighting must be designed and maintained so that it does not shine directly upon or cause glare on abutting R-zoned property;

12.2204 mausoleums and wall crypts may not cover more than 50% of the total area of the memorial park, memorial nature preserve or park, or perpetual care park; and

12.2205 mausoleums and wall crypts may not exceed 30 feet in height;

12.2300 Mobile Home Parks

Mobile home parks and courts are allowed in A-1, A-2, R-2, and R-3C districts, subject to all of the following conditions:

12.2301 the minimum lot area requirement is 5 acres;

12.2302 the minimum area of an individual mobile home space is 2,500 square feet, provided that no mobile home unit may occupy more than 30% of such allotted space;

⁸⁶ Removed sign area limitation. Signs are addressed by Public Works regulations, not the development code.

⁸⁷ This is a proposed conversion the existing 2-story height limit, based on first floor at 16' and higher floors at 12'.

- 12.2303** at least 30% of the mobile home park must be in common open space. For the purpose of this section, common open space is calculated as any open unoccupied area remaining after deducting the minimum area allotted to each mobile home space. Such open space may not be occupied by buildings, roadways or parking areas, and must be sodded and landscaped or otherwise made available for outdoor recreation use. The perimeter of the mobile home park must also be landscaped to provide visual screening from abutting areas;
- 12.2304** the maximum number of mobile home units may not exceed 10 per acre;
- 12.2305** mobile home parks must have frontage on a major street or road, or have an improved road that provides direct vehicular access to a major street or road;
- 12.2306** mobile homes must be set back at least 10 feet from any roadway within the mobile home park, and must be set back at least 25 feet from the boundaries of the mobile home park;
- 12.2307** mobile home and appurtenances must be set back at least 20 feet from any other mobile home or appurtenances within the mobile home park;
- 12.2308** required parking spaces may be provided in a common parking area. In the case of common parking areas for more than 5 spaces, visual screening and landscaping must be provided and the parking area must be paved; and
- 12.2309** buildings or structures in addition to the mobile home units are limited to administration offices or quarters, buildings used for common recreation or laundry facilities, storage and such buildings or structures as may be required for sanitation purposes, and a small grocery or general store. A minimum of 40 units, in place, are required for a small grocery or general store, which must be incorporated wherever possible in other service or convenience building within the park.

12.2400 Motion Picture Theaters

Motion picture theaters (indoors) are allowed R-3C, R-4, and R-5 districts, subject to all of the following conditions:

- 12.2401** the minimum lot area requirement is 2 acres;
- 12.2402** building coverage may not exceed 30% of the lot area;
- 12.2403** minimum side and rear building setbacks of 25 feet must be provided, with minimum building setbacks of 60 feet from all abutting R-zoned properties;
- 12.2404** vehicular access to parking facilities must be located, where possible, on nonresidential streets and must be located at least 75 feet from any street intersections;

12.2500 Nightclubs

Nightclubs are allowed in the W district, subject to all of the following conditions:

- 12.2501** nightclubs are allowed only as a secondary use of a building whose principal use is that of a hotel or restaurant; and
- 12.2502** nightclubs must be located within the building in a way that prevents noise from emanating from the building and causing a disturbance for nearby properties.

12.2600 Nursing, Rest, Convalescent and Retirement Homes

Nursing, rest, convalescent and retirement homes are allowed in R-1 and R-2 districts, subject to all of the following conditions:

- 12.2601** the minimum lot area requirement is one acre;
- 12.2602** building coverage may not exceed 30% of the lot area; and
- 12.2603** minimum side and rear building setbacks of 25 feet must be provided, with minimum building setbacks of 50 feet from all abutting R-zoned properties.

12.2700 Refreshment Stands

Refreshment stands are allowed in the W district, subject to all of the following conditions:

- 12.2701** when erected upon public property, a permit must be obtained from the proper departments of the Government of the United States Virgin Islands;
- 12.2702** the design of every stand must be submitted to and approved by the Director of the Planning Office before the stand is erected or placed on any property;
- 12.2703** refreshment stands may not exceed 150 square feet in area;
- 12.2704** stands must be set back at least 200 feet from any abutting R-zoned lot;
- 12.2705** containers for rubbish must be placed on the property assigned for such stand, and the owner or operator is responsible for proper removal of such rubbish; and
- 12.2706** when located abutting any R-zoned lot, such stand may remain open no later than 10:00 P.M.

12.2800 Riding Stables

Riding stables are allowed in the W district, subject to all of the following conditions:

- 12.2801** approval must be first obtained from the Department of Health, Division of Environmental Health;
- 12.2802** minimum side and rear building setbacks of 50 feet must be provided, with minimum building setbacks of 100 feet from all abutting R-zoned properties; and
- 12.2803** riding stables are prohibited in W districts designated as swimming areas.

12.2900 Religious Assembly⁸⁸

Churches, synagogues, mosques, temples, Sunday school buildings and similar religious assembly uses are allowed in R-1 and R-2 districts, subject to all of the following conditions:

- 12.2901** the minimum lot area is 30,000 square feet⁸⁹;
- 12.2902** building coverage may not exceed 30% of the lot area;
- 12.2903** minimum side and rear building setbacks of 25 feet must be provided, with minimum building setbacks of 100 feet from all abutting R-zoned properties; and
- 12.2904** vehicular access must come from nonresidential streets wherever possible, and drive-ways must be located at least 75 feet from street intersections.

⁸⁸ Need to discuss religious assembly regulation.

⁸⁹ This represents a slight "rounding down" of the existing $\frac{3}{4}$ acre requirement.

12.3000 Seaplane Ramps

Seaplane ramps are allowed in W districts, subject to all of the following conditions:

- 12.3001** such facilities may be used only for the embarkation and debarkation of passengers or for freight, and for such related accessory activities as are essential to the provisions of these services;
- 12.3002** no repair work, except emergency repairs, is allowed;
- 12.3003** a maximum of 2 fuel pumps is allowed;
- 12.3004** sale of food and drinks is allowed when part of a passenger terminal or waiting area;⁹⁰
- 12.3005** seaplane ramps are prohibited in W districts designated as swimming areas; and
- 12.3006** all principal activities related to facility must be set back at least 300 feet from abutting R-zoned lots.

12.3100 Sewage Lift Stations, Sewage and Water Pressure Control Stations, and Sewage Treatment Plants

Sewage lift stations, sewage and water pressure control stations, and sewage treatment plants are allowed in R districts, subject to all of the following conditions:

- 12.3101** the design and location of each installation must be approved by the Department of Health;
- 12.3102** the design and specific location of the installation must be approved by the Director of the Planning Office;
- 12.3103** every installation must be screened from view by a fence or landscape planting strip that effectively screens it from view of surrounding properties;
- 12.3104** when the installation is not connected to a sewer system, the Department of Health must certify that there is a facility available suitable to carry off the effluent without disturbance of surrounding property or without polluting the waters of the Islands.

12.3200 Warehousing, Storage and Light Industrial

Warehousing, storage and light industrial uses are allowed in the P district, subject to all of the following conditions:

- 12.3201** such uses are allowed only in a P district that abuts a public airport or an area zoned IL or IH.
- 12.3202** a permit, lease, license, or other entitlement for the construction and/or operation of an activity must be obtained from the agency of the Government of the United States Virgin Islands responsible for the management or administration of the property upon which the activity is to be located;
- 12.3203** the minimum lot area requirement is 5,000 square feet;
- 12.3204** buildings and structures may not 35 feet in height;
- 12.3205** no more than 60% of the lot area may be used for building or storage of equipment, other than required off-street parking or off-street loading; and

⁹⁰ Removed sign area limitation. Signs are addressed by Public Works regulations, not the development code.

- 12.3206** all structures must be set back at least 20 feet from any residential building and from any R-zoned lot.

12.3300 Water Storage Tanks

Water storage tanks are allowed in R-3C districts, subject to all of the following conditions:

- 12.3301** the design and location of each installation must be approved by the Department of Planning and Natural Resources and the Director of the Planning Office; and
- 12.3302** every installation must be fenced and landscaped.

Article 13 Accessory Uses

13.100 General

13.101 Accessory Uses Allowed

Accessory uses and structures are permitted in connection with lawfully established principal uses unless otherwise expressly stated.

13.102 Incidental and Subordinate Nature

The Zoning Administrator is authorized to determine when a use, building or structure meets the criteria for classification as an accessory use or accessory structure. In order to classify a use or structure as “accessory” the Zoning Administrator must determine that the use or structure:

- 13.102.A is subordinate to the principal building or principal use in terms of area and function;
- 13.102.B contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served;
- 13.102.C is customarily found in association with the subject principal use or principal building; and
- 13.102.D does not materially alter the character of the principal use with which it is associated.⁹¹

13.103 Time of Construction and Establishment

- 13.103.A Accessory uses may be established only after the principal use of the property is established.
- 13.103.B Accessory buildings may be established in conjunction with or after the principal building. They may not be established before the principal building is in place.⁹²

13.104 Location

- 13.104.A Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, except as otherwise expressly stated. See, for example, Sec. [23.504](#) for information about common accessory structures allowed to encroach into required zoning setback areas.
- 13.104.B Accessory structures may not be located in utility or drainage easements.

13.105 Generally Applicable Regulations

Unless otherwise expressly stated, accessory uses and structures are subject to the same regulations and standards as apply to principal uses and structures on the subject lot.

13.200 Accessory Uses in Agricultural Districts

The following are expressly allowed as accessory uses in agricultural districts, in addition to other customary accessory uses:

⁹¹ Most of these criteria already exist in some form in the current ordinance.

⁹² These provisions are new, but they are a common-sense extension of the rule that an accessory use must be subordinate to the principal use of the property.

- 13.201** barns;
- 13.202** storage sheds;
- 13.203** a single roadside stand for the sale of agricultural products produced on the premise; and
- 13.204** accessory buildings used for housing tenants or employees, provided the number of such buildings does not exceed 3 in the A-1 district or one in the A-2 district.

13.300 Accessory Buildings in Residential Districts

- 13.301** Accessory buildings up to 15 feet in height may be located in a required rear setback, provided they do not occupy more than 25% of the required rear setback or more than 40% of the actual rear yard area.
- 13.302** On reverse corner lots, accessory buildings in the rear yard may not be located closer to the street than the front building line of the lot to the rear.⁹³

13.400 Country Clubs

See Sec. [12.1100](#).

13.500 Hospitals

See Sec. [12.1800](#).

13.600 Hotels and Multiple Dwellings

Limited commercial activities are permitted as an accessory use to hotels and multiple dwellings in R-3C, R-5 and W districts, subject to the following regulations:

- 13.601** The commercial activities must be located on the ground floor area of the principal building, provided that restaurants and snack bars may be located in a separate accessory building;
- 13.602** The commercial activities are limited to those customarily found in hotels including, but not limited to, perfume, liquor, clothes, novelty, jewelry, watches, etc., shops and restaurants;
- 13.603** The uses must be primarily intended for the convenience of the guests or residents of the hotel or multiple dwelling.

13.700 Home Occupations⁹⁴

13.701 Where Allowed

One or more home occupations are allowed as accessory uses to an allowed household living use.

13.702 Regulations

Home occupations are subject to all of the following regulations. These regulations apply to the property as a whole, regardless of the number of home occupations being conducted on the property.

⁹³ This reverse corner lot provision is in the existing ordinance, but it is not referred to as a reverse corner lot (definition: a corner lot, the street side property line of which is substantially a continuation of the front property line of the first lot to its rear). The provision should be illustrated.

⁹⁴ The existing home occupation regulations are currently incorporated into the “home occupation” definition.

- 13.702.A** The operator of a home occupation must be a full-time resident of the dwelling unit.
- 13.702.B** No more than one nonresident may be engaged in the conduct of home occupations occurring on the subject property.
- 13.702.C** The use of a dwelling unit for home occupation activities must be clearly incidental and subordinate to the dwelling's use for residential purposes.
- 13.702.D** Home occupations must be conducted within the principal building. They may not be conducted in detached buildings or structures. Equipment, materials, samples, and vehicles incidental to the home occupation may be stored in detached accessory structures.
- 13.702.E** Home occupations may not involve any outdoor storage, outdoor display or other outdoor activity.
- 13.702.F** There may be no visible evidence of the conduct of a home occupation when viewed from the street or from any adjacent lot. There may be no change in the exterior appearance of the dwelling or the subject property that will make the dwelling or the property appear less residential in nature or function. Examples of such prohibited alterations include parking lots, commercial-like exterior lighting, or separate building entrances for the home occupation.
- 13.702.G** Deliveries or pick-ups of supplies or products associated with home occupations are allowed only between 8:00 a.m. and 8:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods (postal carrier, parcel service or passenger vehicle).
- 13.702.H** No equipment or process may be used in a home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal human senses off the lot. In the case of electrical interference, no equipment or process may be used that creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 13.702.I** Products incidental to a permitted home occupation may be sold from the premises. Retail sales through telephone or mail communication, or electronic or wireless communication are also permitted.
- 13.702.J** Consultation with the Zoning Administrator is required for proposed home occupations. The Zoning Administrator is authorized to determine, on a case-by-case basis, whether the proposed activity requires building permits and whether adherence to other applicable laws and ordinances is required.
- 13.702.K** By the nature of the investment or typical means of their operation, the following uses have a pronounced tendency to rapidly increase beyond the limits established by this ordinance for home occupations and impair the use, value and enjoyment of adjacent residential properties. Therefore, the uses specified below and other similar or comparable uses are prohibited as home occupations:
- 13.702.K.1** Animal hospitals, veterinary clinics, stables and kennels;

- 13.702.K.2** Eating and drinking establishments;
- 13.702.K.3** Retail stores;
- 13.702.K.4** Business or commercial storage of recreational vehicles, mobile homes, vehicles or mechanical equipment;
- 13.702.K.5** Funeral and interment services;
- 13.702.K.6** Manufacturing, freight shipping or trucking;
- 13.702.K.7** Household appliance, equipment, automobile or truck repair;
- 13.702.K.8** Any other use that is not deemed to be a customary or appropriate home occupation by the Zoning Administrator or that does not comply with the home occupation regulations of this section.

13.800 Accessory Solar Energy Systems⁹⁵

13.801 General

Owners of accessory solar energy systems are solely responsible for negotiating with other property owners for any desired solar easements to protect access to sunlight.

13.802 Building-Mounted Solar Energy Systems

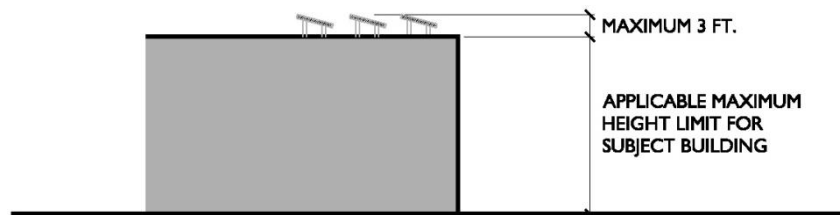
13.802.A Building-mounted solar energy systems may be mounted on principal and accessory structures.

13.802.B All applicable setback regulations apply to building-mounted solar energy systems. Systems mounted on principal structures may encroach into interior side and rear setbacks in accordance with Sec. [23.504](#).

13.802.C Only building-integrated and/or flush-mounted solar energy system may be installed on street-facing building elevations.

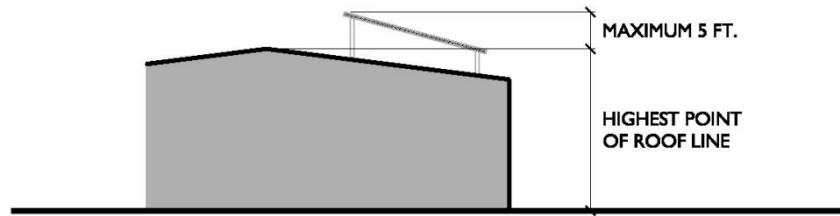
13.802.D Solar energy systems may not extend more than 3 feet above the applicable maximum building height limit for the subject building type or more than 5 feet above the highest point of the roof line, whichever is less.

Figure 13-1: Solar Energy System Height (1)



⁹⁵ These are entirely new.

Figure 13-2: Solar Energy System Height (2)



13.803 Ground-Mounted Solar Energy Systems

- 13.803.A** In R zoning districts, ground-mounted solar energy systems may not be located in front or street side setbacks.
- 13.803.B** Ground-mounted solar energy systems are subject to applicable accessory structure regulations.
- 13.803.C** Ground-mounted solar energy systems are subject to applicable accessory structure height regulations.

13.900 Accessory Wind Energy Systems⁹⁶

13.901 Roof-mounted Systems

Roof-mounted accessory wind energy systems are allowed as an accessory use in all zoning districts subject to compliance with the following regulations.

13.901.A Regulations

All roof-mounted accessory wind energy systems are subject to the following regulations:

- 13.901.A.1** Roof-mounted accessory wind energy systems may not exceed a noise level of 60dba, as measured at the owner's property line. The level, however, may be exceeded during short-term events, such as utility outages and severe wind storms.
- 13.901.A.2** No roof-mounted accessory wind energy system may be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned energy generator. Off-grid systems are exempt from this requirement.
- 13.901.A.3** Roof-mounted accessory wind energy systems may not exceed 15 feet in height above the highest point of the structure to which it is attached. Roof-mounted wind energy systems may be mounted on the side of a structure.
- 13.901.A.4** In residential districts, a maximum of one roof-mounted accessory wind energy system is allowed per lot.

⁹⁶ These are entirely new.

13.902 Ground-mounted Systems

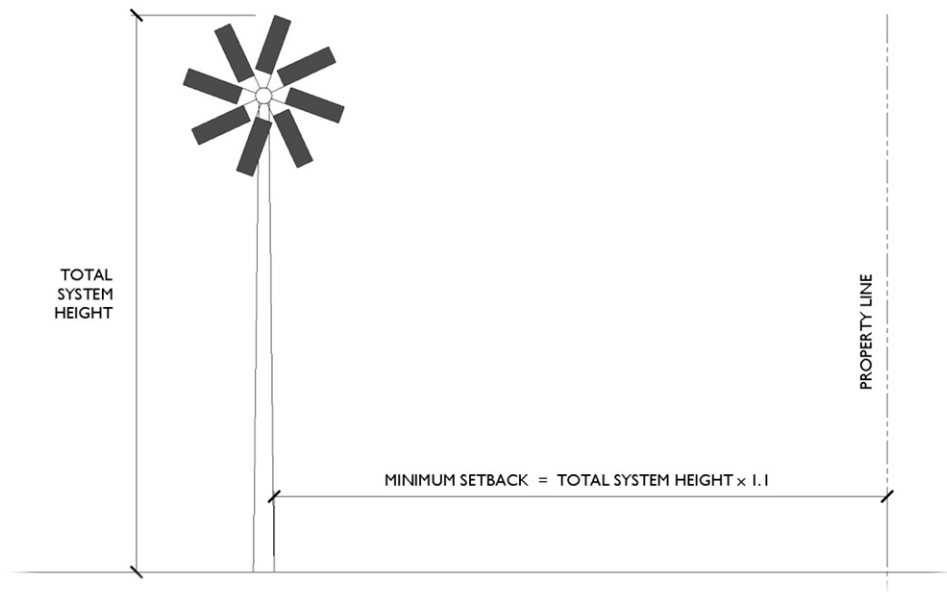
Ground-mounted accessory wind energy systems are allowed as an accessory use in all zoning districts subject to compliance with the following regulations.

13.902.A Regulations

All ground-mounted accessory wind energy systems are subject to the following regulations:

- 13.902.A.1** No more than one ground-mounted accessory wind energy system is permitted per lot.
- 13.902.A.2** All ground-mounted accessory wind energy systems must be set back from all property lines a distance equivalent to at least 110% of the total system height.
- 13.902.A.3** The blade tip of any rotor must, at its lowest point, have ground clearance of at least 15 feet.
- 13.902.A.4** All climbing apparatus must be located at least 15 feet above the ground, and the tower must be designed to prevent climbing within the first 15 feet from the top of foundation.
- 13.902.A.5** Tower structure lighting is prohibited unless required by aviation authorities.

Figure 13-3: Accessory Wind Energy System Height (ground-mounted)

**13.1000 Electric Vehicle Charging Stations****13.1001 General**

- 13.1001.A** Private (restricted-access) EV charging stations are permitted as accessory uses in all zoning districts.
- 13.1001.B** Public EV charging stations are permitted as accessory uses to allowed non-residential uses in all zoning districts.

13.1002 Parking

- 13.1002.A** Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.
- 13.1002.B** Public electric vehicle charging stations must be reserved for parking and charging electric vehicles only. Electric vehicles may be parked in any space designated for public parking, subject to the restrictions that apply to any other vehicle.

13.1003 Equipment

Vehicle charging equipment must be designed and located so as to not impede pedestrian, bicycle or wheelchair movement or create safety hazards on sidewalks.

13.1004 Usage Fees

Property owners are not restricted from collecting a service fee for the use of an electric vehicle charging station.

13.1005 Signage

- 13.1005.A** Information must be posted identifying voltage and amperage levels and any type of use, fees, or safety information related to the electric vehicle charging station.
- 13.1005.B** Public electric vehicle charging stations must be posted with signage indicating that the space is reserved for electric vehicle charging purposes only. For purposes of this provision, “charging” means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment.

13.1006 Maintenance

Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number or other contact information must be provided on the equipment for reporting when it is not functioning or other problems are encountered.

Figure 13-4: Electric Vehicle Charging Station (Typical)



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Article 14 Parking and Loading

14.100 General

14.101 Purpose

- 14.101.A** The regulations of this section are intended to ensure that each permitted use of land that generates vehicular traffic provides its own parking and loading facilities in sufficient amount to permit such use to function without reliance upon parking or loading accommodations within public rights-of-way.
- 14.101.B** It is further intended by this section that off-street parking and loading facilities be developed in a manner compatible with adjacent uses of land as well as the use of land it serves in accordance with the environment intended for the district in which such facility is located.
- 14.101.C** The provisions of this section are also intended to help protect the public health, safety, and general welfare by:
- 14.101.C.1** Helping avoid and mitigate traffic congestion;
 - 14.101.C.2** Encouraging multi-modal transportation options and enhanced pedestrian and cyclist safety;
 - 14.101.C.3** Providing methods to reduce the amount of impervious surfaces in parking areas and adequate drainage structures in order to reduce the environmental impacts of stormwater runoff;
 - 14.101.C.4** Providing flexible methods of responding to the transportation and access demands of various land uses in different areas of the Territory.

14.200 Applicability⁹⁷

14.201 General

Unless otherwise expressly stated, the regulations of this section apply to all districts and uses.

14.202 New Uses and Development

Unless otherwise expressly stated, the regulations of this section apply to all new buildings constructed and all new uses established in all districts.

14.203 Enlargements and Expansions

- 14.203.A** Unless otherwise expressly stated, the regulations of this section apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking and loading requirements.

⁹⁷ These applicability provisions treat 3 types of actions separately: “new uses and development,” “enlargements and expansions” of existing uses and development and “changes of use.” These changes are intended to make it easier to reuse existing buildings and sites.

- 14.203.B** In the case of enlargements or expansions triggering requirements for additional parking or loading, additional spaces are required only to serve the enlarged or expanded area, not the entire building or use. In other words, there is no requirement to address lawfully existing parking and loading space deficits.

14.204 Change of Use

- 14.204.A** Unless otherwise expressly stated, when the use of property changes, additional (vehicle and bicycle)⁹⁸ parking spaces and loading spaces must be provided to serve the new use only when the number of spaces required for the new use exceeds the number of spaces required for the lawful use that most recently occupied the building, based on the regulations of this zoning ordinance. Thus, the most recent lawful use of the property 100% “credit” for the number of parking and loading spaces that would have been required under this development code, regardless of whether such spaces are actually provided. Any new parking spaces required must comply with all applicable parking and loading area design and layout standards.
- 14.204.B** When the number of parking or loading spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the property, additional spaces are required only to make up the difference between the number of spaces required for the previous use and the number of spaces required for the new use, based on the regulations of this zoning ordinance.

14.300 Parking Ratios

14.301 Minimum Requirements

Except as otherwise expressly stated, off-street motor vehicle parking spaces must be provided in accordance with the [Table 14-1](#):

Table 14-1: Minimum Parking Ratios

USE CATEGORY	Minimum Motor Vehicle Off-Street Parking Ratio
Use Subcategory ↳ Specific Use Type	
RESIDENTIAL	
Household Living (except as identified below)	1 space per dwelling unit plus 1 space per transient guest room
PUBLIC/CIVIC	
Arenas, Amphitheaters, Stadia used for Entertainment or Spectator Sports	1 space per 10 seats plus 1 space per every 5 employees
Auditoriums, Theaters, or Meeting halls	1 space per 10 seats plus 1 space per every 5 employees
Chapels, Sanctuaries, and Funeral Parlors	1 space per 10 seats plus 1 space per every 5 employees
Entertainment, Amusement or Recreation Places	1 space per 10 seats plus 1 space per every 5 employees
Hospital	1 space per 6 beds plus 1 space per every 5 employees
Library/Cultural Facility	1 space per every 5 employees
Park/Recreation/Open Space	As determined by Zoning Administrator
Religious Assembly	1 space per 10 seats plus 1 space per every 5 employees
Retirement or Convalescent Homes	1 space per 6 beds plus 1 space per every 5 employees
School	
↳ Elementary & Junior High	1 space per employee

USE CATEGORY	Minimum Motor Vehicle Off-Street Parking Ratio
Use Subcategory	
↳ Specific Use Type	
↳ High School	1 space per 6 students
COMMERCIAL	
Barbers and Beauty Salons	1 space per each professional service provider plus 1 space per 5 employees
Construction, Repair, Installation or Other Business Services	1 space per 5 employees
Drive-Through Establishments	Spaces required for principal use plus vehicle stacking spaces as required by Sec. 14.900
Eating and Drinking Establishments	1 space per 40-6 seats plus 1 space per every 5-3 employees
Retail Sales	1 space per 500 square feet
Offices, General	1 space per 5 employees
Office or Clinic, Medical	1 space per each professional service provider plus 1 space per every 5 employees
Retail Sales and Services	1 space per 500 square feet of floor area
Sports and Recreation, Participant	1 space per 10 seats plus 1 space per every 5 employees
INDUSTRIAL	
All Industrial Uses	1 space per 5 employees
Warehousing, Storage, & Wholesale	1 space per 5 employees
OTHER	
All other uses not specified	1 space per 5 employees plus additional spaces as determined by Zoning Administrator

14.302 Calculations

The following rules apply when calculating the required number of off-street parking and loading spaces required under this zoning ordinance.

14.303 Multiple Uses

Unless otherwise expressly stated, lots occupied by more than one use must provide parking and loading in an amount equal to the total of the requirements for all uses that occupy the lot.

14.304 Fractions

When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half may be disregarded and fractions above one-half require 1 parking space.

14.305 Area Measurements

All area-based (square footage) parking and loading standards must be computed on the basis of the total gross floor area devoted to such use, including accessory storage areas located within selling or working space such as counters, racks, or closets, and any floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, for the purposes of determining off-street parking and loading space requirements the following areas are excluded from the gross floor area:

14.305.A Floor area devoted primarily to storage purposes (except as otherwise noted herein);

14.305.B Floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space; or

14.305.C Mechanical or storage floor area other than area devoted to retailing activities, to the production of goods, or to business or professional offices.

14.306 Seating or Occupancy

A seat is the space intended for a single individual; in places where patrons or spectators occupy benches, pews, or other similar seating arrangements, each 20 linear inches of such seating is counted as one seat. In places without fixed seating, each 8 square feet of seating floor area is counted as one seat.

14.307 Employees

For the purpose of computing requirements based on employees, calculations must be based on the average number of persons working on any single shift.

14.308 Unlisted Uses

Upon receiving a zoning permit application for a use not specifically listed in an off-street parking schedule, the Zoning Administrator is authorized to establish required minimum off-street parking ratios for such unlisted on the basis of a similar use/parking determination on parking data provided by the applicant or on information otherwise available to the Zoning Administrator. Parking data and studies must include estimates of parking demand based on reliable data collected from comparable uses or on external data from credible research organizations. Comparability must be determined by density, scale, bulk, area, type of activity and location. Parking studies must document the source of all data used to develop recommended requirements.

14.400 Joint Use⁹⁹**14.401 Applicability****14.401.A Places of Religious Assembly**

Parking spaces already provided to meet off-street parking requirements for theaters, stadiums, auditoriums and other places of public assembly, stores, office buildings, and industrial establishments, lying within 500 feet of a religious as measured along lines of public access, and that are not normally used between the hours of 6:00 am and 6:00 pm on Sundays, and that are made available for other parking, may be used to meet up to 75% of the off-street parking requirements of a place of religious assembly.

14.401.B Other Places of Public Assembly

Parking spaces already provided to meet off-street parking requirements for stores, office buildings and industrial establishments, lying within 500 feet of the place of public assembly as measured along lines of public access, and that are not normally in use between the hours of 6:00 P.M. and mid-night and are made available for other parking, may be used to meet up to 50% of the total requirements of parking spaces.

14.401.C Mixed Occupancies and Uses

In the case of mixed uses, the total requirement for off-street parking facilities is the sum of the requirements for the various uses computed separately. Off-street parking facilities for one use may not be considered as providing required parking facilities for any other use except as specified for joint use parking.

⁹⁹ The joint use provisions provided here are carried over from the current code. We did not include any procedures for the Zoning Administrator to authorize these arrangements to reduce the burden on staff of enforcing them. We can add such provisions for shared parking agreements and administrative review if desired by staff.

14.500 Off-Site Parking**14.501 General**

All or a portion of required off-street parking for nonresidential uses may be provided off-site, in accordance with the provisions of this section. Required accessible parking spaces may not be located off site.

14.502 Location

Off-site parking areas must be located within a 500-foot radius of the use served by such parking, measured between the entrance of the use to be served and the outer perimeter of the furthest parking space within the off-site parking lot.¹⁰⁰

14.503 Parking in Setbacks and Yard Areas

In R districts, parking is prohibited in front and street side yards, except that parking spaces for residential uses may be located on a driveway leading to a garage or other allowed off-street parking area. In all other districts, parking spaces may be located in front and street side yards unless otherwise expressly stated.¹⁰¹

14.504 Agreements

An agreement providing for the use of off-site parking, executed by the parties involved, must be filed with the Department of Planning and Natural Resources, in a form approved by the community development director. Off-site parking privileges are in effect only as long as the agreement, binding on all parties, remains in force. Agreements must guarantee long-term availability of the parking, commensurate with the use served by the parking. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this section.

14.600 Accessible Parking (for People with Disabilities)

Accessible parking facilities must be provided in accordance with the Americans with Disabilities Act of 1990 [ADA], and the ADA Amendments Act of 2008 (P.L. 110-325),

14.700 Use of Off-Street Parking and Loading Areas

14.701 Required off-street parking and loading areas may be used solely for the temporary parking and loading/unloading of licensed motor vehicles in operating condition.

14.702 Required off-street parking and loading spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Parking spaces may be provided with or without charge.

14.703 Outdoor parking spaces may not be used for sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.

14.704 Required off-street parking and loading spaces may not be used for the display of goods for sale or lease or for storage of building materials.

14.705 Off-street loading spaces in industrial districts may not be used for sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies if the loading facilities are located within 500 feet of a residential district. Washing of accessory vehicles

¹⁰⁰ This provision is essentially what is in the existing code. If desired, we can add more details/guidance on off-site parking, e.g., requiring and filing of off-site parking agreements.

¹⁰¹ This is new provision that is intended to reduce the impact on residential areas of cars parked on lawns, patios, etc. but it may be impractical in some of the denser neighborhoods that lack driveways or adequate street parking.

and emergency service required to start vehicles is permitted in loading spaces located in industrial districts.

- 14.706** Off-street parking spaces required herein must not be used for the purpose of storage of inoperable vehicles or for the storage or display of vehicles for sale or hire.

14.800 Parking Area Design

All public and private parking areas, including non-accessory parking uses and vehicle and equipment sales and rental uses must be designed, developed, and maintained in accordance with the following requirements:

- 14.801** Plans for the design of parking areas are subject to approval by the Zoning Administrator.
- 14.802** Parking areas must be graded for proper drainage and provided with an all-weather surface material capable of carrying a wheel load of 4,000 pounds maintained at all times in such a manner as to prevent the release of dust and to be free of dust, trash and debris. The use of permeable paving material is encouraged.
- 14.803 Vehicle Circulation**
- 14.803.A** Parking areas must be provided with entrances and exits of at least 12 feet in width and located to minimize traffic congestion.
- 14.803.B** Except on residential lots, each off-street parking space must open directly upon an aisle or driveway at least 12 feet in width or such additional width and design to provide safe and efficient means of vehicular access to parking spaces.
- 14.803.C** Parking areas must be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic movement.
- 14.804 Required Stall Size and Clearance**
Except for parallel parking spaces, each required off-street parking space must be at least 9 feet in width and at least 18 feet in length, exclusive of access drives or aisles, ramps, columns, or office or work space. Parallel parking spaces must be 22 feet in length. All parking spaces must have a vertical clearance of at least 7 feet.¹⁰²
- 14.805 Minimum Distances and Setbacks**
- 14.805.A** Off-street parking areas for 5 or more vehicles must be set back at least 10 feet from any dwelling, school, hospital, retirement or convalescent home, or other similar use.
- 14.805.B** The parking area must not be located within the front yard or side street yard required of the principal structure.
- 14.805.C** If not on the same lot with a principal structure, the parking area must not be closer to any street line than the least depth of the yard which would be required for a principal structure of a single story structure.

¹⁰² The current ordinance requires parking spaces to be a minimum of 162 square feet or 9 x 18 feet. This draft expressing it in terms of the dimensions because stall size determines how many stalls can fit in a given area particularly with irregular shaped parcels.

14.805.D Any fence, wall, or hedge required by this section must be set back from each street the same as if it were a building wall so as to observe the front yard and side street yard requirements of this development code.

14.806 Bumper Guards

Bumper guards are required on all sides of the parking area where a protective fence or wall is also required. The bumper guards must be constructed of wood, metal, or concrete, not more than 2 feet in height, and securely anchored into the ground. Bumper guards must be located at such distance so that automobiles will not strike the protective fence or wall. As an alternative, a concrete beam serving the same purpose may be provided.

14.807 Surfacing of Parking Area; Permeable Pavement

Off-street parking areas for 5 or more vehicles must be surfaced with an asphaltic, bituminous, concrete or other properly bound pavement so as to provide a durable and dustless surface. The surface must be so graded and drained as to dispose of all surface water accumulation within the area. The foregoing requirements with respect to the type of surfacing do not apply to a parking area located in any industrial district, and at a distance of not less 100 feet from any lot in any residential district, except that a dustless surface must be provided in any case. Alternatively, such parking areas may be surfaced with permeable pavement including a base and sub-base that allow the movement of stormwater through the surface.¹⁰³

14.808 Lighting

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

14.900 Drive-through Facilities and Vehicle Stacking Spaces¹⁰⁴

14.901 Applicability

14.901.A The regulations of this section apply to all uses that include drive-through facilities and to all portions of a development that comprise the drive-through facility.

14.901.B The regulations apply to new developments, the addition of drive-through facilities to existing developments, and the relocation of existing drive-through facilities.

14.902 Parts of a Drive-through Facility

A drive-through facility is composed of two parts:

14.902.A The stacking lanes (the space occupied by vehicles queuing for the service to be provided); and

14.902.B The service area, where the service occurs. In uses with service windows, the service area starts at the service window. In uses where the service oc-

¹⁰³ This pavement requirement has been carried over from the existing code, although we've lowered the threshold requirement to lots of 5 or more spaces. As written the paving requirement is waived for lots in industrial districts or lots that are 100 feet or more from any residential district. Permeable paving language is new.

¹⁰⁴ These provisions are entirely new. They have been added to provide predictability and certainty regarding the design of drive-through facilities, as subject that is not addressed in the existing ordinance.

curs indoors, the service area is the area within the building where the service occurs. For other facilities, such as gas pumps, air compressors, and vacuum cleaning stations, the service area is the area where the vehicles are parked during the service or operation.

14.903 Setbacks and Landscaping

Service areas and stacking lanes on parcels abutting residential zoning districts must be set back at least 50 feet and landscaped in accordance with the large parking lot landscape perimeter requirements of Sec. [15.203.D](#).

14.904 Stacking Lanes

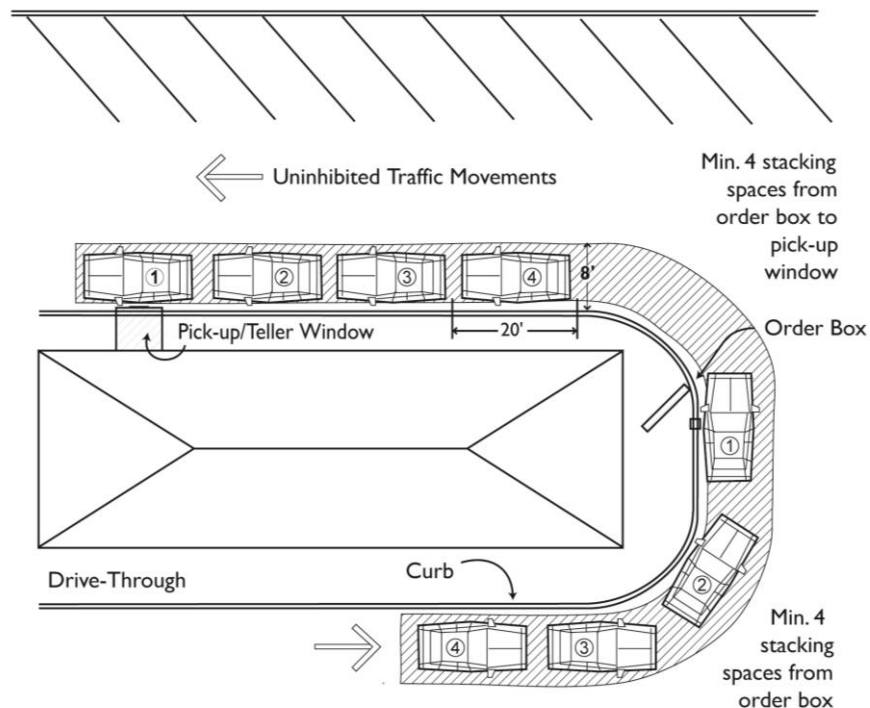
These regulations help ensure that there is adequate on-site maneuvering and circulation areas, that stacking vehicles do not impede traffic on abutting streets and that stacking lanes do not have nuisance impacts on nearby residential uses.

14.904.A All drive-through facilities must provide at least 4 stacking spaces for vehicles at the pick-up or teller window and at least 4 spaces from the order box. Each stacking space must be at least 20 feet in length.

14.904.B A stacking lane is not required for accessory facilities where vehicles do not routinely queue up while waiting for the service. Examples are window washing, air compressor and vacuum cleaning stations.

14.904.C All stacking lanes must be clearly identified, through such means as striping, landscaping, pavement design and signs.

Figure 14-1: Drive-through Facility



14.905 Noise

Speakers associated with drive-through facilities must be located and designed to minimize noise levels on nearby uses. Sound attenuation walls, landscaping or other mitigation measures may be required to ensure that the facility does not have adverse noise-related impacts on nearby residential uses.

14.906 Site Plans

Site plans submitted with zoning permit applications must show the location of drive-through windows and associated facilities (for example: communications systems and access aisles), as well as adjacent residential uses.

14.1000 Cross-Access¹⁰⁵**14.1001 Description and Purpose**

Cross-access refers to providing vehicular access between 2 or more contiguous sites so that motorists and pedestrians are not required to reenter the public road system to gain access to an abutting site. Cross-access between abutting properties reduces vehicular conflicts between motorists on the street and motorists entering and leaving driveways. Reduced traffic conflicts result in fewer accidents and improved traffic flow on the public road network.

14.1002 Requirements

Vehicular and pedestrian access between abutting parcels may be required in accordance with all applicable requirements of this and other codes as adopted by the Territory.

14.1100 Off-Street Loading Facilities**14.1101 Requirements**

14.1101.A Off-street vehicle loading and unloading areas must be provided for any new proposed public/civic, commercial or industrial use or building expansion.

14.1101.B Such loading and unloading space, must be provided for each 20,000 square feet of gross floor area, except that:

14.1101.B.1 No off-street vehicle loading and unloading spaces are required for structures with less than 1,400 square feet of gross floor area.

14.1101.B.2 One off-street loading space is required for structures with more than 1,400 square feet but less than 20,000 square feet of gross floor area.

14.1101.B.3 An additional loading space is required for any structure that is between 20,001 and 40,000 square feet of gross floor area.

14.1101.C Off-street vehicle loading and unloading areas must be provided for any new proposed residential use or building expansion that would result in project containing 50 or more dwelling units.

¹⁰⁵ This provision is new. It does not impose any new requirements. It merely encourages cross-access and provides express authorization to require vehicular or pedestrian cross-access as a condition of approval on those development applications where conditions are authorized. This proposed change is consistent with up-to-date practices in land development codes.

14.1102 Plans Required

Off-street loading plans must be submitted with applications for zoning permits involving any use required or proposing to provide off-street loading facilities. Plans must accurately designate the required or proposed off-street loading spaces, dimensions and clearance, and access to the loading spaces. Plans for the design of loading areas are subject to approval by the Zoning Administrator.

14.1103 Location and Design

The following location and design regulations apply to all off-street loading facilities regardless of whether they are required to be provided by this zoning ordinance.

14.1103.A Required off-street loading facilities must be located on the same lot as the use served.

14.1103.B Such loading and unloading space, unless otherwise adequately provided for, must be 10 feet wide by 50 feet in length with a 15 foot height clearance,

14.1103.C All loading areas adjacent to residential zoning districts must be screened from view of the residential zoning district in accordance with the ground-mounted equipment screening standards of Sec. [15.301.A](#).

14.1103.D No loading spaces may be located within 30 feet of the nearest point of intersection of any 2 streets.

14.1103.E Loading spaces may not be located in a required front or side setback.

14.1103.F Loading areas and access drives must be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights.

14.1103.G Each required off-street loading berth must be designed with appropriate means of vehicular access to a street or alley in a manner which least interferes with traffic movement, and are subject to approval by the Zoning Administrator.

Article 15 Landscaping and Screening

15.100 General

15.101 Purpose

The landscaping and screening regulations of this section establish minimum requirements for landscaping and screening. The regulations are intended to advance the general purposes of this ordinance and specifically to:

- 15.101.A Enhance quality of life for residents and visitors;
- 15.101.B Protect property values;
- 15.101.C Enhance the quality and appearance of new development;
- 15.101.D Mitigate adverse impacts of surface parking lots on abutting lower intensity land uses;
- 15.101.E Promote the preservation, expansion, protection and proper maintenance of landscaping, including the wise use of water resources;
- 15.101.F Improve air quality;
- 15.101.G Protect water quality and reduce the negative impacts of stormwater runoff by reducing impervious surface area and providing vegetated areas that filter and retain greater amounts of stormwater on site;
- 15.101.H Moderate heat by providing shade;
- 15.101.I Reduce the impacts of noise and glare; and
- 15.101.J Promote sustainable landscape practices including the use of non-invasive native and regionally adaptable plants.

15.200 Parking Lot Landscaping Requirements

15.201 Applicability

The landscaping requirements of this section apply to the following:

- 15.201.A Any new parking lot of 1,500 square feet of gross area or more that is included as part of or is associated with new development that requires a zoning permit;
- 15.201.B The expansion or reconstruction of any parking lot of less than 1,500 square feet of gross area if such expansion results in a parking lot that is larger than 1,500 square feet or more.
- 15.201.C The requirements of this section do not apply to the repair or resurfacing of any existing parking surface.

15.202 Small Parking Lots

A small parking lot is one that contains at least 1,500 square feet but less than 3,300 square feet of total area, including all areas devoted to parking spaces, drive aisles, and accessways.

- 15.202.A** All small parking lots must provide at least 8 square feet of landscaping for each required off street parking space or landscape area equal to at least 5% of the gross area of the entire parking lot, whichever is greater.
- 15.202.B** At least 75% of the required landscape area on a small parking lot must be located on the perimeter of the lot.
- 15.202.C** The perimeter landscape strip of a small parking lot must be at a depth of at least 5 feet but no more than 10 feet, as measured from the curb or edge of the pavement of the parking lot to the edge of the sidewalk or street, whichever is closer.
- 15.202.D** Interior landscape islands are allowed but not required in small parking lots. Where they are provided, they must meet the standards set forth in Sec. 15.203.E.
- 15.202.E** Where the expansion, excavation or reconstruction of any existing small parking lot results in an increase of the gross area of the entire lot to 3,300 square feet or more, the requirements for interior parking lot landscaping for large parking lots apply (See Sec. [15.203.E.1](#)).
- 15.202.F** All plant material used for perimeter or interior landscaped areas in small parking lots must be at least 3 feet in height at time of planting and in accordance with the plant material standards in Sec. [15.203.C](#).
- 15.202.G** The required landscaped perimeter of a small parking lot must provide a minimum depth of 5 feet and include a hedge, dense shrub planting, masonry wall or combination of such features that result in a continuous visual screen to a height of at least 30 inches above the grade of the parking lot along the length of the lot frontage.

15.203 Large Parking Lots

A large parking lot is one that contains at least 3,300 square feet of total gross area, which includes all areas devoted to parking spaces, drive aisles, and accessways.

- 15.203.A** All large parking lots must provide a minimum of 16 square feet of landscaping for each required off-street parking space or 10% of the gross square footage of the parking area, whichever is greater;
- 15.203.B** At least 75% of the required landscaping for a large parking lot must be located on the perimeter of lot, specifically on one or more sides of the lot that are parallel to a public or private street or other passageway.
- 15.203.C** All plant material used for perimeter or interior landscaped areas on large parking lots must be at least 3 feet in height at time of planting and in accordance with the plant selection standards in Sec. [15.400](#).
- 15.203.D** For large parking lots, applicants may choose from two options for the configuration of the required perimeter parking lot landscaping.
- 15.203.D.1** Option 1: A landscape strip with a minimum depth of 10 feet that includes a hedge, dense shrub planting, masonry wall or combination of such features that results in a continuous visual screen to a height of at least 30 inches above the grade of the parking lot along the length of the parking lot frontage;
or

- 15.203.D.2** Option B: A landscape strip with a minimum depth of 20 feet that includes at least 2 trees and 5 shrubs per 40 feet of vehicular use area frontage. A berm may be substituted for the trees required in this paragraph. Berms must comply with Sec. [15.408](#).
- 15.203.E** Interior parking lot landscaping is required for parking lots with 3,300 square feet of gross area or more, in accordance with the following:
- 15.203.E.1** Interior landscaping must be provided in the form of landscape islands.
- 15.203.E.2** Interior parking lot landscaping islands must be a minimum of 120 square feet in area and a minimum of 5 feet in width, as measured from back of curb to back of curb.
- 15.203.E.3** Only pervious area within landscape islands may be counted toward meeting minimum area and width requirements. Combining landscape islands to form larger interior landscape areas is encouraged.
- 15.203.E.4** At least one deciduous canopy tree must be provided per landscaped island or per 150 square feet of landscape island area, whichever results in more trees.
- 15.203.E.5** Landscape islands must be dispersed so that the distance between landscape islands is no greater than 10 parking spaces.
- 15.203.E.6** If landscape islands are combined to form larger bioretention areas the maximum allowable distance between such bioretention landscape islands is increased to 20 parking spaces.
- 15.203.E.7** Deciduous canopy trees must be provided in interior landscape islands at a minimum rate of one tree per 250 square feet of required interior landscape area.
- 15.203.E.8** Depressed bioretention areas used for landscaping and stormwater management are strongly encouraged.

15.300 Screening

15.301 Applicability

The following features must be screened from view of public rights-of-way, public open spaces and from lots used or zoned for residential purposes. Solar panels, wind energy or similar renewable energy devices are exempt from these screening requirements.

15.301.A Ground-mounted Mechanical Equipment

Ground-mounted mechanical equipment (e.g., air conditioning, heating, cooling, ventilation, exhaust and similar equipment) 30 inches in height or greater must be located at least 15 feet of the property line of a lot used or zoned for residential purposes. Ground-mounted mechanical equipment, including non-exempt utility installations, more than 30 inches in height and located within 25 feet of a street a lot used or zoned for residential purposes must be screened from view by a solid fence, solid wall, dense hedge,

or combination of such features. The hedge, fence or wall must be tall enough to screen the equipment.

15.301.B Refuse/Recycling Containers

Refuse/recycling containers must be screened from view of streets and all abutting lots with a solid wall or fence at least 6 feet in height. Refuse/recycling containers may not be located in front or street side setbacks. These location and screening requirements do not apply to containers used on a temporary basis.

15.301.C Materials, Supplies and Equipment

All stored materials, supplies, merchandise, vehicles, equipment, or other similar materials not on display for direct sale, rental or lease to the ultimate consumer or user must be screened by a fence, wall, dense hedge, or combination of such features.

15.302 Standards

15.302.A All plant material used for screening must be at least 3 feet in height at time of planting.

15.302.B Screens may be broken only as necessary to accommodate gates, approved access drives and walkways.

15.400 Landscape Material and Design

The following standards for landscape material and design of landscaped areas apply to small and large parking lots and any other area where landscaping may be required.

15.401 General Composition

Required landscaped areas of must be covered with biodegradable mulch, ornamental grasses, forbs, native plants, grass or other perennial herbaceous or shrub planting combinations. Landscape-grade stone or aggregate material may also be used within landscape areas. In areas subject to erosion, erosion-reducing blankets or reinforced mulch must be used.

15.402 Existing Trees and Vegetation

Existing non-invasive trees and shrubs count toward satisfying the landscaping and screening regulations of this article if they are located within the subject area (e.g., existing trees within the road frontage landscape area may be used to meet those requirements) and they comply with the plant height and size requirements of Sec. [15.400](#).

15.403 Installation

15.403.A Landscaping must be installed and maintained in accordance with the requirements of this section and the approved landscape plan.

15.403.B Required landscaping must be installed in complete and healthy condition before a certificate of use of occupancy may be issued.

15.404 Plant Selection¹⁰⁶

15.404.A Trees, shrubs, and ground cover used to satisfy the requirements of this article must be well-suited to the microclimate and on-site soil conditions.

¹⁰⁶ A list of permitted deciduous trees or evergreens is not included here. Rather this section requires that there be a mix of trees and plant types which are suitable to the climate and are noninvasive.

- 15.404.B** Invasive species may not be used to meet landscape requirements.
- 15.404.C** If more than 30 trees are used, a mixture of 3 or more tree species must be used.
- 15.404.D** If more than 50 shrubs are used, a mixture of 3 or more shrub species must be used.

15.405 Plant Types

15.405.A Evergreen

Evergreen trees used to satisfy the requirements of this article must have a minimum height of 5 feet at time of planting. There is no minimum caliper size for evergreen trees at time of planting.

15.405.B Deciduous/Broadleaf

Deciduous/broadleaf shrubs used to satisfy the requirements of this article must have a minimum height of 3 feet or be a minimum 5-gallon size.

15.405.C Evergreen Shrubs

Evergreen shrubs used to satisfy the requirements of this article must have a minimum width of 2 feet or be a minimum 5-gallon size.

15.405.D Groundcover Plants

Groundcover plants are deciduous or evergreen plants that grow low and spread horizontally, not including turf. Groundcover plants used to satisfy the requirements of this article must be at least 1-gallon size.

15.405.E Mulch

All required trees and shrubs must be located within a mulched area and be separated from turf by a minimum distance of 4 feet.

15.405.F Native or Naturalized Plants to be Used

All plant types used must be native of or naturalized to the U.S. Virgin Islands. The Planning Office will maintain a list of approved species appropriate for use in landscaping.

15.406 Curbs and Vehicle Barriers

Landscaped areas in or abutting vehicular use areas must be protected by concrete curbing, anchored wheel stops, or other durable barriers approved by the Zoning Administrator. Wood timbers that are not part of a structural retaining wall may not be used to meet this requirement. Alternative barrier designs that provide improved infiltration or storage of stormwater are encouraged. Curbs protecting landscape islands within vehicular use areas may be designed to allow stormwater runoff to pass through them. Curbs may be perforated or have gaps or breaks.

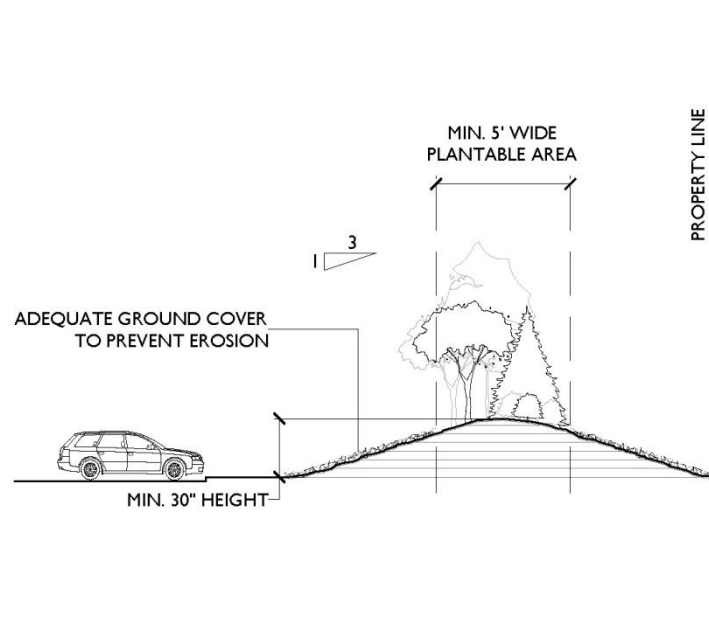
15.407 Bioretention

When landscape islands are used for bioretention, the ponding area should be at least 6 inches deep but not more than 18 inches deep, and planted with native wildflowers, forbs and grasses that have the ability to survive flooded conditions.

15.408 Berms

Berms used to satisfy the requirements of this article must consist of a mound or bank of formed earth at least 30 inches in height, a slope not exceeding one foot of vertical rise for each 3 feet of horizontal run, with a 5-foot wide (minimum) plantable area on top and adequate ground cover on side slopes to prevent erosion.

Figure 15-1: Landscape Berm Design

**15.409 Water Conservation**

To promote resource-efficient landscaping for the conservation of water and other natural resources, the following principles and practices are encouraged:

- 15.409.A** Practical turf areas;
- 15.409.B** Use of water-conserving plant material;
- 15.409.C** Grouping of plants with similar water requirements;
- 15.409.D** Installation of permeable paving material to encourage groundwater recharge and re-use, and to discourage run-off;
- 15.409.E** Rainwater harvesting techniques;
- 15.409.F** Use of mulches;
- 15.409.G** Use of soil amendments based on soil analysis; and
- 15.409.H** Use of reclaimed water.

15.500 Landscape Plan¹⁰⁷

A landscape plan must be submitted with an application for a zoning permit if the application involves a small parking lot (Sec. [15.201](#)) or large parking lot (Sec. [15.203](#)). The landscape plan must have a minimum scale of 1" = 50' and include at least the following information:

- 15.501** Location, species, and size of existing trees with a diameter at breast height of 6 inches or greater that are proposed to be removed and the location, species and size of replacement trees;

¹⁰⁷ This is a fairly detailed list of required information for a landscape plan. If it is too detailed the alternative would be to simply say that the landscape plan "must include information as required by the Zoning Administrator (or Dept. of Planning and Natural Resources).

- 15.502** Location of trees and vegetation proposed for use within required landscape areas in sufficient detail for a determination that the plan conforms to this article.
- 15.503** A site plan of each proposed parking lot that indicates the gross square footage of each proposed parking lot, the location and proposed configuration of the perimeter landscape area and all each interior landscape area, and the number of trees proposed to meet interior and perimeter requirements.
- 15.504** A plant list of proposed landscape materials showing caliper sizes, root type (bare root, balled, and burlapped, container size), height of material, botanical and common names, type and amount of mulch, ground cover and grasses;
- 15.505** The location of walls, fences, walks and other hard landscaping materials;
- 15.506** Irrigation plan or location of water outlets, if applicable;
- 15.507** A landscape maintenance program that includes a statement that all diseased, damaged, or dead material must be replaced by the end of the following planting season, in perpetuity; and
- 15.508** Other information or data determined necessary by the Zoning Administrator.

15.600 Alternative Compliance

The landscaping and screening regulations of this article are not intended to be arbitrary, physically impossible or economically impractical. The Zoning Administrator is authorized to approve alternative compliance landscape plans when the Zoning Administrator determines that one or more of the following conditions is determined to be are present:

- 15.601** The site or sites involve space limitations or unusually shaped lots;
- 15.602** Conditions on or adjacent to the site such as topography, soils, vegetation or existing structures or utilities are such that full compliance is impossible or impractical;
- 15.603** Safety considerations such as intersection visibility, utility locations, etc., make alternative compliance necessary; or
- 15.604** Alternative creative landscaping applications must provide an equal or better means of meeting the intent of the landscaping and screening regulations.

Article 16 Signs

16.100 Purpose and Intent

The sign regulations of this article are intended to provide an orderly, effective and reasonable control of off-premises and on-premises signs, thereby halting indiscriminate sign proliferation and enhancing the visual environment of the U.S. Virgin Islands. The purpose of this article is, further, to achieve balance among the following different goals, and to:

- 16.101** Encourage the effective use of signs as a means of communication for businesses, organizations and individuals in the U.S. Virgin Islands;
- 16.102** Provide for adequate means of way-finding in the community for residents and visitors;
- 16.103** Provide adequate means of business identification, advertising, and communication;
- 16.104** Prohibit signs of such excessive size and number that they obscure one another to the detriment of the economic and social well-being of the Territory;
- 16.105** Protect the safety and welfare of the public by minimizing hazards to vehicles and pedestrians;
- 16.106** Minimize the proliferation of off-premises billboards and other advertising devices on private and public lands adjacent to public highways;
- 16.107** Preserve property values by preventing unsightly and chaotic signage that has a blighting influence on the Territory;
- 16.108** Minimize the possible adverse effects of signs on nearby public and private property;
- 16.109** Implement the goals of all adopted plans, including any territorial comprehensive plan, historic district plans, or sub-area or district plans; and
- 16.110** Protect the constitutional rights of our citizens.

16.200 General Requirements

- 16.201** The maximum height of any sign in any zoning district is 20 feet, as measured from the lowest adjacent established grade.
- 16.202** Under no circumstances may a sign display intermittent lights resembling flashing lights customarily used in traffic signals or those used by police, fire, ambulances, or other emergency vehicles, nor may it include any word, phrase, symbol or character that might be misconstrued to be a public warning or traffic sign.
- 16.203** Illuminated signs must be shielded so as not to cast direct light onto any residential district or onto any property or building used in whole or in part for residential purposes.
- 16.204** Signs in the designated historical districts of Frederiksted and Christiansted must conform to the requirements established in Title 32, Chapter Sec. 91 of the Virgin Islands Code¹⁰⁸ and to any adopted plans or guidelines for development and redevelopment in the two historic districts.

¹⁰⁸ The form-based-code may include sign standards for historic downtown Charlotte Amalie, and if so, those guidelines should be referenced here.

16.300 Exemptions

16.301 The following signs are exempt from regulations of this article:

16.301.A Public notices or warnings required by a valid and applicable federal, territorial, or local law, regulation, or ordinance, or by order of a court of competent jurisdiction;

16.301.B Any sign inside a building;

16.301.C Traffic control signs on private property, such as Stop, Yield, and similar signs, the faces of which meet standards set forth in the 2009 edition of the Manual on Uniform Traffic Control Devices (or a more recent edition, if it exists) published by the Federal Highway Administration and which contain no commercial message of any sort; and

16.301.D Exterior murals that do not contain advertising.

16.302 Pursuant to Title 29, Ch. 9, Sec. 508 of the U.S. Virgin Islands Code, the Commissioner of Public Works by regulation may exempt signs and advertising devices that the Commissioner determines do not interfere with safety on public highways or contravene any of the other regulations of this article. Such devices may include but are not limited to signs indicating the sale or leasing of the property upon which they are placed.

16.400 Prohibited Signs

The following sign types are prohibited throughout the U.S. Virgin Islands:

16.401 Roof signs;

16.402 Revolving or rotating signs;

16.403 Electronic message boards; and ¹⁰⁹

16.404 Digital display signs.

16.500 Severability¹¹⁰

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of the provisions of this article related to signs is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality does not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.

16.600 Permitted Signs

[Table 16.1](#) identifies permitted signs by zoning district classification.

¹⁰⁹ The language here prohibiting electronic message boards and digital display signs is new. It is my understanding that these are currently not allowed. These provisions just confirm and codify existing practice.

¹¹⁰ This provision is new. It provides protection to the government if any specific provision of the sign ordinance is challenged in court.

Table 16-1: Permitted Signs by Zoning District

Sign Type	A-1	A2	R-1	R-2	R-3	R-4	R-5	CN-1	CN-2	CC	CBD	CS	IL	IH	IW	W	Standards
Business Signs¹¹¹																	
≤ 4 square feet	–	–	–	–	P	–	P	–	–	–	–	–	–	–	P	–	
≤ 20 square feet	–	–	–	–	–	–	–	–	–	–	–	–	P	P	P	–	
Identification Signs																	
≤ 1 square foot	P	P	P	P	P	P	P	–	–	–	–	–	–	–	–	–	16.705
≤ 4 square feet	–	–	–	–	–	–	–	P	P	P	P	P	–	–	–	P	
≤ 20 square feet	–	–	–	–	–	–	–	–	–	–	–	–	P	P	P	–	
Directional Signs																	
	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	16.704
For Sale/Rent Signs																	
≤ 4 square feet maximum	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Temporary Signs																	
	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	16.706

16.700 Additional Requirements for Specific Sign Types

16.701 Wall Signs

- 16.701.A** Wall signs must be permanently attached to the building and parallel to its surface, extending no more than 12 inches from the wall.
- 16.701.B** Wall signs may be painted on the exterior of a building.
- 16.701.C** Wall signs may not extend above the parapet of the building.
- 16.701.D** Electronic, digital, or motorized wall signage is not permitted.

16.702 Awning, Canopy, Marquee and Under-Marquee Signs

- 16.702.A** No awning, canopy, marquee or under-marquee sign may project above the parapet of the building.
- 16.702.B** The maximum length of under-marquee signs is half the distance the marquee or canopy projects from the wall, or 8 feet, whichever is less.
- 16.702.C** Under-marquee signs may not hang more than 24 inches below the lowest point on the marquee or canopy.
- 16.702.D** All awning, canopy, marquee, and under-marquee signs must have a minimum clearance of 8 feet above the sidewalk or ground below.
- 16.702.E** Electronic, digital, or motorized awning or marquee signage is not permitted.

16.703 Projecting Signs

- 16.703.A** Maximum thickness of projecting signs is 50% of its projecting distance.
- 16.703.B** Projecting signs may not project more than 4 feet from the building wall. For signs installed radially on building corners, maximum projection is 5 feet.
- 16.703.C** Projecting signs may not extend above the parapet of the building.
- 16.703.D** The minimum clearance required for projecting signs is 8 feet.

¹¹¹ The current code mentions Business Signs but doesn't differentiate between freestanding, monument, wall, and projecting signs, all of which are in use throughout the Territory. Reviewers and staff should discuss whether additional detail should be added to this section to regulate all the types of signage that is already there.

16.703.E Electronic, digital, or motorized signage is not permitted.

16.704 Directional Signs

Directional signs attached to private property or located at the intersection of streets designating property owners may not exceed one square foot for each sign.

16.705 Identification Signs

Identification signs are permitted on public and semi-public property, provided they do not exceed 3 square feet.

16.706 Temporary Signs

Temporary signs are permitted in any zoning district subject to the following conditions:

16.706.A Temporary signs must be located only upon the premises of a use, subdivision, or development to which such a sign is related;

16.706.B A temporary sign may be displayed for up to one year (365 days) after which the sign must be removed or replaced by a new permanent sign or a new temporary sign.

16.706.C The maximum size of a temporary sign is 16 square feet.

16.706.D Temporary advertising devices, such as yard signs used by candidates seeking election to public office or by individuals seeking to express a point of view, are not subject to the provisions of this section.

16.800 Measurements¹¹²

16.801.A Sign Area

16.801.A.1 The area of a cabinet sign is computed by the smallest rectangle or circle necessary to encompass the entire perimeter enclosing the extreme limit of all elements composing such sign but not including any structural elements lying outside the limits of the sign and not forming an integral part of the display.

16.801.A.2 The area of a channel sign (individual letters, numbers, or symbols with no background) is measured by the sum of all rectangular areas necessary to encompass each letter, number, or symbol.

16.801.A.3 Except for cabinet signs or channel signs as defined above, the area of a sign upon a wall, canopy, awning, or marquee is computed by the smallest rectangle or circle necessary to encompass the entire perimeter enclosing text and logo, but not including any structural elements lying outside the limits of the sign and not forming an integral part of the display.

16.801.A.4 Each individual message or logo separated by 18 inches or a space equal in width to two letters of the sign, whichever is greater, is counted as one sign toward the maximum number allowed per elevation.

¹¹² These standards for sign measurement are all new. We will also include diagrams that show what the text is describing.

16.801.A.5 When the faces of a double-faced sign are parallel and the distance between the faces is 3 feet or less, only one display face is measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign is the area of the larger sign. In all other cases, the areas of all faces of a multi-faced sign are added together to compute the area compute the area of the sign.

16.801.B Sign Height

The height of a sign or sign structure is measured from the lowest point of the ground directly below sign to the highest point on the sign or sign structure.

16.801.C Sign Clearance

Clearance is measured from the highest point of the ground directly below the sign to the lowest point on the sign structure enclosing the sign face.

16.900 Sign Permit Application

Any application for a sign permit must conform to the requirements of a zoning permit. In addition to the requirements of this [Article 16](#), every application for a sign must include the following information and exhibits in triplicate:

- 16.901.A** The type of signs (e.g., wall, monument, freestanding, projecting);
- 16.901.B** Size, including sign area and dimensions;
- 16.901.C** Materials;
- 16.901.D** Type of illumination;
- 16.901.E** The proposed location of each sign and its structural supports on the site as well as in relation to adjacent buildings and structures;
- 16.901.F** The location, size and dimensions of all existing signs already on the premises.

16.1000 Outdoor Advertising Signs and Billboards¹¹³

16.1001 Purpose

The legislature finds that the regulation of billboards and other advertising signs along the public highways of the U.S. Virgin Islands is necessary to promote the safety, comfort, security and welfare of the people of this territory, to conserve the natural beauty of areas adjacent to such public highways, and to safeguard the economic interest of the people in the tourist potential in the U.S. Virgin Islands.

16.1002 Authority to Regulate

After consultation with the Virgin Islands Historic Preservation Commission and subject to the approval of the Governor, the Commissioner of Public Works may from time to

¹¹³ The content of this section has been carried over from Title 19, Chapter 9 of the U.S.V.I Code. There are numerous problems: 1) The section is titled Regulation of Billboards, but the provisions are aimed at all "billboards and similar advertising devices along the public highways of the U.S. Virgin Islands." 2) The section does not include a definition of billboard, rather it defines "advertising device," and includes billboards as one such device. 3) This administration, review, and approval process for signs along public highways is conducted by the Police Commissioner, the Dept. of Public Safety, and the Dept. of Public Works. In contrast, on-premises sign regulations are administered by DPNR. Need to discuss.

time adopt, modify, amend or repeal regulations governing the issuance of permits or renewals thereof for the erection and maintenance of advertising devices.

16.1003 Prohibition¹¹⁴

Except as otherwise provided in this section, the requirements of this section apply to the erection or maintenance of any billboard or outdoor advertising sign upon any publicly owned and controlled street, sidewalk, park or other real property, or the erection and maintenance of any such device located in the area within 50 feet from the center line of any public highway and 25 feet of the outer edge of the public highway. In no instance may a billboard or other advertising device be located less than 25 feet from the outer edge of any such highway.

~~Except as otherwise provided in this chapter, and from and after the effective date of this chapter, the erection or maintenance of any advertising device upon any publicly owned and controlled street, sidewalk, park or other real property, or the erection and maintenance of any such device located within 50 feet from the center line of any public highway in the U.S. Virgin Islands, whether on public or private property, without a written permit therefor granted by the Commissioner of Public Works pursuant to this chapter is prohibited, but in no instance may the advertising device be located less than 25 feet from the outer edge of any such highway.~~

16.1004 Scope of Regulations¹¹⁵

To effectuate the purposes of this act, the Commissioner of Public Works may limit the application of any regulations adopted hereunder to include or exclude or include, in whole or in part:

- 16.1004.A** Specified areas along the aforesaid highways based upon use, population, density, nature of the surrounding community, special conditions prevailing therein, or such other factors as may make differentiation or separate classification or regulation necessary, proper or desirable;
- 16.1004.B** Particular types or classes of advertising devices based upon size, design, lighting or such other factors as may make differentiation or separate classification or regulation necessary, proper or desirable; or
- 16.1004.C** The erection or maintenance of advertising devices on particular sections or portions of the aforesaid highways.

16.1005 Application for Permits or Renewals¹¹⁶

16.1005.A Forms

Application for permits or renewals for advertising devices along public highways thereof be on forms prescribed by the Commissioner of Public

¹¹⁴ This is new language, and the strike out text is what exists now. It actually allows billboards and advertising devices on public and private property between 25 and 50 feet adjacent to a public highway. There is no prohibition, but a permit is required. It's very unusual to allow advertising signs on public lands not to mention allowing them so close to a public highway. We need to discuss if this is something they want to continue allowing. The change we recommend here switches the so called "Prohibition" to a permit requirement.

¹¹⁵ On its face, this subsection creates a major loophole which could render this portion of the sign code useless. It essentially grants the Commissioner of Public Works the authority to waive this requirement without any public review or comment. Need to discuss.

¹¹⁶ The process outlined in the current code for applications and permits for billboards is very confused: 1) the application forms are to be created by the Police Commissioner, but 2) the Dept. of Public Safety is charged with reviewing the application, but 3) the Dept. of Public Works collects the application fee and administers the regulations once the sign is erected, and 4) DPW also charged with administering permit renewals at one-year intervals. Does this process actually

Works. Such applications contain any information as the commissioner may require. Any such application for permits or renewals thereof are subject to the endorsement of the Commissioner of Public Safety as to conformity with the outdoor advertising sign and billboard regulations of this section.

16.1005.B Fees

With respect to each billboard or advertising device, a fee in an amount set forth by the Commissioner of Public Works must be paid to the Department of Public Works with each initial application subject to refund if the permit is not issued. All fees paid to the Commissioner of Public Works hereunder must be remitted by him or her to the Commissioner of Finance for coverage into the Treasury of the U.S. Virgin Islands in accordance with the provisions of Sec. [16.1009](#).

16.1005.C Term

Each permit is valid for a period of one year. The Commissioner of Public Works may renew each permit for additional one-year periods upon the receipt of an application made at least 30 days prior to the expiration date of such permit.

16.1006 Removal of Advertising Devices

16.1006.A The permit or renewal thereof is revocable at any time by the Commissioner of Public Works on 30 days notice to the permittee. Any advertising device erected or maintained after the effective date of this section in violation of this article or any regulation adopted hereunder is hereby declared to be, and is, a public nuisance and such device may without notice be abated and removed by any officer or employee of the Department of Public Works or upon request of the Commissioner of Public Works by any peace officer.

16.1006.B Any advertising device which may be erected or maintained in accordance with the provisions of Sec. [16.1007.A.5](#) and Sec. [16.1007.A.7](#) or similar exceptions of temporary duration must be removed by the erector within 14 days following the event so advertised. No association, corporation, organization, person or other entity may, while in violation of this subsection, erect or maintain any advertising device within the U.S. Virgin Islands.

16.1007 Exemptions

The Commissioner of Public Works by regulation may exclude from the coverage of this article advertising devices that the Commissioner finds do not interfere with safety on the aforesaid public highways or contravene any of the other standards set forth in this section, including, but not limited to the following:

16.1007.A Advertising devices which are to be erected or maintained on property for the purpose of setting forth or indicating:

16.1007.A.1 The name and address of the owner, lessee or occupant of such property, or

16.1007.A.2 The name or type of business or profession conducted on such property, or

occur as stated? Is there a compelling reason for DPW to administer signs and advertising devices near public highways while DPNR administers the rest of the sign code?

- 16.1007.A.3** Information required or authorized by law to be posted or displayed thereon.
- 16.1007.A.4** Advertising devices that are not visible from any traveled portion of the aforesaid public highways;
- 16.1007.A.5** Advertising devices indicating the sale or leasing of the property upon which they are placed;
- 16.1007.A.6** Directional or other official signs and signals erected or maintained by the Government of the United States Virgin Islands, or any department or agency thereof;
- 16.1007.A.7** Temporary posters and notices advertising public or private meetings or specific entertainment programs; and
- 16.1007.A.8** Temporary advertising devices of candidates seeking election to public office.

16.1008 Construction

Nothing in this section should be construed to abrogate or affect the provisions of any applicable federal or territorial laws, rules or regulations which are more restrictive concerning advertising devices than the provisions of this article or of the regulations adopted hereunder.

16.1009 Fees and Fines¹¹⁷

- 16.1009.A** The Commissioner of the Department of Public Works is authorized to establish application filing fees by regulation pursuant to Title 3, Chapter 35 of the Virgin Islands Code and must evaluate fees for their adequacy at least once every 3 years.
- 16.1009.B** As a supplement to penalties and remedies for violations provided in [Article 6](#), the Commissioner of Public Works is authorized to establish financial penalties by regulation pursuant to Title 3, Chapter 35 of the Virgin Islands Code and must evaluate fines for their adequacy at least once every 3 years.¹¹⁸
- 16.1009.C** All fees transmitted to the Commissioner of Finance in accordance with Sec. [16.1005](#), and all fines imposed by the Courts for violations of this article or regulations hereunder will be covered by the Commissioner of Finance into the "Road Fund" established by 33 V.I.C. § 3002.

¹¹⁷ The existing code (Title 29, Article 9 Regulation of Billboards) includes the dollar amounts of fees and penalties. The language provided here authorizes the Commissioner to establish filing fees.

¹¹⁸ There is also some question whether penalties can be set by administrative rule. We need an opinion from DPNR's legal counsel.

Article 17 Historic and Cultural Assets

17.100 Declaration of policy

- 17.101 The Legislature of the Virgin Islands finds and declares, as follows:
- 17.102 That the historic heritage in ancient landmarks, and the fine architecture of several centuries which reflect the skills, crafts and culture of the Virgin Islands life, as well as the taste and judgment of the settlers of these islands and the ancestors of today's citizens, are invaluable assets and the property of the people of the Virgin Islands;
- 17.103 That, as the custodian of this heritage, the Legislature finds that the conservation and preservation of such historic and cultural assets will enhance the prestige and attractiveness of the Virgin Islands, will reserve a cultural property for generations to come, will increase resident responsibility and tourist interest, and will maintain the charm and high quality of appearance which make the Virgin Islands of the United States unique in the Caribbean.

17.200 Administration; Virgin Islands Historic Preservation Commission

The Virgin Islands Historic Preservation Commission shall administer the provisions of this article, and, in implementation and effectuation of such responsibility, shall, without limitation on the generality of the foregoing, have the following powers:

- 17.201 Exercise and perform the powers and functions with respect to the establishment of the "Virgin Islands Registry of Historic Buildings, Sites, and Places" as provided for in this article;
- 17.202 Exercise and perform the powers and functions with respect to the preparation of maps of "Historic and Architectural Control Districts" as provided in this article;
- 17.203 Seek the advice, assistance, and cooperation of, and cooperate with, individuals, groups or agencies, public and private, with respect to programs or projects related to the conservation or preservation of historical or cultural assets;
- 17.204 Seek and accept gifts, bequests, endowments, and funds from any source, public or private, with respect to programs or projects related to the conservation or preservation of historical and cultural assets, including participation in federally assisted programs or projects in accordance with the provisions made with respect to executive departments under section 67, Title 3 of the Virgin Islands Code;
- 17.205 Prepare and place, from funds provided by law, Virgin Islands historical marks on or along the highway or street closest to the location which is intended to be identified;
- 17.206 With the written consent of landowners, mark buildings and sites that are of historic and cultural significance with appropriately designed markers; and
- 17.207 Subject to the approval of the Governor, adopt, issue, and amend rules and regulations, not inconsistent with the provisions of this article or other laws, necessary or appropriate for the implementation and effectuation of the purposes of this development code.

17.300 Registry of Historic Buildings, Sites, and Places

The Virgin Islands Historic Preservation Commission is authorized to prepare from time to time, after due notice and public hearings, for submission to the Legislature and the Governor for approval, an inventory, to

be known as the “Virgin Islands Registry of Historic Buildings, Sites, and Places,” of all buildings, sites, features, landmarks, areas, and districts in the Virgin Islands, which, after consultation with specialists and experts in the protection and preservation of historic buildings, sites, and places, are determined worthy of recordation and preservation. The Registry shall be prepared in such a manner as to be consistent with the national Register. The Registry shall include such items as the following: houses, warehouses, commercial structures, government buildings, forts and fortifications, churches and synagogues, cemeteries, squares, monuments, naval and nautical features, selected street facades, ruins, markets, birthplaces, parks and open squares, walls and retaining walls, stairways, steps, towers.

17.400 Historic and Architectural Control Districts

The Virgin Islands Historic Preservation Commission is hereby authorized to prepare from time to time, after due notice and public hearings, for submission to the Legislature and the Governor for approval, maps (and amendments, revisions, modifications, or additions thereto) of areas within the Virgin Islands to be known as “Historic and Architectural Control Districts.” An Historic and Architectural Control District shall be an area including one or more public or private lots or properties, or parts thereof, within which, after consultation with specialists and experts, the buildings, structures, appurtenances, and places are determined of basic and vital importance for the development of culture and tourism because of their unique Danish or other colonial style, including color preparation, form, and architectural details, because of their being a part of, or related to, a park, square, or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical, or architectural motives or purposes in general.

17.500 Approval of Registry and Historic and Architectural Control Districts

17.501 The Virgin Islands Registry of Historic Buildings, Sites, and Places, and the maps of the Virgin Islands Historic and Architectural Control Districts, shall be submitted to the Legislature and to the Governor. The said Registry and maps of Control Districts, or any parts thereof, or amendments, changes or requirements made or imposed by the Legislature, shall not become effective until approved by the Legislature and the Governor. Upon such approval, the Registry and maps of Control Districts, together with all explanatory material thereon, shall constitute a part of this article for all legal purposes and effects.

17.502 The Registry and maps of Control Districts, and changes or amendments thereto, shall be authenticated, and kept in the places set forth with respect to the official zoning maps in Sec. [1.1100](#). The Registry and maps, thus duly authenticated, shall be and constitute the official and definitive representation as to the status of buildings, sites, places, and areas within the Virgin Islands for the purposes of this article.

17.600 Building permits in Historic and Architectural Control Districts and Registry

17.601 Until plans therefor are submitted to and acted upon by the Virgin Islands Historic Preservation Commission, no building or structure, including stone walls, fences, paving and steps, may be erected, reconstructed, altered, restored, moved, or demolished within any Historic and Architectural Control District or affecting any building, site, or place listed in the Registry; and no sign, light, fence, wall, or other appurtenant fixture may be erected or displayed on any lot or on the exterior of any building or structure located within said Control District or listed in the Registry; and no building or other permit may be granted for any such purpose within the said Control District or pertaining to any building, site, or place listed in the Registry.

17.602 Nothing in this article may be construed so as to prevent the ordinary maintenance and repair of any architectural feature in any Historic and Architectural Control District or

listed in the Registry which does not involve a change in design, material, color, or the outward appearance thereof; nor may prevent the construction, reconstruction, alteration, or demolition of any such feature which the Commissioner of Planning and Natural Resources shall certify is required by the Public Safety because of unsafe or dangerous condition; nor may prevent the construction, reconstruction, alteration, or demolition of any such feature under a permit issued by the Commissioner of Planning and Natural Resources prior to the effective date of the establishment of any said Control District or Registry entry.

- 17.603** The provisions of this article do not limit, restrict, or impede in any respect the construction, reconstruction, renovation, alteration, restoration, or decoration of the interior by the owner of any building or structure, unless such building or structure is specifically listed in the Registry.

17.700 Coordination with Other Departments and Agencies

- 17.701** In order to effectuate the intent of this article, the Commissioner of Planning and Natural Resources, before issuing a building permit for work on or demolition of any building or structure in any Historic and Architectural Control District or listed in the Registry, shall refer the application and plans to the Virgin Islands Historic Preservation Commission for its consideration and action. The Historic Preservation Commission shall take into consideration the design and general arrangement, the material, color, and architectural style of the building or structure in question, and the use or project to be developed, and the proper relationship thereof with the feature and characteristics of the nearby buildings and the immediate neighborhood in general. All public projects, regardless of sponsorship, shall be reviewed in the same manner where project plans relate to buildings or structures in any Control District or which are listed in the Registry.
- 17.702** The Virgin Islands Historic Preservation Commission shall notify each applicant of the time, date, and place at which the application and plans will be considered, and each applicant may appear before the Historic Preservation Commission, in person and by representatives, to discuss the application and plans. If the Historic Preservation Commission disapproves the plans it shall place upon its records the reasons and shall include recommendations regarding the proposed construction, reconstruction, alteration, moving, change, or demolition, in terms of landscape, architectural and artistic design, scale arrangements, textures, material, color, and the like, of the property involved. The Historic Preservation Commission shall notify the applicant and the Commissioner of Planning and Natural Resources of its determination in writing, and shall, within 15 days after a disapproval, furnish the applicant and the Commissioner with an attested copy of its reasons therefor and of recommended amendments or modifications to the plans. After receipt of the building permit from the Commissioner of Planning and Natural Resources, the applicant may proceed with the construction, reconstruction, alteration, moving, change, or demolition according to the plans as amended or modified in strict accordance with the Historic Preservation Commission's recommendations.
- 17.703** If the Historic Preservation Commission either does not notify the applicant of its determination within 60 days after submission of the application and plans to the Commissioner of Planning and Natural Resources, or does not furnish the applicant with a copy of its reasons for disapproval and of its recommendations within 15 days after disapproval, then the application and plans shall be deemed approved in full and acted upon.

17.800 Appeals; Enforcement; Penalties

- 17.801** Any applicant or property owner aggrieved by a determination of the Historic Preservation Commission may, within 30 days of receiving notice of such a decision by the Historic Preservation Commission, file a written notice of appeal with the Board of Land Use Appeals, and thereafter to the District Court in accordance with Sec. [4.1500](#).
- 17.802** Any building or structure located in any Control District or listed in the Registry which is set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this article, is unlawful and a public nuisance.
- 17.803** Any person who has been notified of a violation of the provisions of this article by the Commissioner of Planning and Natural Resources or the Historic Preservation Commission and has been ordered to comply with the same, shall be allowed a period of 30 days within which to comply with the order of the Commissioner or the Historic Preservation Commission. Any person who has been so notified and has wilfully failed to comply shall upon conviction of the same be fined not more than \$25. Each 7-day period of continuing violation after such conviction shall constitute a separate offense and shall be punishable by a similar fine.
- 17.804** The Attorney General shall prosecute all actions required for the enforcement of the provisions of this article.
- 17.805** If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this article, the Attorney General, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful action, to restrain, correct, or abate such violation, or to prevent the occupancy of the building, structure, or land or any illegal act or use in or about such premises.

17.900 Construction

This article, being designated for the public welfare and the perpetuation of those structures and areas which have a close and immediate relationship to the cultural heritage of the Virgin Islands, shall be broadly construed in order to accomplish the purposes herein set forth.

Article 18 Flood Hazard Areas

18.100 Definitions

18.101 Flood Hazard Area

Flood hazard areas include all land shown as a special flood hazard area (SFHA) on the most recent Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency's National Flood Insurance Program for the U.S. Virgin Islands.

18.102 SPHA

The SPHA, also known as the base flood, 100-year flood, or regulatory flood, has a one percent chance of being equaled or exceeded in a given year, and includes the floodway and coastal areas. The SFHA is the area where the floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V as show on the FIRM.¹¹⁹

18.200 Types of Flooding

Two different type of floods occur in the U.S. Virgin Islands: (1) flooding due to intense rainfall falling directly on the land and (2) hurricane or storm-induced tidal coastal flooding.

18.201 Flooding due to intense rainfall falling directly on the land is divided into two segments:

18.201.A Floodway

The main channel of the gut or watercourse where, under base flood conditions, depth of, and velocity of flow would pose a threat to life and property, and where the Planning Office shall prohibit all building.

18.201.B Floodway Fringe

The area of lowlands bordering the floodway subject to overbank flow during base flood conditions and extending from the edge of the main channel to the furthest extent of the flood plain, where, under certain conditions, the Planning Office may permit building.

18.202 Hurricane and storm-induced tidal coastal flooding is a threat in the Virgin Islands due to that amount of land that borders the ocean where the force of waves and high water can be a serious threat to life and property.

18.300 Suitability of Land; Maintenance of Flood Insurance Rate Maps¹²⁰

The Planning Office, in determining if land is in a flood hazard area, must consult the applicable Flood Insurance Rate Map panels for the area to be subdivided. The Planning Office shall maintain a current set of Flood Insurance Rate Maps for the entire Territory.

18.400 Evaluation of Flood Flow

18.401 The Planning Office may require the subdivider to submit valley cross sections, including the channel of the gut or watercourse at points specified by the Planning Office, topographic information for areas adjoining the sides of the channel, cross-sections for land to be occupied by the proposed subdivision or development, high water information, and other pertinent information.

¹¹⁹ This section has been rewritten to reflect current definitions used by the Federal Emergency Management Agency.

¹²⁰ This section has been shortened.

- 18.402** The Planning Office shall transmit one copy of this information described above to a professional engineer licensed in the Virgin Islands, who will serve as a consultant to the Planning Office, for technical assistance where necessary, to evaluate the proposed subdivision in relation to flood heights and velocities, the seriousness of the flood to the use; the adequacy of the plans for protection; and other technical matters.
- 18.403** The subdivider proposing a subdivision in a flood hazard area shall prepare a hydrological study (to be evaluated by the Planning Office with expert assistance) that shall provide the following information:
- 18.403.A** Estimate the peak discharge of the regulatory flood. The calculation of the peak discharge shall take into account projected land use changes in the watershed and shall employ an analysis of those changes based on official zoning maps.
- 18.403.B** Determine the specific flood threat at the site of the proposed subdivision and determine whether the subdivision is located in a floodway or flood fringe by:
- 18.403.B.1** Calculation of water surface elevations and flood protection elevations based on a hydrological analysis of the capacity of the gut or water course's channel and overbank areas to convey the regulatory flood. Flood protection elevations shall be 2 feet above the water surface elevations of the regulatory flood.
- 18.403.B.2** Computation of the floodway required to convey the regulatory flood without increasing flood heights down to an extent that would cause upstream or downstream damage to existing or future development. Computation of increase in flood heights caused by any encroachment shall be based on the assumption that there will be an equal degree of encroachment on both sides of the gut or water course. Generally, any increases in flood stages attribute to encroachments shall not exceed 1 foot in any one reach or for the cumulative effect of several reaches.

18.500 Improvements

18.501 Building Site Improvements

- 18.501.A** No subdivision or part thereof shall be approved if the proposed subdivision levees, fills, structures, or other features will individually or collectively significantly increase flood flows, heights, or damages.
- 18.501.B** Building sites for residences, motels, resorts, or other dwelling or accommodation uses shall not be permitted in floodway or coastal areas identified as special flood hazard areas on Flood Insurance Rate Maps. Sites for these uses may be permitted outside the floodway, in the floodway fringe if the sites are elevated or filled to a height of at least 2 feet above elevation of the regulatory flood or of other provides for elevating or adapting structures to achieve the same results. Required fill areas must extend 10 feet beyond the limits of the intended structures.

18.501.C Building sites for structures not included in Sec. 25.401.B shall similarly not be permitted in floodway areas. Such sites located outside the floodway shall ordinarily be protected as described in Sec. 25.401.B. However the Planning Office may allow subdivision of areas for commercial and industrial use at a lower elevation if the subdivider protects the areas to a height of 1 foot, above the regulatory flood protection elevation by levees, seawalls, channel modifications, or other protection techniques, or if the subdivider assures that uses will be protected by other techniques specified in Sec. 25.600. Generally, the following uses are permitted in the flood hazard area:

18.501.C.1 Cultivated agriculture

18.501.C.2 Horticulture

18.501.C.3 Parks and recreation

18.501.C.4 Lawn areas and other reasonable forms of open space.

18.501.C.5 Accessory parking

18.501.C.6 Utilities when they do not interfere with the maintenance and cleaning of the floodway, and when the utilities are designed so that they will not be impaired in any way by flood waters. Underground utilities must be designed to resist flood damage and infiltration; poles must be well anchored with adequate footing.

18.501.D If the Planning Office determines that only part of a proposed subdivision can be safely developed, it shall limit development to that part and shall authorize development to proceed, consistent with that determination.

18.501.E When the subdivider does not intend to develop the project him- or herself, and the Planning Office determines that additional use controls are required to ensure safe development, it shall require the subdivider to impose appropriate deed restrictions on the land enforceable by any of the following: the Virgin Islands Government or any owner in the subdivision. Such deed restrictions shall be incorporated in every deed and a note as to their existence shall be shown on the face of the recorded final plat. Acceptable finish floor elevations must be shown on the final plat.

18.502 Streets

The finished elevation of all proposed streets shall be no more than 2 feet below the regulatory flood elevation. The Planning Office shall require profiles of streets to determine compliance with this requirement. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood conditions.

18.503 Water Facilities

18.503.A Water distribution systems shall be designed to eliminate the possibility of flood damage and infiltration by flood waters.

18.503.B All wells, whether public or private, shall be floodproofed to a point at or above the regulatory flood elevation for the area.

18.504 Sanitary Sewer Facilities

- 18.504.A** Sanitary sewage collection systems shall be designed to eliminate the possibility of flood damage and infiltration by flood waters or discharge from the system into flood waters.
- 18.504.B** Sewage disposal plants must be located to avoid their impairment or contamination from them caused by flood waters.
- 18.504.C** Any individual sanitary sewage disposal system shall be located on fill at least 1 foot above the regulatory flood elevation.
- 18.504.D** All sanitary sewer service connections shall be equipped with backflow prevention devices.

18.505 Dumping or filling

No dumping or filling shall be allowed to take place within the flood plain, except that which was approved in the hydrological study in Sec. [18.403](#).

18.600 Alteration of Guts**18.601 Capacity**

- 18.601.A** Following alternation or in its natural state, the gut shall have sufficient capacity to carry the computed peak discharge from a 50-year, 24-hour storm.
- 18.601.B** The calculation of computed peak discharge shall take into consideration projected land use changes in the watershed. Existing zoning maps may be used to provide an indication of projected land use changes.

18.602 Channel Design

- 18.602.A** The design of the channel shall consider both inlet and outlet conditions insofar as they affect overall stability of the channel and the smooth transition of flow into and out of the altered section. The flood hazard at the inlet and the outlet shall not be increased as a result of the proposed development.
- 18.602.B** The design shall also take into consideration any losses in channel storage due to straightening and shortening of the channel. The design shall also consider increases in velocity due to steepening and other alteration of the channel.
- 18.602.C** Where possible, the proposed subdivision in the watershed shall provide for temporary storage of the run between the 50-year, 24-hour storm, and the 100-year, 24 hour storm, thus providing flood protection to areas below the 100-year, 24-hour occurrence. This storage can be created by providing temporary detention of surface run off in detention basins, parking areas and streets, play areas, and permanent storage in retention basins in places such as retention basins, ponds, and gray water cisterns.

18.603 Vegetation in Drainage Guts

Many of the drainage ways, such as major guts, of the Virgin Islands contain mature trees and other aesthetically pleasing vegetation. These natural drainage ways are important components for wildlife habitat and recharge areas for groundwater. For some of the major guts, outlets possess a dense growth of red mangrove and related plants.

Where the Planning Office requires it, the subdivider shall retain and protect such vegetation from damage as a result of the development.

18.700 Conditions Attached to Plat Approval

- 18.701** The Planning Office may attach conditions to the approval of plats in flood hazard areas. These conditions may include, but not be limited to, the following:
- 18.701.A** Construction or modification of sewer facilities to meet the requirements of this Article.
 - 18.701.B** Construction of channel modifications, dikes, levees, and other measures necessary to protect the proposed subdivision and adjacent properties.
 - 18.701.C** Installation of flood warning systems.
 - 18.701.D** Location above the flood elevation of a 500-year base flood for uses potential dangerous in a flood, manufacturing and/or storage of water-sensitive chemicals, flammable materials, and other toxic materials that could be dangerous to the public.
 - 18.701.E** Imposition of operational controls, sureties and deed restrictions enforceable by the Virgin Islands Government to regulate the future type and design of uses and structures. Such requirements may extend to floodproofing of proposed uses and structures. The Planning Office shall approve floodproofing plans before such uses and structures are commenced or constructed.¹²¹
- 18.702** Various floodproofing measures may include the following:
- 18.702.A** In rainfall flood hazard areas, the finished surface of the lowest flood shall be built to or above the base flood elevation. In coastal flood hazard areas, the bottom of the lowest structural member of the floor system shall be at or above base flood elevation.
 - 18.702.B** Special consideration shall be given to designing elevated foundations based on the character of the flood waters. In a static flood, the foundation must withstand hydrostatic load. In a velocity flood, the foundation must withstand hydrodynamic forces, the impact of water-born debris, and the scouring effects of waves and tidal action. The following measures are required for elevated structures in areas subject to velocity flooding:
 - 18.702.B.1** Anchoring to prevent floatation and overturn.
 - 18.702.B.2** Orientation of the building on sit to offer minimum resistance to the flow of the flood waters.
 - 18.702.B.3** Bracing to prevent lateral movement.
 - 18.702.C** Elevated structures shall be serviced by mechanical equipment that is also elevated or floodproofed above the base flood level, and by utility systems that are designed to minimize or resist flood damage and infiltration.

¹²¹ This paragraph has been shortened.

18.702.D Because flood waters can exceed the level of the base flood, provisions shall be made for emergency rescue by window, door, or deck accessible to a boat or access to the roof so that rescue can be made by helicopter.

~~**18.702.E** Structural reinforcement, water proofing, and other protection measures for structures with first floors below base flood elevation may include:~~

~~**18.702.E.1** Anchorage to prevent floatation and overturn.~~

~~**18.702.E.2** Bracing to prevent lateral movement.~~

~~**18.702.E.3** Addition of mass or weight to structures to prevent flotation.~~

~~**18.702.E.4** Reinforcement of walls to resist rupture or collapse caused by water pressure or floating debris.~~

~~**18.702.E.5** Use of paints, membranes, or mortars that reduce seepage of water through walls.~~

~~Installation of all electrical equipment, circuits, and appliances and all mechanical equipment so they are protected from damage from flood waters.¹²²~~

¹²² This section has been edited to remove duplicative language from other sections. Nonetheless, the provisions in this section seem dubious and contradict the purposes of this Article. We recommend deleting it.

SUBCHAPTER 5 | SUBDIVISION REGULATIONS

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Article 19 General

19.100 Title

Subpart 5 ([Article 19](#) through [Article 21](#)) constitutes the “subdivision regulations” of this development code.

19.200 Applicability

The subdivision regulations apply to all of the following forms of land subdivision within the territorial limits of the Virgin Islands of the United States:

19.201 The division of land into 2 or more tracts, lots, sites, or parcels, any part of which, when subdivided, shall contain 3 acres or less in area;

19.202 The dedication, vacation, or reservation of any public or private easement through any tract of land regardless of area involved, including such actions by public or private utility companies;

19.203 The dedication or vacation of any street, road, or alley, or pedestrian way through any tract of land regardless of the area involved; and

19.204 Any public projects, including, but not limited to, highways, airports, and dams.

19.300 Exemptions

19.301 A division of land in excess of three acres for agricultural purposes shall be exempt from these regulations, which such division does not involve construction or dedication of any new public roads, streets or easements. A division of land in excess of 3 acres, where such division does not involve construction or dedication of any new public roads, streets, or easements or construction of private streets, shall be exempt from the requirement of submission of a sketch plan, preliminary plan, and engineering plans, but not from the requirement of submission of a final plat to the Planning Office in accordance with Sec. [4.1100](#).

19.302 These regulations shall not apply to a sale or conveyance of parcel of land where no dedication, vacation, or reservation of any public or private street is made subsequent to the effective date of these regulations.

19.400 Review and Approval Procedures

Subdivisions shall be review~~ed~~ and approved ~~as described in~~ in accordance with the procedures of Sec. [4.700](#).

19.500 Variances and Modifications¹²³

The following regulations shall govern the granting of variances or modifications to subdivision regulations:

19.501 Where the Commissioner of Planning and Natural Resources finds that extraordinary and unnecessary hardship may result from strict compliance with these regulations, due to exceptional topographic or other physical conditions, the Commissioner may vary or

¹²³ This section has been modified to assign the responsibility of granting variances and modifications to the Director of Planning and Natural Resources.

modify the regulations so as to relieve such hardship, provided such relief may be granted without detriment to the public interest and without impairing the desirable development of the islands and their communities. The decision to grant variances or modifications shall be in writing and shall state the basis for the variance or modification. Such variances or modifications shall not have the effect of nullifying the purposes of this development code or the Territorial Comprehensive Plan, if one exists.

- 19.502** In granting variances or modifications, the Commissioner of Planning and Natural Resources may require such conditions as will, in the Commissioner's judgment, secure substantial the objectives of the standards or required so varied or modified.

19.600 No Sale of Land Prior to Approval and Recordation

No owner or agent of the owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of, or by the use of a final plat of the subdivision before such plat has been approved and recorded as required by the applicable subdivision review and approval procedures of this development code (see Sec. [4.700](#)).

19.700 Penalties

The following additional penalties apply to violations of subdivision regulations:

- 19.701** Whoever violates any part of these regulations adopted by the Virgin Islands Legislature for the purpose of setting standards and requiring and section the construction of improvements within a subdivision or fails to comply with any order pursuant thereto is creating a public nuisance, and the creation thereof may be abated by act at suit of the Virgin Islands or any citizen thereof. Whoever violates these regulations shall forfeit and pay not less than \$100 nor more than \$1,000. Such sum may be recovered in the Board of Land Use Appeals.¹²⁴
- 19.702** A recorder who records a final plat contrary to the provisions of these regulations shall forfeit and pay not less than \$100, nor more than \$500, to be recovered with costs in a civil action by the Prosecuting Attorney in the Attorney General's office and the name and use of the Virgin Islands.
- 19.703** Whoever, being the owner or agent of any land within the territorial limits of the Virgin Islands transfers any lot, parcel, or tract of land from or in accordance with a final plat of a subdivision before such plat has been recorded in the Office of the Recorder shall forfeit and pay the sum of not less than \$100 nor more than \$500 for each lot, parcel, or tract of land so sold. Such sum may be recovered with costs in a civil action by the Prosecuting Attorney in the Attorney General's office in the name of and for the use of the Virgin Islands.

19.800 Appeal

Any person who believes that he or she has been aggrieved by the application of these regulations or the actions of the Director of Planning and Natural Resources has all the rights of appeal to the Board of Land Use Appeals as set forth in Sec [4.1500](#).

¹²⁴ This is existing language and it implies that any penalty can be appealed to the Board of Land Use Appeals (formerly the Board of Zoning, Building, and Subdivision Appeals). Need to discuss with DPNR Attorney.

Article 20 Subdivision Design

20.100 General

20.101 Purpose

The subdivision design standards of this article are intended to ensure development of convenient and safe streets, creation of buildable and useable lots, provision of space for public utilities, reservation of land for recreational uses, preservation of natural amenities, and the creation of attractive neighborhoods with lasting value.

20.102 Applicability

The subdivision design standards of this article apply to all subdivisions except as otherwise expressly stated.

20.103 Compliance with Other Regulations

The design of a subdivision, including the arrangement, character, width, and location of all streets, shall conform to all existing laws and regulations in effect in the Virgin Islands.

20.200 Suitability for Subdivision and Development

20.201 Safety

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and without causing danger to health or peril from fire, flood, or other menace to adjacent property.

20.202 Natural Resources and Hazards

20.202.A The design and development of a subdivision shall preserve, to the extent possible, the natural terrain, natural drainage, existing topsoil, and trees.

20.202.B The subdivider shall identify land that is subject to hazardous conditions, such as landslides, mudflows, rock falls, a shallow water table, open quarries, floods, polluted or non-potable water supplies. Land subject to such conditions may not be subdivided or developed until existing hazards have been eliminated, or the Planning Office determines that the subdivision engineering plans will eliminate such hazards.

20.202.C In reviewing plans to determine whether natural resources or safety hazards exist, the Planning Office shall refer to information provided by the subdivider, the most recent version of the following publications and maps and other reference material it deems reliable:

20.202.C.1 Federal Office of Emergency Management Flood Insurance Rate Maps;

20.202.C.2 U.S. Department of Agriculture, Natural Resources Conservation Service, Soil Survey of the United States for the Virgin Islands; and

20.202.C.3 U.S. Geological Survey topographic maps or other authoritative topographic maps.¹²⁵

¹²⁵ These sources have been updated to reflect current names of the maps and publications.

- 20.202.D** If the Planning Office finds that land proposed to be subdivided is unsuitable for subdivision development because of flood, inadequate drainage, soil and rock formations, susceptibility to mud slides or earth slides, severe erosion potential, unfavorable topography, inadequate sewage disposal capabilities, or any other conditions potentially harmful to the health, safety, life, or property of future residents or property owners or the community at large, and if the investigations by the Planning Office indicate that development of the land for the proposed purpose shall not be in the best interest of the public, the Planning Office shall not approve the land for subdivision unless the subdivider proposes adequate measures for solving the problems that are inherent in, or will be caused by, the development of the land.

20.300 Streets

20.301 General Layout

- 20.301.A** In reviewing the land proposed to be subdivided, the Planning Office shall consider the arrangement, character, width, grade, and location of all proposed streets in relation to existing and any planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such proposed streets.
- 20.301.B** In reviewing the street layout in the land proposed to be subdivided, the Planning Office shall refer to the following and any other reference materials it deems necessary:
- 20.301.B.1** The most recent comprehensive transportation plan or study, including plans for any public roads to be built in the near future;
 - 20.301.B.2** Maps of existing streets in the area;
 - 20.301.B.3** Plans of proposed subdivisions and developments in the area that have been approved by the Planning Office;
 - 20.301.B.4** Topographic maps; and
 - 20.301.B.5** Current zoning maps.
- 20.301.C** The arrangement of streets in a subdivision or development shall either:
- 20.301.C.1** Provide for continuation of principal streets of adjoining subdivisions or surrounding areas; or
 - 20.301.C.2** Conform to a plan for area development approved by the Planning Office to meet a particular situation where topographical or other conditions make continuation of the existing streets impossible.

20.302 Access to Public Streets for Each Lot

The streets shall be arranged to provide each lot with satisfactory access to a public street.

20.303 Provision for Future Subdivisions

When a tract is divided into lots substantially larger than the minimum size required by the zoning district in which the subdivision is located, the Planning Office may require

that streets and lots be laid out to make possible future resubdivision conforming to those requirements.

20.304 Through Traffic

Local or minor streets shall be laid out so their use by through traffic will be discouraged, using such devices as loop streets and cul-de-sacs.

20.305 Frontage on Major or Minor Arterial Streets¹²⁶

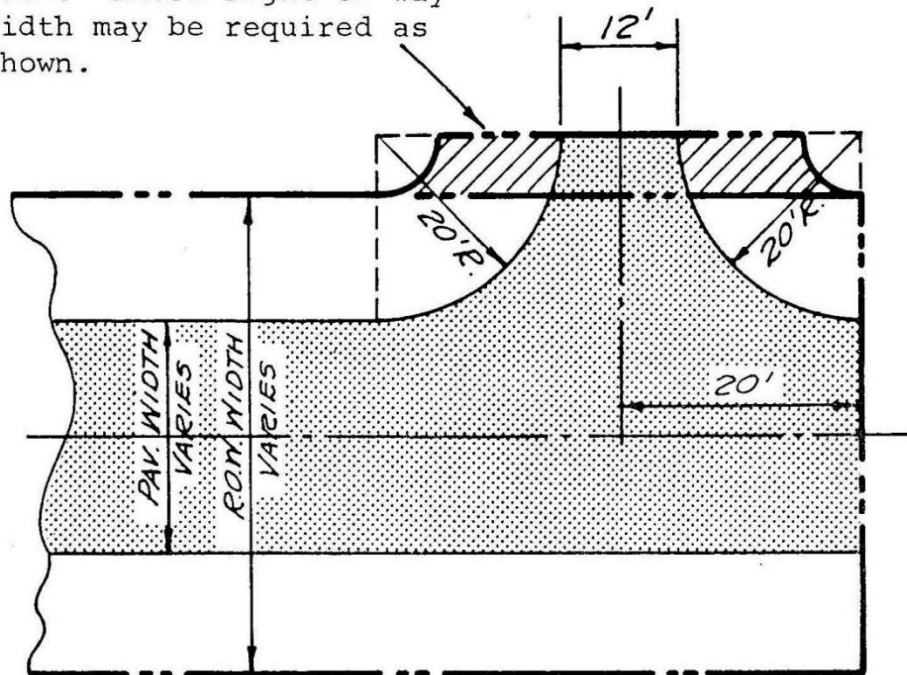
When a subdivision abuts or contains an existing or proposed major or minor arterial street, the Planning Office may require marginal access roads or through lots from the arterial street to parallel streets with access to the local street, with proper screening along the property line adjacent to the street, or such other treatment as may be necessary for adequate protection of residential properties and to provide separation of through traffic and local traffic. In cases where a major or minor arterial street fronts or passes through a commercial area and marginal access streets are required, commercial facilities will be allowed to front the marginal access street, if adequate off-street parking is provided.

20.306 Dead End Streets and Stub Streets

Dead end streets are not permitted. However, stub streets shall be permitted in order to provide for possible future extension of proposed streets. When a stub street is permitted, a temporary turnaround shall be provided as shown in [Figure 20-1](#).

Figure 20-1: Temporary Turnaround

Note: Extra right-of-way width may be required as shown.

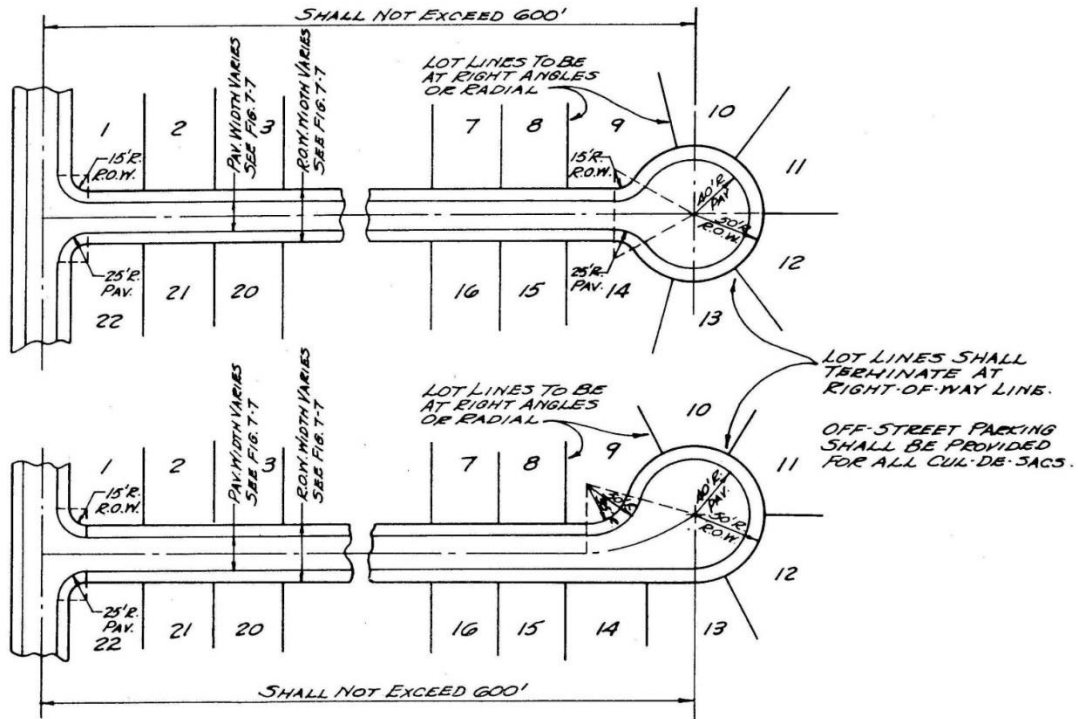


¹²⁶ Recommend eliminating this section. We haven't see na site where this is necessary.

20.307 Cul-de-sac Streets

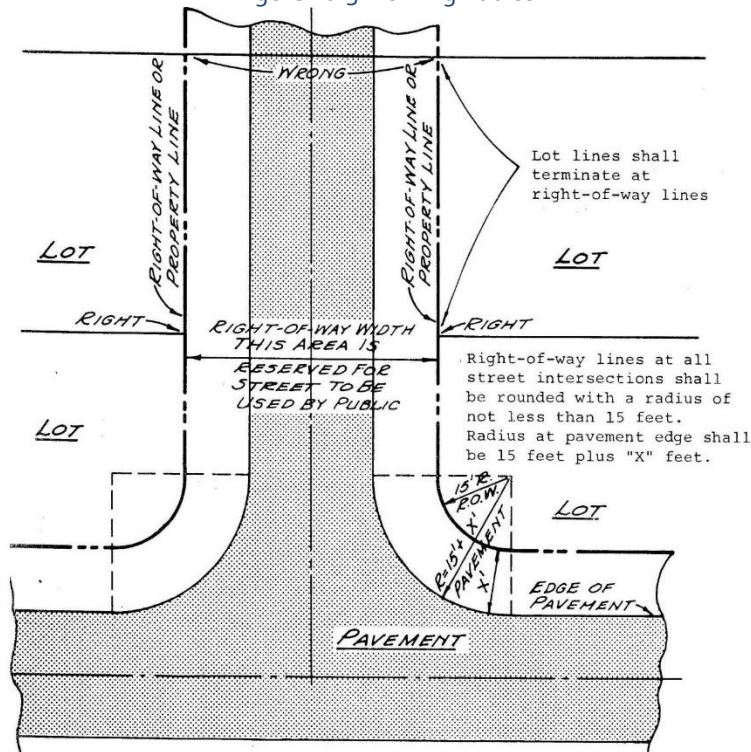
Permanent cul-de-sac streets are permitted. Examples of acceptable designs for such streets are shown in [Figure 20-2](#). Alternately, subdivider may employ a T-shaped hammerhead cul-de-sac at the end of the street. Cul-de-sac streets intended to be only temporary shall also conform to these designs.

Figure 20-2: Cul-de-Sac Design

**20.308 Intersections**

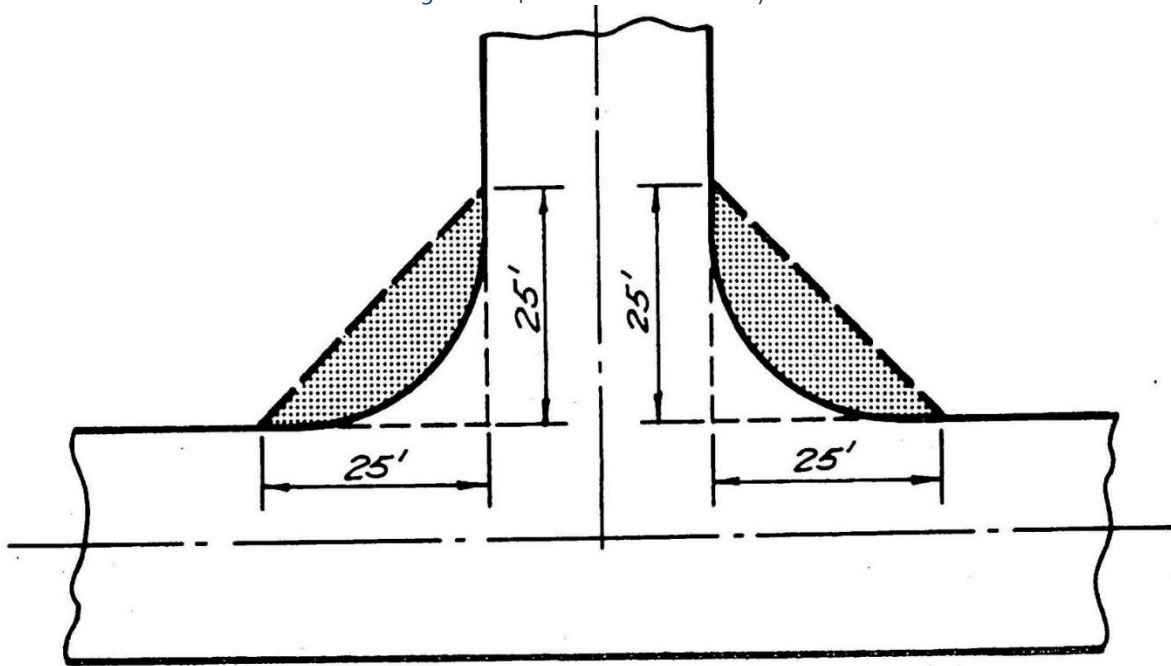
- 20.308.A** Streets shall be laid out to intersect as nearly as possible at right angles (i.e., 90 degrees). Street intersections of less than 90 degrees may be designed, subject to the approval of the Planning Office (see [Figure 20-5](#)).
- 20.308.B** No more than 2 streets in a proposed subdivision shall intersect at one point.
- 20.308.C** Property lines at a street intersection shall be rounded with a minimum radius of 15 feet (see [Figure 20-3](#)).

Figure 20-3: Turning Radius



- 20.308.D** In order to provide visibility for traffic safety on a corner lot, that portion of the lot that is shown in a shaded pattern in [Figure 20-4](#) shall be cleared of all vegetation except isolated trees and of all obstructions to vision above the level of 3 feet higher than the centerline of the street intersections. On the direction of the Planning Office, the subdivider shall excavate ground to achieve visibility on a corner lot as part of the approval of the final plat. On the order of the Commissioner of Public Works or the Commissioner of Public Safety, a property owner shall remove any obstruction to vision within the limits shown in [Figure 20-4](#).

Figure 20-4: Intersection Visibility



In order to provide visibility for traffic safety, that portion of a corner lot shown shaded shall be cleared of all growth (except isolated trees) and of all obstructions to vision above the level three (3) feet higher than the centerline of the street intersection.

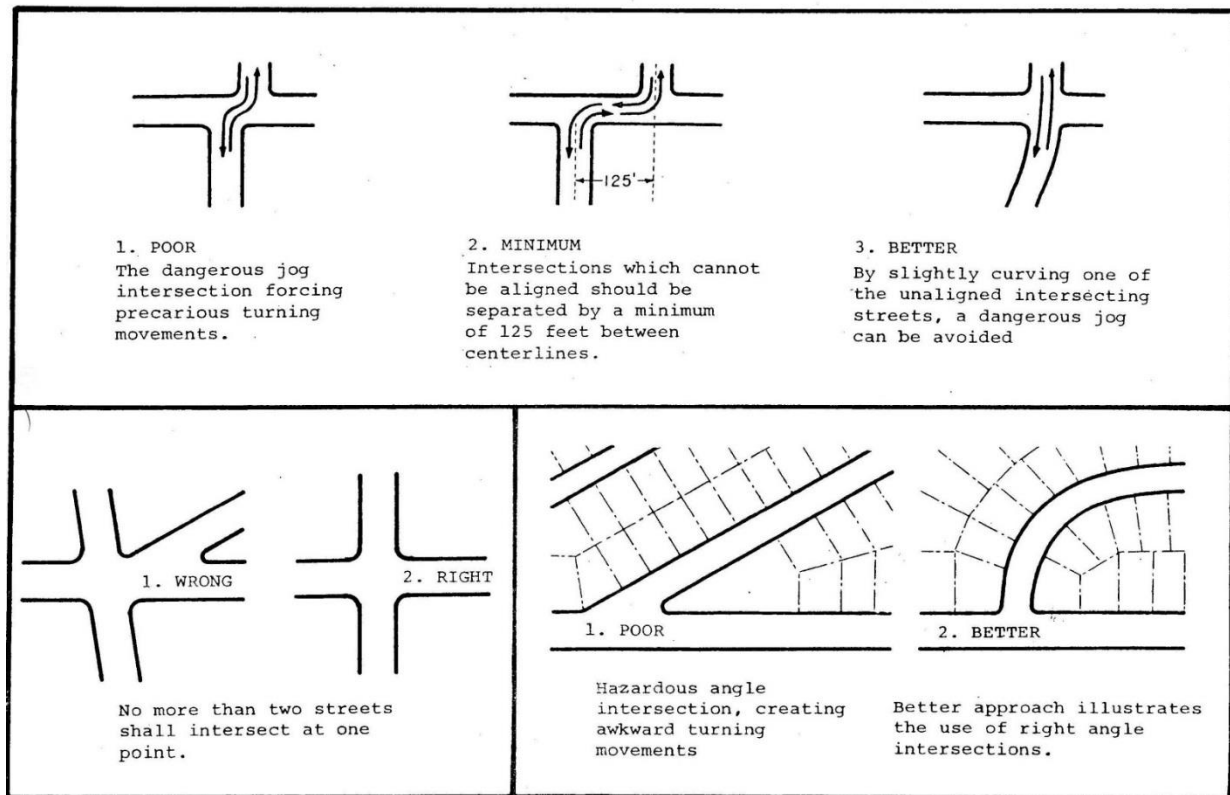
20.308.E Street gradients at intersections and within 30 feet of intersections shall not exceed 5%.

20.309 Centerline Offsets

Street centerline offsets or street jogs with centerline offsets of less than 125 are not permitted.¹²⁷ A street jog may be avoided by a slight curve in one of the unaligned streets as shown in [Figure 20-5](#).

¹²⁷ Current language states that jogs and offsets "shall be avoided."

Figure 20-5: Intersection Design

**20.310 Half Streets**

Half streets are not permitted except where to complete a half street already in existence. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

20.311 Steep Grades and Curves

In laying out a subdivision, a subdivider shall avoid a combination of steep grades (over 7%) and curves.¹²⁸

20.312 Truck Climbing Lanes

The subdivider shall provide a separate truck climbing lane on a major or minor arterial when the street gradient exceeds 7%.¹²⁹

20.313 Design of Streets According to Classification

Each street shall be designed to conform to the specifications for the particular classification regarding:

20.313.A Functional classification.

20.313.B Number and width of driving lanes, including parking lanes and median, if required or desired.

20.313.C Design elements, including curb and gutter, storm drainage, shoulders, and walks.

20.313.D Right-of-way width.

¹²⁸ This replaces the existing language, which is vague.

¹²⁹ The word "separate" has been added, and the sentence has been rewritten in the active voice.

- 20.313.E** Minimum sight distances for horizontal and vertical alignment design.
- 20.313.F** Maximum allowable gradient. Generally, 6% is the maximum sustained grade for safe operation of automobiles and trucks.
- 20.313.G** Surface pavement and base type as required by the Department of Public Works.

20.314 Private Streets¹³⁰

20.314.A Required Disclosure

Where a subdivision will contain or be served by private streets, the following statement must be prominently displayed on the final plat:

This statement is to advise owners and prospective owners of land within the subdivision that the streets serving this subdivision are designated as private streets, not public streets. All owners of property within the subdivision have easements with one another to travel over and across such streets. The sole responsibility for maintenance of such private streets is that of all owners of land in the subdivision. No representation is made that the private streets within this subdivision meet the same minimum requirements as public streets.

20.314.B Ownership and Maintenance

- 20.314.B.1** Private streets must be owned and maintained by property owners in the subdivision or a legal entity representing property owners such as a property owners association or a community association established for this purpose.
- 20.314.B.2** The subdivider must submit to the Planning Office proposed agreements or covenants ensuring continued use and maintenance of any existing, platted or proposed private streets by property owners served by such streets. These agreements must:
 - (a) ensure that proposed private streets will be adequately maintained to provide safe passage for public service and emergency vehicles;
 - (b) specify how responsibility for road maintenance will be apportioned among the landowners served; and
 - (c) provide enforcement rights for the maintenance agreement.
- 20.314.B.3** The Commissioner of Public Works may order, in writing, property owners or the entity to repair streets when the commissioner determines that the street is not maintained and is in such a condition that it presents a hazard and prevents emergency service providers and public service providers from accessing properties along the street. Should the

¹³⁰ These private street provisions are entirely new.

entity fail to take action to repair the street, the commissioner, after giving written notice to the property owners or entity, may conduct such repairs by the Department of Public Works or through a contractor retained by the Department of Public Works and assess the property owners or entity for the cost of repairs.

20.400 Functional Classification of Streets

The functional classification of streets is comprised of principal arterials, minor arterials, collectors, local streets, and special local streets. The following are descriptions of these classifications:

20.401 Principal Arterials

Principal arterials provide the highest level of travel mobility within an area and are the most important and heavily traveled routes.

20.402 Minor Arterials

Minor arterials interconnect with and augment principal arterials. Travel mobility is somewhat less on minor arterials.

20.403 Collectors

Collectors provide land access service and channel traffic from local streets to the arterial systems. Minor traffic movements within residential, commercial, or industrial areas are also a function of collectors.

20.404 Local Streets

Local streets include all streets not on the higher systems, and provide the connection between direct land access and access to the higher functional systems.

20.405 Special Local Streets

20.405.A Alley

A local street used primarily for vehicular service access to the back or side of properties abutting on another street.

20.405.B Cul-de-Sac

A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.

20.405.C Dead-End Street

A local street having only one end open to traffic and no vehicular turnaround.

20.405.D Half Street

A street parallel and contiguous to a boundary line of a subdivision and of lesser right-of-way width than is required by these regulations for its classification as a street, and intended to be widened when a contiguous future subdivision is developed.

20.405.E Stub Street

A local street having only one end open to traffic and intended to be extended when a future contiguous subdivision is developed.

20.500 Street Design Standards

Subdivision street designs must comply with the standards of [Table 20-1](#).

Table 20-1: Street Design Standards

Functional Classification	Principal Arterials	Minor Arterials	Collectors	Local Streets with 15 lots or less	Local Streets with more than 15 lots	Cul-de-Sacs	Alleys	Pedestrian walkways (mid-block or beach access)
Design Speed (MPH)	40	30	30	-	-	-	-	-
Minimum Travel Lanes (No.)	As required for capacity	As required for capacity	2	2	2	2	1	-
Minimum Travel Lane Width (ft)	12	12	12	9	10	Same as Local	20 (total width)	5 (total width)
Minimum Parking Lane Width (ft)	10	9	9	9 Not required	9 Not required	9 Not required	-	-
Minimum Median Width	6 ft. for 4 lanes	Not required	Not required	-	-	-	-	-
Cross-Section Elements	Curb and gutters, sidewalks or shoulders, and enclosed or surface drainage to be determined by the Department of Public Works (D.P.W.).							
Right-of-way Width	As necessary 120 ft. min.	As necessary 100 ft. min.	As necessary 80 ft. min.	As necessary 28 ft. min.	As necessary 30 ft. min.	Same as other streets in subdivision	20 ft. min.	10 ft. min
Minimum Distance for Vertical and Horizontal Alignment	500 ft. with median; 800 ft. without median	500 ft. with median; 800 ft. without median	300 ft.	200 ft.	200 ft.	200 ft.	-	-
Vertical Clearance	16 ft.	16 ft.	16 ft.	14 ft.	14 ft.	14 ft.	To be determined	-
Pavement and Base Course	Pavement type and base course to be determined by the D.P.W. specifications.							

20.501 Street Names

All streets shall be named. The name of a new street shall not duplicate or be similar to the names of existing streets. A new street that is an extension of or in alignment with an existing street shall bear the name of the existing street.

20.502 Streets for Commercial Subdivisions

Streets for commercial subdivisions shall be planned to connect directly with arterial streets so as not to generate traffic on local streets. The intersections of driveways from parking areas with arterial or collector streets shall be located so to cause the least possible interference on the streets. The centerline of the intersections of such driveways shall be located not less than 100 feet from the intersection of an arterial street or collector street with any other street, and shall be spaced not less than 200 feet from each other. The Planning Office may require marginal access streets in a commercial subdivision to provide maximum safety and convenience.

20.503 Streets for Industrial Subdivisions

Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall connect with arterial streets so that no industrial traffic will be directed onto resident streets. The centerline of intersections of driveways¹³¹ from parking areas in industrial subdivisions with arterial or collector streets shall not be less than 100 feet from the intersection of the arterial or collector street with any other street. Streets shall be planned to be extended to the boundaries of any adjoining land zoned for industrial use, except in the case of severe site conditions that limit the extension of a street, as determined by the Planning Office.

20.600 Sidewalks

20.601 Sidewalks shall be required on both sides of a street in a proposed subdivision where the average¹³² lot width is 100 feet or less and on one side where the average lot width is greater than 100 feet, but less than 150 feet. No sidewalks will be required where the average lot width is greater than 150 feet, except:

20.601.A Sidewalks shall be provided on both sides of all arterial, collector, and local streets within the public right-of-way or easement for a street.¹³³

20.601.B Sidewalks shall be provided for all commercial subdivisions.

20.601.C Subject to the determination of the Planning Office, sidewalks may be required in industrial subdivisions.

20.601.D Sidewalks may deviate from the street alignment to suit topographical constraints. However, if a sidewalk extends outside of the street right-of-way, then the subdivider must provide additional right-of-way or an easement for a pedestrian way to the Territory.

20.601.E Sidewalks shall be of concrete not less than 4 inches thick. In residentially zoned areas, sidewalks shall not be less than 5 feet wide. In commercially-zoned areas, sidewalks shall not be less than 7 feet wide. The Planning Office shall determine the need for and width of sidewalks in industrially-zoned areas for each subdivision, but in no case shall a sidewalk be less than 6 feet.

20.601.F Walks in pedestrian ways across blocks and pedestrian access ways to beaches and shorelines shall be at least 5 feet wide and improved with an all-weather surface with adequate drainage.

20.601.G The Planning Office may waive the requirements of this section where it determines that the provision of sidewalks in a subdivision would serve no useful purpose.¹³⁴

¹³¹ The current language is “the intersection of service streets from parking areas,” but the phrase “service street” is undefined. Here it has been replaced with the “centerline of intersections of driveways.”

¹³² The term “average” has replaced with “predominant”.

¹³³ We saw very few places on St. Thomas, St. John, or St. Croix where there were separate sidewalks on arterials or collectors. Is this policy being enforced?

¹³⁴ This restates the language in the current regulations, but is rewritten in the active voice. Should the language to authorize a sidewalk waiver be retained or eliminated?

20.700 Easements

- 20.701** Generally, lots shall be designed so that easements run along lot lines and do not cross lots in such a way as to interfere with the placement of buildings.
- 20.702** Where necessary, easements shall be provided for utilities and shall be at least 15 feet wide.
- 20.703** Where easements intersect or where sharp changes in alignment of the easement are necessary, corners of the easements shall be cut off so as to facilitate the operation and maneuvering of maintenance equipment.¹³⁵
- 20.704** No building shall be permitted within utility easements.
- 20.705** Every easement shall terminate at both ends of a street, alley, or other easement, except that a dead-end easement will be permitted if not more than 150 feet in length with no turns or bends.
- 20.706** Where a watercourse, drainage way, channel, stream, or gut traverses a proposed subdivision, there shall be provided a drainage easement of not less than 15 feet conforming substantially to the lines of such drainage course. The Planning Office may require additional width, depending on the conditions and extent of the drainage course.¹³⁶ No fences, poles, or other obstruction shall be permitted in the drainage easement.
- 20.707** Any overhanging limbs, shrubbery, or vegetation of any kind may be removed at any time within the limits of utility easements at the sole discretion of the maintenance personnel of the utilities installed or to be installed in such easement.

20.800 Blocks

- 20.801** In determining the size and shape of blocks, the subdivider shall give consideration to:
- 20.801.A** Zoning requirements for lot areas, lot frontages, and setbacks.
 - 20.801.B** Provision of adequate building sites for the special needs of the subdivision.
 - 20.801.C** The need for convenient access, circulation, control, and safety for street traffic and safe access for emergency vehicles.
 - 20.801.D** Pedestrian access to the shoreline.
 - 20.801.E** Limitations and opportunities of topography.
- Generally, block lengths shall not exceed 1,200 feet or be less than 400 feet, but the Planning Office may make exceptions in particular situations where topography or other site factors make these limitations impractical.
- When a block is more than 600 feet in length, the Planning Office may require a right-of-way or easement not less than 10 feet wide for a pedestrian way or walk to provide circulation and access to schools, playgrounds, and other facilities. The subdivider shall provide an improved walk with an all-weather surface not less than 5 feet in width and with adequate drainage within said right-of-way or easement. Where necessary due to steep topography, the Planning Office may require the subdivider to incorporate safety features such as handrails or steps in connection with the walk.

¹³⁵ This has been rewritten to clarify the intent—the easement must be sufficiently wide so as to allow operation of maintenance equipment.

¹³⁶ This sentence is new, intending to clarify existing language on requiring greater width.

Blocks intended for commercial or industrial use shall be of a length and width more suitable for their intended use.¹³⁷

The Planning Office may approve irregularly shaped blocks, blocks intended for cul-de-sacs or loop streets, and blocks containing interior parks if the blocks are properly designed and located and if the maintenance of the interior public spaces is covered by a permanent legal provision acceptable to the Planning Office.¹³⁸

20.900 Lots

- 20.901** Each lot in a particular zoning district shall be designed to comply with the zoning requirements for that district with regard to the following:
- 20.901.A** Lot area.
 - 20.901.B** Lot width at the front property line or street line.
 - 20.901.C** Setback from the front property line or street line.
 - 20.901.D** Side and rear yard requirements.
 - 20.901.E** Off-street parking requirements.
- 20.902** The subdivider shall consider topography and other site conditions to ensure that a building that meets the zoning requirements of the district in which the lot is located can be erected on the lot without difficulty.
- 20.903** Corner lots shall have extra width to permit appropriate setback from and orientation to both streets and to conform to zoning requirements.
- 20.904** Right-of-way lines at all street intersections shall be rounded with a radius of not less than 15 feet.
- 20.905** Side lot lines shall be substantially at right angles or radial to street lines.¹³⁹
- 20.906** No lot shall be divided by a road, right-of-way, or easement of another lot.
- 20.907** No lot shall be divided by an estate boundary line.
- 20.908** Lot lines shall terminate at the street right-of-way or street easement.
- 20.909** Each lot shall front on a street right-of-way or street easement that provides access to an existing public street.¹⁴⁰
- 20.910** A subdivider shall avoid the use of double frontage or reverse frontage lots except where such a configuration is essential to providing separation of residential development from traffic arteries or to overcome specific disadvantages of topography and lot orientation. Where double frontage or reverse frontage lots are used, the subdivision shall provide an easement for a planting screen of at least 10 feet from which there shall be no right of access to lots abutting such traffic arteries.

¹³⁷ Language has been omitted in connection with parking and loading and requirements of the zoning code, because the zoning code regulates according to lots, rather than blocks.

¹³⁸ This subsection has been rewritten in the active voice. However, it is not entirely clear what its purpose is, other than dealing with public open space in the center of a block.

¹³⁹ The term “radial” appears to refer to lots on a cul-de-sac?

¹⁴⁰ This appears to cover a private street or estate road that would connect to a public street.

- 20.911** All lots shall be graded to provide adequate drainage for surface runoff away from the building site to a swale, ditch, or street, as appropriate. Lots should be laid out so that a minimum of grading is required and so that trees outside the building site may be retained.¹⁴¹
- 20.912** All lots shall be graded to provide a driveway approach from the street that does not exceed a 20% gradient over its length.
- 20.913** In general, no building lots shall be platted in areas known to be subject to landslides or flooding.

20.1000 Public Sites, Open Spaces, and Natural Features¹⁴²

- 20.1001** It is a goal of the Planning Office to encourage the provision of space for public use for schools, parks, and recreation, and to encourage the preservation of natural areas. As one means of achieving this goal, the Planning Office shall require the subdivider to provide for a certain amount of land for public use. This requirement may be met by one of three alternative ways. However, for all subdivisions over 5 acres, the Planning Office or the Department of Education may designate which alternative or combination of alternatives shall be used.
- 20.1001.A** Eight percent of the gross land area of the final plat shall be dedicated to the public for schools and parks. Any land so dedicated will be maintained by the Government of the Virgin Islands.
- 20.1001.B** Eight percent of the gross land area of the final plat shall be reserved through deed restrictions as open space area, the maintenance of which shall be ensured by specific obligations in the deed of each lot within the subdivision.
- 20.1001.C** Eight percent of the full market value of the gross land area in the final plat at the time of the final plat approval shall be paid by the subdivider to the Virgin Islands Government to be used by the Government only to acquire land for sites for schools or parks to serve the subdivision and future residents thereof.¹⁴³
- 20.1002** The smallest amount of open space acceptable to the Planning Office for recreation shall be one-fourth of an acre. All recreational facilities or open space for recreational facilities shall conform to standards set by the Planning Office or the Department of Sports, Parks, and Recreation.¹⁴⁴
- 20.1003** Whenever possible, the Planning Office shall require the preservation of all natural features that add value to the residential development and to the entire community, such

¹⁴¹ This sentence probably isn't necessary.

¹⁴² Are the procedures and standards in this section actually being followed? If not, then the section, while well-intentioned, should be eliminated.

¹⁴³ If this alternative is to be retained, there would need to be an appraisal of the plat so that the full market value can be determined. In addition, the monies paid by the developer would have to be segregated in an account so that it is only used for parkland acquisition in the vicinity of the plat. In addition, there would need to be some limitation on how far the park can be from the subdivision.

¹⁴⁴ The subdivider is only being required to dedicate or reserve land or contribute money in lieu, not install recreational facilities or actually engage in the development of the site. Moreover, are there in fact "standards" for parks and recreational facilities that have been published?

as wooded areas, water courses, beaches, mangroves, and areas of historical or archaeological significance.

- 20.1004** When a park, playground, school, or public access to water frontage is shown in the Comprehensive Development Plan or in the Coastal Zone Management Plan is located in whole or in part in the proposed subdivision, the Planning Office shall request the dedication of land within the subdivision required for that particular project. The subdivider shall provide land or pay for only that portion of the public site that benefits his or her subdivision as determined by the Planning Office.¹⁴⁵

20.1100 Modified Standards for Mountainous Areas

20.1101 Applicability

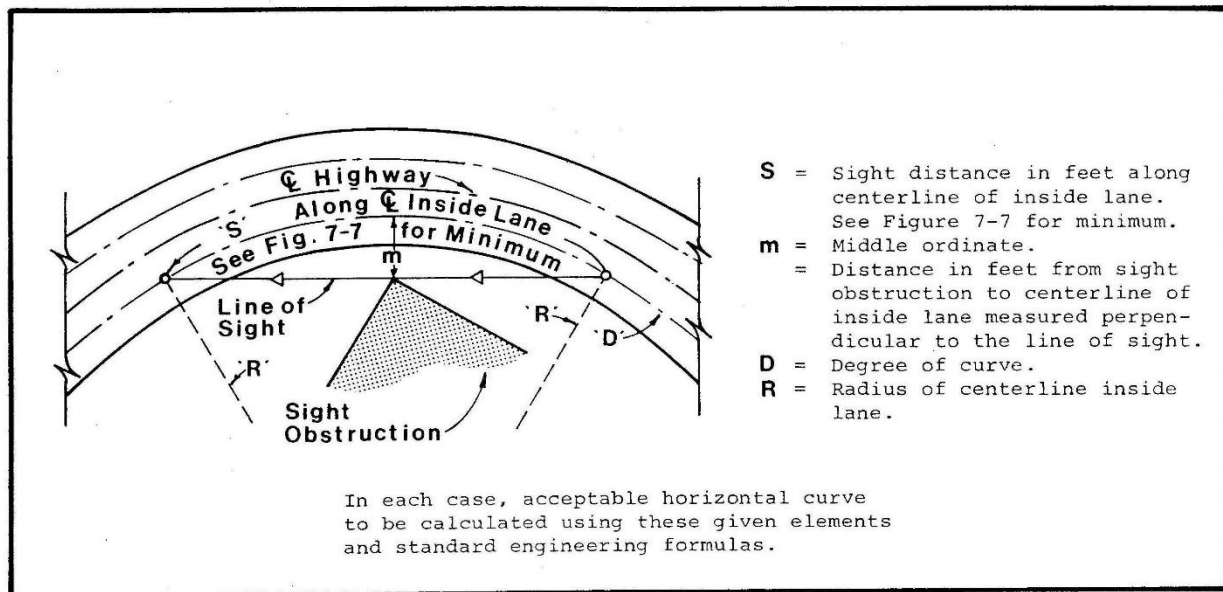
In the mountainous portions of the Virgin Islands, defined as those lands lying in slopes of 20% or more, subdivision design standards are modified, as detailed in this section.

20.1102 Streets

20.1102.A Intersecting Streets

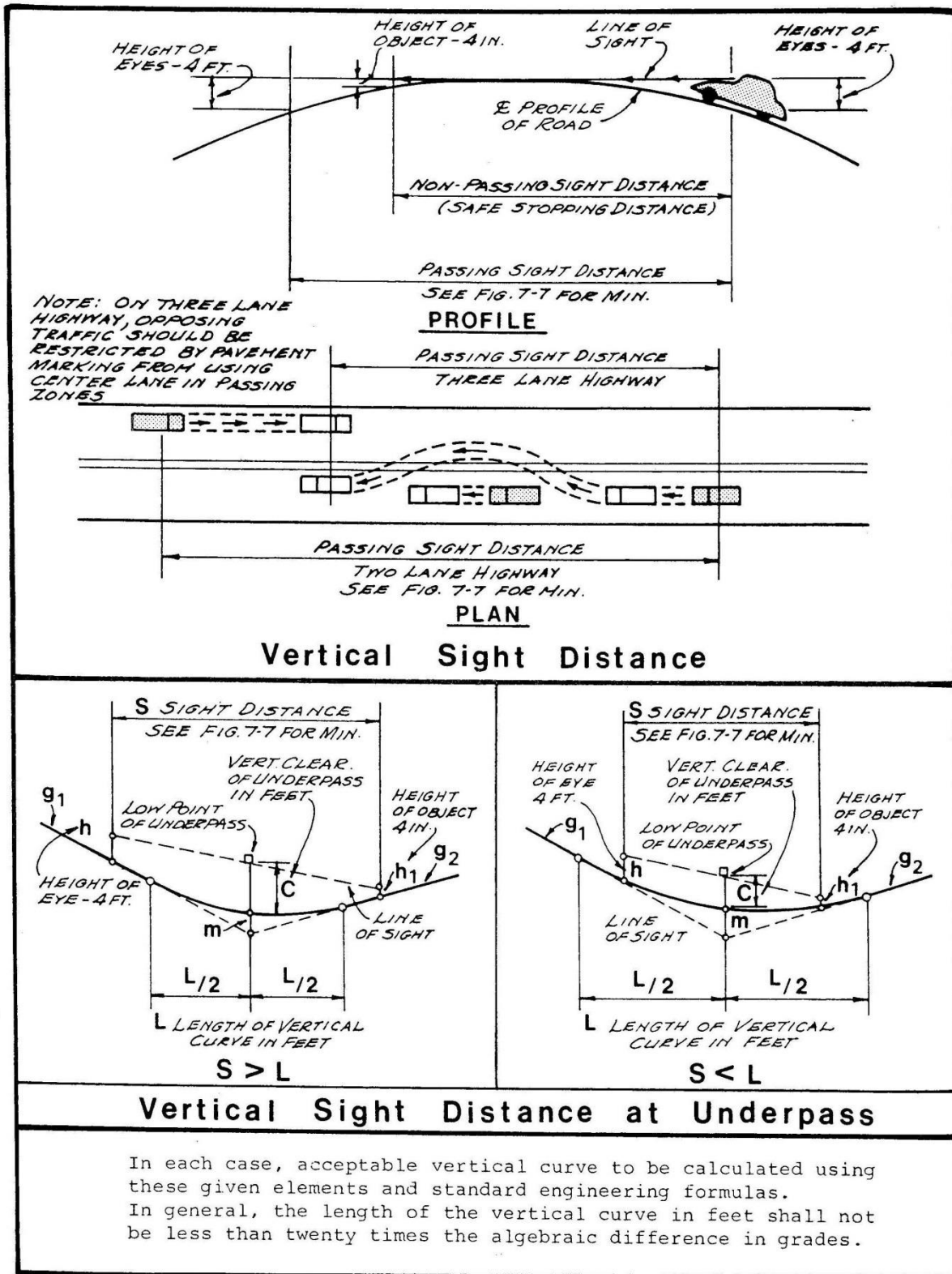
Because of topography, it is not always be possible to have streets intersecting at right angles, or to maintain street of 5% or less at intersections. The safety of such intersections is thereby reduced, and all possible measures shall be taken to provide adequate visibility for motorists approaching such intersections. Such intersections shall be designed to provide the greatest possible horizontal sight distance and vertical sight distance for drivers on both streets, according to criteria in [Figure 20-7](#) and [Figure 20-6](#).

Figure 20-6: Horizontal Sight Distance



¹⁴⁵ The Territory does not have a plan that shows the location of future parks and schools.

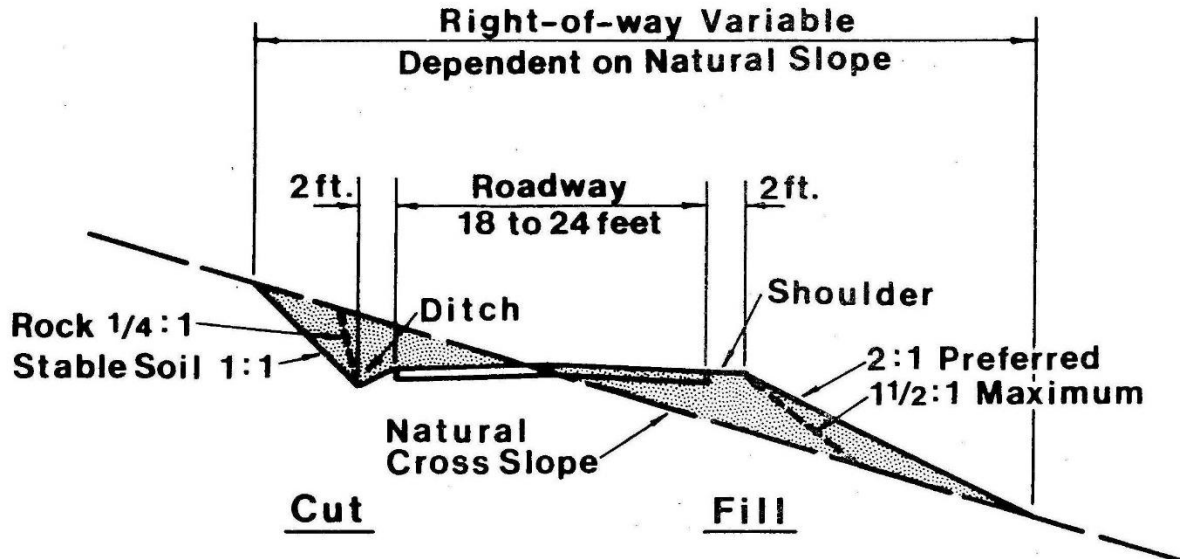
Figure 20-7: Vertical Sight Distance



20.1102.B Street Right-of-Way

Each street right-of-way width shall be the minimum width as specified for its functional classification plus any additional width necessary to include cut and fill slopes. [Figure 20-8](#) shows a typical cross-section with the required design elements.

Figure 20-8: Cut and Fill Slopes



20.1102.C Horizontal Curves on Local Streets

In mountainous areas, horizontal curves are usually dictated by the terrain. Under such conditions, when no reasonable alternative alignment is feasible, the centerline radii may be reduced on local streets to 30'.

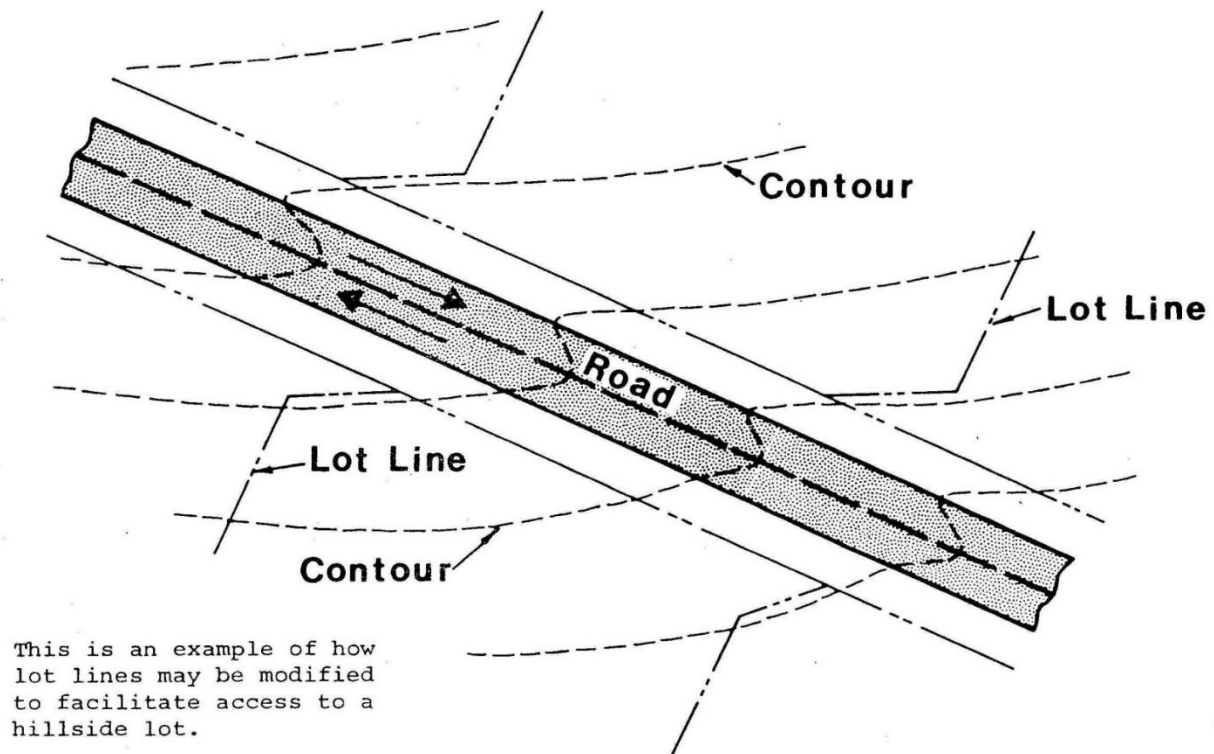
20.1102.D Gradients

Gradients for local streets may be increased to 18 percent if no reasonable alternative alignment is feasible. Gradients at intersections shall be reduced as much as possible to try to approach the desired 5 percent.

20.1103 Hillside Lots

Irregularly shaped lots shall be permitted as lot lines may be located to take advantage of the topography and to provide better access to lots. [Figure 20-9](#) shows how lot lines may be modified to keep grade of access reasonable.

Figure 20-9: Hillside Lots



Article 21 Subdivision Improvements

21.100 Applicability

In consideration of the acceptance of the subdivision by the Virgin Islands Government and the assumption of the responsibility for maintaining the dedicated streets and other public improvements constructed therein, the subdivider shall cause to be constructed, at no expense to the Virgin Islands, the streets and other public improvements required by these regulations.

21.200 Monuments

21.201 Survey monuments shall be placed at all corners or changes in alignment of the boundary of the development, at all block corners or changes in alignment in block boundaries (angle points or curve in street right-of-way or easement), and at all lot corners or changes in alignment of lot boundaries.

21.202 At least one permanent bench mark shall be established on the site as a basis for elevations.

21.202.A All monuments, markers, and bench marks shall be permanently marked with the registration number of the land surveyor or professional engineer placing the marker. Each bench mark shall be stamped with the letters "B.M." and the elevation and the datum.

21.202.B Each bench mark shall be placed in a location that will not be disturbed by site grading or road construction and not closer than 20 feet to the edge of any existing or proposed excavation. Bench marks shall not be placed in sidewalks or curbs.

21.203 All survey work shall be performed by either a professional civil engineer licensed in the Virgin Islands or a registered land surveyor licensed in the Virgin Islands.

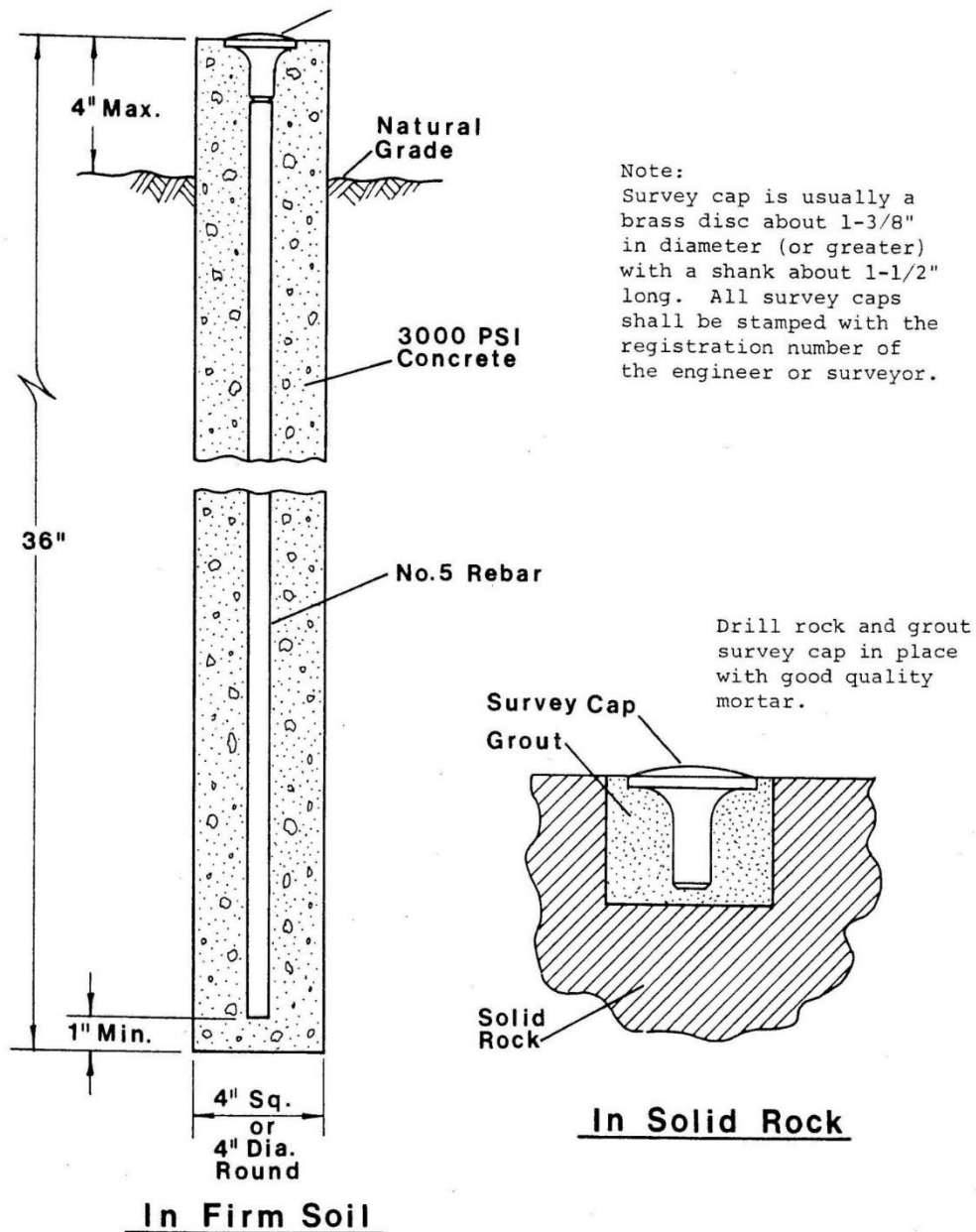
21.204 Survey monuments shall be placed as directed in this section according to the following construction standards:

21.204.A Development Boundary Monuments and Block Monuments

21.204.A.1 In firm soil, a 4 inches diameter or 4 inches square reinforced concrete post 36 inches long with not more than 4 inches protruding from the group. A standard metal survey cap (typically a brass disc about one and three-eighths inches in diameter, or greater) with a shank about 1½ inches long) shall be permanently set in the concrete. See [Figure 21-1](#).

21.204.A.2 In solid rock, a standard metal survey cap (stamped with the registration number of the surveyor or engineer) countersunk into the rock and grouted with good quality mortar. See [Figure 21-1](#).

Figure 21-1: Corner Monuments for Boundary and Block

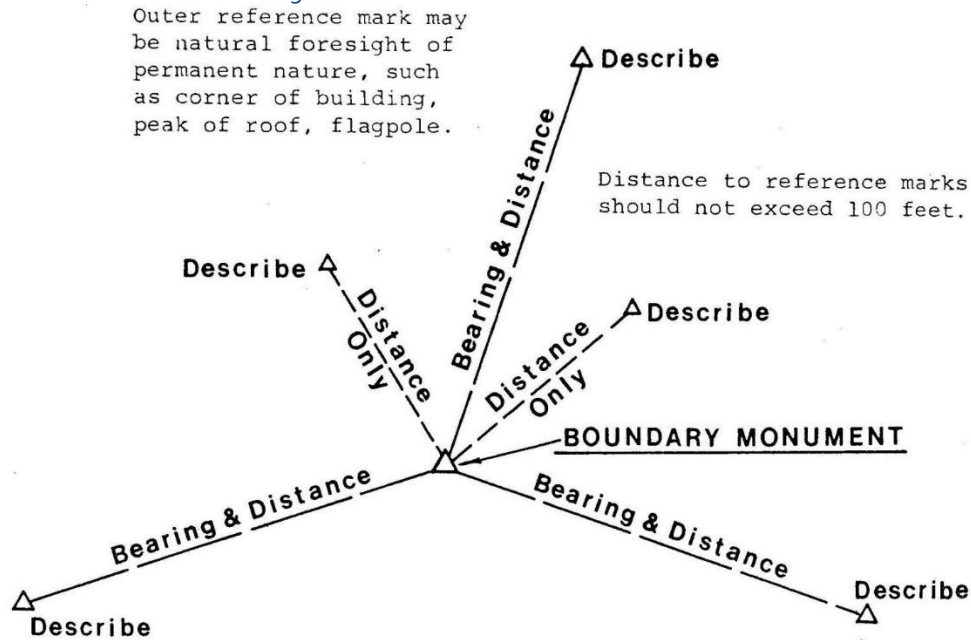


- 21.204.A.3 In loose soil, sand, marsh, and similar site characteristics, permanent markers shall not be set, but the point shall be referenced as shown in [Figure 21-2](#).
- 21.204.A.4 Where farming operations or other land uses might disturb the monument, an iron pipe at least 1 inches in diameter and 15 inches long shall be sunk into the ground and its location referenced as shown in [Figure 21-2](#).
- 21.204.A.5 Within streets or roads, a 3/4 inches iron pipe 36 inches long with a # 5 rebar 35 inches long with a standard survey cap (stamped with the registration number of the surveyor or

engineer) placed in the roadbed 6 inches to 8 inches below the finished surface and fitted with a cast iron monument box when the street is paved, as shown in [Figure 21-2](#).

- 21.204.A.6** When boundary and block monuments must be moved during construction, the location of each monument shall be referenced as shown in [Figure 21-2](#).

Figure 21-2: Monument Reference Marks



21.204.B Lot markers and Reference Marks

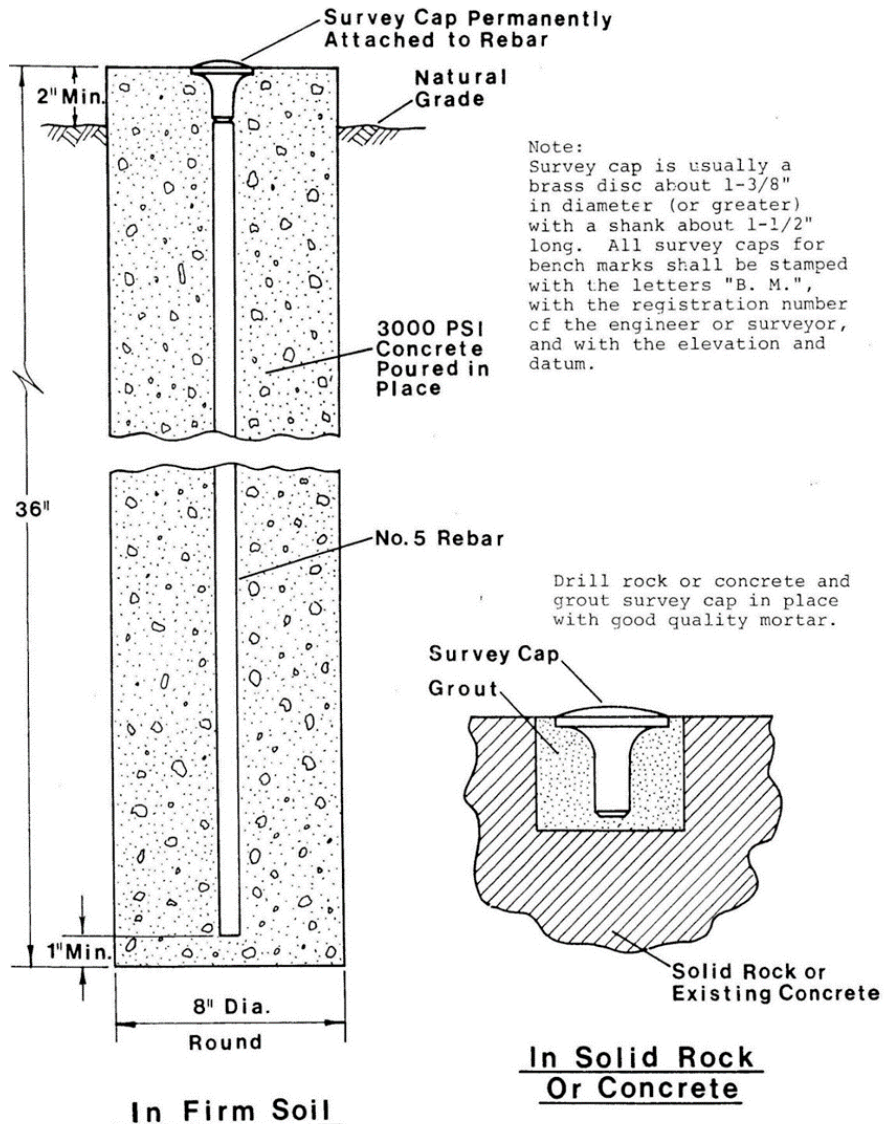
- 21.204.B.1** In firm soil, #5 rebar 24 inches long with a standard metal survey cap (stamped with the registration number of the surveyor or engineer) permanently attached.
- 21.204.B.2** In concrete walks or curbs, PK nails at least 2 inches long.
- 21.204.B.3** In solid rock, PK nails at least 2 inches long or an iron bar 1/4 inches in diameter by 3 inches long grouped in a drilled hole or crevice 2 inches deep.

21.204.C Bench Marks

- 21.204.C.1** In firm soil, a standard metal survey cap (stamped with the letters "B.M." and the elevation and the datum and the registration number of the surveyor engineer) permanently attached to # 5 rebar and set in an 8-inch concrete post, as shown in [Figure 21-3](#).
- 21.204.C.2** In solid bedrock or in a concrete foundation, concrete bridge abutment, or the like, which is expected to remain at least 10 years, a hole may be drilled and a standard metal survey cap (stamped with the letters "B.M." and the elevation and the

datum and the registration number of the surveyor engineer) grouted with a good quality mortar, as shown in [Figure 21-3](#).

Figure 21-3: Bench Mark Monuments



21.204.C.3

Each bench mark shall be placed in a location that will not be disturbed by site grading or road construction and not closer than 20 feet to the edge of any existing or proposed excavation. Bench marks shall not be placed in sidewalks and curbs.

21.300 Rough Grading

The preliminary site preparation shall consist of the necessary clearing and rough grading according to the approved grading plan of all cut and fill areas to within 0.2' of the proposed elevation, making allowance for the thickness of the topsoil and paved areas. All timber, logs, trees, brush,

vegetable matter, and other rubbish shall be removed so as to leave the areas that have been disturbed with a neat and finished appearance. In regard to clearing, the subdivider shall preserve insofar as possible the natural trees outside the actual building site. All disturbed areas shall be sloped or retained by walls as required in the Environmental Protection Program as authorized under Title 12, Chapter 13, Virgin Islands Code.

21.400 Drainage

- 21.401** The storm drainage plan for the subdivision shall be installed according to the plans approved by the planning office as part of the preliminary plan. This drainage may be accomplished with curb and gutter and underground storm drains, or by well-designed surface ditches and channels with proper gradients and side-wall slope, with the outfall to natural drains.
- 21.402** Ponding of water shall not be permitted above cut and fill slopes or on drainage terraces. Water shall not be ponded on adjacent properties as a result of the proposed subdivision. Adequate drainage facilities shall be provided to prevent such ponding, with an exception for ponds created for agricultural use, ground water recharge, water conservation, sewage polishing, or sediment collection. Such ponds shall be designed by methods acceptable to the Planning Office and to the Department of Public Works.¹⁴⁶
- 21.403** Seeps and other ground water having objectionable effects shall be capped with porous gravel or sand with interlaced tile drains or perforated pipes connecting into a piped outfall to a public storm drainage system or natural water course.
- 21.404** If the subdivider intends to develop in sections, a general overall drainage plan for the entire land area to be developed shall be submitted to the Planning Office. The general drainage plan shall accompany the detailed plan(s) for the section(s) under construction.
- 21.405** If a drainage ditch or channel is more than 5 feet deep and/or the sidewall slope is 2:1 or steeper, the right-of-way or easement of the drainage way must be permanently fenced.
- 21.406** In the case of surface drainage, the full width of the street between property lines shall be utilized in the graded section to permit easy maintenance and grassing of the section of the street right-of way from the edge of the shoulder to the property line.
- 21.407** The sizes, capacities, and gradients of all drainage pipes, culverts, structures, and ditches shall be determined using accepted engineering formulas. Runoff calculations shall be based on a maximum 24-hour rainfall expected to occur once in 10 years, with a runoff factor of 90 percent for pavement and buildings (without cisterns) and variable runoff facts for other areas based on surface condition and topography, utilizing the hydrological study prepared for the preliminary plan. No culvert or drain pipe shall be less than one foot in diameter. Culvert pipe may be either reinforced concrete or corrugated steel; however, corrugated steel shall not be used in where the soil has a high salt content. Reinforced concrete is recommended for all underground storm drainage systems.¹⁴⁷
- 21.408** Where possible, open drainage ditches should have concrete paved swales with a 4:1 slope.

¹⁴⁶ This paragraph has been rewritten to acknowledge the roles of DPNR and DPW as a substitute for the Virgin Islands Soil and Water Conservation District.

¹⁴⁷ It may be preferable to require reinforced concrete in all cases.

- 21.409** Drainage ditches along streets shall be graded away from streets to prevent their undermining by drainage flow.
- 21.410** Culverts with headwalls shall be constructed under driveways crossing side ditches to the full width of the pavement plus shoulders. Without headways, the culvert pipe shall extend beyond the pavement and shoulders to a minimum of three feet on each side. . Flow line of the culvert pipe under the driveway shall conform to the designed flow line of the side ditch.
- 21.411** A professional engineer licensed in the Virgin Islands shall be responsible for the design and supervision of the installation of storm drainage facilities for the subdivision.

21.500 Streets

- 21.501** The subdivider shall construct all streets, including grubbing, grading, preparation of subsurface, base course, curbs and gutters, storm drainage structures to AASHTO and Federal Highway Administration standards. All materials and methods of construction shall conform to AASHTO and Federal Highway Administration standards and specifications. The Planning Office shall maintain the most recent editions of the following publication for consultation: AASHTO *A Policy on the Geometric Design of Highways and Streets*, 6th Edition (2011); and U.S. Department of Transportation, Federal Highway Administration, *Standard Specifications for the Construction of Roads and Bridges on Federal Highway Projects, FP-03 U.S. Customary Units* (2003) ¹⁴⁸ A professional engineer licensed in the Virgin Islands shall design all streets and supervise their construction. The subdivider shall submit the design for streets to the Planning Office for approval as part of the preliminary plan application.
- 21.502** The Planning Office must approve the street design before any construction work is undertaken to ensure that the design is adequate for existing soil and topographic conditions and proposed use.
- 21.503** All sewers, drains, water lines, and other underground structures shall be installed before streets, sidewalks, or alleys are paved, and water service and sanitary sewer service provided to a distance of 2 feet within each lot, if water distribution and sanitary sewer systems are included in the subdivision.
- 21.504** For all streets, safety features such as guard rails, traffic separators, loading lanes for buses and taxis shall be provided where necessary, as required by the Planning Office.
- 21.505** Durable street name markers shall be placed where easily seen at each street intersection.

21.600 Water System

- 21.601** Where master plans or other official plans indicate that within a reasonable length of time, construction or extension of a public potable water distribution system will provide an adequate water supply for the provided subdivision, the Planning Office may require the subdivider to install and cap, for future use, water mains and service connections to individual lots.

¹⁴⁸ The existing subdivision regulations reference AASHTO standards, but do not specify which publications. This additional language clarifies the relevant publications. Further, the Department of Public Works requires that streets be built to standards used by the Federal Highway Administration, which were not published when the existing regulations were adopted, so these have been included as well.

- 21.602** When an adequate public potable water distribution system is available in the area of the proposed subdivision, and when extension from that area to the proposed subdivision is feasible, the subdivider shall be required to provide that extension and a complete water distribution for the proposed subdivision, including water mains and service connections to individual lots.
- 21.603** An independent water system, including a water well, or catmint, and elevated reservoir or pressure storage tank may be provided and/or utilized if sufficient to meet the needs of the subdivision. Detailed plans shall be submitted with the preliminary plan application and plans must be approved by the Division of Environmental Health.
- 21.604** If it unlikely that a public or private potable water system will be available to service the subdivision, or if there is not an existing or potential groundwater supply, deed restrictions shall be executed requiring for each single-family unit, a cistern with a minimum capacity of 15,000 gallons filed by the runoff of a minimum roof surface or catchment area of 750 square feet.
- 21.605** In residential subdivisions, water mains shall not be smaller than 6-inch pipe and service connections shall not be smaller than 2-inch pipe. In commercial or industrial subdivisions, the size of mains and service connections must be determined according proposed use for each particular case. Either metal or PVC pipe and fittings may be used, but shall meet AWWA. standards and specifications for the use proposed, and shall be installed in accordance with accepted practice regarding circuits or loops, embedment, thrust blocks, and treatment of joints and connections.
- 21.606** A professional engineer licensed in the Virgin Islands shall design and supervise the installation of the water distribution system.
- 21.607** Existing or potential groundwater supplies that are serving or could serve as a potable water supply shall be protected from all sources of pollution. Virgin Island Code, Title 19 (Sanitation), Chapters 53 and 55, Title 29 (Building Code), Chapter 5, and Title 12 (Water Resources Conservation), Chapter 12, and related rules and regulations are applicable as written, or as hereafter amended, as well as any relevant new laws that may be hereafter enacted.¹⁴⁹
- 21.608** The subdivider shall properly cap and fill in any abandoned wells in the proposed subdivision.

21.700 Sanitary Sewage Disposal

- 21.701** When master plans or other official plans indicate that within a reasonable length of time, construction or extension of a public sanitary sewage disposal system will provide service for the proposed subdivision, the Planning Office may require, in addition to approved temporary on-site disposal facilities, that the subdivider install and cap, for future use, a complete sanitary sewage collection system (mains, laterals, service connections to individual lots, manholes, and other improvements as may be required such as lift stations). The subdivider shall submit detailed plans for the proposed future sanitary sewage collection system, as well as for temporary on-site disposal systems with the preliminary plan application to the Planning Office after they have been approved by the Department of Public Works and/or Division of Environmental Health.

¹⁴⁹ This language from the existing subdivision regulations is probably not necessary, since it is not clear how they apply to the design and review of the subdivision.

- 21.702** When an adequate public sanitary sewage disposal system is available in the area of the proposed development, and when extension from that system is available, the Planning Office may require the subdivider to provide that extension and a complete sanitary sewage collection system (mains, laterals, service connections to individual lots, manholes, and other improvements as may be required such as lift stations). The subdivider shall submit detailed plans for the proposed future sanitary sewage collection system, as well as for temporary on-site disposal systems with the preliminary plan application to the Planning Office after they have been approved by the Department of Public Works and/or Division of Environmental Health.
- 21.703** When a public sanitary sewage disposal system cannot be made available, the Planning Office will permit the installation of individual sanitary sewage disposal systems such as septic tank drainfield systems or individual aerobic treatment plants, when a minimum lot size of ½ acre is maintained, where the residential density does not exceed two dwelling units per lot, and when other conditions (such as steep slopes, shallow soil over rock, or a high water table) do not preclude the use of such systems. Determination of conditions that do or do not preclude the use of individual sanitary sewage disposal systems shall be made by the Planning Office and/or the Division of Environmental Health. The Planning Office and/or the Division of Environmental Health may require lots of larger size than the minimum required by the applicable zoning district regulations if, because of soil conditions or topographic conditions, the operation of individual sanitary sewage disposal system would pose a threat to the health and safety of residents in the area, or would have a detrimental effect on the natural environment of the area.
- 21.704** In industrial or commercial subdivisions, the Planning Office will determine in each particular case what sewage disposal facilities can be permitted. Detailed plans for each individual sanitary sewage disposal system shall be submitted to and approved by the Division of Environmental Health in order to obtain a building permit.
- 21.705** When public sanitary sewage disposal systems cannot be made available and when individual sanitary sewage disposal systems cannot be permitted, the Planning Office shall require that the subdivision design and install a private sanitary system for the entire subdivision. Detailed plans (showing plant facilities and relative location to adjacent lots, mains, laterals, service connections to individual lots, manholes, and other features as may be required such as lift stations shall be submitted with the preliminary plan application after approval by the Division of Environmental Health. The subdivision must make a permanent legal provision, acceptable to the Planning Office, for the maintenance of any provide sanitary disposal facility serving more than 1 lot or 2 dwelling units.
- 21.706** A professional engineer licensed in the Virgin Islands shall design and supervise the installation of all sanitary sewage collection and disposal systems.
- 21.707** In residential subdivisions, sanitary sewer mains shall not be smaller than 8 inches; sanitary sewer laterals shall not be small than 6 inches; and sanitary sewer service connections shall not be smaller than 4 inches. The entire system shall be installed according to accepted engineering practice as regards gradients, embedment, type and treatment of joints or connections, cleanouts, type and location of manholes, as well as special features such as lift stations and treatment facilities.
- 21.708** The preliminary plan and final plat shall provide an easement not less than 10 feet wide for every sanitary sewer line with the sewer line sewer centered within it.

21.709 The Division of Environmental Health shall inspect and approve in writing the installation of all sanitary sewage collection systems and disposal systems before any building permit can be issued.¹⁵⁰

21.800 Sidewalks

All sidewalks and walks in pedestrian ways across blocks and pedestrian access ways to beaches and shorelines shall be constructed with a grade sufficient for property drainage, and with subsurface and materials to conform with accepted construction standards.

21.801 All underground facilities such as water lines, service connections, meters, vales and boxes; and power poles, telephone poles, and all other features near the sidewalk shall be installed before the sidewalk, walk, and pedestrian access way is constructed.

21.802 The Planning Office may require the installation of safety features, such as handrails or steps, when it determines they may be necessary due to slope or varying topography.

21.900 Street Lighting

The design and installation of street lighting, providing an average illumination of not less than 0.4 foot candles, is required for all residential subdivisions. For commercial and industrial subdivisions, street lighting shall provide an average illumination of not less than 0.9 foot candles.¹⁵¹ Where a street in a subdivision intersects with a proposed or existing street, a street light shall be provided.¹⁵² Lighting levels are to be measured at the front lot line with a direct reading, portable lighting meter.

¹⁵⁰ This is a modification of the existing language.

¹⁵¹ This language replaces the existing language for commercial and industrial subdivisions that does not contain standards.

¹⁵² This sentence is new.

SUBCHAPTER 6 | DEFINITIONS AND MEASUREMENTS

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Article 22 General Terminology

22.100 Definitions

The following words and terms expressly have the specific meanings assigned, unless the context expressly indicates another meaning. Words that are not expressly defined in this development code have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

AASHTO

American Association of State Highway and Transportation Officials.

Accessory building (non-residential)

A subordinate building detached from the main building, the use of which is incidental to that of the main building and which is located on the same lot as the main building.

Accessory building (residential)

A subordinate building attached to or detached from the main building and used for purposes customarily incidental to the residential occupancy of the main building and not involving the conduct of a business or the sale of a service. An accessory building (residential) includes but is not limited to an automobile storage garage, laundry room, garden shelter, hobby room, and mechanical room.

Accessory use

A use of land or a portion of the building customarily incidental to the actual principal use of the land or building and located on the same parcel of property or collection of parcels with such principal use.

Advertising device

Any billboard, sign, notice, poster, display or other device intended to attract or which does attract the attention of operators of motor vehicles on the public highways, and will, where so determined by the Commissioner of Public Works, include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith.

Affordable housing

A dwelling unit for which a household pays, with regard to a unit for sale, not more than the applicable percentage (determined by the Virgin Islands Housing Finance Authority [VIHFA]) of gross income for mortgage payments, property taxes, insurance and homeowners association fee, if any, and, with regard to a rental unit, not more than the applicable percentage of gross income for all shelter costs including utilities. The "applicable percentage" for purposes of this definition may be established by the VIHFA in a manner consistent with the various Federal housing programs designed to assist low- and- moderate income households.

Affordable housing development agreement

One or more agreements executed between and among an applicant for a development permit for affordable housing, the VIHFA and the Zoning Administrator providing for development of affordable housing units in accordance with an affordable housing development plan.

Affordable housing development plan

A plan submitted to the VIHFA, the Authority, the Legislature and the Zoning Administrator in connection with a request for a development permit for affordable housing.

Affordable housing program

The Government's program adopted pursuant to the Low and Moderate Income Affordable Housing Act of 1990 (Chapter 16, Title 29, Sections 930 *et al.* of the Virgin Islands Code), as from time to time amended, to facilitate development of affordable housing in the United States Virgin Islands.

Authority

The Public Finance Authority of the United States Virgin Islands.

Agricultural use

Cultivation of the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; horticulture; and/or forestry.

Alley

A passage or way open to public travel, affording a secondary means of access to abutting property, but not generally intended for general traffic circulation.

Alterations

Any change, addition, or modification or 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”.

Apartment

A room or suite of rooms, within an apartment house or apartment hotel, used as a dwelling unit for one family with facilities which are used or intended to be used for living, sleeping, and cooking.

Apartment house

Any building or part thereof, occupied, or intended to be occupied as the residence of more than 4 families living independently of each other in an apartment, each with facilities which are used or intended to be used for living, sleeping, and cooking in said building.

AWWA

American Water Works Association.

Basement

A story partly underground and having at least less than one-half of its height above ground.

Billboard

A type of outdoor advertising sign.

Block

The property abutting one side of a street and lying between the 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.

Building

Any structure having a roof, supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or goods. When any portion thereof is completely separated from every other portion by masonry or a fire wall without any window, which wall extends from the ground to the roof, then such portion shall be deemed to be a separate building.

Building, principal

The primary building on a lot or a building that houses a principal use.

Building line

A line established, in general, parallel to the front street line into which no part of a building shall project, except as otherwise provided in this development code.

Carport

Space for the housing or storage of motor vehicles and enclosed on not more 2 sides by walls.

Cellar

A portion of a building having more than one-half of its height below ground.

Certificate of use and occupancy¹⁵³

A certificate issued by the Commissioner of Planning and Natural Resources and Zoning Administrator that specifies the premises comply with all of the provisions of this development code, Chapter 5 of Title 29 of the Virgin Islands Code, and any applicable building or zoning permit.

Channel, drainage

A large natural or constructed waterway, ordinarily lined to speed, control, and conduct the flow of water, but excluding a sea or bay channel.

Cistern

A reservoir or tank for storing rainwater.

Clubhouse

A building to house a club or social organization not conducted for private profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe or other public place.

Contour

A line drawn on a map or chart connecting points of the same elevation.

Corner lot

See Lot, corner

Conversion

Change of use or purpose to which a structure or building is put.

Density

A term referring to the number of dwelling units or lodging rooms per acre of land area.

Developer

Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or any public agency, or any other legal entity commencing proceedings under this development code to effect a subdivision of land or responsible for any undertaking that requires a development permit under this development code. See also “subdivider.”

Development

Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodlands, wetland, endangered species habitat, aquifer or other resource area, including coastal construction or other activity.

Development permit¹⁵⁴

Any written approval or decision by the U.S. Virgin Islands Government, any of its officers, or any board or commission under this development code or other chapter of Title 29 of the Virgin Islands Code that gives authorization to undertake some category of development, including, but not limited to a building permit, a zoning permit, final subdivision plat, minor subdivision, resubdivision, variance, planned area development, earth change permit, or site plan. “Development permit” does not mean the adoption or amendment of a Territorial Comprehensive Plan or any subplan, area plan, or functional plan, the adoption or amendment of the text of this development code, or adoption or amendment of the official zoning map.

¹⁵³ New definition

¹⁵⁴ New definition

Disposition

A contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land that is not made pursuant to any one of the foregoing.

District, zoning

A portion of the Islands of St. Thomas, St. Croix or St. John and all other properties within the jurisdiction of the 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 development code, or within which certain yards and other open spaces are required or within which certain lot areas are established, or within which a combination of such aforesaid conditions are applied.

Division of Environmental Health

The Division of Environmental Health in the Virgin Island Department of Health.

Drive-in establishment

A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to either serve patrons while in the motor vehicle or else intended to permit consumption in the motor vehicle of food or beverages obtained by a patron from said business establishment.

Dwelling

A building or portion of a building occupied or intended to be occupied exclusively for residence purposes by no more than 4 households.

Dwelling, attached

A dwelling that is joined to another dwelling at one or more sides by a party wall or walls.¹⁵⁵

Dwelling, detached

A dwelling which is entirely surrounded by open space on the same lot.

Dwelling, group

A group of 2 or more detached or semi-detached one-family, two-family or multiple dwellings, occupying a parcel of land in common ownership and having yards or courts in common.

Dwelling, multiple

A building or portion thereof, used or designed as a residence for 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 does not include hotels, automobile courts, trailers or mobile home camps or parks or tourist camps.

Dwelling unit

Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, and cooking.

Dwelling unit, efficiency

A dwelling unit consisting of 1 room inclusive of bathroom, kitchen, closets, or dining alcove whether or not directly off of the principal room.

Earth change plan and permit

The plans and specifications and permit issued for any non-agricultural soil disturbing activities by the Department of Planning and Natural Resources.

¹⁵⁵ Revised definition

Easement

Authorization by a property owner for the use by another for a specified purpose, of any designated part of the property upon which building is usually restricted.

Engineer

A professional engineer licensed to practice engineering in the U.S. Virgin Islands pursuant to Chapter 8, Title 27, Virgin Islands Code.

Erected

A word that 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 a part of erection.

Evidence

In connection with a proposed subdivision, 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 by the subdivider.

Final plat

The final map for a proposed subdivision that is presented to the Planning Office for approval, which, approved, will be filed with the Cadastral Section of the Office of the Tax Assessor and recorded with the Office of the Recorder of Deeds.

Flood Hazard Area

Any area of land shown as special flood hazard area (SFHA) on the most recent Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency's National Flood Insurance Program for the U.S. Virgin Islands.

Floor area

The floor area of a building or buildings is the sum of the gross horizontal areas of the several 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. Floor area shall include the area of basements when used for residential, commercial or industrial purposes but need not include a basement or portion of a basement used for storage or housing of mechanical equipment or the basement apartment of a custodian in a multi-family dwelling, except that portion of said custodian's dwelling unit which is in excess of 50% of the total basement area.

Floor area, usable

Any floor area within outside walls of a residential building exclusive of areas in cellars, basements, unfinished attics, garages, open porches and accessory buildings.

Floor area ratio (FAR)

The floor area ratio of the building or buildings on any zoning lot is the floor area of the building or buildings on that zoning lot divided by the area of such lot, or in the case of planned developments, by the net area. Space provided within a building for off-street parking shall not be counted in determining the floor area of such building.

Form-based floating zone¹⁵⁶

An overlay district that may be established pursuant to [Article 9](#).

Gade

The Danish term for a street.

¹⁵⁶ New definition

Garage, private

An accessory building used only for the storage of self-propelled vehicles for the use of occupants of a lot on which such building is located.

Garage, public

Any premises except those described as a private or community garage, used principally for the storage of automobiles, cars or motor driven vehicles, for remuneration, hire or sale, where any such vehicle may also be equipped for operation or repaired.

Grade

The established grade of the street or sidewalk as prescribed by the Department of Planning and Natural Resources. Where no such grade has been established, the grade shall be the average elevation of the sidewalk at the property line. Where no sidewalk exists, the grade shall be the average elevation of the street adjacent to the property line or easement for access to a parcel or lot of record.

Gut

A natural or constructed waterway or any permanent or intermittent stream.

Gutter

A constructed waterway, usually along a street curb, to collect and conduct street surface water.

Height of building

See Sec. [23.600](#).

Home occupation¹⁵⁷

A business or commercial use conducted entirely within the dwelling unit. See Sec. [13.700](#).

Household¹⁵⁸

One person or group of 2 or more persons living together and inter-related 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 household may also include foster children, gratuitous guests and domestic servants.

Improvements

Any structure or facility incident to servicing a development such as: street pavement or resurfacing; curbs, guts, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, and other items normally associated with the development of raw land into building sites.

Lateral sewer

A sewer that discharges into another sewer and has only individual sewer connections flowing into it.

Loading space

An off-street space on the same lot with a building or group of buildings for temporary parking for a commercial vehicle while loading and unloading merchandise or materials.

Lot

A plot, parcel or tract of land occupied or proposed to be occupied by a building and the accessory building or uses customarily incident to it, including at least such open spaces as are required by this development code 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. A lot may consist of: (1) A single lot of record; (2) A portion of a lot of record; or (3) A combination

¹⁵⁷ New definition.

¹⁵⁸ This is the same definition as “family” in the existing code, only retitled.

of complete lots of record, complete lots of record and portions of lots of record, or of portions of lots and record.

Lot, corner

A lot located at the intersection of 2 streets or a lot bounded on 2 sides by a curving street and any 2 chords of which form an angle of 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.

Lot, interior

A lot other than a corner lot. Any portion of a corner lot more than 150 feet from the corner measured along a front street lot line shall be considered an interior lot.

Lot, through

An interior lot having frontages on 2 streets as distinguished from a corner lot.

Lot line, front

In the case of a lot abutting upon one street, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this development code, have the privilege of electing any street lot line as the front lot line, providing that such choice in the opinion of the Zoning Administrator will not be injurious to the existing or to the desirable future development of adjacent properties.

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 Zoning Administrator shall designate the rear lot line.

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.

Lot split

See Minor subdivision.

Mean high tide

A line on a map or chart representing the average height of the surface of the sea at high tide, observed over a 19-year period.

Mean sea level

The average height of the surface of the sea for all stages of the tide, observed over a 19 year period. The elevations of U.S. Geological Survey benchmarks are generally based on "mean sea level" datum.

Minor subdivision

See Sec. [4.800](#).

Monument

A permanent concrete or iron marker used to establish, definitely, all lines of the plat of a subdivision, including all lot corners, boundary line corners, and points of change in street alignment.

Mural

A painting or pictorial representation applied to or incorporated into a structure or wall, that does not identify a commercial product, service or business and that can be viewed from public places, alleys, rights-of-way.

Net area

The total area of a site for residential or nonresidential development, excluding street rights-of-way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities. Net area is expressed in either acres or square feet.

Nonconforming lot

A lawfully created parcel of land that does not comply with all applicable minimum lot area or lot width standards of the zoning district in which the lot is located.

Nonconforming structure

Any building or structure, other than a sign, that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but no longer complies with the lot and building standards of the zoning district in which it is now located.

Nonconforming use

A land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. Lawfully established uses that do not comply with any applicable separation (or spacing) distance requirements (e.g., those that require one land use to be located a certain minimum distance from another land use) are also deemed nonconforming land uses.

Nonconformity

A nonconforming land use, nonconforming lot or parcel, nonconforming structure, and/or nonconforming sign.

North, grid

In the Virgin Islands, North that is based on the Puerto Rican Coordinate System and the system that U.S. Geological Survey triangulation markers are based upon.

North, Magnetic

North as indicated by a compass.

North, True

A line passing through a point on the earth's surface and directed toward the North geographic pole determined by observations on a star or the sun.

Open space, useable

That space or area on the same lot as the principal building designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, but excluding that portion of the lot that is utilized for off-street parking purposes and drive aisles, entrances, and exits.

Open space, useable landscaped

The space or area on the same lot as the principal building that is either landscaped with shrubs or trees or planted with grass and excluding that portion of the lot that is utilized for off-street parking purposes and drive aisles, entrances, and exits.

Overlay district

A district that is superimposed over one or more zoning districts or parts of districts and that imposes specified requirements that are in addition to those otherwise applicable for the underlying zone.

Pad

A building site prepared by artificial means, including, but not limited to, grading, excavation, or filling, or any combination thereof.

Performance or Surety Bond

A written promise of surety to the Department of Public Works for the amount of the estimated construction costs of public improvements guaranteeing that the subdivider will satisfactorily complete the public improvements according to plans and specifications within the time prescribed by the application and approval of a preliminary subdivision plan and engineering plans.

Planned area development

An overlay zoning district and site-specific development approval established in accordance with Sec. [9.100](#).

Planning Office

The U.S. Virgin Islands Planning Office; also the Division of Comprehensive and Coastal Planning in the Department of Planning and Natural Resources

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.

Plat

A map, plan, or chart of a proposed subdivision indicating the location and boundaries of individual properties.

Preliminary plan

The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this development code.

Public utility

Any person, firm, corporation, governmental department or board, duly authorized under governmental regulations, to furnish to the public electricity, gas, communications, transportation, or water.

Public way

An alley, avenue, boulevard, bridge, channel, ditch, easement, highway land, right-of-way, road, sidewalk, street, tunnel walk or other way that is dedicated to the public for public use.

Regulating plan¹⁵⁹

A map that assigns development standards in a form-based floating zone to specific geographic locations within the zone.

Resubdivision

The change of any existing lot or lots of any subdivision plat previously filed with the Cadastral Section of the Office of the Tax Assessor and recorded with the Office of the Recorder of Deeds.

Right-of-way

A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, gutters, lawn strips, sidewalks, lighting, drainage facilities and may include special features such as grade separation, landscaped areas, bridges, and space for electrical lines, telephone lines, water lines and sewer lines.

Roadway

That portion of the street right-of-way designed for vehicular traffic.

¹⁵⁹ New definition

Setback line

A line established by this development code that is generally parallel with and measured from the lot line, defining the limits of a yard beyond which no building or structure may project above ground, except as otherwise provided.

Sketch plan

A map of a proposed subdivision, drawn and submitted in accordance with this development code, to evaluate feasibility and design characteristics at an early stage in the planning process.

Sign¹⁶⁰

Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

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. Types of business signs include freestanding signs, monument signs, wall signs, marquee or canopy signs, and projecting signs.

Sign, Cabinet

A sign with text or symbols printed on a plastic or acrylic sheet that is mounted on a box or cabinet that houses the lighting source and equipment.

Sign, Gross Area of a

The gross area of a sign is the area within a single continuous perimeter enclosing the extreme limits of all text, graphics, and background area on display. Structural elements that are not an integral part of the sign display are not included in the measuring gross sign area.

Sign, Identification

A sign on the premises bearing the name or names of: subdivision, a group housing project, school, college, park, place of religious assembly, or any other public or quasi-public facility. Signs used to identify the presence of a legal home occupation, professional firm, a family nameplate are also considered identifications signs.

Sign, Outdoor Advertising

An off-premises sign which directs attention to a business; commodity, service, activity, or product sold, conducted, or offered off the premises where such sign is located. This included any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character whatsoever, placed for outdoor advertising purposes on the ground or on any tree, wall, rock, post, fence, bush, building, structure or thing whatsoever. The term “placed” as used in the definition of “outdoor advertising sign” and “outdoor advertising structure” includes erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or other fastening, affixing or making visible in any manner whatsoever. A billboard is one type of outdoor advertising sign.

Sign, Projecting

A sign which is affixed in some way to an exterior wall of a building or structure and which projects perpendicularly from an exterior wall or radially from a corner of a building or structure and presents two faces with advertising copy to the public.

Sign, Roof

A sign, any part of which extends above the low point of a roof or parapet wall of a building and which is wholly or partially supported by the building.

¹⁶⁰ This is a new definition of “sign.” The definition that was in the existing code was too vague.

Sign Structure

Any physical supports, hardware, posts, or other appurtenances which serves no other purpose than to support a sign.

Single ownership

Possession wherein the owner does not own adjoining property.

Storm, 50-year

A storm having an average frequency of occurrence once in 50 years, although the storm may occur in any year, or a storm that has a 2% chance of occurring in any given year. The probability of occurrence shall be based on statistical analyses of data and records available for the general region of the study area.

Storm, 10-year

A storm having an average frequency of occurrence once in 10 years, although the storm may occur in any year, or a storm that has a 10% chance of occurring in any given year. The probability of occurrence shall be based on statistical analyses of data and records available for the general region of the study area.

Story¹⁶¹

See Sec. ~~23.600~~.

Street, public

A way for vehicular traffic, affording the principal means of access to abutting property, and dedicated to, or maintained by the Virgin Islands Government as a way for vehicular traffic and affording the principal means of access to abutting property and with a right-of-way or easement as specified in this development code.

Streets, functional classification of¹⁶²

The assignment of public streets into categories according to the character of service they provide in relation to the total street network.

Street line

The dividing line between the right-of-way (or easement) of a street and the other thoroughfares and the adjacent lots, and usually called the right-of-way line.

Structural alteration

Any material or dimensional changes in the structural elements of a building such as bearing walls, columns, beams, and roofs.

Structure¹⁶³

Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

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.

Subdivider

Any person who: having and interest in land, causes it, directly or indirectly, to be subdivided; directly or independently, sells, leases, or develops, offers to sell, lease or develop, or advertises to sell, lease, or develop any interest, lot, parcel site, unit, or final plat; engages directly or through an

¹⁶¹ Existing definition has been deleted.

¹⁶² New definition

¹⁶³ Definition removes phrase "but excluding a tent".

agent in the business of selling, leasing, developing, or offering for sale, lease or development a subdivisions or any interest, lot, parcel site, unit, or final plat; or is directly or indirectly controlled by, or direct or indirect common control with, any of the foregoing. See also “developer.”

Subdivision

The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into 2 or more parcels, sites, or lots, for the purpose, whether immediate or future, of transfer of ownership; or the improvement of one or more parcels of land for residential, commercial, or industrial structures, or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets, the division or allocation of land as open space for common use by owners, occupants, or lease-holders, or as easements for the extension and maintenance of public facilities.

Surveyor

A registered professional surveyor licensed to practice surveying in the U.S. Virgin Islands, pursuant to Chapter 8, Title 21, of the Virgin Islands Code.

Swale

A drainage channel ~~formed by the convergence of intersecting slopes or depression designed to direct and transport water.~~

Territorial comprehensive plan¹⁶⁴

The adopted official statement of the Government of the U.S. Virgin Islands and its people that sets forth in words, maps, illustrations, and/or tables goals, policies, and guidelines intended to direct the future physical, social, and economic development that occurs within the Territory and that is described in [Article 2](#).

Trailer, house

Any dwelling, trailer or unit designed and constructed for living or sleeping purposes which is equipped with wheels or similar devices for the purpose of transporting the unit, and such unit shall be considered a trailer house 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 skirting.

Urban design element¹⁶⁵

A legislatively adopted component of the Territorial Comprehensive Plan that, through the documentation of an area’s visual character (including views, topography, street patterns, building form, location, and massing, settlement patterns, major landscape features, and public spaces) and predominant architectural character, sets forth design principles and provides the basis for imposing design standards and form-based development controls. (See, for example, *The Town’s Blue Print: A Vision & Code for Historic Charlotte Amalie* (2011)).

Use or land use¹⁶⁶

Any purpose for which a lot, building, or other structure or tract of land may be designated, arranged, intended, maintained, or occupied, or any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or tract of land.

Use, principal

The main use of land or buildings as distinguished from a subordinate or accessory use.

¹⁶⁴ New definition

¹⁶⁵ New definition

¹⁶⁶ New definition

Variance¹⁶⁷

Permission in writing to depart from terms and provisions of this development code for a specific property.

Vicinity map

A map showing the general location of the proposed development or subdivision in relation to abutting properties, major streets, and other physical features.¹⁶⁸

VIHFA

The Virgin Islands Housing Finance Authority as created by Title 21, Chapter 2, Section 103, of the Virgin Islands Code.

Watershed

A drainage basin that is a distinct geographical unit that collects precipitation and drains it to the coastal waters by means of a gut, or other water course.

Wind Energy Device (or System), Accessory

An electricity-generating wind device that has a rated nameplate capacity of up to 5 kilowatts and that is incidental and subordinate to a permitted use on the same parcel. A system is considered a small wind energy device only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

Wind Energy Device (or System), Utility-Scale

An electricity-generating wind device that does not meet the definition of an accessory wind energy device or that does not comply with the accessory wind energy system regulations of Sec. [13.900](#).

Yard¹⁶⁹

The actual open space that lies between a building and the nearest lot line.

Zoning district¹⁷⁰

Any area delineated on the official zoning map of the Virgin Islands under the terms and provisions of this development code for which regulations governing the area, height, bulk, or use of buildings, or use of land, or other provisions relating to development of uses and structures are uniform.

Zoning map, official

The map or maps that are part of this development code and maintained by the Planning Office and that delineates the boundaries of all zoning districts in the Virgin Islands.¹⁷¹

Zoning permit¹⁷²

A permit issued by the Zoning Administrator in writing that authorizes the recipient to make use of property or erect a sign on private property in accordance with the requirements of this development code.

¹⁶⁷ Definition removes phrase “but excluding a tent”.

¹⁶⁸ New definition. This is a different definition than the one in the existing subdivision regulations.

¹⁶⁹ New definition

¹⁷⁰ New definition.

¹⁷¹ New definition.

¹⁷² New definition.

Article 23 Measurements and Exceptions

23.100 Lot Area¹⁷³

Lot area includes the total land area contained within the property lines of a lot.

23.200 Lot Width

Lot width is measured as parallel to the front lot line between opposite-side boundaries of the lot, at a point located a sufficient distance from the street to meet the applicable minimum lot width requirement.

23.300 Building Coverage

Building coverage is the area of a parcel covered by all principal and accessory buildings, as measured along the building line. Only building areas beneath a roof are counted for purposes of measuring building coverage. A porch with a roof, for example, is counted, but an uncovered deck structure is not considered building coverage.

23.400 Density

Density refers to the number dwelling units or lodging rooms per acre of land area. Any fractional result must be rounded down to the next lower whole number.

23.500 Setbacks

23.501 Front Setbacks

23.501.A Measurement

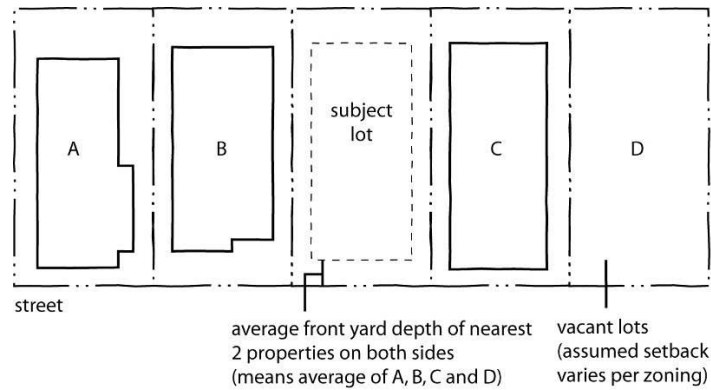
Front setbacks are measured from the front property line to the closest point of the building or structure. Through parcels must have a front setback on both opposing sides of the parcel. For purpose of this provision, the front property line is the property line that “faces” and is adjacent to the street. On corner parcels, the front property line is the narrower property line. In all other cases, the Zoning Administrator is authorized to designate which street-abutting property line is the front property line.

23.501.B Exceptions

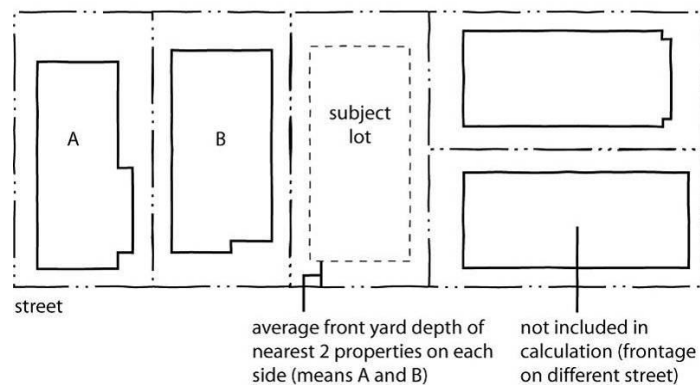
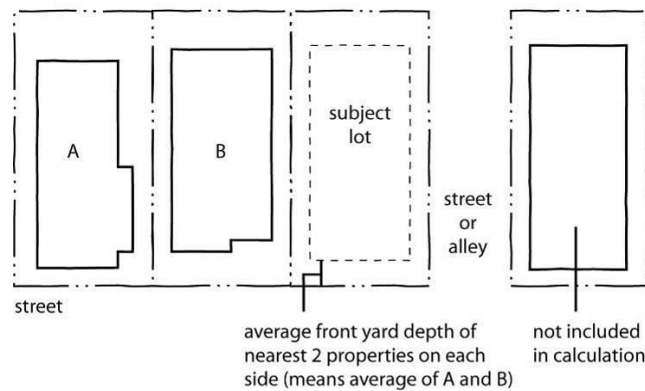
When existing lawfully established residential buildings on one or more abutting lots are closer to the front property line than the otherwise required front setback, additions to existing residential buildings or construction of new residential buildings on the subject lot may comply with the average front yard depth that exists on the nearest 2 lots on either side of the subject lot instead of complying with the zoning district’s minimum front setback requirement.

23.501.B.1 If one or more of the lots required to be included in the averaging calculation is vacant, the vacant lot will be deemed to have a front yard depth equal to the minimum front setback requirement of the underlying zoning district.

¹⁷³ Nearly all of the provisions in Article 18 are new or substantially reworked.



23.501.B.2 Lots that front on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in computing the average.

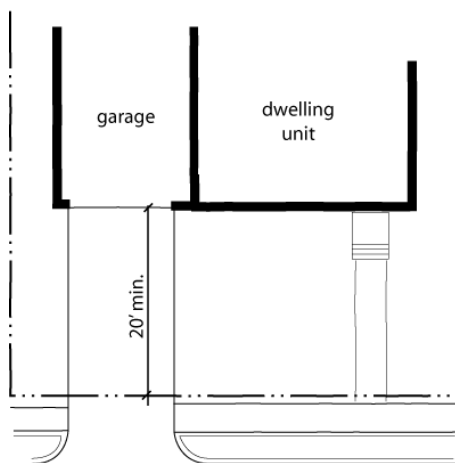


23.501.B.3 When the subject lot is a corner lot, the average front yard depth will be computed on the basis of the nearest 2 lots that front on the same street as the subject lot.

23.501.C When the subject lot abuts a corner lot fronting on the same street, the average front yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots that front on the same street as the subject lot.

23.501.D Garage Setbacks

All residential garages that are accessed from the street must be set back at least 20 feet.

**23.501.E Permitted Obstructions/Encroachments**

Front setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. [23.504](#).

23.502 Rear Setbacks**23.502.A Measurement**

Rear setbacks are measured from the rear property line to the closest point of the building.

23.502.B Permitted Obstructions/Encroachments

Rear setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. [23.504](#).

23.502.C Exceptions

When an existing nonconforming structure encroaches into the otherwise required rear setback, additions to that nonconforming structure may also encroach, but no further than the existing nonconforming structure.

23.502.D Through Lots

On through lots both (opposing) street lines are considered front property lines and front setback standards apply. Rear setback standards do not apply.

23.503 Side Setbacks**23.503.A Measurement**

Side setbacks are measured from the side property line to the closest point of the building.

23.503.B Permitted Obstructions/Encroachments

Side setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in Sec. [23.504](#).

23.504 Features Allowed to Encroach in Required Setbacks

Required setbacks must be unobstructed and unoccupied from the ground to the sky except that features are allowed to encroach into required setbacks to the extent indicated in [Table 23-1](#):

Table 23-1: Allowed Setback Encroachments

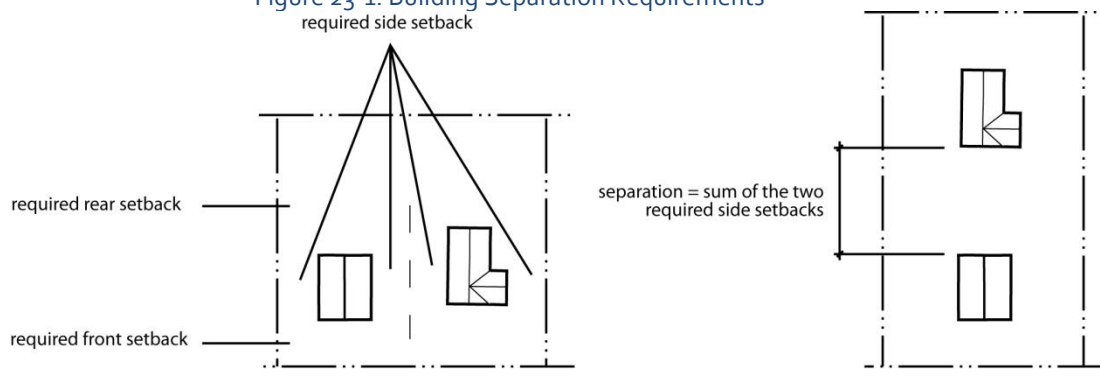
Obstruction/Projection into Required Setback	Front	Side	Rear
Accessory buildings used for domestic storage (see also Article 13 for specific regulations governing accessory uses and structures)	No	No	Yes
Air conditioning units, provided the unit is not more than 48 inches in height	No	No	Yes
Arbors and trellises	Yes	Yes	Yes
Awnings and canopies projecting no more than 5 feet into the setback	Yes	Yes	Yes
Balconies that project no more than 5 feet into the setback	Yes	No	Yes
Bay windows that project no more than 32 inches into the setback and are no more than 15 feet in length	Yes	Yes	Yes
Chimneys and flues that project no more than 24 inches into the setback	Yes	Yes	Yes
Decks, patios, and other features and structures less than 30 inches in height above grade	Yes	Yes	Yes
Satellite dish antennas, not exceeding 1 meter (39.37 inches) in diameter	Yes	Yes	Yes
Satellite dish antennas, over 1 meter but not exceeding 2.4 meters (94.49 inches) in diameter	No	No	Yes
Eaves and gutters projecting 48 inches or less into setback, provided they are set back at least 3 feet from the property line	Yes	Yes	Yes
Fences and walls, <u>including retaining walls</u>	Yes	Yes	Yes
Fire escape, open or lattice enclosed, projecting no more than 5 feet into the setback	No	Yes	Yes
Fireproof outside stairway projecting no more than 5 feet into the setback	No	Yes	Yes
Flagpoles	Yes	Yes	Yes
Porches that are open on at least 3 sides and project no more than 8 feet into the setback [1]	Yes	No	Yes
Recreational equipment (e.g., swing sets and basketball hoops)	Yes	Yes	Yes
<u>Septic tanks and drain fields</u>	Yes	Yes	Yes
Sills, belt courses, cornices, buttresses and other architectural features	Yes	Yes	Yes
Steps and stairs (primary access) up to 30 inches in height above grade and set back at least 4 feet from all property lines	Yes	Yes	Yes
Swimming Pools	No	No	Yes
Water Barrels (more than 70 gallons capacity; smaller rain barrels allowed in all setbacks)	No	No	Yes
Wheelchair lifts and ramps that meet federal, state and local accessibility standards	Yes	Yes	Yes
Window wells that are not part of the foundation wall and not more than 30 inches in height above grade	Yes	Yes	Yes

[1] Open porches or decks, excluding steps, may project into the front setback by up to 8 feet. The porch, deck, and steps must be set back at least 4 feet from all property lines.

23.505 Separation of Residential Buildings on Same Lot

If 2 or more principal residential buildings are located on the same lot, setbacks must be provided as if the principal buildings were on separate lots except that if a principal residential building is constructed behind or in front of another principal residential building, the minimum separation distance required between the 2 principal buildings must be at least equal to the sum of the 2 required side setbacks of the subject zoning district.

Figure 23-1: Building Separation Requirements



23.600 Building Height**23.601 Measurement in Feet**

When building or other structure height limits are established in feet, it is measured as the vertical distance from the lowest point where the building line or structure meets existing grade to the highest point of the subject building or structure. The highest point of the building is the coping of a flat roof, the top of a mansard roof or shed roof, or the peak of the highest gable of a gambrel or hip roof.

23.602 Measurement in Stories

When building height limits are established in stories, a “story” will be interpreted to be that portion of a building included between the upper surface of any floor and the upper surface of the floor immediately above or if there is no floor immediately above, then the space between the upper surface of the floor and the ceiling immediately above. If the finished floor level directly above a ~~cistern basement, cellar, or any~~ other under-floor space is more than 6 feet above the adjacent ground elevation for more than 50% of the floor’s total perimeter or is more than 12 feet above the adjacent ground elevation at any point, that ~~cistern basement, cellar, or~~ other under-floor space is counted as a story. Attics with a finished floor to ceiling height of 7 feet or more for 40% or more of the attic’s floor area are counted as a story. Any story that exceeds the heights established in the following table must be counted as 2 stories:

Table 23-2: Maximum Story Heights

	Maximum Floor Height (feet)	
	Nonresidential	Residential
Single-story Buildings	24	18
Multi-story Buildings		
Ground Floor	24	16
All Other Floors	14	14

23.603 Exceptions**23.603.A General**

The following features are not counted in the measurement of building height when measured in feet:

- 23.603.A.1** chimneys and antennas;
- 23.603.A.2** vents and ventilation stacks;
- 23.603.A.3** steeples;
- 23.603.A.4** belfries;
- 23.603.A.5** grain elevators;
- 23.603.A.6** skylights;
- 23.603.A.7** solar panels;
- 23.603.A.8** clock towers;
- 23.603.A.9** water towers;
- 23.603.A.10** flag poles;
- 23.603.A.11** stair and elevator penthouses;
- 23.603.A.12** egress window wells;

- 23.603.A.13** basement stairwells not exceeding 5 feet in width;
- 23.603.A.14** open guard rails and mechanical equipment, including any required screening; and
- 23.603.A.15** similar elements that do not add habitable floor area to a building, such as areas containing cisterns.

23.603.B Public and Civic Buildings

Churches and public and civic buildings (e.g., hospitals and schools) may exceed the building height limits of the subject zoning district if side setbacks exceed the required side setbacks by at least one foot for each 5 feet of height by which the building exceeds the maximum height limit of the subject district.

23.603.C Building Additions

When a lawfully established residential building exceeds the height limit of the subject zoning district, additions to that building may also extend beyond the height limit, but no further than the existing building height.

23.700 District Area

District area per unit refers to the amount of contiguous land area classified in the subject zoning district, excluding public rights-of-way.

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Appendix A: Fee Schedule

Subdivisions¹⁷⁴

To defray a portion of the expenses of subdivision review, a fee of \$10.00 must be submitted with the preliminary plan submission for subdivisions of up less than 5 acres in area. For subdivisions encompassing 5 acres of land area or more the fee shall be determined by the following schedule:¹⁷⁵

1. 5 acres to 19.99 acres: \$150.00
2. 20 acres to 49.99 acres: \$250.00
3. 50 acres to 74.99 acres: \$400.00
4. 75 acres to 99.99 acres: \$500.00
5. 100 to 199.99 acres: \$700.00
6. 200 to 499.99 acres: \$1,000.00
7. 500 acres to 1,000 acres: \$1,200.00

¹⁷⁴ All of these fees need to be reevaluated because they are at least 35 years old. The Commissioner of Planning and Natural Resources should be given the authority to set fees and reevaluate them on a periodic basis to cover review costs.

¹⁷⁵ See the proposed alternative approach suggested in Sec. 4.103.D.

Appendix B: Preliminary Subdivision and Engineering Plans

The Planning Office shall accept the preliminary plan and engineering plans submission only when all of the items listed in this section are satisfactorily completed. The preliminary plan and engineering plans shall include 7 copies of the following:

1. **Completed “Application for Approval of Preliminary Subdivision Plan,” a receipt evidencing payment of the fee for the preliminary plan application, and the following documents:**
 - a. Certification from the Tax Collector that all taxes are paid to date.
 - b. A copy of any protective covenants or deed restrictions applying to the land being subdivided or developed.
 - c. The following approvals or certifications in writing from other agencies or departments:
 - i. Copy of the approved earth change plan and permit by the Department of Planning and Natural Resources’ (DPNR) Division of Environmental Protection for Tier II properties or an approved minor coastal zone management permit by DPNR’s Division of Coastal Zone Management for Tier I properties.¹⁷⁶
 - ii. Certification from the Department of Planning and Natural Resources that the subdivider’s plans for water distribution, storm water management, and wastewater disposal have been approved.
 - iii. Certification from the Department of Public Works that the subdivider’s plans for storm drainage, streets, walks, bridges, culverts, and any special engineering features have been approved.
 - iv. Certification from the Department of Public Works that the subdivider has posted a performance or surety bond for the amount of the estimated construction costs of streets and other public improvements that guarantees that the subdivider will satisfactorily complete the public improvements according to plans and specifications within the time prescribed by the application and approval of a preliminary subdivision plan and engineering plans.¹⁷⁷
 - v. Certification from the Virgin Islands Water and Power Authority that, according to the subdivider’s plans, easements and rights-of-way for utilities are properly located and adequate in size for installation and maintenance of facilities.
 - vi. Certification from the Department of Planning and Natural Resources’ Division of the State Historic Preserve Office of the property’s cultural, historical, and archeological status.
 - vii. If a zoning map change was involved, a copy of the Act of the Legislature approving the change.
2. **A location map or vicinity map drawn at an appropriate scale showing the following:**
 - a. Name, address, and telephone number of owner(s), subdivider(s), and date.
 - b. Project title, parcel numbers of entire project, estate, quarter, island, zoning district classification(s), and title of drawing.
 - c. North arrow.
 - d. Graphic scale.
 - e. Approximate boundary line of site; and
 - f. Property boundary of the site showing:
 - i. Abutting subdivisions’ outline and names.

¹⁷⁶ This paragraph has been modified, reflecting the current arrangement that the DPNR, rather than the Soil and Water Conservation District, issues the Earth Change Permit.

¹⁷⁷ This language is intended to clarify requirements for posting of the performance or surety bond.

- ii. Zoning classifications of all adjacent properties.
- iii. Location of access roads to project and all related existing and proposed streets and names.
- iv. All other significant features within $\frac{1}{4}$ mile.
- v. Names and addresses of all owners of adjacent property.

3. A boundary survey showing the following:

- a. Name, address, and telephone number of owner(s), subdividers (s), and date.
- b. Name, address, telephone number, seal, and signature of the surveyor, and date of the survey.
- c. Project title, parcel number(s) of the entire project, estate, quarter, island, zoning classification, and title of project.
- d. North arrow. North shall be identified (or basis of bearings), i.e., Grid North, Magnetic North, or True North.
- e. Monumentation. The survey shall identify, describe, and locate all monuments found, placed, or referred to. Each boundary survey shall be tied by survey to a Cadastral or U.S. Geological Survey monument if possible.
- f. All linear dimensions shall be given to hundredths and all angular dimensions shall be given to seconds. Each tangent shall be described by bearing and distance. Each curve by radius (R), central angle (Δ), tangent (T), and arc length (L). When the radius is very large or when the curve is not tangent, the bearing and the length of the chord (C) shall be given. Sufficient engineering information shall be given to reproduce any line on the ground.
- g. When a parcel is bounded by an irregular shoreline or gut line, a meander traverse shall be run to close the parcel.
- h. The boundary survey shall indicate all geographic or political descriptions, such as quarter lines or estate lines; show any existing easements, encumbrances; encroachments, building setback lines, and major geographic features, such as guts and points; describe all adjacent property in the most appropriate way such as subdivision or parcel number; and give names (if any) of all adjacent roads and right-of-way (or easement) widths.
- i. The accuracy of the mathematical closure of the boundary shall be as follows:
- j. Angular error of closure shall not exceed $1/\sqrt{n}$, where n is the number of angles or sides in the traverse; and
- k. The linear error of closure shall not exceed 1:300.
- l. A tracing of an existing survey on file with the Department of Public Works may be used if marked up to show all of the information required for the boundary survey.

4. Preliminary Plan

The preliminary plan and supporting plans shall be drawn at a scale of 1" = 50'. The preliminary plan shall show on separate sheets or drawings], a boundary survey, the preliminary plan, a topography and grading plan, a schematic street layout, and a schematic utility plan. The following information must be shown on the drawings making up the preliminary plan and supporting plans:

- a. Name, address, and telephone numbers of owners(s), subdivider(s), and date.
- b. Name, address, telephone number, seal, and signature of the engineer preparing the plan, and the date. If any other professional is responsible for preparing any part of the plan, provide the name, address, telephone number, seal, and signature of that professional.
- c. Project title, parcel number(s) of the entire project, estate, quarter, island, zoning classification, and title of drawing.
- d. Total area of the project.
- e. North arrow. North shall be identified (or basis or bearings), i.e., Grid North, Magnetic North, or True North.

- f. Graphic scale.
- g. Elevations shall be identified, i.e., based on mean sea level datum, assumed, or other.
- h. Coordinates, if used, shall be identified, i.e., based on the Puerto Rican Coordinate System, assumed, or other.
- i. Each project shall be tied to a Cadastral or U.S. Geological Survey monument, if possible.
- j. Monumentation. The preliminary plan must identify, describe, and locate all monuments found and placed.
- k. Benchmarks. The preliminary plan must identify all benchmarks on the property that are the basis for elevations.
- l. Centerlines of proposed streets and the degree of their curve, rights-of way, easements, and boundary lines and dimensions of proposed lots. All linear dimensions shall be given to hundredths and all angular dimensions shall be given to seconds. Each tangent shall be described by bearing and distance. Each curve shall be described by radius (R), central angle (Δ), tangent (T), and arc length (L). When the radius is very large or when the curve is not tangent, the bearing and the length of the chord (C) shall be given. Sufficient engineering information shall be given to reproduce any line on the ground.
- m. The bearings, distances, and the curve data of the project boundary line shall be shown outside the boundary line and not inside with the lot dimensions. If a meander traverse was run for an irregular boundary, such as a shoreline or gut, the preliminary plan shall show bearings and distances.
- n. Major geographic features, such as watercourses, guts, streams, marshes and ponds.
- o. The most recent special flood hazard area boundaries from Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
- p. The following existing features located within the proposed subdivision or within 200 feet of its boundaries:
 - i. Location and names of existing streets to remain, width of right-of-way (or easement), and width and type of surfacing or paving.
 - ii. Location, purpose, and width of existing utility, drainage or other easements to remain.
 - iii. Existing buildings to remain with finish floor elevations.
 - iv. Existing utilities: power lines, telephone lines, water lines, sanitary sewer lines, storm drains, ditch or gut lines. Flow line elevations shall be given for existing gravity flow sanitary sewer lines or storm drain lines, if and where a junction is proposed or for an open ditch or channel where an outfall is proposed.
 - v. Any other relevant or existing features such as potable water wells or other sources of potable water, and underground or above-ground transmission lines for power and oil.
- q. Other proposed features to be shown. The preliminary plan shall show the following:
 - i. Proposed streets with centerline data; right-of-way (or easement) widths; pavement widths; street names (all streets shall be named); location and width of sidewalks and sod strips, if any; location of driveways, if any; location and width of proposed pedestrian ways; for multi-lane roads, the location of the median, if any; driving lanes; passing lanes; turning lanes, and parking or emergency lanes.
 - ii. Location, purpose, and width of proposed utility, drainage, or other easements, including easements or rights-of-way for pedestrian ways across blocks or for pedestrian access to the shore line.
 - iii. Location and type of street lights.¹⁷⁸

¹⁷⁸ This is new language, although street lights are required by the subdivision regulations.

- iv. Block and lot numbers. Lots within a block shall be numbered consecutively.
 - v. Property line bearings and distances and area for each lot. Bearings and distances need not be given for interior lot lines having the same bearing and distances as both end lot lines.
 - vi. Location of building setback lines as prescribed by the zoning district classification for this property.
 - vii. The location of buffer areas, parks, or green belts, whether or not required by this development code.
 - viii. The identification of lots or sites in the proposed subdivisions intended for uses other than one- or two-family dwellings and the purposes for which such lots or sites are to be dedicated, reserved, or intended, including, but not limited to, use of the lots or sites for shopping centers, multifamily dwellings, parks, playgrounds, schools, and religious assemblies.
- r. For topography and surface drainage,¹⁷⁹ a hydrological study shall be made of the entire drainage basin surrounding the site as it affects and is affected by the proposed subdivision. The study shall show the location and rate of computed peak run-off entering the site from the surrounding basin; and the location and rate of flow of computed peak discharge entering the surrounding basin from the site. The rate of flow shall be calculated by standard engineering formulas or may be determined by the methodology set forth in *Urban Hydrology for Small Water Sheds*, Technical Release (TR) 55 (Washington, D.C.: U.S. Department of Agriculture, Natural Resources Conservation Service, June 1986). The calculations shall take into account projected changes in the watershed as reflected on the zoning map covering the watershed. Runoff calculation shall be based on a maximum 24-hour rainfall expected to occur once in 10 years with a runoff factor of 90 percent for pavement and buildings without cisterns and a variable runoff factor for other areas based on surface and topography. If a proposed subdivision is to be developed in sections, a general overall drainage plan for the entire land area to be developed shall be prepared. Regarding topography and surface drainage, the preliminary plan shall show:
- i. Existing contours in light dashed lines at 5 -foot intervals for ground with a predominant slope between 0 and 40 percent; and at 10-foot intervals for ground with a predominant slope of 40 percent or more.
 - ii. Proposed contours in medium solid lines at the same intervals as the existing contours.
 - iii. Arrows showing proposed surface drainage or existing surface drainage to remain.
 - iv. Existing or proposed gut lines or drain lines with spot elements along flow lines and existing and proposed outfalls; existing and proposed spot elevations for crest points, low points, and at any breaks in grade or changes in elevation not readily discernible from contours; and depressions, ponds, and marsh areas with any previous flood elevations as may be determined by survey.
 - v. Existing walls, fences, culverts, bridges, roads, rock outcrops with spot elevations, historic buildings or ruins, and archaeological sites.
 - vi. Size, variety, and accurate location of all specific trees and outline of all wooded areas.
 - vii. Location of any test pits or borings to determine subsoil conditions and profiles of those pits or borings shown on the same sheet.

5. Plan and Profile Drawings

Plan and profile drawings shall be prepared for each street at a scale of 1" = 50' horizontal and 1" = 5' vertical. Each sheet shall contain the following:

- a. Name, address, and telephone numbers of owner(s), subdivider(s), and date.

¹⁷⁹ This section has been reorganized and the title of the NRCS publication inserted by name.

- b. Project title, parcel number(s) of entire project, estate, quarter, island, and title of drawing.
 - c. Name, address, telephone number, seal, and signature of the engineer preparing plans.
 - d. Graphic scale.
 - e. North arrow. North shall be identified (or basis of bearings), i.e., Grid North, Magnetic North, or True North.
 - f. Description of datum for elevations, mean sea level, assumed or otherwise.
 - g. Description and location of the benchmark or temporary benchmark to be used in establishing and checking elevations for streets.
 - h. Dimensions. All linear dimensions shall be given to hundredths, all angular dimensions to seconds, all elevations to hundredths, and all gradients to thousandths. Each centerline curve shall be described by radius (R), central angle (Δ), tangent (T), and arc length (L). When the radius is very large or when the curve is not tangent, the bearing and the length of the chord (C) shall be given. The plan or profile shall provide sufficient information to reproduce or check in the field any item shown on a drawing.
 - i. Street cross sections. Typical cross sections shall be shown for each street or each change in section, showing relative elevation at centerline, edge of pavement or gutter line, top of curve or bottom of ditch, back of sidewalk or natural grade, callouts for surface course, base course, subsurface preparation or subgrade, curb and gutter, and sidewalk material and thickness.
 - j. Existing or proposed utilities and street or driveway tie-ins. Within the right-of-way (or easement), any existing or proposed utilities shall be shown in plan. Any features that might conflict such as sanitary sewers, storm sewers, storm drains, and water lines shall be shown in both plan and profile. Tie-ins to existing or proposed streets and existing or proposed driveways shall be shown in both plan and profile.
 - k. Plan drawings shall show bearings, distances, curve data of centerline as described above; right-of-way (or easement) width and bearings, distances, and curve data if different from centerline; width of pavement; width of sidewalks and sod strips, if any; width and location of driveways, if any; gut or ditch crossings and any relevant features. For multi-lane roads, plan drawings shall show median, if any, driving lanes, passing lanes, and parking or emergency lanes.
 - l. Profile drawings shall show the existing grade at proposed centerline and proposed centerline grade with gradients, vertical curve data, and elevations. For multi-lane roads, the Planning Office will determine which lane or lanes should be shown in profile.
6. The subdivider, as part of the preliminary plan, shall submit detailed plans for the following proposed systems and structures: water distribution systems; sanitary sewage disposal systems, storm drainage systems; on-site sewage treatment or disposal systems; street-lighting systems; bridges, culverts, drainage structures (headwall, spillways, outfalls, and other structures); manholes; junction boxes; conflict boxes; cleanouts; service connections; retaining walls; lift stations; and other structures or facilities.¹⁸⁰

¹⁸⁰ This paragraph has been rewritten in the active voice.

Appendix C: Final Plats and As-Built Drawings

The final plat and as-built drawings submission shall include the following:

1. One completed “Application for Final Approval of a Final Subdivision Plat” on a form provided by the Planning Office.¹⁸¹
2. One set of as-built drawings which shall be a complete set of prints of the original engineering plans marked up to show any difference between the original plans and the actual construction.
3. Five copies of a certification that the Commissioner of Public Works has accepted the subdivider’s offer of dedication to the Territory of the streets and other public improvements in the subdivision; or a permanent legal agreement approved by the Commissioner of Planning and Natural Resources, for the private maintenance and repair of those streets and improvements if not accepted for dedication to the Territory.¹⁸²
4. Five copies of a certification that the Commissioner of the Department of Sports, Parks, and Recreation¹⁸³ has accepted the subdivider’s offer of dedication of land to the Territory for greenbelts, parks, open spaces, or conservation and development of natural resources and that the dedicated land is shown on the final plat; or a permanent legal agreement approved in writing by the Commissioner of Planning and Natural Resources for the private maintenance and care of land reserved for such uses as shown on the final plat.
5. Five copies of a statement from the Department of Planning and Natural Resources that the measures required on the earth change plan and permit or minor coastal zone permit have been adhered to and accomplished.¹⁸⁴
6. An original for recording and four copies of the final plat drawn at a scale of 1’ = 100’ or larger and showing the following:
 - a. Name, address, and telephone number of owner(s), subdivider(s), and date.
 - b. Project title, parcel number(s) of the entire project, estate, quarter, island, and zoning district classification.
 - c. Name, address, telephone number, seal, and signature of the engineer preparing the final plat and date as well as the name, address, telephone number, seal, and signature of any other professional preparing any of the plans and his or her or their certification attesting to the completeness and accuracy of the information shown on the final plat.
 - d. Certification from the Department of Public Works that the required improvements have been installed in accordance with the engineering plans submitted and approved with the preliminary plan, and the signature of the responsible official.
 - e. Certification from the Division of Environmental Health that the sanitary sewer facilities have been installed in accordance with the engineering plans submitted and approved with the preliminary plan and the signature of the responsible official.¹⁸⁵
 - f. Notarized certification by the owner or owners of the acknowledgement of the final plat and restrictions, including dedication to public uses of all streets, sanitary sewers, parks, or other open spaces shown thereon, and the granting of the required easements.
 - g. Reference to any deed restrictions that affect the land being subdivided and a note that such documents may be seen at the Office of the Recorder of the Deeds.

¹⁸¹ The number of application forms has been changed from 2 to 1.

¹⁸² This paragraph has been changed slightly to make it the distinction between dedication to the Territory or maintenance and repair of private streets and improvements.

¹⁸³ The Commissioner of Sports, Parks, and Recreation replaces the Commissioner of Conservation and Public Affairs, a position that no longer exists.

¹⁸⁴ Formerly, this section referred to the Soil and Water Conservation District, but the Department of Planning and Natural Resources is now responsible for the earth change permit.

¹⁸⁵ It is not clear who inspects and certifies stormwater and water facilities. Need to clarify.

- h. A location for the signature of the Commissioner of Planning and Natural Resources approving the final plat.
- i. Total area (in acres to the nearest tenth) of the subdivision and the total number of lots.
- j. Area (in acres to the nearest tenth) and percent of the total area of the subdivision dedicated to, reserved for, or intended for streets, parks, and open space, and each other use other than one- or two-family dwellings.
- k. North arrow. North shall be identified (or basis of bearings), i.e., Grid North, Magnetic North, or True North.
- l. Graphic scale.
- m. Coordinates, if used, shall be identified, i.e., based on the Puerto Rico Coordinate System, assumed, or other.
- n. Survey tie to Cadastral or U.S. Geological Survey monument and the location and description of all boundary monuments and property corner monuments.
- o. All linear dimensions shall be given to hundredths and all angular dimensions shall be given to seconds.
- p. In the boundary line of the project, the centerline of streets and easements, right-of-way and easement lines, if not parallel to centerlines or boundary line of lots, each tangent and shall be described by bearing and distance, each curve by radius (R), central angle (Δ), tangent (T), and arc length (L). When the radius is very large or when the curve is not tangent, the bearing and the length of the chord (C) shall be given. Sufficient information shall be given to reproduce any line on the ground.¹⁸⁶
- q. The bearings, distances, and curve data of the project boundary line shall be shown outside the boundary line and not inside with the lot dimensions. If a meander traverse was run for an irregular boundary such as a shoreline or gut line, bearings and distances shall be shown on the plat.
- r. Major geographic features such as watercourses, guts, streams, marshes, or ponds shall either be shown on the final plat or excluded by easements or a meander traverse.
- s. Special flood hazard area boundaries as depicted on Flood Insurance Rate Maps, if applicable, available from the Planning Office or from the Federal Emergency Management Agency. An acceptable finish floor elevation for building shall be shown for any lot adjacent to a flood hazard area. If flood hazard areas exist, the final plat must be accompanied by deed restrictions to prevent building in such areas.
- t. The following features shall be shown on the final plat:
 - i. Streets with centerline data, street rights-of-way or easements, and street names.
 - ii. Location, purpose, and width of utility, drainage, or other easements, including rights-of-way or easements for pedestrian ways or walks, or pedestrian access to a shoreline or beach.
 - iii. Block and lot numbers, property line bearings and distances, property line curve data, and area for each lot. Bearings need not be given for interior lot lines having the same bearings and distances as both end lot lines. Lots within a block shall be numbered consecutively.
 - iv. Location of building setback lines as prescribed by the applicable zoning district regulations in this development code.
 - v. Location of any buffers, parks, or greenbelts required by this development code.
- u. The final plat shall identify lots or sites for uses other than one- or two-family dwellings and shall describe the purposes for which such lots are dedicated, reserved, or intended, such as multi-family dwellings, shopping centers, parks, playgrounds, schools, or other uses.

¹⁸⁶ Need to confirm with surveyors that this language is clear enough.

- v. All lands within the boundaries of the final plat shall be accounted for either as lots, streets, pedestrian ways, easements, common areas or public sites. Parcels that are excluded from the final plat shall be marked "Not included in this plat," and the boundary of any excluded parcel is completely described by bearings, distances, and, if applicable, curves.