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APPENDIX D: ENABLING LEGISLATION

D.1 ENVIRONMENTAL PROTECTION LEGISLATION - Virgin Islands Code Title 12, Chapter 13. Environmental Protection (as amended May 14, 1985 and June 24, 1987)

§ 531. Declaration of Policy

The Legislature of the Virgin Islands hereby determines and finds that the lands and water comprising the watersheds of the Virgin Islands are great natural assets and resources; and that improper development of land results in changes watershed conditions such as: erosion and sediment deposition on lower-lying land and in the tidal waters, increased flooding, gut and drainage filling and alteration, pollution, and other harmful environmental changes to such a degree that fish, marine life, and recreational and other private and public uses of lands and waters are being adversely affected. In order to protect the natural resources of the Virgin Islands, promote the health, safety and general welfare of the citizens of the Virgin Islands, and to protect private and public property, the Legislature further finds and determines that it is necessary to establish by law an environmental protection program for land development to prevent soil erosion and for the conservation of beaches, shorelines, and the coastal zones of the Virgin Islands.

§ 532. Environmental Protection Program

(a) The Virgin Islands Soil and Water Conservation District shall prepare and adopt an Environmental Protection Program in collaboration with the Virgin Islands Departments of Planning and Natural Resources, Economic Development and Agriculture, Public Works, and Health. The Provisions of the Environmental Protection Program and any amendments hereto shall be filed and published in the same manner and subject to the same conditions as administrative regulations pursuant to Chapter 35 of Title 3 of this Code. Thereafter, such Program shall have the force and effect of law.

(b) The Environmental Protection Program shall be in the form of rules and regulations designed to prevent improper development of land and harmful environment changes and in accordance with the declaration of policy as stated in section 532 of this chapter. This Program shall include comprehensive erosion and sediment control measures applicable to both public and private developments including the construction and maintenance of streets and roads.

§ 533. Earth Change Plans

Before any real property is cleared, graded, filled or otherwise disturbed for any purpose or use including, but not limited to, the erection of any building or structure, the quarrying of stone or the construction of roads and streets by any:

(1) person or other legal entity; or

(2) department, agency, board, authority or other instrumentality of the Government of the Virgin Islands or the United States Government;

an Earth Change Plan shall be approved by the Department of Planning and Natural Resources as conforming to the Environmental Protection Program adopted pursuant to this chapter.

§ 534. Earth Change Permits

(a) Upon approval of an Earth Change Plan and certification by the applicant that all earth changes shall be in accordance with such Plan, the Department of Planning and Natural Resources shall issue an Earth Change Permit to the applicant.

(b) Notwithstanding any law to the contrary, the Department of Planning and Natural Resources shall not issue any building or other permit until the applicant for such permit has presented to the Department an approved Earth Change Permit obtained in accordance with this chapter.

§ 535. Exemptions

The provisions of this chapter shall not apply to common household gardening, truck farming and the cultivation of property for agricultural purposes under approved soil and water conservation practices.

§ 536. Inspection and Enforcement

(a) The Commissioner of Planning and Natural Resources shall enforce the provisions of this chapter. The Commissioner or his authorized representatives may, for the purpose of performing their official duties under this chapter, enter upon and inspect any parcel of property or premises at all reasonable hours. Upon notice that property is being graded, cleared or otherwise disturbed in violation of this chapter, the Commissioner shall order the immediate stoppage thereof until the illegality is canceled.

(b) Upon the start of the activity for which an Earth Change Permit has been issued, the owner of the property or his authorized agent shall so notify the Commissioner so that he may schedule the inspection that may be deemed necessary for the effective enforcement of the provisions of the chapter.

(c) The Commissioner shall maintain accurate records of inspections made, notices issued and actions taken by property owners or authorized agents pursuant to notices resulting from inspection.

§ 537. Appeals

Decisions of the Commissioner of Planning and Natural Resources under the provisions of this chapter shall be subject to review by the District Court of the Virgin Islands provided an appeal is filed within thirty days of the receipt of any such decision.

§ 538. Violations

(a) Any violation of this chapter shall be deemed a misdemeanor, and the person, partnership, or corporation who is found guilty of such violation shall be subject to a fine not exceeding \$5,000 or one year's imprisonment for each and every violation.

(b) The Attorney General shall prosecute all actions required for the enforcement of the provisions of this chapter.

(c) The Attorney General, in addition to other remedies, may institute any appropriate action or proceedings to prevent any violation of this chapter or to restrain, correct or abate such violation or to prevent the occupancy of developments involving land cleared, graded or otherwise disturbed in violation of this chapter.

D.2 ENVIRONMENTAL PROTECTION RULES AND REGULATIONS Chapter 13. Environmental Protection; Subchapter 532. Environmental Protection Program

D.2.1 Division 1. Practices and Procedures

§ 532-1. General Principles

The following are the general principles on which this program is based:

(1) The objectives of this program are stated public policy. The Environmental Protection Law declares the intent of the Virgin Islands Government to safeguard the environment and that the water and land in the watershed are an asset, and natural resources, and are to be protected. To implement this, the increased runoff of soil and water, and the destruction of natural ground water recharge by alteration of the land surfaces, watercourses, etc., must be controlled in the public interest.

(2) Workable procedures are available for carrying out this program. Details of these aspects will be worked out with the construction industry (engineers, architects, and builders), the Planning Board, the Departments of Planning and Natural Resources, Health, and Public Works.

(3) Technical conservation principles and practices, skillfully but flexibly planned and applied, will reduce sediment and runoff, and protect the ground water supply. These principles must be flexibly applied because of the variation of soils, topography, and densities used in developments.

(4) Conservation objectives must be kept in mind in connection with comprehensive planning, as well as specific development plans. Conservation measures in construction activities must be decided on in the planning stage and applied at the beginning of the construction stage. It is feasible to plan for proper land use and the handling of excess water and sediment during and after construction and to install the needed measures, thus preventing damage. The conservation work must be planned before any grading is done.

(5) Enforcement is essential to an effective environmental conservation program. Due to the short duration and complexity of construction activities, it is necessary to enforce the installation of the needed measures or other requirements of the program to be sure that they are effectively applied. Such enforcement is used in the building industry from the standpoint of their construction requirements, and the industry is normally accustomed to inspections and enforcement of this general nature. Moreover, since the developer also benefits from the conservation program, enforcement problems are reduced.

(6) Informational and educational work on this program is essential to its understanding and acceptance by the general public and by the construction industry.

(7) Review and evaluation of the program is essential for its continued effectiveness. As new procedures and techniques are developed, they must be added to the program to make it more effective. Similarly, observations of the effectiveness of planned programs will be made for further improvement.

(8) Technical assistance is essential to the industry to try to plan and apply effective conservation measures during and after development. The Soil and Water Conservation District, in consultation with the Departments of Planning and Natural Resources, Agriculture, Public Works, and Health, has adapted the conservation measures and techniques available from the agricultural program to the other uses of the land. Consultive technical assistance is planning is available to the developers and their engineers through the Soil and Water Conservation District.

§ 532-2. Technical Principles

The following technical principles are the basis for an effective conservation program in land development.

- (1) Fit the development to the topography and soils as closely as possible.
- (2) Save trees and other natural vegetation wherever possible.
- (3) Avoid unnecessary disturbance of the soil.
- (4) Install permanent storm drains and roads as early as possible.

- (5) Protect denuded soils with mulch where permanent protection is delayed.
- (6) Install permanent vegetation *immediately* after final grades are established.
- (7) Use sediment basins to trap sediment on-site.
- (8) Provide proper water disposition. This may involve direct disposal and/or retention depending on the site, location and quantity of water involved.
- (9) Schedule the construction operations so as to expose only that area of land at a time that can be developed in a reasonable length of time; and
- (10) Develop sites which are located in natural recharge areas so as not to diminish the sites overall capacity for recharge and storage of ground water.

The application of these principles to fit the particular type of development will result in a practical program of environmental protection acceptable to the industry and to the Virgin Islands Government.

§ 532-3. Conservation practices

Many conservation practices have proven effective in avoiding or lessening damage from sediment and runoff, and in protecting ground water. These include:

- (1) Careful land clearing and protection of desirable shade trees and other plants;
- (2) Proper land grading with maximum slopes;
- (3) Retaining walls and slope stabilization structures where needed;
- (4) Permanent vegetation applied rapidly to critical areas following the establishment of final grades;
- (5) Mulching;
- (6) Waterways, diversions, outlets;
- (7) Sediment basins; and
- (8) Water storage structures (ponds and gray water cisterns).

Standards and specifications for these practices are included in the ENVIRONMENTAL PROTECTION HANDBOOK available from the Department of Planning and Natural Resources. Reasonable and well-planned use of these measures will reduce erosion and uncontrolled runoff from construction areas during and after construction.

§ 532-4. Procedures

Procedures for soil and water conservation on nonagricultural developments include the following:

(1) Planners and individual developers should obtain information on soils, topography and soil and water conservation measures from the Department of Planning and Natural Resources. They should be familiar with the requirements prior to planning the development.

(2) Earth change plans will be reviewed by the Department of Planning and Natural Resources to determine if they meet the minimum standards required for the adequate protection and conservation of the soil and water, and for water disposal in and from the construction area. Technical assistance to meet the requirements of the conservation program on nonagricultural development will be available through the Soil and Water Conservation District to planners, developers and their architects and engineers.

(3) Technical assistance from the Soil and Water Conservation District will also be available to the developers and their engineers during the installation of the necessary conservation measures.

§ 532-5. Enforcement

Conservation requirements placed on a development during the grading and construction stages will be inspected and enforced by the Department of Planning and Natural Resources. Such inspection and enforcement will be performed in the same manner and time as the enforcement of other requirements and standards. Penalties for the failure to comply with the application of conservation measure requirements are as called for in the law.

§ 532-6. Public relations

An information and educational program for the industry and the general public in connection with the Environmental Protection Program will be conducted by the Department of Planning and Natural Resources. This program will include news releases, brochures, publication of this program and of the practice standards and specifications, meetings, slide talks for service clubs and for builder organizations, etc. It will also include recognition of those developers who do excellent work in connection with conservation during development.

§ 532-7. Research evaluation

This program will be accompanied by necessary research, observation, and evaluation to assure its effectiveness and improvement. For this purpose and to facilitate this program, the Soil and Water Conservation District Board will invite each of the following agencies and groups to assign a representative to a task force for environmental protection:

- V.I. Department of Planning and Natural Resources
- V.I. Department of Public Works
- V.I. Department of Economic Development and Agriculture
- V.I. Forestry Division
- V.I. Cooperative Extension Service
- U.S. Forest Service
- U.S. Geologic Survey
- V.I. Home Builders Association
- V.I. Architects, Engineers and Surveyors
- V.I. Department of Health
- American Institute of Architects
- Contractors' Association
- Realtors Association
- U.S. National Park Service
- and others.

This task force will meet as needed but at least annually to furnish guidance to the responsible agencies for the conduct and improvement of the program. In addition, the task force will provide training for inspectors and other agency people.

D.2.2 Division 2. Applications for Permits, Review, Filing, Signs**§ 532-11. Applications**

(1) **Private Sector.** Earth Change Applications and Permits as well as Earth Change Plans shall be received at the Department of Planning and Natural Resources for review and approval.

(2) **Public Sector.** Earth Change Applications and Permits as well as Earth Change Plans shall be received at the Department of Planning and Natural Resources for review and approval.

§ 532-12. Review

(1) **Private Sector.** A thirty (30) day period shall apply to the review of an Earth Change Plan by the Department of Planning and Natural Resources. The thirty (30) day period shall begin with the date of reception indicated on the bottom of the Earth Change Application and Permit. However, termination of the thirty (30) day period shall not give inferred or automatic approval to the Earth Change Application.

§ 532-13. Filing

(1) **Private Sector.** A copy of the Earth Change Plan and Permit shall remain on file with the Department of Planning and Natural Resources to become a part of the record of inspections for a particular land development.

(2) **Public Sector.** A copy of the Earth Change Plan and Permit shall remain on file with the Department of Planning and Natural Resources to become a part of the record of inspection for a particular land development.

§ 532-14. Signs

(1) **Private Sector.** A sign shall be posted at the construction site in clear view of the general public. This sign shall state in large block letters, "EARTH CHANGE PERMIT NO. ____." A sign will be furnished the developer when the Earth Change Permit is issued by the Department of Planning and Natural Resources. This sign may be used to satisfy the sign posting requirement.

(2) **Public Sector.** A sign shall be posted at the construction site in clear view of the general public. This sign shall state in large block letters, "EARTH CHANGE PERMIT NO. ____." A sign will be furnished the developer when the Earth Change Permit is issued by the Department of Planning and Natural Resources. This sign may be used to satisfy the sign posting requirement.

D.3.3 Division 3. Classes of Land Development and Earth Change Plan Requirements in Private and Governmental Construction**§ 532-21. Single residential lots under ½ acre when not a part of a major subdivision**

Department of Planning and Natural Resources Earth Change Application or Coastal Zone Management Forms may be used. This form requires the rough estimation of 5-foot contours in addition to the detailing of such things as slope stabilization measures, trees to be protected and other simple conservation treatment measures. This form may be obtained at the Department of Planning and Natural Resources.

§ 532-22. Single residential lots larger than ½ acre when not a part of a major subdivision

(1) Plan view detail at a scale no smaller than 1" = 50' showing lot layout, road layout, position of structures, storm drainage, proposed soil erosion and sediment control measures, proposed water conservation measures.

(2) A maximum contour interval of 5 feet, both existing and proposed, reflecting the proposed earth change.

(3) A statement giving the proposed time of establishment for strategic environmental protection measures.

(4) Soils information from the SOIL SURVEY, VIRGIN ISLANDS OF THE UNITED STATES for the land area to be developed.

§ 532-23. Major subdivisions (the development of more than one residential building lot)

(1) Plan view detail at a scale no smaller than 1" = 100' showing road and lot layout, position of structures, storm drainage, proposed soil erosion and sediment control measures, proposed water conservation measures.

(2) A maximum contour interval of 5 feet, both existing and proposed, reflecting the proposed earth change. (10-foot contours will be permitted in the case of relatively steep topography, i.e., 25% + slopes.)

(3) Design detail and profiles on complex measures such as sediment basins, ponds, gray water cisterns, slope protection structures, retaining walls, etc., shall be included.

(4) A Statement giving the proposed time of establishment for strategic environmental protection measures.

(5) Soils information from the SOIL SURVEY, VIRGIN ISLANDS OF THE UNITED STATES for the land area to be developed.

§ 532-24. Site plans (includes multi-family residential structures, hotels, commercial structures, light and heavy industrial land development)

- (1) The plan view detail at a scale no smaller than 1" = 100' showing road and lot layout, position of structures, storm drainage, proposed soil erosion and sediment control measures, proposed water conservation measures.
- (2) A maximum contour interval of 5 feet, both existing and proposed, reflecting the proposed earth change. (10-foot contours will be permitted in the case of relatively steep topography, i.e., 25% + slopes.)
- (3) Design detail and profiles on complex measures such as sediment basins, ponds, gray water cisterns, slope protection structures, retaining walls, etc., shall be included.
- (4) A Statement giving the proposed time of establishment for strategic environmental protection measures.
- (5) Soils information from the SOIL SURVEY, VIRGIN ISLANDS OF THE UNITED STATES for the land area to be developed.

§ 532-25. Governmental construction not covered in preceding classes of land development

- (1) The plan view detail at a scale no smaller than 1" = 100' showing road and lot layout, position of structures, storm drainage, proposed soil erosion and sediment control measures, proposed water conservation measures.
- (2) A maximum contour interval of 5 feet, both existing and proposed, reflecting the proposed earth change. (10-foot contours will be permitted in the case of relatively steep topography, i.e., 25% + slopes.)
- (3) Design detail and profiles on complex measures such as sediment basins, ponds, gray water cisterns, slope protection structures, retaining walls, etc., shall be included.
- (4) A Statement giving the proposed time of establishment for strategic environmental protection measures.
- (5) Soils information from the SOIL SURVEY, VIRGIN ISLANDS OF THE UNITED STATES for the land area to be developed.

§ 532-26. Land clearing

A brief earth change plan in written form detailing the proposed method, equipment and purpose of land clearing.

§ 532-27. Public, private road and driveway construction

A road and driveway permit shall be obtained from the Department of Planning and Natural Resources and a copy submitted with an earth change plan detailing bank stabilization measures, proposed road bank grades, and any special slope treatment. Temporary measures to be installed during the construction period shall also be detailed.

