

VIRGIN ISLANDS BEACH USE POLICY



GOVERNMENT OF THE
VIRGIN ISLANDS

Ministry of Natural Resources
Labour & Immigration

“There is probably no custom more universal, more natural or more ancient, on the sea-coasts ... of the world, than that of bathing in the salt waters of the ocean and the enjoyment of the wholesome recreation incident thereto. The lure of the ocean is universal; to battle with its refreshing breakers a delight The attraction of the ocean for mankind is as enduring as its own changelessness.”

~ The Florida Supreme Court 1939, White v. Hughes

1. INTRODUCTION

Resolution No. 7 of 1989 (Figure 1) of the then Legislative Council established the principle that beaches held a special place in the natural patrimony of the Territory and were to be managed to ensure continued traditional access and use.

Thereafter, the legislative instrument established the following fundamental principles:

- All shores and all beaches within the Virgin Islands are vested in the Crown;
- There is always free access from any part of the waters to the shores and beaches; and
- There should be reasonable access across lands to shores and beaches.

The Virgin Islands Physical Planning Act, 2004 defines a beach as:

“that area of the coastal zone from the seaward limit of the foreshore running inland to the vegetation line or other natural barrier whichever is closer to the landward limit of the foreshore, and a beach may consist of sand, stones, gravel, shingle, coral fragments or boulders”.

Section 61 of the Physical Planning Act No. 4 of 2004 further clarified public access and right of way to beaches by requiring:

- at least one public landward access to every beach in the Territory;
- barring landward access, traditional public use of a private landward access through an existing private development shall be sufficient to establish a public way over that access for the purpose of access to the beach by the public;

- where necessary, and through recommendation by the Minister, Crown acquisition of the right to public use of a landward access by gift, agreement, compulsory acquisition or in exchange for other property, interest or financial exemption, as recommended by the Minister; and
- public landward access, which is free of charge as a development condition, in cases where a proposed development is likely to adversely affect the public's ability to access a beach from the landward side.

Unfortunately, due to the lack of an approved comprehensive beach management framework and holistic beach management plans that take into consideration the myriad of environmental, socio-cultural and economic issues associated with beaches, the Territory's beaches have been mostly developed in an ad hoc manner. General use of beaches for organized recreational or entertainment purposes for instance, are largely unregulated. Laws and policies that govern this are either lacking or outdated. Additionally, in some instances access/use of some beaches in the Territory has been denied by individuals who lay claim to the beach.

Management of beaches in the Territory should proceed with a clear understanding of;

- the limits of Crown with respect to beaches;
- the rights of access and use of beaches on private islands
- public access points, including motorable access to a beach;
- the authority and responsibilities of key focal agencies responsible for management of beaches;
- the physical (natural and man-made) characteristics of beaches, its existing uses and conflicts, threats, their cultural heritage and carrying capacity;
- safety considerations; and
- the desired goals for each beach based on thorough consideration of the need to ensure ecological integrity whilst examining the feasibility of activities that may support economic development in the Territory.

2. BEACHES – IMPORTANCE AND THREATS

Beaches of the Virgin Islands are renowned worldwide for their beauty and tranquility. Locally, beaches are cultural and recreational gathering places, and provide economic benefits primarily through tourism. Additionally, beaches are one component of a complex coastal ecosystem offering coastal protection and filtration services to assist in maintaining prime water quality in coastal waters.

Beaches in the true sense are not limited to the sandy / rocky typically unvegetated portion of the shore as defined in the Physical Planning Act, 2004. Beaches extend into what is called the backshore which includes sand dunes that support plant life and assist in stabilizing the beach environment. A more comprehensive definition of a beach follows;

“the zone where the accumulation of unconsolidated material (muds, sands, stones, gravels, shingles, coral fragments or boulders) extends seaward to the 20m bathymetric depth (unless depth of closure exceeds 20m) and landward to the place where there is a marked change in material, topography, or to the line of permanent vegetation (usually the effective limit of storm waves), whichever is furthest landward”.

Beaches are active ecosystems that require special attention in terms of their management. Consideration should be given to adapting this more comprehensive definition of a beach into future legislation. This should be done with the understanding that the backshore may in many instances be private property and hence a distinction must be made between the section of the beach that is Crown (ie. from the seaward limit to the vegetation line) and the section that is private.

Beaches are also an integral part of the economic well-being of the Territory. A 2013 study entitled, *“Tourism Value of the Environment* carried out by the Institute of Environmental Studies, University of Amsterdam, found that 75.8% of tourists surveyed agreed that *“beaches in the BVI are particularly beautiful”*. Based on the findings of their study, the researchers concluded that *“beaches are the most important ecological assets of the BVI and may well be considered the engine of the economy. For this reason, the beaches and the ecosystems supporting this ecological asset should be managed well”*.

Various threats to beaches, their functionality and public use include, but are not limited to:

Table 1: Threats to Beaches in the Virgin Islands

Threat	Economic	Social	Environmental
1. Poor water quality from storm water runoff and other discharges within adjacent watersheds and from various types of vessels, which may contain pollutants or untreated wastewater	√	√	√
2. Deteriorating coral reef structures, which protect beaches from storm surge and wave action and provide an important source of sand to replenish beaches. Coral reef degradation is resulting from sedimentation, anchor damage, an increasing number of vessel groundings, some poor fishing practices, bleaching, disease and other related factors	√	√	√
3. Loss of associated habitats such as salt ponds and mangroves, which are instrumental to the ecological integrity of beaches	√		√
4. Degraded wildlife habitat (turtle and shorebird nesting) are heavily frequented or developed beaches; including light pollution			√
5. Litter, including washed ashore marine debris and litter produced during and after use by large groups attached to cruise ships or associated with special events	√	√	√
6. Clearing of beach vegetation			√
7. Persistent, mass Sargassum landings	√		√
8. Sand mining, which while mainly outlawed still takes place to some extent	√		√
9. Compacting of sand dunes by vehicular traffic		√	√
10. Sea level rise combined with minimal building setbacks which reduces the ability of the beach to adapt by migrating in land	√		√
11. Lighting of bon fires and beach barbeques which “soil” the sand		√	√
12. Overcrowding and other related visitor use impacts, which may affect ecological and physical integrity	√	√	√
13. Unregulated activities within the beach zone, such as use of heavy equipment, ill-placed temporary and permanent vending and beach bar facilities, which may impair the free seasonal movement of sand, thereby contributing to erosion	√	√	√
14. Multiple and conflicting uses of some beaches that reduce beach visitor experience	√	√	√
15. Noise pollution from loud music not authorized for special events	√	√	
16. Lack of consistently applied use and safety guidelines for the continued and balanced enjoyment by various user groups;	√	√	
17. Fragmented and unclear authority of key focal agencies responsible for overall management.	√	√	

3. EXISTING FRAMEWORK FOR BEACH MANAGEMENT IN THE TERRITORY

Although the management of beaches in general falls under the remit of the Ministry of Natural Resources and Labour as a public natural resource, a number of other government agencies play a significant role in beach management (Table 2). The creation of a Beach Management

Commission is advanced, whose ultimate goal will be the overall management of all beaches in the Territory and to safeguard beaches by:

1. Promoting safety and security;
2. Regulating use;
3. Managing multiple users to avoid conflicts; and
4. Managing economic activities on and near the beaches.

The Commission would have the ability to vet and recommend all applications for commercial use of beaches and work with regulatory agencies to coordinate all aspects with respect to beach management. The Commission’s recommendations will be submitted to the Ministry of Natural Resources, Labour and Immigration for the ultimate approval of the Cabinet of the Virgin Islands. The Commission would effectively provide broad policy guidance concerning the use of beaches so as to ensure that they are well maintained, safe and attractive for all users; thus, enhancing the tourism product, safeguarding the ecological integrity and promoting widespread social and economic benefits. The membership of the Beach Management Commission could be comprised of the following:

1. The Permanent Secretary, Ministry of Natural Resources, Labour and Immigration (Chairperson)
2. Director, Tourist Board
3. Head, Environment Unit of the Ministry of Natural Resources, Labour and Immigration
4. A representative of the Trade Division
5. Three private sector representatives selected by the Minister for the subject matter.

The work of the Commission will be supported by representatives of technical agencies responsible for licencing and permitting processes as outlined in

Table 2: RESPONSIBILITIES OF GOVERNMENT AGENCIES IN BEACH MANAGEMENT

Agency	Responsibility
Ministry of Natural Resources and Labour	Grant of permission for vending, special events by large groups and the use of portions of the foreshore for development of various types of facilities.
Conservation and Fisheries Department	Technical vetting of applications for the use and development at beaches. Management of beach wardens responsible for ongoing maintenance. Beach monitoring.
National Parks Trust	Direct management of legally designated beaches at National Parks.
Tourist Board	Advocacy for the development of beaches and support mechanisms that will facilitate greater access and use by the visiting community.
Environmental Health	Oversight and enforcement of operational standards by the vending and beach bar

Agency	Responsibility
Division	facilities on the beach.
Town and Country Planning Department	Overarching planning of development to be fostered and encouraged along beaches. Technical vetting of applications for the use and development at beaches.
Trade Department	Approval of Trade Licences for beach facilities and services.
Royal Virgin Islands Police Force	Approval of Noise Certificates for special, large scale events. Enforcement of all laws applicable to any infraction on the beach.
Fire and Rescue Services	Fire Safety recommendations and Fireworks Permits on the beach.
Ministry of Communication and Works	Approval to display fireworks
Magistrate Court	Approval of Liquor Licences to serve alcohol

4. POLICY STATEMENT

The Government of the Virgin Islands recognizes that the beaches of the Virgin Islands are areas of traditional, cultural, social, economic and ecological importance to the Virgin Islands. Beaches are public and of free access (use) to all throughout the Territory. In recognition of their significance, beaches must be managed to ensure their sustainability for generations to come. As such, the principal aim of the Beach Use Policy is:

Balanced access to and rational use of beaches while ensuring their ecological integrity.

The policy aims to balance the interests of all persons who vie to use the same physical space, while maintaining the ecological integrity of the beach. Business and commercial ventures may either complement or compete with the rights of individual beachgoers who want to recreate or undertake different types of activities. At the same time, agencies responsible for the management of beaches must ensure that the natural ecosystem functions are conserved.

4.1 Management Framework

The policy's aim will be achieved by the delivery of two main result areas by the named principal agencies and other stakeholders. These result areas are:

1. ***Beach geomorphological, ecological and socioeconomic characteristics and dynamics defined at the global and individual levels to determine compatible activities to be fostered within beaches; and***
2. ***Beach use criteria, standards and guidelines per site developed and applied to guide decision making***

The Policy will be supported by a planning process that will deliver a comprehensive management framework which will encompass the examination of the physical characteristics (natural and manmade) of the beach, existing use and conflicts, cultural heritage, carrying capacity and the desired goals for each beach¹. The beach management framework advanced shall take into account current and future activities which may be fostered. Use of beaches will be encouraged through the thoughtful consideration of the manner in which activities may support economic development, whilst ensuring ecological integrity. Therefore, over time, an analysis of the current and future activities and uses will serve as a platform for balanced development in tune with sound environmental management practices that will ensure that the beach zone's values are maintained in the long-term.

The following decision support tools will comprise the beach management framework:

- 1) A ***Beach Classification System*** based on physical, ecological and socioeconomic characteristics.

Permitted and recommended activities within the beach zone will be guided by an understanding of geomorphological, ecological and socioeconomic dimensions. Beaches not only serve as spaces fulfilling various socioeconomic functions, but also perform critical ecological ones as well. Individual beaches are formed differently and the activities that may be undertaken are constrained by shape, the ecological roles that the beach may play traditional uses and safety ratings, amongst others. Some key attributes, which may be used to describe beaches and which will form part of the mechanisms for allocating use and grant permission for activities to be undertaken at beaches throughout the Territory, are:

- (i) the planform (the outline and shape of a beach – geomorphology);
- (ii) associated habitats which are important to the maintenance of the physical and ecological integrity of an individual beach;
- (iii) the socioeconomic status of a beach (whether it is predominantly used within a residential, resort, mixed/multi-use or national park context);

¹ Gore, S. Framework development for beach management in the British Virgin Islands, Ocean and Coastal Management 2007: 732-753

- (iv) the principal sources of stress and the threats and associated impacts that may hinder a beach from fulfilling ecological or socioeconomic functions; and,
- (v) Safety considerations

- 2) ***A Comprehensive Territory level Beach Management Plan (BMP)***, inclusive of a spatial plan, to guide the rationale use and development of beaches and shorelines based on the beach classification.

The BMP will decide which beaches are best managed or developed for which purposes and determine the best beaches at which to promote various activities. The development of the BMP will by necessity engage various stakeholders responsible for the management of beaches such as residents adjacent to beaches, resort and private island owners, various government agencies and other stakeholders.

- 3) ***Beach management plans at the level of individual beach classes or individual beaches*** including beach use criteria, standards and guidelines to guide decision making about activities at specific beaches along with the assessment of relative safety of use and measures to be applied.

Guidelines which will inform the overall management framework for beaches will assist the Ministry of Natural Resources & Labour, as well as other agencies in determining the scale, location and use of beaches for various types of activities.

The main mechanism to regulate ongoing use will be through the issuance of permits, licences and certificates as defined in Table 3.

Table 3: GOVERNMENT ISSUED PERMITS / PLANS PREPARED

Agency	<i>Type of Permit(s) Issued and Plans Prepared</i>
Ministry of Natural Resources and Labour	<i>Beach Use Approval Letter</i>
Conservation and Fisheries Department	<i>Territory level Beach Management</i>
National Parks Trust of the Virgin Islands	<i>National Park Beach Use Approval Letter</i>
Environmental Health Division	<i>Permanent Food Establishments: Food Establishment Licence/Food Handler's Certificate</i>

Agency	Type of Permit(s) Issued and Plans Prepared
	<i>Temporary Vending Establishments: Temporary Food Handler's Certificate/Temporary Food Establishment Licence</i>
Town and Country Planning Department	<i>Planning Approval for permanent establishments, giving consideration to the Beach Management Plan.</i>
Trade Department	<i>Trade Licence (including Temporary)</i>
Royal Virgin Islands Police Force	<i>Noise Certificate</i>
Fire and Rescue Services	<i>Fire Safety Recommendation</i>
Ministry of Communications and Works	<i>Licence to display fireworks</i>
Magistrate Court	<i>Liquor Licence</i>

4.2 Decision Support Tools

A Beach Classification System will be advanced to inform decision making with respect to the manner in which any management option and recommendation can be applied. Safety assessments will be included in the analysis. A standard format for identifying and assessing various ecological, social and other attributes on beaches will assist in categorizing uses, which are compatible with the specific beach, taking into consideration any threats, safety considerations and current and recommended activities.

Standards and guidelines on beach use and licensing of beach vending based on recommendations put forth by the Conservation and Fisheries Department, a Cabinet-appointed Beach Commission and other intermittent committees is advanced and is contained in **Appendix 1**. Vending and other activities requiring permission will require a formal application to the Ministry of Natural Resources and Labour. Application and use fees will be charged for various activities as per the proposed fee schedule along **Table 1 in Appendix 1**.

5. POLICY UPDATE AND AMENDMENT

This Policy may be amended by the addition of appendices to reflect future guidelines for beach use management as the need arises.

APPENDIX 1: STANDARDS AND GUIDELINES

1.1 DEFINITIONS

For the purposes of this policy, the term “*beach use*” refers to the use of the beach as a venue for non-commercial and commercial purposes including recreation, entertainment, and vending.

- (i) **Non-Commercial** – use of the beach by large groups that does not involve the sale of goods and/or services. Non-commercial activities could include picnics/beach barbecues, camping, sporting activities and entertainment.

- (ii) **Commercial** – use of the beach for business activity in;
 - a. Entertainment
 - b. Vending- use of the beach for business activity by a beach vendor either in the short (event driven) or long term. Beach vending operations are transportable, and can be easily moved to various locations on the same beach or to various beaches.

Vending (event driven and long term) may be further categorized as follows;
 - i. Beach food / beverage vending – sale of food and drinks, which may or may not be prepared on site.
 - ii. Non consumable products vending – sale of non-consumable products such as souvenirs and clothing, rental of beach based equipment.
 - iii. Land-based beach service vending – provision of services such as hair braiding, massages, ecological /or historical tours.
 - iv. Water-based beach service vending – provision of services on the water such as garbage collection, in water provisioning,

- (iii) **Restaurant / Beach Bar**- an informal or formal eatery where people sit and have meals and/or drinks on the premises. These establishments are permanently fixed.

1.2 APPLICATION FOR BEACH USE

In general, applications will be considered based on the following guidelines;

- a. Non-commercial use of the beach would not ordinarily require prior permission from the Ministry of Natural Resources and Labour except in the following cases:
 - Groups larger than 50 persons
 - Loud speakers will be operated for a group of any size
 - Open fires will be used for a group of any size
- b. Commercial use of the beach for example in the case of entertainment and vending should be restricted to beaches designated within the Beach Management Plan as areas where commercial activity can be promoted. Additionally, vending should only be allowed on beaches where the requisite supporting structures exist to accommodate beach vendors.

Supporting structures for food and beverage vendors should at minimum include:

- (i) specially built covered spaces
 - a. temporary structure that has a solid, flat even floor surface made out of fire resistant rated wood (concrete slabs would not be allowed as they would impede natural sediment transport and increase the risk of accelerated erosion.
 - b. structure should have the ability to be removed and packed away safely in the event of a natural disaster, such as a hurricane.
 - (ii) running water
 - (iii) functioning and well maintained restrooms
 - (iv) waste water plant / sewage treatment
- (a) An application for a permit to use the beach must be completed and submitted to the Ministry of Natural Resources and Labour for approval unless that beach is managed by another entity, such as the National Parks Trust.

(b) An application for use of the beach must at minimum include the following;

(i) Name of applicant (this can be a group, organization, company etc.)

(ii) Valid photo identification

(iii) Name of beach

(iv) Type(s) of beach use

a. Non – commercial (necessary only for groups larger than 50 persons)

- date and time of the event
- description of the event, including all activities that will be involved
- number of persons expected

b. Commercial (Entertainment)

- date and time of the event
- description of the event, including all activities that will be involved
- number of persons expected at the event

c. Commercial (Vending)

- business and operations plan which may include, but is not limited to:
 1. what product(s)/service(s) are being offered
 2. mode of product/service delivery
 3. description and plans of any physical structures involved
 4. operating hours
 5. emergency plan
 6. waste management plan
- proposed structures to be erected
- proposed hours of operation
- an emergency plan, inclusive of a list of safety equipment that will be kept at the premises at all times

1.2.1 Application Fee

The application must be accompanied by the requisite non-refundable application fee.

Table 1

User Type	Fees
Non-commercial	\$50.00
Commercial (Entertainment)	\$300 per day
Commercial (Vending – Event Driven)	\$500 per day
Commercial (Vending extended)	\$75 per day \$300 per month
<i>Non-profit groups (churches, service groups, schools etc.) are exempted from the fees.</i>	

1.3 ADDITIONAL REQUIREMENTS

Additional requirements based on user type are outlined below. These requirements will be outlined in the conditional letter of approval from the Ministry of Natural Resources and Labour and necessary for final approval for the issuance of a Beach Use Permit.

Table 2

User Type	Requirements
Non-commercial	<input type="checkbox"/> Application fee <input type="checkbox"/> Noise certificate (if applicable)
Commercial (Entertainment – including event driven vending)	<input type="checkbox"/> Application fee <input type="checkbox"/> Noise certificate <input type="checkbox"/> Temporary Food Handler’s Certificate* <input type="checkbox"/> Temporary Liquor Licence* <input type="checkbox"/> Temporary Trade Licence*
Commercial (Vending – extended)	<input type="checkbox"/> Application fee <input type="checkbox"/> Food Handler’s Certificate (if food and beverage

vendor)

Liquor Licence (if selling alcoholic drinks)

Trade Licence

*** Applicable only where event driven vending is proposed**

(a) Trade Licence

Any commercial activity unless otherwise specified in the Business, Professions and Trade Licences Act, 1990 (CAP 200), requires a trade licence from the Trade and Consumer Affairs Department. A Trade Licence application must be completed and submitted to the Trade and Consumer Affairs Department, and should only be considered where conditional approval from the Ministry of Natural Resources and Labour for use of a specified beach has been given. Upon submission of an application to the Trade and Consumer Affairs Department for review, the “*Standards and Regulations for Beach Vendors*” must be provided to the applicant.

(b) Food Handler’s Certificate

Persons handling food are required to obtain a Food Handler’s Certificate from the Environmental Health Division.

(c) Liquor Licence

A **liquor licence** is mandatory if alcoholic drinks will be sold. An application for a liquor licence must be submitted to the Commissioner of Police. A food handler’s certificate, fire safety recommendation and a trade licence are pre-requisites to obtaining a liquor licence.

(d) Noise Certificate

According to the Noise Control and Abatement Act, 1996, operation of a loudspeaker is not permitted between the hours of 11am and 7pm. At any other time, operation of a loud speaker cannot take place without the prior written consent (**noise certificate**) of the Commissioner of Police.

(e) Licence to Display Fireworks

A licence to import, sell and display fireworks is obtained from the Ministry of Communications and Works. Fireworks displays in the Virgin Islands can only be conducted by a licenced pyro technician.

(f) Fire Safety Recommendations

In cases where controlled burning (eg. bonfires) or sale of liquor is proposed, Fire and Rescue Services provide recommendations upon request. This includes assessment of any proposed structures as well as the identification of optimal locations for burning in accordance with the national Control Burning Policy.

1.4 REPSONSIBILITY OF PERMIT HOLDER

It is the permit holder's responsibility to communicate to their invited guests the rules associated with the use of the beach. The permit holder is responsible for the conduct of guests and for any damages to the beach during their event, set up or take down. The permit holder must contact the Conservation and Fisheries Department, no less than one week prior to the event to discuss and agree on the details of the event. The permit holder must allow reasonable access to the event by an authorised officer of the Conservation and Fisheries Department or designated representative at all times.

1.5 HOURS AND LOCATIONS

Hours of operation and location of vending operations will be set by the Ministry of Natural Resources and Labour and shall coincide with the noise certificate (if applicable) obtained from the Royal Virgin Islands Police Force.

1.6 DURATION OF BEACH USE PERMITS

Temporary Beach Use Permits issued by the Ministry of Natural Resources & Labour shall not exceed the approved duration of the event in each instance.

1.7 CLEAN UP OF BEACH

Users of the beach are responsible for security (if deemed necessary), parking, set up and taking down of tables/chairs and other equipment /supplies at the conclusion of the activity. All trash generated as a result of the event is the responsibility of the user and must be removed from the beach or properly placed in garage receptacles at the beach. Failure to do so will result in a fine to be defined by law.

1.8 BEACH SAFETY

Government will offer on an advisory and ad hoc basis risk assessments that will inform the general public on some of the hazards on various beaches. These will be included as part of the beach management plan. Government is not responsible for the safety of beach users. Users are encouraged to use any flotation and other types of devices in order to ensure safety. Moreover, in some instances, large group activities may require the provision of lifeguarding and policing to be safeguarded at their cost, as part of the conditions for approval of an activity.