

# **NATURE CONSERVATION ORDINANCE ST. MAARTEN**

**AB2003, No. 25**

ISLAND ORDINANCE from September 1<sup>ST</sup>, 2003 concerning regulations pertaining to the management and protection of flora and fauna and nature parks in the Island Territory of Sint Maarten (Island Ordinance Nature Conservation and protection Sint Maarten)

THE ISLAND COUNCIL OF THE ISLAND TERRITORY OF SINT MAARTEN

*Considering:*

That it is desirable to set rules and regulations for the benefit of the conservation and protection of the flora and fauna and nature parks of the Island Territory of Sint Maarten,

Having regard to various treaties concerning the conservation and protection of the flora and fauna, the conservation of the biological diversity and the protection and the management of ecosystems,

Having regard to Article 15, paragraph one, of the National Ordinance Fundamentals Nature Conservation and Protection (P.B. 1998,49),

*Has decided:*

To decree the following Island Ordinance:

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## **SECTION I: GENERAL**

### **ARTICLE 1**

In this ordinance and the provisions based thereon, the following definitions apply:

- (a) National Ordinance: National Ordinance Nature Conservation Framework (P.B. 1998,49);
- (b) indigenous flora en fauna: animals and plants found in the Island Territory Sint Maarten;
- (c) nature park: a protected area with an ecological, geological, historical, cultural and aesthetic value, foreseen by management;
- (d) manager: manager as described in Article 7.

### **ARTICLE 2**

Each person has a duty, as far as can be reasonably expected from him, to avoid, or, if this is unavoidable, to minimize any negative effects caused to nature by his actions or negligence.

## **SECTION II: CONSERVATION IN GENERAL**

### **ARTICLE 3**

1. A local nature plan, as meant by Article 9 of the National Ordinance, indicates the decisions to be made in the first five years with respect to the conservation and protection of the flora and fauna and nature parks in the Island Territory.
2. The nature plan will contain the topics as mentioned in Article 9, paragraph three of the National Ordinance, an overview of the action points for the nature parks to be realized in the planning period and the term within this will occur.
3. The Executive Committee will report to the Island Council before June 1st annually on the status of the implementation of the nature plan during the previous calendar year.

### **ARTICLE 4**

1. The Executive Committee involves the administrative bodies, institutions and organizations it determines to be the most relevant in the preparation of the nature plan.
2. The draft nature plan will be made available for public inspection for a period of four weeks at the Government Administration Office.
3. The submission for public inspection will be made known in the Dutch and English language in one or more local daily newspapers and in the usual manner of publication of official announcements.
4. During the term as mentioned in the second paragraph any person can bring forth his opinion on the draft nature plan.

### **ARTICLE 5**

1. Within four weeks after the term as mentioned in Article 4, second paragraph, the Executive Committee establishes the nature plan, including an overview of the opinions brought forth about it and the modifications to the draft nature plan on the basis of these opinions.
2. The Island Council decides on the approval of the nature plan within eight weeks of it being offered.

### **ARTICLE 6**

The Executive Committee is in charge of seeing to the effective conservation and the effective protection of the flora and fauna as well as of the nature parks in the Island Territory of Sint Maarten.

### **ARTICLE 7**

1. By General Island Resolution, one or more managers can be appointed who wholly or partially exercise duties and authorities awarded or assigned by this Ordinance to the Executive Committee. Said resolution shall state the duties and authorities to be awarded or assigned to the manager, if necessary with specific instructions, conditions and restrictions.
2. The position of a manager is exclusively designated to a civil servant, service or company in the Island Territory of Sint Maarten and/or a legal entity incorporated in accordance with the laws of the Netherlands Antilles and established in the Island Territory of Sint Maarten.

## **SECTION III: NATURE PARKS**

### **ARTICLE 8**

1. The establishment of a nature park as meant in Article 10 of the National Ordinance shall occur by Island Ordinance, in which the following is included:
  - (a) a map, on which the boundaries of the area are accurately indicated,
  - (b) an explanation, containing in any case the manner in which the continuation of the nature values of the area in question will be realized;
  - (c) regulations concerning accessibility and use;
  - (d) regulations concerning the establishment of fees and duties to cover management expenses.
2. A reservation that entails a smaller demarcated area within a nature park with strict regulations for its use or entry and that serves to protect a nesting or breeding area or the special biodiversity of an area in the nature park can be designated by means of an Island Ordinance.
3. If a reservation as meant in the second paragraph is designated, paragraph one, sub-paragraphs (a), (b) and (c) apply.
4. The designation of a reservation as meant in the second paragraph can be for a definite or indefinite period of time.

### **ARTICLE 9**

1. The Executive Committee and/or if applicable the manager as meant in Article 7, drafts a management plan in agreement with those who can exercise a real right on one or more areas of the nature park.
2. The management plan will indicate in which manner the conservation and preservation of the nature park will be realized, whereby the preservation of the essential characteristics of the nature park is given special attention.
3. If there are costs related to the execution of the management plan for those who can exercise a real right with regards to areas of the nature park that in all reasonableness in whole or in part should not be for their account, the Executive Committee can grant them compensation.

### **ARTICLE 10**

1. The Executive Committee shall, at its own discretion, involve administrative bodies, institutions and organizations in the preparation of an ordinance for a nature park.
2. The draft ordinance as meant in paragraph one will be made available for public inspection for a period of four weeks at the Government Administration Office.
3. Prior to any public inspection, the Executive Committee will organize a public hearing in which the draft of the ordinance will be presented and those present are given the opportunity to bring forth their opinions on the draft. The Executive Committee can be assisted by experts on the subject.
4. The public inspection, as meant in paragraph two, as well as the place and time of the public hearing will be made public in the Dutch and English language in one or more local daily newspapers and in the usual manner of publication of official announcements.

5. Persons who can exercise real rights on one or more areas described by the Ordinance as meant in paragraph one will be personally notified of the public inspection and the place and date of the public hearing.
6. During the term as mentioned in the second paragraph any person can bring forth his opinion in writing on the ordinance as meant in paragraph one.

#### **ARTICLE 11**

1. Within four weeks after the term as mentioned in Article 10, second paragraph, the Executive Committee will offer the draft of the Ordinance for the establishment of a nature park to the Island Council, including an overview of the opinions brought forth about it and the modifications to the draft on the basis of these opinions.
2. The proposal to establish the Ordinance will be dealt with in a meeting of the Island Council within eight weeks after its offering.

#### **ARTICLE 12**

By or on the basis of an ordinance for the establishment of a nature park, access, use or acts within a nature park can be prohibited or subject to regulations and conditions.

#### **ARTICLE 13**

1. By virtue of an ordinance to establish a nature park, fees can be imposed to which the users of a nature park are subjected.
2. By an ordinance as meant in the first paragraph, it can be determined that the amount of the collected fees as meant in the first paragraph can be allotted to the management and protection of the nature park.
3. The ordinance as meant in the first paragraph can, under the stipulated instructions, conditions and limitations, determine that a manager as meant in Article 7 is designated as the entitled party to the received and collected fees.
4. If the imposing and the collection of the fees as meant in the first paragraph is transferred to a manager not falling under the Island Territory, the Articles 5, 6 first and second paragraph, Articles 7, 9 and 11 first paragraph of the National Collection Ordinance 1970 (AB 1970,3) are applicable in the understanding that, instead of "collector" and "tax assessment" must be read "manager" respectively "notice"
5. The second and third paragraphs are not applicable if a civil servant or a civil service is appointed as manager.

#### **ARTICLE 14**

1. The nature park can be wholly or partially cancelled by an Island Ordinance if the general interest supercedes the preservation of the nature park or a specific area thereof.
2. Articles 10 and 11 are applicable with regards to an Ordinance as meant in the first paragraph.
3. In as far as this is reasonably possible, one or more areas shall be designated by means of an Ordinance as mentioned in the first paragraph as a nature park to compensate this cancellation.

#### **ARTICLE 15**

1. It is prohibited to commit, to have committed or to allow acts that can cause damage to or compromise the natural beauty or natural scientific value of a nature park or that mar a nature park.

2. Acts that can affect the essential characteristics of a nature park as mentioned at its inception will in any case be considered as acts that cause damage.

#### **SECTION IV: PROTECTION OF ANIMAL AND PLANT SPECIES**

##### **ARTICLE 16**

1. All animal and plant species that belong to the indigenous flora and fauna and that are mentioned in addendum I of the Bonn Convention, addendums I and II of the SPAW-protocol, addendum I of the CITES Treaty and addendums I and II of the Sea Turtle Treaty are designated as protected animal and plant species.
2. Animal and plant species that are not named in the treaties mentioned in the first paragraph can be designated as protected animal and plant species by means of a General Island Resolution.
3. Conservation regulations can be set for species named in addendum III of the SPAW-protocol by means of a General Island Resolution.

##### **ARTICLE 17**

1. It is forbidden to kill, wound, capture, pick-up, have animals that belong to a protected animal species, to directly or indirectly disturb their environment resulting in a physical threat or damage to the fauna or to commit other acts which result in disturbance of the animal.
2. It is forbidden to upset an animal belonging to a protected species, to disturb, damage or destroy its nest, lair, or breeding place, as well as to take the nest of such an animal.
3. It is forbidden to pick-up or to destroy the eggs of animals belonging to a protected species.

##### **ARTICLE 18**

It is forbidden to dig-up, pick, collect, cut-off, uproot, transplant, destroy or damage a plant belonging to a protected species or to otherwise commit acts with such a plant that result in its disturbance.

##### **ARTICLE 19**

In the interests of the protection of indigenous flora and fauna, the transplantation of non-indigenous or genetically altered animal or plant species is prohibited.

##### **ARTICLE 20**

1. Exemption from the prohibitions of Articles 17 through 19 can be granted by means of a General Island Resolution.
2. Dispensation from the prohibitions of Articles 15 and 17 through 19 can be granted upon request.
3. An exemption or dispensation can only be granted if the use of the exemption or dispensation does not form a threat for the continued existence of the protected animal or plant species and if:
  - (a) the granting of exemption or dispensation is necessary from the viewpoint of serving scientific, training, or management purposes, or

- (b) the granting of exemption or dispensation is desirable from the viewpoint of existing traditional life forms on St. Maarten or cultural needs.
- 4. An exemption or dispensation can be bound by certain requirements.
- 5. An exemption or dispensation can be granted under certain restrictions.

#### **ARTICLE 21**

- 1. The request for a dispensation is submitted in writing to the Executive Committee.
- 2. The applicant provides all the information and submits all the details that are necessary to decide on the request.
- 3. Regulations regarding the manner in which the request for dispensation is made and what details are submitted with the request are determined by means of a General Island Resolution.
- 4. A fee is due for the processing of a request for dispensation. The amount of the fee and the manner of payment are determined by means of a General Island Resolution.
- 5. The request is not processed if the regulations of the resolution meant in the third paragraph are not adhered to or if the fee has not been paid. The applicant is informed thereof in writing.

#### **ARTICLE 22**

- 1. The Executive Committee decides about the request within two months of receiving it. Its decision is in writing and includes its reasons.
- 2. The Executive Committee can extend this term once for a maximum of thirty days, at the same time notifying the applicant accordingly.

#### **ARTICLE 23**

- 1. A dispensation can - in its entirety or in part - be revoked or officially amended by the Executive Committee if:
  - (a) the details provided at the time the dispensation was requested turn-out to be incorrect or incomplete to the extent that the request would have been denied or another decision would have been made if the correct or complete details had been known at that time;
  - (b) the requirements or restrictions regarding the dispensation are not abided by, or there is otherwise not being acted in keeping with the dispensation;
  - (c) after the granting new circumstances or perceptions have arisen that would have led to the request being denied or being granted with other requirements or restrictions.
- 2. At the request of the person entitled to it, a dispensation can be amended if the provisions of Article 20, paragraph three, sub-paragraphs (a) and (b) do not oppose such.
- 3. The first and second paragraphs apply to amendments of the requirements or the restrictions by which a dispensation is bound.
- 4. Paragraph one, sub-paragraphs (b) and (c), and paragraph two also apply to an exemption as meant in Article 20, paragraph one.

### **SECTION V: OTHER AND FINAL PROVISIONS**

**ARTICLE 25**

The proclamation of this Ordinance is publicized by announcement thereof in one or more local newspapers.

**ARTICLE 26**

This Ordinance comes into effect at the start of the day following the day of its proclamation.

**ARTICLE 27**

This Ordinance is referred to as "St. Maarten Nature Conservation Ordinance".

As decided in the public meeting of September 1, 2003

The Secretary,  
A.O. Muller

The Chairman,  
F.E. Richards

I proclaim this Island Ordinance on this day, September 12, 2003.

The Lieutenant Governor,  
F.E. Richards