

ST. MAARTEN MARINE PARK ORDINANCE - DRAFT

Please note that this is a draft ordinance. The Articles below thus are not legislation yet. The draft ordinance is expected to be adopted by the Executive Committee on -----.
Keep in mind that the final version of the Ordinance may be different from the draft version below.

ARTICLE 1

In this Ordinance, the terms below are defined as follows:

- (a) nature park: the nature park meant in Article 2, first paragraph;
- (b) manager: the entity or person mentioned in Article 7, first paragraph of Island Ordinance Nature Conservation and Protection Sint Maarten that is designated as the manager of the nature park;
- (c) beach: the undeveloped and mainly barren coastline between the main water line and its uninterrupted growth and the tide on the other side.

ARTICLE 2

1. There is a nature park entitled: St. Maarten Marine Park.
2. The nature park is demarcated by an imaginary line which runs from the geographical point on the East coast with the coordinates 18°03'.11 NB and 63°00'.51 WL to the geographical point on the West coast with the coordinates 18°03'.08 NB and 63°08'.24 WL, by means of the geographical points 18°02'.36 NB/62°59'.22 WL, 18°00'30 NB/62°59'.44 WL, 17°58'.33 NB/63°02'.24 WL, 17°58'.33 NB/63°04'.20 WL and 18°02'.10 NB/63°09'.15 WL, and along the average waterline to the geographical point, that extends to the whole East coast from Pointe Blanche up to and including Oyster Pond.
3. The boundaries of the nature park are indicated on the chart with descriptions that are attached as an Appendix to this Ordinance.
4. The characteristics of the nature park are:
 - (a) the coral reefs;
 - (b) the sea grass beds;
 - (c) the mangrove communities;
 - (d) the beaches of Gibbs Bay, Guana Bay, Red Pond Bay and Dawn Beach; the islands Molly Beday, Hen and Chicken, Cow and Calf and Pelican Rock.
5. Within the nature park there are specific zones as are indicated on the map mentioned in paragraph three where certain activities are not allowed:
 - (a) zones with high protection value;
 - (b) anchor zones;
 - (c) shipping areas;
 - (d) and an industrial zone.

ARTICLE 3

1. The following activities are considered as damaging activities in the nature park as defined in Article 15, second paragraph, sub-paragraph (b) of the Island Ordinance Nature Conservation and Protection Sint Maarten:
 - (a) feeding of animals, with the exception of household pets brought on the beach,

- (b) sinking of vessels or other objects, without the manager's prior permission,
 - (c) fishing with:
 - i. dragnets;
 - ii. fish traps with a wire size of less than 38 mm;
 - iii. fish traps that are not equipped with an escape opening which has been covered by a panel of biologically degradable material, that after use in marine water falls apart so that after a period of and close to 20 days an opening appears on the sides of the trap of at least 15 cm by 15 cm;
 - iv. explosive substances;
 - v. bait, existing of flesh of marine mammals;
 - vi. gillnets with a length of more than 2,5 km;
 - vii. mechanical underwater hunting devices;
 - viii. hand spears;
 - (d) diving and snorkeling with hand gloves;
 - (e) using or discharging biological and chemical products into the sea;
 - (f) placing anchor buoys without the manager's prior permission;
 - (g) discharging or dumping effluents from land or from a vessel;
 - (h) anchoring or the use of anchors as a means of navigation.
2. In an area with a high protection value of the nature park the following activities are defined as damaging activities as meant in Article 15, second paragraph, of the Island Ordinance Nature Conservation and Protection Sint Maarten:
 - (a) the use of water scooters;
 - (b) fishing other than with trawling - or hand lines;
 - (c) fishing from a vessel with more than four trawling - or hand lines;
 - (d) sailing with a vessel with an average draft of more than six meters;
 - (e) removing live or dead animals or plants;
 - (f) possessing live or dead fish or other sea animals or plant that are found not to originate from elsewhere.
 3. By General Island Resolution it is possible to allow activities defined in the first paragraph, sub-paragraph (e) in that the use of certain biological or chemical resources can be permitted.

ARTICLE 4

Contrary to Article 3, first paragraph, sub-paragraph (h) it is permitted for ships to anchor in the industrial zone or the anchor zone of the nature park.

ARTICLE 5

1. Ships sailing outside the routes to and from ports must keep a distance of at least 100m with respect to the coast.
2. Ships that arrive from abroad and are allowed into Great Bay and/or depart from Great Bay elsewhere have to make use of the shipping areas as much as possible.

ARTICLE 6

1. The manager of the nature park is authorized to place buoys for demarcation of the nature park and the areas with high protection value, anchor zones and shipping zones.
2. The manager is furthermore authorized to place anchor buoys for vessels which are used for the transport and the accompaniment of snorklers and scuba divers.
3. By General Island Resolution it is possible to establish further regulations with respect to the use of anchor buoys.

ARTICLE 7

It is prohibited to move or remove anchor buoys without the manager's prior permission.

ARTICLE 8

1. The manager is authorized to - verbally or in writing - forbid entrance to a person entering the nature park and ask them to leave the area immediately if the presence of that person can in all reasonableness lead to prohibited activities as described in Article 15, first paragraph Island Ordinance Nature Conservation and Protection Sint Maarten.
2. The person to whom the prohibition as described in the first paragraph is directed is obliged to obey.

ARTICLE 9

1. Everyone that scuba dives, snorkels or makes use of the anchor buoys placed by the manager in the nature park is charged a user fee.
2. The user fee is determined by a General Island Resolution.
3. The manager is entitled to the collected fees.
4. The proceeds of the collected user fees will be spent on the management and the protection of the nature park.

ARTICLE 10

1. The responsibility of payment of the user fees defined in Article 9, first paragraph, furthermore rests on the captain of the vessel with which the persons concerned, meant in Article 9, first paragraph, are transported within the nature park, as well as on the organizer of the transport vessel.
2. The persons as mentioned in the first paragraph are liable for the payment of the user fee due by the persons as mentioned in Article 9, paragraph one in the understanding that payment by the one releases the other.

ARTICLE 11

The user fee is levied by means of a dated written notification.

ARTICLE 12

1. The manager is authorized to issue the notification defined in Article 11.
2. The notification is issued to every person described in Article 9, first paragraph.
3. The notification can be issued furthermore to every person who has indicated to the manager or the manager's representative that they will dive, snorkel or make use of the anchor buoys within the nature park.
4. The manager is authorized to give form and content to the notification.

ARTICLE 13

The manager can authorize an organizer of transport as defined in Article 10, first paragraph, to issue the notification or have it issued on their behalf, taking into account the regulations the manager has set forth.

ARTICLE 14

1. Payment of the user's fee occurs, by choice of the manager, simultaneously or immediately after the issuing of the notification, meant in Article 11.
2. The collection of the user's fee takes place by the manager or by a designated authority chosen by the manager.
3. The designated authority carries the burden of providing the collected fees to the manager in accordance with the manager's instructions.

ARTICLE 15

1. Anyone who lodges an objection against a notification as meant in Article 11 can submit a request for review to the manager within six weeks after the date of the notification.
2. The manager decides by means of a explanatory decision with regards to the objection as soon as possible but no later than two months after receipt. He notifies the objector of the decision through registered mail or in exchange for a stamped receipt.

ARTICLE 16

The party concerned can lodge an appeal with the Appeal Council Tax Affairs against a decision as is meant in Article 15, second paragraph, within six weeks after the day that notice of the decision is given.

ARTICLE 17

Article 15, second paragraph of the St Maarten Nature Conservation Ordinance will read:

“Activities that are defined as damaging in the first paragraph are considered as:

- (a) activities which possibly damage the general characteristics of the nature park,
- (b) activities as mentioned in the Island Ordinance in Article 8, first paragraph.”

ARTICLE 18

This Ordinance goes in effect as of the first day of the calendar month following the month in which the Ordinance is proclaimed.

ARTICLE 19

This Ordinance can be cited as “St. Maarten Marine Park Ordinance”.