

ISLAND RESOLUTION NATURE MANAGEMENT BONAIRE

NOTE: This translation of the Island Resolution Marine Park Bonaire has been prepared to assist interested parties in understanding the content of this resolution. ONLY the original Dutch Resolution is to be used to resolve legal matters.

Island Resolution Containing General Measures, of August 25, 2010, nr. 3, implements Articles 8, 9, 10, 11, 16, 17 and 19 of the Island Ordinance Nature Management Bonaire (A.B. 2008, nr. 23) and repeals the Island Resolution Containing General Measures, of March 31 2005 nr. 6 (A.B. 2005, nr. 10). (Island Resolution Nature Management Bonaire)

THE EXECUTIVE COUNCIL OF THE BONAIRE ISLAND TERRITORY

Considering:

that it is necessary and advisable to enact more specific rules for nature conservation and management and for the animal and plant species of the Bonaire Island Territory, found therein;

In view of:

Articles 8, 9, 10, 11, 16, 17 and 19 of the Island Ordinance Nature Management Bonaire (A.B. 2008, nr. 23);

Taking into account:

the joint proposal of the Department of Spatial Development and Management, the Department of Agriculture, Animal Husbandry and Fisheries, the Department of Legal and General Affairs and the Nature Management Commission Bonaire of August 3, 2010 (archive nr. 30011042);

HAS RESOLVED:

To enact the following Island Resolution containing general measures:

Section I DEFINITIONS

Article 1

1. In this Island Resolution containing general measures, the terms below are defined as follows:

manager: the organization which, pursuant to Article 8, paragraph 1 and Article 23 of the Island Ordinance Nature Management Bonaire, is delegated responsibility for the management of the protected areas of the Bonaire Island Territory;

building: any construction of wood, stone, metal or of other material, which either is directly or indirectly connected to the ground, or directly or indirectly receives support by or in the ground where the site is intended;

Island Ordinance Nature Management Bonaire: the Island Ordinance Nature Management Bonaire (A.B. 2008, nr. 23);

- nature park: a protected area established pursuant to Article 4 of the Island Ordinance Nature Management Bonaire;
- marine Park: a nature park, established pursuant to the Ordinance Marine Environment (A.B. 1991, nr. 8) or a protected area established pursuant to Article 4 of the Island Ordinance Nature Management Bonaire;
- felling: cutting, removing, trimming, destroying and rubbing of plants.
- Washington Slagbaai Park: a nature park, that the Island territory of Bonaire, by an October 9, 1990 (archive nr. 3499) management contract, has given to the National Park Foundation (STINAPA Bonaire) to manage. Furthermore, it is a protected area established pursuant to Article 4 of Island Ordinance Nature Management Bonaire.

2. The definitions in Article 1 of the Island Ordinance Nature Management Bonaire are incorporated herein.

Section II PROTECTION OF AREAS Article 2

It is forbidden to use a protected area without paying a user's fee.

Article 3

The fees for entry and use of a protected area, are set forth in Appendix III of this Resolution.

Article 4

1. The manager is authorized to collect the user fees.
2. A receipt or order from the manager will serve as evidence that the fee has been paid.
3. Users fees may be paid:
 - a. at the manager's office;
 - b. to persons or businesses who offer facilities for use in a protected area; or
 - c. at other locations to be designated by the manager.
4. The persons or businesses referenced in paragraph 3, section b, must either collect the users fee from their customers or confirm that their customers possess a valid payment receipt.

Article 5

1. Persons or businesses referenced in Article 4, paragraph 3, section b, must purchase sufficient payment receipts from the manager to correspond with the number of customers expected in a week.
2. Payment receipts which are not correctly completed or which are not used within a particular time period may be exchanged for new payment receipts, with the consent of the manager.

Article 6

1. A payment receipt may be either a receipt form or a receipt form and a tag, each numbered alike and each given to the user at the same time.
2. Payment receipts are not transferable.
3. Only a receipt form will be given to the user when the use is limited to one day.
4. Duplicates of receipts will be given to the manager, upon his demand, by those who have supplied them.

5. If a user is given a tag as part of a receipt, such tag is to be attached to his clothing or his equipment so that it is clearly visible.
6. A user is obligated, upon request, to show the tag and the receipt form, or only the receipt form when no tag is required, to persons charged with the management of a protected area.

Article 7

1. It is forbidden, without a permit from the Executive Council, to remove plant or animal species from a protected area.
2. The prohibition set forth in paragraph 1 does not apply to fish, crustaceans and mollusks that are gathered by hand or by traditional fishing gear insofar as such activities are permitted.
3. Traditional fishing gear is limited to fishing lines, and rods, as well as casting nets (tarai) and dragnets (reda) which are both manager approved and certified
4. The prohibition set forth in paragraph 1 does not apply to the gathering or removing of animal and plant species as referenced in Article 19, paragraph 1, by the manager or persons designated by him.

Article 8

It is forbidden, without a permit from the Executive Council, to engage in the following activities in a protected area:

- a. exploiting, lowering, digging off, leveling up or leveling of sites;
- b. damaging, removing or destroying natural vegetation;
- c. removing sand or stones;
- d. constructing roads, wharfs, piers, mooring places, canals, dams or any other structures;
- e. using vehicles on roads and paths other than those open for such use;
- f. using model aircraft and model motorboats;
- g. dumping garbage;
- h. discharging untreated waste water or chemical and biological materials which can damage the environment;
- i. using pesticides or fertilizer;
- j. disturbing the water balance;
- k. making open fires;
- l. causing a noise nuisance
- m. taking animals or plants into the park, except for domestic animals to the sites as designated by the manager;
- n. entering breeding sites or special reserves that have been designated as such; and
- o. feeding animals.

Article 9

It is forbidden, without a permit from the Executive Council, to engage in the following activities in buffer zones as that term is referenced in Article 4, paragraph 3 of the Island Ordinance Nature Management Bonaire:

- a. exploiting, lowering, digging off, leveling up or leveling of sites;
- b. damaging, removing or destroying natural vegetation except when maintaining roads and paths or when practicing traditional farming;
- c. constructing roads, wharfs, canals, dams or any other structures;
- d. dumping garbage;
- e. discharging untreated waste water or chemical and biological material which can damage the environment;
- f. using pesticides or fertilizer;
- g. disturbing the water balance;
- h. making open fires as far as they can cause a danger to the natural vegetation of a protected area.

Article 10

1. It is forbidden to carry guns, pistols, catapults, traps or other hunting gear into or within a protected area.
2. The prohibition set forth in paragraph 1 does not apply to hunting gear when used to manage a protected area.

Section III PROTECTION OF ANIMAL AND PLANT SPECIES

Article 11

1. Protected plant and animal species referenced in Article 11, paragraph 2 of the Island Ordinance Nature Management Bonaire are incorporated by reference in Appendix I of this Resolution.
2. Appendix I as referenced in paragraph 1 is available for public inspection at a location designated by the Executive Council.

Article 12

When managing protected bird species, the Executive Council can order the owner or manager of pylons, high voltage cables or other structures that are located within the approach route of such birds, to equip such structures with warning balls or similar objects.

Article 13 (Reserved)

Article 14

1. It is forbidden, without a permit from the Executive Council, to fell trees or cacti with a trunk circumference 65 centimeters or more when measured at 1.30 meters above ground.
2. It is forbidden, without a permit, to fell cacti that were planted in connection with either the obligation to replant or other contractual commitments.
3. It is forbidden to fell trees or cacti listed on the list of 'valuable trees' of the Bonaire Island Territory.
4. The prohibitions set forth in paragraphs 1 and 3 do not apply to the felling of trees and cacti referenced in Articles 19 or 20 as well as those which the Executive Council determines pose a serious threat to public safety or when a state of emergency or other exceptional situation exists.

Article 15

1. The Executive Council is authorized to grant a permit when the permit applicant pays a fee for reforestation purposes.
2. The fee, as referenced in paragraph 1, must be paid to the organization referenced in Article 23. This organization has responsibility for managing these fees. Furthermore, this organization will provide a report on the fees collected and their general responsibility as referenced in Article 9, paragraph 4 of the Island Ordinance Nature Management Bonaire. This report shall include a list of the trees planted and their locations in connection with the reforestation efforts.
3. The following reforestation fees will be imposed when trees or cacti are felled:
 - a. \$85.00 (Naf.152,00) for a trunk circumference of 65 to 79 centimeters;
 - b. \$140.00 (Naf. 250,00) for a trunk circumference of 80 to 94 centimeters, and

- c. \$195.00 (Naf. 349,00) for a trunk circumference of 95 centimeters or greater.

Article 16

1. The Executive Council can either grant a permit which contains certain conditions or deny a permit. Either action will be based on the following considerations:
 - a. Nature and environmental values;
 - b. Landscape values;
 - c. Cultural and historical values;
 - d. Value of urban-rural beauty;
 - e. Value of recreation and livelihood;
 - f. Intrinsic value of timber vegetation;
 - g. One or more of the abovementioned values that relate to future vegetation.
2. A permit in connection with construction- and development plans can be denied on the sole ground that the plans are not yet final.

Article 17

1. The Executive Council will determine which trees or cacti may not be removed because they have:
 - a. Nature and environmental values;
 - b. Landscape values;
 - c. Cultural and historical values;
 - d. Value of urban-rural beauty;
 - e. Intrinsic value of timber vegetation.
2. The trees and cacti referenced in paragraph 1 are incorporated on a list established by the Executive Council, which is available for public inspection at a location designated by the Executive Council.

Article 18

1. It is forbidden, without a permit from the Executive Council, to remove, to collect, to cut, to uproot, to damage or to destroy, mangroves, wayaká, and turk's cap cacti. The prohibition set forth in this paragraph does not apply when the land is being cleared in connection with building a structure for which a building-permit has been granted in accordance with the Building and Housing ordinance (A.B. 1961, nr, 17) or with any substituted regulation.
2. Mangroves, wayaká and turk's cap cacti as those terms are referenced in paragraph 1 include:
 - a. white mangrove (*Avicennia germinans*, mangel blanku)
 - b. grey mangrove (*Conocarpus erectus*, mangel, mangel blanku)
 - c. mangrove (*Laguncularia racemosa*, mangel blanku)
 - d. red mangrove (*Rhizophora mangle*, mangel tan)
 - e. wayaká (*Guaiacum officinale*, wayaká) and (*Guaiacum sanctum*, wayaká shimaron)
 - f. turk's cap cactus (*Melocactus macracanthus*, bushi, kabes di indjan, melon di seru)

Section IV

REMAINING RULES CONCERNING NATURE PROTECTION

Article 19

1. The following animal and plant species are considered harmful to Bonaire Island Territory's nature and its intrinsic value:
 - a. *Cryptostegia grandiflora* (rubber vine, rubberliaan, palu di lechi)

- b. *Pterois spp.* (lion-fish, koraalduivel)
 - c. *Boa constrictor* (boa constrictor, afgodslang)
2. The Executive Council can order either the rightful or principal user of land or water to remove or take appropriate measures to prevent an increase of plants or animals belonging to the list set forth in paragraph 1.
 3. Initially, the removal must take place mechanically. Removal with chemical agents may only take place with a permit from the Executive Council.

Article 20

1. The following plant specie is likely to be harmful to Bonaire Island Territory's nature and its intrinsic value:
 - *Azadirachta indica* (Neem tree, Neem boom, Palu di Neem)
2. The Executive Council can order either party entitled to a parcel of land, as well as the principal user of such land, to take appropriate measures to prevent reproduction or propagation of (animals or) plants that are found on his land and that belong to one of the harmful species as listed in paragraph 1.

Article 21

1. Activities (which may be harmful to nature) as referenced in Article 16, paragraph 1 of the Island Ordinance Nature Management Bonaire, are as follows:
 - a. Construction, modification or expansion of airport sites;
 - b. Modification to, extension of, or widening of a runway;
 - c. Construction, modification or expansion of a seaport;
 - d. Construction, modification or expansion of a pier that is for the loading and unloading of oceangoing ships greater than 500 gross tons (GT), when such pier is connected to land or located out of a seaport;
 - e. Construction, modification or expansion of an artificial beach;
 - f. Construction, modification or expansion of a marina;
 - g. Construction, modification or expansion of an outlet channel to sea;
 - h. The construction, modification or expansion of a plant to desalinate seawater or to extract heat or cold from seawater where the activity involves an amount of water 70 cubic meters per day;
 - i. Commencement of, modification to, or expansion of surface mining as well as any activities which involve raising of or other changes to the sea bottom when such activities involve an area that is 0.25 hectares or more;
 - j. Construction, modification or expansion of an aqua culture installation;
 - k. Activities affecting groundwater including infiltration, withdrawal, artificially replenishing or modification or expansion of these activities when they involve 100m³ or more per day;
 - l. Extraction of petroleum, natural gas or other minerals;
 - m. Construction, modification or expansion of a facility which stores petroleum, natural gas, petrochemical or chemical products that have a volume of 2.000 tons or more per year;
 - n. Establishment, modification or expansion of an oil refinery facility intended;
 - o. Establishment, modification or expansion of a chemical plant and any infrastructure that is a part of it;
 - p. Construction, modification or expansion of a pipeline with a circumference of more than 20 centimeters which transports gas, oil or chemicals a distance greater than 500 meters;
 - q. Establishment, modification or expansion of a facility that has the capability to produce 5 megawatts or more of electricity, steam or heat;
 - r. Establishment, modification or expansion of one or more wind turbines intended to generate 10 or more megawatts of electricity and/or the construction of wind turbine parks having ten and more wind turbines;

- s. The erection, modification or expansion of a high voltage line over ground level that carries a voltage of 30 kilovolt or more and is strung over a length of 3 kilometers or more;
 - t. Construction, modification or expansion of a facility with a capacity to burn, process, or dump 2.000 tons or more of waste products per year;
 - u. Establishment, modification or expansion of a waste water purification facility with a capacity to serve 1000 or more people per year;
 - v. Removal, modification or expansion of earth having a surface area of 1 hectare or more;
 - w. Commencement of, modification to, or expansion of surface mining on a mining site of 5 hectares or more or on several mining sites which are geographically close to one another which have a combined surface area of 5 hectares or more;
 - x. Construction, modification or expansion of a golf course and/other recreational or tourist facilities that have a surface area of 8 hectares or more;
 - y. Construction, modification or expansion of building sites and accommodations of 10 rooms or more in buffer zones, nature parks or in areas subject to the Island Ordinance Spatial Planning Bonaire or a substituting Ordinance, which either have the objective of landscape and nature conservation or ecological and environmental hygiene.
2. A permit application, as referenced in Article 16, paragraph 1, of the Island Ordinance Nature Management Bonaire, shall include an environmental impact assessment which complies with the requirements set forth in Appendix II of this Resolution.
 3. An environmental impact assessment is not required when:
 - a. the proposed activity relates to a repetition or a continuation of the activity for which an environmental impact assessment has been prepared previously and it is unlikely that a new environmental impact assessment would contain new data about possible harmful consequences to the environment or;
 - b. the proposed activity must be undertaken immediately when an incident has caused or threatens to cause a serious disruption of public order, has injured or threatens to injure the lives and the wellbeing of many people or has damaged or threatens to damage the environment or other large commercial interests;
 - c. the preparations for the proposed activity have, at the time that this provision takes effect, progressed to a point where, in the opinion of the Executive Council, it would be unreasonable to demand that an assessment be made.
 4. If an application for a permit is granted pursuant Article 16 paragraph 1 of the Island Ordinance Nature Management Bonaire, the Executive Council will include a provision in the permit setting forth a date in the future when the activity which has been approved will be re-evaluated.
 5. When the date referenced in paragraph 4 is reached, the Executive Council, in cooperation with the permit holder, will evaluate whether the activity has had any adverse effects on the environment.
 6. If necessary, the Executive Council will impose, after input of the Island Commission, additional restrictions on the activity to reduce the harmful effects on the environment that the re-evaluation may have found.

Article 22

Article 19, paragraphs 3 through 5 of the Island Ordinance Nature Management Bonaire, do not apply to the following categories of either application for permit or application for permit exemption applications:

- a. Applications for a permit to enter designated breeding areas and reserves pursuant to Article 8, section n, relating to the entering of breeding sites or special reserves that have been designated as such;
- b. Applications for a permit to use chemical agents to remove harmful plants pursuant to Article 19, paragraph 3 and;

Appendix I as referenced in Article 11, paragraph 1 of the Island Resolution Nature Management Bonaire

Island protected animal and plants species

By virtue of Article 11, paragraph 2 of the Island Ordinance Nature Management Bonaire (Protected animal and plant species by virtue of the treaties (article 11, paragraph 1 Island Ordinance Nature Management) are not mentioned.)

!!!!!! INSERT TABLE

Legend

- = Protected animal and plant species in accordance with Article 11, paragraph 2 of the Island Ordinance Nature Management Bonaire.
- = Protected animal and plant species for which management measures have been established in accordance with Article 11, paragraph 2 of the Island Ordinance Nature Management Bonaire.
- ° = Protected animals and plants species in accordance with Appendix 2 of the CITES Convention (Convention on International Trade in Endangered Species of Wild Fauna and Flora). Specimens of the species on this list require an export permit to be exported.

Explanation to Appendix I Island protected animal and plant species

Mandatory protection by treaties

The protection of animals and plants is set forth in Section III of the Island Ordinance Nature Management Bonaire. In accordance with Article 11, paragraph 1, all animal and plant species are protected in accordance with:

- appendix 1 of the CITES-Convention;
- appendix 1 of the Bonn-Convention;
- appendices 1 and 2 of the SPAW-Protocol and
- appendix 1 of the Sea Turtle Convention.

Those species that the treaties are required to protect are not included in Appendix 1.

Protected by the Island Territory Bonaire

In accordance with Article 11, paragraph 2 of the Island Ordinance Nature Management Bonaire, other animal and plant species that are indigenous fauna and flora of Bonaire can be designated as protected species and included as such in Island Resolutions, containing general measures.

The above-mentioned list has been kept short because laws protecting animal and plant species not only require environmental criteria but also community support and enforcement measures.

The creation of the list involved consideration of various criteria. The species on the list met one or more of the following criteria:

- Mention on the Red List of endangered species of the World Conservation Union, IUCN, category CR (*critically endangered*), category EN (*endangered*) or category VU (*vulnerable*). This refers to a variety of marine fish species.
- Indigenous as well as rare, threatened or other considerations. For example, the Sabal Palm (kabana), the Parakeet (prikichi), and the Pearly Eyed Trasher (chuchubi Spaño).
- Locally threatened or rare. For example, sharks, bats, ferns, orchids, and various tree species.
- Ecological importance (key species). For example corals, sharks, parrotfish, bats, mangroves, and sea grass.
- Under pressure of severe exploitation. A good example is karko (Queen conch)
- Tourist value (flagship species). For Bonaire this would include the flamingos as well as sharks.
- (Potential) collectors' items. Examples include conch (shells), orchids, and turks cap cactus (bushi).
- For enforcement purposes, entire groups of species are protected because only experts can distinguish species within a group. Examples are corals, sharks, and bats.

Appendix II as referenced in Article 21, paragraph 2 of the Island Resolution Nature Management Bonaire

Content and Procedure of an environmental impact assessment:

1. An environmental impact assessment as referenced in Article 16, paragraph 2 of the Island Ordinance Nature Management Bonaire must contain, at the minimum, the following:
 - a. a description of the proposed activity and how it will be executed;
 - b. a description of any reasonable alternatives to the proposed activity if it became necessary to replace it;
 - c. a proposed resolution for the Executive Council to consider regarding the activity and a history of any previous Resolutions issued by the Executive Council which relate to similar activities;
 - d. a description of the consequences to the environment if the proposed activity were undertaken, or if an alternative activity were undertaken, or if no activity were undertaken;
 - e. a description of the possible consequences to the environment that the proposed activity or alternative activity might have as well as an explanation of the method to be used to determine such possible consequences;
 - f. a comparison of the anticipated actual consequences to the environment as required in part d with the possible effects on the environment as required in part e;
 - g. a summary of the possible shortcomings in the analyses, required pursuant to parts d and e, due to the lack of necessary data and;
 - h. a summary of the environmental impact assessment that is clear enough for the general public to understand and evaluate.

2. An environment impact assessment, as required by Article 16, paragraph 2 of the Island Ordinance Nature Management Bonaire, must be prepared and processed in accordance with the following procedures:
 - a. the applicant first prepares and then submits an initial memorandum about the proposed activity to the Executive Council;
 - b. upon receipt, the Executive Council sends the initial memorandum to a commission that has temporarily been established to provide advice on the activity. The members of the commission are selected for their specific expertise;
 - c. no later than 60 days following its receipt of the initial memorandum, the commission, having provided interested parties the opportunity to come forward with their opinions, proposes desired guidelines for Executive Council to consider when ordering the environmental impact assessment;
 - d. no later than 90 days following its receipt of the initial memorandum, the Executive Council will review the advice that the commission provided pursuant to section c, and determine the guidelines for the environmental impact assessment and inform the applicant of these requirements;
 - e. upon notice from the Executive Council, applicant will follow these guidelines and any remaining demand that the Executive Council has issued for the environmental impact assessment. When the applicant completes the assessment he will resubmit the permit application for the proposed activity. This resubmitted application will include the required assessment and will be sent to the Executive Council;
 - f. no later than 60 days from the receipt of the resubmitted permit application, which includes the environmental impact assessment, the Executive Council will decide if the assessment complies with its previously issued guidelines and any other demands it may have imposed and will decide whether the permit application may be considered;

- g. the procedures as set forth in Article 19 of the Island Ordinance Nature Management Bonaire will be followed when processing the permit application. The temporary commission, referenced in section b, will provide advice on the quality and completeness of the environmental impact assessment.

Appendix III as referenced in Article 3 of the Island Resolution Nature Management Bonaire and:

Appendix I as referenced in the Articles 2, paragraph 1, Article 19, paragraph 1, Article 22, paragraphs 1 and 2, Articles 33 and 36 of the Island Resolution Marine Park Bonaire.

Usage Fees:

Island Resolution Nature Management Bonaire and Island Resolution Marine Park Bonaire

The following fees will be charged for using the Marine Park:

- a) to enter and to use a protected area: \$10.00 (Naf. 17,50) per year;
- b) divers: \$25.00 (Naf. 43,75) per person per year or \$10.00 (Naf. 17,50) per person per day;
- c) commercial use as referenced in Article 19, paragraph 1 of the Island Resolution Marine Park Bonaire: \$840.00 (Naf. 1.500,00) per establishment per year;
- d) use of a mooring buoy, ladder, riprap, seawall, (private or commercial) pier, overhanging structure or any other construction: \$280.00 (Naf. 500,00) per year;
- e) use of a mooring buoy as referenced in Article 22, paragraph 2 of the Island Resolution Marine Park Bonaire: \$10.00 (Naf. 17,50) per buoy per night;
- f) use of a ladder \$140.00 (Naf.250,00) per year;
- g) use of an industrial pier or jetty \$560.00 (Naf. 1.000,00) per year
- h) use of an artificial beach \$140.00 (Naf. 250,00) per stretching meter per year to a maximum of \$16,760.00 (Naf. 30.000,00) per year;
- i) use of an artificial beach as referenced in Article 35 of the Island Resolution Marine Park Bonaire: \$280.00 (naf. 500,00) per year.