

PREFECT OF SAINT BARTHELEMY AND ST MARTIN

Environmental, Planning and Housing Authority (DEAL) of Guadeloupe Territorial DEAL of Saint Barthélemy and Saint Martin

Prefectural decree n°2020- 142 PREF/SG/UT DEAL

Regulation of uses and commercial and non-commercial activities within the Réserve Naturelle Nationale de Saint Martin

In view of the environmental code ;

In view of the disciplinary and penal code of the merchant marine ;

In view of law n°84-610 of July 16, 1984 relative to the organization and promotion of athletic and sports activities ;

In view of decree n°79-413 of May 25, 1979 relative to the organization of the French government at sea off the coasts of the overseas departments and the territorial collectivity of Mayotte ;

In view of decree n°82-389 of May 10, 1982 relative to the powers of prefects and the activities of governmental services and public organizations in the departments ;

In view of the decree of June 22, 1998 relative to the technical and safety rules in places organizing sports and leisure activities including scuba diving ;

In view of ministerial decree 98-802 of September 3, 1998 for the creation of the Réserve Naturelle de Saint Martin;
In view of the management agreement between the French government and the management association of Réserve Naturelle de Saint Martin ;

In view of decree n°2004-374 of April 29, 2004 modified relative to the powers of the prefects, relative to the powers of prefects and the activities of governmental services and public organizations in the regions and departments ;

In view of the decree of August 1, 2017 for the nomination of Madame Virginie KLES, as secretary general for the Prefecture of Guadeloupe (functional class II) ;

In view of the decree of May 9, 2018 for the nomination of Monsieur Philippe GUSTIN a prefect for the region of Guadeloupe, prefect of Guadeloupe, representative of the French government in the collectivities of Saint Barthélemy and Saint Martin ;

In view of the decree of the President of the Republic on June 18, 2018 for the nomination of Madame Sylvie FEUCHER as Deputy Prefect in the role of representative of the French government in the collectivities of Saint Barthélemy and Saint Martin ;

In view of the decree of January 21, 2019 for the nomination of M. Mickael DORE, sub prefect hors classe, in the role of secretary general for the prefecture of Saint Barthélemy and Saint Martin ;

In view of prefectural decree n° SG/S- 2019 - 002 of February 11, 2019 providing for delegation of signature accorded to Madame Sylvie FEUCHER, Deputy Prefect in the role of representative of the French government in the collectivities of Saint Barthélemy and Saint Martin ;

In view of prefectural decree n° SG/S-2019-003 of February 11 2019 providing for delegation of signature accorded to M. Mickaël DORE, sub prefect hors classe, secretary general for the prefecture of Saint Barthélemy and Saint Martin de Saint-Martin ;

In view of the decree of July 7, 2020 for the cessation of functions by a prefect: Monsieur GUSTIN (Philippe);

In view of the favorable opinion by the advisory committee of the Réserve Naturelle Nationale de Saint Martin, dated July 9, 2020 ;

Considering the necessity for regulations concerning the flow of people and sports and tourism activities within Réserve Naturelle Nationale de Saint Martin ;

Considering the increasing amount of human pressure on the protected sites within the Réserve Naturelle Nationale de Saint Martin ;

Considering the damage, often irreversible, that these sites are subject to ;

Considering the scientific reports whose conclusions prove the correlation between human use and a decrease in biodiversity ;

Considering the risk of accidents caused by too many people visiting such sites as the bays of Pinel and Tintamarre, and the Baie de l'Embouchure ;

Considering that there should be a distinction drawn between commercial and individual sports activities.

Considering the management objectives for the Réserve Naturelle, especially the necessity of allowing open access for all in terms of hiking, exploring, and development of economic eco-tourist activities ;

Considering that it was necessary to regulate the practice of certain individual sports activities that were so popular they took over the use of certain sites, limiting the development of additional sports or economic activities ;

DECREE

TITLE I- GENERAL REGULATIONS FOR ACTIVITIES WITHIN THE RESERVE NATURELLE DE SAINT-MARTIN

CHAPTER I- REGULATIONS FOR COMMERCIAL ACTIVITIES WITHIN THE RESERVE NATURELLE DE SAINT-MARTIN

Section I – Regulations for authorized commercial activities

Article 1: Authorization

Any company that wants to offer a commercial, sports, or tourism activity linked to the running and vibrancy of the Réserve Naturelle compatible with the goals of the management plan for the protected spaces within the “Réserve Naturelle de Saint-Martin,” is subject to nominative authorization.

Such authorization is provided by the management association for the Réserve Naturelle de Saint-Martin, also referred to as the management of the Réserve Naturelle de Saint-Martin; based on the opinion of the members of the advisory committee for the Réserve Naturelle de Saint-Martin, once it is ascertained that the company involved will respect all of the regulations set forth by the related services.

The management of the Réserve Naturelle de Saint-Martin can, at any time, suspend this authorization in the case of not following one or more of the different points of this present decree, and respecting all regulations that are in effect. This authorization cannot, under any circumstances, be transferred or sold.

Article 2: Authorized Commercial Activities

Only the following commercial businesses, sports, and tourist activities directly related to the management or vibrancy of the Réserve Naturelle are authorized:

- Scuba diving;
- Underwater exploring with fins, mask, and snorkel ;
- Sailboat or motorboat charter, with or without captain or skipper ;
- Transporting maritime passengers to protected natural sites ;
- Guided walks with commentary in the Réserve Naturelle ;
- Nautical activities with a guide: canoe, kayak, snorkeling, sailing, diving ;
- Other commercial activities compatible with the goals of the management plan for the Réserve Naturelle de Saint-Martin ;

And which meet the following criteria :

- Be in good standing with the regulatory administration for the activity in question ;
- Respect all current rules and regulations ;
- All commercial activities must be sustainable and temporary, applying the doctrine of Avoid, Reduce, Compensate ;
- For the transportation of passengers, the number of passengers aboard each boat is limited to 28 people.
- All staff working with clients must be duly qualified and fully ensure the responsibility of prevention and awareness ;
- All scuba diving must be done under the direction of a qualified company that is registered as a business partner of the Réserve, in keeping with all current rules and in respect of the following recommendations:
 - One dive boat per mooring with the exception of Rocher Créole and Caye Verte ;
 - A maximum of 14 divers per site, per club, and per day;
 - Divers must wear a stabilizing jacket, and cannot wear gloves;
 - All boats must use mooring specifically put at their disposition by the company;
 - Drift diving is required at sites not equipped with moorings;
 - Night diving is authorized with special permission and exclusively at Rocher Créole, Caye Verte, and the site known as “le remorqueur.”

Article 3: Renewal of Authorizations

All authorizations for the practice of commercial, sports, or tourism activities are registered and annual. They are renewed (by agreement with the Direction de la Mer) by tacit agreement every year. A new request for registration will be required in the case of a new owner.

Article 4: Usage Fees

All businesses that benefit from authorization to carry out a commercial activity in the protected zones of the “Réserve Naturelle de Saint-Martin” are required to pay the usage fees relative to the activity in question.

Usage fee rates for authorized commercial activities:

- The sum of one (1) euro per client/day for commercial activities where the cost of the activity is less or equal to 10 euros ;
- The sum of two (2) euros per client/day for commercial activities involved vessels flying a French flag and the cost of the activity is more than 10 euros ;

- The sum of five (5) euros per client/day for commercial activities involved vessels flying a foreign flag and the cost of the activity is more than 10 euros.
- The usage fee is applicable 365 days of the year, from January 1 through December 31.
- The usage fee is collected monthly at the latest by the 15th of the next month.
- The business is required to use a ticketing system. The ticket stubs must be made available to the management of the Réserve Naturelle de Saint-Martin and all relevant authorities.
- The business must pay the usage fee to the management of the Réserve Naturelle de Saint-Martin.
- The usage fees are payable exclusively in euros, by check or bank transfer, to the “association de gestion de la Réserve Naturelle de Saint-Martin.”
- The corresponding revenue is used for the management of the Réserve Naturelle de Saint-Martin, and for the preservation of the listed protected sites as per decree n°98-802 of September 3, 1998.
- The projects financed by this revenue are presented by the management of the Réserve Naturelle during the advisory committee meeting, which is held at least once per year, to the deputy prefect, representative of French government for the collectivities of Saint Barthélemy and Saint Martin in the role of president of the advisory committee for the Réserve Naturelle de Saint-Martin.
- In exchange, the business is authorized to use the label “Business partner of the Réserve Naturelle de Saint-Martin” on its brochures or promotional materials with respect for the graphic design guidelines provide by the management of the Réserve Naturelle de Saint Martin.

Article 5: Engagement

The authorized business is obligated to respect, and make sure that its clients as well as its employees respect all current regulations relative to the commercial activity they are engaged in, and to follow all instructions issued by the management of the Réserve Naturelle de Saint-Martin in terms of using specified sites and equipment.

In addition:

- The business engages to share a pedagogical message oriented toward the discovery and protection of the spaces it visits, in the spirit of the documentation produced by the management of the Réserve Naturelle de Saint-Martin ;
- The business must immediately alert the staff of the Réserve Naturelle of any deterioration, infraction, or problem noted on any of the sites by the business owner or any employees ;
- The business must respect all equipment that the Réserve Naturelle de Saint-Martin puts at its disposition, in the case that the business causes any damage to any equipment, it must inform the management, who will charge the business for the cost of repairs and/or replacements as needed ;
- In its documents and promotional materials, the business must make reference to the authorization to carry out its activity.
- Each business owner must affix to all documents the logo of authorization that will be provided exclusively by the management of the Réserve Naturelle de Saint Martin.
- The business promises respect all regulations of the Réserve Naturelle de Saint-Martin, and the dispositions of any eventual professional charters.

Article 6: Utilization of the moorings

In the protected marine zone of the Réserve Naturelle de Saint-Martin, the business must use the moorings made available by the management of the Réserve Naturelle de Saint-Martin. At Tintamarre, at the spot called “Baie Blanche,” vessels of less than 10 meters are tolerated at anchor exclusively in the sand; a security zone of 20 meters from the beach is required for the safety of swimmers.

Article 7: Suspension of authorization

In the case that the business does not live up to its expectations as remarked by the management staff of the Réserve Naturelle de Saint-Martin, the business could receive a warning or have its authorization revoked, temporarily or definitively, following a conversation between the business and the management of the Réserve Naturelle de Saint-Martin or after a first warning.

Section II– Regulation of prohibited commercial activities

Article 1: What is prohibited?

- Commercial activities not authorized by the management ;
- Nocturnal activities, with the exception of scuba diving as indicated in Section 1, article 2 ;
- Nocturnal mooring without notification to the management ;
- Anchoring in zones with reefs or underwater plant beds ;
- The use of any motorized vehicles (cars, motorcycles, quads) other than on the usual roads used for traffic.
- The removal of clay or mud baths at Tintamarre ;
- The sport of kite-surfing at Galion Bay and at Tintamarre ;
- The use of individual submersible motorized machines for recreational use ;
- The sports and/or recreational use of motors and/or items pulled by a boat ;
- Nocturnal use of spotlights or of exterior underwater light sources, such as those on hulls of boats or nautical machines.
- For safety reasons, vertical climbing and hiking along the bottom of the cliffs at Tintamarre are prohibited.

CHAPTER II - REGULATIONS FOR NON COMMERCIAL ACTIVITIES WITHIN THE RESERVE NATURELLE DE SAINT-MARTIN

Section 1 – Regulating Authorized Non-Commercial Activities

Article 1: Authorized activities:

- Hiking and waking, horseback riding, and cycling in a non-commercial manner on existing paths as long as the sites are not the object of a specific interdiction ;
- Exploration of the underwater milieu with fins, mask, and snorkel for non-commercial purposes ;
- The use of private boats as long as they respect all national and European regulations ;
- When sites are equipped with moorings made available by the management, boats of less than 10 meters are tolerated at anchor exclusively in the sand. A security zone of 20 meters from the beach is required for the safety of swimmers.

Section II – Regulation of prohibited non-commercial activities

Article 2: Prohibited activities :

- Anchoring in zones with reefs or underwater plant beds ;
- Scuba diving that has not been cleared with the management ;
- Accessing or climbing on Rocher Créole, the Petite Clef, the cliffs of Tintamarre, and the islets in the Baie de l'Embouchure ;
- Removal of clay or mud baths at Tintamarre ;
- Removal of sand ;
- The use of any motorized vehicles (cars, motorcycles, quads) other than on the usual roads used for traffic, and not on the paths or beaches of the Réserve Naturelle de Saint-Martin and/or managed by the Conservatoire du Littoral,
- For safety reasons, vertical climbing and hiking along the bottom of the cliffs at Tintamarre are prohibited,
- Collecting of shells, dead or alive;
- Collecting of vegetation dead or alive ;
- Any kind of noise or sound pollution ;
- Unauthorized mooring, see Section 1, article 6: Use of moorings ;
- Nocturnal mooring without express permission of the management of the Réserve Naturelle de Saint-Martin ;
- Bivouacs and campfires outside of zones so indicated ;
- Kite-surfing in the Bay of Galion and at Tintamarre,
- The use of individual submersible motorized machines for recreational use ;
- Sport or recreational use of motors and/or items pulled by a boat ;
- Nocturnal use of spotlights or of exterior underwater light sources, such as those on hulls of boats or nautical machines.

TITLE II – SPECIAL REGULATIONS OF ACTIVITIES AT CERTAIN SITES AND THROUGHOUT THE ENTIRE RESERVE NATURELLE (DECREE 98-802 of 03/09/1998).

	SITES TERRESTRIAL Prohibited :	SITES MARINE Prohibited :
Rocher Créole	Landing, Climbing, Bivouacs and campfires, use of motorized vehicles	Unauthorized mooring, non-commercial scuba diving
Baie de Petites Cayes	Use of motorized vehicles, bivouacs and campfires	Unauthorized and nocturnal mooring
Island of Tintamarre	Removal of any substances and throwing of anything in the sea Bivouacs and campfires outside of indicated zones	Mooring, landing, climbing, and commercial activities of any nature in North Cove Bay Mooring, landing, climbing, and commercial activities of any nature in "La Lagune" Bay
Island of Pinel	Removal of any substances and throwing of anything in the sea Use of motorized vehicles Bivouacs and campfires outside of indicated zones	Decree 98-802 du 03/09/1998
Petite Clef	Any kind of commercial activity Landing of passengers Use of motorized vehicles Bivouacs and campfires	Decree 98-802 du 03/09/1998
Caye Verte	Hiking except on the sand dune Any kind of commercial activity Use of motorized vehicles Bivouacs and campfires	Decree 98-802 du 03/09/1998
Baie de l'Embouchure	(4-wheel, motorcycles, quads) Bivouacs and campfires outside of indicated zones	All kinds of fishing in the waters between Galion Bay and the Etang des Poissons, mooring, kite-surfing, motorized nautical activities
Islets in the Baie de l'Embouchure	Any kind of commercial activity Use of motorized vehicles Bivouacs and campfires	Decree 98-802 du 03/09/1998
Baie Lucas		Mooring and motorized nautical activities
Activities prohibited throughout all listed sites in the Réserve Naturelle	Unauthorized mooring Nocturnal mooring without express permission from the management Bivouacs and campfires outside of indicated zones	

TITRE III- GENERAL CONSIDERATIONS

Article 1:

The delay for appeals before the administrative court of Saint Martin is two months.

Article 2:

The secretary general of the Prefecture of Saint Barthélemy and de Saint Martin, the director of the sea, the director of the environment, planning and housing, the regional customs director, the commandant of the national gendarmeries for Guadeloupe, the departmental director of public security for Guadeloupe, the president of the territorial council of the Collectivity of Saint Martin are tasked, each in terms of that which concerns them, in the execution of the present decree, which will be published in the casebook of administrative acts of the Prefecture of Saint Barthélemy and de Saint Martin.

Procedures and time limits

Saint Martin, July 23, 2020

For the representative of the French government and by delegation

The deputy prefect

The present decision can be the object of a request for the organization of a mission of meditation, as defined by article

L. 213-1 in the administrative justice code, at the administrative tribunal in Basse-Terre.