

(FINAL)

NOTE: This translation of the Nature Conservation Island Ordinance Bonaire has been prepared to assist interested parties to understand the content of this legislation. ONLY the original Dutch legislation should be used to resolve legal matters.

**ISLAND COUNCIL OF THE
ISLAND TERRITORY OF BONAIRE**

Island Ordinance for the protection and conservation of nature and the species of flora and fauna contained therein, amending the Marine Environment Ordinance (A.B. 1991, no. 8), repealing the Environment and Monument Protection Ordinance 1967 (A.B. 1967, no. 7) and repealing the Harmful Plants Ordinance (A.B. 1991, no. 25) (Nature Conservation Island Ordinance Bonaire)

2008

No.

THE ISLAND COUNCIL OF THE ISLAND TERRITORY OF BONAIRE;

Considering that it is desirable to establish general rules for the protection and conservation of the native flora and fauna, and to enable the Netherlands Antilles to implement various treaties regarding the protection of flora and fauna, as well as the conservation of the biological diversity and the protection and management of eco-system and habitats:

Recognizing and regarding Articles 9 through 15 of the National Nature Conservation Ordinance (B.P. 1998, no. 49), as amended;

HAS DECIDED

to adopt the following Island Ordinance:

Section 1
DEFINITIONS

Article 1

1. In this Island Ordinance and in the provisions on which it is based, it is understood:

Island Territory: Island Territory of Bonaire;

Executive Council:	Executive Council of the Island Territory of Bonaire;
Island Council:	Island Council of the Territory of Bonaire;
Party concerned:	natural person or legal body that is directly affected in his interest by a decision or by a decision to be taken;
Ramsar Convention:	the agreement reached on February 2, 1971 in Ramsar regarding wetlands of international importance, especially as waterfowl habitat (Trb. 1975, 84);
CITES-Convention:	the agreement reached on March 3, 1973 in Washington, D.C., United States of America regarding the international trade of wildlife flora and fauna endangered species, including appendices (Trb. 1975, 23);
Bonn-Convention:	the treaty, including its appendices, agreed on June 23, 1979 in Bonn, Germany on the conservation of migratory species of wild animals, (Trb. 1981, 6);
SPAW-Protocol:	the Protocol, including its appendices, signed in Kingston, Jamaica regarding the specially protected areas and wildlife (Trb. 1990, 115), which pertains to the treaty agreed on March 24, 1983 in Cartagena of the Indies regarding the protection and development of the marine environment in the Caribbean. (Trb. 1983, 152)
Biodiversity Convention:	the treaty agreed on June 5, 1992 in Rio de Janeiro, Brazil regarding biodiversity (Trb. 1992, 164);
Sea Turtle Convention:	the inter-American treaty agreed on December 1, 1996 in Caracas, Venezuela regarding the protection and conservation of sea turtles (Trb. 1999, 45);
Use of a protected area:	all forms of use of a protected area, including presence in or on a protected area and usage of the provisions present in a protected area such as buoys and piers;
Native flora and fauna:	flora and fauna that normally are found on the Island Territory of Bonaire and in its territorial coastal and inland waterways;
Specimens:	living or dead flora or fauna as well as all components and products of these;
To trade:	requesting to buy, to buy or to obtain, to have in stock or on supply with intent to sell, to sell or to offer for sale, to rent or to lease out or to exhibit for trade purposes.

Species:	species, (sub)species; a geographically isolated population or hybrids.
National Ordinance:	National Nature Conservation Ordinance (P.B. 1998, no 49, as recently amended by National Ordinance of March 15, 2001, PB. 2001, no. 41);
National Commission:	National Nature Conservation Commission, as referred to in Article 3 of this Ordinance;
Island Commission;	Nature Conservation Commission Bonaire, as referred to in Article 3 of this Ordinance.

2. The texts of the Ramsar Convention, the CITES Convention, the Bonn Convention, the SPAW Protocol, the Biodiversity Convention and the Sea Turtle Convention that are relevant to this ordinance are available for public inspection at a location designated by the Executive Council.

Article 2

This Island Ordinance applies to the entire territory of the Island Territory of Bonaire up to the external boundaries of the territorial waters including the coastal and inland waterways.

Article 3

1. There is a Nature Conservation Commission Bonaire.
2. The Island Commission has the task of advising the Executive Council on request, or by its own initiative, regarding regulations for the implementation of this Island Ordinance and nature conservation in general.
3. The Island Commission consists of at least 3 and at the most 9 members of which one is Chair. The Executive Council appoints the members on grounds of their expertise in one or more of the fields relevant to this ordinance. The Commission members determine together the division of tasks and they appoint from their midst the Chair. A member from the Island Commission is also appointed to take a seat in the National Commission.
4. The Executive Council has the authority to give an allowance to the members of the Island Commission for attending meetings of the Island Commission. An allowance can only be given to members that are not employed under the responsibility of the Executive Council.
5. If necessary, the Executive Council can establish a regulation regarding the operational procedure of the Commission.

Section II

CONSERVATION OF AREAS

Article 4

1. The establishment of a protected area, as referenced in Article 10 of the National Ordinance, occurs through Island Ordinance and is accompanied by:
 - a. a map on which the boundaries of the area are specifically indicated and

- b. documentation which, at a minimum, sets forth what the essential characteristics of the protected area are and the manner in which the conservation and the objective of the protected area will be attained.
2. Inside a protected area, as referred to in paragraph 1, zones can be designated by Island Ordinance.
3. Adjacent to the boundaries of the protected area, buffer zones can be designated by Island Ordinance.
4. The Executive Council hears the Island Commission regarding the design of the establishment of a protected area or a buffer zone adjacent to a protected area.

Article 5

1. Prior to the establishment of the protected area or buffer zone, a public hearing takes place at a location decided upon by the Executive Council. At the public hearing the proposal for the establishment of the protected area or of the buffer zone is presented and those present are given the opportunity to voice their opinion regarding the proposal. The Executive Council can decide to be assisted by experts.
2. The location and time of the hearing are advertised at least 7 days prior to the public hearing in one or more local newspapers and, moreover, by the usual manner of publication of official announcements in Dutch, Papiamentu and English.

Article 6

1. The proposal is available for public review at a location announced by the Executive Council for a period of 30 days from the day of the hearing as referred to in Article 5, paragraph 1.
2. The opportunity for public review is announced according to the manner stipulated in Article 5, paragraph 2. The notice mentions the possibility of submitting objections. Those who have rights regarding the protected area or buffer zones, either in whole or in part, will, for as far as they are known to the Executive Council, be informed in writing of the possibility for public review.
3. Anyone can submit an objection in writing to the Island Council, within the time frame stated in paragraph 1.

Article 7

1. The Island Council takes a decision, within 60 days from the date of the stated period regarding the establishment of the protected area or buffer zone as set forth in Article 1, paragraph 6. In case objections are submitted as permitted by Article 6, paragraph 3, the Island Council then decides within 120 days. The Island Council can prolong the decision for, at the most, the same period.
2. If the establishment of a protected area or buffer zone involves a deviation from that proposed, the decision of the Island Council will be substantiated.
3. Persons who have submitted objections will be notified about the decision in writing.

Article 8

1. The management of the protected area falls under the authority of the Executive Council. The Executive Council is authorized by Island Resolution Containing General Measures to delegate the management of the protected area to a different organization.
2. The Executive Council develops a Management Plan after consulting with those who have rights over the designated protected area or parts of it. The Management Plan strives for the conservation

- or repair of the ecosystems or of the ecological values that the protected area envisages.
3. In accordance with the Island Ordinance, management measures are established regarding one or more protected areas. These management measures, at a minimum, will regulate:
 - a. the access to and the remaining usage of the protected area;
 - b. the activities to be carried out inside the protected area;
 - c. the species present in the protected area as referred to in Articles 11, 12 and 13 of the National Ordinance.
 4. By or through the Island Ordinance, management measures can be specified for the buffer zones, if necessary, to prevent damage to the ecosystem of the protected area, or to avoid marring a protected area.
 5. The Executive Council hears the Island Commission prior to adopting the Management Plan as referred to in paragraph 2 and the management measures as referred to in paragraphs 3 and 4.
 6. The Manager, referred to in paragraph 1, is authorized to give instructions in the interest of the protection of the protected area. Everyone is strictly required to adhere to these instructions.

Article 9

1. The Executive Council can, by the Island Resolution Containing General Measures, charge a fee to users, persons or companies that are involved in the use of a protected area.
2. The fees as referred to in Article 8, paragraph 1 are used for the management of the protected area or protected areas.
3. The Executive Council can decide to have the fees collected by the managing agency or on behalf of the managing agency.
4. Annually, before July 1, the managing agency reports to the Executive Council concerning the management of the protected area and the expenditure of the revenues of the preceding year.

Article 10

1. It is forbidden to carry out, to order or to tolerate activities without a permit from the Executive Council. It is also forbidden to carry out, to order, or to tolerate activities that are in violation of the regulations stipulated by the permit that:
 - a. can be harmful to ecosystems of a protected area or that can mar a protected area;
 - b. can violate the rules referred to in paragraph 4.
2. Activities that are harmful to the ecosystem of a protected area are, in any case:
 - a. activities that can affect the essential characteristics of a protected area as referred to in Article 4, paragraph 1 subsection b;
 - b. activities in violation of the Management Plan as referred to in article 8, paragraph 2;
 - c. activities in violation of the management measures referred to in article 8, paragraph 3 and 4.
3. A permit is not required for activities that are listed in a Management Plan as referred to in Article 8, paragraph 2.
4. In the interest of enforcing the stipulated regulations set forth in the Island Ordinance, and in view of achieving the objectives of the Island Ordinance, regulations can adopted regarding other activities than those referred to in Article 10, paragraph 1, subsection a.
5. Pursuant to Island Regulation it is possible that the Executive Council can not grant a permit as referred to in the paragraph 1 of this Article for the activities carried out, or to be carried out or tolerated set forth in paragraph 1 of this Article.

Section III
PROTECTION OF SPECIES OF FLORA AND FAUNA

Article 11

1. All species of flora and fauna that are listed in the 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 are designated as protected species of flora and fauna.
2. In accordance with Island Resolution Containing General Measures, other species of flora and fauna, different from those referred to in paragraph 1, which belong to the native flora and fauna, also can be designated as protected species of flora and fauna.
3. In accordance with Island Resolution Containing General Measures, management measures can be established for all protected species of flora and fauna referred to in paragraphs 1 and 2 as well as all the species listed in Appendix 3 of the SPAW Protocol.
4. The Executive Counsel hears the Island Commission prior to decreeing an Island Resolution as meant in paragraphs 2 and 3.

Article 12

It is prohibited to remove, to pick, to collect, to cut, to uproot or damage or to destroy specimens of protected species of flora.

Article 13

1. It is prohibited to catch, to kill, to destroy, to trade or collect specimens of protected species of fauna.
2. It is prohibited to unnecessarily disrupt or disturb the nest, hole or breeding or resting place of an animal that is a protected species of fauna, as well as to obtain a nest of such an animal.
3. It is prohibited to possess living animals that are protected species of fauna.
4. It is prohibited to intentionally destroy, gather or possess eggs of animals that are protected species of fauna.

Article 14

It is prohibited to put into nature specimens of exotic species or genetically modified species of flora and fauna

Article 15

1. An exemption can be granted by, or on behalf of, the Executive Council from Articles 12 through 14, after hearing the Island Commission.
2. An exemption from Articles 12 and 13 is only granted if there is no danger to the survival of the protected species of flora and fauna and if such exemption is necessary for:
 - a. scientific, educational, or conservational objectives;
 - b. survival of protected species of flora and fauna;
 - c. prevention of considerable damage inflicted on forests or plants;
 - d. local cultural needs or
 - e. survival of traditional livelihoods.
3. An exemption from Article 14 is only granted in the case that there is no danger to the native flora and fauna.

Section IV
ADDITIONAL RULES REGARDING PROTECTION OF NATURE

Article 16

1. It is prohibited by the Island Resolution Containing General Measures to undertake designated activities that can have serious detrimental consequences to the ecosystem of the island territory or that can mar the landscape to a considerable degree, without a permit from the Executive Council.
2. The application for a permit as referred to in paragraph 1 is accompanied by an Environmental Impact Assessment which is prepared in accordance with the procedure as determined by the Island Resolution referred to in paragraph 1 and complies with the therein determined requirements regarding the content of the Assessment.
3. The Executive Council hears the Island Commission prior to acting on a resolution as referred to in paragraph 1.

Article 17

1. By the Island Resolution Containing General Measures, further specific measures can be determined regarding the hunting or capture of animals that are unprotected species of fauna as well as regarding the methods by which such may occur.
2. By the Island Resolution Containing General Measures, further specific measures can be determined regarding the chopping, removing, trimming, destroying and digging up of plants that are unprotected species of flora.
3. By the Island Resolution Containing General Measures, further specific measures can be determined regarding the control of flora and fauna that can be harmful to the ecosystem of the Island Territory.
4. The Executive Council hears the Island Commission prior to establishing a measure as referred to in paragraphs 1, 2 or 3.

Section V
COMPENSATION

Article 18

1. If a concerned party suffers damage or will suffer damage resulting from the designation of an area as a protected area or buffer zone, or from the establishment of a Management Plan referred to in Article 8 or if there are costs resulting from the Management Plan that, in fairness should not, or should not completely, be borne by the concerned party, and if an amicable arrangement regarding compensation for damages or costs can not be reached, then the Executive Council, can upon request of the concerned party, decide on a reasonable compensation to be taken out of the Island Treasury.
2. A request, as referred to in paragraph 1, must be submitted, in writing, to the Executive Council within 5 years after the designation of a protected area or buffer zone or when the establishment of a Management Plan has become irrevocable. Such request should state the nature of the damage as well as, if possible, the magnitude of the damage.
3. After hearing the Island Commission, the Executive Council takes a decision no later than 60 days from its receipt of the request for compensation.

Section VI
PERMITS, EXEMPTIONS AND LEGAL PROTECTION

Article 19

1. The application for either a permit as referred to in Article 10 or Article 16, paragraph 1 or for an exemption as referred to in Article 15 is submitted, in writing, to the Executive Council. The applicant must provide all information and supporting documentation that are necessary to assess the application.
2. The Executive Council can decide not to consider an application if the information provided and the supporting documentation are insufficient to assess the application or insufficient to prepare a decision on the application. The Executive Council can only take such a decision if the applicant has had the opportunity to complete the application within the time limit set by the Executive Council.
3. The application for a permit as referred to in Article 10 or Article 16, or for an exemption as referred to in Article 15, including the supporting documentation, are available for public review at a location announced by the Executive Council.
4. The possibility for public review is announced in the manner stipulated by Article 5, paragraph 2. The notification states the possibility for objection.
5. Parties concerned may, within the time limit mentioned in paragraph 3, submit objections, in writing, to the Executive Council.
6. Paragraphs 3 through 5 are not applicable to certain categories of applications as defined by Island Resolution Containing General Measures.
7. No later than 90 days from receipt of an application, the Executive Council decides to grant a permit or a exemption after hearing the Island Commission.
8. The Executive Council can extend, by 30 days but once only, the period referred to in paragraph 7. The applicant is informed, in writing, if such extension is taken. If paragraphs 3 through 5 are invoked, the parties concerned, who have submitted objections, will be notified in writing about the decision. If paragraphs 3 through 5 are not invoked, then the decision regarding the application is announced in the manner stipulated by Article 5, paragraph 2.
9. Rules can be placed on permits and/or exemptions. The permits and/or exemptions can be granted with restrictions.
10. A permit and/or exemption is granted in writing.
11. A fee is due when the permit or exemption is issued. The Island Resolution Containing General Measures determines the amount of this fee.

Article 20

1. The Executive Council can withdraw a permit or an exemption if:
 - a. the permit or exemption has been granted on grounds of incorrect or incomplete information which the applicant has provided;
 - b. action is taken in violation of the regulations or restrictions on which the permit or exemption is based and granted or;
 - c. changes in circumstances, insights or regulations require such withdrawal.

2. The Executive Council will not withdraw a permit until hearing the permit holder and the Island Commission or giving the opportunity to do so.

Article 21

Those who submitted objections (within the time limit) to the Island Council, regarding the design of the establishment of a protected area or buffer zone, and those who, in accordance with Article 18, have submitted a request for compensation of costs, can appeal the decision of the Island Council or the Executive Council within 6 weeks of such decision.

Article 22

The permit or exemption holder is obliged to present the permit or exemption when first requested by an official or person tasked with the enforcement of the Island Ordinance regulations.

Section VII FINAL CLAUSES

Article 23

The Article 13, paragraph 3 is not applicable to the species of *Amazona barbadensis* (lora) banded under supervision of the Executive Council.

Article 24

1. The Marine Environment Ordinance (A.B. 1991, no. 8) is repealed when the Island Ordinance, as referred to in Article 4, designates the area which, on basis of the Marine Environment Ordinance forms the Marine Park, as the protected area.
2. **Articles 5,6,7,18 and 21 are not applicable when a protected area is designated in accordance with Article 4 if the area that conforms with Article 1a of the Marine Environment Ordinance forms the protected area.**

Article 25

The Marine Environment Ordinance will be amended as follows:

Article 1 will state:

The Commission Nature Conservation Bonaire as intended in Article 3 of the Island Ordinance Nature Conservation Bonaire, advises the Executive Council upon request, or by its own initiative, about the measures regarding the enforcement of the Island Ordinance.

Article 26

The Environment and Monument Protection Ordinance 1967 (A.B. 1967, no. 7) and the Harmful Plants Ordinance (A.B. 1991, no. 25) are repealed.

Article 27

1. The obligations and prohibitions set forth in Article 8, paragraph 6, Article 10 paragraph 1 and Articles 12, 13 and 14 are also considered obligations and prohibitions in Article 33 paragraphs 1

and 2 of the National Ordinance.

2. Actions that violate Article 11, paragraph 3, Article 16, paragraph 1 and Article 19, paragraph 9 are equal to actions in contempt of the obligations and prohibitions referred to in paragraph 1.
3. Actions that violate Article 10, paragraph 4, Article 17 and Article 22 are punishable with detention of up to one month or a fine of up to 5000 guilders.

Article 28

This Island Ordinance becomes effective on the day after the publication.

Article 29

This Island Ordinance is referred to as: Bonaire Nature Conservation Island Ordinance.

Thus, it is decided in public meeting of the Island Council of the Island Territory of Bonaire dd.

Governor,

Secretary,