

**ORDER PROVIDING POLICE AND USE REGULATIONS
OF THE MOORINGS AND LIGHT EQUIPMENT ZONE OF MARIGOT**

The President of the Port Authority of SAINT MARTIN

IN VIEW OF the general code of the property of public persons, in particular articles, L2122-1-2, L2122-1-3, L2124-5, L2125-1, R2124-39 à R2124-55 ;

IN VIEW OF the general code of local authorities,

IN VIEW OF the penal code, in particular articles 131-13 and R610-5;

IN VIEW OF the Tourism Code, in particular articles L341-4, L341-8 and following, D341-2, R341-4, and R341-5;

IN VIEW OF the Environment Code, in particular articles L218-10, L218-19;

IN VIEW OF the Transport Code, in its fifth part "Maritime transport and navigation", Book I: "The Ship," Title IV: "Abandoned ships and wrecks", in particular articles L5141-1 and following for the legislative part and R 5141-3 and following for the regulatory part;

IN VIEW OF the Transport Code, in its fifth part "Maritime transport and navigation", book II: "Maritime Navigation," Title IV: "Safety and Pollution Prevention," including Articles L 5242-1 et seq;

IN VIEW OF the Rural and Maritime Fisheries Code, in its Book IX, Title V: "Provisions Relating to Overseas Territories";

IN VIEW OF Decree n°77-733 of July 6, 1977 publishing the Convention on the International Regulations for Preventing Collisions at Sea, 1972, done in London on October 20, 1972;

IN VIEW OF Deliberation n° CT 6-2-2007 of December 20, 2007 creating the port of Galisbay;

IN VIEW OF The Articles of Association of the port of Galisbay ;

IN VIEW OF The notice of the Local Nautical Commission of October 27, 2022 concerning the creation of a sector light;

IN VIEW OF The decision of the Maritime Affairs of Guadeloupe n° 2022-971-001 relating to the creation of a sector light in Marigot

CONSIDERING that it is necessary to regulate access to and use of the mooring area on the coast of Marigot Bay in Saint Martin and to define measures to be taken against pollution of any kind, to guarantee the safety and peace of mind of users duly authorized to park there or to travel there;

ORDER

Article 1: Purpose

The purpose of this order is to establish the general regulations of the navigation police and to regulate the circulation and mooring of vessels within the mooring and light equipment zone (ZMEL) authorized for the benefit of the Saint Martin Port Authority, located on the public maritime domain (DPM) in the bay of Marigot.

It applies to the entire perimeter of the zone.

Users are defined as those persons who have been authorized to use the mooring facilities within the ZMEL.

In these regulations, the term operator refers to the Saint Martin Port Authority.

Article 2: Area

Mooring is prohibited in Marigot Bay up to 50 meters from the shoreline, with the exception of the area defined by the ZMEL.

The mooring area is delimited as shown on the plan attached to this order.

The marking of the ZMEL and its accesses is carried out at the expense of the operator.

The buoys used for mooring are predominantly white in color so as not to be confused with conventional markers.

Article 3: Equipment operating regulations

The operating regulations include all the operating instructions for the mooring area that apply to users (pleasure boaters and professionals).

These instructions specify the conditions of use of the structures and equipment, in particular with regard to docking and mooring arrangements for stopovers and passages, parking times, regulations to be observed during their stay, fire-fighting regulations and emergency measures.

The operator, who is empowered to set the operating conditions of the ZMEL, may penalize any user who fails to comply with the said operating regulations. The latter may have his occupancy agreement terminated.

The operator has put in place sufficient human and material resources to ensure that users comply with the internal regulations.

Article 4: Competence of the mooring staff

The personnel in charge of the management of the mooring area, regulate the order of entry and exit of the vessels.

The agents in charge of policing the area are authorized to carry out any maneuvers deemed necessary at the exclusive expense of the owner and without the latter's responsibility being in any way discharged.

Unless necessary, any movement or maneuver carried out at the request of those in charge of the zone must be notified to the owner 24 hours in advance and affixed to the vessel at the same time.

Vessel crews must comply with the instructions of these agents and take the necessary measures to prevent accidents, collisions, and damage.

Article 5: Access to mooring areas

The use of the ZMEL is reserved for pleasure craft not exceeding 20 meters in overall length, and a weight of 20 tons.

Access to the mooring devices is only allowed to boats in a navigable condition, as well as to those in danger or damage, whose obvious condition justifies the emergency and taking into account their length, width, draft, and weight.

The use of the mooring facilities of the ZMEL is subject to the payment by the users of a fee, payable in advance, according to the rates in force established by the operator.

Each captain must check that the buoy he will be assigned is located in an area compatible with his draft.

The mooring area is accessible all year round to holders of an agreement issued upon their arrival by the agents in charge of the operation and management of the site.

The use of a boat for permanent residential purposes is prohibited in the zone.

Article 6: Navigation within the mooring area

Access to the mooring points is carried out in accordance with the general provisions of maritime navigation, in particular those provided for by the above-mentioned regulations in force to prevent collisions at sea. Any infringement of these provisions exposes the offender to penalties.

The maximum speed allowed within the area is set at 3 knots. This limitation concerns all vessels and gear.

The movements of vessels operating or in transit in the zones are subject to the indications of the site agents.

Except in cases of force majeure, boats may only navigate within the zone to enter, leave, change mooring or to go to a repair station or to refuel or refill with water.

Article 7: Vessel mooring

Vessels may only be moored at the facilities provided for this purpose.

It is strictly forbidden to drop an anchor or to voluntarily run aground inside the ZMEL.

Anchoring shall only be tolerated for a limited period of time in case of necessity due to a serious and immediate danger, and with the agreement and instructions of the mooring agents.

It is forbidden for any vessel to moor to a buoy for which it has not obtained prior approval from the operator.

The organization of the reception outside the opening hours of the mooring office is governed by the operating regulations in force.

Any change of berth may be decided by the operator without the possibility for the captain, skipper, or owner of the vessel to base any claim.

Tied-up mooring is forbidden except in case of justified necessity for safety reasons.

The operator cannot be held responsible for any damage caused by a breakage of mooring lines belonging to the vessel or insufficient fenders.

The owner or crew of the vessel may not refuse to take or cast off any mooring line to facilitate the movements of other vessels.

Article 8: User obligation

The operator must be able to call upon the captain, skipper or owner of the vessel, or the crew if necessary, at any time.

In general, the owner of the vessel must ensure that his vessel, at all times and under all circumstances, does not cause damage to other vessels or hinder the operation of the mooring area and must ensure that his vessel remains buoyant, subject to being considered an abandoned vessel or a wreck in accordance with articles L 5141-1 et seq.

The users of the mooring areas may not modify the works provided to them.

They are required to respect the destination of the facilities. Any degradation, alteration, personal attribution, or any use not complying with the primary vocation of the mooring devices engages their responsibility.

They are also required to report to the agents any damage they notice to the works at their disposal, whether or not it is their fault.

They are responsible for any damage to the works.

Damage is repaired at the sole expense of the person who caused it, without prejudice to the consequences of any traffic violation.

An agreement must be signed between the captain, skipper or owner of the vessel and the operator. The relationship between the users and the operator is governed by the general conditions of the agreement.

Users must comply with the instructions of the mooring agents authorized by the operator, in particular those relating to the use of the ZMEL's facilities defined zone by zone and posted on the premises concerned, as well as the mooring regulations.

The operator cannot be held responsible for theft, accidents, contact with another vessel or the action of an identified or unidentified third party. It cannot be held responsible for damage resulting from fortuitous events or force majeure.

Article 9: Fire fighting

The owner shall take all necessary measures to avoid any risk of fire on board his vessel.

Lighting fixtures and electrical installations must comply with current regulations. The use of equipment and installations which prove to be defective in use may be prohibited by the officers in charge of policing the area. It is strictly forbidden to have naked light in the ZMEL.

In the event of a fire in or near the area, all vessel owners shall take such precautionary measures as may be prescribed by the Maritime Fire Authority and by the mooring agents.

These agents may request assistance from the owners and crews of other vessels in the vicinity.

In the event of a fire on board a vessel, the owner or crew must immediately notify the agents in charge of policing the area and the fire department (Tel. 18 or VHF via the CROSS of Saint Martin).

Article 10: Hazardous and explosive materials

Mooring vessels shall not carry on board any dangerous or explosive materials other than prescribed fireworks and gear and the fuel necessary for their use.

The installations and equipment for containing these fuels must comply with the regulations in force for the buildings of the category to which they belong.

The refueling of hydrocarbons is tolerated for jerrycans of 20 liters maximum and the refueling operations will be carried out by taking all the useful precautions. It is of course forbidden to smoke during these operations.

Article 11: Weather conditions

It remains the responsibility of the owner or crew to secure their vessel against possible climatic hazards. All precautions prescribed by the mooring agents must be taken by the users.

If necessary, the operator is authorized to take any measure to evacuate the area.

In addition, an order of the President of the Collectivity of Saint Martin, dated June 8, 2022, prohibits mooring in case of a weather alert in the territory.

Users who remain at the mooring despite requests to evacuate from the mooring agents are fully responsible for any damage caused to the structures by their vessel during severe weather conditions.

A warning message is broadcast by the operator (VHF, ZMEL management boat) in case of deteriorated weather conditions.

In any case, the operator cannot be held responsible for damage or shipwrecks to vessels present in the ZMEL.

Article 12: Work and nuisance

On the vessels occupying the buoys, it is forbidden to carry out any work likely to cause nuisance or pollution for the neighborhood and the environment.

Careening and scraping afloat of vessel hulls is prohibited in the ZMEL.

Sound devices must be used at a level that will not disturb other boaters. Article R1337-7 of the Public Health Code provides for a penalty when the nuisance is likely to affect the tranquility of the neighborhood or human health by its duration, repetition, or intensity.

The lighting of the vessel's underwater lights is prohibited, unless necessary.

Article 13: Vessel maintenance, buoyancy, and safety

All vessels in the ZMEL must be maintained in a good state of maintenance, buoyancy, and safety.

When the mooring agents find that a vessel is in a manifest state of abandonment or in such a condition that it is likely to sink or cause damage to vessels or surrounding structures, they shall give notice to the owner to restore or remove the vessel.

If the necessary steps have not been taken within the time limit, the vessel shall be put out to dry at the owner's expense and risk, without highway traffic violation ("contravention de grande voirie" under French Law) which shall be drawn up against him. The operator reserves the right to take steps that may include the implementation of the procedure for forfeiture of ownership of the vessel.

In case of necessity, all precautions prescribed by the operator must be taken, and in particular doubled mooring lines or change of worn away mooring ends.

Article 14: Shipwreck

When a vessel has sunk in the area, the owner is required to have it removed or destroyed after obtaining the agreement of the authorities in charge of the area, who will set deadlines for the commencement and completion of the work.

Alternatively, in case of emergency, it shall be done automatically at the owner's expense and risk.

Article 15: Waste - Sanitation

It is strictly forbidden to:

- Throw soil, trash, rubble, fishing gear, garbage, unsanitary liquids, hydrocarbons, or any other material onto the structures and within the ZMEL.
- Make any deposit whatsoever, even temporary, within the ZMEL and its surrounding shoreline
- Empty the black water storage tanks within the perimeter of the ZMEL or within 3 nautical miles of the coast. The discharge of polluting substances at sea is punishable by a fine in accordance with Article L. 218-19 of the Environmental Code.

As of July 1, 2023, recreational vessels equipped with sanitary facilities and without functional black water storage facilities are not allowed to park within the ZMEL.

Article 16: Water quality and pollution

The analysis of the water quality of the area is carried out from the samples taken in the framework of the monitoring of the bathing water. All the samples must conclude with results that comply with the public health code.

In the event of pollution, the operator must immediately notify the CROSS. The operator may request the assistance of the crews of vessels present in the area. The operator must have at his disposal first response means that can be deployed in contact with and around a vessel afloat. These means are dimensioned to be effective given the size of the vessels that can be accommodated at the mooring.

Article 17: Fishing

Fishing is prohibited within the mooring area.

Article 18: Swimming, aquatic, nautical and underwater activities

Within the ZMEL, motorized or aerotracted water sports, and underwater are prohibited.

These practices may be authorized by the competent maritime authority, after advice from the operator, in the ZMEL, particularly in the context of organized sporting events or competitions.

Swimming, the use of non-motorized and non-aerotracted beach equipment (kayak, paddle, etc.), and the use of the motorized dinghy of the recreational vessels can be practiced at the user's own risk.

Article 19: Enforcement of the ZMEL Police Regulations

The ZMEL operator is responsible for the implementation of these regulations.

Article 20: Recording of violations

Infringements of this order and of the general regulations shall be recorded by the officers and agents of the judicial police and by the civil servants and agents of the State empowered to record infringements of the seaport police, the navigation police, the environmental police, and the police for the conservation of the public maritime domain, on the basis, where appropriate, of the elements recorded and communicated by the operator.

Violations of this order may also be observed by the agents of the port authority, commissioned for this purpose.

Within the 300 meters band from the shore and within the framework of the special police of bathing and nautical activities practiced from the shore with beach equipment and unregistered equipment, the offences related to these activities can be noticed by the agents of the Collectivity.

In the event of a violation of the provisions of this bylaw, the competent agent will draw up a report and forward it to the Public Prosecutor.

Article 21: Sanctions

Independently of infractions relating to the conservation of the public domain, which remain subject to the system of traffic offenses, and infractions relating to the transportation code, infractions to the provisions of the present police regulations shall be punished by fines for 2nd class infractions, in accordance with the provisions of article L 341-10 of the tourism code. In the event of a repeat offence, the fines provided for 3rd class offences shall apply.

Any person who refuses to carry out orders given by officials and agents competent in matters of mooring police shall be punished by a fine as provided for a 4th class offence. In the event of a repeat offence, the fines laid down for 5th class offences shall apply.

Article 22: Public authority interventions

The provisions of this order do not apply to interventions carried out by public authorities acting within the framework of their public service missions.

Article 23: Publication

The Prefecture, the Director of Public Finance, the President and the General Manager of the Saint Martin Port Authority are responsible, each in his own area of responsibility, for the execution of the present decree, which shall be communicated wherever necessary. The document shall be available for consultation at the territorial unit of the Maritime Affairs.

In addition, the operator shall make these regulations and the general conditions of the agreement for the provision of services (or "operating regulations") known to users and the public by means of a notice posted near the ZMEL. A copy shall be provided to each ZMEL user with their occupancy agreement.



This order may be contested by the beneficiary or any person having an interest in acting within the common law period of two months following the date of its notification or publication by contentious appeal before the administrative court of Saint Martin, in accordance with articles R. 421-1 and following of the administrative justice code.