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## **AMENDMENT: ST. MAARTEN VENDING & BEACH POLICY JAN 2012**

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### **1. PURPOSE**

This policy establishes the parameters for vending activities throughout the island (Dutch) and on the beaches.

### **2. APPLICATION**

This policy applies to *The St. Maarten Vending and Beach Policy January 2012*.

### **3. GOALS & PRINCIPLES**

The Ministry of Tourism, Economic Affairs, Transport and Telecommunication (TEZVT) believes in the general interest and preservation of the economic development of the market.

Allowing and issuing additional vending permits for Mullet Bay will benefit entrepreneurship and the economy of St. Maarten. To preserve a healthy balance between the quality of life and good business practices, the Government will pay more attention to control and enforcement of businesses activities.

### **Explanation**

The below changes were decided after consideration of:

- a. The fact that the government wants to stimulate entrepreneurship and economic growth for St. Maarten;

### **4. POLICY**

Effective as of February 18, 2014 the St. Maarten Vending and Beach Policy January 2012 was amended.

The amendment is as follows:

- A maximum of four (4) beach activities is allowed for Mullet Bay Beach
- A maximum of three (3) motorized water activities for Mullet Bay Beach
- A maximum of three (3) non-motorized water activities for Mullet Bay Beach

All future requests for watersports activities on all beaches, will require an advice from the Department of Civil Aviation, Shipping & Maritime Affairs.



**MINISTER OF TOURISM, ECONOMIC AFFAIRS, TRAFFIC AND TELECOMMUNICATION**

January 2012



# ST. MAARTEN VENDING & BEACH POLICY



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## *Introduction*

The purpose of this policy is to regulate vending activity throughout the Island Territory of Sint Maarten. The Vending regulations were transferred in 1995 to the Council of Ministers of the Island Territory of St. Maarten. Vending activities were formerly regulated in the General Police Law-“**Algemene Politiekeur van het Eilandgebied St. Maarten Juli 1975**” and as such were subjected to the authority of the Minister of Justice represented by the Lt. Governor in his capacity as Chief of Police. The Island Ordinance Public Vending-“Eilandsverordening Openbare Straathandel” regulates the various Vending activities, such as the general requirements, which include when an application may be denied and /or cancelled and penalties for not adhering to the rules, regulations and conditions.

The Vending Policy regulates both general and beach vending. The Beach Vending Policy is an adaptation and expansion of the Great Bay Beach Policy, which served as the pilot program. The general vending is formulated on three factors, namely the type of activity, location and number of businesses.

## *Abbreviations/Translations*

**VROMI** is the Department of Housing, Spatial Planning, Environment & Infrastructure

The “Eilandsverordening Openbare Straathandel (AB 1995 no, 31)” [Public Vending Ordinance] is the legal basis for the approval or denial of Vending licenses;

The “Algemene Politiekeur voor het eilandgebied St. Maarten (PB 1940, no.14)” [General Police Ordinance for the Island territory of Sint Maarten] is the legal basis pertaining measures to regulate the public order, peace, safety and cleanliness;

The “Hinderverordening Bovenwindse Eilanden (AB 1964, no. 8)” [Hindrance Ordinance Windward Islands] is the legal basis for the approval or denial of hindrance permits;

The “Afval Verordening St. Maarten 1993.” [Disposal Ordinance].

## *Definitions used in this Policy*

- 1. Beach** is defined for this policy, according to the public notice, as a strip of sand with a maximum width of fifty (50) meters, of which the surface consists of natural sea sand, situated along the sea. In the absence of sea sand, it is defined as a strip of land with a minimum width of twenty-five (25) meters from the high-waterline, situated along the public waters.
- 2. Beach activity** is defined for this policy, as activities that are permitted in this policy, which are defined below.

**The following will be considered beach activities.**

- The renting of:
  - i. Chairs

- ii. Umbrellas
- iii. Floats/Mats, snorkels etc.
- iv. Motorized or non-motorized vehicles or crafts
- v. Or any other beach activity as specified by the Council of Ministers

• Other beach activities include the sale of:

- i. Beverages
- ii. Food
- iii. Braiding services
- iv. Massage services
- v. Miscellaneous items (items as specified by the St. Maarten Government)

3. **Buffer zone** for this policy refers to the allotted space on the beach that is designated for pedestrian usage, for beaches where “chairs and umbrellas” are allowed. The buffer zone will also serve as the area where the public can enjoy the beach, which is 15 meters from the high-water mark. For the beaches on which vending is prohibited, there is no such buffer zone. Therefore, the entire beach is available for pedestrian use. If vending activities are later allowed on the beach within the framework of the St. Maarten Beach Vending Policy, the buffer zone will be defined as aforementioned.
4. **Channel** for this policy refers to the area of the sea allotted for motorized water sport crafts to use as entry and exit area to the beach. (e.g. jet ski). Channels as stipulated by the St. Maarten Port Authority are 50 meters in width.
5. **Curb / Sidewalk** for this policy refers to a raised border of solid rigid material, which forms the edge of the street.
6. **Main source of income** for this policy means that the Vending activity must become an individual’s main source of income. Therefore, prospective applicants and permit holders will eventually have to be fully engaged in the vending activity. In addition, the permit holder has to prove that he is actively engaged in the vending activity by providing annual tax returns to Department of Economic Licenses.
7. **Mobile vending structure** for this policy encompasses any specified motorized or non-motorized vehicle, trailer, kiosk on wheels or pushcart. Alternatively, any specific portable or non-permanent device from which goods, services, merchandise and food can be peddled, vended, served displayed, distributed (promotions) and/or sold to the public. Mobile Vending structures must have the ability to be removed from the premises. Units and structures cannot be permanently secured, centered or anchored.

**Vending activities include the sale of:**

- i. Food
- ii. Beverages
- iii. Fruits and Vegetables
- iv. Plants/flowers
- v. Merchandise (clothing, souvenirs, toys etc.)

vi. Other (goods as specified by government)

8. **Public place** for this policy refers to any land, space or structure that is privately or publicly owned, to which the public has access to by right or by invitation, expressed or implied, but not a place when used exclusively by one or more individuals for a private gathering or other personal purposes.
9. **Public Street** for this policy refers to any street, road, lane, alleyway, footpath, throughway, or place that is used for vehicular or pedestrian traffic.
10. **Public vending activity** for this policy involves the selling of merchandise, food, horticultural products (plants, vegetables and fruits), meat and fish products and services directly or from a stall, booth, table, stand, kiosk, immobile or mobile unit in a public place, space or street.
11. **“Right of way” or “Public right of way”** for this policy refers to land which by deed, conveyance, agreement; easement, dedication, usage or process of law is reserved and dedicated to the public. Furthermore, any street, main street, alley, public utility, or pedestrian walkway for purposes whether or not said land has been improved or accepted for maintenance by the St. Maarten Government and includes, but is not limited to, streets, roadways, planter strips and sidewalks.
12. **Road users** for this policy include pedestrians, motorists, cyclists and motor cyclists.
13. **Standing vehicle** for this policy refers to any vehicle motorized or non-motorized, whether registered or not, which temporarily stops on a public road or place (i.e. not parked).
14. **Stationary license (Standplaatsvergunning)** for the purpose of this policy refers to the food and beverages (goods) sold to customers that are not intended to be consumed on the premises, but elsewhere other than at the site where the sale is made. (i.e., prohibited to have chairs and tables within the structure or on the premises that will encourage the above).
15. **Stationary (immobile) structure** for the purpose of this policy encompasses any motorized or non-motorized vehicle, trailer, kiosk, pushcart or stand. Alternatively, any specific non-portable or non-permanent device from which goods, services, merchandise and food can be peddled, vended, served, displayed, distributed (promotions) and/or sold to the public. Immobile Vending structures are permanently anchored or secured and cannot be dismantled daily. The building has to be inspected and approved by VROMI and Ministry of VSA if it is a consumer good.
16. **Semi-permanent structure** for the purpose of this policy refers to any structure that is built, or constructed, such as walls, fences, benches, awnings, shutters, or any artificially constructed device built up or composed of parts joined together in some definite manner, which is attached, cemented or anchored to the ground and cannot be dismantled, disassembled, folded or fully portable daily.

- 17. Sint Maarten Marine Park** also referred to as the ‘Marine Park’ is separated into different segments such as anchor zones for big and small ships, industrial zones, shipping areas and highly protected areas. Generally, the park is governed by the parameters as to what activities are allowed in the surrounding waters. However, it specifically lends itself to be the parameters of what beach and water sport activities are allowed on which beaches. The highly protected zone consists of the coral reefs, sea plant life and mangroves. The protected beaches on the Eastern coast include Gibbs Bay, Guana Bay, Red Pond Bay and Dawn Beach and the islets of Molly Beday, Hen and Chicken, Cow and Calf, and Pelican Rock. The purpose of the Marine Park is to preserve the natural habitat of the surrounding waters as well as to allow for economic activity using the waterways.
- 18. Sint Maarten Terrestrial Park** for the purpose of this policy refers to the area between Point Blanche and Geneva Bay. This area is mainly cliff and rural in nature. Vending permits will be granted for this area; however, they must be in accordance with the nature values of this area. As such, the issuance of licenses for this area will require additional advice from VROMI.
- 19. Swim zone** for the purpose of this policy refers to the area designated for swimmers and are prohibited for all motorized and non-motorized water sport activities. This measurement is based on the Great Bay Beach Policy and is estimated at 100 meters from the shoreline specifically for the Great Bay Beach because of the extensive amount of water sport and marine activities in the bay. The other beaches will follow the European standard of approximately 300 meters from the shoreline. All swim zones should be marked by specific buoys.
- 20. Tourist market** for the purpose of this policy refers to a location designated by the Council of Ministers as a Tourist Market where activities carried out are primarily geared for the tourists.
- 21. Vending** for the purpose of this policy refers to the business of selling or causing to be sold or transferred, for cash, goods and services.

**Examples of vending:**

- i. The sale of food, drinks, fruits or vegetables, pastries or snacks from a stall, a standing vehicle, stand, booth or kiosk.
- ii. The sale of merchandise, to include souvenirs and clothing.
- iii. The sale of any goods or services from a stall, stand, booth, table, standing or immobile vehicle, from a sidewalk, curb, lane, alleyway, street, road, footpath or thoroughfare.
- iv. The sale of any merchandise, food, drink, or plant to pedestrians on public spaces, land or roads.

**Beach Vending.**

- Rental of chairs, umbrellas, snorkels etc.
- Water-sport activities (motorized & non-motorized).
- Braiding.

- Massage services.
- v. Sale of services not previously mentioned but specified by the Government of St. Maarten of St. Maarten.

**22. Vending equipment** for the purpose of this policy includes but is not limited to any materials, merchandise, tools, carts, tables or other items owned by, in the possession of or associated with a permitted vendor.

**23. Vendor** for the purpose of this policy is a person who is in the business of vending.

**24. Water sport activity** for the purpose of this policy is defined as activities that are permitted in this policy to be performed in the water. The following activities are considered water sport activities and no other activity is allowed other than those stipulated below, unless amended or further defined by the Council of Ministers.

Water sport activities are divided into two main categories: Category A (motorized water sport activities) and Category B (non-motorized water sport activities). Motorized water sports include all water sport activities that require an engine in order to do the sport. Non-motorized water sport activities are those that do not require an engine in order to participate in the activity. All future water sport activities may be categorized in this manner.

**Overview of Water Sports Activities**

Category A= Motorized Sports	Category B= Non-motorized Sports
1. Parasailing	1. Kayaks
2. Deep-sea fishing	2. Snorkeling & scuba diving
3. Wave-runner and or jet ski	3. Trampolines
4. Jet boats	4. Water cycles
5. Water skiing	5. (Wind) surfing
6. Banana boats (pulled by a motorized vehicle e.g. jet ski)	6. Sail boats
7. Other motorized vehicles	7. Canoes & row boats
	8. Other non-motorized vehicles

***General rules and regulations***

1. Mobile food vendors are permitted to stop **ONLY** while actively engaged in making a sale or in the event of an emergency, traffic requirement and for the use of a lavatory.
2. When all customers have been served, the mobile unit must move to a new location.
3. Mobile vendors are not permitted to erect a structure or set up a stand or any other immovable, permanent or temporary contrivance in front of a business selling a similar product and or service, with the exception of special events and holidays and with permission from the Department of Economic Licenses.
4. The mobile unit must be legally parked when stopped for a business transaction.



5. All mobile units must maintain a sanitary work and storage environment. Units must present a neat appearance and provide a garbage receptacle for the use of customers.
6. Amplification of sound:
  - i. Amplified sound systems (i.e. Stereo equipment and speakers) should be set within the unit.
  - ii. Amplified sound has to comply with the General Police Law- "Algemene Politie Keur Eilandgebied St. Maarten.
  - iii. The use of any sound-producing device (such as noise from amplified sound, speakers, radios, televisions, stereos or any other electronic/musical device or instrument) which carries 6 meters or 20ft. to adjacent properties or public space inside or outside a structure in such a manner as it annoys or disturbs the quiet, comfort or repose of a reasonable person of normal sensitivities, is prohibited in residential areas/districts.
7. Mobile food vendors must have attended the Food Handling course, carry liability and/or vehicle insurance, a valid Health Permit and a valid Vending Permit at all times.
8. Mobile food vending units must be inspected and approved by the Department of VSA and the Fire Department in order to operate and prior to the issuance of a vending license.
9. The holder of a mobile license is allowed to travel within a predefined area and/or location, as specified in the permit.
10. The holder of a stationary license is allowed to operate within a predefined area and/or location, as specified in the permit.
11. Mobile Vending units are forbidden to operate in close proximity to market places.
12. Due to the traffic congestion, security, inadequate and inefficient parking, safety and beautification plans, a moratorium of stationary (immobile) and mobile vending permits will be implemented alongside the following public main roads and locations, unless otherwise specified by the Council of Ministers or special occasions: (see appendix for a description).
  - a. A.J.C. Brouwers Road
  - b. Airport Road – (starting from the intersection of Airport Road & Sr. Patientia Road until the end of Airport Road)
  - c. A.Th. Illidge Road – (beginning at the round-about at the intersections of A.Th. Illidge Road, Zagersgut Road & the Cottage Drive until the intersection of Arch Road and Dominica Drive)
  - d. The Philipsburg Tourist Markets 1 and 2
  - e. The Great Bay Beach phase 1, 2 and 3
  - f. The island's beaches (refer to the Beach Policy section)

Further, in line with the moratorium that has been established on Bars and Restaurant on May 25 2004, in certain areas (St. Peters, Middle Region, Cole Bay, (See appendix B) no stationary licenses for the sale of food and beverages will be issued, which includes the following areas/roads:

- a. St. Peters
- b. Middle Region
- c. Cole Bay-as far as the intersection of Welfare Road and Cay Bay Road

In accordance with the moratorium of November 9, 1999 pertaining to Vending on Front Street and the adjacent allies, no Vending requests will be permitted.

Stationary vending permits will be allowed along the following main roads and locations:

- a. Walter Nisbeth Road
- b. Sucker Garden Road
- c. A.Th. Illidge Road (With exception to the area beginning at the round-about at the intersections of A.Th. Illidge Road, Zagersgut Road & The Cottage Drive until the intersection of Arch Road and Dominica Drive.)
- d. Bush Road
- e. L.B. Scott Road
- f. Union Road
- g. Welfare Road
- h. Sucker Garden Road
- i. Airport Road (With exception to the intersection of Airport Road & Sr. Patientia Road until the end of Airport Road.)

The approval for stationary permits for the above-mentioned main arteries will be subjected to the following guidelines/conditions:

1. The proposed location must first be inspected by the Police (traffic and safety), VROMI (future development and infrastructure) and the Ministry of VSA (sanitation and hygiene). Once a positive advice is given to the location from all three entities, a permit may be issued. However, the guidelines in the Vending and relevant policies will still apply.
2. Stationary (immobile) licenses will be approved at a distance of 100 meters apart and/or the most feasible distance.
3. Adequate parking is required.
4. All other requirements as specified in the policy.

**No vending licenses will be issued in conflict with the Residential Economic Policy (REP) or until such time that the Council of Ministers has approved a Comprehensive Spatial Zoning Policy.**

*Mobile and stationary (immobile) vending licenses must adhere to the following:*

Perishable produce such as uncooked fish, poultry and meats must be protected from spoilage in accordance with specifications from the Department of VSA. Units must be inspected and approved prior to the issuance of the permit. With regards to the sale of fish, the regulations pertaining to international maritime laws and St. Maarten's Regulations pertaining to the size of the fish, endangered species and seasonal fishing must be adhered to.

*In addition:*

1. The structure is subject to inspection by the Department of VROMI & Fire Department
2. One (1) functioning fire extinguisher must be present in all Vending units (mobile and immobile).
3. The structure must not pose a fire hazard and must not obstruct traffic.
4. The structure must have running water and an approved septic apparatus.
5. A stationary vendor can formally submit a request at Department of Economic Licenses to extend the opening times.
6. The approval of said request is at the sole discretion of the Council of Ministers.

**Note: No more Mobile or Stationary licenses will be granted for the sale of fish.**

### *Market Vending*

#### *Tourist Market:*

A moratorium has been implemented on the granting market licenses. This is valid for the tourist market located at Hendrikstraat, behind the Court House, C.A. Cannegieter Street/ Backstreet, next to the Fire Department and at the Clem Labega Square, opposite RBTT Bank. Only cancelled licenses may be replaced. The moratorium can be re-examined yearly to ascertain if changes are necessary.

Existing businesses that already have the ability as described in their purpose to provide such services for a fee will be grandfathered. New applications for the renting of chairs, umbrellas, motorized or non-motorized vehicles on the beach and/or water must be provided as a service and therefore an additional fee cannot be charged unless the beach activity is part of the purpose of the Articles of Incorporation. Other than the afore-mentioned, such activities are limited to vending.

Failure to meet the basic requirements will result in the dismissal of the request for the vending license. The request will not be processed. Vending licenses may only be issued if the basic requirements are met. Moreover, the Department of Economic Licenses will conduct an inspection and will ensure that there are no conflicts with the regulations, rules and guidelines of the Vending Policy.

***Before a vending license is granted, the following preparatory work will be conducted by the Department of Economic Licenses and & Economic Inspections:***

1. Inspection and confirmation of the vending location to ensure that the area is not scheduled for development within the next 2 years and is suitable over all.

2. The proposed area is not saturated by other vendors offering similar goods or services. The proposed area has not reached its limit of vendors for the various beach and water sport activities.
3. The vending activity does not impede motorist and/or pedestrian traffic.
4. Area must have adequate parking facilities, to avoid impeding traffic.
5. Proper sanitation and garbage disposal facilities must be present and available on site.
6. The vending activity is environmentally friendly and/or is not a protected area according to the St. Maarten Marine Park Ordinance, Terrestrial Park or not in conflict with any other established policy or legislation.

***Vending permits – Issuance – Expiration – Renewal – Non-transferability***

1. Upon approval of an application, the St. Maarten Government shall issue a Vending permit to the vendor and an identification (ID) card to the vendor and each employee.
2. Every individual engaged in vending shall be issued an ID card and have an unexpired ID card in his or her possession at all times while he or she is vending. The term of the ID card shall correspond with the terms of the applicable vending permit. An ID shall bear the following information:
  - i. Picture.
  - ii. Name.
  - iii. Type of Vending.
  - iv. Note if a helper is allowed.
  - v. Vendors permit number.
  - vi. Designated location and opening hours; Health Inspector approval (if selling consumable products).
  - vii. Expiration date.
3. Annual vending permits shall expire at the end of the 12-month period. A vendor who has not committed any violations of this policy or relevant regulations during the preceding calendar year may renew his or her permit by paying his or her annual fee no later than one month prior to the permit expiration date.
4. Permits that are not renewed prior to their expiration date shall be deemed invalid and vending with such a permit is a violation of this policy. A vendor who has committed a violation of this chapter may be denied renewal by the St. Maarten Government. The vendor shall first be placed at the end of the waiting list, if any. If there is no waiting list, such vendor shall not be allowed to renew for one year.
5. Vending permits, which are issued pursuant to this policy chapter, are non-transferable. Any attempt to transfer a permit shall render it immediately invalid.

Permits cannot be willed, rented or sold. Failure to comply with the policy and relevant laws will result in the permit being revoked for a period of 2 years.

6. In the event the permit holder passes away, the permit can be transferred to the surviving spouse. The surviving spouse must request the transfer in writing to the Council of Ministers within thirty (30) days after the death of the spouse. If no request is submitted to government, the permit will revert to the Government of St. Maarten.
7. Vending permits are restricted for individuals only, businesses (i.e. NV's), companies and corporations cannot come into consideration for a vending permit (i.e. ineligible for a vending license).
8. Vending permits cannot be leased or rented to a third party. Misuse of the vending permit will result in the permit being revoked for a period of 2 years.
9. The vending permits are reserved for persons of Dutch nationality and registered for at least two years at the Census Office (subject to all work and business license policies). Non-Dutch nationals that have a permanent residence permit and are registered and residing on the island legally for a minimum of ten years are not eligible for a vending or a stationary license. They are only eligible for a market license as indicated in the Island Ordinance "Eilandsbesluit van 13 Juni 2000 (A.B. 2000 no. 18) article 2)
10. The vendor has to submit a copy of their income tax on an annual basis to determine if the vending permit is used as the main source of income.

### *Staffing*

1. No person shall engage in vending operations, or employ or hire another to engage in vending at a designated market place or within a vending operation, without a valid vending permit and or necessary certifications. .
2. A vendor cannot operate under a permit that is not in his or her name.
3. Every vending operation shall be managed and operated by the permit holder.
4. Vendors of stationary licenses are allowed to employ one (1) helper. Helpers must fulfill all regulations and requirements for food handlers. Helpers are only allowed for a maximum period of three months. Exceptions will only be made on a case by case basis and only in the event of a chronic disease at the discretion of the Council of Ministers.
5. Market license holders may not employ helpers. However, market license holders may request permission at Department of Economic Licenses to employ a helper in the event of illness and only for the duration of the illness. The request will be submitted to the Council of Ministers for approval.

6. All permit holders and helpers must have a crib number.
7. The permit holder is responsible for proper administration of taxes and premiums of his/her helper.

### *Designation & allocation of vending locations*

The St. Maarten Government shall allocate spaces to permitted vendors in its sole discretion after considering all factors relevant to managing the right of way, including, but not limited to, accessibility, safety, aesthetics, cleanliness, and obstruction of other competing uses of the right of way. Vending pursuant to this policy shall be allowed at locations specified by the St. Maarten Government.

1. Every stationary permit/license will be designated and confined to a specific location; the dimensions will be specified in the Vending permit.
2. Vending (mobile or immobile) activities cannot unduly obstruct the free passage of pedestrians; this includes among others, individuals with strollers/prams and individuals in wheel chairs.
3. Vending structures on sidewalks cannot encroach on pedestrian traffic and must be pre-approved by VROMI.
4. Vending activities cannot be located in front of driveways or gateways without the written permission of the property owners and/or inhabitants and cannot impede pedestrian traffic.
5. Existing vending operations that impede pedestrian and vehicular traffic will be relocated for the general interest of the public.
6. Vending operations cannot be located along throughways where the speed limit is 50 km per hour or higher and no adequate facilities are present.
7. Vending activities cannot be located in alleyways, impede the flow of pedestrian or vehicular traffic, or obstruct public roads, spaces or official directional or informational signage.
8. Vendors must provide adequate warning or directional signage to be placed during operational hours. The signage is subjected to the approval of the Police Department and VROMI.
9. Evening vending cannot be located within 15 meters of residential dwellings.
10. Vendors are prohibited to sell selected items or services, which include alcohol, sexually suggestive articles and services opposite schools and churches.
11. The Economic Controllers, Health and Hygiene Controllers, VROMI & the Fire Department will be required to inspect the location and premises to ensure it meets all

requirements prior to the issuance of a permit based on the date of submission of the application.

12. In the event that new vending locations are established or become available, existing permit holders will be given first preference to relocate. Awarding of the new spots will be done via a first come first serve basis, based on the date of the submitted application and if the applicant meets all the required guidelines.
13. New locations will be published in the local newspapers and government websites (print and electronic).
14. It is the responsibility of new applicants and existing permit holders to apply for new or alternative locations when they become available. It is the applicant's responsibility to ensure that their contact information is current, accurate and complete.
15. Department of Economic Licenses can refuse an application based on the following:
  - a. Within the moratorium area.
  - b. Applicant does not meet the criteria.
  - c. Application is incomplete (i.e. all required documentation not included).
16. Only one application per person will be accepted and processed.
17. Documents that must be submitted with application include:
  - a. Copy of passport
  - b. Valid Census registration (not older than 3 months)
  - c. Valid and up to date Food Handling Certificate
  - d. Police record (not older than 3 months)
  - e. Crib number, postal address, fax number or e-mail address
18. Tender and water taxi operators require the following training and certifications in order to operate.
  - VHF (very high frequency) License
  - First Aid Certificate
  - Certificate of Competency
  - STCW 95 basic training
  - 1-year practical experience in passenger transport
19. Vendors will forfeit their current location once they have been approved for an alternative location (i.e. one location per vendor).
20. A non-refundable application and administration fee will apply.
21. Recipients will be notified either via mail, fax or email of the permit status.
22. Recipients will have 30 days to accept or reject the designated location and complete the required paperwork. After 30 days, the offer can be rescinded.

Vending permits shall be visible at all times at the Vending location. All persons engaged in vending shall wear their ID cards while vending.

Vending pursuant to this policy is permitted within the guidelines of the General Police Law-“Algemene Politiekeur van het Eilandgebied St. Maarten Juli 1975” and in compliance with all relevant policies and regulations.

1. Vendors cannot operate after sunset, especially from a mobile vehicle unless adequate lighting and signage is available and are visible to warn pedestrians, motorists or any road users (lighting must be pre-approved by VROMI).
2. Vendors will not operate between three (3) a.m. and six (6) a.m. or at a time as stipulated in the Vending license. The closing hour will take into account the safety and security of the consumer.
3. Vending operations cannot be located and/or positioned within the distance of 20ft. (6 meters) of a bus, loading, passenger, police or taxi zone.
4. A vendor must operate at least 10 ft (3 meters) away from the roadside.
5. Prices and services must be clearly visible at all times.
6. The vendor may not sell or display any merchandise or render services that are not specified in the vending permit.
7. Vendors are required to have and display their vendor’s identification card, which will include a license number for control purposes.
8. Notwithstanding any of the provisions of this policy, vending equipment, merchandise offered for sale or otherwise associated with the vendor, and salespeople, shall not block, impede or in any way hamper vehicular and/or pedestrian movement or cause any hazard to pedestrians and motorists.
9. Vendors cannot conduct business in such a way as to restrict or interfere with the ingress or egress of the adjacent property owner or constitute an obstruction to emergency vehicles or personnel (fire, police, ambulance and controllers).
10. Vending activity will be suspended on the following official holidays or any other day established by the Council of Ministers and the Lt. Governor. Please review the “Landsverordening 2000 nr. 67: Arbeidsregeling Artikel 23”.
  - a. New Year’s Day
  - b. Good Friday
  - c. Easter Sunday
  - d. Ascension Day
  - e. Christmas Day
  - f. Boxing day
  - g. Labour Day (May 1st)



### ***Sanitation***

Vendors shall maintain their location in a clean and hazard-free condition, and failure to do so shall be cause for a warning, followed by a fine, suspension and revocation of the permit. By accepting a permit under this policy, Vendors agree to indemnify and hold harmless the St. Maarten Government and its authorized personnel from all damages or injury to persons or property caused by the act or neglect of the vendor or by hazardous or negligent conditions maintained at the vendor's location.

1. The vending permit and relevant certifications (Ministry of VSA/Department of Economic Licenses) must be clearly displayed and visible to customers at all times.
2. For the sale of food, the vendor and his or her employee must both be in possession of a Food Handling Certificate from the Department of VSA and clearly visible at all times.
3. The vendor will be responsible for the cleaning of the vending area at the end of business hours prior to leaving the site.
4. Vendors must dispose of garbage properly and provide adequate and visible garbage receptacle for customers.
5. All food vendors where necessary must have an approved storage for the purpose of storing their products.

### ***Environment***

1. Vendors are prohibited from placing benches, chairs or any furniture unless it is specified in the permit.
2. The vendor may not plant any flora and may not use existing flora (trees, bushes) for display or hanging merchandise or for use to prop or secure any structure.
3. Vendors cannot be engaged in loud or offensive music.
4. The hours should be amended accordingly; under the condition, that only background music is permitted.

### ***Enforcement, violation, penalties, remedies***

The St. Maarten Government through its designated authorized personnel are empowered to investigate and conduct inspections to determine whether permit holders and other persons are complying with this and relevant policies and or regulations and legislations. After a reasonable period of notice and opportunity to correct, the Government of St. Maarten may impound the vending equipment, suspend the license or revoke the license.

1. Vendors not adhering to the terms of their license, regulations and relevant ordinances and/or policies will have their license revoked for 6 months, thereafter 1 year and ultimately permanently and will receive a maximum fine of 1000 guilders or have to sit two (2) months in jail, after having received one (1) verbal warning and two (2) written notices. Violation of this policy and/or relevant policies are hereby declared as a public nuisance. Permanently revoked permits will not be reserved for the original user and is eligible for re-issue to the public.

Overview of penalty structure:

- a. 1<sup>st</sup> step - 1 verbal warnings
- b. 2<sup>nd</sup> step - 2 written warnings
- c. 3<sup>rd</sup> step - Fine (maximum 1000 guilders)
- d. 4<sup>th</sup> step - suspension of operation (license) for 6 months
- e. 5<sup>th</sup> step - suspension of operation (license) for 1 year
- f. 6<sup>th</sup> step - permanently revoke the license

*Penalties*

Vending licenses may also be revoked if:

1. The vending permit has been deemed inactive for a period of one year.
2. The vendor does not comply with the rules and regulations stipulated in the Vending Policy and/or relevant policies.
3. The permit holder is in violation of the Vending Ordinances and/or other relevant ordinances.
4. The vendor conducts any activity that is not indicated in his or her license.

An application should also be submitted for the helper and will follow the same procedure as the vendor application. Helpers are not required to be of Dutch nationality, but must be a legal resident, registered at the Census Office and have a crib number. The applicant must be eighteen years or older or considered an adult in accordance with the Civil Code of the Netherlands Antilles and must comply with the general requirements.

Prior to granting the vending license, the Economic Controllers and VROMI will survey the location and present a report to Department of Economic Licenses. Vending licenses cannot be transferred with the exception of the regulation stipulated in article 21 sub 2 of the Island Ordinance, Public Vending-Eilandsverordening Openbare straathandel (AB1995 no. 31) regarding the widow(er) of the license holder.

*Amendments to the license*

Existing permit holders may request an amendment to the license, however, amendments cannot be in conflict or contrary to the rules and regulations of the Vending Policy or any other relevant policies/ordinances.

### *Special events*

Special events include Carnival, Christmas, Sint Maarten's Day, New Year's Celebrations and any other event as classified by the Council of Ministers. Vendors will be required to apply for a permit in advance of the event as specified by the Department of Economic Licenses. In such instances the public street, space, sidewalk, curb or alleyway may be temporarily partitioned and blocked to vehicular traffic.

The organization of the special event is further subjected to the requirements stipulated in the General Police Law-"Algemene Politiekeur van het Eilandgebied St. Maarten Juli 1975".

### *Vending unit specifications*

Vending unit specifications refer to guidelines to encourage safety, uniformity and limit the negative impacts on the environment and quality of life. All specifications must be approved by the Department of Economic Licenses, VROMI, the Department of Economic Inspections, the Ministry of VSA and the Fire Department.

### *Canopies and umbrellas*

1. Canopies are regulated under the Sign Board Policy (BC310804 ag.pt.24), and as such should comply with the approved policy. However, in the event that a new policy is approved, vendors must comply unless grandfathered.
2. Umbrellas must be securely mounted. All supports must be mounted on the pushcart and cannot extend beyond the outside dimensions of the pushcart body. The lowest edge of any canopy or umbrella shall not be less than 8 feet-6 inches above the sidewalk and cannot obstruct pedestrian traffic.
3. Canopies and umbrellas must be clean and well maintained. Food cart canopy fabric must be fire and sun resistant and be suitable for extended wear in an exterior location.
4. Display lighting should be directed at the merchandise only and not distracting to motorists. Small strings of accent lights or optical strands may be used with specific approval and review of the Department of Economic Licenses and Department of Economic Inspections. Flashing display lights such as yellow/amber, red and green or any combination of these colours are generally used to communicate specific warnings and as such cannot be used to avoid confusion.
5. Graphics should convey the theme of the business. Graphics cannot be obscene in nature, religious, or political and must comply with the signage regulation.

### ***Stalls, booths and vehicles***

1. All food preparation areas must be protected from airborne contamination by the roof and floor covering.
2. For stationary units permit holders, a sink must be installed with adequate water (hot and or cold) for the cleansing of equipment, tools and personal hygiene.
3. Counters used for preparation of food must be outfitted with smooth, impervious work surfaces to prevent contamination of food.
4. Adequate and approved refuse disposal receptacles are required.
5. Stall structures, booth structures and vehicles must blend within the environment and must receive prior approval.

### ***Processing procedures***

In accordance with article 2 of the Island Ordinance Public Vending -Eilandsverordening Openbare Straathandel AB 1995 no. 31, the following are the requirements to obtain a Vending permit:

1. Vending candidates must be Dutch nationals and registered on the island for a minimum of two (2) years, with the exception of vendors on the market places and the fish markets. The vendor must be legally residing on the island for at least two years and registered at the Census Office (proof required).
2. Non-Dutch nationals that have a permanent residence permit and registered and residing on the island for a minimum of ten years are not eligible for a vending or a stationary license. They are only eligible for a market license as indicated in the Island Ordinance “Eilandsbesluit van 13 Juni 2000 A.B. 2000 no. 18 article 2.
3. The main source of income of the person seeking the vending license must be gained by the revenues received from the vending activity. The vendor must be stationed for at least four (4) consecutive hours in his/her stand.

In order to obtain a vending license, an application must be submitted to the Department of Economic Licenses “Vergunningen Openbare Straathandel en Economische Controle”.

### ***Documentation***

*The following documents must be submitted with the application:*

1. Application form.
2. Census registration form.
3. Crib number, postal address, fax number or e-mail address
4. Police record. (not older than 3 months)

5. Two recent passport pictures. (not older than 3 months)
6. A copy of passport.
7. A description of vending activities. (i.e. type of beach activity)
8. Proof of payment of processing fee.
9. A copy of the last three years of the applicant's Tax Return forms that is two years prior to the application date or of the last approved filing year as per the Inspectorate of Taxes. (if applicable)
10. Letter of permission from the property owner (private property) if the property is not owned by the applicant.
  - The vending permit will be issued in conformity with the terms of the contract with the property owner.
  - The permission of government via Domain Affairs if the vending operation will take place on domain land. (i.e. government owned property)

**The following certificates must be provided prior to the issuance of the Vending permit.**

1. Valid Certificate for Food Handlers issued by the Department of VSA. (Only applicable for Vendors of food and beverages)
  2. Valid Health Certificate from a recognized medical practitioner. (Only applicable for Vendors of food and beverages)
-



## BEACH VENDING

## *Introduction*

The objective of the policy is to regulate all beach and water sport activities throughout the island Territory of Sint Maarten. This policy will be reviewed every two years based on developments that take place such as, beach erosion, natural and unnatural disasters, construction and other developments.

The “Great Bay Beach Policy” served as the pilot project. The guidelines of the aforementioned policy are being upgraded and extended to all beaches located on the Dutch side of the island (Sint Maarten).

All beaches are defined based on three factors, namely:

- i. The size of the beach.
- ii. The location of the beach.
- iii. The type of activities (i.e. both water and beach) that are permitted on the beach.

### **Beach Size & Location**

The size of the beach will determine the number of activities that can take place on the beach and the location of the beach will determine the type of activities that may transpire. To limit congestion, saturation and to protect the integrity of the beaches, the number of Vendors and business licenses will be established. Specific beaches will be completely prohibited to any kind of beach and/or water sport activity due to environmental preservation, oceanographic, and topographic conditions.

A number of beaches have changed significantly due to several major hurricanes, which have eroded and altered the topography of the beaches. Topographic changes, include but not limited to erosion, have restricted the type of activities, which can be conducted on the beaches and waterways. In addition, other natural circumstances have made operating sport activities unlikely.

### **Beach Activities**

The activities on the beaches will be evenly distributed among the businesses and vendors based on the type of activities. An assigned space for each vendor or business will be provided. The structure will also be regulated to prevent ad hoc infrastructure and to ensure uniformity. The purpose for this is to maintain order on the island’s beaches. A set number of vendors and businesses will be assigned per beach to prevent congestion and saturation.

The number of vendors will be determined by several factors, namely the size, location, accessibility and availability (hotel usage) of the beach. Placement on the beach will be allotted based on seniority, thus giving preference to those vendors that have been actively operating legally on the beach for the longest period of time (proof required). The size of the lot for vending of chairs and umbrellas will determine the amount of chairs that can be placed on the lot. This is based on 6m<sup>2</sup>, which is the dimension of two chairs and an umbrella. The 6m<sup>2</sup> also includes an additional meter, which serves as a separation between each set of two adjoining chairs.

Activities must be performed at a specific distance (at least 5 meters) from the shoreline. Two meters (6 feet) of walking space must be available for beach goers to walk along the shore. At

all times, an access must be maintained to all the island's beaches for public usage and emergency vehicles and personnel.

### OVERVIEW: ST. MAARTEN BEACHES



\*aerial photo by Wimer Hart (<http://www.st-maarten-info.com/St-Maarten-Beaches/Beaches.html>)

Each beach has its unique set of characteristics such as size, location and accessibility. In the policy, each beach will be dealt with separately taking into consideration the abovementioned characteristics.

The beaches located on the South-eastern coast are prohibited for water and beach activities due to the fact that this part of the island is a highly protected zone of the Marine Park. This area is a protected breeding ground for fish, there are also archaeological findings in the area (including sunken ships) and the reefs and islets are important for the natural habitat.



***The list of beaches are as follows:***

1. Back Bay.
2. Geneva Bay.
3. Gibb's Bay.
4. Guana Bay Beach.
5. Pointe Blanche Beach.

***Overview of Activities: Island beaches***

The enclosed is a comprehensive table outlining the island's beaches and allowed activities as well as the status.

List of beaches on the Island Territory of Sint Maarten		Max No. of Permits			Water Sport Activities		Beach Activities	
		Beach	Water		Motorized (M)	Non-motorized (NM)	Food & Drinks	Chair & Umbrella
			M	NM				
1	Belair Beach	0	0	0	No	No	No	No
2	Dawn Beach	3	0	3	No	Yes	Yes	Yes
3	Guana Bay Beach	2	0	2	No	Yes	Yes	Yes
4	Kim Sha beach	2	1	2	No	Yes	No	Yes
5	Maho Beach	2	0	1	No	No	Yes	Yes
6	Mullet Bay Beach	2	0	2	No	Yes	Yes	Yes
7	Cay Bay	0	0	0	No	No	No	No
8	Gibbs Bay	0	0	0	No	No	No	No
9	Lay Bay	2	0	0	No	Yes	Yes	Yes
10	Little Bay	2	2	2	Yes	Yes	Yes	Yes
11	Cupecoy Bay	0	0	0	No	No	No	No
12	Great Bay	N/A	9	4	Yes	Yes	Yes	Yes
13	Geneva Bay	0	0	0	No	No	No	No
14	Devil's Cupper / Back Bay	0	0	0	No	No	No	No
15	Pointe Blanche Bay/ Beach	0	0	0	No	No	No	No

16	Oyster Pond	2	0	2	No	Yes	Yes	Yes
17	Burgeaux Bay	2	0	2	No	Yes	Yes	Yes
18	Simpson Bay Beach	0	0	0	No	No	No	No
19	Flamingo Hotel Beach	2	0	0	No	No	Yes	Yes
20	Royal Palm Beach	2	0	0	No	No	Yes	Yes
21	Cole Bay	0	0	0	No	No	No	No
22	Simpson Bay Lagoon	0	4	4	yes	yes	NA	NA

***Beach Descriptions***

***GREAT BAY BEACH***

**Location:**

Great Bay Beach extends from the St. Maarten Cruise and Cargo Facility to the Great Bay Beach Hotel.

**Characteristics:**

The beach is approximately 12 meters wide, although this varies at different sections of the beach. To the East of the bay, there is an outlet for the fresh water pond. Also located on the Eastern side of the beach is the Sonesta Great Bay Beach Hotel. Between the hotel and the end of Phase 2 of the Boardwalk (the posterior of Sea Palace Hotel), there are a few dilapidated buildings. However, in the future, this area is designated for future developments, such as the extension of the boardwalk, Phase 3 and the construction of a second wharf adjacent to the Sea Palace Hotel. These developments will change the economic dynamics of this section of the Great Bay Beach, which is presently very dormant.



**Vendor guidelines:**

Great Bay Beach is allowed a maximum of nine motorized beach activities (e.g. jet skis) and a maximum of four non motorized beach activities. Jet skis are allowed to go on to the beach and depart only using designated channels. There is also a designated area in which jet skis are allowed to operate for recreational purposes as approximately indicated by the arrow in the pictures on page 25.

The jet ski area has the following estimated coordinates:

- North West corner: 18° 01' 09.4"N 063° 03'29.5"W
- North East corner: 18° 01' 09.4"N 063° 03'21.1"W
- South West corner: 18° 00' 42.4"N 063° 03'29.5"W
- South East corner: 18° 00'42.4"N 063 03'21.1"W

In other words, it is located to the Western side of the bay near Fort Amsterdam.

No additional licenses will be granted for Great Bay Beach, which included banana boats. This is due to the large amount of boat traffic and the safety of swimmers in the bay.

Limitations for guided boat tours have not yet been considered as these tours do not conflict with other activities in Great Bay. These tours use Great Bay Beach as a point of departure and entry. However, it must be noted that any boat and in particular the tenders and water taxis, must remain out of the swim zone.

In addition, parasailing is strictly prohibited in Great Bay or on the anchorage zone due to the large amount of vessel traffic transiting to and from the bay, docks and neighboring islands. It is only allowed West of Fort Amsterdam.

***LITTLE BAY*****Location:**

Little Bay is located to the Eastern side of Fort Amsterdam and is in total 900 meters long. The beach is divided in three segments separated by the placement of rocks, which form a sort of breakwater for the bay. The beach runs from Fort Amsterdam in the East up to where a new development, Barbaron, is about to take place.

**Characteristics:**

The Eastern side of the beach is bordered by two hotels namely, Divi Little Bay and Belair Beach Hotel. The Western side of the beach is bordered by vegetation, which consists of grass, shrubs and large trees.

The beach is currently divided in three segments by the placement of rocks that form a sort of breakwater for the beach as depicted by the picture below. This second formation of rocks, acts as the delimitation between Belair Beach Hotel and Divi Little Bay and the third as the delimitation between Belair Beach Hotel and the third segment of the beach.



Little Bay Beach: photo from <http://www.divilittlebay.com/DiviLittleBay/st-maarten-water-sports.html>

**Vendor guidelines:**

Beach vending and water sport activities are allowed for the beach. Outside the buoyed snorkel areas in the bay, only diving exploration is allowed. At the same token, the operation of jet ski's in particular, is not allowed in this area. For this beach, a maximum of two (2) motorized and two (2) non-motorized water sport activities are allowed and a maximum of two (2) beach activities.

There are currently two (2) Vendors operating motorized beach activities (i.e. jet skies); one in Divi Little Bay and one in Belair Beach. There is also one non-motorized and one beach activity on the beach located at Divi Little Bay. Subsequently, based on the latter, only one non-motorized and one additional beach activity is allowed.

***MAHO BEACH***

**Location:**

Maho Beach runs from the wall of the Sonesta Maho Beach Hotel up to and including the Sunset Beach Bar. Maho Beach borders the Western tip of the Princess Juliana International Airport's runway on which aircrafts land.

**Characteristics:**

Presently the chairs and umbrellas are provided by the hotel on the Western side of the beach. The picture below on page 27 displays the proximity of the beach to the landing aircrafts.



*Maho Beach, photo from <http://www.sint-maarten.net/St-Maarten-Beaches/MahoBay.html>*

**Vendor guidelines:**

Due to close proximity to the airport as well as for safety and security reasons, no motorized water sport activities should take place on this beach. Only one non-motorized water sport vendor is allowed to operate by the Sonesta Maho Hotel, and the maximum number of beach activities allowed is two (2). For more information, please refer to the Security Regulations (Page 42). Parasailing activity, in particular, must remain at least 1 nautical mile from the airport and/or below 46 meters as not to become a hazard to approaching and departing aircrafts.

**Note:**

It is recommended, by the St. Maarten Port Authority, that no commercial operations take place from the beach in view of the residential nature of the area and the wave, surf and current action in the area.

***MULLET BAY BEACH***

**Location:**

Mullet bay is located on the Western coast of the island, between the Cupecoy Beach and Maho Beach and is 500 meters long.

**Characteristics:**

Prior to hurricane Luis in 1995 water sport activities were prohibited on the beach. After hurricane Luis destroyed the Mullet Bay Beach Resort, it is now bordered by natural vegetation, specifically sea-grapes on the Eastern fringe and coconut trees on the Western fringe and is regularly used. Surrounding this beach is a golf course and there is parking available to the public.



Mullet Bay, photo by Kampi, found using Google Earth

**Vendor guidelines:**

Beach vending and water sport activities are allowed on the beach. Currently, there are two vendors located on the beach. However, these vending permits were issued specifically for food and drinks. The Council of Ministers will reserve the right not to issue or renew any vending permits for this beach. Prior to the destruction of the Mullet Bay Resort due to hurricane Luis in 1995, a number of vendors established businesses on this beach. Currently, there are no vending permits issued for Mullet Bay Resort as it pertains to beach activities.

In addition, Mullet Bay Resort is in possession of a very old operating license and therefore one beach activity and water sport activity is reserved for Mullet Bay. For Mullet Bay Beach, there is a maximum of two (2) motorized and two (2) non-motorized activities. In addition, there is an allotment for two (2) beach activities for the beach.

***SIMPSON BAY BEACH***

**Location:**

This beach is 2200 meters long, South of the Princess Juliana International Airport. It is ultimately divided into three segments: a) the West side that borders the runway, b) opposite the Simpson Bay Village, and c) by the Simpson Bay Bridge.

**Characteristics:**

1. The rough sea conditions make this beach dangerous and risky for operating watercrafts.
2. Water sport activities will cause irrevocable damage to the coral reef that exists about 6 meters from the shoreline that runs along the entire beach.
3. The small hotels (guesthouses) situated along the beach will be permitted to place chairs and umbrellas for their guests.
4. The anchor zone is located in the bay. (see Marine Park Map)

5. Proximity to the airport poses security and safety issues. For airport security as well as safety regulations, it is also advised not to have any water activities within 1424 meters of the centerline of the airport. (see Airport Security Regulations in this document)

**Vendor guidelines:**

No vending licenses will be issued to operate beach and water sport activities for the Simpson Bay Beach based on the aforementioned characteristics.

***CUPECOY BEACH***

**Location:**

Cupecoy Beach is approximately 280 meters long and is located on the most Western tip of the Dutch side border. The beach is divided into two segments: a) the beach that borders the French side, which is 150 meters in length, and b) the beach opposite Dutch Lowlands, which is comprised of tiny beaches that summate to approximately 80 meters in length.

**Characteristics:**

This beach has been eroding constantly. Due to the deposition of the sand by the waves, there is an actual beach with sand and at other times, due to the erosion by the waves, there is none. Hence, when the latter occurs the water touches the cliffs.

Evidently, this has made setting up chairs and umbrellas very difficult. Presently, one vendor is operating on that beach. Due to the constant erosion of the beach, no more vendor permits will be issued for the Cupecoy Beach.



*Cupecoy Beach, photos from <http://www.sint-maarten.net/St-Maarten-Beaches/Cupecoy.html>*



*Aerial photo of Cupecoy Beach, provided by VROMI*

**Vendor guidelines:**

It is recommended that no commercial activity take place on the beach due to the constant inconsistency and erosion of the beach.

***GIBBS BAY***

**Location:**

Gibbs Bay is located on the Eastern coast of the island and located in the area of high protection designated by the Marine Park Ordinance. This bay is 370 meters long and is located between Guana Bay and Dawn Beach, close to Red Pond.

**Characteristics:**

Close to this beach is a natural fresh-water pond.

**Vendor guidelines:**

No commercial activity of any kind is allowed on this beach due to it being zoned for protective purposes and thus no vending licenses should be issued for this beach.

***CAY BAY***

No water sport activities are to take place in the Cay Bay area in view of the oil bunkering activity, which is carried out in this area.





*Aerial Photo of Cay Bay Beach, provided by VROMI*

**Vendor guidelines:**

No vending can take place on this beach because of the industrial activities surrounding this beach. This beach serves as the location for the desalination and electrical plant of the water and electricity provider, GEBE.

***BURGEAUX BAY***

**Location:**

No defined borders have been established for this beach.



*Burgeaux Bay, photo from <http://www.sint-maarten.net/St-Maarten-Beaches/BurgeauxBay.html>*

**Vendor guidelines:**

It is recommended that no motorized activities take place on the beach.

## ***OYSTER POND***

### **Location:**

Oyster Pond is located on the Eastern coast of St. Maarten on the border between the French and Dutch side.

Oyster Pond Beach extends from Oyster Bay Resort to a borderline, which consists of several distinct elevated rocks that are running perpendicular to the beach, which is depicted in the picture below.

### **Characteristics:**

Oyster Pond is an inlet that serves as a safe haven for ships to anchor. The inlet protects the boats from choppy waves that are a direct result from the Atlantic sea. There are no beaches and the inlet is surrounded by restaurants and marinas.

### **Oyster Pond Beach**

To the Southern side of Oyster Bay lies Oyster Pond Beach. Based on the intricacies to determine the exact borders for the beach, rocks running perpendicular to the beach that are an extension of the hillside are used as the delimitation between Oyster Pond Beach and Dawn Beach.



*Oyster Pond, photo from <http://www.sint-maarten.net/St-Maarten-Beaches/OysterPond.html>*

### **Vendor guidelines:**

#### **Oyster Pond**

In view of the number of vessels in the bay area of Oyster Pond, it is considered dangerous to allow Jet Ski operations or other motorized water sport activities in the Oyster Bay Pond.

### **Oyster Pond Beach**

Due to the beach being part of the Marine Park, no motorized beach activities are allowed. There are currently three (3) active licenses for beach activities and three (3) for non-motorized beach activities. Based on the maximum number of beach activities allowed for this beach, we are currently over the maximum by one.

### ***DAWN BEACH***

#### **Location:**

Dawn Beach is located to the Eastern side of St. Maarten between Oyster Bay and Guana Bay. The beach extends from Westin in the North to the French border, which consists of elevated rocks running perpendicular to the shoreline.



Dawn Beach photo by sintmaartenlive.com, found using Google Earth

#### **Vendor guidelines:**

Due to the exposure to rough waves, considering safety an issue and due to the fact that the beach falls within the guidelines of the Marine Park, no motorized water sport activities are allowed to operate from the beach. Based on the latter, beach activities and non-motorized beach activities are allowed. A total of three (3) beach activities and three (3) non-motorized beach activities are allowed.

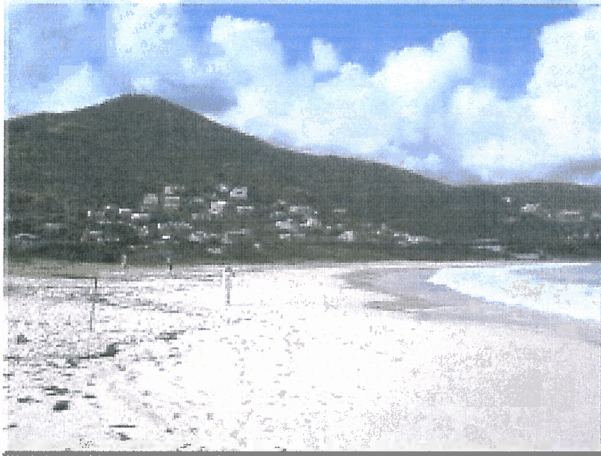
### ***GUANA BAY***

#### **Location:**

Guana Bay is located to the Eastern coast of the island, to the South of Dawn Beach. The beach is very secluded and there are currently no beach activities taking place on the beach.

#### **Characteristics:**

Guana Bay is very quiet and is bordered by natural vegetation, which is mainly grass and shrubs. To the North of the beach nestled on top of the hill are Guana Bay villas. Presently, there are no major developments on the beach and therefore the beach is dormant.



(<http://www.st-maarten-info.com/St-Maarten-Beaches/Beaches.html>)

**Vendor guidelines:**

Guana Bay is located to the East coast of St. Maarten and therefore is exposed to the Atlantic. This exposes the beach to rough waves. Also being part of the Marine Park, no motorized water sport activities are allowed to operate on the beach. A maximum of two (2) non-motorized beach and two (2) beach activities are allowed.

***Beach Vending Licenses***

Vending licenses are limited to one per individual and exclusively for Dutch nationals. Therefore, a vending license will not be issued for a combination of beach and water sport activities. The vending permit will be strictly limited for the activity indicated.

**Vending - Beach Activities:**

Only one (1) Vending license will be issued per vendor. This license can have a maximum of two activities.

**Vending - Water Sport Activities:**

Only one (1) vending license will be issued per vendor. This license can have a maximum of two (2) water sport activities belonging to the same category. Two categories were created based on critical success factors required in order to conduct these activities, namely a) the capital investment needed to launch the operation of the activities and b) the similarities and strong correlation of the characteristics of the activities. Based on these criteria, the table below summarizes the activities that may be done in combination on a license.

Category I (Less Capital Intensive)		Category II (More Capital Intensive)	
1	Jet skis	9	Water skiing
2	Wave-runners	10	Sail boats
3	Jet boats	11	Parasailing
4	Snorkeling	12	Deep-sea fishing
5	Kayaks	13	Scuba diving
6	Water cycles		
7	Trampoline		
8	(Wind) surfing		

***Beach Allotment: Vending***

**Great Bay Beach**

Great Bay Beach, which has been used as the pilot program for the beach policy, is unique to the island's beaches primarily because:

1. The boardwalk distinctly divides the beach between privately held property and public property.
  2. Traditionally the boundaries of the properties were used to determine and confine beach activity.
  3. Phase I of the boardwalk has resulted in a gentrification of the boardwalk and is primarily compromised of businesses (bars & restaurants and beach Vending).
- Of the proposed second pier.  
Great Bay is located in the heart of Philipsburg's commercial business district. It can be reasonably predicated that phase two and three of the boardwalk will result in a similar situation.

In light of the aforementioned, a moratorium established on Great Bay will remain intact.

1. No additional Vending licenses will be granted for Great Bay Beach bordering from Sea Palace to Captain Hodge Pier. Vending licenses will be allowed to be granted from Sea Palace to Pantophlet Steeg.
2. A moratorium on the issuance of vending licenses will remain in effect from Pantophlet Steeg to Great Bay Beach Hotel.
3. All beach activity will commence 5 meters from the shoreline. In addition, there should be 7 meters after the 5 meters for the placement of chairs and umbrellas. Thereafter 2 meters free for pedestrian traffic.
4. The length of Great Bay from Bobby's Marina to Sea Palace will be grandfathered from the existing policy.

**Boardwalk policy**

1. It is the intention that the boardwalk will remain free for pedestrian use.
  - a. Subsequently, no business activity will be allowed to be conducted on the boardwalk.

2. The properties adjoining the boardwalk, referred to as the “beach plots” and parallel and adjacent with the already established businesses along Front Street will be in the first instance be designated as a potential extension of existing properties. However, the property owners will be required to buy the beach plots to carry out any sort of extension or business activity.
3. If the “beach Plots” is not bought, the property will remain in public domain and no third party will be able to use the property.
4. The businesses will only be allowed to carry out the same business activity that they are presently engaged in. However, the Council of Ministers encourages businesses to venture into restaurant, café’ and other forms entertainments activities (e.g. Comedy and/or Jazz Clubs). The idea is to continue with diverse group of business to create certain nightlife back in Philipsburg instead of the same beach activity (e.g. restaurants).
5. The license for these new forms of entertainment is left to the discretion of the Council of Ministers.

#### ***General Rules and Regulations: Beach Vending***

1. It is forbidden to drive motorized vehicles on the beach and thus drivers must adhere to the decision of the Council of Ministers of January 22, 2002 agenda point 39, Archive. Nr. 7487/01 stipulated in Article 24, Sub 1, Article 1, sub i, 1 and 2 of the Windward Islands Traffic Ordinance-“Wegenverkeersverordening Bovenwindse Eilanden”.
2. All vendors must adhere to the Water Sports Ordinance of Sint Maarten-“Watersportverordening Sint Maarten” (ab. 1978 no. 13) and the Island Ordinance Regulations and general guidelines of the shoreline lagoon area and the port of St. Maarten, governing the waterways and the beaches. Violation of these regulations can result in the cancellation of the Vending license by the Council of Ministers and/or the levying of a fine by the Maritime Service (Harbor Police, Coast Guard, Port Authorities and Controllers of the Department of Economic Inspections).
3. Branch licenses will not be granted for water sport activities and beach activities.
4. All vendors operating on the beach must operate within the parameters of and dimensions of their allotted space. Vendors are not allowed to surpass these parameters even if the adjacent space is vacant whether it is temporary or permanent.
5. Soliciting is not allowed on the beach based on article 5, sub 1c of the Island Ordinance Public Vending-“Eilandsverordening Openbare Straat Handel”.

6. The first vendor to legally be allowed to operate on the beach will have first preference, however, a vendor or business in the allotted space has the first right of refusal.
7. Vendors will be allotted a pre-defined lot and/or location with specified dimensions.
8. The access to all the beaches (natural/manmade) must remain open to the public at all times.
9. No water sport activities will be allowed on beaches where there are coral reefs and unfavorable sea conditions.
10. Access to the beach must remain open for emergency vehicles and personnel.
11. Vendors not adhering to the terms of their license and regulations will have their license revoked, after two (2) verbal warnings and two (2) written notices.
12. The beach is defined as the area from the shoreline where the water breaks or high water mark up to the established property boundaries/buildings. If there are no businesses located on the beach side, it is the prerogative of the Council of Ministers to place Vendors at that location.
13. Water sports activities are not reserved for hotels, bars and restaurants that are situated on the beach, unless previously stipulated in the business license (N.V.).
14. Any beach and water activity offered freely by a business within their operating space/boundary is considered an added service of the business or an extension of the business, however, any additional beach activity offered by a business for commercial use has to be stipulated in the Articles of Incorporation and in the business license (N.V.).
15. All activities that take place on the beach must be done at least 5 meters from the shoreline (The shoreline being the edge of a body of (sea) water).
16. The number of chairs is determined by the allotted space that is provided to the vendor. The chairs must be placed in pairs with one umbrella for each pair of chairs. A passage of at least two feet must be allowed between each pair of chairs. A passage of at least one meter should be left between each row of chairs. The ratio of chairs is 2 chairs with one umbrella per 4 m<sup>2</sup>.

In the event of beach erosion, the placement of chairs 5 meters from the shoreline and a 2-meter space for pedestrian traffic will take precedence over the placement of chairs. This is to prevent overcrowding of the beach with chairs.

17. No advertisements are allowed on the umbrellas, with the exception of the business name.

18. The boundaries and dimensions of each Vending location will be equitably divided according to the length and width of the beach, the number and type of activities will be determined by the beach.
19. A vending license can be granted to operate in front of an existing business only if that business does not have a license for said vending activities. All Vending activities must be operated at least 15 ft from in front of said business.
20. For garbage disposal see “Afval Verordening St. Maarten 1993.” (Disposal Ordinance).
21. Portions of the island’s beaches will remain vacant to allow beach goers to enjoy the beach.

### *Penalties*

Refer to the General Rules and Regulations.

### *Marine Park Regulations*

The prohibitions indicated in the Marine Park Ordinance affects the beach and water sport activities in defining where these activities can take place and to what extent the various sorts of activities are allowed. According to Article 3 of the Marine Park Ordinance, the following are strictly prohibited in the highly protected zones of the Marine Park:

1. The feeding of animals with the exception of pets brought to the beach.
2. The entry of vessels or other objects without the prior written permission of the authority.
3. Fishing with:
  - a. Trawl net.
  - b. Dynamite or any other explosives.
4. Diving or snorkeling with gloves.
5. The use or the lynxes of biological and chemical methods.
6. The placing of Lake Manacle without prior permission from the authority.
7. The lynxes or disposal of wastewater from the land or from a vessel.
8. The anchoring or the use of the anchor as a means of navigation.

### *Security Regulations*

#### **Harbour**

No motorized water sport vehicle is allowed within 300 ft (91.44 meters) of anchored vessels of any kind at the St. Maarten Cargo and Cruise Facility. Any water sport activity that comes



within this proximity will be stopped by the closest available control unit and will be fined accordingly.

### **Princess Juliana International Airport**

For security regulations as well as safety requirements for both aircrafts and the activities surrounding the airport, parasailing activity must remain at least one nautical mile from the airport and/or below 45.7 meters so as not to become a hazard to approaching and departing aircrafts.

### *Hotel, Bars & Restaurants*

1. If businesses are providing a beach activity free to the guest (e.g. chairs), prior approval is needed from the government, given that the beach is public domain.
2. Any beach activity offered by a hotel, bar or restaurant is considered an added service of the business or an extension of their business.
3. Any additional beach activity offered by a business for commercial use has to be a part of the purpose of the Articles of Incorporation and cannot come into conflict with other similar activities.
4. Umbrellas that are offered by businesses as an added service to their guests have to be distinct from other businesses and have to be free of advertisement.
5. All beach activities have to operate on the beach with a 5-meter distance from water or shoreline. In addition, there should be 7 meters after the 5 meters, to provide for chairs on the beach. Thereafter, an additional 2-meter space should be reserved for walking space. The 2-meter space is conditional only if there is not a boardwalk. All else is applicable.

All water activities shall meet the necessary conditions and regulations of St. Maarten Port Authority (SMPA) and the Water Sport Ordinance 1978-“Watersportverordening St. Maarten” (ab. 1978 no. 13). The minimum required age to rent water sport equipment is 18 years. A wave runner/jet ski should not exceed 45 nautical miles per hour and the operator of jet skis must obtain a license from SMPA. Failure to comply with guideline for water activities will result in the water sport activity owner being subject to the rules and regulation in section B of the Island Wide Beach Policy

1. No maximum amount is stated for Category II as these activities are carried out in the open sea and do not immediately pose a safety hazard at this time. In addition, the type of operation of category II is not allowed to be performed in the immediate area of the beach. These activities must be performed at least 1/2 mile away from the shoreline.
2. Companies may not operate from a different location other than what is stipulated in their license. If an operator’s license for whatever reason does not have a specific

location mentioned, the operator is still governed under the rules and regulations of the Island Wide Beach Policy.

3. No hovercrafts or flying equipment will be allowed.
4. Kayaks (not motorized) and floatation devices (i.e. mats) are confined to the swimming zone area or an area that is designated by the harbor master.
5. It is mandatory for all water sport activity operators to have “Third Party Insurance” and at least one certified first aid assistant. (i.e. certified to perform basic life saving techniques, such as CPR). The certified first aid assistant is required to be on duty during the daily operations.
6. The company/vendor will be allowed to utilize a more powerful wave runner for “special use” such as tracking down or towing a rented bike (craft) back to the place of activity or business location.
7. This “special use” wave runner can only be used by the license holder and will be restricted to the activity mentioned above.
8. A substitute wave runner can only be used if one of the maximum stipulated wave runners (5) is temporarily out of service.
9. Each wave runner operator (license holder) is allowed a maximum of 5 wave runners and 1 special use wave runner. Wave runner tours have to be conducted with the same 5 bikes and no additional wave runners will be allowed for the tour.
10. Each license holder of watercraft will be assigned a specific unique color that can be seen from the shore.
11. Wave runner operators (license holders) are restricted to operating their business within the confines and boundaries of the beach for which their license has been approved, except for tours. The number of wave runners per operator will vary depending on the size of the beach, although five wave runners are the maximum for any beach. In addition, the number of operators will be limited per beach by the size of the beach.
12. All operators/license holders of wave runners must have valid registration papers as well as a Certificate of Seaworthiness with all the required safety items as outlined by the SMPA. Each wave runner must also have a registration number.
13. Vendors are not allowed to rent independent propeller boats. However, a propeller boat can be hired/rented with a licensed captain, which is based on the “Vergunning Vaartuigen Verordening 1984”. These boats need to remain at least one mile away from the swimming zone and the shoreline. In addition, these boats are only allowed for tours.

Below is a list of beaches that are not available for water and beach activities.

- Cay Bay Beach

- Gibbs Bay
- Pelican Beach
- Maho Beach
- Little Bay beach
- Simpson Bay Beach
- 

***Guidelines for Jet Ski operator – Manager:***

Clients must be given a written and verbal safety briefing on how to operate a jet ski and the areas that they are allowed to operate specific to that bay. The following are some guidelines that must be observed, written up by the operator and briefed to the clients:

14. Only persons 18 years and older are allowed to operate a jet ski and no jet ski or wave runner can be more than 700 cc.
15. Persons may not be under the influence of alcohol or drugs whilst operating a jet-ski.
16. All persons operating a jet ski are required to wear a Type III lifejacket. The operator of the business is required to provide each client a Type III vest and ensure that the vest is fitted properly.
17. The jet ski is not allowed on the South-east side of Great Bay Beach (St. Maarten Cruise & Cargo Facility) or within 300ft of any anchored cargo or cruise vessel or any other anchored vessel.
18. The operator MUST ensure that clients are briefed and institute financial penalty in the event there is a breach in staying outside of the 300ft limit of vessels anchored at the St. Maarten Cruise and Cargo Facility.
19. Jet skis must avoid close crossing situations with each other as well as other vessels.
20. Jet skis must give way to vessels under sail.
21. Jet skis may not be operated after sunset.
22. The safety switch, which stops the engine if the operator is thrown off, must be worn at all times.
23. The Jet Ski may only operate with the number of persons it is constructed to carry.
24. The operator must abide by any reasonable request made for general safety of their person or others by the Coast Guard, St. Maarten Port Authority, the Maritime Police or any other authority having the task of dealing with the safety of the public.
25. Jet skis operating in the Simpson Bay area may only operate through the Simpson Bay Bridge Channel under stearage speed. They are not allowed to enter or exit the lagoon whilst the bridge is in operation.

26. Jet skis going to and from the designated operating areas must operate with moderate speed.
27. Jet skis that are being used to pull banana boats must have a second look-out person at the back of the Jet ski at all times.
28. Banana boats are only allowed to operate at the speed specified by the manufacturer and or that is stipulated on the boat.
29. The rope that is being used to pull the banana boat has to be flagged and visible for other watercraft operators.

### *Channel and Beach*

1. All operators must ensure that a buoyed channel is made perpendicular to the beach.
2. It must extend until the end of the swim area, if buoyed (Great Bay Beach), or at least 100 meters perpendicular from the beach or the distance set by authorities.
3. The channel should have an approximate width of 15 meters (50ft.).
4. Outbound traffic in the channel has right of way over inbound traffic.
5. Jet skis operating in the channel must operate at steerage speed only. (This includes operators employed by the Jet Ski business).
6. Buoys, white or yellow of color, must be placed on each side of the channel on a line with a distance of approximately 3 meters (10 feet) apart.
7. Jet skis should be anchored in such a way that they may not go out of the marked channel.
8. The amount of jet skis designated or assigned to an operator in a specific location may not be exceeded.
9. All jet skis must be registered with St. Maarten Port Authority and have the designated numbers and letters clearly displayed when operating.
10. They must have all the assigned safety equipment on board when operating.
11. A sign must be placed on the beach designating the channel as a no swim area.

### *Island Beaches*

Each beach will be designated a specific number of Vending licenses. The following guidelines will be taken into consideration:

1. Seniority will apply for operators, who are legally operating on the beach.

2. Existing businesses who have not requested a license to operate a business in front of their premises (chairs, umbrellas etc.) will not be given first preference for the space.
3. The allotted space will be available for Vending activities if an official application has not been made.
4. Request will be processed and awarded on a first come first serve basis.
5. Hedging will not be allowed.
6. Each vendor will be allotted a pre-defined lot with accompanying dimensions.
7. Lots will be lettered; physical mailing addresses other than the prescribed will be used.

## *APPENDICES*

### APPENDIX A: Security and Safety Information Provided by the Airport

#### PJIA Safe-Guard

Princess Juliana International Airport (PJIAE) as an aerodrome is required as indicated in PJIAE Aerodrome Manual; Part V-Annex G (PJIAE Legal Frame Work and Safety Competence -chapter 7 / Aerodrome Safe Guard) to ensure that aerodrome-licensing requirements are met and that the aerodrome operates in accordance with certification conditions and regulatory requirements.

Please consult letter dated May 9, 2005 to VROMI with subject: Voorbereidingsbesluit Airport Area. This letter is critical as it clearly outlines National and ICAO regulations.

Princess Juliana International Airport plays an important role to the economic health of St. Maarten and the quality of life of its citizens, businesses and visitors. With population and development increases experienced on the island, PJIA is coming under increasing pressure from encroaching development.

Further to the above, the airspace around the Princess Juliana International Airport must be kept free of obstacles to permit the intended aeroplane operations at the airport to be conducted safely and to prevent the airport from becoming unusable.

The effective utilization of the aerodrome is essential and by ensuring that no natural features, manmade constructions inside or outside its boundary are erected will prevent the limitations on the distances available for take-off and landing and on the range of met-conditions in which take-off and landing can be undertaken.

It is in the public interest that citizens, communities, the local government and the private sector cooperate and coordinate with one another in adhering to the applicable "Planning Law" regulated by VROMI. The afore-mentioned, is to ensure that PJIA can continue to operate in accordance to standards and recommended Practices (SARPs) developed by ICAO, within the Netherlands Antilles.

#### **Safety:**

From the perspective of safety, there are factors that determine which areas around an airport need to be protected from incompatible land uses based upon historical data.

The factors include:

- i. The phase of aircraft operation when accidents most often occur (approach, descent, landing, takeoff, climb and cruise).
- ii. The major cause of accidents and incidents.
- iii. The location of these accidents in relation to the proximity to an airport based upon historical data from local and other aviation safety organizations.

**Height hazards: Attributes and Issues**

The loss of navigable airspace to non-aviation uses particularly within the flight critical airspace to an airport approach creates a hazard to flight activity, aircraft passengers and to people and property on the ground. Additionally, these obstructions inhibit the safe and efficient operation of the airport, in general. Two things are necessary to fully understand the seriousness of height obstructions: one, the concept of imaginary surfaces and their relation to runway approaches and two, the nature of flight in the vicinity of an airport.

**Height hazards:**

Any object, which penetrates these imaginary surfaces, is considered an obstruction. Imaginary surfaces are defined in relation to the airport and to the runway. The size of these imaginary surfaces are based on the category of the runway according to the current approach, and to any future approach planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise instrument approach existing or planned for that runway.

Height hazards: Flight takes place in a vertical environment; therefore, this space must be kept clear of natural or built objects that penetrate this airspace. These are areas surrounding an airport or under low level air routes where the penetration of structures will create hazards to aerial navigation.

**Activities applicable to height concerns:**

- i. Balloon flying.
- ii. Parachute diving.
- iii. Parasailing.
- iv. Aero-modeling (flying model aircrafts).
- v. Kite flying.
- vi. Hang gliding.
- vii. Bird feeding/flying, etc.
- viii. Obstacle limitation requirements must be in accordance with Chapter 4 of Annex 14.
- ix. Building construction. (Hotels, Condo’s etc)
- x. High communication poles or antennas.

**Safety critical areas:**

Safety critical areas are areas beyond the runway and other areas of the community routinely flown over by aircraft to and from the airport.

Runway Protection Zone: These areas are marked by buoys, which are also no anchoring zone for motor vessels. All water sports activities around the aerodrome are prohibited to prevent the congregation of people in a particular area and the likelihood of injury and prevention of airspace incursion.

The attached Aircraft Accident Safety Zone Diagram” provides you with measurements and height restrictions applicable at PJIA.

- |                          |           |                           |           |
|--------------------------|-----------|---------------------------|-----------|
| 1) Traffic Pattern Zone  | 5000 Feet | 3) Inner Turning Zone     | 5000 Feet |
| 2) Side line Safety Zone | 1000 Feet | 4) Runway Protection Zone | 500 Feet  |

## APPENDIX B

Description of the proposed streets for moratorium on vending:

### **Walter Nisbeth Road**

The road beginning on the W.G. Buncamper Rd. and Sucker Garden Rd. running first in Western direction, then Northwest and ending on the Prince Bernard bridge.

### **A.T. Illidge Road**

The road beginning at the intersection of the Bush Rd. and W.J.A. Nisbeth Rd. - Prince Bernard Bridge, running in Northern direction then making a sharp curve Northeast along the Great Salt Pond, then making a short curve to the North at the intersection of the Arch Rd., crossing Mount William Hill, then running in a Northern direction until the intersection of Bishop Hill Rd then making a sharp curve West, then making a short curve North and ending at the French and Dutch border in Belle Plain French Quarter.

### **Sucker Garden Road**

The road beginning at the intersection of W.G. Buncamper Rd. and Walter Nisbeth Rd. running in Northern direction, then curving northeast, then curving north and ending on Middle region Rd.

### **Bush Road**

The road beginning on the Prince Bernard Bridge running in Western direction, curving Northwest and ending at the intersection of L.B. Scott Rd. and A.J.C. Brouwer Rd.

### **L.B. Scott Road**

The road beginning at the intersection of Bush Rd. and the A.J.C. Brouwer Rd., running in the Northern direction and ending at the intersection of the Pigeon Pea Rd. and Radish Rd in South Reward.

### **A.J.C. Brouwers Road**

The road beginning at the intersection of Bush Rd. and L.B. Scott Rd., running in Southern direction, curving West around the Cole Bay Hill and ending at the intersection of Union Rd. and Welfare Rd.

### **Union Road**

The road beginning at the intersection of Welfare Rd. and A.J.C. Brouwer Rd., running in the Eastern direction, then curving in Northern direction and ending at the border.

### **Welfare Road**

The road beginning at the intersection of A.J.C. Brouwer Rd. running in the Eastern direction, curving in Northwestern direction and ending at John Sainsbury Lejuez Bridge. (Simpson Bay Rd.)

### **Airport Road**

The road beginning on the Simpson Bay Bridge, running in the Northern direction, curving Northwest, curving Northeast then curving Northwest again, then curving West, then curving Southwest and ending at the intersection with Rhine Rd. and Beacon Hill Rd.



**Front Street and the adjacent allies**

The road beginning on the Emmapplein, running in Western direction and ending at the intersection of Little Bay Rd. and Kerkhof Street.

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