

ISLAND GOVERNMENT OF SINT
MAARTEN

Residential Economic Policy (REP)



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I. Introduction

Sint Maarten occupies just 16 sq miles of land; as such inevitably land usage conflict will arise. Furthermore, land spaces have many diverse uses all interdependent in many situations. As the island continues to experience accelerated growth with an intricate mix of residential, commercial and industrial uses, a suitable solution must be sought.

Non-residential activities in residential areas provide for home-based employment and economic diversification. They can also provide valued services for the surrounding community. However, such businesses may also be regarded as a symptom of residential decline. As such there is a need to reconcile these conflicting factors, to allow for residential and non-residential activities. Depending on the nature of the activity, many businesses can be conducted successfully in residential properties and communities, without detriment to the amenity of neighbourhoods and the residents.

The policy goal is to encourage an appropriate mix of residential and commercial activities that protect the residential character and integrity of neighbourhoods while promoting and facilitating the co-existence of commercial activity.

II. Purpose/Objective – Business in Residential Areas

The purpose of this policy is three-fold:

- i. To provide guidelines and regulations for the issuance of business licenses in residential areas.
- ii. To facilitate the establishment of non-residential activities in residential areas in circumstances where:
 - a. The activity is compatible in terms of its potential effects (negative and positive) on the residential community;
 - b. To minimize noise, smell and sight pollution as this may adversely affect the amenity enjoyed by residential communities;
 - c. Maintain an appropriate level of residential amenity.
- iii. To allow for the integration of residential and commercial uses, to promote and balance employment opportunities, services, and neighbourhood economic independence.

III. Definitions for the purpose of this policy

Decibel – standard unit of acoustic measurement having a zero-reference of two ten-thousandths (0.0002) microbar;

Establishment – any individual, firm, corporation, business, association, club, partnership, society, church or any other form of association or organization;

Public space – any real property, structure, land or space which is used and/or accessible by the general public;

Residential – is a dwelling place, private house, single-family home and/or multi-family home, whose primary function is for non-commercial use;

Mixed (area) – a community or neighbourhood with a combination of residential and commercial activities/establishments;

Salvage Yard (junk yard) - a salvage yard or junk yard is a lot, building, and/or structure, or portion thereof, used for the storage of obsolete, discarded, or salvaged materials. This may include but is not limited to vehicles, building supplies, and industrial equipment, commercial or residential waste (liquid or otherwise), and the sale thereof of the above mentioned. Furthermore, this also includes any facilities for the administration and management of said business and for the storage and/or maintenance of the equipment used in the business;

Noise – any loud, unmusical or disagreeable sound or physiological pressure that is emitted or caused by any type of source; any sound or a sound that is loud, unpleasant, unexpected, or undesired;

Public nuisance – includes any foul or overbearing smells, undesirable behaviour, sight pollution or sound from either, amplifiers, speakers, radios, televisions, stereos and/or any other electronic/musical device or instrument, inside or outside the premises, which carries to adjacent residences/property;

Permitted activities – any activity that complies with the guidelines and conditions for permitted activities;

Discretionary activities – any activity unable to comply with the guidelines and conditions for permitted activities.

IV. Abbreviations & Translations & Relevant Legislation

1. VOSEC
Department of Permits/Licenses Public Vending & Economic Control
2. CIS
Department of Control Inspection and Security
3. ROB (Ruimtelijke Ontwikkeling & Beheer)
Sector responsible for Environment Development & Property Management
4. VROM (Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer)
Department for Spatial Planning & Development
5. Vergunninglandsverordening (PB 1963, no. 28)
Federal Ordinance on Licenses
Legal basis for the approval or denial of operational licenses
6. Vestigingsregeling voor Bedrijven (PB 1943, no. 46)
Business Establishment Ordinance
Legal basis for the approval or denial of business licenses
7. Eilandsverordening Openbare Straathandel (AB 1995, no. 31)
Public Vending Ordinance
Legal basis for the approval or denial of vending licenses
8. Algemene Politiekeur voor het eilandgebied Sint Maarten (PB 1940, no. 14)
General Police Ordinance for the Island territory of Sint Maarten
Legal basis pertaining to measures to regulate the public order, peace, safety and cleanliness
9. Hinderverordening Bovenwindse Eilanden (AB 1964, no. 8)
Hindrance Ordinance Windward Islands
Legal basis for the approval or denial of hindrance permits
10. Eilandsverordening Ruimtelijke Ontwikkelingsplanning (EROP) (AB 1993, no. 13)
Island Regulation for Spatial Development and Planning
Legal basis for building and zoning
11. Bouw- en woningverordening (AB 1935, no. 64)
Building Code Ordinance
Legal basis for building permits

V. Policy Approach

Non-residential activities may range from those associated with home base self-employment to a wide range of community base and commercial activities. A number of non-residential activities are associated with effects that are unacceptable in residential areas. Those activities that are likely to have an adverse effect on communities will be evaluated based on existing ordinances. Certain activities can generate levels of noise ranging from being a nuisance to actually damaging a person's health. For the purposes of this policy, to determine if a business is allowed to establish within a residential area, an effects-based approach will be used.

Effects-based Approach

Effects-based approach is intended to provide an assessment of the impact of the proposed business within the residential community. The effects-based approach focuses on the consequent activity (i.e. the outcome) of the establishment. This may include, but is not limited to traffic generation, noise, smell and sight pollution. This approach is quantifiable and forms the basis of developing an assessment criterion.

Furthermore, existing legislation and guidelines will be used to clarify and form the necessary guidelines for assessing the type of activity and its consequence on the community.

Nuisances

A business located within a residential community cannot create an unreasonable interference to a resident's amenity in their homes, such as:

Excessive Noise & vibration

Noise is a frequent cause of complaints of residents to the Island Government through its various agencies. Noise is one of the factors that can affect the appreciation of amenity. Noise as an indicator ensures that the residential character of communities' aural privacy is maintained and that any noise generated is assessed on its merits (for example, timing, duration, sound levels, and the compatibility of the noise with the neighbourhood etc).

The assessment on noise is carried out via consistent controls by the economic controllers of VOSEC and CIS, using sound meters which objectively measure the maximum allowed sound levels in Decibels.

Vibration has nuisance and health effects as do noise, and can have major adverse effects on people's enjoyment of their property. This is particularly so for residential communities. Therefore, the assessment is based upon the generation of any unreasonable vibration given the possible effects on people's amenity values, health and safety, together with effects on the structural integrity of buildings.

As vibration, for this purpose, is a negative side effect of excessive sound/noise, by executing the above mentioned controls on maximum levels of sound (in Decibels), the control of vibration will also be dealt with as such.

Excessive traffic or parking problems

The potential for adverse effects increases as the scale of activities increases. Such effects may relate to traffic and noise generation and demand for parking. The general guideline as regulated by VROM pertaining to parking requirements is 1 parking space per 50m² gross floor area.

Business activities that reduce property values

The consequent activity from businesses such as (but not limited to) supermarkets, garages, recycling plants and animal husbandry can create negative externalities that affect the amenity of a residential community. This may be in the form of excessive noise, smell, sight and attracting pests and rodents.

VI. Residential and Non-Residential Activities

The following are the categories for prohibited, discretionary and permitted activities.

Prohibited activities within residential areas:

- i. Bars;
- ii. Restaurants with music;
- iii. Discos and night clubs (entertainment establishments);
- iv. Carwashes;
- v. Automobile garages & salvage (junk) yards;
- vi. Adult entertainment;
- vii. Any other establishments that create public nuisance.

Discretionary activities within mixed areas:

Due to the mixed use character of the island, the majority of the districts can be considered as a mix of residential and commercial activities. Since this can cause an adverse effect on the quality of life for residents in these mix-use communities, the below mentioned establishments that create negative externalities are only allowed to be established in the main streets/arteries which can be considered as commercial areas.

Discos, Nightclubs, Bars

Discos, nightclubs and bars often attract large boisterous crowds, which have the potential to engage in vandalism, create traffic bottlenecks and parking problems that generally adversely affect the area location.

Carwashes, Mechanic-shops, Salvage (junk) Yards

The establishment of the above mentioned businesses within residential communities create a public nuisance as it pertains to the parking of excessive cars which are usually immovable and inoperable on the public streets. Furthermore, these establishments have the potential to create excessive noise from the equipment, create unsightly and unhealthy situations with the inadequate storage and disposal of waste products and water (in the street).

Controlled Activities within residential and mixed areas:

Considering the minimum negative externalities of the below mentioned establishments, the following type of businesses will under condition be allowed to operate within residential properties and communities. The below list is not limitative:

- a. Administrative offices;
- b. Medical offices;
- c. Professional offices, such as but not limited to:
 - Architectural firms;
 - Law firms, notaries, insurance companies, trust & management companies,
 - Accounting;
- d. Spa Facilities;
- e. Day care facilities (with adequate parking)
 - Pre-schools
- f. Assisted Living Facilities (such but not limited too)
 - Nursing homes
 - Group homes (adult and adolescence)
 - Orphanages

VII. General Guidelines

- i. The Island Government may grant or deny a business license within a residential community based on:
 - a. the activities established in the Hinderverordening Bovenwindse Eilanden; in such cases an advice will be required from the relevant agencies; businesses which require a Hindrance Permit must have the location inspected by the relevant authorities and an advice provided.
 - b. the activities established in the Algemene Politiekeur voor het Eilandgebied Sint Maarten.
 - c. the Vergunninglandsverordening; in such cases an advice will be required from the relevant departments;
 - d. the activities established in the Eilandsverordening Ruimtelijke Ontwikkelingsplanning; in such cases an advice will be required from the relevant departments.
- ii. All businesses in residential communities are required to comply with the Residential Economic Policy (REP) including any relevant legislation and/or policies;
- iii. All new licenses will be issued in conformity with the REP and any relevant ordinances and policies (such as the Vending Policy);

- iv. All existing businesses within residential communities will be grandfathered in so far as the business remains open and operational. However, such businesses, must comply with the rules and regulations of the REP and/or relevant policies where applicable;
- Existing businesses within residential areas are required to sound proof and insulate the dwelling from noise caused by its activities in order to mitigate the exposure of its residents to noise levels; The department of CIS must inspect the premises and provide documentation that the business has complied with the sound proofing of the premises;
 - Existing businesses within residential areas are required to comply with the general guidelines as regulated by VROM as it relates to parking requirements, namely 1 parking space per 50m² gross floor area;
- v. Inactive licenses within the identified residential communities may be revoked in conformity with the relevant legislation and/or policy. Businesses are classified as operational e.g. active, when the following 'burden of proof' is submitted at the department of Permit, Licenses & Economic Control (VOSEC):
- a. Proof the business has been open to the public for a period of 3 months;
 - b. Documentation - business has paid SVB/BTP (with employees) within the last 3 months;
 - c. Copy of Wage Tax of the last 3 months (with employees);
 - d. Copy of stamped monthly Turnover Tax documentation from the Federal Receiver (last 3 months);
 - e. Copy of GEBE (utility) bill including receipts of the last 3 months; the address on the GEBE bill must correspond with the address on the business license;
Note: in the case of home base businesses the proprietor may use the utility bills for said property; however a business license and copy of the Chamber of Commerce registration must be presented for said business.
 - f. Copy of business licenses.
- vi. The control of businesses in accordance with the rules and regulations of the REP will be conducted by the Island Government or its authorized personnel;
- vii. Businesses with unrelated activities (i.e. activities that are not comparable in nature) are not eligible to establish at the same location;
- viii. All (existing) bars within residential areas have to be closed after 11pm in order to prevent crime (less hang-outs) and reduce the level of noise within residential communities;
- ix. In residential and mixed (residential and commercial activities) areas, the use of any sound-producing device (such as amplified sound, speakers, radios, televisions, stereos or any other electronic/musical device or instrument) which carries sound more than the

maximum decibels as mentioned in the table below, is not allowed. This provision shall not be construed to prohibit public performances being conducted in accordance with special occasions on condition that the required provisions, i.e. permit has been granted by the relevant authorities as regulated in the “Algemene Politiekeur voor het eilandgebied Sint Maarten” (PB 1940, no. 14);

Type of establishment	Music Level in decibels
Establishments within a residential area (non-commercial) with permission to keep background music.	60 - 75 dB(A)
Establishments within a mixed area (residential & commercial activities) with permission to keep background music.	75 - 80 dB(A)
Establishments within a residential area (non-commercial) with permission to keep dance and/or live music performances.	85 - 95 dB(A)
Establishments within a mixed area (residential & commercial activities) with permission to keep dance and/or live music performances.	95 -110 dB(A)

- x. Establishments cannot disturb the peace, enjoyment and value of surrounding properties and the neighbourhoods. Establishments allowed to establish in a residential area must provide and show proof of adequate parking facilities (1 parking space per 50m2 gross floor area) and cannot obstruct the traffic (flow) in a residential area;
- xi. Establishments that require a Hindrance permit (as per article 1 of the Hinderverordening Bovenwindse Eilanden) will not be issued a business license within residential areas;
- xii. It is prohibited for property owners, landlords, and renters, businesses and vending permit holders to allow their property, establishment or place of business to be used for noisy or unruly assembly as per article 46 of the Algemene Politiekeur voor het Eilandgebied Sint Maarten.
- xiii. Establishments within residential areas and which utilize outdoor fixtures (chairs, tables, tents, coolers, storage units, and refrigerators) must remove all items at the end of each working day or at their respective closing hours;

xiv. Business licenses (all) will not be granted in contradiction to the land usage as specified in the Deed; no business license will be granted in contradiction of government approved permits. As such businesses will be required to provide of the abovementioned.

VIII. Penalty Structure¹

The following actions and penalties will be imposed on offenders:

Scenario 1: If the establishment have the required documentation the following will apply.

1 st and 2 nd violation:	written warnings
3 rd violation:	closure for 1 week
4 th violation:	closure for 1 month
5 th violation:	closure for 3 months
6 th violation:	revocation of the license (depending on the type of violation per different ordinance)

Scenario 2: If the establishment **does not** have the required documentation (business, operational, vending licences), the penalty is immediate closure until all the documents are in order. In case the documentation is in process, a letter by VOSEC needs to be shown as proof of being in process.

IX. Terms of reviewing the Policy

This policy will be reviewed annually or as market conditions change, new trends and/or overall residential developments (such as new streets and the development of new residential areas on the island). Next to this, nuisance complaints made by residents are also a means to review the policy. The REP will remain in place until the Sector ROB has completed the zoning for the island.

X. Designated Commercial Locations

Due to the mixed-use character of the island there are very few areas that may be considered as strictly residential communities. As such each district has some form of commercial activity. The following table outlines the existing commercial areas in each district. All other areas are considered residential and the guidelines in this policy will apply to business applicants wishing to establish outside of the main commercial areas.

¹ For further details on the penalty structure per different violation and ordinance, the Enforcement Policy (Handhavingsbeleid Horeca) is referred to.

Table 1

Designated Commercial areas in each district

No	Districts	Streets
		Commercial Activity limited to the designated areas/streets within designated Residential Areas (Main Arteries & Main Roads)
1	Cay Hill	1. <u>Welgelegen Road</u> (The road beginning at the A.J.C.Brouwer Road, running in Southern direction, ending at the intersection of Hamster Drive and Jackal Road)
2	Cole Bay	1. <u>Wellington Road</u> (Starting at the intersection of Well Road & Wellington Road – along Wellington Road – ending at the intersection of Wellington Road & Welfare Road)
		2. <u>Well Road</u> (Starting at the intersection of Union Road & Well Road – length thereof of Well Road- ending at Wellington road)
		3. <u>Orange Grove Road</u> (Starting at the intersection of Wellington Road and Orange Grove Road – along Orange Grove Road – ending at the intersection of Orange Grove Road and Union Road)
		4. <u>Union Road</u> (Starting at the intersection of Union Road and Welfare Road – along Union Road – ending at the border)
		5. <u>Welfare Road</u> (Starting at the intersection of Welfare and Union Road – along Welfare Road – ending at the intersection of Welfare and Waterfront Road)
3	Pelican / Billy Folly	1. <u>Billy Folly Road</u> (Starting at the intersection of Billy Folly and Welfare Road – along Billy Folly Road – ending at the intersection of Billy Folly and Zircon Road)
4	St John Estate & Retreat Estate	1. <u>Abolition Drive</u> (Starting at the intersection of Abolition Drive and St John’s Estate Road – along Abolition Drive – ending at the intersection/ entrance of Abolition Drive)
		2. <u>St. John Estate Road</u> (Starting at the intersection of St. John Estate and L.B.Scot Road– along St. John Estate Road – ending at the intersection of St. John’s Estate Road, Range Drive & Emancipation Road)
5	Saunders & Mary's Fancy	1. <u>Arbutus Road</u> (Starting at the intersection of Arbutus and L.B. Scot Road – along Arbutus Road – ending at the intersection of Arbutus & Betty Estate Road)

6	Reward (South)	1. <u>Carrot Road</u> (Starting at the intersection of Carrot Road & L. B. Scot Road – along Carrot Road – ending at the intersection of Carrot & Boulanger Road)
		2. <u>L.B.Scot Road</u> (Starting at the intersection of L.B. Scot & Carrot road – along L.B.Scot Road (North) – ending at the intersection of L.B.Scot & Boulanger Road)
7	Betty's Estate	Only controlled activities allowed
8	Ebenezer	Only controlled activities allowed
9	Waymouth Hill	Only controlled activities allowed
10	Middle Region	1. <u>Middle Region Road</u> (Starting at the intersection of A.Th. Illidge Road & Middle Region Road – along Middle Region Road (East) – ending at the intersection of Middle Region Road, Sucker Garden Road & Hulda B. Richardson Road (three way intersection)
11	Lowlands / Maho Reef	1. <u>Rhine Road</u> (Starting at the intersection of Airport Road & Rhine Road – along Rhine road (North) and ending at the French Border)
12	Beacon Hill	1. <u>Beacon Hill</u> (Starting at the intersection of Airport Road & Beacon Hill Road – along Beacon Hill Road – ending at the intersection of Beacon Hill Road & White Sands Road)
13	Sucker Garden & The Keys	1. <u>Sucker Garden Road</u> (Starting at intersection of W.G. Buncamper Road & W.A Nisbett Road – along Sucker Garden Road (East) – ending at the intersection of Sucker Garden Road, Middle Region Road & Hulda B. Richardson Road)
14	Guana Bay & Hope Estate	1. Entrance of Guana Bay Road and intersection of Hope Estate Drive
		2. <u>Guana Bay Road</u> (Intersection of Hope Estate & Guana Bay Road- ending at the intersection of Sucker Garden Road & Hope Road)
15	Pointe Blanche	1. <u>Juancho Yrausquin Boulevard</u> (Starting at the intersection of Juancho Yrausquin Blv & W.G. Buncamper Road – along the length of Juancho Yrausquin Blv (North) ending at the intersection of Ray Teun and Goldfinch Road)

		2. <u>Ground Dove Road</u> (Starting at the intersection of Juancho Yrausquin Blv & Ground Dove Road – along Ground Dove Road (East) – ending at the intersection of Goldfinch Road, Royal Tern Road and Ground Dove Road)
16	St. Peters	1. <u>St Peters Road</u> (Starting at the intersection of L.B.Scot Road and St. Peters Road – along St Peters Road – ending at the intersection of Watermelon Road)
		2. <u>Tangerine Road</u> (Starting at the intersection of Watermelon and Tangerine Road – along Tangerine Road – ending at the intersection of Apricot Road & Tangerine Road)
17	Over the Bank / Vineyard	1. <u>W.G.Buncamper Road</u> (The road beginning on the Juancho Yrausquin Boulevard, running in North-Western direction, splitting at the Walter J.A. Nisbeth Road and the Sucker Garden Road)
18	Fort Willem	1. <u>Little Bay Road</u> (The road beginning on the intersection of Front Street and Kerkhof Straat, running in Western direction, curving Southwest and ending at the entrance of the hotel premises (Divi Hotel))
		2. <u>Fort Willem Road</u> (The road beginning on the Little Bay Road, running in North-Western direction, curving North and dead-ending)
19	Over the Pond Mount William Dutch Quarter Zorg en Rust Union Farm Nazareth	1. <u>A.Th.Illidge Road</u> (The road beginning at the intersection of the Bush Road and W.J.A.Nisbeth Road - 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 Road, crossing Mount William, then running in Northern direction until the intersection of the Bishop Hill Road, then making a sharp curve West, then making a sharp curve North and ending at the French and Dutch border in Belle Plein French Quarter)
20	Madame's Estate (new & old section) & Claude Estate	1. <u>Arch Road</u> (The road beginning on the Sucker Garden Road, running in South-Eastern direction, crossing the Hispanola Road, Madame Estate Road, and the Guadeloupe Road and ending on the A.Th. Illidge Road)

		<p>2. <u>Johan Vermeer Straat</u> (The road beginning on the A.Th. Illidge Road, parallel to the Arch Road, running in Eastern direction, then splitting in Southern direction until the Arch Road, and also splitting in Northern direction and ending on the Van Gogh Straat)</p> <p>3. <u>Rembrandt Plein</u> (The road beginning at the square located in the center of Madame Estate Shopping Center, bordered to the North by the Johan Vermeer Straat, to the East by the Frans Hals Straat, to the West by Van Gogh Straat and to the South by Johan Vermeer Straat)</p>
21	Bishop Hill	1. <u>Bishop Hill Road</u> (The road beginning at the intersection of the A.Th. Illidge Road, running in Eastern direction through Bishop Hill and ending at the intersection of the Oyster Pond Road and the Hulda B. Richardson Road)
22	Defiance	1. <u>Hulda B. Richardson Road</u> (The road beginning at the junction of Middle Region Road and Sucker Garden Road, running in Northern direction and ending at the junction of Bishop Road and Oyster Pond Road)
23	St. James Estate	1. <u>Sucker Garden Road</u> (The road starting at the intersection of Sucker Garden Road and St James Road – ending at the intersection of Sucker Garden Road, Middle Region Road & Hulda B. Richardson Road.
24	Cul de Sac	<p>1. <u>L.B.Scot Road</u> (The road beginning at the intersection of Bush Road and A.J.C. Brouwer Road, running in Northern direction and ending at the intersection of the Pigeon Pea Road and Radish Road)</p> <p>2. <u>A.J.C.Brouwer Road</u> (The road beginning at the intersection of Bush Road and L.B.Scot Road, running in Southern direction, curving West around the Cole Bay Hill and ending at the intersection of Union Road and Welfare Road)</p>
25	Bush Road Area	<p>1. <u>Bush Road</u> (The road beginning on the Prince Bernard Bridge running in Western direction, curving Northwest and ending at the intersection of L.B.Scot Road and A.J.C. Brouwer Road)</p> <p>2. <u>Zagersgut Road</u> (The road beginning on the Bush Road, running in North-eastern direction, curving East and ending on the A.Th. Illidge Road)</p>

26	Cay Bay	1. <u>Cay Bay Road</u> (The road beginning on the Welfare Road, running in Southern direction, then turns Southeast and ends at the entrance of the Bell's property - Cay Bay Estate)
27	Simpson Bay	1. <u>Airport Road</u> (The road beginning on the Simpson Bay Bridge, running in Northern direction, curving Northwest, curving Northeast, then curving Northwest again, then curving West, then curving Southwest and ending at the intersection with Rhine Road and Beacon Hill Road)
		2. <u>Sister Modesta Road</u> (The road beginning on the Sister Patientia running in South-eastern direction, curving North-eastern and ending at the Airport Road)
28	Belvedere Area	Only controlled activities allowed
29	Oyster Pond & Dawn Beach	Only controlled activities allowed

XI. Appendices

Maps:

- Sint Maarten (overview)

Besluit:

- Street Names & Districts
- BC260509 ag.pt. 17

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