

## **Regional Secretariat for Energy, Environment and Tourism**

### **Ordinance no. 25/2020, of 11 March**

Pico Mountain presents a set of relevant natural values, which determined its classification as an integral reserve, by the Decree no. 79/72, of 8 March, being one of the older protected areas of the country. This protection status was reinforced with the establishment of the Pico Mountain Nature Reserve, by the Regional Decree no. 15/82/A, of 9 July, and, subsequently, reclassified and integrated in Pico Nature Park, by the Regional Legislative Decree no. 20/2008/A, of 9 July.

The preservation of the Pico Mountain Nature Reserve's natural values requires controlled access and law enforcement, concerning a conduct compatible with the objectives associated with the areas classified as protected.

Article 8 of the Regional Legislative Decree no. 20/2008/A, of 9 July, defines the restricted and conditioned activities in the Pico Mountain Nature Reserve but does not establish the Pico Mountain access policy, nor a specific regulation related to recreational and visitation activities that can occur in this area.

The necessity to better promote, manage and valorise the protected area's natural and cultural resources and values, requires the regulation of interventions that are likely to degrade the landscape, and the accesses' control, to safeguard the visitors' safety, considering the natural difficulties and the inherent risks of climbing a natural area with the Pico Mountain's characteristics, subject to frequent weather changes and long periods of reduced visibility.

Ordinance no. 52/2018, of 23 May, which approves the access policy to the Pico Mountain Nature Reserve, established, according to its article 5, that the Pico Mountain's maximum load capacity is 320 visitors per day. This measure revealed to be appropriated to the management goals of this protected area, however, it is necessary to adjust the law in force, to guarantee the equity of access to all visitors, specifically, granting to the autonomous visitors the possibility to make a reservation through the online platform.

The increase of visitors and the decrease of seasonal search justify the enlargement of the Mountain's House opening times, while the significant growth of visitors that search for the services provided by specialized operators and that climb Pico Mountain accompanied by Pico Mountain guides, requires the guarantee of this services' quality, namely by the availability requirement of, at least, one guide per each group of 12 visitors.

Alternatively, if the execution of the nature and biodiversity conservation policy is based on the compensation principle, by the visitor, of the negative effects caused by the usage of natural resources, then, the fees of access to Pico Mountain must continue being used as instruments of environmental protection of this nature reserve, particularly of the most sensitive areas, such as the Pico Pequeno or Piquinho, and of stimulation for the development of activities with specialized operators and Pico Mountain guides, properly qualified and recognized, as it starts to take place with the accesses out of the Mountain's House opening times.

The Regional Council for the Environment and Sustainable Development (Conselho Regional do Ambiente e Desenvolvimento Sustentável - CRADS) and the Azores Mountain Guides Association (Associação de Guias de Montanha dos Açores - AGMA), were heard.

Therefore, the Regional Government of the Azores requires, through the Regional Secretariat for Energy, Environment and Tourism, under the terms of no. 1 of article 7 of the Regional Legislative Decree no. 30/2012/A, of 3 July, and the subparagraph *f)*, of no. 2 of article 7 of the Regional Legislative Decree no. 20/2008/A, of 9 July, together with the subparagraphs *b)*, *e)*, and *g)* of article 14 of the Regional Regulatory Decree no. 9/2016/A, of 21 November, the following:

1. The Access Regulation to the Pico Mountain Nature Reserve is approved and constitutes an attachment to the present Ordinance, of which it is an integral part.
2. The alteration of the fees value referred in the subparagraph *b)*, of no. 2 of article 8 of the Regulation attached to the present Ordinance does not apply to the reservations made until 31 March 2020.
3. It revokes the Ordinance no. 52/2018, of 23 May.
4. The present Ordinance takes effect from 1 April 2020.

Regional Secretariat for Energy, Environment and Tourism.

Signed on 17 February 2020.

Regional Secretary for Energy, Environment and Tourism, *Marta Isabel Vieira Guerreiro*.

## **ATTACHMENT**

### **Access Regulation to the Pico Mountain Nature Reserve**

#### Article 1

##### **Framework and object**

1 - The present regulation establishes the access policy to the Pico Mountain Nature Reserve, in the Autonomous Region of the Azores, protected area integrated in Pico Nature Park, applying to everyone who intends to:

- a) Enjoy Pico Mountain's landscape and its ecological and geological values;
- b) Develop other activities on Pico Mountain, namely for work purposes, scientific researches and provision of public services.

2 - The content of this Ordinance does not apply to rescue, emergency and safety operations, as well as to maintenance works in the PRC4 PIC Mountain walking trail or related to nature conservation of the protected area.

#### Article 2

##### **Access and type of activities**

1 - The access to Pico Mountain, in the terms of subparagraph a) of no. 1 of the previous article, depends on prior registration and can be made individually or through a service provided by qualified entities.

2 - Without prejudice of compliance of specific legislation and regulation, activities referred in subparagraph b) of no. 1 of the previous article, require prior authorization of the autonomous regional administration services responsible for environmental issues.

3 - Visitors under the age of 16 must be accompanied by the holder of parental responsibility or a person of legal age, duly authorized by a written declaration of the first.

#### Article 3

##### **Qualified entities to operate on Pico Mountain**

1 - Only the entities registered as tourist entertainment companies can operate on the Pico Mountain Nature Reserve, as well as travel agencies, proprietary or operating companies of tourist enterprises and nature tourism enterprises, under the conditions defined on the applicable law, recognized by the autonomous regional administration services responsible for tourism issues.

2 - The entities mentioned on the previous number provide their services through Pico Mountain guides, certified by the Regional Government department responsible for environmental issues, and shall be available, at least, one guide per each group of 12 visitors.

3 - Pico Mountain guides must carry identification and a certificate as proof that they work or provide services for an entity mentioned in no. 1 of the present article.

#### Article 4

##### **Trail and load capacity**

1 - The access to Pico Mountain, under the terms of the subparagraph a) of no. 1 of article 1, is made by PRC4 PIC Mountain walking trail, marked on the ground, with a maximum load capacity of 320 visitors per day.

2 - The trail's load capacity is 160 visitors, simultaneously, and can be reduced or increased, up to 25%, by the decision of the Director of Pico Nature Park, for a specific period, based on the trail's condition and weather.

3 - The mountain top's ("Pico Pequeno" or "Piquinho") load capacity is restricted to 30 visitors, simultaneously, without exceeding the maximum period of 20 minutes per visitor, except for visitors accompanied by a Pico Mountain guide, to which can be extended until 60 minutes, under the requirement of the entity referred in no. 1 of the previous article.

4 - The overnight stay at the Pico Mountain crater, considering as such the climbs that occur between 16h00 and 24h00 of each day, in the period from 1 June to 31 October, and between 14h00 and 24h00 of each day, in the period from 1 November to 31 May, and which descent ends after 8h00 of the following day, is conditioned to a maximum of 32 visitors per day and reservation, with a minimum of 24 hours in advance to the beginning of the climb.

#### Article 5

##### **Prior registration and authorization**

1 - The permit request referred in no. 1 of article 2 is made at Mountain's House and, out of its opening times, at Madalena Fire Department Headquarters through, individual or group, specific forms, which are available in the referred places and the Regional Government website.

2 - When making the prior registration, it is available to the visitor tracking equipment and information about the present regulation, the trail conditions and average duration, the conduct and safety laws, weather forecasts and the terms and conditions of rescue operations.

3 - When the access is made through a service provided by the entities referred in no. 1 of article 3, it is the entity's responsibility to make the prior registration and collect the tracking equipment, as well as to provide the information mentioned in the previous number to the visitors.

4 - The individual forms are accompanied with a responsibility declaration of safety and conduct in the Pico Mountain Nature Reserve and the exclusion of any responsibility of the regional administration for accidents that occur while on the trail.

5 - Group forms, including a group responsibility declaration, can only be submitted by the entities referred in no. 1 of article 3, being the former responsible for its visitors' security and conduct.

6 - The authorization requests mentioned in no. 2 of article 2 are made at the autonomous regional administration services responsible for environmental issues, and the requirement must be properly founded and unequivocally identify the activity to develop and the intervention area.

## Article 6

### **Reservation portal**

1 - The autonomous regional administration service responsible for environmental issues ensures the existence of an online platform designated for reservations to access Pico Mountain, in the cases referred in the subparagraph a), of no. 1 of article 1. The number of places available in the mentioned platform cannot exceed 90% of the maximum daily load capacity defined in no. 1 of article 4.

2 - The date of the reservation made through the online platform can be changed, without any penalty, until 2 hours before the activity's beginning, but the alteration of the visitors' data it is not allowed.

3 - The confirmation of the reservation made through the online platform does not exclude the necessity of prior registration and collecting the tracking equipment, in the places and terms defined in the previous article, until 2 hours after the time indicated for the activity's beginning, under penalty of the reservation's cancellation.

## Article 7

### **Operation of Mountain's House**

The operation of Mountain's House is ensured by Sociedade de Gestão Ambiental e Conservação da Natureza - AZORINA, S.A., along with Pico Nature Park, which guarantees its opening in the following periods:

- a) From 1 May to 30 September, 24 hours a day;
- b) From 1 to 30 April and from 1 to 31 October, continuously, from 08h00 of Friday to 20h00 of Sunday, and from 08h00 to 20h00 in the other days;
- c) From 1 November to 31 March, every day from 08h00 to 18h00.

2 - Out of the opening times of Mountain's House, it is only allowed the access to Pico Mountain under the terms of subparagraph a), of no. 1 of article 1, through a service provided by the entities referred in no. 1 of article 3, except for visitors resident on the Autonomous Region of the Azores.

## Article 8

### **Access fees, information and tracking equipment**

1 - Besides the prior registration referred in article 5, the access to Pico Mountain is subject to the payment of the following fees, charged by AZORINA, S.A.:

- a) €5,00 – per each visitor who climbs to Furna Abrigo;
- b) €2,00 – per each visitor who climbs to Furna Abrigo through a service provided by the entities referred in number 1 of article 3;
- c) €15,00 – per each visitor who does the full climb individually;
- d) €5,00 – per each visitor who does the full climb through a service provided by the entities referred in no. 1 of article 3.

2 - The access to the mountain top (“Pico Pequeno” or “Piquinho”) is subject to the payment of the following additional fees:

- a) €10,00 – per each visitor who climbs individually;
- b) €5,00 – per each visitor who climbs through a service provided by the entities referred in no. 1 of article 3.

3 - The overnight stay at Pico Mountain crater is subject to the payment of an additional fee of €10,00 per each visitor who climbs individually.

4 - The visitors who are residents on the Autonomous Region of the Azores are exempt from paying the fees referred in the previous numbers.

5 - The entities referred in no. 1 of article 3, that are members of the programme “Parceiro para o Desenvolvimento Sustentável” have 50% discount on the fees referred in the paragraphs b) and d) of no. 1, and b) of no. 2 of the present article.

## Article 9

### **Settlement of fees**

1 - The fees under the terms of the previous article are paid at the places referred in no. 1 of article 5, on the moment of the prior registration, without prejudice of the referred in the next number.

2 - The fees due to the reservations made through the online platform referred in article 6 must be paid until 48 hours after the form submission, under penalty of the reservation’s cancellation.

3 - AZORINA, S.A. ensures full refund of previously paid fees when the activity is cancelled due to an access restriction to the Mountain, under the terms of article 11.

## Article 10

### **Returning the tracking equipment**

1 - At the end of the activity, the tracking equipment must be returned to the Mountain’s House or, out of its opening times, at Madalena Fire Department Headquarters.

2 - Not returning or damaging the tracking equipment obligates the respective user to compensate for the replacement or damage caused, through the payment of €300,00 per each damaged or unreturned equipment.

3 - When the tracking equipment is available to the visitor or the entity referred in no. 1 of article 3, they may choose to pay an exclusion of liability fee in case of damage or not return, in the amount of €30,00 per device.

#### Article 11

##### **Access interdiction**

1 - The access to Pico Mountain may be prohibited due to safety reasons that resulted from a warning by the Regional Government department responsible for civil protection issues.

2 – It is not allowed the access to Pico Mountain to a person that:

a) does not bring suitable equipment for the trail;

b) shows signs of psychological disturbance, alcoholism or being under the effect of psychotropic substances;

c) is carrying an infant in arms or is accompanied by pets.

#### Article 12

##### **Restrained or conditioned activities**

In the Pico Mountain Nature Reserve are restricted and conditioned the acts and activities listed in article 8 of the Regional Legislative Decree no. 20/2008/A, of 9 July, that establish Pico Nature Park.

#### Article 13

##### **Rescue**

1 - The autonomous regional administration service responsible for environmental issues ensures the means for the constitution, technical preparation and equipment of a specialized team of mountain rescue, specifically capable of developing search and rescue actions or relief efforts in the Pico Mountain Nature Reserve.

2 - For the purposes of this Regulation, rescue is defined as a search and rescue operation or relief efforts in case of an accident, developed by a specialized team, referred in the previous number, and necessary for the aid and assistance of one or more visitors in the Pico Mountain Nature Reserve.

3 - The expenses of a rescue due to non-compliance, even that negligent, to the present Regulation, including disrespect for safety rules applicable to mountain climbing and conduct rules on Pico Mountain, as well as in case of a not recommended climb or requested without justification, are charged to the visitor or the entity referred in no. 1 of article 3, under the circumstances mentioned in no. 5 of article 5.

4 - Are considered justifiable rescue situations such as trauma injuries, bone fractures or any acute events, except fatigue, medically proved, that occur during the activity and prevent the

visitor of returning to the Mountain's House by its own means or with the aid of the Pico Mountain guide, in case of access through a service provided by an entity referred in no. 1 of article 3.

#### Article 14

##### **Contravention regulation**

1. It constitutes a contravention, punishable under the terms of the referred in no. 2 of article 31 of the Decree-Law no. 108/2009, of 15 May, amended and republished by the Decree-Law no. 95/2013, of 19 July, without prejudice to the possibility of accompanying sanctions provided in article 32 of the same regulation and its conditions, the following acts:

- a) The access to Pico Mountain by a non-qualified entity, in violation of no. 1 of article 3;
- b) The provision of services by the entities referred in no. 1 of article 3 without a Pico Mountain guide, certified by the Regional Government department responsible for environmental issues, as well as the unavailability of a mountain guide for each group of 12 visitors;
- c) The Mountain guide that does not carry identification or a certificate as proof that they work or provide services for an entity mentioned in no. 1 of article 3.

3 - Without prejudice of the referred in no. 4 of article 149 of the Regional Legislative Decree no. 15/2012/A, of 2 April, together with article 8 of the Regional Legislative Decree no. 20/2008/A, of 9 July, and article 12 of the present Regulation, it constitutes an infringement the following acts:

- a) The non-authorized access, the non-payment of fees, the deviation from the PRC4 PIC Mountain walking trail and the violation of the load capacity and permanence time in the mountain top, punishable as a light environmental contravention, under the terms of the subparagraph a) of no. 3 of article 149 of the Regional Legislative Decree no. 15/2012/A, of 2 April;
- b) The destruction or alteration of the trail's marking or any other signs, punishable as a light environmental contravention, under the terms of the subparagraph l) of no. 3 of article 149 of the Regional Legislative Decree no. 15/2012/A, of 2 April.