

RESOLUTION #105-2024

RESOLUTION OPPOSING THE STATE OF NEW JERSEY'S NEW PROPOSED SHORE PROTECTION RULE AND NJ PACT REGULATIONS

WHEREAS, the State of New Jersey is proposing a new shore protection rule that would allow for the State Department of Environmental Protection (DEP) to restrict access to tidal waters and adjacent shorelines to protect threatened and endangered species of wildlife and their critical habitats; and

WHEREAS, while the City of Margate City recognizes and understands the importance of the Department's service to protect critical habitat areas and endangered species throughout the State, for reasons including but not limited to public safety and recreational public access, Margate City has concern for the DEP's proposed new rule that would expand seasonal closures of beaches, tidal waterway, and beach entranceways during the high season in our shore town communities; and

WHEREAS, according to the State of New Jersey website, the DEP promotes public access and use of tidal waterways and their shores based on the common law of the Public Trust Doctrine, which provides for that public rights to tidal waterways and their shores and further establishes the right of the public to fully utilize these lands and waters for a variety of public activities; and

WHEREAS, in the DEP's stakeholder presentation on September 19th, 2023, that outlined the new proposed rule, there is a reference to a series of pictures to serve as examples of "injurious uses" that would trigger the restriction for access; and

WHEREAS, those references to "injurious uses" include pictures of footsteps on the beach, walking along the shoreline, shoreline access by boat, and accessing the beach with an unleashed dog; and

WHEREAS, expanding the DEP's ability to restrict access to the public and municipal public safety departments to our waterways seems to be in conflict with the Public Trust Doctrine that that the state bases all of their public access rules on; and

WHEREAS, with Margate City having our beaches being one of the main attractions for visitors to our City and residents, restricting access to our public beaches may result in an adverse impact on the local economy and property values and consequently a decrease in the hundreds of millions of State property tax dollars that the City generates for the State annually; and

WHEREAS, according to the federal Department of Homeland Security's Emergency Response Plan, the actions taken in the initial minutes of an emergency are critical; and

WHEREAS, while the local shore communities and Margate City do our best to support the needs for emergency water response during the peak summer season, due to the seasonality and coastal geographical location of our area in combination with coastal storms that cause rough water conditions, water rescues and sadly, sometimes fatal drownings are a common occurrence throughout our area; and

WHEREAS, if the State is to establish this new rule with no changes, the proposed restriction of access to local public safety departments including but not limited to Police, Fire Department, and Beach Patrols for the purposes of emergency response will put life and safety of the general public at risk; and

WHEREAS, historically, new rules issued by the NJDEP have been promulgated pursuant to legislation; and

WHEREAS, again in this case like the case with the State's proposed NJ PACT rules, there is no legislation that has authorized NJDEP to require more stringent requirements and restrictions on public lands; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the City of Margate City in the State of New Jersey, duly assembled in public session this 4th day of April 2024, as follows:

1. The preamble of this Resolution is incorporated here by reference and made a part hereof as the findings of the Board of Commissioners.
2. The City of Margate City hereby authorize a copy of this Resolution be submitted to Governor Murphy, DEP Commissioner Shawn LaTourette, DCA Commissioner Jacquelyn Suarez, Senator Vince Polistina, Assemblyman Don Guardian, and Assemblywoman Claire Swift for their review and consideration in advance of release of the proposed new rule for public comment.
3. The City of Margate City hereby further requests that the Legislature be encouraged to exercise its legislative oversight authority to review and approve the new proposed shore protection rule and the NJ PACT regulations prior to adoption that may have significant impacts on coastal communities statewide, so as to ensure the fairness and the maximum public acceptance of those new proposed regulations.

ROLL CALL:

NAME	MOTION	SECOND	YES	NO	ABSTAIN	ABSENT
Collins		X	X			
Blumberg			X			
Horn	X		X			

DATE: April 4, 2024

CERTIFICATION

I, Johanna Casey, Clerk of Margate City, Atlantic County, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Commissioners of the City of Margate City at a meeting of said Commission held on April 4, 2024 and said resolution was adopted by not less than a two-thirds vote of the members of the Commission.


Johanna Casey, RMC, City Clerk

