

**CITY OF BRIGANTINE**

**RESOLUTION 2024- 54**

**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 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, the 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 19<sup>th</sup>, 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 Brigantine #1 industry being tourism and our beaches being one of the main attractions for visitors to our City, restricting access to our public beaches may result in an adverse impact on the local economy; 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 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 City Council of the City of Brigantine in the State of New Jersey, duly assembled in public session this \_\_\_ day of March 2024, as follows:

1. The preamble of this Resolution is incorporated here by reference and made a part hereof as the findings of the City Council.
2. The City of Brigantine hereby authorize a copy of this Resolution be submitted to Governor Phil 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 Brigantine 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.

THIS IS TO CERTIFY THAT THE ABOVE IS A TRUE AND  
LAWFUL COPY OF A RESOLUTION ADOPTED BY THE CITY  
COUNCIL OF THE CITY OF BRIGANTINE, COUNTY OF  
ATLANTIC, NEW JERSEY.

AT ITS MEETING OF March 20, 2024

Lynn Sweeney, RMC.  
LYNN SWEENEY, RMC  
CITY CLERK

RECORD VOTE OF COUNCIL ON FINAL PASSAGE				
COUNCIL MEMBERS	Y	N	NV	AB
SERA	✓			
RIORDAN ✓	✓			
KANE				✓
BEW ✓	✓			
LETTIERI	✓			
HANEY	✓			
DeLUCRY		✓		

X-INDICATES VOTE NV=NOT VOTING AB=ABSENT