



**New Jersey Department of Environmental Protection
Public Access Rules
FREQUENTLY ASKED QUESTIONS**

Q. Do homeowners and lot owners who want to add on to their existing homes or build on their lots have to construct or provide restrooms for public use?

A. No. There is no provision in the new rules requiring homeowners and lot owners to construct or provide restrooms for the public. The only restroom requirements in the new rules are those that apply to municipalities that receive shore protection funding through a State Aid Agreement.

Q. Do homeowners or lot owners who want to add on to their existing homes or build on their lots have to provide parking for the public's use?

A. No. The only time a homeowner or lot owner would have to provide parking for public use is if the construction that the homeowner or lot owner engages in reduces existing on-street or off-street parking that is already used by the public for access to the waterfront.

Q. Who must provide public restrooms and under what circumstances must they be provided?

A. The new rules require municipalities that receive shore protection funding through a State Aid Agreement to construct public restrooms within that municipality.

Q. Isn't the requirement that a municipality provide a public restroom every ¼ mile excessive?

A. The new rules do not require that a restroom be located every ¼ mile. Instead, they require that there is at least one restroom facility every ½ mile within the municipality. They also require that there be one such facility within ¼ mile of each municipal boundary and that each restroom is located within ¼ mile from the landward edge of the beach. The new rules further provide that the ½ mile distance between each restroom and the ¼ mile distance from each

municipal boundary can be increased in proportion to a decrease in the distance that the restrooms are located from the landward edge of the beach, provided that the average interval between restrooms is ½ mile and that, in no case is the interval between restrooms greater than 5/8 mile.

Q. Do municipalities that receive shore protection funding also have to provide parking?

A. Yes. The new rules require that municipalities that receive shore protection funding through a State Aid Agreement provide parking that is “sufficient to accommodate public demand to access the project and the beach capacity of all beaches within the municipality along that portion of the waterway on which the project occurs.” The new rules also state that alternative means of providing adequate parking will be considered, such as remote/offsite parking with shuttle service to the beach.

Q. If a municipality already provides public access, including parking and public restrooms, will this be taken into account by the Department?

A. Yes. Prior to the issuance of a coastal permit for a shore protection project, the new rules require that a municipality prepare and submit to the Department a draft Public Access Plan demonstrating how the municipality intends to meet the public access requirements. The new rules specifically require that, as part of this demonstration, each municipality identify in its Public Access Plan all existing public accessways, public restrooms and public parking areas, if any.

Q. Are activities at marinas which were not regulated under the old public access rules regulated under the new public access rules?

A. No. Under the former public access rule, certain construction, expansion and renovation activities that existing marinas engage in, as well as the construction of new marina facilities, require the marina owner or operator to provide public access. Undertaking these very same activities, with no additional activities identified, will require marinas to provide public access under the new public access rules.

Q. Do marina owners and operators have to allow the public to access the boats and the docks housing the boat slips 24 hours a day?

A. No. Providing public access to the waterfront does not mean that the public must have access to the boats and the docks housing the boat slips at the marina. These areas can be secured by the marina owner/operator such that they are off limits to the public as long as public access is provided elsewhere on the property.

Q. Is there any protection offered to homeowners or marina owners against liability in the event a member of the public is injured on their property?

A. Yes. The New Jersey Landowners' Liability Act, N.J.S.A. 2A:42A-1 et seq., was amended in 1989 and then again in 2001 to exempt landowners and occupants, including homeowners and marina operators, from liability (in most instances) when a person is injured on their premises. This exemption is applicable to premises that the public is permitted to access pursuant to:

- (1) a State permit;
- (2) an agreement with the State;
- (3) a conservation restriction; or
- (4) a public pathway or trail easement.

See N.J.S.A. 2A:42A-8 and 8.1. This exemption is much broader than other exemptions in the Act, which are only applicable to rural properties and to persons injured while engaged in certain activities.

It is also important to remember that a private property owner is not responsible for injuries that occur on State-owned portions of tidal areas (i.e., below the mean high water line) adjacent to his/her property, for which the State has statutory immunity.

See N.J.S.A. 59:4-9.

Q. Why doesn't the new rule allow municipalities to incorporate the cost of the public access requirements into their beach fees?

A. The new rule does allow municipalities to incorporate the cost of the public access requirements into their beach fees.

Q. Is there any other funding available to assist municipalities with the cost of providing the public access required under the new rules?

A. Yes. The State has additional funding available to assist municipalities with the cost of the public access requirements. For example, in Long Beach Island where a beach replenishment project is currently underway in various municipalities, the State of New Jersey Office of Engineering and Construction offered to provide those municipalities with additional funds up to 5% of the total cost of the beach replenishment project - not just the cost of the municipal share - to pay for the public access requirements. Such additional funding will be discussed during the review of each municipality's new Public Access Plan and incorporated into the State Aid Agreements.

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