



# PROTECTING ACCESS TO THE SHORE

## New Jersey Adopts New Beach Access Rules

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A long campaign by the American Littoral Society and other coastal advocates to strengthen the tools to insure that the public has access to the Public Trust areas of the beaches and tidal waters of the state scored a significant victory on December 17, 2007, with the adoption of new rules by the New Jersey Department of Environmental Protection - giving new life to the Public Trust Doctrine and protecting and creating public access to the shore.

These rules result from decades of advocacy, strategic lawsuits by the Society and others, grassroots organizing and public education – all waiting for the leadership demonstrated by Commissioner Lisa Jackson to become a reality.

The new rules are long, and complex; however, their implications are clear and, if enforced as written, they will:

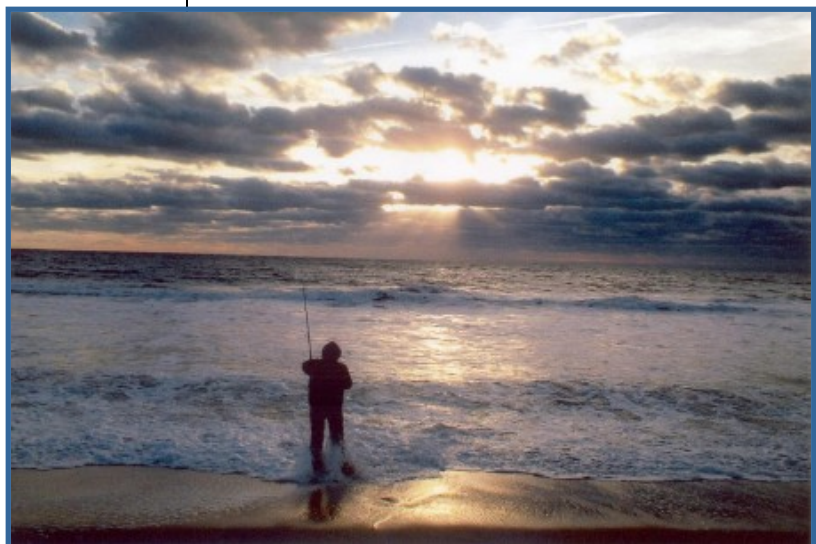
### Reaffirm important principles

- Acknowledge the inalienable rights bestowed upon the public by the Public Trust Doctrine
- Attest to the public's right to use tidal waterways, the lands adjacent to these waterways as well as the upland "dry sand" area, regardless of whether they are thought to be "owned" by a private or public entity or individual
- Affirm that it is the duty of the State, as the Trustee to protect the public's right to access and to ensure that there is adequate access to these natural resources

- Acknowledge that the millions of public dollars spent on shore protection and beach nourishment projects are not for the benefit of a few homeowners or even municipalities, but are for the benefit, use and enjoyment of all of us

### Strengthen existing regulatory standards

- The old rule "discouraged" development that adversely affects or limits public trust rights. Under the new rule, such development is "prohibited"
- The old rule required that waterfront development provide public access, but only **to the maximum extent practicable**; the new rule unequivocally states that development **shall provide on-site, permanent unobstructed public access at all times**
- The new Rules update the existing public access requirements for individual coastal permits, and incorporate the new public access requirements into those types of general permits that, until now, were silent with regard to public access



Surf Fishing at Sunrise by Leon Tikuisis

## What the New Rules Mean

### In Terms of Practice

- When you drive down to the Jersey shore, instead of facing a continuous wall of “no parking” signs up and down the coast, you will see signs clearly identifying public parking spaces and parking lots
- When you park and unload your car, instead of walking miles in search of a place to get on the beach or hauling your belongings and loved ones over a sea wall, you will find a designated accessway no more than a quarter mile away and signs leading you in the right direction
- Where a fee is charged, it will be a reasonable fee and it will be the same as that charged everyone else, including residents
- When you finally get where you are going and the little one announces that he *really* has to go, there will be a public restroom no more than half a mile away
- If you have visitors for the weekend and want to let them use the weekly, monthly or seasonal beach badges you’ve already purchased, you can do so without fear of repercussions
- If it’s 10:00 pm on a cold and windy November night and you realize that it’s a perfect night for striped bass fishing, you can drive to the shore, park your car, get to the water and cast your lines without being turned away, ticketed or asked to come back in the morning

### In Terms of Finances

- The Rules make sense. It is our understanding that the State has recently committed to provide municipalities 5% of the total cost of proposed shore protection projects – not of the State share or the local share – but of the total cost of the project – to help local governments pay for public access, in addition to the roughly 34% of the project cost that the State already contributes. This means that, for a project that costs \$40 million dollars, the State will

provide at least 2 million dollars to the municipality to put towards public access

- Municipalities can charge reasonable fees for the use of bathing and recreational facilities and safeguards. The new Rule specifies that these fees can be charged to cover costs such as lifeguards, restroom facilities, showers and parking at publicly owned beach or waterfront areas
- More public access will bring more visitors to an area. An increase in visitors means an increase in consumers, which translates into more customers for local stores, restaurants, gas stations, hotels and the summer rental market – all in support of a strong Shore economy

### In Terms of a Legacy

- These Rules, through the conservation easement and public access instrument provisions, ensure that this public access is not a phase or a privilege that can be revoked. Instead, they recognize that public access is a right that has been in existence long before we got here, and that it will be recognized and enjoyed by generations to come long after we are gone
- Most important, these rules embody the promise that, no matter where your stroll along the ocean or tidal bay or river takes you, nobody has the right to tell you that you don’t belong

*To learn more about the American Littoral Society's work to protect public access to the shore, visit [www.littoralsociety.org](http://www.littoralsociety.org) and click on Protecting Access to the Shore under Conservation issues. To report an infringement on the public's right to access to the shore, contact us via phone, fax, or e-mail:*

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