



New Jersey Ocean Beach Access Strategy



NEW JERSEY OCEAN BEACH ACCESS STRATEGY

Bureau of Coastal Planning and
Development
Division of Coastal Resources
Department of Environmental Protection
April , 1984
Principal Author: Karen J. Kominsky

NEW JERSEY OCEAN BEACH ACCESS STRATEGY

- I. Introduction 1
 - A. Goal of the Strategy
 - B. Statement of the Problem
 - C. What is Public Access?
 - D. Role of the State
 - E. Public Access Standards

- II. Existing Conditions 8
 - A. Municipal Profiles
 - B. Shoreline Ownership
 - C. Transportation Facilities
 - D. Beachfront and Support Facilities

- III. New Jersey Public Access Problems 10
 - A. Private Ownership
 - B. Insufficient Parking
 - C. Lack of Support Facilities
 - D. Lack of Barrier Free Access Points
 - E. Poor Visual/Physical Access
 - F. Accessway Maintenance
 - G. Liability
 - H. Fishing Access Limitations

- IV. Access Problems by Geographic Area 14
 - A. Identification of Geographic Area
 - B. Description of Access Problem

- V. Method of Providing Access 18
 - A. Purchase of Fee Simple Title
 - B. Purchase of Easements
 - a. Prescriptive Easement
 - b. Conservation Easement
 - C. Leases
 - D. Post-storm Acquisition
 - E. Legislation
 - 1. State Legislation
 - 2. Municipal Ordinances
 - F. Local Incentive Programs

VI. Recommendations 19

1. Revision of Coastal Policy
2. Use of Accessway Guidelines
3. Inter-departmental Coordination
4. Provision of Public Information
5. Public Transportation Issues
6. Island Beach State Park Bus Shuttle
7. Signing Program
8. Technical Assistance
 - a. Land Use Controls
 - b. Model Municipal Access Ordinance
9. Beach Fees
10. Acquisition of Access Rights
11. Fishing Access
12. Use of Tidelands Conveyances
13. Improvement of Access for People with Physical Handicaps
14. Access Handbook
15. Shore Protection Grants
16. Access to Shore Protection Structures

Tables and Figures

Table 1	Municipal Profile Data	8A
2	New Jersey Shoreline Ownership	9
3	Shorefront Characteristics by Municipality	9A
4	Availability of Public Transportation.	9C
5	Access Conditions.	10A
6	Access Standards and Ratings	15A

Figure 1	Coastal Beach Profile	4
----------	---------------------------------	---

Appendix A	29
----------------------	----

Model Municipal Access Ordinance

I. INTRODUCTION

A. Goals of the Strategy

The goal of this beach access report is to define public access, to identify the nature, location and severity of barriers to public access to New Jersey's ocean beaches and to recommend a strategy to address these barriers.

B. Statement of the Problem

The New Jersey Coast is a magnificent natural resource. Its 126 miles of ocean beaches provide enjoyable recreational opportunities for residents of and visitors to the state. The state's second largest industry, tourism, is dependent on the use of coastal beaches. In 1982, tourism in the Atlantic coastal area produced \$4.9 billion in revenues in addition to having generated a large number of jobs. (DEP, 1983). However, not all beaches are open to the public. The New Jersey shoreline is characterized by differing degrees of development and ownership. These differing conditions create a major issue for those who live, work and visit the coast: the availability of public access. This issue has become increasingly important in the past three decades as highway construction, improved transportation and increased affluence have made it easier for people to go to the beaches. Also, undeveloped oceanfront land has become increasingly scarce, elevating coastal land values.

C. What is Public Access?

"Public access" requires a working definition. Access can best be defined as the ability to physically and visually "reach" the shorefront. Ease in entering and making use of facilities is essential to recreation. Public use can be discouraged by such direct obstacles as private property restrictions or protective fencing, and by such indirect impediments as the lack of public transportation or parking facilities.

Some municipalities, in response to the higher volume of seasonal visitors, have enacted restrictive ordinances governing beach activities, parking, etc. In addition, some municipalities have sold beachfront properties for motels, hotels and private development. These practices have contributed to preemption of the public from the shoreline.

However, residents of non-coastal communities provide much needed support to oceanfront communities. Coastal municipalities receive State funds which require state-wide voter approval for coastal projects. The shore protection program, funded by bond issues which require such approval provides aid for coastal protection projects. To date, 80 million dollars have been approved for use in shore protection projects.

While beaches are frequently thought of as "public lands" by the public, only the area below the mean high water mark, the "wet beach," is legally public domain in New Jersey. The dry beach portion may be public or private, depending on whether it has been sold to private interests by State or local governments.

The Public Trust Doctrine has been recognized as a part of English Common Law since the 13th century. It is based on the principle that the sovereign holds title to tide-flowed lands in trust for the public and is obligated to protect the public's right to fish and navigate in the waters above those lands.

Following the American Revolution, the English Crown's rights and obligations with respect to tidelands became vested in the State. Notwithstanding this fact, in the late 18th and early 19th centuries, New Jersey sold its interest in bay and ocean tidelands along about one-third of the Atlantic Ocean to local and Federal governments, and to private interests. While New Jersey courts have never ruled that the outright conveyance of publicly owned tidelands violates the public trust doctrine, they have held the doctrine requires continued access to the public for purposes of navigation commerce and fishing. In 1976, the New Jersey Supreme Court extended the doctrine beyond fishing and navigation to include recreational uses [see Borough of Neptune vs. Borough of Avon-by the Sea, 61 NJ 296, (1976)]. In 1978, the Court ruled that when a beach is municipally owned, the doctrine applies to the dry sand portion of beaches as well as the portion below mean high water [see Van Ness vs. Deal, 78 NJ 174, (1978)].

More recently, the New Jersey Supreme Court has ruled that a quasi-public beachfront property owners association in the Borough of Bay Head must allow the general public to have access to its beach.

The Court's decision in Matthews v. Bay Head Improvement Association extends that public right established in Borough of Neptune v. Borough of Avon-by-the-Sea to beaches which, though privately owned, are leased to an improvement association and are operated in a public manner.

The Bay Head Improvement Association maintains, polices and guards approximately 70 private parcels of beach leased to it by the property owners, but restricts membership in the Association and access to the beach to residents, guests, and some municipal employees. The Court in ruling that the association was no different from a municipality, once again noted the historic importance of the public trust doctrine, which holds that sovereignty over lands flowed by the tide is held in trust by the State for all citizens.

The ruling also directs the Association to make a "reasonable" number of seasonal and daily beach badges available to the general public.

Perhaps the most significant aspect of the decision is that it was not based entirely on the quasi-public nature of the Bay Head Improvement Association, but on the unique importance of the public's right of access to the shore, regardless of ownership. The Court said "recognizing the increasing demand for our State's beaches and the dynamic nature of the public trust doctrine, we find that the public must be given both access to and use of privately-owned dry sand areas as reasonably necessary. While the public's rights in private beaches are not co-extensive with the rights enjoyed in municipal beaches, private landowners may not in all instances prevent the public from exercising its rights under the public trust doctrine. The public must be afforded reasonable access to the foreshore as well as a suitable area for recreation on the dry sand".

The Court recognized that there are limits to this right, saying that "this does not mean the public has an unrestricted right to cross at will over any and all property bordering on the common property. The public trust is satisfied so long as there is reasonable access to the sea". The determination of what constitutes reasonable access was not decided by the court. "Precisely what privately owned upland sand area will be available to satisfy the public's rights under the public trust doctrine will depend on the circumstances," Justice Schreiber has stated. Factors to be weighed include the location of the dry sand area in relation to the foreshore, extent and availability of publicly owned upland sand area, nature and extent of public demand and usage of the upland sand by the owner. If a dispute between a property owner and a party seeking to gain access arises, the claim of the property owner will be honored until the matter is settled in court.

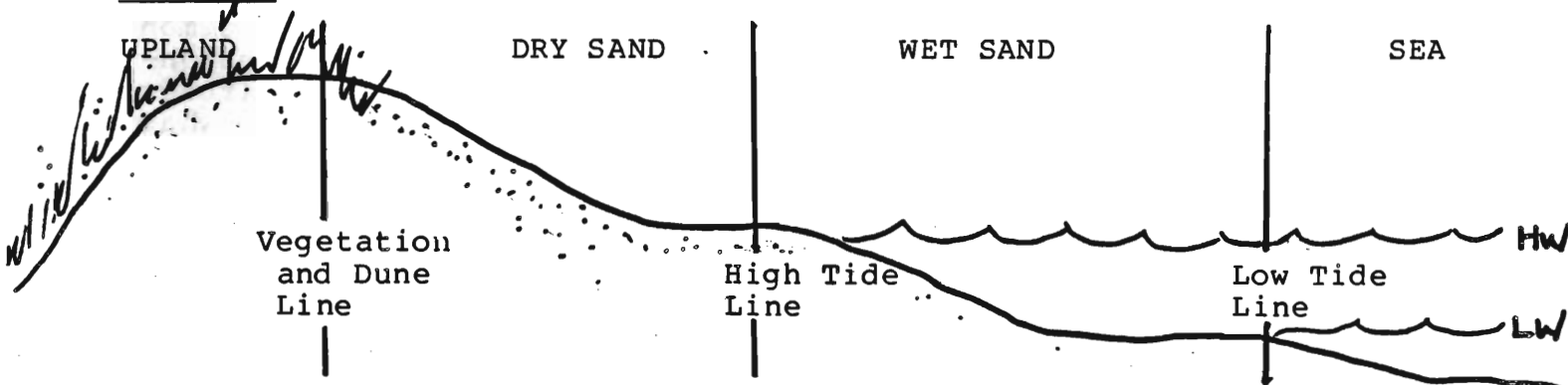
Recognizing the early stage of the implementation of the court decision, the issue of beach access as addressed by this study will be limited to physical and visual access to public trust lands and to the present restrictions on dry sand portions of the beach.

A beach can be defined as a gently sloping area of unconsolidated material, typically sand, that extends landward from the water to the area where there is marked change in material or physiographic form, or to the line of permanent vegetation. The upland limit of beaches is typically defined by the vegetation line or the first cultural feature, such as a road, seawall, or boardwalk.

When one sees a beach, two major areas are usually visible (Figure 1). One section is the back beach or backshore, which extends from the mean high water line landward to the upland limit of the beach. This section of the beach is called the dry beach. The other major area of a beach is the beach face, or foreshore, which is that section of the beach exposed to tidal action from the mean low water line up to the mean high water line. This section of the beach is called the wet beach.

A beach is a dynamic geologic feature because the shape of a beach can be changed by the waves that constantly break on it. The size and shape of New Jersey's beaches are governed by many interacting processes and factors. Some of these include size of particles, tidal range, orientation of the beach, longshore drift, wave activity, winds, and presence or absence of shore protection structures.

Figure 1 Coastal Beach Profile



The wet sand region in all parts of the state is subject to the public trust doctrine, as are the municipally owned portions of the dry beach area. This theoretically assures the right of the public to use the area for navigation, fishing and recreation. However, the dry-sand beach may be privately owned, and it is the dry-sand area to which access is generally sought. Private ownership, therefore, is a primary impediment to access.

Public Access to the beach is the ability of the general public to physically and visually reach and make use of oceanfront recreational resources.

In New Jersey, a number of barriers to public access exist. Often, private ownership of dry sand areas precludes any recreational use of the wet sand beach by the public. Privately owned dry beach areas become de facto private beaches. In the case of privately-owned clubs and hotel beaches, the actual use of the beach is often limited to members and guests. Facilities at such establishments, such as parking, showers and rest rooms are not for public use. Therefore, the general public is excluded from making use of the wet sand beach unless it can gain access from an adjacent area. Even then access is limited to the area below mean high water.

Private residential/commercial development can limit visual as well as physical access to the water. The protection of viewsheds, often overlooked, can enhance the character of a site and contribute to protecting natural features and property values.

Fishermen continually experience access difficulties. Examples are a vacated or fenced street end, strict parking regulations or a lack of parking; all of which deny access to a jetty or another desirable fishing area.

A lack of public transportation, parking restrictions or minimal availability of parking; a lack of support facilities such as restrooms, changing rooms, showers and food services; and restrictive municipal ordinances concerning beach use are also impediments to public access. These impediments can discourage the public use of the wet beach area.

This beach access report provides criteria upon which to judge access conditions in municipalities and sets a standard to be used in policy determination.

D. Role of the State

The State in its role as a trustee on behalf of the public, has a clear interest in seeing that adequate public access to beaches is provided. Support for this premise is found in the Public Trust Doctrine, the Federal Coastal Zone Management Act of 1972, the 1977 Governor's Beach Access Study Commission Report, and the State's shore protection role.

New Jersey's Coastal Management Program includes a shorefront access and a shorefront protection planning element, as required by the Federal Coastal Zone Management Act of 1972 (P.L. 92-583, as amended). According to the Act, each state's management program must include, "A definition of the term 'beach' and a planning process for the protection of, and access to public beaches..." (Section 305).

DEP's Rules on Coastal Resource and Development Policies, which form the substantive element of the Coastal Management Program serve as the basis for all State coastal permit decisions, require that adequate access be provided in all proposed shorefront development (N.J.A.C. 7:7E-8.13).

In 1977, the New Jersey Beach Access Study Commission, selected by then Governor Brendan Byrne, completed a year-long study of public access issues. The Commission recommended the implementation of various Federal, State and local initiatives to improve access conditions in the state. Recommended State initiatives included the enactment of a beach management law, the establishment of bus shuttle services to beach areas, the development of oceanfront parks in cooperation with oceanfront county governments and the acquisition of property for use as beach accessways.

The New Jersey Shore Protection Master Plan (1981) was prepared pursuant to a legislative directive "to prepare a comprehensive beach protection plan for a 5 year capital program for beach protection facilities, projects and programs" (P.L. 1978, C. 157, Section 5), and addresses public access in the context of State grants for shore protection. The shore protection program Rules and Regulations, adopted in December, 1982 (N.J.A.C. 7:7F) to implement the Master Plan, provide that the State accept 75% of the cost of shore protection projects. The 75% State matching grants awarded through the program will be conditioned on compliance with DEP's Rules on Coastal Resource and Development Policies in four policy areas: beaches, dunes, erosion hazard areas and public access to the shorefront. Local governments must be able to demonstrate that adequate public access will be provided to the area affected by the shore protection project. Factors to be evaluated will include, but are not limited to:

1. Physical access to anyone at a reasonable non-discriminatory cost (if a fee is charged) to the area affected by the shore protection project,
2. Adequate parking or public transportation for non-residents,
3. Public ownership or control of beach areas and access routes.

This is to insure that the beach area protected by the shore protection project will be accessible to the public who paid for the project.

The rising demand for open space has increased the demand on coastal recreation areas. A Statewide Comprehensive Outdoor Recreation Plan [SCORP] prepared by DEP in 1977 concluded that there is a need to not only increase the use and enjoyment of existing facilities but to acquire additional open space to meet New Jersey's recreational needs as well. The coastline is identified as a primary recreation area by the SCORP. The plan demonstrates that the State has a clear interest in seeing that residents and non-residents of the coast have sufficient beach resources available to them. Beach access planning and policy formulation is a primary element of efforts in this concern.

E. Public Access Standards

There are no uniformly applicable access standards. To adequately formulate a plan for beach access, a determination of what is considered an acceptable level of service must be made. This can be expressed as the placement of access points at certain intervals along the shoreline or the location of parking facilities in relation to access points. Due to the varying conditions and degrees of development along the New Jersey coast, application of standards of this type would be difficult at best.

The following favorable access conditions will be used to evaluate the adequacy of beach access:

1. Accessibility by auto.
2. Adequate parking within close proximity of public right-of-ways to the oceanfront area.
3. Accessibility by public transportation which has an adequate route pattern and service frequency.
4. Availability of support facilities such as rest rooms and changing areas.
5. Clearly marked beach areas and access points which are designed to encourage beach use.
6. Adequate number of access points per linear beach distance with a lack of private property restrictions or fenced-off areas.
7. Appropriate beach regulations [fees, hours, lifeguards, beach activities].
8. Provision of Barrier-Free Access (to Boardwalk areas).

II. EXISTING CONDITIONS

The coastal area of New Jersey displays a great deal of variation. Differences in socioeconomic characteristics, seasonality of populations, oceanfront ownership, transportation and available facilities not only characterize municipalities, but also provide a measure of what type of access is available.

An inventory of existing conditions is categorized as follows:

- A. Municipal Profiles
- B. Shoreline Ownership
- C. Transportation Facilities
- D. Beachfront and Support Facilities

A. Municipal Profiles

By examining seasonal population, unemployment and housing, a municipal profile can be drawn. This provides insight to local priorities and tourism dependence.

Seasonal ratios are the primary indicators. The population ratio (summer: year-round) provides a measure of tourism/recreational use of an area. Seasonal variation occurs in all coastal communities, with those from Mantoloking to Cape May exhibiting the highest ratios. This indicates the coastal area which is most dependent on tourism.

A final indicator is the amount of seasonal housing, which is expressed as a percentage of the total. In combination with the other factors, this gives definition to each municipality as to whether it is primarily a resort, residential or urban area and the degree of tourism in each.

Table 1 provides this data for each coastal community.

In summary, these indicators suggest that the area from Mantoloking to Cape May is dependent on tourism.

B. Shoreline Ownership

The availability of public access can be shown quantitatively. This establishes a base from which public access conditions can be judged.

New Jersey has 126 miles of coastline from Sandy Hook to Cape May. In terms of ownership it can be broken down as follows:

TABLE 1
MUNICIPAL PROFILE DATA

MUNICIPALITY	SEASONAL POPULATION RATIO	SEASONAL UNEMPLOYMENT RATIO	PERCENTAGE SEASONAL HOUSING	CLASSIFICATION
<u>MONMOUTH</u>				
Sea Bright	3.0	.98	11.2	Recreational
Monmouth Beach	1.3	.90	3.2	Residential
Long Branch	1.7	.98	2.0	Urban
Deal	2.0	.97	17.8	Residential
Allenhurst	1.2	.98	12.8	Residential
Loch Arbour	1.1	1.04	15.6	Residential
Asbury Park	2.6	.98	.8	Urban
Ocean Grove		.98		Residential
Bradley Beach	3.4	.99	23.9	Recreational
Avon	2.7	.98	10.6	Recreational
Belmar	5.1	.96	11.5	Recreational
Spring Lake	3.3	.98	10.6	Recreational
Sea Girt	1.2	.97	6.1	Residential
Manasquan	2.9	1.12	26.9	Recreational
<u>OCEAN</u>				
Point Pleasant	7.1	1.10	25.8	Recreational
Bay Head	5.5	1.11	39.6	Residential
Mantoloking	6.4	1.00	9.8	Residential
Brick Twp.	1.8	1.12	5.8	Residential
Dover Twp.	1.2	1.10	20.7	Residential

Lavalette	14.2	1.11	62.1	Recreational
Seaside Heights	25.6	1.10	65.2	Recreational
Seaside Park	20.0	1.14	57.6	Residential
Berkley Twp.	1.1	1.11	13.5	Recreational
Barnegat Light	14.5	ND	47.9	Recreational
Harvey Cedars	14.0	1.00	78.2	Recreational
Surf City	9.4	1.07	65.7	Recreational
Ship Bottom	13.4	1.12	60.6	Recreational
Long Beach	12.3	1.12	66.8	Recreational
Beach Haven	18.3	1.11	61.6	Recreational
<u>ATLANTIC</u>				
Brigantine	2.7	1.20	4.4	Residential
Atlantic City	ND	1.19	2.2	Urban
Ventnor	ND	1.21	3.1	Recreational
Margate	ND	1.21	2.8	Residential
Longport	ND	1.18	2.5	Residential
<u>CAPE MAY</u>				
Ocean City	9.8	2.03	55.5	Recreational
Strathmere	3.0	2.07	14.2	Recreational
Sea Isle City	9.1	2.04	74.4	Recreational
Avalon	11.3	2.09	33.7	Recreational
Stone Harbor	14.7	2.00	68.5	Recreational
North Wildwood	15.0	1.94	62.3	Recreational
Wildwood	20.0	1.97	62.3	Recreational
Wildwood Crest	11.4	2.00	59.4	Recreational
Cape May	5.9	2.02	37.6	Recreational
Cape May Point	12.3	1.00	68.8	Recreational

SOURCE: NEW JERSEY SHORE PROTECTION MASTER PLAN (1980)

*U.S. BUREAU OF CENSUS

ND - NO DATA

TABLE 2

NEW JERSEY SHORELINE OWNERSHIP

TYPE	MILES	% OF TOTAL
Federal	16.6	13.4
State	11.5	9.2
Local	63.1	51.0
Private	32.6	26.4
	<u>123.8*</u>	<u>100</u>

SOURCE: New Jersey Shore Protection Master Plan

*[Additional 2.2 miles accounted for by Atlantic coast inlets].

Specific areas of private ownership can be identified from the inventory (Table 3). Along the northern reach of the coast, Sea Bright, Monmouth Beach and Deal have little available public beach. Continuing down the coast, this trend is reversed until the Bay Head and Mantoloking area. Here, private beach associations own and operate the upland beaches for residents and guests only. In other areas of the coast, however, such as Point Pleasant Beach, privately owned beaches are open to the public, usually for a fee.

C. Transportation Facilities

Availability of public transportation and accessibility by major roadways are the primary aspects of transportation access.

Access by a major roadway to beaches is not a problem in New Jersey. The Garden State Parkway, Atlantic City Expressway, Rt. 9, and Rt. 195 assure this accessibility.

However, parking, once roadway travel is completed poses the greatest problem. Lack of actual space for parking, limited numbers of parking spaces, high parking fees, low time limit metered parking and restrictive parking ordinances limit access.

Availability of public transportation is the other major aspect of transportation access (Table 4). Generally, there is a greater availability of bus routes to the southern shore areas from Atlantic City to Cape May. A major element of public transit in the Northern Coastal Area is the North Jersey Coastline which runs from New York to Bay Head and is operated by N.J. Transit. Major northern coastal tourism centers that are accessible by bus and train are Long Branch and Asbury Park.

Some areas of private ownership have been the subject of controversy because of their accessibility by public transit to heavily populated urban areas such as New York, Elizabeth, Newark and densely populated areas in the coastal zone such as Neptune, Red Bank and Eatontown. The increasing demand for recreational resources puts additional pressure on these areas for access.

TABLE 3
OCEANFRONT CHARACTERISTICS BY
MUNICIPALITY

MUNICIPALITY	TOTAL SHORELINE LENGTH (MILES)	PERCENT PUBLIC SHORELINE ¹	NUMBER OF ACCESS POINTS*
<u>MONMOUTH COUNTY</u>			
Sea Bright	3.7	5.4	48
Monmouth Beach	1.6	6.25	7
Long Branch	4.4	45.45	19
Deal	1.6	18.75	17
Allenhurst	.3	66	3
Loch Arbour	.2	0	3
Asbury Park	1.0	100	10
Ocean Grove (Neptune Twp.)	.6	100	5
Bradley Beach	.9	100	11
Avon-by-the-Sea	.5	100	7
Belmar	1.4	92.85	18
Spring Lake	2.0	95	15
Sea Girt	1.1	81.8	10
Manasquan	<u>1.1</u>	<u>100</u>	<u>8</u>
TOTAL	20.4	58.3	181
<u>OCEAN COUNTY</u>			
Pt. Pleasant	1.9	0	20
Bay Head	1.3	0	9
Mantoloking	2.2	0	7
Brick Twp.	1.8	1.6	5
Dover Twp.	2.3	0	N/A
Lavallette	1.3	100	26

You are viewing an archived copy from the New Jersey State Library

Seaside Heights		100	16
Seaside Park	1.7	82.35	31
Berkeley Twp.	.5	44	15
Barnegat Light	2.0	80	27
Harvey Cedars	2.0	10	30
Surf City	1.5	60	29
Ship Bottom	1.4	50	27
Long Beach	11.4	92.8	111
Beach Haven	<u>1.9</u>	<u>84.2</u>	<u>36</u>
TOTAL	34.0	46.9	389
<u>ATLANTIC COUNTY</u>			
Brigantine	6.1	85.6	70
Atlantic City	4.1	100	65
Ventnor	1.7	100	23
Margate	1.6	81.25	41
Longport	<u>1.4</u>	<u>85.71</u>	<u>30</u>
TOTAL	14.9	98.7	229
<u>CAPE MAY COUNTY</u>			
Ocean City	7.9	35.4	87
Strathmere (Upper Twp.)	2.1	19	40
Sea Isle City	5.0	83.6	68
Avalon	4.9	85.4	72
Stone Harbor	3.7	100	41
No. Wildwood	1.3	30.76	27
Wildwood	1.3	73	27
Wildwood Crest	1.9	63.15	46
Cape May	2.8	42.8	24
Cape May Point	<u>1.0</u>	<u>100</u>	<u>13</u>
TOTAL	31.9	62.7	445

SOURCE: NJDEP DIVISION OF COASTAL RESOURCES, BUREAU OF COASTAL PLANNING AND DEVELOPMENT

*TAKEN FROM SURVEY OF BEACH ACCESS CONDITIONS, SUMMER 1980.

'PUBLICLY OWNED

9C
TABLE 4

AVAILABILITY OF PUBLIC TRANSPORTATION

MUNICIPALITY	AIR ROUTES	TRAIN ROUTES	BUS ROUTES	JITNE ROUTE
SEA BRIGHT			● ● ●	
MONMOUTH BEACH			● ●	
LONG BRANCH		●	● ● ● ● ● ●	
DEAL			● ●	
ALLENHURST		●	●	
LOCH ARBOUR		●	●	
ASBURY PARK		●	● ● ● ● ● ● ● ●	
OCEAN GROVE				
BRADLEY BEACH		●	●	
AVON-BY-THE-SEA			●	
BELMAR		●	●	
SPRING LAKE		●		
SEA GIRT			● ●	
MANASQUAN		●	●	
POINT PLEASANT		●	● ● ●	
BAY HEAD		●		
MANTOLOKING				
BRICK TWP.				
DOVER TWP.				
LAVALLETTE				
SEASIDE HEIGHTS			● ● ●	
SEASIDE PARK			●	
BERKELEY TWP.				
BARNEGAT LIGHT				

However, although there are a number of mass transit routes offered along the coast and to the coast from inland areas, lack of use may be a greater problem than availability. This lack of use may be a result of lack of advertising and insufficient scheduling.

The existing network of public transportation facilities must be utilized in access planning in two ways. First, accessways or facility improvements should be clustered around public transit locations. Second, transportation planning for complimentary services such as jitneys or shuttles should also be centered at these locations.

D. Beachfront and Support Facilities

The usefulness of public access is partially dependent on the availability of support facilities, such as restrooms, showers, and changing facilities. These amenities add convenience and encourage beach use by non-residents.

A majority of New Jersey coastal resorts provide sanitary facilities (Table 5). In Monmouth County, only two municipalities, Allenhurst and Avon do not offer these services to the public. There is, however, a noticeable absence of such facilities on Long Beach Island, Ocean County.

In many Atlantic and Cape May County municipalities, only restrooms are provided. Margate, Longport, and Strathmere offer no sanitary or changing facilities.

III. NEW JERSEY PUBLIC ACCESS PROBLEMS

New Jersey features a number of repeated access problems.

The following is a listing of types and suggested solutions where available.

A. Private Ownership

There are two types of private ownership which restrict public access. The first is ownership of the beachfront by a private beach association, which limits beach use to members of the association and their guests. This form of beach control has been reviewed by the New Jersey Supreme Court (see Matthews v. Bay Head Improvement Association).

A second type of restriction arises where adjacent, privately owned shorefront homes inhibit access to, and block views of the water.

ACCESS CONDITIONS

MUNICIPALITY

MUNICIPALITY	BEACH FEE	CHANGING FACILITIES	SHOWERS	REST ROOMS	BOARDWALK	AMUSEMENTS	ACCOMODATIONS
SEA BRIGHT	●	●	●	●	● ^b		
MONMOUTH BEACH	○	●	●	●	●		
LONG BRANCH	●	●	●	●	● ^b	●	●
DEAL	●	●	●	●	●		
ALLENHURST	●				● ^b		
LOCH ARBOUR	●	●	●	●	●		
ASBURY PARK	●	●	●	●	● ^b	●	●
OCEAN GROVE	●	●	●	●	●		●
BRADLEY BEACH	●	●	●	●	● ^b	●	●
AVON-BY-THE-SEA	●		●		● ^b		●
BELMAR	●	●	●	●	● ^b	●	●
SPRING LAKE	●	●	●	●	● ^b		●
SEA GIRT	●	●	●	●	● ^b		●
MANASQUAN	●	●	●	●	● ^b	●	●
POINT PLEASANT	●	●	●	●	● ^b	●	●
BAY HEAD	⊗						●
MANTOLOKING	⊗						
BRICK TWP.	●						●
DOVER TWP.	●			●			●
LAVALLETTE	●				● ^b		●
SEASIDE HEIGHTS	●	●	●	●	● ^b	●	●
SEASIDE PARK	●	●	●	●	● ^b		●
BERKELEY TWP.	●				●		●
BARNEGAT LIGHT	●	●	●	●			●

MUNICIPALITY	BEACH FEE	CHANGING FACILITIES	SHOWERS	REST ROOMS	BOARDWALK	AMUSEMENTS	ACCOMODATIONS
HARVEY CEDARS	●						●
SURF CITY	●						●
SHIP BOTTOM	●	●	●	●		●	●
LONG BEACH	●						●
BEACH HAVEN	●	●	●	●		●	●
BRIGANTINE	●			●		●	●
ATLANTIC CITY		●	●	●	● ^b	●	●
VENTNOR	●			●	● ^b		●
MARGATE	●						●
LONGPORT	●						
OCEAN CITY	●	●	●	●	● ^b	●	●
STRATHMERE							●
SEA ISLE CITY	●			●	● ^b	●	●
AVALON	●			●	● ^b		●
STONE HARBOR	●			●			●
NO. WILDWOOD		●	●	●	● ^b	●	●
WILDWOOD		●	●	●	● ^b	●	●
WILDWOOD CREST		●	●	●			●
CAPE MAY	●	●	●	●	● ^b		●
CAPE MAY POINT		●	●	●			

- RESTRICTED AVAILABILITY
- FACILITY AVAILABLE
- FACILITY AVAILABLE FOR RESIDENTS & PROPERTY OWNERS ONLY

A third type of restriction arises when oceanfront beach clubs charge high fees for season-only memberships. This restricts use by the general public. Examples of such clubs are found in Sea Bright, Monmouth Beach, the Elberon section of Long Branch, Allenhurst and Loch Arbour.

B. Insufficient Parking

There is a general parking problem at coastal areas in the State. Aside from a lack of physical space, this situation has come about as municipalities attempt to restrict parking in certain areas. These restrictions are justified as a means of lowering expenses for police or street maintenance or keeping parking out of residential areas. The areas often regulated in this manner are the ocean front and its adjacent side streets.

Another restriction is parking meters with short time limits. This practice is extremely inconvenient for the beach user, especially the day tripper.

However, there are some alternate solutions which do not limit access. Parking could be allowed only along the oceanfront to provide one central area that must be surveilled and maintained; or on alternate side streets [on alternate days] to allow relief for residents. Also, greater use of public transit including beach shuttles, would relieve the parking demand.

C. Lack of Support Facilities

Many oceanfront communities offer the use of their beaches without providing adequate sanitary facilities such as rest rooms, showers and changing facilities. This makes beach use difficult, especially for the day visitor.

One method of improving this situation is for municipalities to use Green Acres grants for such an improvement program. In the future, Green Acres funding will be available for maintenance as well as for construction of new facilities.

Some facilities which are needed at access points are trash receptacles and bicycle security racks. Such low cost items can be municipally funded.

D. Lack of Barrier-Free Access Points

At present, the best access to beaches for people with handicaps is obtained from boardwalk ramps. A large number of municipalities feature barrier free access points to the beach but none have access all the way to the shoreline. This is usually obtained through a paved path or promenade or a beach level boardwalk to the water's edge. This is the most optimal barrier-free access that can be made available.

E. Poor Visual/Physical Access

Oceanfront structures often cause a decrease in visual/physical access. This can be addressed in two ways, one being strict enforcement by DEP of access policy in coastal permit review procedures. Aspects of site planning such as step down building design and setbacks from the water's edge should be encouraged. Also, design of public accessways through structures must be reviewed. Such accessways should, most importantly, feel public and encourage public use. Further guidelines are described in Section VI of this report.

Another means of addressing this problem is local enforcement of access standards through mechanisms such as zoning ordinances, and site plan and subdivision reviews. Technical information concerning public access will be available from DEP's Division of Coastal Resources to assist in this process.

F. Accessway Maintenance

A major difficulty which arises when access is provided is the continued maintenance of that accessway.

An area must be properly managed in order to provide safe access and to maximize accessway use. It should be cleared of debris and other physical obstacles, clearly delineated and equipped with appropriate health and safety features such as trash receptacles and lighting.

Accessway maintenance may be assumed by local or county governments, homeowner's associations, citizen or environmental groups, service organizations or land trusts. For example, in the case of a high-rise project, a homeowner's association may be the appropriate agency, or the accessway may be dedicated to the local government. Community groups may also volunteer to undertake accessway maintenance. Another mechanism that can be used is the formation of a non-profit land trust. A land trust may hold title to sensitive lands, accept conservation easements or negotiate with local land owners for protection and enhancement of resources. It is a small organization with goals that embrace a number of public purposes. During the last several years, land trusts have become a widely used method of resource management.

Maintenance programs may address various areas of accessway and waterfront management. They can include anti-litter/ clean beach programs, safety/security checks, and landscaping or dune protection programs. Activities may also extend beyond the scope of general maintenance to include recreation or special interest group programs.

G. Liability

The person holding title to a property is generally responsible for injuries which may occur to persons using the property. Consequently, liability is a major concern for those who own accessways.

General liability insurance covers anything for which an owner can be held liable, and is available for this purpose. If a property is being leased, liability insurance is available for the leasee and also for the lessor. This type of insurance, lessor's risk-only, is necessary as a lessor can be held liable for injury although he/she is not in direct operation of the property. Condominium development presents a special situation since both the owner and individual unit owners need to carry liability insurance.

The New Jersey Landowner's Liability Act of 1968 (N.J.S.A. 2A:42-2 et seq.) reduces or removes responsibility or incurred liability from consenting landowners for injuries or fatalities to people who use their lands for sport or recreation purposes. However, this protection may only apply to rural and semi-rural properties. An Attorney General's opinion on the applicability of the Landowners Liability Act to coastal permits requiring waterfront access is now pending. This opinion may help to clear some confusion about liability and access.

Generally speaking, some level of maintenance is necessary to preclude an injury claim based on negligence. Therefore, a property owner is required to provide a reasonable level of maintenance, such as snow removal or the repair of obvious hazards.

Liability insurance is the most common method of protection against injury claims. Most municipalities and property owners carry liability insurance. This coverage normally extends to any public accessway made available on the insured property. However, rates may increase proportionate to the amount of risk.

H. Fishing Access Limitations

Due to development that has taken place on the New Jersey coast to date, many fisherman have difficulty gaining access to some of the prime fishing areas. Major problems include new development which inhibits access, fences which block access to jetties, groins, and bulkheads, decreasing availability of parking due to private ownership or local regulation.

These restrictions have forced the typical fisherman to risk having his car towed or ticketed, to hurdle physical obstacles such as fences or walls or to walk long distances to get to a preferred fishing area and be subjected to abuse by property owners and caretakers.

The coastal area north of the Manasquan Inlet is of particular concern. Private property restrictions, semi private beach clubs and parking restrictions often limit fishing opportunities this area.

To address the concerns of sport fisherman DEP may undertake the following policy initiatives:

1. Meet with fishing groups to discuss access problems.
2. Adopt an access policy which forbids the prohibition of access to shore protection structures built with public funds. An active enforcement effort should accompany this policy.
3. Advocate public access in response to the enforcement of restrictive regulations and/or practices by local governments.

IV. ACCESS PROBLEMS BY GEOGRAPHIC AREA

To determine the location of public access problems in New Jersey, access standards can be applied to each oceanfront municipality. In this way problem areas can be targeted.

The standards to be used are as follows:

Auto Accessibility - can be reached by auto via a major roadway.

Public Transit Accessibility - accessibility by public transportation which has an adequate route pattern and service frequency.

Parking - adequate parking within close proximity of public right-of-ways to the oceanfront.

Sanitary Facilities - availability of support facilities such as rest rooms, changing areas and trash receptacles.

Visability/Accessibility of Access Points - clearly marked beach areas and access points. Design of oceanfront structures and accessways which encourage beach use.

Adequate Number of Access Points - adequate number of access points per linear beach distance. Lack of private property restrictions, fenced-off areas.

Beach Regulation - appropriate beach regulations (fees, hours, lifeguards, activities) which are not unreasonably restrictive.

Barrier-Free Access Available - barrier free access of appropriate grade and slope provided to boardwalk areas.

A rating system for each municipality was devised based on how many aspects of the criteria were met. The system is as follows:

<u>NUMBER OF CRITERIA MET</u>	<u>RATING</u>
2 or Less	POOR ACCESSIBILITY
3 to 4	FAIR ACCESSIBILITY
5 to 6	GENERAL ACCESSIBILITY
7	GOOD ACCESSIBILITY
8	EXCELLENT ACCESSIBILITY

It should be noted that all municipalities with poor access are in Monmouth or northern Ocean Counties: Sea Bright, Monmouth Beach, Deal, Bay Head, Mantoloking, Brick and Dover Township. In two of these municipalities, Bay Head and Mantoloking, access to the beach is totally foreclosed to persons who are not residents or property owners.

After having applied the rating to the municipalities (see Table 6), the following problem areas can be identified:

<u>AREA</u>	<u>ACCESS PROBLEM</u>
Sea Bright-Monmouth Beach	<ul style="list-style-type: none"> . Parking . Lack of sanitary facilities . Local Access Barriers <ul style="list-style-type: none"> a. Private Ownership b. Semi-Private Beach Clubs

Solution: . Develop public access plans pursuant to HR3 678 and work with local officials and community groups to enact regulations to improve access.

ACCESS STANDARDS
AND RATINGS

You are viewing an archived copy from the New Jersey State Library

MUNICIPALITY	AUTO ACCESSIBILITY	PUBLIC TRANSIT ACCESSIBILITY	PARKING	SANITARY FACILITIES	VISIBILITY / ACCESSIBILITY ACCESS PTS	ADEQUATE NO. OF ACCESS PTS.	BEACH REGULATION	BARRIER - FREE ACCESS AVAILABLE	ACCESS RATING
SEA BRIGHT	●	●							P
MONMOUTH BEACH	●								P
LONG BRANCH	●	●		●	●	●	●	●	GO
DEAL	●			●					P
ALLENHURST	●	●	●						F
LOCH ARBOUR	●	●		●			●		F
ASBURY PARK	●	●	●	●	●	●	●	●	E
OCEAN GROVE	●		●	●	●	●	●	●	GO
BRADLEY BEACH	●	●	●	●	●	●	●	●	E
AVON-BY-THE-SEA	●	●	●	●	●	●	●	●	E
BELMAR	●	●	●	●	●	●	●	●	E
SPRING LAKE	●	●	●	●	●		●		GE
SEA GIRT	●	●		●				●	F
MANASQUAN	●	●	●	●	●	●	●		GO
POINT PLEASANT	●	●	●	●	●	●		●	GO
BAY HEAD	●	●							P
MANTOLOKING	●								P
BRICK TWP.	●								P
DOVER TWP.	●								P
LAVALLETTE	●		●		●	●	●	●	GE
SEASIDE HEIGHTS	●	●		●	●	●	●	●	GO
SEASIDE PARK	●			●	●	●		●	GE
BERKELEY TWP.	●				●	●			F
BARNEGAT LIGHT	●		●	●	●	●			GO

MUNICIPALITY	AUTO ACCESSIBILITY	PUBLIC TRANSIT ACCESSIBILITY	PARKING	SANITARY FACILITIES	VISIBILITY / ACCESSIBILITY / ACCESS PTS	ADEQUATE NO. OF ACCESS PTS.	BEACH REGULATION	BARRIER - FREE ACCESS AVAILABLE	ACCESS RATING
HARVEY CEDARS	●				●		●		F
SURF CITY	●		●		●	●	●		GE
SHIP BOTTOM	●	●	●	●	●		●		GE
LONG BEACH	●				●		●		F
BEACH HAVEN	●	●		●	●		●		GE
BRIGANTINE	●	●		●			●		F
ATLANTIC CITY	●	●		●		●	●	●	GE
VENTNOR	●	●		●	●		●	●	GE
MARGATE	●	●			●		●		F
LONGPORT	●	●			●		●		F
OCEAN CITY	●	●	●	●	●	●	●	●	E
STRATHMERE	●	●				●			F
SEA ISLE CITY	●	●	●	●	●	●	●	●	E
AVALON	●	●	●	●	●	●	●	●	E
STONE HARBOR	●		●	●	●	●	●		GO
NO. WILDWOOD	●	●	●	●	●	●	●	●	E
WILDWOOD	●	●	●	●	●	●	●	●	E
WILDWOOD CREST	●	●		●	●	●	●		GE
CAPE MAY	●	●		●	●	●	●		GO
CAPE MAY POINT	●		●	●	●	●	●	●	GO

P - POOR
 F - FAIR
 E - EXCELLENT
 GO - GOOD
 GE - GENERAL

- . Improve enforcement of public rights in regard to barriers that prohibit access to state-funded shore protection structures.
- . Improve enforcement of shore protection rules which require that adequate public access be provided in communities which receive state shore protection funds.

Long Branch

- . Parking
- . Private Property Ownership

Solution:

- . Work with local officials and community groups to enact regulations to improve access.
- . Improve enforcement of public rights in regard to barriers which prohibit access to state funded shore protection structures.
- . Post signs to indicate accessways that are open to the public.

Deal-Allenhurst-Loch Arbour

- . Local Access
- . Barriers
 - a. Private Property Ownership
 - b. Semi-Private Beach Clubs

Solution:

- . Improved enforcement of public rights in regard to barriers that prohibit access to state funded shore protection structures.
- . Work with local officials and community groups to enact regulations to improve access.
- . Post signs to indicate accessways that are open to the public.

Sea Girt

- . Parking
- . Limited beach badge sales (Beach Regulation)

Bay Head-Mantoloking -Normandy Beach

- . Private Beach Associations

Dover Township-Brick Township

- . Private Property Ownership

Seaside Heights-Seaside Park

. Parking

Solution: . Work with local officials and community groups to enact regulations to improve access.

Long Beach Island

. Lack of public transportation
. Parking

. Lack of sanitary facilities

Solution: . Work with local officials and community groups to enact regulations to improve access.

Atlantic City

. Poor visual access

Solution: . Emphasize public access in CAFRA and Waterfront Development Law permit decisions.

V. METHODS FOR PROVIDING ACCESS

Many proposed solutions to access problems may be found by using traditional property law. State, county and local governments can utilize such techniques in an acquisition program. Some of the property law techniques which may be useful in securing access are as follows:

A. Acquisition

- (1) Purchase of Fee Simple Title - This is the most expensive means of acquiring access, since it involves the purchase of property at fair market value by state or local government. This method is most effective when it is part of a general access/recreation plan which includes an acquisition policy which utilizes eminent domain. In this way, a purchase can be combined with acquisition of nearby land for parking or development of a park, or support facilities.
- (2) Post-Storm Acquisition - Following a coastal storm, severely damaged properties may be acquired for public use either through eminent domain or some other direct purchase program. The Green Acres Program, and other state and federal agencies could be a source of funds for acquisition rather than for reconstruction.

B. Easements

- (1) Prescriptive Easement - This is a process by which one party acquires the right, over time, to use another's property. It requires open and continuous use by the party claiming the easement. Continual, traditional use of a path as an accessway by the public at large for example, can provide the basis for such an easement. A prescriptive easement is only a right of use, so the title remains with the original landholder.
- (2) Purchase of Easements - This method involves the purchase of the right to use a parcel of property or a portion thereof for a particular purpose. Easements can be obtained for the right to cross a parcel to gain access to the beach. This, in turn, means that adequate road capability and parking facilities must be available.

Another type of easement may be used to limit the amount or location of development. Purchasing an easement is obviously less expensive than purchasing a fee simple title, since the purchaser is paying only for a limited interest in the property. However, it is frequently difficult to persuade beachfront property owners to sell easements.

- (3) Conservation Easement - This is a method by which a landowner can preserve the character of land by placing limitations on its future use. Future owners must take title to the property subject to the terms of the easement. Property owners generally receive a tax benefit in the form of a reduced property tax valuation, and, if the easement is sold rather than donated, at a profit.
- C. Lease - Land to be used as accessways may be leased from private owners. Leaseholds are more flexible and economical than outright purchase. They can provide a short term solution while long term needs are being studied, and may be appropriate in selected cases.
- D. Legislation - This approach involves the passage of legislation at the state level which clearly establishes public rights of use for the dry sand beach. This is best exemplified by the Texas Open Beach Statute of 1959. The statute essentially gives the public the right to use the backshore and dry sand portions of the beach for recreation purposes. Local regulation of the beach is authorized under the statute. The statute does not address the problem of access across the uplands, but can be used to create a mechanism or set in motion procedures to improve public access to the beach. Such legislation could open up New Jersey beaches now closed to the general public, but it would also receive much political opposition.

In New Jersey, as well as many other states, municipalities are permitted to make and enforce ordinances to regulate practices on a public beach. This authorization is part of an attempt to protect public health, safety and welfare. Ordinances in individual communities are to be made in accordance with this rationale. These rules address subjects such as parking, dress code, beach fees and activities. Reform of local ordinances that interfere with beach access may be the most appropriate legislative action.

VI. RECOMMENDATIONS

1. Revision of Coastal Policy on Public Access

The present public access policy (N.J.A.C. 7:7E-8.13) has three primary weaknesses; it does not have a complete definition of the coastal areas to which access is sought; it does not include requirements concerning the actual provision of an accessway; and it does not have a strong rationale to support the policy statements.

-20-

The policy should be amended to address these deficiencies.

2. Use of Accessway Guidelines

The Division of Coastal Resources should employ the following guidelines for implementing the public access policy: (N.J.S.A. 7:7E-8.13)

A. Location and Extent of Public Access

The public access policy requires that "all development adjacent to water shall, to the maximum extent practicable provide, within its site boundary, a linear waterfront strip accessible to the public" (7:7E-8.13b2). The following factors should be considered in determining what is practicable and what should be required of a permit applicant.

Requirements should be more stringent where one or more of the following circumstances exist:

- 1) There is good fishing.
- 2) There is an interesting or scenic view, or the waterfront is a pleasant place to walk.
- 3) There is opportunity for recreational use of the water body, e.g. safe swimming or boat launching.
- 4) The site is accessible to a large number of people because of its proximity to population centers or public transportation routes.
- 5) The public has had a historic right to access on the site. A permit should not allow the public's historic right of access to be diminished.
- 6) There is not adequate public access to the waterfront in the area around the site.
- 7) A regional plan for linear access exists. If such a plan exists then the accessway must be consistent with that plan. The accessway should follow the water's edge to the maximum extent feasible.
- 8) Public access would not pose a danger to the public.
- 9) Public access would not pose a danger to an endangered or threatened species or cause disruption of a critical wildlife habitat.

- 10) Public access would not threaten the security of a residential area. In areas where there is a strong demand for water's edge housing and for public access, developers should be encouraged to use innovative design to achieve both objectives. This might be achieved through multi-level decks in which the general public has waterfront access on one level, while access to residences is through another level, or through aesthetically pleasing fencing which directs the general public to specific waterfront sites. Public access may be limited to daylight hours in residential areas.
- 11) A tidelands conveyance would be required. If it is required, the Tidelands Resource Council, in its proprietary capacity, could require public access conditions which could be included in the coastal permit. The Division would have a stronger legal obligation to require public access if a conveyance as well as a permit is required, to protect the public interest in access to public trust lands.

Based upon the presence or absence of the above factors the Division of Coastal Resources may impose public access requirements ranging from "no access allowed" in the midst of a shipping operation to perpendicular access to a fishing pier, to perpendicular access with discontinuous linear access, to total linear waterfront access.

b. Design of Public Access

The following conditions should be applied in reviewing the design of a public accessway.

- 1) Access should accommodate and encourage public use. The user should not be intimidated or have his/her appreciation restricted by large building masses, structures, or incompatible uses.
- 2) Access should feel public; it should be clearly delineated and unobstructed.
- 3) Access locations should be identified by signs. A standard logo sign should be provided by DEP.
- 4) Accessways should be an appropriate width to accommodate expected use.
- 5) An access plan should provide for the privacy of adjoining existing residences.
- 6) An accessway should be designed appropriate to the location, i.e. use of pavement and railings in urban areas; more natural paths in rural areas.

-22-

- 7) Where feasible and appropriate, parking and/or bicycle racks should be provided.
- 8) The protection of sensitive natural areas, e.g. dunes, wetlands, should be provided for.

c. Management of Public Access

- 1) Public accessways shall be conveyed or leased to governmental agencies wherever possible. Where accessways remain in private ownership they shall be dedicated to public use, and the owner shall provide sufficient maintenance so that the accessway continues to meet the above design. Maintenance shall be a condition of the permit.
- 2) Public accessways may be conveyed or leased to governmental agencies, community or environmental service groups or land trusts. This is a possible solution to maintenance and liability problems.
- 3) Liability issues should be explained to the applicant, especially in the development of major accessways and waterfront projects. The applicant should understand that liability insurance for the accessway can be part of a broader landowner liability package. Where the applicant has difficult questions about liability, they should be answered by DEP's Office of Regulatory Services.

3. Intra-Departmental Coordination

It is important that the Division of Coastal Resources (DCR) coordinate its efforts to improve public access with other State agencies that are also concerned with this issue. The Green Acres Program is a primary contact, as it administers a local funding program. DCR should review such funding decisions, while Green Acres should assist and coordinate with DCR planning efforts, especially the Local Coastal Grant Program. The Green Acres Program should assign priority to improving access to municipalities which offer unsatisfactory access opportunities. (See Table 6, Access Standards and Ratings).

DCR should also coordinate with the Division of Parks and Forestry, which has jurisdiction over State parks in the coastal zone. A cooperative effort could be established to encourage the further development of coastal parks.

Continued coordination is needed between the Division of Coastal Resources, Green Acres and Fish, Game and Wildlife concerning the acquisition, management and improvement of waterfront lands, and the provision of public access. The following functions in particular need to be coordinated:

Coastal Resources

- a. Shore Protection Projects and Grants.
- b. Permit decisions involving public access
- c. Recommendations to the Tidelands Resource Council
- d. Award of Local Coastal Grants

Green Acres

- a. Award of acquisition and development grants for waterfront sites
- b. Review of Green Acres projects for consistency with Coastal Policies

Fish, Game, and Wildlife

- a. Management and acquisition of Fish, Game and Wildlife lands with respect to public access and other coastal objectives.
- b. Establishment of urban fishing piers.

In addition, the Division of Fish, Game and Wildlife serves as a review agency for coastal permit applications affecting fish, game and wildlife resources, and the New Jersey Heritage Program serves as a review agency for coastal permit applications affecting historic resources. DCR also coordinates with Green Acres, Fish, Game, and Wildlife, and Parks and Forestry on the Harbor Clean-Up Program.

4. Provision of Public Information

DCR should continue to publish a public access guide. Each year, information should be updated and transportation data should be reviewed. The guide should be produced in cooperation with NJ Transit. This could increase funding and therefore make a larger number of copies available.

Whatever the method of funding, future printings must be increased. The initial effort of 10,000 copies was too small to meet public demand and to give the guide the public visibility it warranted. The guide should appear as an insert in New Jersey Outdoors as it did in 1983. This greatly increases the circulation of the guide for a relatively low cost.

-24-

5. Public Transportation Issues

To increase the use of available public transportation, DCR should co-sponsor a promotional campaign with NJ Transit to encourage ridership. This effort would be part of the joint work on the access guide.

Planning support facilities for public access should be conducted with respect to present public transportation locations. Efforts to provide or improve access can be clustered in areas which have a number of mass transportation services.

Areas which have a number of available transportation services are:

1. Long Branch - Asbury Park - Belmar - Manasquan - Pt.Pleasant
2. Brigantine - Atlantic City - Ventnor - Margate - Longport
3. Ocean City
4. Wildwood - Cape May

Shuttle or jitney-type services should also be encouraged in such areas as a compliment to existing public transportation. Technical assistance for service development should be provided by DCR. Such services would cut down traffic congestion and parking problems.

A low-cost method to expand present services would be to provide summer-only beachfront bus stops on appropriate routes, or to expand the summer schedule of routes with beachfront destinations. This is currently done on NJ Transit's Philadelphia to Atlantic and Cape May County routes and on Mercer Metro's Trenton to Monmouth and Ocean County routes. This further study of the expansion of mass transit to shore areas should be made by DCR in cooperation with DOT and NJ Transit.

6. Expansion of Beach Bus Shuttle

The present Island Beach Bus Shuttle was initiated by DEP. DEP should investigate the possibility of expanding shuttle service to other coastal areas such as northern Monmouth County.

7. Signing Program

A signing program should be developed to clearly identify beach accessways or routes of travel to the beach. The program would utilize a common logo and would assist beachgoers and fishermen.

-25-

8. Technical Assistance

a. Land Use Controls

Zoning and subdivision ordinances can be used in the local development process to assure public access to beaches. Land use tools do not require large expenditures by local government and therefore have the potential to become a primary element of an access strategy. Information about these techniques and their use should be provided as part of a DCR technical assistance program which focuses on access. The controls which could be discussed are as follows:

- (1) Required Access - There are two ways to implement this method. The first is to define, as part of a zoning ordinance, a beachfront area in which access is required. A second method is to include an access requirement in a subdivision or zoning ordinance. In this way, public access is provided for in the planning process prior to construction.
- (2) Required Dedication of Access Roads - This would require that roads which extend from the first public right-of-way (parallel to the beachfront) to the backshore be dedicated to the public. This would have to be uniformly applied to all accessways through subdivision regulations or zoning. It is most applicable to new subdivisions, but can also be applied to commercial development.
- (3) Extension of Right-of-Way - This technique requires that a provision be included in a subdivision or zoning ordinance that would require a developer to extend an existing or newly created public road to provide beach access. This would be in the form of a perpendicular accessway extending from the first public road to the foreshore.
- (4) Required Dedication of Access Lots - A subdivision ordinance can require that a beachfront subdivision which contains interior lots having no beach frontage include plotted lots for interior owners' use. The requirement provides access for the entire subdivision, but not the general public. Access lots may be dedicated to the public or transferred in fee jointly to all interior owners. In the latter case eminent domain can be used to acquire an access easement for public use.

-26-

The information provided in Section V "Methods of Acquiring Access" should also be included in this technical assistance program, as they are quite effective at the local level.

b. Model Municipal Access Ordinances

A model municipal access ordinance should be available from and widely distributed by DCR (see Appendix A). This, along with accessway design guidelines (Section VI, Number 1) and Section V of this report, "Methods to Achieve an Access Standard", would compose a technical assistance package for municipal or county officials.

9. Beach Fees

The cap law which limits municipal budget increases and the heavy use that recreational beaches in the state receive, warrant continuation of a beach fee system. However, to protect public use and enjoyment of beach resources, some examination of the present system should be made.

In this effort DEP should support Assembly Bill A-2025, or a similar bill to prohibit municipalities from establishing beach fees in excess of the amount needed to meet the expenses of maintaining the beach area. The bill would require that such regulatory authority be exercised by the Department of Community Affairs.

10. Acquisition of Access Rights

DCR should continually investigate possible acquisition of shorefront properties or easements which would provide public access. A study of potential sites should be conducted. Transportation considerations would be a major criterion in the analysis.

A feasible type of acquisition for the State would be purchase of access easements. In light of the ever increasing value of oceanfront property, this method may have far better chances for success than fee simple purchase.

Funding for acquisition could be obtained from;

1. Green Acres Funds
2. Ocean and Coastal Resource Management Fund, (if created by Congress)
3. Shore Protection Bond Issue
4. Post Storm Acquisition Fund (if created, where appropriate)

11. Fishing Access

DCR should inventory sites utilized for or have potential to be utilized for fishing access. This would be of use to the public and to DCR in coastal permit decisions and planning activities.

DCR should promote continued access for fishing through acquisition, development and maintenance of accessways by public and private agencies and enforcement of public access rights to publicly funded shore protection structures.

12. Use of Tidelands Conveyances

DCR should promote public access through recommending conditions on tidelands conveyances issued by the Tidelands Resource Council.

13. Improvement of Access for People with Physical Handicaps

Continued enforcement of coastal policy which requires barrier free design in public areas (7:7E-8.26) is recommended. The policy should also be revised to specifically state its application to public accessways. These measures will insure access for the elderly and people with physical handicaps in new construction, which is within coastal permit jurisdiction. Barrier free access to the water's edge should be required where applicable. These design details should be included in DCR review guidelines.

14. Access Handbook

DCR should develop an access handbook for use by developers, municipalities and citizens. The handbook should discuss the benefits of waterfront access, how to obtain and improve public access, accessway design and maintenance and liability issues. The handbook should also provide a list of other agencies and resources which may be of assistance in access issues.

15. Shore Protection Grants

Under the 1983 Shore Protection Bond Issue, \$50 million is to be used for State funded shore protection projects and State grants and loans to local governments for research, planning, acquisition, development, construction and maintenance of municipal shore protection projects.

Of the total funds, \$40,000,000 is allocated for State projects and for State grants to municipalities and counties for shore protection projects. The State will assume up to 75% of the cost of such local projects and the affected local government will provide at least 25% of the cost of a project. The remaining \$10,00,000 is used for State loans to municipalities and counties for their share of shore protection project expenses. Local governments repay

their loans to the Shore Protection Fund, which in turn, continues to generate monies for the shore protection program. All municipalities and counties are eligible to receive bond issue funds for shore protection.

To obtain a shore protection grant, a county or municipality should provide at least general access [see Table 6, Access Standards and Ratings] or make significant steps to improve access conditions. This should be implemented through the use of a formula which includes access among other considerations.

16. Access to Shore Protection Structures

The Division of Coastal Resources should adopt an enforcement strategy which guarantees public access to publicly funded shore protection structures such as bulkheads jetties and groins. This would involve the prohibition of fences and other physical and local regulatory barriers rather than offering the opportunity to legalize the barricades. The Public Trust Doctrine along with the use of public funds to build such structures warrant this mandate.

A policy statement to this effect to be sent to municipalities and necessary changes to the Coastal Resource and Development Policies and enforcement procedures should be enacted.

APPENDIX A

AN ORDINANCE TO AMEND THE MUNICIPAL MASTER PLAN TO ESTABLISH A PUBLIC BEACH ACCESS COMMISSION AND PROVIDE FOR THE ADMINISTRATION THEREOF:

THE _____ OF _____ DO ORDAIN:

SECTION 1: This shall be known and may be cited as the Public Beach Access Ordinance

SECTION 2: The governing body finds, determines and declares:

- (a) The ocean beach of _____ is one of (the municipality's) most valuable natural resources, unique in kind, and irreplaceable in the opportunities it presents for the healthful and enjoyable recreational use of the public and its free and unimpeded use is consistent with the public interest;
- (b) The citizens of _____ maintain and support the public beaches;
- (c) The said beach should be equally accessible to all for public use and enjoyment so far as consistent with the proper management and regulation thereof and with the preservation of established property rights;
- (d) The _____ (governing body) deems it essential for the promotion, protection and improvement of the public health, safety, comfort, good order, convenience and general welfare that all residents and visitors of _____ have reasonable access to and use of such public beaches;
- (e) The management of such public beaches shall be exercised with due regard to the general public interest and all reasonable provisions for general public access to and enjoyment of such beaches at moderate cost and without unnecessary restriction or unjustifiable discrimination shall be at all times preserved and maintained.

SECTION 3: As used in this ordinance:

- (a) "Beaches" are all coastal sandy areas along the Atlantic Ocean [Raritan Bay], including wet sand, dry sand and immediate upland areas.
- (b) "Coastal lands" as used in this ordinance shall mean those lands adjacent to the [Raritan Bay] Atlantic Ocean, including beaches and their immediate uplands, and designated in the Beach Access Plan element as subject to regulation under this ordinance.
- (c) "Public Accessways" are lands over which the public has a right of traverse to reach public beaches.
- (d) "Public beach" shall mean any beach which forms part of a place of public resort under the management and control of a municipality pursuant to P.L. 1955, c. 49 (C. 40:61-22.20 et seq.) or any other law empowering a municipality to maintain, improve, manage and control beaches and bathing grounds and facilities and in connection therewith to charge and collect reasonable fees for access to such beach and facilities:
- (e) "Support facilities" shall mean parking areas, restrooms, changing areas, showers and other facilities necessary for the safe, healthful and convenient use and enjoyment of public beaches.
- (f) "Subdivision" shall mean the division of a parcel of land, whether improved or unimproved, into two or more lots or parcels of land for the purpose of sale or development. For purposes of this ordinance, the term "subdivision" shall include condominium development.

SECTION 4: The governing body hereby authorizes _____
(gov't agency)
with the primary responsibility for administration
of this ordinance.

4.1 Establishment of a Public Beach Access Commission.

The _____ shall establish a Public Beach Access
(governing body)

Commission and appoint members thereto, or the commission may consist of the _____ or any other existing planning commission or board.
(governing body)

4.2 Terms of Office; Removal from Office; Vacancies.

Members of the commission shall be appointed for staggered terms of such length as may be determined by the _____ and shall serve until their successors are appointed. Original appointment may be made for a lesser number of years so that the terms of the said members shall be staggered. The _____ may remove any member of the commission for cause after written notice and public hearing. Any vacancy occurring during the unexpired term of office of any member shall be filled by the _____ for the remainder of the term. Such (governing body) vacancy shall be filled within thirty (30) days after the vacancy occurs.
(governing body)

4.3 Officers, Rules of Procedure, Consultants and Advisors.

- (a) The commission shall elect a chairman and a vice-chairman from among its members.
- (b) The commission shall meet at regular intervals and such other times as the chairman or commission may determine. It shall adopt rules for the transaction of its business and keep a properly indexed record of its resolutions, transactions, findings and determinations, which record shall be a public record.
- (c) The commission may, subject to the approval of the _____ employ such experts, technicians, and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the commission.
(governing body)
- (d) The _____ shall establish procedures (local planning agency) for providing effective public participation in the activities of a public beach access commission. The procedures shall provide for broad dissemination of proposals and alternatives, opportunity for written comments, public hearings, information services, and consideration of a response to public comments.

4.4 Duties of the Commission

The duties of the commission shall be as follows:

- (a) operate and maintain public accessways or appoint the appropriate local or community group to provide such services
- (b) prepare recommendations to _____ which
(local government agency)
would encourage and increase public access
- (c) work with community groups to establish programs/
practices which encourage public access
- (d) identify location of environmentally sensitive water-
front park development
- (f) provide guidelines concerning the provision of public
access to the planning board for use in sub-division
and site plan review.

4.5 Implementation of the Plan

The commission shall implement its proposals in conjunction
with _____.
(local gov't agency)

SECTION FIVE: OPERATION OF PUBLIC BEACHES AND PUBLIC ACCESS WAYS

5.1 Maintenance

The _____ shall have the duty and respon-
(local recreation or public works dept.)
sibility to maintain and promote the condition of all
public beaches, public access ways and support facilities
as recommended by the Public Beach Access Commission.

5.2 Signs

The _____ may provide signs or other
(local recreation or public works dept.)
markings to indicate the location and extent of public
beaches, public access ways and support facilities.

5.3 Charging of Fees.

The town of _____, or its authorized agent may
impose reasonable and nondiscriminatory fees for the use of

You are viewing an archived copy from the New Jersey State Library

You are viewing an archived copy from the New Jersey State Library