
Deal Borough Municipal Public Access Plan

Submitted by: Deal Borough

Date of Current Submittal: **Date**

Approved by the New Jersey Department of Environmental Protection:

Date of NJDEP approval

Adoption by the City:

Date will be added upon adoption

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Introduction

This document is intended to provide a comprehensive public access plan for the Borough of Deal which lays out a vision for providing access to tidal waters and shorelines within the municipal boundary. This Municipal Public Access Plan (MPAP) was developed in accordance with the Coastal Zone Management Rules at N.J.A.C. 7:7-16.9. The development and implementation of this MPAP supports the policy of local determination of public access locations and facilities, while safeguarding regulatory flexibility.

The Public Trust Doctrine, first set by the Roman Emperor Justinian around A.D. 500 as part of Roman civil law, establishes the public's right to full use of the seashore. The Public Trust Doctrine states that natural resources, including, but not limited to, tidal waterways and their shores, air and wildlife in the State of New Jersey are held by the State in trust for the benefit of all of the people. Further, the Public Trust Doctrine establishes the right of the public to fully utilize these natural resources for a variety of public uses.

The original purpose of the doctrine was to assure public access to waters for navigation, commerce and fishing. In the past two centuries, State and Federal courts in New Jersey have recognized that public uses guaranteed by the Public Trust Doctrine also include public recreational uses such as swimming, sunbathing, fishing, surfing, sport diving, bird watching, walking and boating along the various tidal shores.

Through various judicial decisions, the right of use upheld by the Public Trust Doctrine has been incorporated into many state constitutions and statutes, allowing the public the right to all lands, water and resources held in the public trust by the state, including those in New Jersey. The New Jersey Department of Environmental Protection (DEP) adopted new rules governing public access on November 5, 2012 that enable municipalities to develop and adopt MPAPs to govern public access within their municipality. This MPAP consists of an inventory of public access locations and plans to preserve and enhance access based on community needs and State standards.

This plan has been developed in collaboration with the DEP, Board of Commissioners, and Town administration officials and presented to the Planning Board on **date** and approved for submission to the DEP on **date**. Upon receiving approval from the DEP on **date**, the MPAP was incorporated into the Recreation / Conservation Plan Element of the Master Plan by resolution on **date**, (see Appendix 1). All public access decisions made within the Borough of Deal after this date will be consistent with this plan.

Importance of Municipal Public Access Plans

The premise of the authorization of MPAPs is that public access to tidal waters is fundamentally linked to local conditions. The development of a MPAP enables the municipality to better plan, implement, maintain, and improve the provision of public access for its residents and visitors. It also informs and/or identifies public access requirements associated with any proposed development or redevelopment project.

The Borough of Deal is responsible for ensuring that public access to the tidal waters within the municipality is in accordance with this plan as approved by DEP and adopted as part of the municipal Master Plan. For each new project that is required to provide public access through a DEP issued Coastal Area Review Act or Waterfront Development permit, the Borough of Deal will provide DEP with a letter confirming its consistency with this MPAP. Upon adoption of this MPAP into the municipal Master Plan, the DEP public access requirement shall be satisfied in accordance with this plan. The Borough of Deal will submit a progress report documenting plan implementation to DEP every five (5) years after the date of plan adoption.

I. Municipal Public Access Vision

A. Overview of Municipality

The Borough of Deal is and always has been a suburban residential/resort community. The residential character of Deal is reinforced by the existence of a community-oriented central retail business district and a variety of public and quasi-public services and public open spaces/recreational areas. At this juncture of Deal's developmental history, it is doubtful that any new action of the Planning Board or Board of Commissioners can have a significant effect on the overall land use pattern which has evolved.

The area now within Deal's corporate boundaries began its development in the nineteenth century. Because of its proximity to New York City, it became a popular ocean-side resort for summer vacationers. During these early years almost all of the structures in Deal were seasonal residences.

Gradually, as the area continued to grow, it became more attractive to permanent residents. These permanent residents constructed new dwellings suitable for year-round occupancy. They also converted seasonal residences to year-round use. This trend increased the proportion of permanent residents until there was a significant year-round population. It was in response to the desire of these permanent residents for local self-government that the Borough was incorporated in 1898.

The 1.2 square mile borough lies entirely within the geographic area known as the Outer Coastal Plain. The Outer Coastal Plain is that portion of the Atlantic Coastal Plain which lies south and southeast of the Highlands of the Navesink. Deal is relatively flat with no unusual topographic features.

Natural drainage is into Poplar Brook, Deal Lake and the Atlantic Ocean. The northern half of the Borough lies within the Poplar Brook drainage basin and the southern half lies within the Deal Lake drainage basin. Portions of the lands bordering the Atlantic Ocean or Poplar Brook lie within flood hazard areas as delineated by the United States Department of Housing and Urban Development.

1. Map 1. Borough of Deal Tidal Waterways and Lands

Map 1 shows all the tidal waterways within the municipality and all lands held by the municipality.

Map 1: Borough of Deal’s Tidal Waterways and Lands.



B. Municipal Public Access Goals and Objectives

1. Goals & Objectives

- i. Provide public improvements to maximize public access.

In addition to those goals outlined within the Master Plan, the Borough of Deal affirms the following State required goals specifically for public access:

- ii. All existing public access shall be maintained to the maximum extent practicable.
- iii. Maintain safe and adequate access locations for fishing in those areas where fishing is safe and appropriate.
- iv. Provide clear informative signage for access locations.

The Borough of Deal's Municipal Public Access Plan embraces and reflects these goals and will help preserve, protect, and enhance the public's ability to access the Public Trust lands which surround the municipality. The previous goals are compliant with the New Jersey Coastal Zone Management Rules broad set of coastal protection goals (see N.J.A.C 7:7-1.1 (c)).

2. Municipal Master Plan Consistency

The goals and objectives provided in this Municipal Public Access Plan have been reviewed and are consistent with the Borough of Deal's Master Plan.

II. Public Access

A. Public Access Locations

Map 2 Borough of Deal's Public Access Locations, identifies an inventory of all public access locations within the Borough of Deal, whether they are currently Utilized, Un-utilized, or Restricted to the public, along with their attributes of improvements and activities. All public access locations are utilized as outline in the below map. See Table 1, located in the Appendix, for detailed information for each location.

Map 2: Borough of Deal's Public Access Locations

Borough of Deal, NJ - Public Access Locations



B. Improved Public Access Locations

Public Access in the Borough of Deal is provided by the municipality and consists of a variety of access points and facilities as follows:

- a. Neptune Avenue Visual Access point offers visual access of the beach and ocean for visitors who choose to not physically access the beach. There is free on street parking at this location (location #1 on the Public Access Locations Map).
- b. Hathaway Avenue Access provides beach access for a fee. Daily fees are \$8 weekdays and \$10 weekends, there will also be a seasonal fee of \$150. Anyone under the age of 12 does not require a fee. There is free on street parking in the area of the access point. There is a guarded beach for swimming at this assess point, surfing and fishing are permitted outside the guarded swim zone. Other amenities as this location will be restrooms (location #2 on the Public Access Locations Map).
- c. Marine Place Visual Access point offers visual access of the beach and ocean for visitors who choose to not physically access the beach. There is free on street parking at this location (location #3 on the Public Access Locations Map).
- d. Deal Esplanade Road Access point provides for free beach access. On street parking is restricted with 2 hour limits. There is no swimming permitted at this assess point, but surfing and fishing are permitted (location #4 on the Public Access Locations Map).
- e. Darlington Road Access point provides for free beach access. On street parking is restricted with 2 hour limits. There is no swimming permitted at this assess point, but surfing and fishing are permitted (location #5 on the Public Access Locations Map).
- f. Clem Conover Road Visual Access point offers visual access of the beach and ocean for visitors who choose to not physically access the beach. There is free on street parking at this location (location #6 on the Public Access Location Map).
- g. Deal Casino South access point provides beach access for a fee. This access point has free off street parking. The fee includes a seasonal fee as well as daily fees. Access can be gained to the W. Stanley Conover Pavilion where restrooms and a snack bar are available as well as guarded beaches for swimming. The Deal Casino main entrance is for membership only and provides for handicap accessibility, restrooms, snack bar, pool (location #7 on the Public Access Locations Map).
- h. W. Stanley Conover access point provides beach access for a fee. The fee includes seasonal fee as well as daily fees. A yearly membership is available which provides a 4'x8' locker. This access point has free off street parking. Amenities provided at the W. Stanley Conover Pavilion are handicap accessibility, restrooms, snack bar and locker rooms. There is a guarded beach for swimming (location #8 on the Public Access Locations Map).

- i. Phillips Avenue Access provides for free beach access. There is free off street parking in the area of the access point at the W. Stanley Conover Pavilion. There is no swimming permitted at this access point, but surfing and fishing are permitted (location #9 on the Public Access Locations Map).
- j. Roosevelt Avenue Access provides for free beach access. There is free on street parking in the area of the access point. There is no swimming permitted at this access point, but surfing and fishing are permitted (location #10 on the Public Access Locations Map).

Map 3 Borough of Deal's Improved Public Access Locations, provides an inventory of the existing public access locations that currently provide access to public trust lands and waters. See Table 1, located in the Appendix, for detailed information this location.

Map 3: Borough of Deal Enhanced Public Access Locations – Public Parking

Borough of Deal, NJ - Public Parking



Map 4: Borough of Deal Enhanced Public Access Locations – Handicap Accessibility

Borough of Deal, NJ - Handicap Accessibility



C. Limitations to Public Access

The following limitations to public access currently exist:

1. Temporary Restrictions

The Borough of Deal restricts swimming on unguarded beaches which include all access points except the Deal Casino and W. Stanley Conover Pavilion. The hours of operation for these beaches are 9am – 6 pm from Memorial Day to Labor Day.

There is a fishing, surfing and scuba diving restriction in the guarded bathing areas of the Deal Casino and W. Stanley Conover Pavilion.

2. Permanent Restrictions

The Neptune Avenue Visual Access point had beach access prior to the Army Corp of Engineers beach replenishment project. With this project, a scour hole has been added to the outfall pipe at the Neptune Avenue Access point, which has caused an unsafe condition for access to the beach.

There is currently 2 hour parking restrictions at the Darlington and Deal Esplanade beach access points. The Deal Casino and Conover Pavilion currently has membership permit parking only on the paved lots with unrestricted parking on grass lots.

III. Community Needs Assessment

The Borough of Deal has performed a community needs assessment. The Board of Commissioners continues to receive public comment regarding possible improvements. The methods and results are described in the following section:

- a. One complaint has been to clean or rake the areas in the newly replenished beach. Due to beach replenishment there has been a large increase in the amount of people, which has brought an increase in trash. The Borough of Deal has recently received a new beach cleaning machine and will utilize this machine as well as the current equipment of the Borough of Deal to accomplish this task.
- b. Secondly there has been complaints from homeowners for lack of on street parking in a residential area near the Hathaway Avenue access point and Neptune Avenue visual access point due to the same influx of people. The Borough of Deal will be proposing parking restrictions in the area of the Hathaway Avenue Access point as well as the Neptune Avenue Visual Access point. The proposed parking restriction would include daily and seasonal parking permits for residents as well as non-residents. The funds from the parking fee would be utilized by the Borough to operate and maintain a new beach cleaning machine for the entire beachfront within the Borough as described above.

- c. There has also been requests for benches and small recreational opportunities near the Roosevelt Avenue access point. The Borough of Deal is in the process of improving all the beach access locations with pavers, plantings and benches to create a safer and more accessible access to the Atlantic Ocean.
- d. There have been several requests to create ADA access areas along the beach front. There are currently two (2) locations that can accommodate handicap accessibility, the Deal Casino and W. Stanley Conover Pavilion. The Borough will continue to review the access locations for the potential to increase handicap accessibility.

IV. Implementation Plan

The Borough of Deal has created an Implementation Plan composed of Priorities, Preservation of Public Access Locations, Signage, Proposed Access Improvements and Facilities, and Municipal Tools for Implementation as described in the following section:

A. Priorities

The Borough of Deal developed the following priorities:

1. Maintain Existing Public Access

The Borough of Deal Department of Public Works routinely checks access points to ensure that they are free from debris, barriers and remain safe for users. The Department of Public Works is in the process of beautifying the access points by adding pavers, benches and shrubbery.

a. Tools

The Borough of Deal Department of Public works will determine the maintenance schedule and routine checks.

b. Cost and Funding

The cost to maintain the public access points will vary between the Department of Public Works annual budget and capital budget.

2. Preserving Public Access

The Borough of Deal will continue to preserve the current public access points.

a. Tools

The Borough of Deal owns all of the sites that are utilized for public access. These sites area existing beach access points. The Borough should create a ROSI list, municipal Recreation and Open Space Inventory, which protects the land from non-recreational development.

b. Cost and Funding

Funding for preserving public access will be included in the general annual operating budget or capital budget.

3. Proposed Locations and Facilities

The Borough of Deal currently does not have any proposed public access locations. The Borough of Deal along with the Army Corps of Engineers and NJ DEP recently added a new access point at the Deal Casino to meet their requirements.

The borough has two access points, the Deal Casino and the W. Stanley Conover Pavilion that currently has handicap accessibility. The Borough would like to increase accessibility at other access points by adding ramps and beach mats for handicap accessibility.

Another proposal would be to create a safe access point at Neptune Avenue. As stated above, this access point has been restricted due to the construction of a scour hole for storm water drainage by the Army Corp of Engineers beach replenishment project.

a. Tools

There are currently no plans at this time.

b. Cost and Funding

There are currently no funding required at this time.

B. Signage

The Borough of Deal has provided the following signage:

Signs will be posted at each beach access point listed in Table 1. The signs shall list beach access and rules pertaining to their use. Signs will be added as sites are improved or improvements replaced.

All public access signs will be maintained by the Borough of Deal Department of Public Works.

C. Army Corps of Engineers Requirements for Shore Protection Projects

The Borough of Deal has met the ACOE Requirements as follows:

The Borough of Deal is the recipient of a Federal shore protection project in 2015 through 2017. The Borough of Deal and has met the US Army Corps of Engineers (USACE) requirements for public access by adding an additional beach access stairway on the south end of the Deal Casino property. The Borough complies with the applicable Federal and state laws and regulations regarding public ownership and use of the shore and continues to provide and maintain access open and available to all on equal terms. All lands, easements and rights-of-way are provided for access and maintenance or repair of the Federal shore protection project. And, all existing oceanfront access remains open unless there are temporary restrictions for beach nourishment maintenance. In that case, for security and public safety reasons, temporary fencing along with signage will limit public use of the beach. The Borough and USACE work with the contractors to minimize the impacts to the public's use of the shoreline.

V. Resolution of Incorporation

The Borough of Deal has approved a resolution for the incorporation of the MPAP. See Appendix 1 for the resolution.

Approval of this plan does not eliminate the need for any Federal, State, County or municipal permits, certifications, authorizations or other approvals that may be required by the Applicant, nor shall the approval of this plan obligate the Department to issue any permits, certifications, authorizations or other approvals required for any project described in this plan.

APPENDIX 1
Model Resolution for Incorporating MPAP into Master Plan
(upon adoption the final resolution will replace this model)

Resolution # _____

Title: A RESOLUTION APPROVING THE MUNICIPAL PUBLIC ACCESS PLAN

WHEREAS, the *{municipality name}* Municipal Public Access Plan (MPAP) was submitted to the Township Council and reviewed at the regular meeting of *{date}*, and

WHEREAS, the governing body has approved the plan as submitted, and

WHEREAS, the governing body recognizes the need to make the MPAP an authorized component of municipal decision-making by incorporating it into the municipal master plan,

NOW, THEREFORE, BE IT RESOLVED by the *{municipality governing body}* of *{municipality name}*, the "*{municipality name}* Municipal Public Access Plan," a copy of which is attached, is hereby approved.

FURTHER RESOLVED, the MPAP shall be incorporated into the municipal master plan within *{element}*.

FURTHER RESOLVED a copy of the plan shall be sent to the New Jersey Department of Environmental Protection for review and approval in accordance with N.J.A.C.7.7.

I hereby certify the foregoing to be a resolution adopted by the *{governing body}* at a meeting held on *{date}*.

Municipal Clerk

Appendix 2
Public Access Table

Table 1 Deal Borough Public Access Location Amenities

ID	SIGNS	PARKING	STREET	BADGE	SWIMMING	FISHING	SURFING	PLAYGRD	PARK	PIER	BOATLNCH	MARINA	RESTRM	H/C	SHORE-LINE	ACCESS TYPE
1	Yes	On Street	Neptune	No	No	Yes	Yes	No	No	No	No	No	No	No	Ocean	Visual
2	Yes	On Street	Hathaway	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	Ocean	Beach
3	Yes	On Street	Marine Pl	No	No	No	No	No	No	No	No	No	No	No	Ocean	Visual
4	Yes	On Street	Deal Esplanade	No	No	Yes	Yes	No	No	No	No	No	No	No	Ocean	Beach
5	Yes	On Street	Darlington	No	No	Yes	Yes	No	No	No	No	No	No	No	Ocean	Beach
6	Yes	On Street	Clem Conover Rd	No	No	No	No	No	No	No	No	No	No	No	Ocean	Visual
7	Yes	Lot	Deal Casino	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	Ocean	Beach
8	Yes	Lot	Conover Pavilion	Yes	Yes	No	No	Yes	No	No	No	No	Yes	Ramp	Ocean	Beach
9	Yes	Lot/Street	Phillips	No	No	Yes	Yes	No	No	No	No	No	No	No	Ocean	Beach
10	Yes	Street	Ocean Lane	No	No	Yes	Yes	No	No	No	No	No	No	No	Ocean	Beach

Explanation of table:

SIGNS: Does the location provide signage identifying the location as a point of public access? Yes or No

PARKING: Is parking for the location/facility provided on the street or in a lot and is it free or do you have to pay? Street, free; Street, pay; Lot, free, Lot, pay

STREET: On what street is the public access located?

CROSS STREET: What is the cross street where this location is located?

BADGE: Are there times when a badge is required to use this location? Yes or No

SWIMMING: Is swimming permitted at this location? Yes or No (Limitations on swimming, such as hours, lifeguards, etc., are discussed in Section II.B and C)

FISHING and SURFING: Is fishing/surfing permitted at this location? Yes or No (Limitations/restrictions are discussed in the Section II.B and C)

PLAYGRD, PARK, PIER, BOATLNCH, MARINA, RESTRMS: Does this location include these amenities? Yes or No

H/C: What amenities are handicap accessible at this location/facility? (Not necessarily ADA Compliant) None, Parking reserved, Ramp provided, and/or Restrooms accessible

SHORELINE: What shoreline does this location inhabit? Ocean, Bay, River and/or inlet

ACCESS TYPE: Describe the type of access: Beach, Fishing, Boat, and/or Visual

[This imbedded Excel spread sheet should be used for the table described in Section II (Public Access). The title of each column should not be changed. The information about each public access location should be filled in using one of the options listed. This table will also be used to populate the information for each public access location in GIS. Additional information about each public access location can be included in the narrative portion of Section II. Please contact DEP with any questions or concerns about these options.]

Appendix 3
Sign Ordinance

ORDINANCE #1153

**AN ORDINANCE AMENDING CHAPTER XVI OF
"REVISED GENERAL ORDINANCES OF
THE BOROUGH OF DEAL, 1982"
Signs**

**THE BOARD OF COMMISSIONERS OF THE BOROUGH OF DEAL HEREBY
ORDAIN:**

**Section 1. That Chapter XVI, Signs, of the "Revised General Ordinance of the
Borough of Deal, 1982 be and it hereby is amended in the following particulars:**

Section 2. Subsection 16-1 Definitions is amended to add as follows:

**16-1 "Public Access Sign" shall be a posted sign depicting the public access
point to, from and along tidal waterways and their shores within the
Borough of Deal. Public Access signs shall list the name of the access
point as well as any restrictions.**

**Section 2. Subsection 16-1 Public Access Signs is amended to read as
follows:**

16-9.1 Location

**All public access signs shall be installed at the entrance of the
designated beach access points as outlined in the Municipal Public
Access Plan.**

16-9.2 Maintenance

**All public access signs shall be maintained by the Borough of Deal
Department of Public Works.**

**Section 3. This Ordinance shall take effect upon passage and publication
according to law.**

**Introduced by Commissioner Ades on May 24, 2017
Seconded by Commissioner Simhon
Roll Call: Ayes 3; Cohen, Ades & Simhon**