

City of Somers Point

Resolution

No. 211 of 2024

Subject: A Resolution Opposing the Proposed “Protecting Against Climate Threat (Pact)/Resilient Environments and Landscape (Real)” Rules

Introduced by: Council President Johnston

WHEREAS, the City of Somers Point opposes the coastal rules proposed by the State of New Jersey. These rules will impact the availability of affordable housing, result in environmental equity issues, deter economic development, impose an unnecessary layer of State regulation, potentially require New Jersey homeowners to obtain flood insurance; and have other harmful impacts on the residents and businesses in New Jersey; and

WHEREAS, the City of Somers Point acknowledges that climate change and sea level rise are a documented risk to the coastal zone of New Jersey and its barrier island communities, requiring thoughtful and well-reasoned response from all levels of government; and

WHEREAS, the City of Somers Point continues to respond to the threat of tidal flooding/major coastal storms by practicing the highest standards of coastal resiliency and floodplain management in all County critical infrastructure and building projects, while also providing the necessary support to our local communities in the approach, duration, and wake of major coastal storms through our Office of Emergency Management and Public Safety Departments; and

WHEREAS, initiated through Governor Murphy’s Executive Order 100, the New Jersey Department of Environmental Protection (NJDEP) has produced a 1,057-page rule proposal policy document known as NJ PACT (Protection Against Climate Threats)/ REAL (Resilient Environments and Landscape) to expand flood hazard areas (FHAs) statewide and implement higher floodplain management regulatory standards beyond the local and existing FEMA standards; and

WHEREAS, these rules establish expansive inundation risk zones that the State is claiming will be under water in 75 years. Not only would development there, including redevelopment, expansions, and substantial reconstructions, be subject to elevation (six foot above base flood elevation), more stringent building requirements, alternatives analysis, and deed notices, but they would be subject to a 3% impervious cover standard for the site in most communities. Impervious cover includes the building, parking, driveways, and sidewalks. The imposition of these stringent limitations, especially the 3% impervious cover standard, effectively makes the IRZs “no build” zones. Cumulatively, along with other requirements on infrastructure, these rules will have the effect of requiring, or at least driving a retreat; and

WHEREAS, historically, new rules issued by the NJDEP have always been promulgated pursuant to legislation through the typical legislative process; and

WHEREAS, in this case, like the NJDEP’s recently proposed Shore Protection Rule, there is no legislation that authorized the NJDEP to require more stringent requirements than the federal regulations that are now in place; and

WHEREAS, these rules as currently written do not consider the economic impact these new standards may have on the ratables, real-estate values, development, and redevelopment statewide, but especially in Atlantic County where we have greater than \$30 billion in net ratables and greater than \$8 billion in annual tourism spending according to the New Jersey Division of Tourism. Tourism is the largest industry in Atlantic County; and

City of Somers Point **Resolution**

WHEREAS, the proposed rules also do not account for the impact these higher regulatory building standards will impose on historic structures and historic districts in City of Somers Point, throughout Atlantic County, and State of New Jersey; and

WHEREAS, the State of New Jersey must also consider the burden these new rules will have on coastal municipalities, especially within their local construction offices, due to the additional duties and responsibilities of enforcing these higher regulatory standards that will likely result in the need to hire additional staff or enter additional public/private contracts; and

WHEREAS, these rules will also increase construction costs and impact the feasibility for public infrastructure projects with the minimum construction height requirements for new roads in excess of Base Flood Elevation (BFE) plus six feet freeboard, will be infeasible and unachievable given the path and location of the project; and

WHEREAS, despite the burden these rules will inevitably play on our coastal towns, the State of New Jersey has not mentioned any plan for a State budget appropriation to assist coastal towns statewide with the additional duties and functions imposed through the proposed NJPACT/REAL rules; and

WHEREAS, the proposed expansion of flood hazard areas will also create additional financial burdens for lower and middle class property owners living in the City of Somers Point by imposing more restrictive building standards accompanied by engineering assessments and alternatives analyses within the newly expanded regulated areas and may also potentially result in higher insurance premiums given the expansion of the inundation risk zone and increase of the regulated flood hazard area limits by 5 feet vertically; and

WHEREAS, the proposed NJPACT/REAL regulations are based on the Science and Technical Advisory Panel Report (2019 STAP Report) entitled, "New Jersey Rising Seas and Changing Coastal Storms," projecting sea level rise for the year 2100 exceeding 5.1 feet, which has a probability of occurrence of approximately 17%; and

WHEREAS, since the 2019 STAP Report several key studies on sea level rise were issued as was the International Panel on Climate Change (IPCC) Assessment that addressed sea level rise. Professor Bob Kopp, the primary author of the 2019 STAP Report, was an author of one of the more recent studies as well as the IPCC report. The more recent studies do not support the idea of a 5.1 foot sea level rise as being likely; and

WHEREAS, The IPCC and all the newer scientific reports predict that worldwide sea level rise this century will be 0-2 feet; and

WHEREAS, potentially pushing fixed income residents out of their homes based on the 17% probability of an 80-year sea level rise projection should be taken more gradually with a higher percentage of probability and likelihood of occurring; and

WHEREAS, municipalities are required to prepare Master Plans for a 20- or 30-year planning horizon, and City of Somers Point strongly recommends a similar time horizon for rules based on sea level rise projections; and

WHEREAS, City of Somers Point, like a lot of Counties and Municipalities nationwide, are experiencing a housing crisis due in part to the high cost of housing, and these requirement will significantly increase the cost of housing, making it difficult if not impossible to provide affordable housing for the region's workforce; and

WHEREAS, the NJDEP's proposed expansion of flood hazard areas limits the potential capacity of mixed income housing development and even prohibits development in most coastal areas where there is already

City of Somers Point **Resolution**

statutory affordable housing obligations imposed through fair share housing laws, especially as inland development centers are being reduced in size via the State Planning process; and

WHEREAS, the proposed coastal regulations will create an Environmental Justice issue since local residents will be deterred from improving their homes because they will have to elevate 6 feet above BFE which they cannot afford when they improve their homes above 50 percent of its value, hence those in most need of shelter will witness the deterioration of their homes and be forced to relocate; and

WHEREAS, the Federal Emergency Management Agency (FEMA) is also in the process of preparing detailed updates to the flood insurance rate maps (FIRMS) that take into account many factors of risk including sea level rise; and

WHEREAS, the State of New Jersey has historically used these maps to guide public policy, and therefore, the City of Somers Point urges the State to defer to the superseding governing body, in this instance FEMA, and wait until the new FIRMS have been posted before expanding flood hazard areas through a streamlined State authorization; and

WHEREAS, while recognizing the importance of addressing climate change, as stated previously, the City of Somers Point believes that a more gradual and balanced approach is necessary to target incremental adjustments over time in order to mitigate the potential negative impacts that these radically changing rules will have on the coastal towns of New Jersey; and

WHEREAS, it is imperative that the State of New Jersey consider the disproportionate burden resulting from the implementation of such stringent regulatory standards that will challenge the people of New Jersey living, working, and visiting in the coastal zones.

NOW, THEREFORE, BE IT RESOLVED, the City of Somers Point strongly recommends the following:

1. The City of Somers Point requests a comprehensive and independent analysis of the potential economic and social impacts of the proposed regulations, including a focus on protecting the interests of low and moderate income families.
2. The City of Somers Point requests that the State of New Jersey engage the Legislature and enact these rules through the typical legislative process, in order to give the people of New Jersey a voice, rather than through an Executive Order with limited public engagement.
3. The City of Somers Point requests that these regulations be based on a 20 or 30-year timeframe that is adjusted over time to reflect sea level rise and resiliency measures, rather than based on an 80-year projection.
4. The City of Somers Point requests that the State of New Jersey consider the inclusion of a budgetary appropriation to assist towns with the implementation of these rules and further, appropriate funding to implement a State grant program to support coastal resiliency projects that will inevitably incur greater costs due to the higher regulatory standards that includes significantly higher elevation requirements for new roads.
5. In advance of these Rules potentially being voted into law, the City of Somers Point requests that the State of New Jersey follow the same practice as FEMA and prepare detailed flood maps, and further hold public engagement sessions across the State, so that communities and residents can clearly understand how these regulations will impact their areas and properties.

City of Somers Point Resolution

6. The City of Somers Point hereby orders copies of this Resolution, attached Analysis Study, and Maps be transmitted to Governor Phil Murphy; Lieutenant Governor Tahesha Way; Chief of Staff to Governor Murphy Diane Gutierrez-Scaccetti; Senate President Nicholas P. Scutari; Assembly Speaker Craig J. Coughlin; Senate Environment Committee Chair Bob Smith; Assembly Environment Committee Chair James J. Kennedy; the Office of Legislative District 1's Senator Michael Testa, Assemblyman Antwan McClellan, and Assemblyman Erik Simonsen; the New Jersey Association of Counties (NJAC); New Jersey Business and Industry Association (NJBIA); and the New Jersey League of Municipalities (NJLM) to convey City of Somers Point's concerns and recommendations.

7. City of Somers Point hereby orders copies of this Resolution be submitted as public comment on the NJ Register to serve as the municipality's official comments to the NJDEP's proposed NJPACT/REAL rules.

	MOTIONS	YES	NO	ABSTAIN	ABSENT	RECUSE
DePamphilis						
Dill						
Gerety						
Haberkorn						
McGuigan						
Owen						
Johnston						
Consent Agenda		X				

I, Shelby Heath, City Clerk of the City of Somers Point, New Jersey, hereby certify that the foregoing Resolution is a true copy, duly adopted by the City Council of said City at a Regular meeting held on the 12th day of September 2024. In witness whereof, I have hereunto set my hand and seal of the Office on the 12th day of September 2024.



 Shelby Heath, RMC, City Clerk