

SENATE, No. 3910

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 10, 2021

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

SYNOPSIS

“Palisades Cliffs Protection and Planning Act”; concerns preservation of Palisades cliffs and creates Palisades Cliffs Preservation Council.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the preservation of the Palisades cliffs, creating
2 the Palisades Cliffs Preservation Council, and supplementing
3 P.L.1975, c.291 (C.40:55D-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. P.L. , c. (C.) (pending before the Legislature as this
9 bill) shall be known and may be cited as the “Palisades Cliffs
10 Protection and Planning Act.”
11

12 2. The Legislature finds and declares:

13 a. The Palisades Cliffs are a geological feature along the Hudson
14 River that extends from New York State south into Bergen and
15 Hudson Counties in New Jersey, and terminating in Jersey City
16 New Jersey;

17 b. The Palisades Cliffs exist in several municipalities and two
18 counties in New Jersey and dramatically define the scenic view of
19 New Jersey north of Jersey City from the Hudson River and New
20 York City and southern New York State;

21 c. The Palisades Cliffs are a recognized natural treasure that has
22 been intentionally preserved for decades;

23 d. While significant portions of the Palisades Cliffs are
24 protected based on their inclusion within parklands under the
25 jurisdiction of the Palisades Park Commission, other portions of the
26 Palisades Cliffs are threatened due to varied zoning ordinances and
27 varied planning rules in municipalities through which the Palisades
28 Cliffs run;

29 e. As a result of the natural beauty of the Palisades Cliffs and
30 the views of the Hudson River and New York City, there is
31 extensive pressure on municipalities to allow overdevelopment
32 immediately east of the Palisades Cliffs;

33 f. While some municipalities have encouraged development with
34 reasonable restrictions east of the Palisades Cliffs, other
35 municipalities have adopted ordinances and approved development
36 that fails to preserve the Palisades Cliffs;

37 g. As a result of the development pressure along the Palisades
38 Cliffs, municipalities have failed to consider the impact of
39 overdevelopment on surrounding municipalities;

40 h. The overdevelopment of the Palisades Cliffs also increases
41 traffic congestion along the Palisades Cliffs, and this is particularly
42 problematic in the areas where there is a narrow land mass east of
43 the Palisades Cliffs, which does not allow for multiple roads or
44 access points to those roads;

- 1 i. Development along the Palisades Cliffs does not just impact a
2 single municipality, but also has a dramatic impact on both the
3 Palisades Cliffs and the residents of surrounding municipalities;
- 4 j. Significant components of the natural beauty of the Palisades
5 Cliffs already have been lost to development, and the pace of
6 development in the region has and will continue to dramatically
7 increase, further impairing this natural treasure;
- 8 k. The existing system of fragmented controls on development
9 along the Palisades Cliffs is failing to protect the Palisades Cliffs;
- 10 l. Protection of the Palisades Cliffs is an issue of Statewide
11 concern and importance that cannot be left to the uncoordinated
12 land use decisions of the municipalities, counties, and myriad
13 private landowners in the area of the Palisades Cliffs; and
- 14 m. It is in the public interest of all the citizens of the State that
15 New Jersey enact legislation setting forth a comprehensive
16 development plan in the area of the Palisades Cliffs, so that
17 reasonable development is encouraged, but overdevelopment is
18 prevented.
- 19
- 20 3. As used in P.L. , c. (C.) (pending before the
21 Legislature as this bill):
- 22 “Cliff face” means that portion of the Palisades cliffs consisting
23 of sheer, nearly vertical expanse of exposed rock.
- 24 “Council” means the Palisades Protection and Planning Council
25 established by section 4 of P.L. , c. (C.) (pending before
26 the Legislature as this bill).
- 27 “Crest” means the highest part of the Palisades cliffs in any
28 location where the cliff face or side slope rapidly plateaus.
- 29 “Department” means the Department of Environmental
30 Protection.
- 31 “Development” shall have the same meaning as provided in
32 section 3.1 of P.L.1975, c.291 (C.40:55D-4).
- 33 “Development regulation” shall have the same meaning as
34 provided in section 3.1 of P.L.1975, c.291 (C.40:55D-4).
- 35 “Government approval” means any ordinance, permit, resolution,
36 lease, easement, license, approval, or grant of any kind issued by
37 any government entity or agency having jurisdiction over any
38 proposed development.
- 39 “Local government unit” means a municipality, county, or other
40 political subdivision of the State, or any agency, board,
41 commission, utilities authority or other authority, or other entity
42 thereof.
- 43 “Municipalities” means the municipalities included in subsection
44 a. of section 5 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

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1 “Palisade Avenue” means the road named Palisade Avenue that
2 extends from Jersey City in Hudson County in the south to Fort Lee
3 in Bergen County in the north.

4 “Palisades cliffs” means the cliff face or the side slope on the
5 eastern side of the Palisades mountain range beginning in Fort Lee
6 and running south into Jersey City.

7 “Palisades Planning Region” or “region” means that region so
8 designated by section 7 of P.L. , c. (C.) (pending before the
9 Legislature as this bill).

10 “Side slope” means that portion of the Palisades cliffs where the
11 steep Palisades cliff face is absent but where the elevation rapidly
12 declines.

13

14 4. a. There is hereby established a public body corporate and
15 politic, with corporate succession, to be known as the “Palisades
16 Protection and Planning Council.”

17 b. The council shall constitute a political subdivision of the
18 State established as an instrumentality exercising public and
19 essential governmental functions, and the exercise by the council of
20 the powers and duties conferred pursuant to P.L. , c. (C.)
21 (pending before the Legislature as this bill) shall be deemed and
22 held to be an essential governmental function of the State.

23

24 5. The council shall consist of 10 voting members to be
25 appointed and qualified as follows:

26 a. One individual from each of the following municipalities:
27 Jersey City, Hoboken, Union City, North Bergen, Weehawken,
28 West New York, Guttenberg, Cliffside Park, Edgewater, and Fort
29 Lee. The members of the council shall be appointed by the
30 respective governing body of each such municipality. The members
31 shall be residents of the appointing municipality, except that a
32 member who is the chief financial officer, business administrator,
33 municipal administrator, or municipal manager of the municipality
34 making the appointment need not be a resident of the appointing
35 municipality. The appointees may or may not be members of the
36 appointing governing body.

37 b. Council members shall serve for terms of four years, and
38 until the member’s successor has been appointed and qualified.
39 Any vacancy shall be filled in the same manner as the original
40 appointment. Members may be reappointed.

41 c. Each member of the council, before entering upon the
42 member's duties, shall take and subscribe an oath to perform the
43 duties of the office faithfully, impartially, and justly to the best of
44 the member's ability, in addition to any oath that may be required
45 by R.S.41:1-1 et seq. A record of the oath shall be filed with the
46 Secretary of State.

1 d. The council shall organize as soon as practicable following
2 the appointment of its initial members and shall elect annually from
3 among its members a chair to preside over its meetings, as well as a
4 secretary who need not be a member of the council. The council
5 may meet and hold hearings at the place or places it designates.

6 e. The powers of the council shall be vested in the members
7 thereof in office. A majority of the total authorized membership of
8 the council shall constitute a quorum and no action may be taken by
9 the council except upon the affirmative vote of a majority of the
10 total authorized membership of the council. No alternate or
11 designee of any council member shall exercise any power to vote on
12 any matter pending before the council.

13 f. The members of the council shall serve without
14 compensation, but the council may, within the limits of funds
15 appropriated or otherwise made available for such purposes,
16 reimburse its members for necessary expenses incurred in the
17 discharge of their official duties.

18 g. The members and staff of the council shall be subject to the
19 "Local Government Ethics Law," P.L.1991, c.29 (C.40A:9-22.1 et
20 seq.).

21 h. The council shall be subject to the provisions of the "Senator
22 Byron M. Baer Open Public Meetings Act," P.L.1975, c.231
23 (C.10:4-6 et seq.).

24 i. A true copy of the minutes of every meeting of the council
25 shall be prepared by the council secretary and forthwith delivered to
26 the department.

27
28 6. The council shall have the following powers, duties, and
29 responsibilities to, in addition to those prescribed elsewhere in
30 P.L. , c. (C.) (pending before the Legislature as this bill):

31 a. Adopt and from time to time amend and repeal suitable
32 bylaws for the management of its affairs;

33 b. Adopt and use an official seal and alter it at the council's
34 pleasure;

35 c. Maintain an office at such place or places in Hudson or
36 Bergen County as the council may designate;

37 d. Sue and be sued in its own name;

38 e. Appoint, retain, and employ, without regard to the provisions
39 of Title 11A, Civil Service, of the New Jersey Statutes but within
40 the limits of funds appropriated, received from application review
41 fees and charges pursuant to subsection o. of this section, or
42 otherwise made available for those purposes, such officers,
43 employees, attorneys, agents, and experts as it may require, and to
44 determine the qualifications, terms of office, duties, services, and
45 compensation therefor;

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- 1 f. Apply for, receive, and accept, from any federal, State, or
2 other public or private source, grants for, or in aid of, the council's
3 authorized purposes or in the carrying out of the council's powers,
4 duties, and responsibilities;
- 5 g. Enter into any and all agreements or contracts, execute any
6 and all instruments, and do and perform any and all acts or things
7 necessary, convenient, or desirable for the purposes of the council
8 or to carry out any power, duty, or responsibility expressly given in
9 P.L. , c. (C.) (pending before the Legislature as this bill);
- 10 h. Call to its assistance and avail itself of the services of such
11 employees of any State entity or local government unit as may be
12 required and made available for such purposes;
- 13 i. Solicit and consider public input and comment on the
14 council's activities, and other issues and matters of importance in
15 the Palisades Planning Region by periodically holding public
16 hearings or conferences and providing other opportunities for such
17 input and comment by interested parties;
- 18 j. Conduct examinations and investigations, to hear testimony,
19 taken under oath at public hearings, on any material matter, and to
20 require attendance of witnesses and the production of books and
21 papers;
- 22 k. Prepare and transmit to the Commissioner of Environmental
23 Protection such recommendations for environmental protection
24 standards pertaining to the lands of the Palisades Planning Region,
25 as the council deems appropriate;
- 26 l. Develop model land use ordinances and other development
27 regulations, for consideration and possible adoption by
28 municipalities in the region, that would help protect the
29 environment, including, but not limited to, ordinances and other
30 development regulations pertaining to the Palisades Planning
31 Region; and to provide guidance and technical assistance in
32 connection therewith to those municipalities;
- 33 m. Comment upon any application for development before a
34 local government unit, on the adoption of any master plan,
35 development regulation, or other regulation by a local government
36 unit, or on the enforcement by a local government unit of any
37 development regulation or other regulation, which power shall be in
38 addition to any other review, oversight, or intervention powers of
39 the council prescribed by P.L. , c. (C.) (pending before the
40 Legislature as this bill);
- 41 n. Promote brownfield remediation and redevelopment in the
42 Palisades Planning Region; and
- 43 o. Establish and when appropriate to review and to revise, a
44 schedule of application review fees and charges, which shall be
45 established that the revenues from the fees and charges shall at all
46 times be adequate to pay for all the expenses of the operations of

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1 the council, including a reasonable reserve for the use in potential
2 litigation, to conduct studies, or other costs or expenses directly
3 related to the council's powers, duties, and responsibilities set forth
4 in this section, as may be deemed necessary or desirable by the
5 council.

6
7 7. The Palisades Planning Region shall consist of that land
8 within the municipalities which extends up to 2000 feet east of the
9 Palisades cliff crest at each location along the Palisades cliffs.

10
11 8. a. Unless approved by the council, no development may be
12 constructed in the Palisades Planning Region unless the maximum
13 height of the proposed development, including any mechanical
14 structures to be constructed atop the building or structure, is at or
15 below the height whereby the sightline looking east from the crest
16 directly to the west of the proposed development would include at
17 least the eastern half of the Hudson River above the highest point of
18 the proposed building or structure.

19 b. Where there is no discernable crest immediately to the west of
20 the proposed development, unless otherwise specified in paragraphs
21 (1) and (2) of this subsection, the height of the beginning of the
22 sightline looking east for purposes of subsection a. of this section
23 shall be the elevation of the surface of the portion of Palisades
24 Avenue directly west of the proposed building or structure.

25 (1) In the following municipalities, where a street listed under
26 this paragraph is to the west of the proposed development, the
27 elevation of the surface of the portion of that street shall control for
28 purposes of this subsection b. of this section instead of Palisades
29 Avenue:

- 30 (a) Kennedy Boulevard East in North Bergen;
31 (b) Kennedy Boulevard East in Guttenberg;
32 (c) Kennedy Boulevard East in West New York;
33 (d) Kennedy Boulevard East, Hamilton Avenue, King Avenue,
34 and Kingswood Road in Weehawken.; and
35 (e) Mountain Road and Manhattan Avenue in Union City.

36 (2) In the municipality of Cliffside Park, an elevation of 170 feet
37 above sea level shall control for purposes of subsection b. of this
38 section instead of Palisades Avenue.

39
40 9. a. The council shall, within 18 months after the effective date
41 of P.L. , c. (C.) (pending before the Legislature as this
42 bill), prepare criteria to be considered in allowing development in
43 excess of the height limits set forth in section 8 of
44 P.L. , c. (C.) (pending before the Legislature as this bill).

45 b. This criteria shall include the:

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- 1 (1) development's distance from the Palisades side slope or cliff
2 face;
- 3 (2) development's impact on traffic in the area;
- 4 (3) development's impact on citizens in neighboring
5 municipalities;
- 6 (4) development's impact and obstruction of the Palisades side
7 slopes and cliff face;
- 8 (5) width of the proposed development that includes any
9 building or structure;
- 10 (6) municipality's affordable housing requirements and the
11 number of affordable housing units in the proposed development;
12 and
- 13 (7) number of governmental approvals the developer has
14 received as of the effective date of P.L. , c. (C.) (pending
15 before the Legislature as this bill), and the investment in the
16 approvals.

17

18 10. The council may institute an action or proceeding in
19 Superior Court for injunctive relief for any violation of P.L. , c.
20 (C.) (pending before the Legislature as this bill), or
21 restriction imposed pursuant thereto. In any action or proceeding
22 brought pursuant to this section, the court may proceed in a
23 summary manner and may also grant temporary or interlocutory
24 relief.

25

26 11. Any decision rendered or action taken by the council
27 pursuant to P.L. , c. (C.) (pending before the Legislature as
28 this bill) may be appealed to the Superior Court of New Jersey, Law
29 Division, in accordance with the New Jersey Rules of Court.

30

31 12. On or before March 31 in each year the council shall make
32 an annual report of its activities for the preceding calendar year to
33 the governing body and the chief executive officer of the
34 municipalities and Bergen and Hudson counties. Each such report
35 shall set forth a complete operating and financial statement
36 covering its operations during the preceding year.

37

38 13. If any section, subsection, clause, or provision of P.L. , c.
39 (C.) (pending before the Legislature as this bill) shall be
40 adjudged unconstitutional or to be ineffective in whole or in part, to
41 the extent that it is not adjudged unconstitutional or is not
42 ineffective, it shall be valid and effective and no other section,
43 subsection, clause, or provision of P.L. , c. (C.) (pending
44 before the Legislature as this bill) shall on account thereof be
45 deemed invalid or ineffective, and the inapplicability or invalidity
46 of any section, subsection, clause, or provision of

1 P.L. , c. (C.) (pending before the Legislature as this bill) in
2 any one or more instances or under any one or more circumstances
3 shall not be taken to affect or prejudice in any way its applicability
4 or validity in any other instance or under any other circumstance.
5

6 14. This act shall take effect immediately and apply to any
7 proposed development in the Palisades Planning Region, except for
8 those that have received all required government approvals as of the
9 effective date.
10

11

12 STATEMENT

13

14 This bill, "Palisades Cliffs Protection and Planning Act," would
15 provide for the preservation of the Palisades cliffs and create the
16 Palisades Cliffs Preservation Council.

17 The council created by the bill would constitute a political
18 subdivision of the State exercising public and essential
19 governmental functions, would have 10 voting members appointed
20 by the governing bodies of the municipalities within the Palisades
21 cliffs area, and would be conferred with powers, duties, and
22 responsibilities associated with preserving and protecting the
23 Palisades cliffs. Additionally, the bill creates the Palisades
24 Planning Region that would consist of that land within the
25 municipalities which extends up to 2000 feet east of the Palisades
26 cliff crest at each location along the Palisades cliffs.

27 The bill provides that unless approved by the council, no
28 development may be constructed in the Palisades Planning Region
29 unless the maximum height of the proposed development, including
30 any mechanical structures to be constructed atop the building or
31 structure, is at or below the height whereby the sightline looking
32 east from the crest directly to the west of the proposed development
33 would include at least the eastern half of the Hudson River above
34 the proposed building or structure. Where there is no discernable
35 crest immediately to the west of the proposed development, except
36 as otherwise specified in this bill, the height of the beginning of the
37 sightline looking east would be the elevation of the surface of the
38 portion of Palisades Avenue directly west of the proposed building
39 or structure.

40 Under the bill, on or before March 31 in each year, the council is
41 required to make an annual report of its activities for the preceding
42 calendar year to the governing body and the chief executive officer
43 of the municipalities and Bergen and Hudson counties. Each such
44 report shall set forth a complete operating and financial statement
45 covering its operations during the preceding year.