

SENATE, No. 191

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

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District 33 (Hudson)

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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

Introduced Pending Technical Review by Legislative Counsel.



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
14 Hudson River that extends from New York State south into Bergen
15 and 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
22 has 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
34 with 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;

45 i. Development along the Palisades Cliffs does not just impact
46 a single municipality, but also has a dramatic impact on both the
47 Palisades Cliffs and the residents of surrounding municipalities;

1 j. Significant components of the natural beauty of the
2 Palisades Cliffs already have been lost to development, and the pace
3 of development in the region has and will continue to dramatically
4 increase, further impairing this natural treasure;

5 k. The existing system of fragmented controls on development
6 along the Palisades Cliffs is failing to protect the Palisades Cliffs;

7 l. Protection of the Palisades Cliffs is an issue of Statewide
8 concern and importance that cannot be left to the uncoordinated
9 land use decisions of the municipalities, counties, and myriad
10 private landowners in the area of the Palisades Cliffs; and

11 m. It is in the public interest of all the citizens of the State that
12 New Jersey enact legislation setting forth a comprehensive
13 development plan in the area of the Palisades Cliffs, so that
14 reasonable development is encouraged, but overdevelopment is
15 prevented.

16
17 3. As used in P.L. , c. (C.) (pending before the
18 Legislature as this bill):

19 “Cliff face” means that portion of the Palisades cliffs consisting
20 of sheer, nearly vertical expanse of exposed rock.

21 “Council” means the Palisades Protection and Planning Council
22 established by section 4 of P.L. , c. (C.) (pending before
23 the Legislature as this bill).

24 “Crest” means the highest part of the Palisades cliffs in any
25 location where the cliff face or side slope rapidly plateaus.

26 “Department” means the Department of Environmental
27 Protection.

28 “Development” shall have the same meaning as provided in
29 section 3.1 of P.L.1975, c.291 (C.40:55D-4).

30 “Development regulation” shall have the same meaning as
31 provided in section 3.1 of P.L.1975, c.291 (C.40:55D-4).

32 “Government approval” means any ordinance, permit, resolution,
33 lease, easement, license, approval, or grant of any kind issued by
34 any government entity or agency having jurisdiction over any
35 proposed development.

36 “Local government unit” means a municipality, county, or other
37 political subdivision of the State, or any agency, board,
38 commission, utilities authority or other authority, or other entity
39 thereof.

40 “Municipalities” means the municipalities included in subsection
41 a. of section 5 of P.L. , c. (C.) (pending before the
42 Legislature as this bill).

43 “Palisade Avenue” means the road named Palisade Avenue that
44 extends from Jersey City in Hudson County in the south to Fort Lee
45 in Bergen County in the north.

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

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

4 “Side slope” means that portion of the Palisades cliffs where the
5 steep Palisades cliff face is absent but where the elevation rapidly
6 declines.

7
8 4. a. There is hereby established a public body corporate and
9 politic, with corporate succession, to be known as the “Palisades
10 Protection and Planning Council.”

11 b. The council shall constitute a political subdivision of the
12 State established as an instrumentality exercising public and
13 essential governmental functions, and the exercise by the council of
14 the powers and duties conferred pursuant to P.L. , c. (C.)
15 (pending before the Legislature as this bill) shall be deemed and
16 held to be an essential governmental function of the State.

17
18 5. The council shall consist of 10 voting members to be
19 appointed and qualified as follows:

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

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

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

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

46 e. The powers of the council shall be vested in the members
47 thereof in office. A majority of the total authorized membership of
48 the council shall constitute a quorum and no action may be taken by

1 the council except upon the affirmative vote of a majority of the
2 total authorized membership of the council. No alternate or
3 designee of any council member shall exercise any power to vote on
4 any matter pending before the council.

5 f. The members of the council shall serve without
6 compensation, but the council may, within the limits of funds
7 appropriated or otherwise made available for such purposes,
8 reimburse its members for necessary expenses incurred in the
9 discharge of their official duties.

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

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

16 i. A true copy of the minutes of every meeting of the council
17 shall be prepared by the council secretary and forthwith delivered to
18 the department.

19

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

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

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

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

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

30 e. Appoint, retain, and employ, without regard to the
31 provisions of Title 11A, Civil Service, of the New Jersey Statutes
32 but within the limits of funds appropriated, received from
33 application review fees and charges pursuant to subsection o. of this
34 section, or otherwise made available for those purposes, such
35 officers, employees, attorneys, agents, and experts as it may require,
36 and to determine the qualifications, terms of office, duties, services,
37 and compensation therefor;

38 f. Apply for, receive, and accept, from any federal, State, or
39 other public or private source, grants for, or in aid of, the council's
40 authorized purposes or in the carrying out of the council's powers,
41 duties, and responsibilities;

42 g. Enter into any and all agreements or contracts, execute any
43 and all instruments, and do and perform any and all acts or things
44 necessary, convenient, or desirable for the purposes of the council
45 or to carry out any power, duty, or responsibility expressly given in
46 P.L. , c. (C.) (pending before the Legislature as this bill);

1 h Call to its assistance and avail itself of the services of such
2 employees of any State entity or local government unit as may be
3 required and made available for such purposes;

4 i. Solicit and consider public input and comment on the
5 council's activities, and other issues and matters of importance in
6 the Palisades Planning Region by periodically holding public
7 hearings or conferences and providing other opportunities for such
8 input and comment by interested parties;

9 j. Conduct examinations and investigations, to hear testimony,
10 taken under oath at public hearings, on any material matter, and to
11 require attendance of witnesses and the production of books and
12 papers;

13 k. Prepare and transmit to the Commissioner of Environmental
14 Protection such recommendations for environmental protection
15 standards pertaining to the lands of the Palisades Planning Region,
16 as the council deems appropriate;

17 l. Develop model land use ordinances and other development
18 regulations, for consideration and possible adoption by
19 municipalities in the region, that would help protect the
20 environment, including, but not limited to, ordinances and other
21 development regulations pertaining to the Palisades Planning
22 Region; and to provide guidance and technical assistance in
23 connection therewith to those municipalities;

24 m Comment upon any application for development before a
25 local government unit, on the adoption of any master plan,
26 development regulation, or other regulation by a local government
27 unit, or on the enforcement by a local government unit of any
28 development regulation or other regulation, which power shall be in
29 addition to any other review, oversight, or intervention powers of
30 the council prescribed by P.L. , c. (C.) (pending before the
31 Legislature as this bill);

32 n. Promote brownfield remediation and redevelopment in the
33 Palisades Planning Region; and

34 o. Establish and when appropriate to review and to revise, a
35 schedule of application review fees and charges, which shall be
36 established that the revenues from the fees and charges shall at all
37 times be adequate to pay for all the expenses of the operations of
38 the council, including a reasonable reserve for the use in potential
39 litigation, to conduct studies, or other costs or expenses directly
40 related to the council's powers, duties, and responsibilities set forth
41 in this section, as may be deemed necessary or desirable by the
42 council.

43
44 7. The Palisades Planning Region shall consist of that land
45 within the municipalities which extends up to 2000 feet east of the
46 Palisades cliff crest at each location along the Palisades cliffs.

1 8. a. Unless approved by the council, no development may be
2 constructed in the Palisades Planning Region unless the maximum
3 height of the proposed development, including any mechanical
4 structures to be constructed atop the building or structure, is at or
5 below the height whereby the sightline looking east from the crest
6 directly to the west of the proposed development would include at
7 least the eastern half of the Hudson River above the highest point of
8 the proposed building or structure.

9 b. Where there is no discernable crest immediately to the west
10 of the proposed development, unless otherwise specified in
11 paragraphs (1) and (2) of this subsection, the height of the
12 beginning of the sightline looking east for purposes of subsection a.
13 of this section shall be the elevation of the surface of the portion of
14 Palisades Avenue directly west of the proposed building or
15 structure.

16 (1) In the following municipalities, where a street listed under
17 this paragraph is to the west of the proposed development, the
18 elevation of the surface of the portion of that street shall control for
19 purposes of this subsection b. of this section instead of Palisades
20 Avenue:

21 (a) Kennedy Boulevard East in North Bergen;

22 (b) Kennedy Boulevard East in Guttenberg;

23 (c) Kennedy Boulevard East in West New York;

24 (d) Kennedy Boulevard East, Hamilton Avenue, King Avenue,
25 and Kingswood Road in Weehawken.; and

26 (e) Mountain Road and Manhattan Avenue in Union City.

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

30
31 9. a. The council shall, within 18 months after the effective
32 date of P.L. , c. (C.) (pending before the Legislature as this
33 bill), prepare criteria to be considered in allowing development in
34 excess of the height limits set forth in section 8 of P.L. , c.
35 (C.) (pending before the Legislature as this bill).

36 b. This criteria shall include the:

37 (1) development's distance from the Palisades side slope or cliff
38 face;

39 (2) development's impact on traffic in the area;

40 (3) development's impact on citizens in neighboring
41 municipalities;

42 (4) development's impact and obstruction of the Palisades side
43 slopes and cliff face;

44 (5) width of the proposed development that includes any
45 building or structure;

46 (6) municipality's affordable housing requirements and the
47 number of affordable housing units in the proposed development;
48 and

1 (7) number of governmental approvals the developer has
2 received as of the effective date of P.L. , c. (C.) (pending
3 before the Legislature as this bill), and the investment in the
4 approvals.

5
6 10. The council may institute an action or proceeding in
7 Superior Court for injunctive relief for any violation of P.L. , c.
8 (C.) (pending before the Legislature as this bill),), or
9 restriction imposed pursuant thereto. In any action or proceeding
10 brought pursuant to this section, the court may proceed in a
11 summary manner and may also grant temporary or interlocutory
12 relief.

13
14 11. Any decision rendered or action taken by the council
15 pursuant to P.L. , c. (C.) (pending before the Legislature as
16 this bill) may be appealed to the Superior Court of New Jersey, Law
17 Division, in accordance with the New Jersey Rules of Court.

18
19 12. On or before March 31 in each year the council shall make
20 an annual report of its activities for the preceding calendar year to
21 the governing body and the chief executive officer of the
22 municipalities and Bergen and Hudson counties. Each such report
23 shall set forth a complete operating and financial statement
24 covering its operations during the preceding year.

25
26 13. If any section, subsection, clause, or provision of P.L. , c.
27 (C.) (pending before the Legislature as this bill) shall be
28 adjudged unconstitutional or to be ineffective in whole or in part, to
29 the extent that it is not adjudged unconstitutional or is not
30 ineffective, it shall be valid and effective and no other section,
31 subsection, clause, or provision of P.L. , c. (C.) (pending
32 before the Legislature as this bill) shall on account thereof be
33 deemed invalid or ineffective, and the inapplicability or invalidity
34 of any section, subsection, clause, or provision of P.L. , c.
35 (C.) (pending before the Legislature as this bill) in any one or
36 more instances or under any one or more circumstances shall not be
37 taken to affect or prejudice in any way its applicability or validity in
38 any other instance or under any other circumstance.

39
40 14. This act shall take effect immediately and apply to any
41 proposed development in the Palisades Planning Region, except for
42 those that have received all required government approvals as of the
43 effective date.

STATEMENT

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2
3 This bill, "Palisades Cliffs Protection and Planning Act," would
4 provide for the preservation of the Palisades cliffs and create the
5 Palisades Cliffs Preservation Council.

6 The council created by the bill would constitute a political
7 subdivision of the State exercising public and essential
8 governmental functions, would have 10 voting members appointed
9 by the governing bodies of the municipalities within the Palisades
10 cliffs area, and would be conferred with powers, duties, and
11 responsibilities associated with preserving and protecting the
12 Palisades cliffs. Additionally, the bill creates the Palisades
13 Planning Region that would consist of that land within the
14 municipalities which extends up to 2000 feet east of the Palisades
15 cliff crest at each location along the Palisades cliffs.

16 The bill provides that unless approved by the council, no
17 development may be constructed in the Palisades Planning Region
18 unless the maximum height of the proposed development, including
19 any mechanical structures to be constructed atop the building or
20 structure, is at or below the height whereby the sightline looking
21 east from the crest directly to the west of the proposed development
22 would include at least the eastern half of the Hudson River above
23 the proposed building or structure. Where there is no discernable
24 crest immediately to the west of the proposed development, except
25 as otherwise specified in this bill, the height of the beginning of the
26 sightline looking east would be the elevation of the surface of the
27 portion of Palisades Avenue directly west of the proposed building
28 or structure.

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