



**THE BOARD OF TRUSTEES (BOT) OF THE TOWN OF
MESILLA WILL HOLD A REGULAR MEETING AT THE
MESILLA TOWN HALL, 2231 AVENIDA DE MESILLA**

MONDAY, MARCH 9, 2026

~ 5:00 P.M. ~

AGENDA

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL & DETERMINATION OF A QUORUM**
- 3. APPROVAL OF THE AGENDA**
- 4. APPROVAL OF CONSENT AGENDA:** (The Board will be asked to approve by one motion the following items of recurring or routine business. The Consent Agenda is marked with an asterisk *)
 - a) *BOT MINUTES – Minutes of BOT, February 23, 2026**
 - b) *PURCHASE ORDER: APIC Solutions – Community Center Security Upgrades - \$31,77.48**
 - c) *PURCHASE ORDER: A Mountain Construction – Calle del Norte Bridge - \$110,866.52**
- 5. PRESENTATION:**
 - a) Historic Preservation & Historic Properties – Liana Aguirre**
- 6. PUBLIC INPUT ON CASES – The public is invited to address the Board as allowed the chair.**
- 7. NEW BUSINESS**
 - a) APPROVAL: PZHAC SIGN #062098 – 1200 W. University, submitted by Jornada Masonic Lodge. Requesting approval to install a sign. ZONE: Single-Family Residential (R1)**
 - b) APPROVAL: Terralogic Document Systems – Court DWI Case File Conversion - \$8591.82**
 - c) APPROVAL: Changes to Rules of Order**
 - d) APPROVAL: RESOLUTION 2026-07 – Colonias Emergency Funding**
 - e) APPROVAL: RESOLUTION 2026-11 – Historic Property Registry Designation: 2380 Calle de Principal**
 - f) APPROVAL: RESOLUTION 2026-12– Historic Property Registry Designation: 2600 Avenida de Mesilla**
 - g) APPROVAL: RESOLUTION 2026-13 – Historic Property Registry Designation: 2090 Snow Rd**
 - h) APPROVAL: RESOLUTION 2026-14 – Mesilla Rules of Order**
 - i) APPROVAL: RESOLUTION 2026-15 – 2026 Colonias Application – Water Tank**
 - j) APPROVAL: RESOLUTION 2026-16 – 2026 Colonias Application – Fire Hydrant**

Replacement

- k) **APPROVAL: RESOLUTION 2026-17 – LGRF Cooperative Agreement**
- l) **APPROVAL: RESOLUTION 2026-18 - LOCAL SOLAR FUND/DESIGNATION SOUDER, MILLER & ASSOCIATES**
- m) **APPROVAL: ORDINANCE 2026-01 – Wireless Telecommunications**
- n) **APPROVAL: ORDINANCE 2026-02 – Amend MTC 18.60.340 General Provisions, wall height between McDowell & Bowman Along University Ave**
- o) **APPROVAL: ORDINANCE 2026-03 – Amendments to MTC 18.65 Signs; A-frame signs, maximum size in Commercial zone, & temporary signs**

8. CLOSED EXECUTIVE SESSION:

- a) **The Governing body will convene in executive closed session pursuant to Section 10-15-1(H)(2) NMSA 1978 for discussion of limited personnel matters, including the appointment, employment, evaluation, discipline, or dismissal of a public employee(s).
– Marshal Department**
- b) **The Governing body will convene in executive closed session pursuant to Section 10-15-1(H)(7) NMSA 1978 for discussion of matters pertaining to the attorney-client privilege pertaining to threatened or pending litigation.**
- c) **Any possible action in open session that may arise as a result of executive session**

9. PUBLIC INPUT – The public is invited to address the Board as allowed by the chair.

10. BOARD OF TRUSTEE COMMITTEE REPORTS

11. BOARD OF TRUSTEE/STAFF COMMENTS

NOTICE

If you need an accommodation for a disability to enable you to fully participate in the hearing or meeting, please contact us at 524-3262 at least one week prior to the meeting. The Mayor and Trustees request that all cell phones be turned off or set to vibrate. Members of the audience are requested to step outside the Board Room to respond to or to conduct a phone conversation. A copy of the agenda can be found online at www.mesillanm.gov.

Posted **03.05.2026** online and at the following locations: Town Hall and Visitor's Center Avenida de Mesilla, Public Safety Building 2670 Calle de Parian, Mesilla Community Center 2251 Calle de Santiago, Lucky's Food Mart 2290 Avenida de Mesilla, Ristramn 2531 Ave de Mesilla, the U.S. Post Office 2253 Calle de Parian, and Mesilla Park Recreation Center 304 Bell Ave.

****BOT MEETINGS ARE AVAILABLE LIVE ON TOWN OF MESILLA'S YOUTUBE PAGE****



**THE BOARD OF TRUSTEES (BOT) OF THE TOWN OF MESILLA
WILL HOLD A REGULAR MEETING AT THE MESILLA TOWN
HALL, 2231 AVENIDA DE MESILLA**

MONDAY, FEBRUARY 23, 2026 – 6:00 P.M.

MINUTES

TRUSTEES: Russell Hernandez, Mayor
Stephanie Johnson-Burick, Mayor Pro Tem
Biviana Cadena, Trustee
Veronica Garcia, Trustee
Gerard Nevarez, Trustee

STAFF: Ben Azcarate, Marshal
Lorenzo Astorga, Public Works Director
Cole Morris, Battalion Chief
Eddie Salazar, Econ & Com Development Director
Gloria S Maya, Town Clerk/Recorder

PUBLIC: Andrea Byran Greg Lester
Lori Miller Edie Wynder
Maria Bernal Mary H Ratje

1. PLEDGE OF ALLEGIANCE

Mayor Hernandez led the Pledge of Allegiance.

2. ROLL CALL & DETERMINATION OF A QUORUM

Roll Call.

Present: Mayor Hernandez, Mayor Pro Tem Johnson-Burick, Trustee Cadena, Trustee Garcia, Trustee Nevarez.

3. APPROVAL OF THE AGENDA

Motion: To approve agenda with correction, Moved by Trustee Nevarez, Seconded by Trustee Garcia.

Roll Call Vote: Motion passed (summary: Yes-4)

Mayor Pro Tem Johnson-Burick Yes
Trustee Cadena Yes
Trustee Garcia Yes
Trustee Nevarez Yes

4. APPROVAL OF CONSENT AGENDA: (The Board will be asked to approve by one motion the following items of recurring or routine business. The Consent Agenda is marked with an asterisk *)

- a) ***BOT MINUTES** – Minutes of BOT, February 12, 2026
- b) ***PURCHASE REQUISITION:** Souder/Miller & Associates - Mesilla Water Tank and

1 Well - \$63,518.91.

- 2 c) ***PURCHASE REQUISITON:** Souder/Miller & Associates - Mesilla Water Tank and
3 Well - \$18,170.81.

4 **Motion: To approve consent agenda with correction, Moved by Mayor Pro Tem Johnson-**
5 **Burick, Seconded by Trustee Nevarez.**

6
7 **Roll Call Vote: Motion passed (summary: Yes-4)**

8 Mayor Pro Tem Johnson-Burick Yes
9 Trustee Cadena Yes
10 Trustee Garcia Yes
11 Trustee Nevarez Yes

12
13 **5. PUBLIC INPUT ON CASES – The public is invited to address the Board as allowed the**
14 **chair.**

15 No Public Input

16
17 **6. NEW BUSINESS**

- 18 a) **APPROVAL: PZHAC CASE #062088 – 2872 Calle de San Albino, submitted by**
19 **Jeffrey Buras. Requesting approval to buy and place a temporary storage shed on**
20 **property. ZONE: Historic Residential (HC).**

21 **Motion: To approve PZHAC Case #062088 – 2872 Calle de San Albino, submitted by Jeffrey**
22 **Buras. Requesting approval to buy and place a temporary storage shed on property. ZONE:**
23 **Historic Residential (HC), Moved by Mayor Pro Tem Johnson-Burick, Seconded by Trustee**
24 **Garcia.**

25
26 **Roll Call Vote: Motion passed (summary: Yes-4)**

27 Mayor Pro Tem Johnson-Burick Yes
28 Trustee Cadena Yes
29 Trustee Garcia Yes
30 Trustee Nevarez Yes

- 31
32 b) **APPROVAL: CASE #062090 – 2290 Calle de Guadalupe, submitted by Catholic**
33 **Diocese of Las Cruces. Applicant is looking to add two windows to Parish Hall.**
34 **ZONE: Historic Commercial (HC).**

35 **Motion: To approve PZHAC CASE #062090 – 2290 Calle de Guadalupe, submitted by Catholic**
36 **Diocese of Las Cruces. Applicant is looking to add two windows to Parish Hall. ZONE: Historic**
37 **Commercial (HC), Moved by Trustee Nevarez, Seconded by Trustee Garcia.**

38
39 **Roll Call Vote: Motion passed (summary: Yes-4)**

40 Mayor Pro Tem Johnson-Burick Yes
41 Trustee Cadena Yes
42 Trustee Garcia Yes
43 Trustee Nevarez Yes

- 44
45 c) **APPROVAL: RESOLUTION 2026-05 - BAR 3RD QUARTER**

46 **Motion: To approve Resolution 2026-05 – BAR 3rd Quarter, Moved by Mayor Pro Tem Johnson-**
47 **Burick, Seconded by Trustee Cadena.**

48
49 **Roll Call Vote: Motion passed (summary: Yes-4)**

50 Mayor Pro Tem Johnson-Burick Yes
51 Trustee Cadena Yes
52 Trustee Garcia Yes

1 Trustee Nevarez Yes

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3 **d) APPROVAL: RESOLUTION 2026-06 – ALTERNATE SUMMARY SUBDIVISION**
4 **HEARING CASE #0610940.**

5 Mr. Salazar reviewed Resolution 2026-06.

6
7 **Motion: To approve RESOLUTION 2026-06 – ALTERNATE SUMMARY SUBDIVISION**
8 **HEARING CASE #0610940, Moved by Mayor Pro Tem Johnson-Burick, Seconded by Trustee**
9 **Cadena.**

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11 Trustee Nevarez commented

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13 Trustee Garcia commented

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15 Mayor Hernandez commented

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17 **Roll Call Vote: Motion passed (summary: Yes-3; Abstain-1)**

18 Mayor Pro Tem Johnson-Burick Yes

19 Trustee Cadena Yes

20 Trustee Garcia Abstain

21 Trustee Nevarez Yes

22
23 **7. CLOSED EXECUTIVE SESSION**

- 24 a) **The Governing body will convene in executive closed session pursuant to Section 10-**
25 **15-1(H)(2) NMSA 1978 for discussion of limited personnel matters, including the**
26 **appointment, employment, evaluation, discipline, or dismissal of a public**
27 **employee(s).**

28 – Marshal Department

29 **Motion: To enter into Closed Executive Session, Moved by Trustee Nevarez, Seconded by**
30 **Trustee Garcia.**

31
32 **Motion passed unanimously**

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34 **Entered Closed Executive Session at 6:10 p.m.**

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36 **Motion: To enter Regular Meeting, Moved by Mayor Pro Tem Johnson-Burick, Seconded by**
37 **Trustee Garcia.**

38
39 **Motion passed unanimously**

40
41 **Entered Regular Meeting at 6:17 p.m.**

42
43 **b) Any possible action in open session that may arise as a result of executive session**
44 **No Action Required**

45
46 **8. PUBLIC INPUT – The public is invited to address the Board as allowed by the chair.**

47 Ms. Miller commented

48
49 **9. BOARD OF TRUSTEE COMMITTEE REPORTS**

50 Trustee Nevarez: Senator Lujan Press Release

51
52 Trustee Garcia: SCTR meeting Wednesday-Trustee Cadena will attend in her place

53

1 Trustee Cadena: Historic Site is doing well

2
3 Mayor Pro Tem Johnson-Burick: MPO next meeting March 11th; met with Mr. Astorga

4
5 Mayor Hernandez: attended several meetings; budget season is beginning

6
7 **10. BOARD OF TRUSTEE/STAFF COMMENTS**

8 Marshal Azcarate gave a department (Marshal) update.

9
10 Battalion Chief Morris gave a department (Fire) update.

11 Trustee Nevarez commented

12 Trustee Garcia commented

13 Trustee Cadena commented

14
15 Mr. Astorga gave a department (Public Works) update.

16 Trustee Nevarez commented

17 Mayor Pro Tem Johnson-Burick commented

18
19 Mr. Salazar gave a department (Economic Development) update.

20
21 Mayor Hernandez commented

22
23 Trustee Cadena commented

24
25 Mayor Hernandez commented

26
27 **11. ADJOURNMENT**

28 **The Town of Mesilla Trustees unanimously agreed to adjourn the meeting. (Summary: Yes-4)**

29 **MEETING ADJOURNED AT 6:43 P.M.**

30
31 **APPROVED THIS 9th DAY OF MARCH, 2026.**

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33
34
35 _____
36 **Russell Hernandez**

Mayor

37 **ATTEST:**

38
39 _____
40 **Gloria S. Maya**

41 **Town Clerk/Treasurer**

42
43 ****BOT MEETINGS ARE AVAILABLE LIVE ON TOWN OF MESILLA'S YOUTUBE PAGE****

Town of Mesilla Purchase Requisition



Requesting: (Please select one)

Check Purchase Order

DATE: 2/24/26

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
		Please pay from PO10-475		
		CAT 6 cable		1,050.00
		5" CAT 6 patch cable		432.90
		Surface Mount Biscuit		98.80
		CAT 6 Rj45 Jacks		416.26
		48 Port Patch Panel		99.21
		Labor/Commissioning		8,265.00
		22/8 Access Control cabling Plenum		1,710.00
		3/4 Inch Door Contracts pack / HES 9600 RIM / 5200 Door Strike		4,138.72
		Freight/Labor & Commissioning		13,446.50

FUND CODE 35-535-3618	AMT from FUND \$31,779.48	FUND AMT Remaining \$145,220.52	SUBTOTAL	30,097.39
FUND CODE 10-505-2205	AMT from FUND \$0.00	FUND AMT Remaining \$265.18	SALES TAX	1,682.09
FUND CODE	AMT from FUND	FUND AMT Remaining	TOTAL	\$31,779.48

VENDOR NAME	APIC Solutions
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY Briana Gomez	DATE 2/24/26
AUTHORIZED BY <i>Doreen Maya</i>	DATE 02.24.2026

APIC Solutions Texas LLC
 12225 Rojas Dr
 El Paso, TX 79936



Invoice 5637

Bill to: Town of Mesilla 2231 Avenida de Mesilla Mesilla, NM 88046	Job: 300526 ToM-Community Center Verk 2251 Calle De Santiago Mesilla, NM 88046
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Invoice #: 5637	Date: 02/24/26	Customer P.O. #: 10-475
Payment Terms: Net 30		
Customer Code: 1044		

Remarks:

Quantity	Description	U/M	Unit Price	Extension
3,000.000	CAT 6 Cable	FT	0.35	1,050.00
26.000	5 Foot CAT 6 Patch cable	EA	16.65	432.90
13.000	Surface Mount Biscuit	EA	7.60	98.80
26.000	CAT 6 RJ45 Jacks	EA	16.01	416.26
1.000	48 Port Patch Panel	EA	99.21	99.21
1.000	Labor and Commissioning	EA	8,265.00	8,265.00
2,000.000	18/2 Plenum Cable	EA	0.22	440.00
4,500.000	22/8 Access Control Cabling Plenum	FT	0.38	1,710.00
2.000	3/4 Inch Door Contracts Pack	EA	20.24	40.48
2.000	HES 9600 Rim	EA	423.90	847.80
18.000	HES 5200 Door Strike	EA	180.58	3,250.44
1.000	FREIGHT	EA	526.50	526.50
1.000	Labor and Commissioning	EA	12,920.00	12,920.00
	Subtotal:			30,097.39
	Sales Tax:			1,682.09
	Total:			31,779.48

For billing questions call: (505) 345-1381 ext. 2018

To pay by credit card call: (505) 345-1381 ext. 2044

A finance charge of 1.5% per month or the maximum allowable by law whichever is greater, will be accessed if payment is not received by invoice due date.

006

Town of Mesilla Purchase Requisition



Requesting: (Please select one)

Check Purchase Order

DATE: 3/2/26

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
	35-535-3594	Please Close PO 10-410		
	35-535-3594	Work Completed		\$102,713.63
	35-535-3594	Tax		\$8,152.89

FUND CODE 35-535-3594	AMT from FUND \$110,866.52	FUND AMT Remaining \$.54	SUBTOTAL	\$102,713.63
FUND CODE	AMT from FUND	FUND AMT Remaining	SALES TAX	\$8,152.89
FUND CODE	AMT from FUND	FUND AMT Remaining	TOTAL	\$110,866.52

VENDOR NAME	CES
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY Briana Gomez	DATE 3/2/26
AUTHORIZED BY <i>Gloria Smay</i>	DATE 03.02.2026

Pay App 1				PROJECT NAME & PROJECT NO. Town of Mesilla - Mesilla Lateral Extension	
OWNER: TOWN OF MESILLA PO BOX 10 MESILLA, NM 88046		CONTRACTOR: A MOUNTAIN PROFESSIONAL CONSTRUCTION LLC 1177 SCOGGINS Las Cruces, NM 88005		PAGE 1 OF 2 PAGES	
				PERIOD OF ESTIMATE	
				FROM: 12/10/25 TO: 1/13/26	
CONTRACT CHANGE ORDER SUMMARY				PAY ESTIMATE	
Modification and/or Change Order No.	Owner Approval Date	Amount		1. Original Contract Value.	\$ 110,867.06
		Additions	Deductions	2. Modifications/Change Orders	\$ -
				3. Revised Contract (1 + 2)	\$ 110,867.06
				4. Work Completed*	\$ 102,713.63
				5. Stored Materials * (this period)	\$ -
				6. Subtotal (4 + 5)	\$ 102,713.63
				7. Retainage @ 0%	
				8. Less Previous Payments	\$ -
				9. Subtotal (6-7-8)	\$ 102,713.63
				10. NMGR @ 7.9375%	\$ 8,152.89
TOTALS		\$ -	\$ -	11. Amount Due This Estimate (9+10)	\$ 110,866.52
NET CHANGE		\$ -	\$ -	* Detailed Breakdown Attached	
CONTRACT TIME					
Original (days) _____		Project On Schedule:		Project Start Date: _____	
Current _____		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Project Completion Date: _____	
Remaining _____					
ORIGINAL CONTRACT PERCENT COMPLETE				ACCEPTED BY OWNER	
TIME: _____		FUNDS _____		Owner: <u>Town of Mesilla</u>	
CURRENT CONTRACT PERCENT COMPLETE				By: <u><i>[Signature]</i></u>	
TIME: _____		FUNDS _____		Date: <u>3/2/26</u>	
CONTRACTOR'S CERTIFICATION				ARCHITECT OR ENGINEER'S CERTIFICATION	
The undersigned Contractor certifies that to the best of his/her knowledge, information and belief, the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the Contractor for which previous payment estimates was issued and payments received from the Owner, and that current payment shown herein is now due.				The undersigned certifies that the work has been carefully inspected and to the best of his/her knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.	
Contractor: <u><i>[Signature]</i></u> By: <u>Chris Spedalleri</u> Date: <u>1.14.2026</u>				Amount Certified: <u>\$110,866.52</u>	
				Engineer: <u>Amanda Lara</u> By: <u><i>[Signature]</i></u> Date: <u>3/2/2026</u>	
				FUNDING AGENCY APPROVAL	
				By: _____	
				Date: _____	

PO
10-410

ITEM NO.	DESCRIPTION	UNIT	Contract Amounts		Previous Billings		Current Billings		Billed to Date		Remaining			
			QUANTITY	UNIT PRICE	AMOUNT	Quantity	Amount	Quantity	Amount	Quantity	Amount	Amount	%	
1	Unclassified Excavation, include removals and disposal, complete	CY	108	\$ 20.00	\$ 2,160.00			110.00	\$ 2,200.00	110	\$ 2,200.00	102%	\$ (40.00)	-2%
2	Sewer Existing Head Wall, Complete	LS	1	\$ 950.00	\$ 950.00			1.00	\$ 950.00	1	\$ 950.00	100%	\$ -	0%
3	Demolish Concrete Head Wall, Wing Walls and Apron, Complete	CY	30	\$ 84.00	\$ 2,520.00			32.00	\$ 2,688.00	32	\$ 2,688.00	107%	\$ (168.00)	-7%
4	84" Reinforced Concrete Pipes, Complete in Place	LF	16	\$ 1,118.25	\$ 17,892.00			18.00	\$ 20,128.50	18	\$ 20,128.50	113%	\$ (2,236.50)	-13%
5	Connection to Existing 64" Reinforced Concrete Pipe including DOWELS, Concrete collar, complete in place	LS	1	\$ 2,900.00	\$ 2,900.00			1.00	\$ 2,900.00	1	\$ 2,900.00	100%	\$ -	0%
6	Structural concrete for head wall, complete in place	CY	10	\$ 800.00	\$ 8,000.00			12.00	\$ 9,600.00	12	\$ 9,600.00	120%	\$ (1,600.00)	-20%
7	Structural Concrete for Wing Walls and Apron complete in place	CY	20	\$ 900.00	\$ 18,000.00			25.00	\$ 22,500.00	25	\$ 22,500.00	125%	\$ (4,500.00)	-25%
8	Clean Existing 64" Culvert pipe crossing at Mesilla Lateral, complete	CY	60	\$ 120.00	\$ 7,200.00			60.00	\$ 7,200.00	60	\$ 7,200.00	100%	\$ -	0%
9	Calls Del Norte Pavement replacement, include removal and disposal of existing road section, complete in place	SY	10	\$ 100.00	\$ 1,000.00			10.00	\$ 1,000.00	10	\$ 1,000.00	100%	\$ -	0%
10	6" Thick Concrete Path & Driveway include 4" of base course, subgrade prep, include connection of existing asphalt path, complete in place	SF	643	\$ 22.00	\$ 13,860.00			643.00	\$ 14,146.00	643	\$ 14,146.00	102%	\$ (286.00)	-2%
11	Guardrail, 2 horizontal rails, vertical posts anchored to the head wall	LF	62	\$ 36.00	\$ 2,232.00			66.00	\$ 2,376.00	66	\$ 2,376.00	106%	\$ (144.00)	-6%
12	Prepare, execute, and manage traffic control, in compliance with plans and specifications (01 55 00). Include management for duration of construction, complete	LS	1	\$ 3,000.00	\$ 3,000.00			1.00	\$ 3,000.00	1	\$ 3,000.00	100%	\$ -	0%
13	Construction staking	LS	1	\$ 3,000.00	\$ 3,000.00			1.00	\$ 3,000.00	1	\$ 3,000.00	100%	\$ -	0%
14	Mobilization, Insurance and Bonds	LOT	1	\$ 4,000.13	\$ 4,000.13			1.00	\$ 4,000.13	1	\$ 4,000.13	100%	\$ -	0%
15	Demobilization and removal of all close out documents	LOT	1	\$ 1,000.00	\$ 1,000.00			1.00	\$ 1,000.00	1	\$ 1,000.00	100%	\$ -	0%
16	Vibration Monitoring Allowance	ALLOW	1	\$ 5,000.00	\$ 5,000.00			0.21	\$ 1,025.00	0	\$ -	0%	\$ 5,000.00	100%
17	Laboratory Testing Allowance	ALLOW	1	\$ 5,000.00	\$ 5,000.00			1.00	\$ 5,000.00	1	\$ 5,000.00	100%	\$ -	0%
18	Owner Contingency Allowance	ALLOW	1	\$ 5,000.00	\$ 5,000.00			1.00	\$ 5,000.00	1	\$ 5,000.00	100%	\$ -	0%
			TOTAL BID LOT		102,714.13			102,713.63		102,713.63				
			NMGRT @ 7.9375%		8,152.89			8,152.89		8,152.89				
			Total with GRT		110,867.06			110,866.52		110,866.52				

INVOICE

Design Technologies
PO Box 531
Falracres, NM 88033

dtehtesting@yahoo.com
+1 (575) 888-7311



Bill to
A Mountain Construction
1177 Scoggins Ave.
Las Cruces, NM 88005

Ship to
A Mountain Construction
1177 Scoggins Ave.
Las Cruces, NM 88005

Invoice details

Invoice no.: 25537
Terms: Net 30
Invoice date: 12/30/2025
Due date: 01/29/2026

Project Name:: Calle Del Norte Lateral
D-Tech Job No:: 251106

#	Date	Product or service	Description	Qty	Rate	Amount
1.	11/24/2025	Density		1	\$65.00	\$65.00
2.	11/25/2025	Sample Concrete	1-4	2	\$65.00	\$130.00
3.	11/26/2025	Pick Up Specimens	1-4	1	\$65.00	\$65.00
4.	12/02/2025	Density		1	\$65.00	\$65.00
5.	12/02/2025	Cylinder Break	1	1	\$30.00	\$30.00
6.	12/03/2025	Sample Concrete	5-8	2	\$65.00	\$130.00
7.	12/04/2025	Pick Up Specimens	5-8	1	\$65.00	\$65.00
8.	12/10/2025	Cylinder Break	5	1	\$30.00	\$30.00
9.	12/18/2025	Sample Concrete	9-12	2	\$65.00	\$130.00
10.	12/19/2025	Pick Up Specimens	9-12	1	\$65.00	\$65.00
11.	12/23/2025	Density		1	\$65.00	\$65.00
12.	12/23/2025	Density		1	\$65.00	\$65.00
13.	12/23/2025	Cylinder Break	2-4	3	\$30.00	\$90.00

14. 12/25/2025	Cylinder Break	9	1	\$30.00	\$30.00
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Total

\$1,025.00

Ways to pay

BANK



LOCAL DESIGNATION NOMINATION FOR THE TOWN OF MESILLA CULTURAL AND HISTORIC REGISTER

Structure Address: **2380 CALLE PRINCIPAL**

DAC Account Number: **R0401188**

On National Register for Mesilla Historic District ? Yes No

If yes, what # (on Map/DOCUMENT)? 119

Present Use of Property: (Check one or more as appropriate)

- | | | | | | | |
|---|--------------------------|---|--------------------------|---|--------------------------|--|
| Agricultural
<input type="checkbox"/> | <input type="checkbox"/> | Governmental
<input type="checkbox"/> | <input type="checkbox"/> | Museum
<input type="checkbox"/> | <input type="checkbox"/> | Scientific
<input type="checkbox"/> |
| Commercial
<input checked="" type="checkbox"/> | <input type="checkbox"/> | Acequia/Ditch
<input type="checkbox"/> | <input type="checkbox"/> | Park
<input type="checkbox"/> | <input type="checkbox"/> | Transportation
<input type="checkbox"/> |
| Educational
<input type="checkbox"/> | <input type="checkbox"/> | Industrial
<input type="checkbox"/> | <input type="checkbox"/> | Residential
<input type="checkbox"/> | <input type="checkbox"/> | Work in Progress
<input type="checkbox"/> |
| Road/Trail
<input type="checkbox"/> | <input type="checkbox"/> | Military
<input type="checkbox"/> | <input type="checkbox"/> | Religious
<input type="checkbox"/> | <input type="checkbox"/> | Other (Specify):
<input type="checkbox"/> |

Date Application Received: _____ Complete: Incomplete:

Planning and Zoning Historic Appropriateness Commission Action:

Local Designation Register: Approved Tabled: Denied:

Date: _____ Town of Mesilla Historic and Cultural Designation # _____

National Register Recommendation: Approved Rejected:

Comments:

DIGITAL APPLICATION: MICROSOFT FORMS

View results

Respondent

2

Anonymous

17:59

Time to complete

1. Today's Date: *

1/13/2026

APPLICANT INFORMATION

2. Full Name: *

Liana Aguirre

3. Address: *

Town of Mesilla

4. E-mail:

comdev@mesillanm.gov

5. Relationship to Property being nominated: *

- Owner
- Renter
- I'm just a community member
- Town Employee

PROPERTY INFORMATION

6. Property Address: *

2380 Calle Principal

7. Dona Ana County Parcel Account Number (Leave Blank if Unsure):

R0401188

8. Is this Property part of the Mesilla Historic District? *

- Yes
- No
- Unsure

9. If so, what would the property number be in the Historic District? (Leave blank if unsure)

119

10. What is the present use of this property? *

- Residence
- Agricultural
- Acequia/Ditch
- Educational
- Road/Trail
- Governmental
- Industrial
- Educational
- Commercial
- Museum
- Park
- Religious
- Scientific
- Military
- Other

11. Narrative *

Historical and developmental history of Property: Trace the history of the property through primary, if possible, and secondary sources. Focus on significant events as well as the day-to-day experiences of people associated with the property. If a farm, for example, what crops were grown? Also explain physical characteristics and changes to the buildings and overall property so that its current appearance can be understood. Why is this property important to Mesilla (events, people, cultural relevance)?

The Leonart Maurin Store is noted as the earliest brick building in the state of New Mexico. Mr. Auguste Maurin, was the original owner and his partner, Eugene Leonart were of French descent and owned much property in the Mesilla Valley. Leonart arrived with a group of Frenchmen in the 1850's and came by way of Mexico to these lands and built a home in Las Cruces. Possibly a gambler, he also had a business connection in Mesilla with a partner, Eugene Augustin Maurin (Interview number 30.1). He was one of the wealthiest men in the Mesilla Valley at the time. In 1861, Leonart sold merchandise to Confederates and parted with them when they withdrew in 1862. Eugene Leonart, who also lent money to other merchants, other industries, and apparently was a capitalist of considerable influence. When he passed, there was no newspaper report on him since he was a Confederate sympathizer in 1862, long before any newspaper had been printed in the vicinity. Maurin continued business in Mesilla and owned at least three farms.

In 1866, Auguste Maurin was murdered by robbers in his apartment (to the rear of this store). His relative, Cesar Maurin, moved in afterwards to claim the property and died in 1898, from age and infirmity, according to a coroners' jury. Shortly after Pedro Duhalde, a Frenchman who had been a saloon keeper in Mesilla, then moved into the building and too was murdered by robbers, and supposedly in the same area of the home Mr. Auguste Maurin had passed on.

This building has been used as a saloon, residence, town hall, and is currently housing two gift shops.

Constructed between 1860-1863 out of locally fired/burned brick from his own kiln. The kiln was located about half a mile from Mesilla, near the Mesilla-Las Cruces Ferry, adjacent to the Rio Grande. The structure was to have a second story as evidenced by blocked up, partially complete windows above the canal level. Only about three feet of this story was completed when the project was halted. Perhaps after the murder of Mr. Auguste Maurin. This is noted as the first brick building in the state of New Mexico.

PROPERTY DESCRIPTION

12. What was the historic function of this property? (If unsure, leave blank)

General Store, Town Hall and Saloon

13. Construction Date *

- Known
- Unknown
- Estimated

14. What is the Date:

12/31/1862

15. Please give the Source for this date:

Mary Daniels Taylor, Archives, Town of Mesilla. The Las Cruces Historic Buildings Survey NMSU, p.69, Dona Ana County Historical Society 2/10/1971, p.8

16. What is the current condition of this property. *

- Intact
- Altered
- Deteriorated
- Other

17. If known, who was the architect/builder:

Commissioned by Auguste Maurin

18. The architectural style of this building is: *

Please select at most 3 options.

- Not applicable
- Classical Revival/Neo-Classical Revival
- Pueblo/Pueblo Vernacular
- Classical Revival/Neo-Classical Revival
- Colonial Revival
- Gothic Revival/Folk Gothic
- Territorial
- Territorial Revival
- Mediterranean/Spanish Colonial Revival
- Mission Revival/California Mission Revival
- Southwest Vernacular
- New Mexico Vernacular
- Ranch/Rambler
- Spanish-Pueblo Revival
- Queen Anne
- Other

19. Architectural and Building Materials *

Visible Construction Materials are:

- Adobe
- Brick
- Composition Board
- Concrete: Block
- Concrete: Cast Stone
- Concrete: Poured
- Concrete: Pre-cast
- Earth Plaster
- Metal: Corrugated
- Stone
- Stucco
- Tile: Clay
- Wood: Jacal
- Wood: Shingle
- Wood: Window Trim
- Wood: Log
- Other

PHOTOGRAPHS

20. In addition to the information above, photographs should be provided. They can be from Google, (maps or search engine) or from your own catalog. Along with your name, these photos should be submitted to comdev@mesillanm.gov. Please check which you will be submitting: *

- Historic Photos- If available
- Current Photo

RESOURCES

21. Please list all resources used for all your information, primary, secondary, including oral histories (names of individuals). *

See previous section

22. INCLUDING FILING OUT REQUIRED FIELDS, YOU HAVE ALSO SUBMITTED IN A SEPARATE DOCUMENT (emailed to comdev@mesillanm.gov): (check all that apply) *

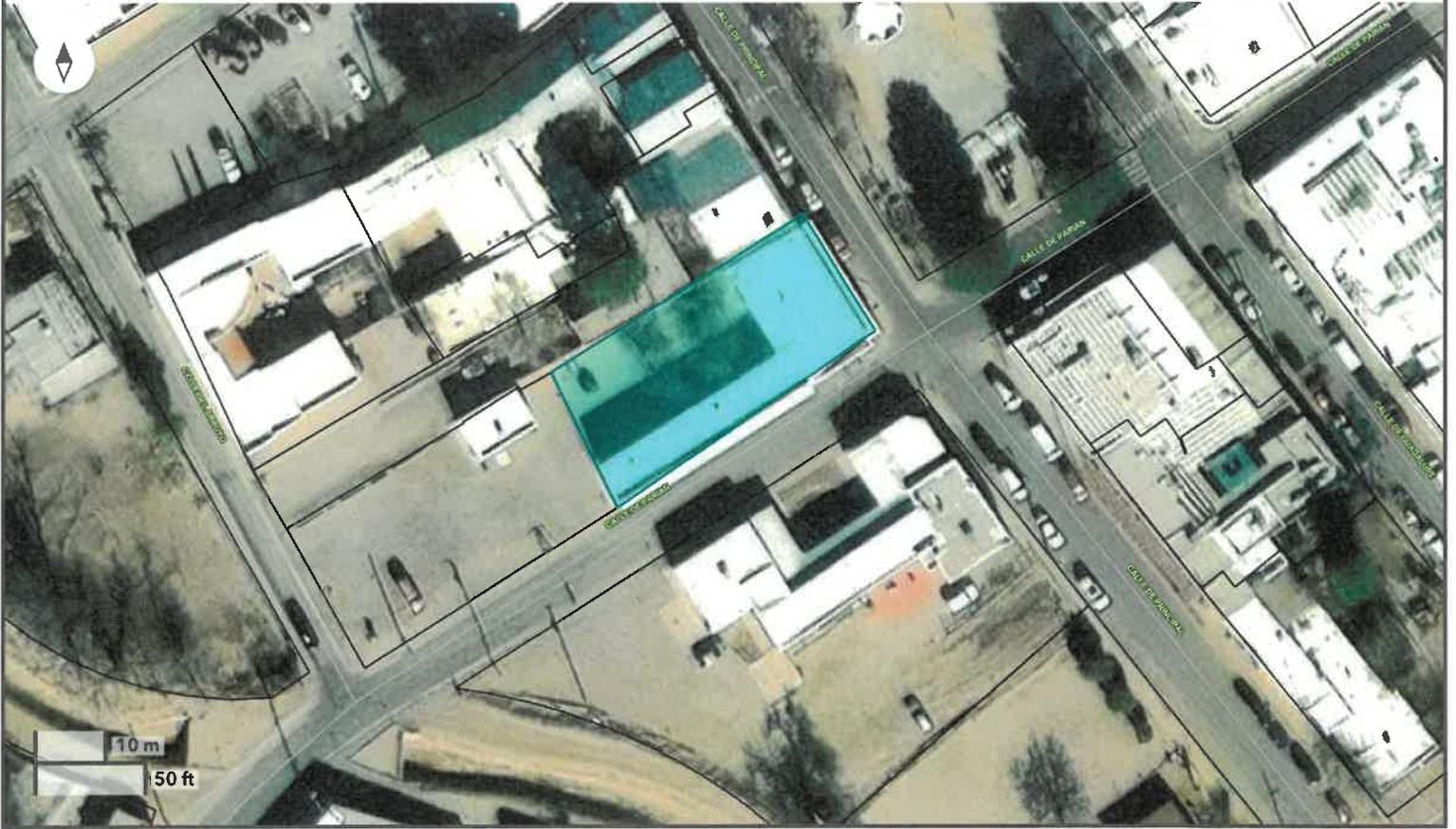
HISTORICAL PHOTOS

CURRENT PHOTOS

SITE MAP/ FLOOR PLAN

Other

Parcel lookup



TIBURCIO R FRIETZE LLC

ACCOUNT NUMBER: R0401188
PARCEL NUMBER: 4006137224464
MAP CODE: 4-006-137-224-464
OWNER NAME: TIBURCIO R FRIETZE LLC
MAILING ADDRESS: PO BOX 358
CITY: MESILLA PARK
STATE: NM
ZIP: 88047
SUBDIVISION NAME: FRIETZE TRACTS (BK 19 PG
123 - 9815662) Lot: PC B
SITE ADDRESS: CALLE DE PARIAN
ACREAGE: 0.19
SQUARE FOOTAGE: 8,276.00
TOTAL VALUATION (LAND & BUILDING): 411,333

[ASSESSOR PARCEL INFORMATION DETAIL LINK](#)

Last edited by rebeccama_donaana on 12/16/2025, 1:51 PM.



LOCAL DESIGNATION NOMINATION FOR THE TOWN OF MESILLA CULTURAL AND HISTORIC REGISTER

Structure Address: 2600 AVENIDA DE MESILLA

DAC Account Number: R401104

On National Register for Mesilla Historic District ? Yes No

If yes, what # (on Map/DOCUMENT)? 8

Present Use of Property: (Check one or more as appropriate)

- | | | | | | | |
|---|--------------------------|---|--------------------------|---|--------------------------|--|
| Agricultural
<input type="checkbox"/> | <input type="checkbox"/> | Governmental
<input type="checkbox"/> | <input type="checkbox"/> | Museum
<input type="checkbox"/> | <input type="checkbox"/> | Scientific
<input type="checkbox"/> |
| Commercial
<input checked="" type="checkbox"/> | <input type="checkbox"/> | Acequia/Ditch
<input type="checkbox"/> | <input type="checkbox"/> | Park
<input type="checkbox"/> | <input type="checkbox"/> | Transportation
<input type="checkbox"/> |
| Educational
<input type="checkbox"/> | <input type="checkbox"/> | Industrial
<input type="checkbox"/> | <input type="checkbox"/> | Residential
<input type="checkbox"/> | <input type="checkbox"/> | Work in Progress
<input type="checkbox"/> |
| Road/Trail
<input type="checkbox"/> | <input type="checkbox"/> | Military
<input type="checkbox"/> | <input type="checkbox"/> | Religious
<input type="checkbox"/> | <input type="checkbox"/> | Other (Specify):
<input type="checkbox"/> |

Date Application Received: _____ Complete: Incomplete:

Planning and Zoning Historic Appropriateness Commission Action:

Local Designation Register: Approved Tabled: Denied:

Date: _____ Town of Mesilla Historic and Cultural Designation # _____

National Register Recommendation: Approved Rejected:

Comments:

DIGITAL APPLICATION: MICROSOFT FORMS

View results

Respondent

1

Anonymous

275:34

Time to complete

1. Today's Date: *

1/8/2026



APPLICANT INFORMATION

2. Full Name: *

Liana Aguirre

3. Address: *

2231 Avenida de Mesilla

4. E-mail:

Comdev@mesillanm.gov

5. Relationship to Property being nominated: *

Owner

Renter

I'm just a community member

Other

PROPERTY INFORMATION

6. Property Address: *

2600 Avenida de Mesilla

7. Dona Ana County Parcel Account Number (Leave Blank if Unsure):

R0401104

8. Is this Property part of the Mesilla Historic District? *

- Yes
- No
- Unsure

9. If so, what would the property number be in the Historic District? (Leave blank if unsure)

8 and 9

10. What is the present use of this property? *

- Residence
- Agricultural
- Acequia/Ditch
- Educational
- Road/Trail
- Governmental
- Industrial
- Educational
- Commercial
- Museum
- Park
- Religious
- Scientific
- Military
- Bar

11. Narrative *

Historical and developmental history of Property: Trace the history of the property through primary, if possible, and secondary sources. Focus on significant events as well as the day-to-day experiences of people associated with the property. If a farm, for example, what crops were grown? Also explain physical characteristics and changes to the buildings and overall property so that its current appearance can be understood. Why is this property important to Mesilla (events, people, cultural relevance)?

El Palacio Bar on 2600 Avenida de Mesilla was established in 1936 and was originally called Salcido's Dance Hall, named after Pablo Maese Salcido, the original owner. The main bar was build circa 1905 with the intention to be a blacksmith shop. According to his daughter and the now Owner, Velia Chavez, her father was a welder and this was the original plan. Velia's mother wanted to hold a dance event in 1936, gave it a shot and it took off from there. Wooden floors replaced the dirt and it quickly became a place for locals to get together and have a great time. After the bar incorporated an actual bar, Velia's mom named it El Palacio Bar. Palacio's, as it is known around town, was one of the last bars in the United States to maintain a gender-based restriction: women could dance and women were allowed but they could not go to the bar for a drink. This rule remained until 1990.

This Bar has been a social center of Mesilla for years. Since the time of its establishment, it has brought sense of community and has been a harbinger of the identity of Old Mesilla. Many in the community share stories about it. This can easily be a bar that showcases the vibrant history and energy of the community. The added dance hall was built a bit later, circa 1930's, perhaps in response to the end of Prohibition (1933). This building, also made of adobe is attached to the main bar to the north.

In September of 1980 these properties were placed on the National Register of Historic Places via the La Mesilla Historic District by Michael Romero Taylor. It was then recorded as a piece of history that should be remembered and preserved through time and it still shall.

According to Velia's interview with "Bucket Bars," she states that on August 26th, 1991 the interior of the bar burnt down however the adobe walls were its saving grace. The entire community came out to help clean out and rebuild the bar. A true effort from loyal patrons.

After Pablo Salcido's passing in 1991, ownership went to Velia Chavez, his daughter. Pablo M. Salcido, a true Mesillero, was born January 15, 1900 and enlisted in WWII at the age of 42. He and his family helped create El Palacio Bar and today its still holds a sense of living history. Although he passed in December of 1991, his memory will continue to live on through Palacio's.

PROPERTY DESCRIPTION

12. What was the historic function of this property? (If unsure, leave blank)

Blacksmith shop

13. Construction Date *

- Known
- Unknown
- Estimated

14. What is the Date:

1/1/1905

15. Please give the Source for this date:

Date was stated in National Register

16. What is the current condition of this property: *

- Intact
- Altered
- Deteriorated
- Other

17. If known, who was the architect/builder:

unknown

18. The architectural style of this building is: *

Please select at most 3 options.

- Not applicable
- Classical Revival/Neo-Classical Revival
- Pueblo/Pueblo Vernacular
- Classical Revival/Neo-Classical Revival
- Colonial Revival
- Gothic Revival/Folk Gothic
- Territorial
- Territorial Revival
- Mediterranean/Spanish Colonial Revival
- Mission Revival/California Mission Revival
- Southwest Vernacular
- New Mexico Vernacular
- Ranch/Rambler
- Spanish-Pueblo Revival
- Queen Anne
- with additions

19. Architectural and Building Materials *

Visible Construction Materials are:

- Adobe
- Brick
- Composition Board
- Concrete: Block
- Concrete: Cast Stone
- Concrete: Poured
- Concrete: Pre-cast
- Earth Plaster
- Metal: Corrugated
- Stone
- Stucco
- Tile: Clay
- Wood: Jacal
- Wood: Shingle
- Wood: Window Trim
- Wood: Log
- Other

PHOTOGRAPHS

20. In addition to the information above, photographs should be provided. They can be from Google, (maps or search engine) or from your own catalog. Along with your name, these photos should be submitted to comdev@mesillanm.gov. Please check which you will be submitting: *

- Historic Photos- If available
- Current Photo

RESOURCES

21. Please list all resources used for all your information, primary, secondary, including oral histories (names of individuals). *

Velia Chavez Oral histories, National Historic Register Nomination Form

22. INCLUDING FILING OUT REQUIRED FIELDS, YOU HAVE ALSO SUBMITTED IN A SEPARATE DOCUMENT (emailed to comdev@mesillanm.gov): (check all that apply) *

- HISTORICAL PHOTOS
- CURRENT PHOTOS
- SITE MAP/ FLOOR PLAN
- Other

Parcel lookup



CHAVEZ VELIA S TRUSTEE

ACCOUNT NUMBER: R0401104

PARCEL NUMBER: 4006137313489

MAP CODE: 4-006-137-313-489

OWNER NAME: CHAVEZ VELIA S TRUSTEE

MAILING ADDRESS: 1330 S CHAPARRO STREET

CITY: LAS CRUCES

STATE: NM

ZIP: 88001

SUBDIVISION NAME:

SITE ADDRESS: 2600 AVENIDA DE MESILLA

ACREAGE: 0.36

SQUARE FOOTAGE: 15,512.00

TOTAL VALUATION (LAND & BUILDING): 631,159

[ASSESSOR PARCEL INFORMATION DETAIL LINK](#)



LOCAL DESIGNATION NOMINATION FOR THE HISTORIC REGISTER FOR THE TOWN OF MESILLA

Structure Address: **2090 SNOW RD**

DAC Account Number: R0401145

On National Register for Mesilla Historic District ? Yes No X

If yes, what # (on Map)?

Present Use of Property: (Check one or more as appropriate)

- | | | | | | | |
|--|--------------------------|---|---------------------------------------|---|--------------------------|--|
| Agricultural
<input type="checkbox"/> | <input type="checkbox"/> | Governmental
<input type="checkbox"/> | <input type="checkbox"/> | Museum
<input type="checkbox"/> | <input type="checkbox"/> | Scientific
<input type="checkbox"/> |
| Commercial
<input type="checkbox"/> | <input type="checkbox"/> | Acequia/Ditch
<input type="checkbox"/> | <input type="checkbox"/> | Park
<input type="checkbox"/> | <input type="checkbox"/> | Transportation
<input type="checkbox"/> |
| Educational
<input type="checkbox"/> | <input type="checkbox"/> | Industrial
<input type="checkbox"/> | X <input checked="" type="checkbox"/> | Residential
<input type="checkbox"/> | <input type="checkbox"/> | Work in Progress
<input type="checkbox"/> |
| Road/Trail
<input type="checkbox"/> | <input type="checkbox"/> | Military
<input type="checkbox"/> | <input type="checkbox"/> | Religious
<input type="checkbox"/> | <input type="checkbox"/> | Other (Specify):
<input type="checkbox"/> |

Date Application Received: _____ Complete: Incomplete:

Planning and Zoning Historic Appropriateness Commission Action:

Local Designation Register: Approved Tabled: Denied:

Date: _____ Town of Mesilla Historic and Cultural Designation # _____

National Register Recommendation: Approved Rejected:

Comments:

DIGITAL APPLICATION: MICROSOFT FORMS

View results

Respondent

3 Anonymous

07:22
Time to complete

1. Today's Date: *

1/13/2026



APPLICANT INFORMATION

2. Full Name: *

Liana Aguirre

3. Address: *

2231 Avenida de Mesilla

4. E-mail:

comdev@mesillanm.gov

5. Relationship to Property being nominated: *

- Owner
- Renter
- I'm just a community member
- Town employee

PROPERTY INFORMATION

6. Property Address: *

2090 Snow Road

7. Dona Ana County Parcel Account Number (Leave Blank if Unsure):

R0401145

8. Is this Property part of the Mesilla Historic District? *

- Yes
- No
- Unsure

9. If so, what would the property number be in the Historic District? (Leave blank if unsure)

No answer provided.

10. What is the present use of this property? *

- Residence
- Agricultural
- Acequia/Ditch
- Educational
- Road/Trail
- Governmental
- Industrial
- Educational
- Commercial
- Museum
- Park
- Religious
- Scientific
- Military
- Other

PROPERTY HISTORICAL SIGNIFICANCE

11. Narrative *

Historical and developmental history of Property: Trace the history of the property through primary, if possible, and secondary sources. Focus on significant events as well as the day-to-day experiences of people associated with the property. If a farm, for example, what crops were grown? Also explain physical characteristics and changes to the buildings and overall property so that its current appearance can be understood. Why is this property important to Mesilla (events, people, cultural relevance)?

See Separate Document attached

PROPERTY DESCRIPTION

12. What was the historic function of this property? (If unsure, leave blank)

Farm/ Farmhands quarters

13. Construction Date *

- Known
- Unknown
- Estimated

14. What is the Date:

1/1/1890

15. Please give the Source for this date:

Date is written on Property, found on Zillow.com

16. What is the current condition of this property: *

- Intact
- Altered
- Deteriorated
- Other

17. If known, who was the architect/builder:

No answer provided.

18. The architectural style of this building is: *

Please select at most 3 options.

- Not applicable
- Classical Revival/Neo-Classical Revival
- Pueblo/Pueblo Vernacular
- Classical Revival/Neo-Classical Revival
- Colonial Revival
- Gothic Revival/Folk Gothic
- Territorial
- Territorial Revival
- Mediterranean/Spanish Colonial Revival
- Mission Revival/California Mission Revival
- Southwest Vernacular
- New Mexico Vernacular
- Ranch/Rambler
- Spanish-Pueblo Revival
- Queen Anne
- Farmhouse/ Farm Quarters

19. Architectural and Building Materials *

Visible Construction Materials are:

- Adobe
- Brick
- Composition Board
- Concrete: Block
- Concrete: Cast Stone
- Concrete: Poured
- Concrete: Pre-cast
- Earth Plaster
- Metal: Corrugated
- Stone
- Stucco
- Tile: Clay
- Wood: Jacal
- Wood: Shingle
- Wood: Window Trim
- Wood: Log
- Other

PHOTOGRAPHS

20. In addition to the information above, photographs should be provided. They can be from Google, (maps or search engine) or from your own catalog. Along with your name, these photos should be submitted to comdev@mesillanm.gov. Please check which you will be submitting: *

- Historic Photos- If available
- Current Photo

RESOURCES

21. Please list all resources used for all your information, primary, secondary, including oral histories (names of individuals). *

Dona Ana County Records-Archives
New Mexico Farm and Ranch Heritage Museum, Oral History Program- oralhistory.nm.farmandranchmuseum.org/index.php
Lucío Salas Urbina, Santa Rosalía de Camargo: ayer y hoy (Chihuahua, 2005), 68–70. Paul Ginther
Mark Wasserman, Persistent Oligarchs: Elites and Politics in Chihuahua, Mexico, 1910–1940 (Durham:Duke University Press, 1993), 80.
Oral Accounts from Family
Powerhouse Chihuahua: Electricity, Water, and the State in the Long Mexican Revolution -Jonathan Hill Jr, CUNY Graduate Center

22. INCLUDING FILING OUT REQUIRED FIELDS, YOU HAVE ALSO SUBMITTED IN A SEPARATE DOCUMENT (emailed to comdev@mesillanm.gov): (check all that apply) *

- HISTORICAL PHOTOS
- CURRENT PHOTOS
- SITE MAP/ FLOOR PLAN
- Other

LOCAL LANDMARK DESIGNATION NOMINATION FOR THE *TOWN OF MESILLA HISTORIC AND CULTURAL REGISTER*

This property that sits on 2090 Snow Road, Rural Farm Zone, consists of various structures and holds high historical significance for the Town of Mesilla. The main living space itself was built circa 1890, initially owned by George and Ella Clark. The property consists of a farmhand quarters attached to a large barn and a separate home which was the main living space. All structures are made of adobe and mixed with other materials for windows and such and are great examples of modern adobe homes. The barn is the only space where the adobe is exposed. The quarters, said by oral history were built after the main home, was said by oral account to be built by Prisoners of War (German and Italian prisoners, perhaps c. 1920's). In addition to the large adobe storage barn there is a watermill that no longer is in service that once provided for the farm, and although there is no mention on a map of an acequia/lateral on the property, there is one that runs right through it, perhaps the Clark lateral. Which through oral history was said to be named after the previous owners.

This property is situated among one of the oldest rural agricultural corridors of Mesilla. It sits at the crossroads between Calle del Norte and Snow Road. Calle del Norte emanates from the Plaza and is still, today, a main road. Snow Road and its proximity to the Rio Grande made it an ideal location to acequias, agriculture and farmlands that put Mesilla on the map. Routes such as El Camino Real de Tierra Adentro/Chihuahua Trail and the Butterfield Overland Stagecoach, along with general commerce and trade, helped actualize these main roads, that connected to the plaza and were a means to and from the agricultural lands. These routes created a network of rural roads radiating from the Mesilla Plaza to farms, acequias, and outlying settlements. One of these settlements is this property. One of the last remaining.

Additionally, this property was once associated with Ginther Farms, actualized by Paul and Mary (Maria Ysais) Ginther. Ginther farms did not grow pecans, they focused more on cotton, alfalfa, sorghum and at some point, even had a great deal of beef cattle.

Paul Ginther, the namesake of the farm was born in Alsace, France and made it to Chihuahua, MX in late 1800's. In 1905 Paul, also known as Don Pablo Ginther, along with a local lawyer began to propose a large dam near the town known as Camargo (once Santa Rosalia), which would provide hydroelectricity for local industries, factories, mills, trollies and public lighting. He and his partner is said to have approached Porfirio Diaz, general and former president of Mexico, directly for this project (before the Mexican American War). From this research it seems that Don Pablo was back and forth from Chihuahua and living in this home while the dam was being conceptualized and approved. The hydroelectric dam later became known as La Boquilla and for the first time ever lent power to Camargo. This dam was the first of its kind in this area. Sociedad Fronteriza y Politica and El Instituto de Investigaciones Historicas, feature a paper from Mark Wasserman that summarizes him best: "Paul (Pablo) Ginther was one of those who came originally to promote mines and stayed on to become a respected member of the

community. Don Pablo passed through the United States before arriving in Chihuahua in 1897. A mining engineer, he managed a number of mines on his own and acted as the representative of Dutch, French, and English investors. He eventually bought a hotel in Camargo and centered his activities there. Although many of his mining properties were ruined in the Revolution, he continued in this business through the 1920s, he was living in El Paso around this time. In later years he was a farmer outside Camargo. Known as an innovator, Ginther helped get a major dam built at Boquilla near Camargo, Which furnished much of southern Chihuahua's electricity, and he owned the first automobile in the region. Where Ginther went to farm after Camargo was here in Mesilla, this property on 2090 Snow Rd.

Some sources say that he mined his way across North America, from New York to El Paso and ended up settling in Chihuahua after a railway accident. Born in 1875, Paul Ginther Lienhart moved to NYC at the age of 12, studied mining and discovered the "5 nobles" mine in Canada. Then moved on to Nevada and California crossing into Mexico at El Paso. Due to a railway accident, he visited the healing hot springs at Ojo caliente, Santa Rosalia in 1898 where he stayed for quite some time before moving to become a farmer in Mesilla. Calle Pablo Ginther, a main thoroughfare in Camargo is named after him. He also had a hotel, the Historic Hotel Hidalgo built, which is still standing but no longer in operation.

Although no documented history is found, direct oral family accounts, by Johnathan Knopp, brother of Richard Knopp, have stated that Don Pablo Ginther left Chihuahua to evade and flee from Pancho Villa who came to confront his family and home and possibly kill him. Ginther was a man of great wealth and was of interest and concern to Villa.

Although this property is currently being nominated for the Town of Mesilla Local Historic and Cultural Register, it additionally holds Criteria for significance for the National Register under the following:

Criterion A- Patterns of an areas development-Agriculture, Commerce, Architecture,-POW's-WWII (Farm work, development), Important Commercial Rural Road in Mesilla

Criterion B- Association with the life of an important person

Criterion C- Architectural Style

All of the properties on the National Register of Historic Places for the Town of Mesilla are places that surround the Plaza. I believe bringing attention to this Rural Farm Area, an area of high importance for the development and flourishing of the Town of Mesilla, will help to increase awareness and assist in saving the Green Belt, something that seems of high importance to the town and that was mentioned in our Comprehensive Plan meetings. This structure holds high significance, integrity and feeling. It is a fine symbol of the heritage and

culture of the beginnings and history of the Town of Mesilla and has full potential to be the first National Landmark in the rural farm zone. I ask that you consider this property to place on the Town of Mesilla Local and Cultural Register to protect its integrity and architecture for years to come. There is none other like it in the Town and it would be a terrible demise to Mesilla, its history, heritage and memory, if it is not protected it can be destroyed, altered, and it would lose its integrity.

RESOURCES

Dona Ana County Records-Archives

New Mexico Farm and Ranch Heritage Museum, Oral History Program-
oralhistory.nm.farmandranchmuseum.org/index.php

Lucío Salas Urbina, *Santa Rosalía de Camargo: ayer y hoy* (Chihuahua, 2005), 68–70. Paul Ginther

Mark Wasserman, *Persistent Oligarchs: Elites and Politics in Chihuahua, Mexico, 1910–1940* (Durham:Duke University Press, 1993), 80.

Oral Accounts from Family

Powerhouse Chihuahua: Electricity, Water, and the State in the Long Mexican Revolution -
Jonathan Hill Jr, CUNY Graduate Center

Oral History, Johnathan Knopp- Family member

Parcel lookup



KNOPP RICHARD W

ACCOUNT NUMBER: R0401145
PARCEL NUMBER: 4005138229075
MAP CODE: 4-005-138-229-075
OWNER NAME: KNOPP RICHARD W
MAILING ADDRESS: 5756 BOX ELDER ROAD
CITY: EL PASO
STATE: TX
ZIP: 79932
SUBDIVISION NAME: KNOPP ACRES (2403970) Lot:
2
SITE ADDRESS: SNOW RD
ACREAGE: 10.85
SQUARE FOOTAGE: 472,626.00
TOTAL VALUATION (LAND & BUILDING): 302,526

[ASSESSOR PARCEL INFORMATION DETAIL LINK](#)

Last edited by rebeccama_donaana on 11/25/2025, 4:43 PM.



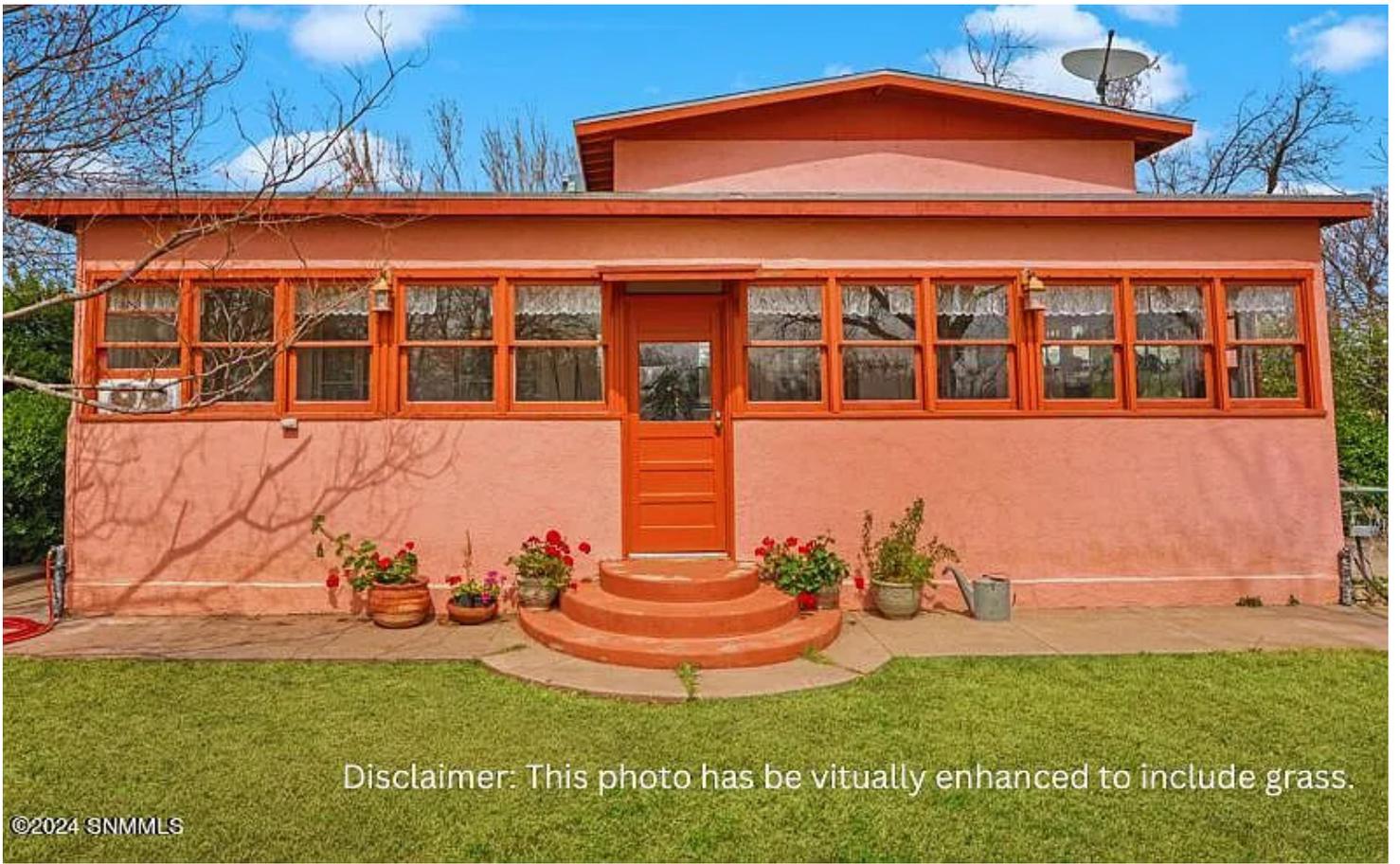




Main home front



Watermill



Main home



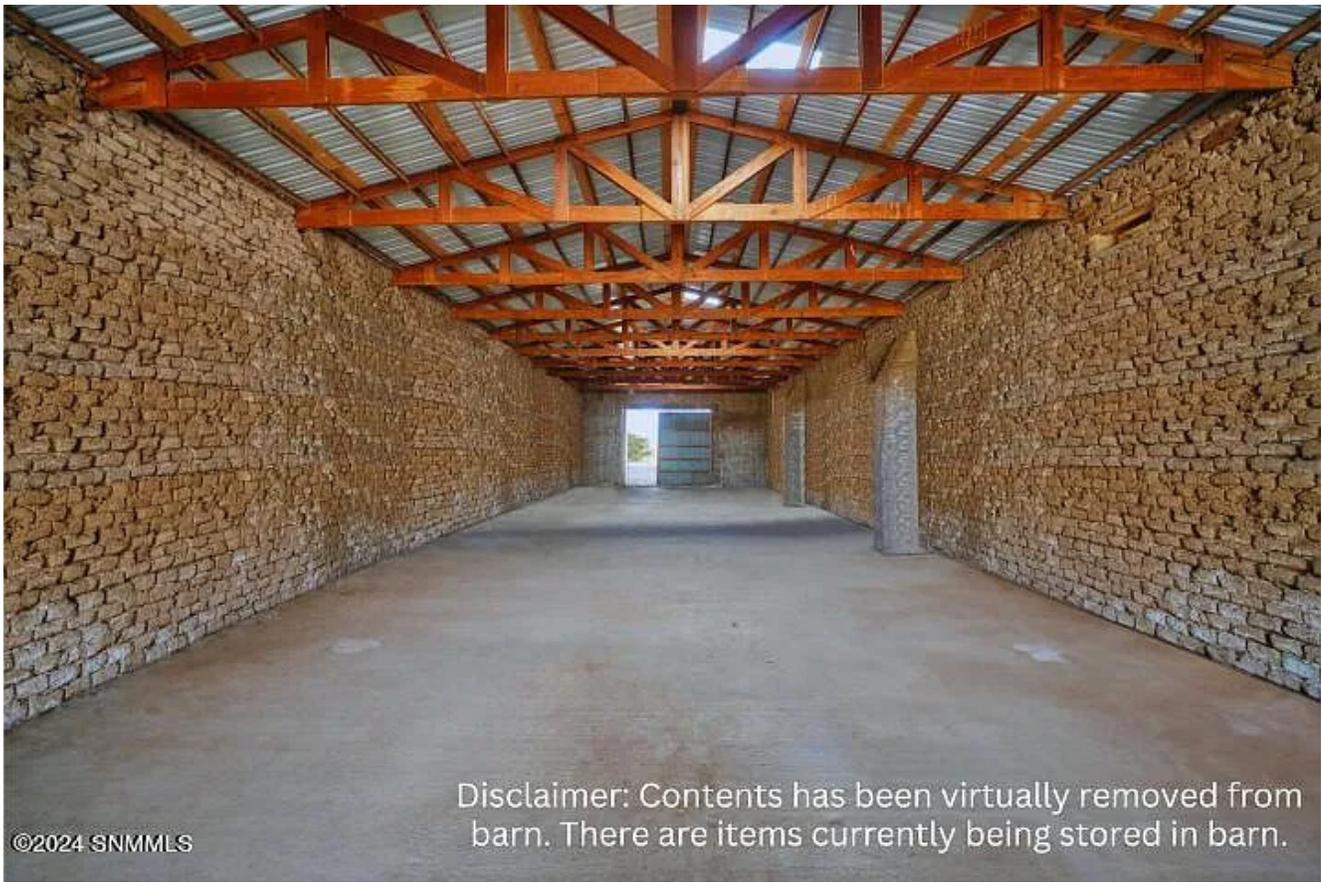
Farm Quarters



©2025 SNMMLS



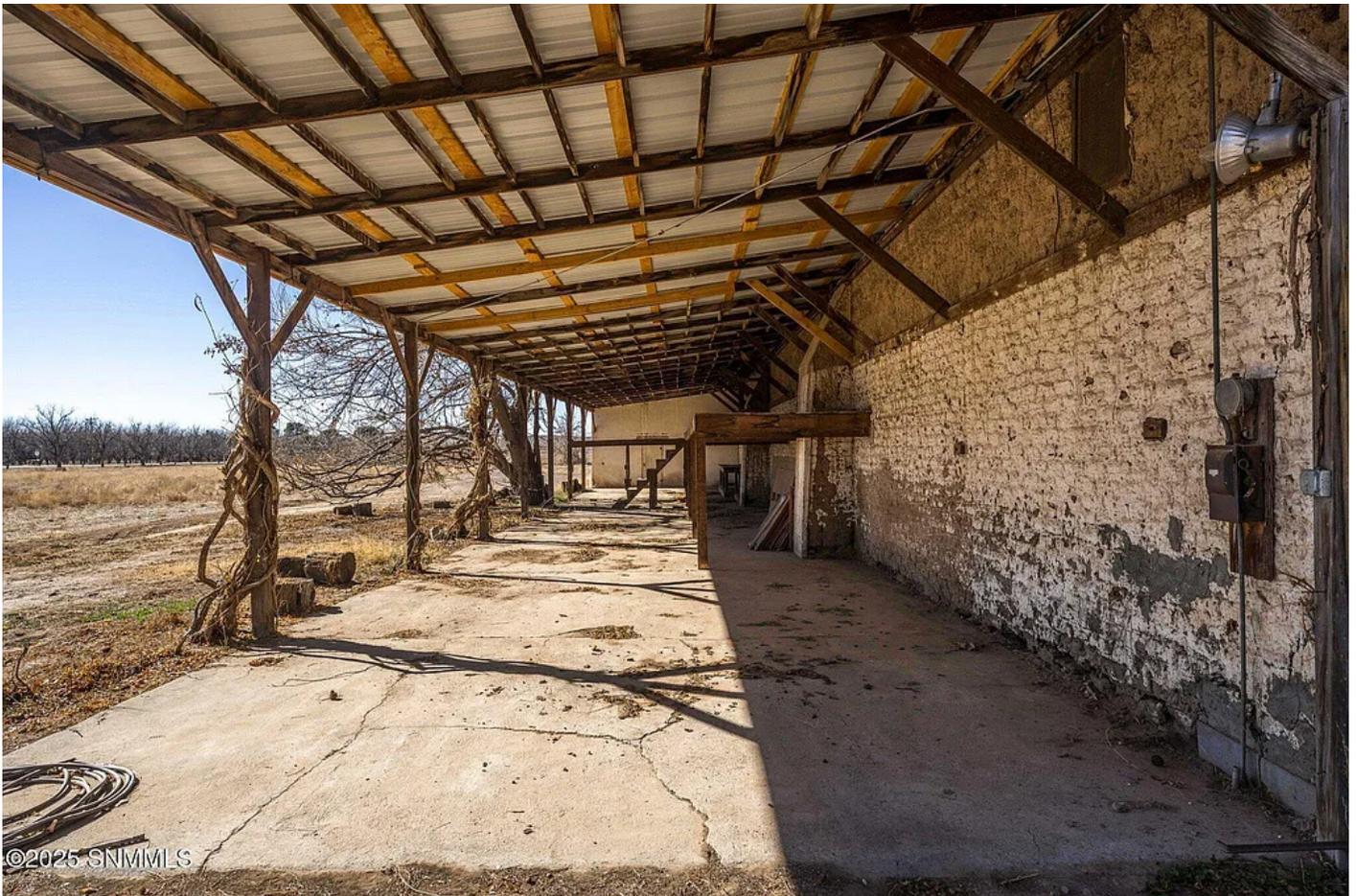
©2025 SNMMLS



Disclaimer: Contents has been virtually removed from barn. There are items currently being stored in barn.

©2024 SNMMLS

Farm storage attached to quarters



©2025 SNMMLS



Interior of Main Home:
Not regulated, just for
insight





Interior of Farm Quarters:
Not regulated, just for
insight

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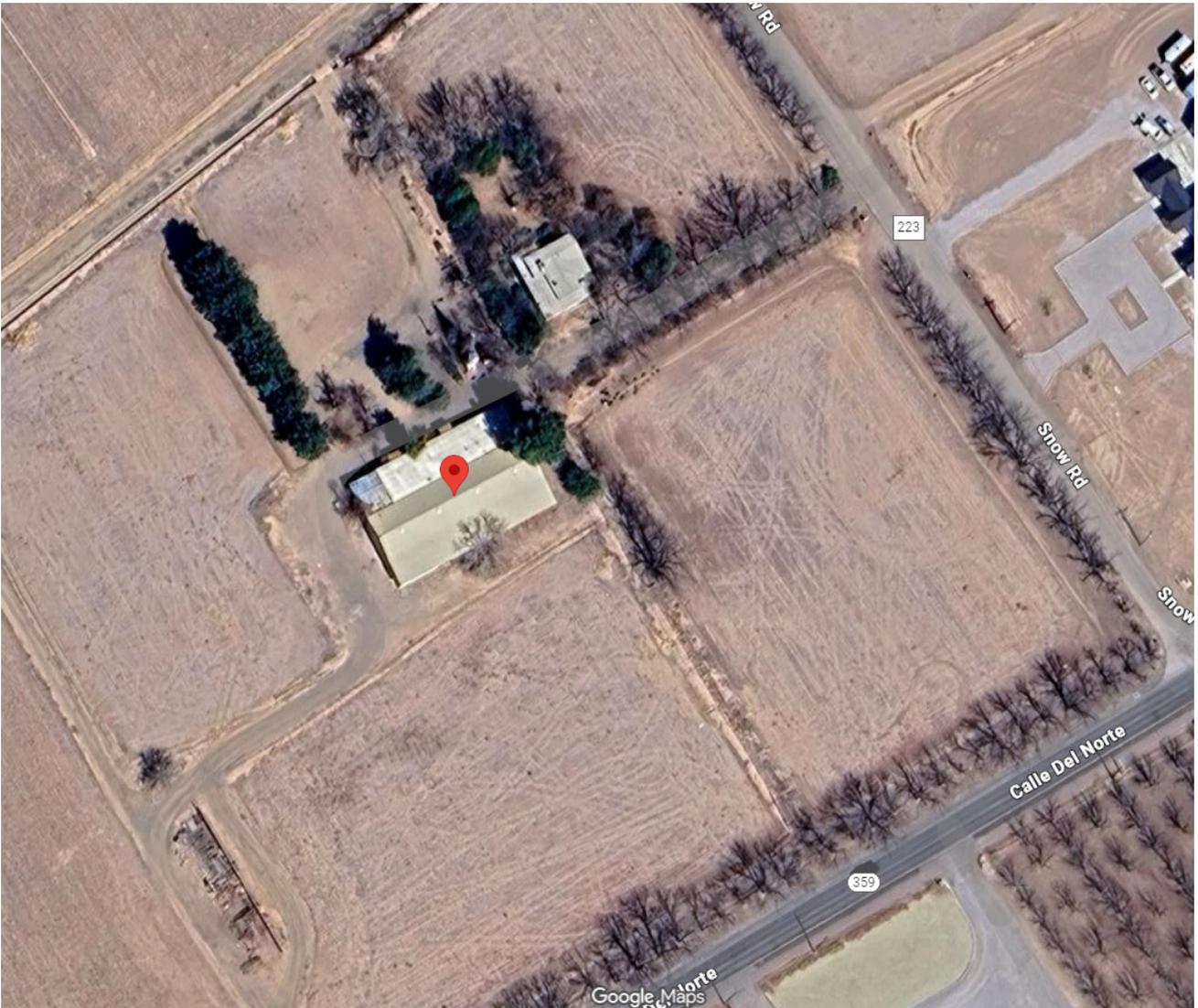
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Street and Aerial View (Google Maps)

A Citizen's Guide to Protecting Historic Places: Local Preservation Ordinances

Smart Growth Tools for Main Street



Charleston, South Carolina

A Citizen's Guide to Protecting Historic Places:

Local Preservation Ordinances

Among the first lessons the preservationist learns is that the legal power to protect historic places lies chiefly with local government. This is a lesson often learned the hard way, for many people assume that the federal government, being the "highest" level of government, is the strongest guardian of historic sites. They assume that if a property is listed on the National Register of Historic Places, it must be protected automatically. This, unfortunately, is not the case. When it comes to historic preservation, the strongest protection is typically found in preservation ordinances enacted by local governments.

Preservation ordinances in the United States date to 1931, when Charleston, S.C., became the first American city to establish a local historic district. Today there are over 2,300 communities with preservation ordinances in place. Big cities and small towns alike have found these laws to be an effective tool in protecting historic places from such undesirable fates as demolition for surface parking lots or deterioration through neglect.

Preservation ordinances are local laws through which owners of historic properties are usually prohibited from demolishing their property, or making major alterations to it,¹ without local government approval. Such restrictions are comparable to the many zoning and housing subdivision regulations in place across the country. While restrictions in preservation ordinances are imposed primarily to protect a community's heritage, they often protect homes and businesses against the devaluing effects of unsightly or inappropriate development on nearby properties.

A preservation ordinance can protect individual landmarks only, entire historic districts, or both landmarks and districts. To ensure that new buildings blend in with their older neighbors, preservation ordinances typically regulate the design of new construction as well as changes to existing structures.

The authority to regulate private property through historic preservation and land-use laws is derived from the states' police powers. Virtually every state has delegated these powers to the local governments in their jurisdictions and empowered them to regulate development affecting historic sites.

Local preservation ordinances vary widely, but they must all comply with five cardinal land-use principles:

1. An ordinance must promote a valid public purpose. That is, it must in some way advance the public health, safety, morals or general welfare.
2. An ordinance must not be so restrictive as to deprive a property owner of all reasonable economic use of his property.
3. An ordinance must honor a citizen's constitutional right to "due process." In other words, fair hearings must be provided and rational procedures must be followed in an ordinance's administration.

4. An ordinance must comply with relevant state laws.
5. An ordinance must apply with equal force to everyone. That's called "equal protection" of the law.

If an ordinance violates any one of these rules, it stands the risk of being invalidated by a court. If it violates the second rule, a court may order the local government to pay a property owner "just compensation" for taking private property in violation of the Fifth Amendment.

The basic constitutionality of historic preservation ordinances was upheld in 1978 by the U.S. Supreme Court and has been reaffirmed several times since.ⁱⁱ In *Penn Central Transportation Co. v. City of New York*,¹ the court settled two important questions. First, it found historic preservation to be a valid public purpose:

Because this Court has recognized, in a number of settings, that States and cities may enact land use restrictions or controls to enhance the quality of life by preserving the character and desirable aesthetic features of a city...appellants do not contest that New York City's objective of preserving structures and areas with special historic, architectural, or cultural significance is an entirely permissible government goal...

The restrictions imposed (by New York's landmark ordinance) are substantially related to the promotion of the general welfare...

Secondly, the court held that New York's ordinance – and by inference, similar ordinances enacted by other cities – had not taken private property in violation of the U.S. Constitution because the ordinance's restrictions left the Penn Central company with a "reasonable beneficial use" of its landmark property. The court punctured the oft-heard argument that property owners are entitled to make the most possible money from their land:

...the submission that [property owners] may establish a "taking" simply by showing that they have been denied the ability to exploit a property interest that they heretofore had believed was available is quite simply untenable.

But local ordinances must do more than pass muster under the federal Constitution; they must also comply with state laws and constitutions. Those drafting these ordinances should obviously check on any relevant requirements imposed by state laws.

With the legal authority for local preservation ordinances now well established in the U.S., the question arises: what should an ordinance look like? Some state historic preservation offices and nonprofit organizations have prepared model ordinances for communities to use as a starting point. If such models are used, however, they should be

¹ 438 U.S. 104 (1978)

adapted to local needs. Ordinance drafters should also look into state case law, for important court decisions affecting local ordinances may have been rendered.

Basic Elements of A Preservation Ordinance

1. Statement of Purpose

An ordinance should clearly state its public purpose. Although historic preservation can be justified for its own sake, many jurisdictions have found it legally and politically prudent to link historic preservation to other community goals as well. That's because some lower courts have ruled that "aesthetic regulation" is not a valid public purpose, but have sanctioned such activities as economic development, heritage education and neighborhood revitalization. Cape May, New Jersey's ordinance includes among its purposes *"to preserve and enhance the environmental quality of neighborhoods, to strengthen the Township's economic base by the stimulation of the tourist industry, to establish and improve property values; to foster economic development; to manage growth..."*

2. Definitions

Technical terms--e.g., "alterations," "demolition by neglect," "environmental settings," and so on --should be clearly defined in the ordinance.

3. Preservation Commissions

Some entity within local government must be charged with administering the ordinance. Usually this is a preservation or design review commission comprised of local citizens. Many ordinances require preservation commissioners to have special expertise in certain disciplines, such as architectural history, architecture, law or real estate, to guard against claims or arbitrary and capricious decision making. Some ordinances call for representation by the city planning board on the commission to ensure that local planning goals are related to historic preservation. The qualifications of commission members as well as their terms of office need to be spelled out.

4. Commission Powers and Duties

Most commissions are charged with the duty to conduct historic surveys, maintain inventories, and keep adequate records of their actions. Their authority over the designation and regulation of historic properties varies, however. Some commissions may only make recommendations to other governmental bodies--e.g., a planning board or city council--whereas others have the final word on whether and how historic properties may be altered. Although a property owner must submit development or rehabilitation plans to a commission with merely advisory powers, he or she need not follow the commission's recommendations. Obviously the more authority vested in the commission, the stronger the protection for historic sites.

Many commissions are empowered with the authority to deny proposals to demolish historic buildings; other may only delay such actions. Despite claims to the contrary, demolition denials do not constitute a "taking" in violation of the U.S. Constitution so long as a property owner has not been denied all reasonable use of his property. Mere reductions in property values due to regulations are not "takings."

5. Criteria for Designating Historic Properties

Objective, relevant criteria should be established for evaluating the historic or architectural worth of a structure. Appropriate criteria include such factors as a building's role in national, state or local history; its association with prominent historical figures; its architectural or engineering excellence; its cultural significance, etc. Although ordinances in a few jurisdictions require an owner's consent before a property may be officially landmarked, this is not recommended. The wishes of an individual property owner are not an objective, relevant criterion. Private individuals are not allowed to veto zoning regulations or other public laws; they should not be allowed to veto historic property designations.ⁱⁱⁱ

6. Procedures for Designating Historic Landmarks and Districts

Ordinances must comply with basic "due process" requirements. Property owners must be given adequate notice and an opportunity to be heard before their property rights are curtailed. Otherwise, an ordinance could be invalidated by a court. The ordinance needs to explain who can nominate properties for historic designation; how and when affected property owners are notified; how many public hearings there are; who must approve designations; and what the timetable for these actions is.

7. Reviewable Actions and Procedures and Standards for Reviewing Them

The ordinance should explain what types of changes--e.g., demolitions, building/landscape alterations, new construction in historic districts--are subject to review. Many ordinances wisely exempt minor repair and maintenance from review. It is also important that alteration or demolition requests be acted upon fairly and in a timely fashion. It is critical for commissions to review such requests according to reasonable standards clearly set forth in the ordinance. The goal is to let property owners know what the rules are. A system perceived to be rational and equitable will go a long way toward avoiding legal problems.

Some cities have incorporated the Secretary of the Interior's Standards for Rehabilitation into their ordinances. Although these standards are a useful set of guiding principles for the federal programs for which they were intended, if used by local preservation commissions, they should be adapted to meet local needs and phrased in appropriate regulatory language.

8. Economic Hardship

All historic preservation ordinances should include a process and standard for evaluating economic hardship claims. Such provisions can act as a safety valve if the ordinance is challenged in court; conversely, their absence can make an ordinance vulnerable to attack. The ordinance should explain the process for obtaining a hardship finding and spell out what information the commission needs to evaluate hardship claims. The timing for reviewing hardship claims is also important. Such claims should be considered only after an application for approval to alter or demolish a structure has been denied, not while properties are still being considered for historic designation or before applications for alterations are acted upon. In effect, economic hardship review is comparable to the variance process under zoning laws.

9. Interim Protection Provisions

Often the mere discussion of historic property designations will prompt property owners fearful of new regulations to seek demolition permits. It is important to provide interim protection for buildings nominated, but not yet officially designated as, local historic landmarks. This allows the local governing body to weigh the merits of specific nominations without witnessing a rash of demolitions. Interim control provisions should be set for a time period and should state the public purpose--e.g., comprehensive planning reasons--for the controls.

10. Demolition by Neglect

Occasionally a landowner will deliberately neglect a historic structure in the hope of obtaining a demolition permit on the ground that the building jeopardizes public safety. Many ordinances include "affirmative maintenance" provisions to prevent this. The Charlottesville, Virginia ordinance states that a property owner shall not permit a structure to deteriorate so badly that it produces a "detrimental effect" on a historic district or landmark. The ordinance also calls for the maintenance of the "*surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping.*"

11. Penalties

Ordinances must be enforced if they are to be effective. Penalties for violating the ordinance provisions may include fines (usually levied for each day a violation continues), requirements to restore or pay for willfully damaged landmarks, denial of permission to rebuild on sites where landmarks were illegally demolished, and even jail. The stiffness of the penalty varies with each community depending on the likelihood of non-compliance.

12. Appeals

Even if an ordinance is silent on appeals, a citizen still has the right to challenge a commission's ruling in court. However, it is wise to clarify the appeals process. While

some ordinances make commission decisions appealable only to the courts, others find it easier and less expensive to have boards of zoning appeals or some other administrative body to handle these cases. If the latter course is chosen, it's important to give such bodies clear criteria for considering appeals. Otherwise, they may use political criteria or assume unproven economic hardship on the part of the property owner. Appeal board reviews should be limited to the facts presented to the preservation commission in considering whether a decision was made arbitrarily or capriciously.

Local Innovations

While most local preservation ordinances include the basic elements listed above, many go even further to address common problems in innovative ways. Below are some examples:

- **Automobile Dominance:** Nothing destroys a historic area faster than subservience to the automobile. Seattle's Pioneer Square Historic District Ordinance promotes a pedestrian-friendly environment by banning gas stations, drive-in businesses and surface parking lots. It also limits curb cuts and subjects the few parking garages that are allowed to special design review.
- **Environmental Settings:** The value of a historic structure is greatly diminished if it is surrounded by ugly, incompatible development. The structure's setting should be protected from such development if at all possible. Miami, Florida's ordinance calls for drawing historic district boundaries so as to *"include properties which individually do not contribute to the historic character of the district, but which require regulation in order to control potentially adverse influences on the character and integrity of the district."*
- **Design Guidelines:** Portland, Maine's ordinance contains well-organized and clear guidelines for reviewing new construction in historic districts. Not only does the ordinance provide guidelines for new buildings as individual structures, but it also discusses the relationships between buildings and streets. Leesburg, Virginia has an overlay district to regulate the design of new construction along the highways that lead into the town's historic district.
- **Surface Parking Lots:** To protect historic structures from being demolished for surface parking lots, Atlanta's ordinance requires property owners to provide detailed architectural plans and evidence of financing for new building projects.^{iv} Salt Lake City's ordinance requires demolition permit applications to be accompanied by landscaping plans. The city planning department may obtain performance bonds to ensure that landscaping promised is actually provided.
- **Use of Historic Structures:** Although preservation ordinances typically stay out of land use questions, as national chains and franchises relentlessly homogenize American communities, many preservationists are looking for ways to preserve the small, locally-owned businesses that give each city its unique flavor. The guidelines

of the Pike Place Market Historical District Ordinance in Seattle state that all businesses using the Market are to be operated "*with the owner involved in the daily management. Businesses serving local residents are preferred over those which are primarily tourism-oriented.*" The guidelines encourage local farmers to use the market and discourage fast-food outlets from doing so.

Resources

- *Maintaining Community Character: How to Establish a Local Historic District* (Order No. 2158). Go to www.preservationbooks.org and click on "Historic Districts."
- *Design Review in Historic Districts* (Order No. 2185). Go to www.preservationbooks.org and click on "Historic Districts."
- *A Layperson's Guide to Preservation Law: Federal, State and Local Laws Governing Historic Resource Protection* (Order No. 2199). Go to www.preservationbooks.org and click on "Preservation Law."

* * * *

This issue paper was prepared by Constance E. Beaumont, State and Local Policy Director for the National Trust for Historic Preservation.

ⁱ Most ordinance restrictions are limited to changes affecting the exterior of a structure, leaving property owners free to modify interiors as they wish. However, a few cities have enacted ordinances that regulate changes to historic building interiors, primarily interiors in public or commercial buildings that are open to the public.

ⁱⁱ The U.S. Supreme Court has issued several major land-use rulings since 1978. While these do not focus on historic preservation, it is important to know about them because they may affect preservation. In Keystone Bituminous Coal Assn. v. DeBenedictis (480 U.S. 470 (1987)), the Supreme Court rejected a takings claim against Pennsylvania's land subsidence law. Among other things, the court observed: "Under our system of government, one of the state's primary ways of preserving the public wealth is restricting the uses individuals can make of their property. While each of us is burdened somewhat by such restrictions, we, in turn, benefit greatly from the restrictions that are placed on others." In First English Evangelical Lutheran Church v. County of Los Angeles (482 U.S. 304 (1987)), the court held that the remedy for a temporary regulatory taking is not merely the invalidation of a land use ordinance but just compensation to the property owner for the period during which the taking occurred. And in Nollan v. California Coastal Commission (483 U.S. 825 (1987)), the court said there must be a nexus between the purpose of a land-use regulation and the specific regulation used to achieve that purpose. In other words, the means should further the ends. Significantly, the court did not back away from its Penn Central ruling in any of these decisions. The court has yet to explain how compensation should be determined in a temporary regulatory taking case. See also Agins v. Tiburon, (447 U.S. 255 (1980)), San Diego Gas & Electric Co. v. City of San Diego, (450 U.S. 621 (1981)), Williamson County Regional Planning Commission v. Hamilton Bank, (473 U.S. (1985)), and MacDonald, Sommer & Frates v. County of Yolo (Calif.), (477 U.S. 340 (1986)).

ⁱⁱⁱ Owner consent provisions should also raise legal questions in that they arguably represent a standard-less and thus unconstitutional delegation of police powers to private individuals. As noted in the U.S. Supreme Court's Mugler v. Kansas ruling (123 U.S. 623 (1887)):

[The power to regulate land] must exist somewhere; else society will be at the mercy of the few who, regarding only their own appetites or passions, may be willing to imperil the peace and security of the many, provided only they are permitted to do as they please. Under our system that power is lodged with the legislative branch of government. It belongs to that department to exert what are known as the police powers of the state, and to determine primarily what measures are appropriate or needful for the protection of the public morals, the public health, or the public safety.

For an excellent discussion of the "owner consent" issue, see "Owner Consent Provisions in Historic Preservation Ordinances: Are They Legal?" by Julia Hatch Miller. Preservation Law Reporter. February 191. Volume 10, Number 2.

^{iv} Albany, New York's law, which also conditions the issuance of demolition permits on the approval of new construction, was challenged but upheld in Lemme v. Dolan, 558 N.Y.S. Appellate 2d 991 (A.D. 3 Dept. 1990)



Owner Consent Not Required for Designation

If a community can designate a local landmark without the consent of the property's owner, it can protect a significant place that is threatened with demolition or excessive alteration. Concerned advocates can submit landmark nominations in an effort to protect significant structures in their communities.

Many important places remain standing today because local advocates nominated them for local designation when they were threatened with demolition.

Some jurisdictions have historic preservation ordinances that do require owner consent for landmark designation. This requirement has a profound effect on the effectiveness of an ordinance as a preservation advocacy tool, hindering the community's ability to protect significant structures when they become threatened.

In jurisdictions with such an ordinance, preservation advocates cannot use landmark designation as a way to protect a threatened building. A property owner

seeking to redevelop a site will certainly not consent to the designation of a building that they want to demolish.



523 W. Sixth St., Suite 826
Los Angeles, CA 90014

Office: (213) 623-2489
Fax: (213) 623-3909
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18.06.010 Creation, purpose and establishment – Title.

A. This chapter may be cited as the “planning, zoning and historical appropriateness commission ordinance.”

B. This commission is created by authority granted municipalities under the New Mexico State Statutes 1978, Sections 3-19-1(A)(1) and (2).

C. There is established a planning, zoning and historical appropriateness commission which shall be the planning commission and the zoning commission for the town of Mesilla. [Ord. 2009-05 § 2]

18.06.020 Membership – Ex officio members – Appointment – Qualifications – Terms – Pay.

A. The planning, zoning and historical appropriateness commission shall consist of five members who shall be appointed by the mayor with the consent of the board of trustees. A member of the board of trustees may be appointed as ex officio, nonvoting member of the commission.

B. EACH MEMBER MUST HAVE A DEMONSTRATED POSITIVE INTEREST, COMPETENCE OR KNOWLEDGE IN ARCHITECTURE, HISTORIC ARCHITECTURE, ARCHITECTURAL HISTORY, ENGINEERING, ARCHAEOLOGY, ANTHROPOLOGY, HISTORIC PRESERVATION, PLANNING, REAL ESTATE, DESIGN, BUILDING TRADES, LANDSCAPER ARCHITECTURE, CONSERVATION, LAW FINANCE OR RELATED DISCIPLINES TO THE EXTENT THAT THESE PROFESSIONALS ARE AVAILABLE IN THE COMMUNITY.

C. OF THE FIVE MEMBERS OF THE COMMISSION, TWO PROFESSIONAL MEMBERS SHOULD BE QUALIFIED IN THE DISCIPLINES NOTED ABOVE IN 18.06.020.A-

B. The mayor with the advice and consent of the board of trustees shall appoint residents of the town of Mesilla to membership on the planning, zoning and historical appropriateness commission.

C. On the first planning, zoning and historical appropriateness commission meeting, a majority of the members shall be appointed for one-year terms and the balance of the members shall be appointed for two-year terms. Each subsequent term of a member on the planning, zoning and historical appropriateness commission shall be for two years or less in order to maintain the original staggering of terms of membership. A vacancy in the membership of the planning, zoning and historical appropriateness commission shall be filled for the remainder of the unexpired term.

D. Members may succeed themselves. [Ord. 2010-04 § 1; Ord. 2010-02 § 4; Ord. 2009-05 § 2]

18.06.030 Notice of appointment.

Each person appointed to the planning, zoning and historical appropriateness commission shall be given notice of her/his appointment by a certificate stating that he/she was appointed as a member of the commission. The certificate shall be signed by the mayor, be attested by the town clerk-treasurer, and bear the municipal seal. [Ord. 2009-05 § 2]

18.06.040 Member – Cause for removal – Procedure.

A. After a public hearing and for cause stated in writing and made part of the public record, the mayor, with the approval of the board of trustees, may remove a member of the planning, zoning and historical appropriateness commission.

B. At least 10 days prior to a hearing by the board of trustees, the member in question shall be given a written notice of the specific grounds for which removal might be exercised and the time, date, and place of the public hearing. [Ord. 2009-05 § 2]

18.06.050 Vacancy – Appointment – Term.

If a vacancy occurs on the planning, zoning and historical appropriateness commission, the mayor with the advice and consent of the board of trustees shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term. [Ord. 2009-05 § 2]

18.06.060 Officers – Term – Vacancy.

A. The planning, zoning and historical appropriateness commission shall elect from its membership a chairperson, vice-chairperson and secretary. Officers shall serve for a one-year term and may succeed themselves.

B. Any office vacated shall be filled by the election of a new officer who shall serve for the remainder of the unexpired term. [Ord. 2009-05 § 2]

18.06.070 Meetings – Place – Quorum – Voting.

A. The planning, zoning and historical appropriateness commission shall meet the first and third Monday of each month or on days specified by the board of trustees. Regular and special meetings shall be called as required by MTC [2.70.010](#). *The commission will meet a minimum of four (4) times per year. One meeting/year shall be dedicated to education and training.*”

B. All meetings shall be held in the Mesilla Town Hall unless proper public notice to the contrary is given.

C. A majority of the members of the planning, zoning and historical appropriateness commission shall constitute a quorum for the transaction of business.

D. A motion shall carry upon the affirmative vote of the majority of the members of the planning, zoning and historical appropriateness commission present at a meeting. [Ord. 2009-05 § 2]

18.06.080 Duties – Powers.

A. Duties. The planning, zoning and historical appropriateness commission shall:

1. Prepare, review, hold hearings and recommend to the board of trustees changes, amendments and updating as required to the master plan, comprehensive plan, zoning map, zoning ordinances, subdivision regulations, future land use plan, guidelines and criteria for preservation and development, and historical districts; provided, however, that:

a. No maps, plans or regulations shall be effective until approved by the board of trustees; and

b. The board of trustees may, after a proper public hearing and notice as required by law, adopt maps, plans and regulations without any recommendation from the planning, zoning and historical appropriateness commission;

2. Approve or disapprove applications for business registrations, building permits for non-historically zoned applications, and sign permits;

3. Review and recommend approval/disapproval of applications for building permits within the Historical zones and General Commercial zone, providing reasons for their recommendation to the board of trustees and the applicant;

4. Review and recommend approval/disapproval of applications for special use permits, zone changes, and subdivision applications, (after following proper procedure as defined in the appropriate section of the comprehensive land use ordinance) providing reasons for the recommendation to the board of trustees and the applicant; and

5. Enforce and carry out the provisions of law relating to planning, platting, zoning, and historical appropriateness; and

6. Exercise such power, authority, jurisdiction and duty not inconsistent with this code and incidental and necessary to carry out the purpose of Section 3-19-2 and Sections [3-21-1](#) through [3-21-26](#) NMSA 1978 which have not been reserved to the board of trustees.

B. Powers. The planning, zoning and historical appropriateness commission will also:

1. Recommend preparation, changing or updating as required, the comprehensive plan for the town of Mesilla;

2. Hold public hearings on special use permits, amendments, supplements, or repeals of the zoning ordinances;

3. Recommend changes and amendments to the comprehensive land use ordinance for adoption by the board of trustees;

4. Hold regularly scheduled meetings;

5. Carry out duties as defined in the comprehensive land use ordinance for the town of Mesilla;
6. Make proposed changes or amendments to the future land use plan;
7. Carry out the duties and responsibilities assigned to the commission in this title. [Ord. 2009-05 § 2]

18.06.090 Procedural rules – Records required.

The planning, zoning and historical appropriateness commission shall adopt regulations for the transaction of business and keep a public record of its transactions, findings, resolutions, determinations and attendance of its members at its meetings. [Ord. 2009-05 § 2]

18.06.100 Records – Commission determinations to be filed.

The commission shall keep a permanent record of its resolutions, transactions and determinations, and may make such rules and regulations consistent with this title and prescribe such forms as needed. The commission shall file with the town clerk-treasurer a notice of all determinations made by it. [Ord. 2009-05 § 2]

18.06.110 Review of applications within Historical and General Commercial zones – Considerations.

A. All applications for work in the Historical zones and Commercial zone (not subject to administrative approval) shall be reviewed by the planning, zoning and historical appropriateness commission. The commission shall determine whether the request involved will be appropriate for the purposes of this title. If the request shall be determined to be inappropriate, the board shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the historical district generally, such application may be approved without substantial detriment to the public welfare and without substantial derogation of the intent and purposes of this title.

B. In reviewing an application, the planning, zoning and historical appropriateness commission shall consider in addition to this chapter:

1. The historical and literary value and significance of the site, building, or structure;
2. The general design, arrangement, texture, material and color of the features, sign or billboard involved;
3. The relation of such factors to similar factors or sites, buildings and structures in the immediate surroundings; and

4. The appropriateness of the size and shape of the building or structure in relation to:
 - a. The land area upon which the building or structure is situated;
 - b. The landscaping and planting features proposed by the applicant; and
 - c. The neighboring sites, buildings or structures within the historical district.
5. The commission shall also consider the applicable zoning and other laws of the town.

C. In recommending approval of an application the commission may impose conditions which shall be binding upon the property. Prior to approving an application subject to conditions, the commission may notify the applicant of its proposed action to solicit his opinion. The concurring vote of three members of the board shall be necessary to make a determination in favor of the applicant on any application. [Ord. 2009-05 § 2]

18.06.120 Certificate of appropriateness – Conditions imposed – Permit for demolition or removal.

A. The planning, zoning and historical appropriateness commission shall review all applications in the Historical zones or Commercial zone for historical appropriateness, following the standards and processes outlined in Chapter [18.33](#) MTC (Historic Preservation). Upon the approval of an application by the planning, zoning and historical appropriateness commission, a certificate of appropriateness or permit for demolition or removal, as appropriate, shall be issued to the applicant. The certificate or permit shall state the nature of the approval and the date given. Following the certificate of appropriateness process, the case shall be reviewed for a building permit by the planning commission for recommendation to the board of trustees. The board of trustees will be the final decision for building permits in the Historical zones and Commercial zone.

B. In approving an application for historical appropriateness, the planning, zoning and historical appropriateness commission may impose conditions which, if the certificate of appropriateness is acted upon, shall be binding upon the applicant, the owner of the property and the owner's successors in title. Prior to approving an application for historical appropriateness subject to conditions, the commission may notify the applicant of its proposed action and permit the applicant to express her/his opinion thereon. The conditions will be part of the subsequent building permit process.

C. Demolition Permit. If the commission recommends approval of an application for a permit for demolition, the commission shall forward its recommendation to the board of trustees. [Ord. 2009-05 § 2]

18.06.130 Disapproval – Notice – Modification of application.

A. Disapproval. In the case of disapproval of an application for a permit for demolition or removal, the commission shall issue a notice of its determination, dated and signed by its chairman to the applicant, detailing the reasons for its determination.

B. The commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, color and similar factors before disapproving the application. [Ord. 2009-05 § 2]

18.06.140 Appeal from historical review action.

A. Any person or persons, or any board, taxpayer, or the town government aggrieved by any decision of the planning, zoning and historical appropriateness commission may appeal the commission decision. Appeals from a decision of the planning, zoning and historical appropriateness commission shall be made to the board of trustees by a written notice of appeal which shall be filed and dated in the town clerk-treasurer's office within 20 days of the date of the decision of the planning, zoning and historical appropriateness commission. The town clerk-treasurer shall forthwith forward the notice of appeal to the mayor.

B. The board of trustees shall act to either confirm commission action or to overcome such action in conformance with the submitted appeal within 40 days after a notice of appeal is filed.

C. Action by the board of trustees shall be final and conclusive. [Ord. 2009-05 § 2]

18.06.150 Appeal from a planning and platting decision of the planning, zoning and historical appropriateness commission – Grounds – Action in district court.

A. The board of trustees shall provide by resolution the procedure to be followed in considering appeals from planning, zoning and historical appropriateness commission action on planning and platting matters.

B. Any person, in interest, dissatisfied with any planning and platting order or determination by the planning, zoning and historical appropriateness commission may appeal to the board of trustees. An appeal shall be filed within 20 days of the decision of the planning commission and dated in the town clerk-treasurer's office. The town clerk-treasurer shall forthwith forward the appeal to the board of trustees.

C. If the board of trustees determines that the order or determination or any part thereof of the planning, zoning and historical appropriateness commission is unlawful or unreasonable, the board of trustees may make any appropriate change in any such order or determination. The board of trustees shall act upon the appeal within 40 days after the notice of appeal was filed.

D. An appeal from the decision of the board of trustees may be appealed to the district court as provided by Section [3-19-8](#) NMSA 1978. [Ord. 2009-05 § 2]

18.06.160 Appeal from a zoning decision of the planning, zoning and historical appropriateness commission – Grounds – Stay of proceedings.

A. The board of trustees shall provide by resolution the procedure to be followed in considering appeals from planning, zoning and historical appropriateness commission action on zoning matters.

B. Any aggrieved person or any officer, department or board or bureau of the municipality affected by a zoning decision of the planning, zoning and historical appropriateness commission, or official or committee thereof, in the exercise of its zoning duties and powers may appeal to the board of trustees. An appeal shall be filed within 20 days of the decision of the planning commission and dated in the town clerk-treasurer's office. The town clerk-treasurer shall forthwith forward the appeal to the board of trustees. An appeal shall stay all proceedings in furtherance of the action appealed unless the planning, zoning and historical appropriateness commission, or official or committee thereof, from whom the appeal is taken, certifies that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. Upon certification, the proceedings shall not be stayed except by order of district court after notice to the planning, zoning and historical appropriateness commission, or official or committee thereof, from whom the appeal is taken and on due cause shown.

C. If the board of trustees determines that the order or determination or any part thereof of the planning, zoning and historical appropriateness commission is unlawful or unreasonable, the board of trustees may make any appropriate change in any such order or determination. The board of trustees shall act upon the appeal within 40 days after the notice of appeal was filed.

D. When an appeal alleges that there is error in any order, requirement, decision or determination by the planning, zoning and historical appropriateness commission, or an official or committee thereof, in the exercise of its powers and duties, the board of trustees by a two-thirds vote of all of its members may:

1. Authorize, in appropriate cases and subject to appropriate conditions and safeguards, special exceptions to the terms of the zoning ordinance or resolution:

a. Which are not contrary to the public interest;

b. Where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship; and

- c. So that the spirit of the zoning ordinance is observed and substantial justice done; or
- 2. In conformity with Sections [3-21-1](#) through [3-21-14](#) NMSA 1978:
 - a. Reverse any order, requirement, decision or determination of the planning, zoning and historical appropriateness commission, or official or committee thereof;
 - b. Decide in favor of the appellant; or
 - c. Make any change in any order, requirement, decision, or determination of the planning, zoning and historical appropriateness commission, or official or committee thereof. [Ord. 2009-05 § 2]

Chapter 18.33 HISTORIC PRESERVATION

Sections:

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18.33.160 Enforcement.

18.33.170 Appendix A – Design standards with compliance checklist for the following architectural styles: Spanish Pueblo, Territorial, Spanish Mission, Northern New Mexico and Ranch Style.

18.33.180 Appendix B – Additional standards for preservation, rehabilitation, restoration and reconstruction taken from the Secretary of the Interior’s Standards for the Treatment of Historic Properties as developed in 1992 and codified as 36 CFR 68.

18.33.010 Title.

This chapter shall be known and may be cited and referred to as the historic preservation ordinance of the town of Mesilla. [Ord. 2011-03; Ord. 2008-02 § 1]

18.33.020 Applicability.

This chapter shall apply to all work or acts involving construction of new structures and removal or exterior alteration to existing structures and their sites on any property located as follows:

- A. Any property located within one of the town’s four historic districts.
- B. Any property located outside a historic district or zone that has the “Guidelines for Preservation and Development, 1973,” also known as the Yguado Plan, in place as a zoning overlay.
- C. Any property not located within the town’s historic districts/zones that has been designated as a landmark. [Ord. 2011-03; Ord. 2008-02 § 1]

18.33.030 Authority.

The designation of the town’s historic zones is made pursuant to the Historic Districts and Landmarks Act, Sections [3-22-1](#) through [3-22-7](#) NMSA 1978. [Ord. 2011-03; Ord. 2008-02 § 1]

18.33.040 Declaration of purpose and statement of public policy.

- A. The board of trustees declares that the historical heritage of Mesilla and its historic buildings and its historic districts are among its most valued and important assets. The

board finds that some buildings having historical, architectural, aesthetic and cultural value have been neglected, altered or destroyed notwithstanding the feasibility of preserving and continuing the use of such buildings and without adequate consideration of the irreplaceable loss to the public and the town. The board finds that the historic character of Mesilla is of vital importance in maintaining the economy of the town and that its historic landmarks and the buildings in its historic district can be preserved, rehabilitated and used. The board finds that this chapter benefits all the residents of Mesilla and all the owners of property.

B. The board of trustees declares as a matter of public policy that the preservation, protection and use of historic landmarks and buildings in the historic districts are a public necessity because they have a special character or a special historic, architectural, aesthetic or cultural value and thus serve as visible reminders of the history and heritage of this town, state and nation. The board declares as a matter of public policy that this chapter is required in the interest of the health, safety, welfare and economic well-being of the public. The board declares as a matter of public policy that the identification and designation of historic landmarks and historic districts and the approval or disapproval of exterior changes to designated property or their demolition or relocation or new construction on the site are stated to be a public purpose. [Ord. 2011-03]

18.33.050 Definitions.

“Architectural styles” means five building styles defined in the Yguado Plan as existing in Mesilla at the time the plan was issued (June 1973), to be used as historic precedents for building styles, construction techniques and design details to determine the historically appropriate appearance of new buildings and/or renovations to existing buildings within the historic districts.

“Construction” is defined as the act or process of erecting, removing or altering in any manner any building or structure or part thereof or the erection of a new structure on a lot or parcel of property. The act or process of alteration shall include rehabilitation, restoration, reconstruction, and preservation as defined in this section.

“Contributing structure” as defined in the National Register of Historic Places Inventory Nomination Form is a structure that is at least 50 years old and adds to the physical cohesiveness that ties a historic district together.

“Demolition” means any act or process that destroys a structure in part or in whole.

“Design standard” means a written standard of appropriate activity, the intent of which is to preserve the historic and architectural character of a structure, site or area.

“Development zone” means an area of structures that constitutes examples of historic precedents for building styles, construction techniques and design details. A physical inventory and comparison of these elements within a development zone is used to determine the historically appropriate building style, construction techniques and design details for new construction or alterations to existing structures within the development zone. There are three development zones: interior lot, corner lot and boundary lot, defined and illustrated in MTC [18.33.060](#).

“Historic property” means a building, structure or property individually listed or eligible for listing on the State Register of Cultural Properties or the National Register of Historic Places. The map and list of historic properties in the town of Mesilla and their classification as significant (S), contributing (C), neutral (N) and intrusive (I) are hereby adopted in their entirety by reference and are located in the community development department office.

“Historical appropriateness permit” means a permit issued by the planning, zoning and historical appropriateness commission (PZHAC) indicating that plans, as approved, for a building or structure and the site are historically appropriate for construction or demolition.

“Historical Commercial zone (H-C zone)” means an area or district designated as the “Historical Commercial zone” by ordinance of the town of Mesilla.

Historically Appropriate. When applied to new construction or an exterior alteration, a “historically appropriate” act or work is accomplished in a manner that preserves significant materials or the appearance of significant materials, the historic style and the historic features of the property or the development zone. At the same time, a “historically appropriate” act or work shall differentiate the new structure or design feature from the historic design features so that new work is not confused with what is genuinely part of the past.

“[Historic Landmark](#)” means a structure or site that is worthy of rehabilitation, restoration, reconstruction and preservation because of its historic and/or architectural significance to the town of Mesilla pursuant to the procedures set forth in this chapter.

“[Historic District](#)” An historic district is any area which includes or encompasses such historic sites, landmarks, buildings, signs, appurtenances, structures, or objects as the Commission may determine to be appropriate for historic preservation. Such designated district or districts need not be a single enclosed area, nor do the areas or sites have to be contiguous to constitute a district.

“[Historic Preservation Division](#)” is defined as the division within the State of New Mexico’s Department of Cultural Affairs that is responsible for historic preservation within the state

of New Mexico. The Historic Preservation Division may be referenced as “HPD” and also may be referenced as the New Mexico State Historic Preservation Office or “SHPO”.

“Locally Designated” or Local Designation is defined as designation by the Town of Mesilla as a Historic Landmark or Historic District, pursuant to the procedures set forth in this chapter.

NEW MEXICO CULTURAL RESOURCES INFORMATION SYSTEM (NMCRIS) is defined as a state of New Mexico-wide online database of cultural resource information maintained by the Archaeological Records Management Section (ARMS) of the New Mexico Historic Preservation Division.

“Ordinary maintenance or repairs” is defined as any act or work, undertaken from time to time, that keeps a building or structure in good condition and repair and that does not change the exterior appearance of the building or structure in any way. Such maintenance and repair work requires a building permit but does not require a permit for a certificate of appropriateness. The building permit may be approved administratively.

“OWNER CONSENT” is the act or result of reaching consensus and agreement, through reason and deliberation, by the Owner(s) of real estate when historic designation is proposed at the suggestion of another party.

“OWNER OBJECTION,” is the right of all Owners of Record to object to a proposed Historic Landmark, district or local designation of its buildings, structures, objects, or other improvements and the parcel of land to which those improvements are firmly attached or affixed.

“Planning, zoning and historical appropriateness commission” means a five-member board created by authority granted municipalities under the New Mexico State Statutes Annotated (1978) and appointed by the mayor and board of trustees, pursuant to the Mesilla Town Code.

“Preservation” is the act or process of applying measures necessary to sustain the existing form, integrity and materials of a building or structure and the existing form and vegetation of a site. The process of preservation requires the retention of the greatest amount of historic fabric, along with the building’s historic form, features and detailing as they have evolved over time. New exterior additions are not within the scope of this treatment. See MTC [18.33.180](#) for additional standards for preservation taken from the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Property/site” means land, buildings and structures in town-designated historic districts or land, buildings and structures individually designated by the town as historic.

“Public comments” means written comments from members of the public that are given to the planning, zoning and historical appropriateness commission and that relate to items under consideration by the commission.

“Public hearing” means a meeting of the planning, zoning and historical appropriateness commission at which members of the public provide testimony and comment regarding a specific item under consideration by the commission; 14-day notice must be given.

“Public meeting” means a meeting of the planning, zoning and historical appropriateness commission at which members of the public comment on items under consideration by the commission.

“Reconstruction” means using detailed photographic, physical or documentary evidence; reconstruction is the act or process of reproducing by new construction the exact form and detail of a vanished building, structure or site or a portion thereof in its historic location as it appeared at a specific time. See MTC [18.33.180](#) for additional standards for reconstruction taken from the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Rehabilitation” is the act or process of making possible an efficient contemporary use for a property or a process of returning a property to a state of utility through repair, alterations, and additions while preserving those portions and features which convey and are significant to the property’s historical, cultural or architectural values. See MTC [18.33.180](#) for additional standards for rehabilitation taken from the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Residential – Cultural – Historical zone, H-R zone” means an area or district designated as the “Residential – Cultural – Historical zone” by ordinance of the town of Mesilla.

“Restoration” is defined as the act or process of accurately recovering the form, features, character and setting of a property as it appeared at a particular period of time by means of the removal of features from other periods in history and replacement of missing features from the restoration period. See MTC [18.33.180](#) for additional standards for restoration taken from the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Scale” is defined as proper proportion of structures in a historic development zone.

“Significant structure” as defined in the “National Register of Historic Places Inventory Nomination Form” is a structure that is architecturally outstanding or exceptionally important in the history of the community.

“State Historic Preservation Officer” or “SHPO” is defined as the governor-appointed official responsible for a state’s historic preservation program. The SHPO is also known as the Director of the Historic Preservation Division or “HPD” and the office may be referenced as the State Historic Preservation Office.

Structure. For the purposes of this title, “structure” is defined pursuant to the Mesilla Town Code and shall include, but not be limited to, buildings of any kind, fences and walls. [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.040]

18.33.060 Development zone.

A development zone defines the immediate physical vicinity to be used to identify the historic character of a particular area and includes the predominant architectural style and design standards of existing structures together with their setting.

A. Function of the Development Zone. The function of the development zone is to provide for historically appropriate development within an existing historic district by setting standards for both new construction and alterations to existing structures.

B. Applicability of the Development Zone.

1. All structures shall be considered a part of and be subject to regulation by the development zone within which they are located or proposed to be located.

2. The design components of the individual architectural styles subject to regulation by the development zone include the following: building height, setbacks, proportions, pattern and rhythm, roof types, surface texture, color, site utilization, projections and architectural details.

C. Process to Identify a Development Zone. Identify the immediate vicinity of surrounding, adjacent structures that relate most directly to any new construction or exterior alteration to an existing structure that is to take place on an interior lot, a corner lot or a boundary lot as follows:

1. Development zone for an interior lot shall include any lot fronting on the same street as the lot in question and within the same block, as well as those lots located on the opposite side of the street, except such portions of the zone which fall outside the boundary of the historic district.

2. Development zone for a corner lot shall include any lot fronting on the same streets as the lot in question and within the same block, as well as those lots located on the opposite side of the streets, including the opposite corner, except such portions of the zone which fall outside the boundary of the historic district.

3. Development zone of any lot located adjacent to a historic district boundary shall include all lots located in the same block plus those lots located on the opposite side of any street adjoining that block, as well as those lots located on the opposite corners, except such portions of the zone which fall outside the boundary of the historic district.

Illustrations of the three types of development zones are available in the office of the community development department.

D. Process to Use a Development Zone.

1. Identify the development zone for the work to be performed: interior, corner or boundary lot.
2. Obtain a photograph of the development zone from the community development department. If one does not exist, staff will prepare one.
3. If applicable, use the National Register of Historic Places Inventory Nomination Form to identify the historic structures in the zone.
4. Conduct a physical inventory and comparison of the structures within the development zone to identify the predominant architectural style and the predominant architectural details that exemplify the particular style together with the setting.
5. Once an appropriate architectural style and/or architectural details have been determined, proceed with the process to obtain a permit for a certificate of historical appropriateness.
6. If there is no predominant architectural style within the selected development zone, then the historic district (H-C or H-R) as a whole shall become the development zone for the architectural style.
7. If particular design criteria are missing from the selected architectural style within the development zone, then the historic district as a whole (H-C or H-R) shall become the development zone for the missing design criteria for the architectural style. [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.050]

18.33.070 Powers and duties of the PZHAC relating to historic preservation.

In addition to the powers and duties stated elsewhere, the PZHAC shall take action necessary and appropriate to accomplish the historic preservation goals of this chapter. These actions may include, but are not limited to, the following:

- A. Conducting and maintaining a survey of ~~locally-designated~~ historic buildings, landmarks, districts, places and areas and preparing a plan for their preservation; inclusive of a survey standard for historic properties.
- B. Recommending to the board of trustees the Town of Mesilla's designation of historic landmarks and historic districts; and properties with potential for local historic designation using the corresponding form
- C. Adopting written guidelines for making exterior changes to designated property and for undertaking new construction on designated property;
- D. Regulating exterior alterations proposed for designated property and regulating demolitions, relocations and new construction involving designated property;
- E. Working with and advising the federal, state and county governments and other parts of the town government on historic preservation issues;
- F. Advising and assisting owners of historic property and other persons and groups who are interested in historic preservation;
- G. Reporting to the board of trustees on the present condition of historic properties in order to prevent demolition by neglect;
- H. Conducting educational programs for property owners and the public, preparing publications and placing historical and architectural plaques on buildings;
- I. Attending educational programs covering the historic preservation duties of the PZHAC and current developments in historic preservation; THERE WILL BE, AT MINIMUM, ONE REGULAR MEETING SET ASIDE FOR INFORMATIONAL OR EDUCATIONAL PURPOSES PER YEAR, PERTAINING TO THE WORK AND THE FUNCTIONS OF THE PLANNING AND ZONING HISTORICAL APPROPRIATENESS COMMISSION. MEETING NOTIFICATIONS SHALL BE SENT TO HPD IN A TIMELY MANNER SO THAT THEY MAY ATTEND SUCH MEETINGS AND/OR PROVIDE INFORMATION. REPORTING ABOUT HPD AND GRANT FUNDING SHALL CONFORM WITH FISCAL ACCOUNTABILITY GUIDELINES IN THE CLG MANUAL/GRANTS MANUAL AND TO MAINTAIN CLG CERTIFICATION STATUS.
- J. Participating in the nomination of properties to the State Register of Cultural Properties, the National Register of Historic Places and of locally designated Historic Properties
- K. Performing duties that may be delegated to the town by the State Historic Preservation Officer under the Certified Local Government Program;

L. Recommending that the town apply for, receive and use public and private grants or gifts to help historic preservation activities. [Ord. 2011-03]

M. AN ANNUAL REPORT OF THE PZHAC COMMISSION SHALL BE REPORTED TO the State Historic Preservation Officer, THIS INCLUDES: NUMBER OF CASES REVIEWED, NEW DESIGNATIONS MADE, RESUMES OF COMMISSION MEMBERS, SCHEDULE OF COMMISSION, ATTENDANCE RECORDS, ALL COMMISSION MINUTES. THE REPORT SHALL ALSO DOCUMENT THE EDUCATIONAL AND TRAINING EFFORTS OF COMMISSION MEMBERS. THE REPORT SHALL BE DUE WITHIN 60 CALENDAR DAYS OF THE END OF EACH FISCAL YEAR. SUBMITTAL OF THIS REPORT IS REQUIRED TO MAINTAIN THE TOWN'S CLG STATUS-

18.33.071-(Newly added section) Survey Standards of Historic Properties

- A. INVENTORY EFFORTS SHALL CONFORM WITH AND BE COORDINATED WITH THE NEW MEXICO CULTURAL RESOURCES INFORMATION SYSTEM (NMCRIS) UTILIZED AND MAINTAINED BY THE HISTORIC PRESERVATION DIVISION.
- B. SURVEYS SHALL UTILIZE THE HISTORIC CULTURAL PROPERTIES INVENTORY FORM (HCPI) AND BE REQUIRED FOR EACH PROPERTY SURVEYED.
- C. HCPI FORMS SHALL BE CREATED FOR ALL PROPERTIES THAT ARE DESIGNATED BY THE TOWN OF MESILLA AND BE PERIODICALLY UPDATED TO REFLECT CHANGES, ALTERATIONS AND DEMOLITION.
- D. HCPI SURVEY FORMS SHALL BE COMPLETED BY HISTORIC PRESERVATION PROFESSIONALS WHO MEET THE SECRETARY OF THE INTERIOR'S PROFESSIONAL QUALIFICATIONS STANDARDS. FOUND HERE: <https://www.nps.gov/articles/sec-standards-prof-quals.htm>
- E. SURVEY AND INVENTORY MATERIALS SHALL BE MAINTAINED SECURELY AND BE ACCESSIBLE TO THE PUBLIC EXCEPT WHEN CONFIDENTIALITY OF SITE INFORMATION IS MANDATED THROUGH 18-6-11 NMSA (EXCAVATION PERMIT) AND THE ARCHAEOLOGICAL RESOURCES PROTECTION ACT, 163 USC 470HH (PROTECTION OF ARCHAEOLOGICAL RESOURCES ON PUBLIC AND NATIVE/PUEBLO LANDS.)

18.33.080 Historical appropriateness permit.

A. Identification. A permit for a certificate of historical appropriateness shall be required before any of the following actions or work is undertaken: new construction, exterior alteration, demolition or removal. All work or acts of new construction or exterior alteration requiring a permit for a certificate of appropriateness shall comply with the design criteria established by the precedent styles within the development zone of the proposed work.

B. Process to Obtain a Certificate of Historical Appropriateness Permit.

1. Preapplication Procedure. A planning conference shall be held with community development staff. This conference is designed to provide the applicant with an opportunity to become acquainted with the rules and regulations of the historic conservation standards and processes and does not require a formal application. A copy of “A Guide to Building Permits in the Historic Zones” shall be provided to the applicant and shall be used during the review process outlined below.

2. Preliminary Application. At this stage, the applicant shall be required to submit a preliminary application containing the following information: type of structure, location, proposed use and type of work proposed.

3. Planning Conference. In this conference, the applicant and staff shall determine and review the following:

- a. Identify the development zone;
- b. For new construction, select an architectural style appropriate to the development zone. For work involving alterations to an existing structure, identify the structure’s architectural style;
- c. Complete a compliance checklist of design standards/a building permit submittal checklist for the identified architectural style as set forth in MTC [18.33.170](#);
- d. As applicable, complete a compliance checklist of rehabilitation standards as set forth in MTC [18.33.180](#);
- e. If building style does not substantially comply with the checklist of design standards, staff will evaluate the style or features for compliance on a case-by-case basis.

4. Work Session with PZHAC. Applicant shall then submit to the PZHAC a formal application with a preliminary plan and supporting data containing the information gathered in the steps above for review by the PZHAC for historical appropriateness.

5. PZHAC Agenda. After the preliminary plan and supporting data are reviewed for completeness by the PZHAC during the work session, the application shall be placed on the PZHAC agenda for consideration for a permit for a certificate of historical appropriateness. Public notice shall be given about the application including conspicuous posting on the property. The PZHAC may schedule a public hearing on an application involving a structure with a “significant” designation on one of the historic registers. Conspicuous notice of the hearing shall be given by posting one sign in front of the property and the posting of additional signs at 300-foot intervals on the property for large properties of more than 600 feet frontage.

6. Decision by the PZHAC. The PZHAC shall make a decision on the application within 45 days after the receipt of complete plans and supporting data; provided, that the PZHAC may extend the time for its decision an additional 30 days when the application is for a demolition. The PZHAC shall recommend approval, approval with modifications, or disapproval of application. The recommendation with modifications shall contain the revisions that the applicant may accept in order to receive a certificate of historical appropriateness. If the PZHAC disapproves an application, it shall give the applicant its reasons in writing, and the applicant may appeal the decision. If the PZHAC fails to decide on an application within the specified time period, the application shall be deemed recommended for approval and forwarded to the board of trustees.

C. Routine Maintenance and Repairs. The commission shall adopt a policy setting forth the standards and process for routine maintenance and repairs to structures within the historic districts that may be approved administratively by staff without consideration at a meeting provided the applicant files a building permit, pays the appropriate fee and complies with the design and materials guidelines set forth in this chapter. This includes but is not limited to elements of the individual architectural styles; colors for stucco, trim and doors, fences and gates; and roofing material and color. Staff shall report these administrative approvals in a timely manner on the agenda of each PZHAC meeting.

D. Exemptions. Work in any of the following categories shall be exempt from obtaining a certificate of historical appropriateness permit:

1. Maintenance or repairs which do not involve a change of the existing design, exterior materials or scale or outward appearance of the structure.
2. Work required by a town staff to eliminate an unsafe condition; provided, that any permanent repairs shall meet the criteria of subsection (D)(1) of this section.
3. Installation of storm windows or storm doors, with or without screens, painted or unpainted; provided, however, that no such windows or doors shall have any ornamental feature such as grilles, monograms, etc. This provision shall not be construed to prohibit the installation of plain bars on the inside of such windows or doors for protection of the screens or glass. If a study indicates that storm windows are necessary, the use of interior storm windows is preferred, and interior storm windows are also exempt from obtaining a certificate.
4. Erection of any accessory structure designed for the shelter of very small animals, such as rabbits and poultry; and provided, that such proposed accessory structure is not prohibited by another statute, regulation or ordinance; and provided, that the maximum

horizontal or vertical dimension of any such proposed structure does not exceed four feet. [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.060]

18.33.090 Design components or development criteria and compliance checklists.

A. Design Components – Definition. Within the town’s historic districts there exist similarities in the design components and construction of the buildings. The similarities are expressed by a number of basic design components which include but are not limited to building height, setback, proportions, pattern and rhythm, roof types, surface texture, color, site utilization, projections and architectural details. These similarities provide the basis for determining precedent examples of the five architectural styles and their architectural details. The precedent examples themselves, identified by Yguado & Associates in 1973, are used to assure both the retention of an individual structure’s exterior historic form, features and detailing and the historically appropriate development of the district.

B. Design Components – Use. The design components define the building materials and exterior character-defining features for each of five architectural styles, such as:

1. The form and detailing of exterior materials, such as masonry, wood, and metal.
2. The form and detailing of exterior features, such as roofs, porches, doors and windows, as well as structural and mechanical systems. Where publicly visible, structural and mechanical systems, including solar and other energy collecting and conserving equipment, shall be architecturally integrated or screened.
3. The structure’s site and setting.

C. Design Components – Checklist. When considering an application for a permit for a certificate of historical appropriateness, the commission shall determine if the application complies or does not comply with each of the design components or development criteria which are organized by architectural style and presented in checklist form in MTC [18.33.170](#). [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.070]

18.33.100 Miscellaneous, including colors for architectural components, gates, fences, and stucco and material and color for metal roofing.

A. Colors for Architectural Components, Including Windows, Trim, Doors, and for Gates and Fences.

1. Criteria to be used in selecting an appropriate color for architectural components, gates and fences include, but are not limited to:
 - a. The size of the surface area to be covered.

- b. Other colors that will surround the architectural component, gate or fence.
 - c. Type and texture of the surface, such as rough stucco, smooth metal or wood.
2. An album of color charts and photographs to be used by commissioners, staff and citizens in determining appropriate colors for architectural details and, by extension with this chapter, for gates and fences, is available in the community development department office.

B. Colors for Exterior Stucco.

- 1. Appropriate colors include colors in the cream to medium brown earth tones referred to in the individual architectural styles found in MTC [18.33.170](#) as characteristic of a particular style. Permitted acrylic latex paint colors shall be subtle and muted rather than bright and reflective.
- 2. The combination of exterior wall and trim colors on the same structure shall be historically appropriate, which for trim colors includes natural wood, off whites, creams and beiges as described in the individual architectural styles found in MTC [18.33.170](#), along with the colors presented in the color chart album.

C. Metal Roofing. Historically appropriate material and colors for new and replacement metal roofs are corrugated metal in either the natural gray or brick red color. [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.080]

18.33.110 Standards for alterations.

The Secretary of the Interior’s Standards for the Treatment of Historic Properties authorized by the National Historic Preservation Act of 1966, developed in 1992 and codified as [36 CFR 68](#), and subsequent revisions, amendments and additions thereto adopted by the Secretary of the Interior are hereby adopted in their entirety into this chapter by reference.

A. Application. These standards shall apply to all work or acts performed on the exterior of historic buildings and structures used commercially and zoned H-C, Historical Commercial, that are designated “significant” or “contributing.”

B. Function. The standards identify and define appropriate treatments for the alteration of exterior character-defining features, including the form and detailing of materials, spatial relationships, and structural and mechanical systems. The standards also encompass related landscape features and the building’s site as well as attached adjacent or related new construction. The standards are to be applied to specific projects in a reasonable manner, taking into consideration economic and technical feasibility.

C. Guidelines. Guidelines to be used to assist in implementing the standards are found in the Secretary of the Interior's Standards for the Treatment of Historic Properties, and are available in the community development department. The guidelines are divided into two categories:

1. Recommended approaches, treatments and techniques that are consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties; and
2. Not recommended approaches, treatments and techniques that are not consistent with the Secretary's standards and could adversely affect a building's historic character. [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.090]

18.33.120 Demolition.

A. The demolition of a significant or contributing structure within a historic district shall require a permit that includes verification by a qualified architect or certified structural engineer, with a background in architecture preferred, that the structure is not repairable or reusable.

The applicant shall provide the report containing the verification. The applicant shall also provide the plans for the site in order to demonstrate that it will not harm adjacent properties. The PZHAC may schedule a public hearing on the application. Conspicuous notice of the hearing shall be given by posting one sign in the front of the property and the posting of additional signs at 300-foot intervals, on said property, for large properties of more than 600 feet frontage.

B. Before voting on the demolition application, the PZHAC shall discuss with the applicant to see if an alternative to demolition can be found. The PZHAC may ask the applicant for additional information to be used in making its decision.

C. The PZHAC shall study the question of financial hardship for the applicant and shall determine whether the property can be put to reasonable beneficial use without the approval of the demolition application. Using the record that was developed, the PZHAC shall vote on the application following the procedures in MTC [18.33.080](#), Historical appropriateness permit. Options to prove financial hardship shall be: (1) income of 50 percent or lower of the average median income standards established for Dona Ana County; (2) proof of income documented with tax returns and annual expenditures.

D. If a demolition permit is issued, prior to the demolition the structure shall be documented with photographs, sketch plans and a brief historical description.

E. Demolition of intrusive features on a structure for the purpose of restoring original historic features should be encouraged and shall be exempt from the architect/engineering

requirement. Documentation of the original features shall be provided in order to receive demolition approval. [Ord. 2011-03]

18.33.130 Preservation of historic property.

Every person in charge of a landmark or a property in a historic district shall keep in good repair: (A) all of the exterior portions of such property and (B) all interior portions which, if not maintained, may cause the exterior of the structure to deteriorate or to become damaged or otherwise to fall into a state of disrepair. The purpose of this section is to prevent a person from forcing the demolition of a building or structure by neglecting it or by permitting damage to it because of weather or vandalism. No provision in this chapter shall be interpreted to require an owner or tenant to undertake an alteration or to restore a building or structure to its original appearance. PZHAC shall consider financial hardship per MTC [18.33.120\(C\)](#). [Ord. 2011-03]

18.33.140 Designation of landmarks and historic districts.

A. The PZHAC may study a property or an area in order to make a recommendation on whether it qualifies for designation as **a locally designated historical property, a historic landmark or a historic district**. [The Town encourages any property Owner of Record; a contract purchaser of a nominated property; individual or group of Town residents; association with members who are Town residents; or the PZHAC, on its own initiative and with prior consent of the Town, that they may request landmark or district designation for any building, structure, object, improvement, or site which is located within the corporate limits of the City and which may have historic significance as set forth in the criteria for evaluation. These nominations can be made by using the Local, Landmark or Historic District Designation Nomination Form for the Town of Mesilla, supplied by the Historic Preservation Specialist upon request. Any structure listed in the National Register of Historic Places may be designated as a Historic, subject to the procedures stipulated herein.](#)

B. [No such person, group of persons or association, nor the Commission, shall be required to obtain the consent of the Owner of Record of the building, structure, object, improvement, or site prior to filing the application for Historic Landmark, district or local designation. Owners of Record have the right to file an objection to the proposed Historic Landmark designation of its property, as set forth in Section 18.33.141](#)

C. The **PZHAC** applying party shall assemble information about the property or the area being considered for designation and shall schedule a public hearing on the proposed designation. Public notice of the hearing shall be given, including conspicuous posting on the property or in the proposed district for 14 days immediately prior to the hearing.

Conspicuous notice of the hearing shall be given by posting one sign in the front of the property and the posting of additional signs at 300-foot intervals for large properties of more than 600 feet frontage. Notice of the hearing shall be given by certified mail at least 14 days in advance of the hearing to the owners of property under consideration. Written notice shall be considered sufficient when it is mailed to the person listed on the tax records of the government.

D. A landmark, or a historic district shall qualify for designation when it meets one or more of the following criteria that will be discussed in a PZHAC report making its recommendation to the board of trustees:

1. Its value as a reminder of the cultural or archaeological heritage of the town, state or nation;
2. Its location as a site of a significant local, state or national event;
3. Its identification with a person or persons who significantly contributed to the development of the town, state or nation;
4. Its identification as the work of a master builder, designer or architect whose individual work has influenced the development of the town, state or nation;
5. Its value as a building or buildings that are recognized for the quality of their architecture and that retain sufficient elements showing their architectural significance;
6. Its distinguishing characteristics of an architectural style valuable for the study of a period, method of construction or use of indigenous materials;
7. Its character as a geographically definable area possessing a significant concentration of buildings, structures or sites united by past events or aesthetically by plan or physical development; and
8. Its character as an established and geographically definable residential neighborhood, united by culture, architectural styles, plan or physical development.

E. After evaluating the testimony at its public hearing and the other material it has assembled, the PZHAC shall decide whether or not to recommend the proposed designation to the board of trustees. If the PZHAC decides to recommend the designation, it shall submit a written report with information on the property or properties. The board of trustees shall approve, modify or disapprove the proposed designation within 60 days after receiving the recommendation and report from the PZHAC.

F. The PZHAC shall notify the owners of the property that has been designated and shall arrange that the designation of a property as a landmark or as a part of a historic district

shall be recorded in the land records of the county. The PZHAC shall also give notice of the designation to the government offices in the town and in the county which shall retain the information for future reference.

G. The amendment or rescission of a designation shall be accomplished through the same steps as were followed in the original designation. [Ord. 2011-03]

18.33.141 (NEWLY ADDED SECTION) OWNER CONSENT FOR REGISTER DESIGNATION

- A. The Town of Mesilla, with approval from the Planning and Zoning Historical Appropriateness Commission, may designate historically significant properties, structures, sites, or districts as historic landmarks or historic districts based on criteria established in the municipal code, regardless of property owner consent.
- B. Property owners and members of the public shall have the opportunity to provide comments during the designation process at PZHAC determination meetings. However, lack of owner consent shall not preclude designation if the property meets the criteria for historic significance.
- C. Property owners may appeal the designation to the Town Council within 30 days of final notice. PZHAC may uphold or overturn the designation based on evidence presented.
- D. This provision affirms the Town's commitment to preserving its cultural, architectural, and historical resources for the benefit of the community and future generations.

18.33.150 Appeal from historical appropriateness action.

The process for an appeal from a PZHAC historical appropriateness action shall be pursuant to this title. [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.100]

18.33.160 Enforcement.

Responsibility for enforcement shall be pursuant to the Mesilla Town Code. All work performed pursuant to a certificate of historical appropriateness shall conform to the provisions of such certificate. It shall be the responsibility of the town staff to inspect from time to time work being performed to assure such compliance. In the event work is being performed that is not in accordance with such certificate, the town may issue a stop work

order. In the event work is being performed without the required certificate of historical appropriateness, the town may issue a stop work order. The PZHAC or its representative shall meet with the owner or tenant to resolve the problem. When necessary, the town attorney may seek an injunction and any other appropriate relief in order that the intent of this chapter shall be carried out. [Ord. 2011-03; Ord. 2008-02 § 1. Formerly 18.33.110]

New Mexico Statutes Annotated
Chapter 3: Municipalities
Article 22: Historic Districts and Landmarks

3-22-1. Historic District and Landmark Act; short title.

Chapter [3](#), Article [22](#) NMSA 1978 may be cited as the "Historic District and Landmark Act."

History: 1953 Comp., § 14-21-1, enacted by Laws 1965, ch. 300; 1983, ch. 178, § 1.

ANNOTATIONS

Law reviews. — For note, "County Regulation of Land Use and Development," see 9 Nat. Resources J. 266 (1969).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 83 Am. Jur. 2d Zoning and Planning § 77.

Applicability of zoning regulations to governmental projects or activities, 53 A.L.R.5th 1.

101A C.J.S. Zoning and Land Planning § 48.

3-22-1.1. Definition.

As used in the Historic District and Landmark Act, "landmark" means a structure or site of historical interest.

History: 1978 Comp., § 3-22-1.1, enacted by Laws 1983, ch. 178, § 2.

3-22-2. Purpose.

The legislature of the state of New Mexico hereby declares that the historical heritage of this state is among its most valued and important assets and that it is the intention of the Historic District and Landmark Act to empower the counties and municipalities of this state with as full and complete powers to preserve, protect and enhance the historic areas and landmarks lying within their respective jurisdictions as it is possible for this legislature to permit under the constitution of the United States and the constitution of New Mexico and subject to the specific duties and responsibilities respecting historical matters already granted or to be granted under other statutes of this state.

History: 1953 Comp., § 14-21-2, enacted by Laws 1965, ch. 300; 1983, ch. 178, § 3.

ANNOTATIONS

City's power to zone state property must be delegated to the city by a state statute; and, as statutes granting power to cities are strictly construed, any fair or reasonable doubt concerning the existence of an asserted power is resolved against the city. *City of Santa Fe v. Armijo*, [1981-NMSC-102](#), [96 N.M. 663](#), [634 P.2d 685](#).

State governmental body is not subject to local zoning regulations or restrictions. *City of Santa Fe v. Armijo*, [1981-NMSC-102](#), [96 N.M. 663](#), [634 P.2d 685](#).

3-22-3. Establishment of historic districts and landmarks by zoning.

Any county or municipality otherwise empowered by law to adopt and enforce zoning ordinances, rules and regulations is hereby empowered to create, as part of the building and zoning regulations and restrictions adopted by it in the manner otherwise provided by law and in accordance with a comprehensive zoning plan, a zoning district designating certain areas as historical areas and landmarks and may, for the purpose of preserving, protecting and enhancing such historical areas and landmarks, adopt and enforce regulations and restrictions within such district relating to the erection, alteration and destruction of those exterior features of buildings and other structures subject to public view from any public street, way or other public place.

History: 1953 Comp., § 14-21-3, enacted by Laws 1965, ch. 300; 1983, ch. 178, § 4.

ANNOTATIONS

Law reviews. — For note, "County Regulation of Land Use and Development," see 9 Nat. Resources J. 266 (1969).

Am. Jur. 2d, A.L.R. and C.J.S. references. — Validity and construction of statute or ordinance protecting historical landmarks, 18 A.L.R.4th 990.

3-22-4. Historic areas and landmarks; authorization to expend funds, to enter [into] agreements and, where necessary, exercise power of eminent domain.

Any county or municipality is hereby empowered to expend public funds for any purposes connected with the preservation, protection or enhancement of historical areas and landmarks, areas related to historical areas or areas otherwise of special architectural or visual interest, including but not limited to the purchase of any or all of such areas and landmarks, if necessary, through the use of eminent domain in the manner provided by law for the acquisition of property for a public purpose, which acquisition is hereby declared to be:

- A. the leasing or acquisition of any other title or interest in the same by negotiation or, if necessary, through the use of eminent domain in the manner provided by law, including the acquisition of easements in and related to such areas and landmarks which will permit the county or municipality to control development of the same in a manner consistent with the purposes of the Historic District and Landmark Act;
- B. the entering into any reasonable agreement with private persons to promote the objectives of this section; or the enactment of appropriate ordinances or resolutions under which the county or municipality, as the case may be,

may be given prior right to acquire any interest in property in such areas and landmarks as over any private person offering an equal price for the same interest or any other similar measures as may be consistent with the purposes of the Historic District and Landmark Act.

History: 1953 Comp., § 14-21-4, enacted by Laws 1965, ch. 300; 1983, ch. 178, § 5.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Am. Jur. 2d, A.L.R. and C.J.S. references. — Validity and construction of statute or ordinance protecting historical landmarks, 18 A.L.R.4th 990.

Application and construction of § 106 of the National Historic Preservation Act of 1966 (16 USCS § 470f), dealing with federally sponsored projects which affect historic properties, 68 A.L.R. Fed. 578.

3-22-5. Historic areas and landmarks; construction of this act.

Nothing in the Historic District and Landmark Act shall be construed to limit any existing inherent, statutory or other powers under which any county or municipality has enacted appropriate measures regarding historic areas and landmarks.

History: 1953 Comp., § 14-21-5, enacted by Laws 1965, ch. 300; 1983, ch. 178, § 6.

3-22-6. Applicability to construction or renovation of state buildings; limitation.

- A. Recognizing the fragility of the state's historic heritage, the purpose of this section is to establish a procedure under which the state and its municipalities and counties will commit to collaborate in good faith and work jointly to preserve and protect the historic districts of New Mexico.
- B. Ordinances enacted by a municipality or county pursuant to the Historic District and Landmark Act shall apply to any construction or renovation of a state building only as provided in this section and only if the ordinances contain special provisions and standards applicable to state buildings, including provisions concerning the design, construction, alteration or demolition of the exterior features of state buildings. If requested by a resolution of the governing body of a municipality or county, the staff of the capitol buildings planning commission shall work jointly with the staff of the municipality or county in developing the provisions and standards required by this subsection.
- C. The applicable state agency shall carry out the construction or renovation of a state building in a manner that is harmonious and generally compatible with the municipal or county ordinances.
- D. Before commencing the design phase of the construction or renovation of a state building, the applicable state agency shall consult with the municipality or county as to the design standards in the ordinances and how those design standards would impact costs and the operation or manner in which the construction or renovation of a state building will ultimately be expected to function; provided that, if the municipality or county has an agency or other entity review projects within the area zoned as a historic district or landmark, then the consultation shall be with that review agency or other entity. The state agency shall work collaboratively with the municipality or county or its review agency or other entity to arrive at compatibility with the design standards, considering reasonable costs and preserving essential functionality. If the municipality or county has identifiable community groups involved in historic preservation, the agency shall also make every reasonable effort to obtain input from members of those identified groups before commencing the design phase.
- E. After the design phase and before soliciting a bid or a proposal for design-build or lease-purchase for the construction or renovation of a state building, the applicable state agency shall transmit its plans for review and comment to the municipality or county or its review agency or other entity and shall also conduct a public meeting to receive public input. Notice of the public meeting shall also be given to any identifiable community groups involved in historic preservation in the municipality or county.
- F. Within sixty days after the public meeting, the municipality or county or its review agency or other entity, any identifiable historic preservation community group and any other interested party shall communicate recommendations and comments in writing to the state agency. The state agency shall consult with the municipality or county or its review agency or other entity to resolve any issues raised. If, at the end of the sixty-day period, unresolved issues remain, the municipality or county may, within five days after the end of the period, notify the applicable state agency that the issues remain unresolved and should be finally determined pursuant to Subsection G of this section; provided that, if notice is not timely given, the applicable state agency may, after incorporating those provisions to which the state agency and the municipality or county have agreed, proceed with the construction or renovation of a state building.
- G. If notice is timely given by a municipality or county, pursuant to Subsection F of this section, that issues remain unresolved, those issues shall be decided pursuant to the following provisions:

- (1) within five days after the notice, a state-local government historic review board shall be formed, consisting of eight members as follows:
 - (a) one member appointed by the capitol buildings planning commission, who shall chair the board and who shall vote only if there is a tie among the other board members present;
 - (b) one member appointed by the cultural properties review committee;
 - (c) the state historic preservation officer or a designee of the officer;
 - (d) one member appointed by the agency or other entity that reviews projects within the area zoned as a historic district or landmark; provided that, if the municipality or county has no such agency or other entity, the member shall be appointed by the governing body of the municipality or county;
 - (e) one member appointed by the agency or entity of the municipality or county that is concerned with historic preservation; provided that, if the municipality or county has no such agency or other entity, the member shall be appointed by the governing body of the municipality or county; and
 - (f) three public members who have a demonstrated interest in historic preservation appointed as follows: 1) one member appointed by the secretary of general services; 2) one member appointed by the governing body of the municipality or county; and 3) one public member appointed by the other two public members;
- (2) the staff of the capitol buildings planning commission shall serve as the staff of the state-local government historic review board; and
- (3) the state-local government historic review board shall, at a public meeting, consider each of the unresolved issues and, within twenty days of its formation shall, for each issue, make a final decision that is harmonious and generally compatible with the municipal or county ordinance.

H. Appeals from the decisions of the state-local government historic review board shall be taken to the district court in the manner provided in Section [39-3-1.1](#) NMSA 1978.

I. The state agency shall not take any irrevocable action on the construction or renovation of a state building in reliance on the plans until the procedures set forth in Subsections F and G of this section have been followed.

J. As used in this section:

- (1) "construction or renovation" applies only to the exterior envelope of a state building, regardless of the source of funds for the project; and
- (2) "state building" means an affixed structure with walls and a roof designed for enclosure or shelter that is owned or leased by the state or located on land owned by the state or held in trust by the state; provided that any lessee of lands held in trust by the state pursuant to the Enabling Act shall be subject to the state agency obligations.

History: [Laws 2009, ch. 23, § 1](#); [2019, ch. 93, § 1](#).

ANNOTATIONS

The 2019 amendment, effective July 1, 2019, provided procedures for the application of the Historic District and Landmark Act to any construction or renovation of a state building, and defined "construction" and "state building" for purposes of this section; in the section heading, deleted "state capital outlay projects" and added "construction or renovation of state buildings"; in Subsection B, after "shall apply to", deleted "a state capital outlay project" and added "any construction or renovation of a state building"; in Subsection C, after "shall carry out", deleted "a capital outlay project" and added "the construction or renovation of a state building"; in Subsection D, after "design phase of", deleted "a capital outlay project" and added "the construction or renovation of a state building", and after "manner in which the", deleted "capital outlay project" and added "construction or renovation of a state building"; in Subsection E, after "lease-purchase for", deleted "a capital outlay project" and added "the construction or renovation of a state building"; in Subsection F, after "proceed with the", deleted "capital outlay project" and added "construction or renovation of a state building"; in Subsection I, after "irrevocable action on the", deleted "capital project" and added "construction or renovation of a state building"; and added Subsection J.

Applicability. — [Laws 2019, ch. 93, § 2](#) provided that the provisions of this act apply to any new construction or renovation of a state building that commences on or after July 1, 2019; provided that no contract for the design phase for the construction or renovation of the state building has been executed prior to July 1, 2019.



Re: [EXTERNAL] No Consent Provision

From Liana Aguirre <comdev@mesillanm.gov>
Date Tue 3/3/2026 4:33 PM
To McWilliams, Karla, DCA <Karla.McWilliams@dca.nm.gov>

Hello Karla,

Great, this is what I was looking at, thank you for confirming. I hope all is well.

Best,

Liana Aguirre
Community Development-Historic Preservation Specialist



Town of Mesilla
2231 Avenida de Mesilla
PO Box 10
Mesilla, NM 88046
comdev@mesillanm.gov

From: McWilliams, Karla, DCA <Karla.McWilliams@dca.nm.gov>
Sent: Tuesday, March 3, 2026 12:40 PM
To: Liana Aguirre <comdev@mesillanm.gov>
Subject: RE: [EXTERNAL] No Consent Provision

Hi Liana,

I have been out of the office for travel and am catching up with emails.

The Historic District and Landmark Act, NMSA 3-22-1, is the state-enabling legislation that: “empower[s] the counties and municipalities of this state with as full and complete powers to preserve, protect, and enhance the historic areas and landmarks lying within their respective jurisdictions...”.

And:

“Any....municipality otherwise empowered by law to adopt and enforce zoning ordinances, rules and regulations is hereby empowered to create, as part of the building and zoning regulations... a zoning district designating certain areas as historical areas and landmarks and may, for the purpose of preserving, protecting and enhancing such historical areas and landmarks, adopt and enforce regulations and restrictions within such districts relating to the erection, alteration

and destruction of those exterior features of buildings and other structures subject to public view from any public street, way, or other public place.”:

The HDLA is very broad with these statements. Other states, the state-enabling legislation, are more prescriptive and have provisions about owner consent, or set forth other restrictions.

So, to answer your question, there is no language about consent related to municipal designation. It's up to the community itself to make that decision for themselves within their own ordinance, related to local designation. Listing in the National Register, the State Register, and as a National Historic Landmark, are different processes than local designation.

Let me know if you have any questions.

Karla



Karla K. McWilliams

Deputy Director, HPD

Deputy SHPO

Office: 505.827.4451

Cell: 505.470.1198

Email: karla.mcwilliams@dca.nm.gov

[Facebook](#) [YouTube](#)

From: Liana Aguirre <comdev@mesillanm.gov>
Sent: Thursday, February 26, 2026 9:29 AM
To: McWilliams, Karla, DCA <Karla.McWilliams@dca.nm.gov>
Subject: [EXTERNAL] No Consent Provision

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hello Karla!

I hope you are doing well and in good health. I was hoping you could assist me in pinpointing where the No Consent provision is found in law. I am aware there are general mentions in the Districts and landmarks at and it is in the CLG manual, however where else can I direct individuals to refer to this?

I'm also glad that you've received our re-submission, I hope all goes well!

A continuous, thank you, for all your help.

All the Best,

Liana Aguirre
Community Development-Historic Preservation Specialist



Town of Mesilla
2231 Avenida de Mesilla
PO Box 10
Mesilla, NM 88046
comdev@mesillanm.gov

CONTACT WITH HISTORIC PRESERVATION LAWYER FROM
NATIONAL TRUST FOR HISTORIC PRESERVATION



Re: Hello and some advice if possible!

From Christopher Cody <CCody@savingplaces.org>

Date Tue 12/23/2025 9:41 AM

To Liana Aguirre <comdev@mesillanm.gov>

Liana,

Happy to help! It's very common for local designations to occur without owner consent, so I would continue your efforts without worry. If the property owner does pursue a legal challenge, please have your town's attorney reach out to me, I'd be happy to discuss the case with them and provide assistance. We see cases like that all the time, but they're also threatened exponentially more often than actually brought.

Thanks,

Chris

From: Liana Aguirre <comdev@mesillanm.gov>

Sent: Monday, December 22, 2025 7:01 PM

To: Christopher Cody <ccody@savingplaces.org>

Subject: Hello and some advice if possible!

[CAUTION: External Sender. Please do not click on links or open attachments from senders you do not trust.]

Hello Chris,

I hope you are well! My name is Liana Aguirre and we met for a bit at the NM Preservation Conference in Las Vegas, I mentioned I may have some questions for you and you welcomed them (thank you, so here we go!:

I have a bit of an urgent question or at least it feels urgent, but I am going to share the letter I just sent to Karla McWilliams (HPD here in NM):

I have come across an issue and need guidance. There is a historic property that was built in 1890, with a significant history and construction. It is also on a historic farm road. The town itself does not have any designations in the area since the main focus was the plaza and the surrounding buildings. I am trying to expand that and save the old farm homes from an extreme rehabilitation that is wanting to be undertaken. I am in the process of local nomination of this property on 2090 Snow Road, and the owner says he does not care for his property to be nominated. After some occurrences (read below). We have included in our code that owner consent is not needed, and I know he can appeal once the nomination is made, that is understandable however, any advice on the course I can take?

To be transparent, I began the nomination when it was brought to my attention that someone was looking at the property. My supervisor mentioned to the potential buyer that we are looking to put this property on the local historic register and then I began the course of research to complete a nomination form. Where I saw that it was a property that holds high significance. My plans are/were to nominate it on our next meeting January 5th.

The potential buyer asked me to go onsite with she and the contractor to tell them what would be possible, where I told her she would not be able to tear down the entire wall of the adobe barn. I believe she got discouraged and told the realtor she was not interested. In response the realtor mentioned this to the property owner and he finally spoke with my supervisor upset asking what did I say because the potential buyer does not want to buy. Additionally, today we headed out to take photos of the structure/property, where his brother happened to be there and allowed us in and showed us around. However, now the current property owner is adding that we were trespassing and he does not want to be on any historical lists. We/I did not enter the property at any point alone or without permission or someone with me who had the keys or passcode. Now our lawyer is involved.

This is my first encounter with this and I guess what I am looking for is some guidance and confirmation that I should still proceed with the nomination to present to the Planning and Zoning Historical Appropriateness Commission. This building is an important part of the agricultural history and culture of the Town and holds a great deal of significance. This has grown a bit intense and just wondering what the course of action should be. My sole intentions are to preserve this historic structure/property.

End of what I sent to Karla.

The property owner stated that he will get his attorney involved if we continue. I can send you the recording if necessary. Yet I feel like this is the grunt of historical preservation. I have the desire to pursue the property for our own local register, as our code states:

18.33.141 OWNER CONSENT FOR REGISTER DESIGNATION

1. The Town of Mesilla, with approval from the Planning and Zoning Historical Appropriateness Commission, may designate historically significant properties, structures, sites, or districts as historic landmarks or historic districts based on criteria established in the municipal code, regardless of property owner consent.
2. Property owners and members of the public shall have the opportunity to provide comments during the designation process at PZHAC determination meetings. However, lack of owner consent shall not preclude designation if the property meets the criteria for historic significance.
3. Property owners may appeal the designation to the Town Council within 30 days of final notice. PZHAC may uphold or overturn the designation based on evidence presented.
4. This provision affirms the Town's commitment to preserving its cultural, architectural, and historical resources for the benefit of the community and future generations.

I'm just feeling out of sorts and I am unsure. Please advise!!
We are awaiting our approval for CLG (some additional info)

Thank you so very much in advance and for your time. I can certainly use your advice!!

Wishing you a wonderful and safe holiday.

All the best,

Liana Aguirre

Community Development-Historic Preservation Specialist



Town of Mesilla
2231 Avenida de Mesilla
PO Box 10
Mesilla, NM 88046
comdev@mesillanm.gov

The National Historic Preservation Act

**As amended through December 16, 2016
and Codified in Title 54 of the United States Code**

[The National Historic Preservation Act (“Act”) became law on October 15, 1966, Public Law 89-665, and was codified in title 16 of the United States Code. Various amendments followed through the years. On December 19, 2014, Public Law 13-287 moved the Act’s provisions from title 16 of the United States Code to title 54, with minimal and non-substantive changes to the text of the Act and a re-ordering of some of its provisions. This document shows the provisions of the Act as they now appear in title 54 of the United States Code.

The Act’s name (the “National Historic Preservation Act”) is found in the notes of the very first section of title 54. 54 U.S.C. § 100101 note. While Public Law 13-287 did not repeal the Act’s findings, for editorial reasons those findings were not included in the text of title 54. The findings are still current law. However, rather than citing to the U.S. Code, when referring to the findings one may cite to: “Section 1 of the National Historic Preservation Act, Pub. L. No. 89-665, as amended by Pub. L. No. 96-515.” For ease of use, this document reproduces the text of those findings before proceeding to the title 54 text.

Finally, the attachment at the end of this document attempts to assist those preservation stakeholders who for many years have referred to the Act’s various provisions according to the section numbers used in the 1966 public law and subsequent amendments (“old sections”). The attachment cross-references each of the old sections to the corresponding outdated title 16 legal cite and current title 54 legal cite.]

Section 1 of the National Historic Preservation Act, Pub. L. No. 89-665, as amended by Pub. L. No. 96-515:

... (b) The Congress finds and declares that—

- (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
- (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
- (3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
- (4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;
- (5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;
- (6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and
- (7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments

and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Title 54 of the United States Code
Subtitle III—National Preservation Programs
Division A—Historic Preservation

Subdivision 1—General Provisions

Chapter 3001—Policy

Sec.
300101. Policy

54 U.S.C. § 300101. Policy

It is the policy of the Federal Government, in cooperation with other nations and in partnership with States, local governments, Indian tribes, Native Hawaiian organizations, and private organizations and individuals, to—

- (1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic property can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;
- (2) provide leadership in the preservation of the historic property of the United States and of the international community of nations and in the administration of the national preservation program;
- (3) administer federally owned, administered, or controlled historic property in a spirit of stewardship for the inspiration and benefit of present and future generations;
- (4) contribute to the preservation of nonfederally owned historic property and give maximum encouragement to organizations and individuals undertaking preservation by private means;
- (5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and
- (6) assist State and local governments, Indian tribes and Native Hawaiian organizations, and the National Trust to expand and accelerate their historic preservation programs and activities.

Chapter 3003—Definitions

Sec.
300301. Agency.
300302. Certified local government.
300303. Council.
300304. Cultural park.
300305. Historic conservation district.
300306. Historic Preservation Fund.
300307. Historic preservation review commission.
300308. Historic property.
300309. Indian tribe.
300310. Local government.

300311. National Register.
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§ 300301. Agency

In this division, the term “agency” has the meaning given the term in section 551 of title 5.

§ 300302. Certified local government

In this division, the term “certified local government” means a local government whose local historic preservation program is certified pursuant to chapter 3025 of this title.

§ 300303. Council

In this division, the term “Council” means the Advisory Council on Historic Preservation established by section 304101 of this title.

§ 300304. Cultural park

In this division, the term “cultural park” means a definable area that—

- (A) is distinguished by historic property, prehistoric property, and land related to that property; and
- (B) constitutes an interpretive, educational, and recreational resource for the public at large.

§ 300305. Historic conservation district

In this division, the term “historic conservation district” means an area that contains—

- (1) historic property;
- (2) buildings having similar or related architectural characteristics;
- (3) cultural cohesiveness; or
- (4) any combination of features described in paragraphs (1) to (3).

§ 300306. Historic Preservation Fund

In this division, the term “Historic Preservation Fund” means the Historic Preservation Fund established under section 303101 of this title.

§ 300307. Historic preservation review commission

In this division, the term “historic preservation review commission” means a board, council, commission, or other similar collegial body—

(1) that is established by State or local legislation as provided in section 302503(a)(2) of this title; and

(2) the members of which are appointed by the chief elected official of a jurisdiction (unless State or local law provides for appointment by another official) from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines, to the extent that those professionals are available in the community; and

(B) other individuals who have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and will provide for an adequate and qualified commission.

§ 300308. Historic property

In this division, the term “historic property” means any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object.

§ 300309. Indian tribe

In this division, the term “Indian tribe” means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

§ 300310. Local government

In this division, the term “local government” means a city, county, township, municipality, or borough, or any other general purpose political subdivision of any State.

§ 300311. National Register

In this division, the term “National Register” means the National Register of Historic Places maintained under chapter 3021 of this title.

§ 300312. National Trust

In this division, the term “National Trust” means the National Trust for Historic Preservation in the United States established under section 312102 of this title.

§ 300313. Native Hawaiian

In this division, the term “Native Hawaiian” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes Hawaii.

§ 300314. Native Hawaiian organization

(a) IN GENERAL.—In this division, the term “Native Hawaiian organization” means any organization that—

- (1) serves and represents the interests of Native Hawaiians;
- (2) has as a primary and stated purpose the provision of services to Native Hawaiians; and
- (3) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

(b) INCLUSIONS.—In this division, the term “Native Hawaiian organization” includes the Office of Hawaiian Affairs of Hawaii and Hui Malama I Na Kupuna O Hawai’i Nei, an organization incorporated under the laws of the State of Hawaii.

§ 300315. Preservation or historic preservation

In this division, the term “preservation” or “historic preservation” includes—

- (1) identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, and conservation;
- (2) education and training regarding the foregoing activities; or
- (3) any combination of the foregoing activities.

§ 300316. Secretary

In this division, the term “Secretary” means the Secretary acting through the Director.

§ 300317. State

In this division, the term “State” means—

- (1) a State, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands; and
- (2) the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

§ 300318. State historic preservation review board

In this division, the term “State historic preservation review board” means a board, council, commission, or other similar collegial body established as provided in section 302301(2) of this title—

- (1) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law);
- (2) a majority of the members of which are professionals qualified in history, prehistoric and historic archeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, landscape architecture, and related disciplines; and

(3) that has the authority to—

- (A) review National Register nominations and appeals from nominations;
- (B) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;
- (C) provide general advice and guidance to the State Historic Preservation Officer; and
- (D) perform such other duties as may be appropriate.

§ 300319. Tribal land

In this division, the term “tribal land” means—

- (1) all land within the exterior boundaries of any Indian reservation; and
- (2) all dependent Indian communities.

§ 300320. Undertaking

In this division, the term “undertaking” means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

- (1) those carried out by or on behalf of the Federal agency;
- (2) those carried out with Federal financial assistance;
- (3) those requiring a Federal permit, license, or approval; and
- (4) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

§ 300321. World Heritage Convention

In this division, the term “World Heritage Convention” means the Convention concerning the Protection of the World Cultural and Natural Heritage, done at Paris November 23, 1972 (27 UST 37).

Subdivision 2—Historic Preservation Program

Chapter 3021—National Register of Historic Places

Sec.

302101. Maintenance by Secretary.

302102. Inclusion of properties on National Register.

302103. Criteria and regulations relating to National Register, National Historic Landmarks, and World Heritage List.

302104. Nominations for inclusion on National Register.

302105. Owner participation in nomination process.

302106. Retention of name.

302107. Regulations.

302108. Review of threats to historic property.

§ 302101. Maintenance by Secretary

The Secretary may expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

§ 302102. Inclusion of properties on National Register

(a) IN GENERAL.—A property that meets the criteria for National Historic Landmarks established pursuant to section 302103 of this title shall be designated as a National Historic Landmark and included on the National Register, subject to the requirements of section 302107 of this title.

(b) HISTORIC PROPERTY ON NATIONAL REGISTER ON DECEMBER 12, 1980.—All historic property included on the National Register on December 12, 1980, shall be deemed to be included on the National Register as of their initial listing for purposes of this division.

(c) HISTORIC PROPERTY LISTED IN FEDERAL REGISTER OF FEBRUARY 6, 1979, OR PRIOR TO DECEMBER 12, 1980, AS NATIONAL HISTORIC LANDMARKS.—All historic property listed in the Federal Register of February 6, 1979, or prior to December 12, 1980, as National Historic Landmarks are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing in the Federal Register for purposes of this division and chapter 3201 of this title, except that in the case of a National Historic Landmark district for which no boundaries had been established as of December 12, 1980, boundaries shall first be published in the Federal Register.

§ 302103. Criteria and regulations relating to National Register, National Historic Landmarks, and World Heritage List

The Secretary, in consultation with national historical and archeological associations, shall —

(1) establish criteria for properties to be included on the National Register and criteria for National Historic Landmarks; and

(2) promulgate regulations for—

(A) nominating properties for inclusion on, and removal from, the National Register and the recommendation of properties by certified local governments;

(B) designating properties as National Historic Landmarks and removing that designation;

(C) considering appeals from recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(D) nominating historic property for inclusion in the World Heritage List in accordance with the World Heritage Convention;

(E) making determinations of eligibility of properties for inclusion on the National Register; and

(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National

Register, for designation as a National Historic Landmark, or for nomination to the World Heritage List.

§ 302104. Nominations for inclusion on National Register

(a) NOMINATION BY STATE.—Subject to the requirements of section 302107 of this title, any State that is carrying out a program approved under chapter 3023 shall nominate to the Secretary property that meets the criteria promulgated under section 302103 of this title for inclusion on the National Register. Subject to section 302107 of this title, any property nominated under this subsection or under section 306102 of this title shall be included on the National Register on the date that is 45 days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves the nomination within the 45-day period or unless an appeal is filed under subsection (c).

(b) NOMINATION BY PERSON OR LOCAL GOVERNMENT.—Subject to the requirements of section 302107 of this title, the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if the property is located in a State where there is no program approved under chapter 3023 of this title. The Secretary may include on the National Register any property for which such a nomination is made if the Secretary determines that the property is eligible in accordance with the regulations promulgated under section 302103 of this title. The determination shall be made within 90 days from the date of the nomination unless the nomination is appealed under subsection (c).

(c) NOMINATION BY FEDERAL AGENCY.—Subject to the requirements of section 302107 of this title, the regulations promulgated under section 302103 of this title, and appeal under subsection (d) of this section, the Secretary may accept a nomination directly by a Federal agency for inclusion of property on the National Register only if—

(1) completed nominations are sent to the State Historic Preservation Officer for review and comment regarding the adequacy of the nomination, the significance of the property and its eligibility for the National Register;

(2) within 45 days of receiving the completed nomination, the State Historic Preservation Officer has made a recommendation regarding the nomination to the Federal Preservation Officer, except that failure to meet this deadline shall constitute a recommendation to not support the nomination;

(3) the chief elected officials of the county (or equivalent governmental unit) and municipal political jurisdiction in which the property is located are notified and given 45 days in which to comment;

(4) the Federal Preservation Officer forwards it to the Keeper of the National Register of Historic Places after determining that all procedural requirements have been met, including those in paragraphs (1) through (3) above; the nomination is adequately documented; the nomination is technically and professionally correct and sufficient; and may include an opinion as to whether the property meets the National Register criteria for evaluation;

(5) notice is provided in the Federal Register that the nominated property is being considered for listing on the National Register that includes any comments and the recommendation of the State Historic Preservation Officer and a declaration whether the State Historic Preservation Officer has responded within the 45 day-period of review provided in paragraph (2); and

(6) the Secretary addresses in the Federal Register any comments from the State Historic Preservation Officer that do not support the nomination of the property on the National Register before the property is included in the National Register.

(d) APPEAL.—Any person or local government may appeal to the Secretary—

(1) a nomination of any property for inclusion on the National Register; and

(2) the failure of a nominating authority to nominate a property in accordance with this chapter.

§ 302105. Owner participation in nomination process

(a) REGULATIONS.—The Secretary shall promulgate regulations requiring that before any property may be included on the National Register or designated as a National Historic Landmark, the owner of the property, or a majority of the owners of the individual properties within a district in the case of a historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property for inclusion or designation. The regulations shall include provisions to carry out this section in the case of multiple ownership of a single property.

(b) WHEN PROPERTY SHALL NOT BE INCLUDED ON NATIONAL REGISTER OR DESIGNATED AS NATIONAL HISTORIC LANDMARK.—If the owner of any privately owned property, or a majority of the owners of privately owned properties within the district in the case of a historic district, object to inclusion or designation, the property shall not be included on the National Register or designated as a National Historic Landmark until the objection is withdrawn.

(c) REVIEW BY SECRETARY.—The Secretary shall review the nomination of the property when an objection has been made and shall determine whether or not the property is eligible for inclusion or designation. If the Secretary determines that the property is eligible for inclusion or designation, the Secretary shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official, and the owner or owners of the property of the Secretary's determination.

§ 302106. Retention of name

Notwithstanding section 43(c) of the Act of July 5, 1946 (known as the Trademark Act of 1946) (15 U.S.C. 1125(c)), buildings and structures on or eligible for inclusion on the National Register (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.

§ 302107. Regulations

The Secretary shall promulgate regulations—

(1) ensuring that significant prehistoric and historic artifacts, and associated records, subject to subchapter I of chapter 3061, chapter 3125, or the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) are deposited in an institution with adequate long-term curatorial capabilities;

(2) establishing a uniform process and standards for documenting historic property by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records in the Library of Congress; and

(3) certifying local governments, in accordance with sections 302502 and 302503 of this title, and for the transfer of funds pursuant to section 302902(c)(4) of this title.

§ 302108. Review of threats to historic property

At least once every 4 years, the Secretary, in consultation with the Council and with State Historic Preservation Officers, shall review significant threats to historic property to—

- (1) determine the kinds of historic property that may be threatened;
- (2) ascertain the causes of the threats; and
- (3) develop and submit to the President and Congress recommendations for appropriate action.

Chapter 3023—State Historic Preservation Programs

Sec.

302301. Regulations.

302302. Program evaluation.

302303. Responsibilities of State Historic Preservation Officer.

302304. Contracts and cooperative agreements.

§ 302301. Regulations

The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust, shall promulgate regulations for State Historic Preservation Programs. The regulations shall provide that a State program submitted to the Secretary under this chapter shall be approved by the Secretary if the Secretary determines that the program provides for—

- (1) the designation and appointment by the chief elected official of the State of a State Historic Preservation Officer to administer the program in accordance with section 302303 of this title and for the employment or appointment by the officer of such professionally qualified staff as may be necessary for those purposes;
- (2) an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and
- (3) adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

§ 302302. Program evaluation

(a) WHEN EVALUATION SHOULD OCCUR.—Periodically, but not less than every 4 years after the approval of any State program under section 302301 of this title, the Secretary, in consultation with the Council on the appropriate provisions of this division, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this division.

(b) DISAPPROVAL OF PROGRAM.—If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this division, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this division, until the program is consistent with this division, unless the Secretary determines that the program will be made consistent with this division within a reasonable period of time.

(c) OVERSIGHT.—The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.

(d) STATE FISCAL AUDIT AND MANAGEMENT SYSTEM.—

(1) SUBSTITUTION FOR COMPARABLE FEDERAL SYSTEMS.—At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system—

(A) establishes and maintains substantially similar accountability standards; and

(B) provides for independent professional peer review.

(2) FISCAL AUDITS AND REVIEW BY SECRETARY.—The Secretary—

(A) may conduct periodic fiscal audits of State programs approved under this subdivision as needed; and

(B) shall ensure that the programs meet applicable accountability standards.

§ 302303. Responsibilities of State Historic Preservation Officer

(a) IN GENERAL.—It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program.

(b) PARTICULAR RESPONSIBILITIES.—It shall be the responsibility of the State Historic Preservation Officer to—

(1) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic property and maintain inventories of the property;

(2) identify and nominate eligible property to the National Register and otherwise administer applications for listing historic property on the National Register;

(3) prepare and implement a comprehensive statewide historic preservation plan;

(4) administer the State program of Federal assistance for historic preservation within the State;

(5) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

(6) cooperate with the Secretary, the Council, other Federal and State agencies, local governments, and private organizations and individuals to ensure that historic property is taken into consideration at all levels of planning and development;

(7) provide public information, education, and training and technical assistance in historic preservation;

(8) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to chapter 3025;

(9) consult with appropriate Federal agencies in accordance with this division on—

(A) Federal undertakings that may affect historic property; and

(B) the content and sufficiency of any plans developed to protect, manage, or reduce or

mitigate harm to that property; and

(10) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.

§ 302304. Contracts and cooperative agreements

(a) STATE.—A State may carry out all or any part of its responsibilities under this chapter by contract or cooperative agreement with a qualified nonprofit organization or educational institution.

(b) SECRETARY.—

(1) IN GENERAL.—

(A) AUTHORITY TO ASSIST SECRETARY.—Subject to paragraphs (3) and (4), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing the Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State:

- (i) Identification and preservation of historic property.
- (ii) Determination of the eligibility of property for listing on the National Register.
- (iii) Preparation of nominations for inclusion on the National Register.
- (iv) Maintenance of historical and archeological data bases.
- (v) Evaluation of eligibility for Federal preservation incentives.

(B) AUTHORITY TO MAINTAIN NATIONAL REGISTER.— Nothing in subparagraph (A) shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.

(2) REQUIREMENTS.—The Secretary may enter into a contract or cooperative agreement under paragraph (1) only if—

(A) the State Historic Preservation Officer has requested the additional responsibility;

(B) the Secretary has approved the State historic preservation program pursuant to sections 302301 and 302302 of this title;

(C) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that the Officer is fully capable of carrying out the responsibility in that manner;

(D) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to the contract or cooperative agreement; and

(E) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying

out that responsibility.

(3) ESTABLISH CONDITIONS AND CRITERIA.—For each significant program area under the Secretary’s authority, the Secretary shall establish specific conditions and criteria essential for the assumption by a State Historic Preservation Officer of the Secretary’s duties in each of those programs.

(4) PRESERVATION PROGRAMS AND ACTIVITIES NOT DIMINISHED.— Nothing in this chapter shall have the effect of diminishing the preservation programs and activities of the Service.

Chapter 3025—Certification of Local Governments

Sec.

302501. Definitions.

302502. Certification as part of State program.

302503. Requirements for certification.

302504. Participation of certified local governments in National Register nominations.

302505. Eligibility and responsibility of certified local government.

§ 302501. Definitions

In this chapter:

(1) DESIGNATION.—The term “designation” means the identification and registration of property for protection that meets criteria established by a State or locality for significant historic property within the jurisdiction of a local government.

(2) PROTECTION.—The term “protection” means protection by means of a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic property designated pursuant to this chapter.

§ 302502. Certification as part of State program

Any State program approved under this subdivision shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this division and provide for the transfer, in accordance with section 302902(c)(4) of this title, of a portion of the grants received by the States under this division, to those local governments.

§ 302503. Requirements for certification

(a) APPROVED STATE PROGRAM.—Any local government shall be certified to participate under this section if the applicable State Historic Preservation Officer, and the Secretary, certify that the local government—

(1) enforces appropriate State or local legislation for the designation and protection of historic property;

(2) has established an adequate and qualified historic preservation review commission by State or local legislation;

(3) maintains a system for the survey and inventory of historic property that furthers the purposes of chapter 3023;

(4) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(5) satisfactorily performs the responsibilities delegated to it under this division.

(b) NO APPROVED STATE PROGRAM.—Where there is no State program approved under sections 302301 and 302302 of this title, a local government may be certified by the Secretary if the Secretary determines that the local government meets the requirements of subsection (a). The Secretary may make grants to the local government certified under this subsection for purposes of this subdivision.

§ 302504. Participation of certified local governments in National Register nominations

(a) NOTICE.—Before a property within the jurisdiction of a certified local government may be considered by a State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission.

(b) REPORT.—The local historic preservation commission, after reasonable opportunity for public comment, shall prepare a report as to whether the property, in the Commission's opinion, meets the criteria of the National Register. Within 60 days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and the recommendation of the local official to the State Historic Preservation Officer.

(c) RECOMMENDATION.—

(1) PROPERTY NOMINATED TO NATIONAL REGISTER.—Except as provided in paragraph (2), after receipt of the report and recommendation, or if no report and recommendation are received within 60 days, the State shall make the nomination pursuant to section 302104 of this title. The State may expedite the process with the concurrence of the certified local government.

(2) PROPERTY NOT NOMINATED TO NATIONAL REGISTER.—If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless, within 30 days of the receipt of the recommendation by the State Historic Preservation Officer, an appeal is filed with the State. If an appeal is filed, the State shall follow the procedures for making a nomination pursuant to section 302104 of this title. Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

§ 302505. Eligibility and responsibility of certified local government

Any local government—

(1) that is certified under this chapter shall be eligible for funds under section 302902(c)(4) of this title; and

(2) that is certified, or making efforts to become certified, under this chapter shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary considers necessary or advisable.

Chapter 3027—Historic Preservation Programs and Authorities for Indian Tribes and Native Hawaiian Organizations

Sec.

302701. Program to assist Indian tribes in preserving historic property.

302702. Indian tribe to assume functions of State Historic Preservation Officer.

302703. Apportionment of grant funds.

302704. Contracts and cooperative agreements.

302705. Agreement for review under tribal historic preservation regulations.

302706. Eligibility for inclusion on National Register.

§ 302701. Program to assist Indian tribes in preserving historic property

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their historic property.

(b) COMMUNICATION AND COOPERATION.—The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to—

(1) ensure that all types of historic property and all public interests in historic property are given due consideration; and

(2) encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic property.

(c) TRIBAL VALUES.—The program under subsection (a) shall be developed in a manner to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this subdivision to conform to the cultural setting of tribal heritage preservation goals and objectives.

(d) SCOPE OF TRIBAL PROGRAMS.—The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each Indian tribe's chief governing authority.

(e) CONSULTATION.—The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservations Officers, and other interested parties concerning the program under subsection (a).

§ 302702. Indian tribe to assume functions of State Historic Preservation Officer

An Indian tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with sections 302302 and 302303 of this title, with respect to tribal land, as those responsibilities may be modified for tribal programs through regulations issued by the Secretary, if—

(1) the Indian tribe's chief governing authority so requests;

(2) the Indian tribe designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the Indian tribe's chief governing authority or as a tribal ordinance may otherwise provide;

(3) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

(4) the Secretary determines, after consulting with the Indian tribe, the appropriate State Historic Preservation Officer, the Council (if the Indian tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 306108 of this title), and other Indian tribes, if any, whose tribal or aboriginal land may be affected by conduct of the tribal preservation program, that—

(A) the tribal preservation program is fully capable of carrying out the

functions specified in the plan provided under paragraph (3);

(B) the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer; and

(C) the plan provides, with respect to properties neither owned by a member of the Indian tribe nor held in trust by the Secretary for the benefit of the Indian tribe, at the request of the owner of the properties, that the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with sections 302302 and 302303 of this title; and

(5) based on satisfaction of the conditions stated in paragraphs (1), (2), (3), and (4), the Secretary approves the plan.

§ 302703. Apportionment of grant funds

In consultation with interested Indian tribes, other Native American organizations, and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 302902(c)(1)(A) of this title with respect to tribal programs that assume responsibilities under section 302702 of this title.

§ 302704. Contracts and cooperative agreements

At the request of an Indian tribe whose preservation program has been approved to assume functions and responsibilities pursuant to section 302702 of this title, the Secretary shall enter into a contract or cooperative agreement with the Indian tribe permitting the assumption by the Indian tribe of any part of the responsibilities described in section 302304(b) of this title on tribal land, if—

(1) the Secretary and the Indian tribe agree on additional financial assistance, if any, to the Indian tribe for the costs of carrying out those authorities;

(2) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this division; and

(3) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

(A) the Indian tribe's traditional cultural authorities;

(B) representatives of other Indian tribes whose traditional land is under the jurisdiction of the Indian tribe assuming responsibilities; and

(C) the interested public.

§ 302705. Agreement for review under tribal historic preservation regulations

The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 306108 of this title, if the Council, after consultation with the Indian tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic property consideration equivalent to that afforded by the Council's regulations.

§ 302706. Eligibility for inclusion on National Register

(a) IN GENERAL.—Property of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

(b) CONSULTATION.—In carrying out its responsibilities under section 306108 of this title, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to property described in subsection (a).

(c) HAWAII.—In carrying out responsibilities under section 302303 of this title, the State Historic Preservation Officer for Hawaii shall—

(1) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate the property to the National Register;

(2) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for the property; and

(3) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate the property to the National Register and to carry out the cultural component of the preservation program or plan.

Chapter 3029—Grants

Sec.

302901. Awarding of grants and availability of grant funds.

302902. Grants to States.

302903. Grants to National Trust.

302904. Direct grants for the preservation of properties included on National Register. 302905.

Religious property.

302906. Grants and loans to Indian tribes and nonprofit organizations representing ethnic or minority groups.

302907. Grants to Indian tribes and Native Hawaiian organizations.

302908. Grants to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

302909. Prohibited use of grant amounts.

302910. Recordkeeping.

§ 302901. Awarding of grants and availability of grant funds

(a) IN GENERAL.—No grant may be made under this division unless application for the grant is submitted to the Secretary in accordance with regulations and procedures prescribed by the Secretary.

(b) GRANT NOT TREATED AS TAXABLE INCOME.—No grant made pursuant to this division shall be treated as taxable income for purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(c) AVAILABILITY.—The Secretary shall make funding available to individual States and the National Trust as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be deemed to be one grant and shall be administered by the Service as one grant.

§ 302902. Grants to States

(a) IN GENERAL.—The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this division.

(b) CONDITIONS.—

(1) IN GENERAL.—No grant may be made under this division—

(A) unless the application is in accordance with the comprehensive statewide historic preservation plan that has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to chapter 2003 of this title;

(B) unless the grantee has agreed to make reports, in such form and containing such information, as the Secretary may from time to time require;

(C) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; or

(D) until the grantee has complied with such further terms and conditions as the Secretary may consider necessary or advisable.

(2) WAIVER.—The Secretary may waive the requirements of subparagraphs (A) and (C) of paragraph (1) for any grant under this division to the National Trust.

(3) AMOUNT LIMITATION.—

(A) IN GENERAL.—No grant may be made under this division for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 302303 of this title in any one fiscal year.

(B) SOURCE OF STATE SHARE OF COSTS.—Except as permitted by other law, the State share of the costs referred to in subparagraph (A) shall be contributed by non-Federal sources.

(4) RESTRICTION ON USE OF REAL PROPERTY TO MEET NONFEDERAL SHARE OF COST OF PROJECT.—No State shall be permitted to utilize the value of real property obtained before October 15, 1966, in meeting the non-Federal share of the cost of a project for which a grant is made under this division.

(c) APPORTIONMENT OF GRANT AMOUNTS.—

(1) BASES FOR APPORTIONMENT.—The amounts appropriated and made available for grants to the States—

(A) for the purposes of this division shall be apportioned among the States by the Secretary on the basis of needs as determined by the Secretary; and

(B) for projects and programs under this division for each fiscal year shall be apportioned among the States as the Secretary determines to be appropriate.

(2) NOTIFICATION.—The Secretary shall notify each State of its apportionment under paragraph (1)(B) within 30 days after the date of enactment of legislation appropriating funds under this division.

(3) REAPPORTIONMENT.—Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which the notification is given or during the 2 fiscal years after that fiscal year shall be reapportioned by the Secretary in accordance with paragraph (1)(B). The Secretary shall analyze and revise as necessary the method of apportionment. The method and any revision shall be published by the Secretary in the Federal Register.

(4) TRANSFER OF FUNDS TO CERTIFIED LOCAL GOVERNMENTS.— Not less than 10 percent of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this division shall be transferred by the State, pursuant to the requirements of this division, to certified local governments for historic preservation projects or programs of the certified local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, 50 percent of the excess shall also be transferred by the States to certified local governments.

(5) GUIDELINES FOR USE AND DISTRIBUTION OF FUNDS TO CERTIFIED LOCAL GOVERNMENTS.— The Secretary shall establish guidelines for the use and distribution of funds under paragraph (4) to ensure that no certified local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single certified local government. The guidelines shall not limit the ability of any State to distribute more than 10 percent of its annual apportionment under paragraph (4), nor shall the Secretary require any State to exceed the 10 percent minimum distribution to certified local governments.

(d) ADMINISTRATIVE COSTS.—The total direct and indirect administrative costs charged for carrying out State projects and programs shall not exceed 25 percent of the aggregate costs (except in the case of a grant to the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau).

§ 302903. Grants to National Trust

(a) SECRETARY OF THE INTERIOR.—The Secretary may administer grants to the National Trust consistent with the purposes of its charter and this division.

(b) SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—The Secretary of Housing and Urban Development may make grants to the National Trust, on terms and conditions and in amounts (not exceeding \$90,000 with respect to any one structure) as the Secretary of Housing and Urban Development considers appropriate, to cover the costs incurred by the National Trust in renovating or restoring structures that the National Trust considers to be of historic or architectural value and that the National Trust has accepted and will maintain (after the renovation or restoration) for historic purposes.

§ 302904. Direct grants for the preservation of properties included on National Register

(a) ADMINISTRATION OF PROGRAM.—The Secretary shall administer a program of direct grants for the preservation of properties included on the National Register.

(b) AVAILABLE AMOUNT.—Funds to support the program annually shall not exceed 10 percent of the amount appropriated annually for the Historic Preservation Fund.

(c) USES OF GRANTS.—

(1) IN GENERAL.—Grants under this section may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—

(A) for the preservation of—

(i) National Historic Landmarks that are threatened with demolition or impairment; and

(ii) historic property of World Heritage significance;

(B) for demonstration projects that will provide information concerning professional methods and techniques having application to historic property;

(C) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and

(D) to assist individuals or small businesses within any historic district included on the National Register to remain within the district.

(2) LIMIT ON CERTAIN GRANTS.—A grant may be made under subparagraph (A) or (D) of paragraph (1) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 303901 of this title.

§ 302905. Religious property

(a) IN GENERAL.—Grants may be made under this chapter for the preservation, stabilization, restoration, or rehabilitation of religious property listed on the National Register if the purpose of the grant—

(1) is secular;

(2) does not promote religion; and

(3) seeks to protect qualities that are historically significant.

(b) EFFECT OF SECTION.—Nothing in this section shall be construed to authorize the use of any funds made available under this subdivision for the acquisition of any religious property listed on the National Register.

§ 302906. Grants and loans to Indian tribes and nonprofit organizations representing ethnic or minority groups

The Secretary may, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this subdivision to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

§ 302907. Grants to Indian tribes and Native Hawaiian organizations

The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this division as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to an Indian tribe or Native Hawaiian organization may be used as matching funds for the purposes of the Indian tribe's or Native Hawaiian organization's conducting its responsibilities pursuant to this subdivision.

§ 302908. Grants to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau

(a) IN GENERAL.—As part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1901 et seq., 2001 et seq.), and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled “Joint Resolution to approve the ‘Compact of Free Association’ between the United States and Government of Palau, and for other purposes” (48 U.S.C. 1931 et seq.) or any successor enactment.

(b) GOAL OF PROGRAM.—The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each of those nations so that at the termination of the compacts the programs shall be firmly established.

(c) BASIS OF ALLOCATING AMOUNTS.—The amounts to be made available under this subsection shall be allocated by the Secretary on the basis of needs as determined by the Secretary.

(d) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify the requirements of this subdivision to conform to the cultural setting of those nations. Matching funds may be waived or modified.

§ 302909. Prohibited use of grant amounts

No part of any grant made under this subdivision shall be used to compensate any person intervening in any proceeding under this division.

§ 302910. Recordkeeping

A recipient of assistance under this division shall keep—

- (1) such records as the Secretary shall prescribe, including records that fully disclose—
 - (A) the disposition by the recipient of the proceeds of the assistance;
 - (B) the total cost of the project or undertaking in connection with which the assistance is given or used; and
 - (C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and
- (2) such other records as will facilitate an effective audit.

Chapter 3031—Historic Preservation Fund

Sec.

303101. Establishment.

303102. Content.

303103. Use and availability.

§ 303101. Establishment

To carry out this division (except chapter 3041) and chapter 3121, there is established in the Treasury the Historic Preservation Fund.

§ 303102. Funding

For each of fiscal years 2012 to 2023, \$150,000,000 shall be deposited in the Historic Preservation Fund from revenues due and payable to the United States under section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), section 7433(b) of title 10, or both, notwithstanding any provision of law that those proceeds shall be credited to miscellaneous receipts of the Treasury.

§ 303103. Use and availability

Amounts in the Historic Preservation Fund shall be used only to carry out this division and shall be available for expenditure only when appropriated by Congress. Any amount not appropriated shall remain available in the Historic Preservation Fund until appropriated for those purposes. Appropriations made pursuant to this section may be made without fiscal year limitation.

Chapters 3033 Through 3037—Reserved

Chapter 3039—Miscellaneous

Sec.

303901. Loan insurance program for preservation of property included on National Register.

303902. Training in, and dissemination of information concerning, professional methods and techniques for preservation of historic property.

303903. Preservation education and training program.

§ 303901. Loan insurance program for preservation of property included on National Register

(a) ESTABLISHMENT.—The Secretary shall establish and maintain a program by which the Secretary may, on application of a private lender, insure loans (including loans made in accordance with a mortgage) made by the lender to finance any project for the preservation of a property included on the National Register.

(b) LOAN QUALIFICATIONS.—A loan may be insured under this section if—

(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed the amount and rate established by the Secretary by regulation;

(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

(5) the repayment period of the loan does not exceed the lesser of 40 years or the expected life of the asset financed;

(6) the amount insured with respect to the loan does not exceed 90 percent of the loss sustained by the lender with respect to the loan; and

(7) the loan, the borrower, and the historic property to be preserved meet such other terms and conditions as may be prescribed by the Secretary by regulation, especially terms and conditions relating to the nature and quality of the preservation work.

(c) CONSULTATION.—The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

(d) LIMITATION ON AMOUNT OF UNPAID PRINCIPAL BALANCE OF LOANS.—The aggregate unpaid principal balance of loans insured under this section may not exceed the amount that has been deposited in the Historic Preservation Fund but which has not been appropriated for any purpose.

(e) INSURANCE CONTRACTS.—Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(f) CONDITIONS AND METHODS OF PAYMENT AS RESULT OF LOSS.— The Secretary shall specify, by regulation and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

(g) PROTECTION OF FINANCIAL INTERESTS OF FEDERAL GOVERNMENT.— In entering into any contract to insure a loan under this section, the Secretary shall take steps to ensure adequate protection of the financial interests of the Federal Government. The Secretary may—

(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the historic property securing a loan insured under this section; and

(2) operate or lease the historic property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (h).

(h) CONVEYANCE TO GOVERNMENTAL OR NONGOVERNMENTAL ENTITY OF PROPERTY ACQUIRED BY FORECLOSURE.—

(1) ATTEMPT TO CONVEY TO ENSURE PROPERTY'S PRESERVATION AND USE.—In any case in which historic property is obtained pursuant to subsection (g), the Secretary shall attempt to convey the property to any governmental or nongovernmental entity under conditions that will ensure the property's continued preservation and use. If, after a reasonable time, the Secretary, in consultation with the Council, determines that there is no feasible and prudent means to convey the property and to ensure its continued preservation and use, the Secretary may convey the property at the fair market value of its interest in the property to any entity without restriction.

(2) DISPOSITION OF FUNDS.—Any funds obtained by the Secretary in connection with the conveyance of any historic property pursuant to paragraph (1) shall be deposited in the Historic Preservation Fund and shall remain available in the Historic Preservation Fund until appropriated by Congress to carry out this division.

(i) ASSESSMENT OF FEES IN CONNECTION WITH INSURING LOANS.— The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this

section. The fees shall be deposited in the Historic Preservation Fund and shall remain available in the Historic Preservation Fund until appropriated by Congress to carry out this division.

(j) TREATMENT OF LOANS AS NON-FEDERAL FUNDS.—Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned on the use of non-Federal funds by the recipient for payment of any portion of the costs of the project or activity.

(k) INELIGIBILITY OF DEBT OBLIGATION FOR PURCHASE OR COMMITMENT TO PURCHASE BY, OR SALE OR ISSUANCE TO, FEDERAL FINANCING BANK.—No debt obligation that is made or committed to be made, or that is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

§ 303902. Training in, and dissemination of information concerning, professional methods and techniques for preservation of historic property

The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic property and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

§ 303903. Preservation education and training program

The Secretary, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, shall develop and implement a comprehensive preservation education and training program. The program shall include—

- (1) standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;
- (2) preservation training opportunities for other Federal, State, tribal and local government workers, and students;
- (3) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs; and
- (4) where appropriate, coordination with the National Center for Preservation Technology and Training of—
 - (A) distribution of information on preservation technologies;
 - (B) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and
 - (C) support for research, analysis, conservation, curation, interpretation, and display related to preservation.

Subdivision 3—Advisory Council on Historic Preservation

Chapter 3041—Advisory Council on Historic Preservation

Sec.

304101. Establishment;

vacancies.

304102. Duties of Council.

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304104. Compensation of members of Council.

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304107. Transmittal of legislative recommendations, testimony, or comments to any officer or agency of the United States prior to submission to Congress.

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304109. Budget submission.

304110. Report by Secretary to Council.

304111. Reimbursements from State and local agencies.

304112. Effectiveness of Federal grant and assistance programs.

§ 304101. Establishment; vacancies

(a) ESTABLISHMENT.— There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation, which shall be composed of the following members:

- (1) A Chairman appointed by the President selected from the general public.
- (2) The Secretary.
- (3) The Architect of the Capitol.
- (4) The Secretary of Agriculture and the heads of 7 other agencies of the United States (other than the Department of the Interior), the activities of which affect historic preservation, designated by the President.
- (5) One Governor appointed by the President.
- (6) One mayor appointed by the President.
- (7) The President of the National Conference of State Historic Preservation Officers.
- (8) The General Chairman of the National Association of Tribal Historic Preservation Officers.
- (9) The Chairman of the National Trust.
- (10) Four experts in the field of historic preservation appointed by the President from architecture, history, archeology, and other appropriate disciplines.
- (11) Three members from the general public, appointed by the President.
- (12) One member of an Indian tribe or Native Hawaiian organization who represents the interests of the Indian tribe or Native Hawaiian organization of which he or she is a member, appointed by the President.

(b) DESIGNATION OF SUBSTITUTES.—Each member of the Council specified in paragraphs (2) to (5) and (7) through (9) of subsection (a) may designate another officer of the department, agency, or

organization to serve on the Council instead of the member, except that, in the case of paragraphs (2) and (4), no officer other than an Assistant Secretary or an officer having major department wide or agency-wide responsibilities may be designated.

(c) TERM OF OFFICE.—Each member of the Council appointed under paragraphs (10) through (12) of subsection (a) shall serve for a term of 4 years from the expiration of the term of the member's predecessor. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of 4 years. An appointed member, other than the Chairman of the Council, may not serve more than 2 terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

(d) VACANCIES.—A vacancy in the Council shall not affect its powers, but shall be filled, not later than 60 days after the vacancy commences, in the same manner as the original appointment (and for the balance of the unexpired term).

(e) CHAIRMAN.—

(1) After January 20, 2017, the Chairman shall—

(A) be appointed by the President, by and with the advice and consent of the Senate;

(B) serve at the will of the President;

(C) serve full time; and

(D) be compensated at the rate provided for Level V of the Executive Schedule Pay Rates under section 5316 of title 5.

(2) The Chairman shall serve for a term of 4 years and may be reappointed once, for a total of not more than 8 years of service as Chairman, except that a Chairman whose appointment has expired under this paragraph shall serve until his or her successor has been appointed. The term of a Chairman shall start (regardless of actual appointment date) on January 20 after each general Presidential election. The first Chairman appointed after the date of enactment of this paragraph shall have a first term commencing on January 20, 2017, and ending on January 19, 2021.

(3) The Chairmen before the first appointment of a Chairman in accordance with paragraph (1) of this subsection shall receive \$100 per diem when engaged in the performance of the duties of the Council, and shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

(f) DESIGNATION OF VICE CHAIRMAN.—The President shall designate a Vice Chairman from the members appointed under paragraph (5), (6), (10), or (11) of subsection (a). The Vice Chairman shall perform the functions of the Chairman during the absence or disability of the Chairman or when the office is vacant.

(g) QUORUM.—Thirteen members of the Council shall constitute a quorum.

§ 304102. Duties of Council

(a) DUTIES.—The Council shall—

(1) advise the President and Congress on matters relating to historic preservation, recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation, and advise on the dissemination of information pertaining to those activities;

(2) encourage, in cooperation with the National Trust and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as—

(A) the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments; and

(B) the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;

(6) review the policies and programs of Federal agencies and recommend to Federal agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this division; and

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

(b) ANNUAL REPORT.—The Council annually shall submit to the President a comprehensive report of its activities and the results of its studies and shall from time to time submit additional and special reports as it deems advisable. Each report shall propose legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out this division.

§ 304103. Cooperation between Council and instrumentalities of executive branch of Federal Government

The Council may secure directly from any Federal agency information, suggestions, estimates, and statistics for the purpose of this chapter. Each Federal agency may furnish information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

§ 304104. Compensation of members of Council

The members of the Council specified in paragraphs (2), (3), and (4) of section 304101(a) of this title shall serve without additional compensation. The Chairman of the Council shall be compensated as provided in subsection (e) of section 304101. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

§ 304105. Administration

(a) EXECUTIVE DIRECTOR.—There shall be an Executive Director of the Council who shall be appointed by the Chairman with the concurrence of the Council in the competitive service at a rate within the General Schedule, in the competitive service at a rate that may exceed the rate prescribed for the highest rate established for grade 15 of the General Schedule under section 5332 of title 5, or in the

Senior Executive Service under section 3393 of title 5. The Executive Director shall report directly to the Chairman and perform such functions and duties as the Chairman may prescribe.

(b) GENERAL COUNSEL AND APPOINTMENT OF OTHER ATTORNEYS.—

(1) GENERAL COUNSEL.—The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor.

(2) APPOINTMENT OF OTHER ATTORNEYS.—The Executive Director shall appoint other attorneys as may be necessary to—

(A) assist the General Counsel;

(B) represent the Council in court when appropriate, including enforcement of agreements with Federal agencies to which the Council is a party;

(C) assist the Department of Justice in handling litigation concerning the Council in court; and

(D) perform such other legal duties and functions as the Executive Director and the Council may direct.

(c) APPOINTMENT AND COMPENSATION OF OFFICERS AND EMPLOYEES.—The Executive Director of the Council may appoint and fix the compensation of officers and employees in the competitive service who are necessary to perform the functions of the Council at rates not to exceed that prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5. The Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed 5 employees in the competitive service at rates that exceed that prescribed for the highest rate established for grade 15 of the General Schedule under section 5332 of title 5 or in the Senior Executive Service under section 3393 of title 5.

(d) APPOINTMENT AND COMPENSATION OF ADDITIONAL PERSONNEL.— The Executive Director may appoint and fix the compensation of such additional personnel as may be necessary to carry out the Council's duties, without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5.

(e) EXPERT AND CONSULTANT SERVICES.—The Executive Director may procure expert and consultant services in accordance with section 3109 of title 5.

(f) FINANCIAL AND ADMINISTRATIVE SERVICES.—

(1) SERVICES TO BE PROVIDED BY SECRETARY, AGENCY, OR PRIVATE ENTITY.—Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Secretary or, at the discretion of the Council, another agency or private entity that reaches an agreement with the Council, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed on by the Chairman of the Council and the head of the agency or the authorized representative of the private entity that will provide the services.

(2) FEDERAL AGENCY REGULATIONS RELATING TO COLLECTION APPLY.—When a Federal agency affords those services, the regulations of that agency under section 5514(b) of title 5 for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of

that agency under sections 1513(d) and 1514 of title 31 for the administrative control of funds shall apply to appropriations of the Council. The Council shall not be required to prescribe those regulations.

(g) FUNDS, PERSONNEL, FACILITIES, AND SERVICES.—

(1) PROVIDED BY FEDERAL AGENCY.—Any Federal agency may provide the Council, with or without reimbursement as may be agreed on by the Chairman and the agency, with such funds, personnel, facilities, and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that the funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection shall be obligated by the end of the fiscal year following the fiscal year in which the funds are received by the Council.

(2) OBTAINING ADDITIONAL PROPERTY, FACILITIES, AND SERVICES AND RECEIVING DONATIONS OF MONEY.—To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise additional property, facilities, and services as may be needed to carry out its duties and may receive donations of money for that purpose. The Executive Director may accept, hold, use, expend, and administer the property, facilities, services, and money for the purposes of this division.

(h) RIGHTS, BENEFITS, AND PRIVILEGES OF TRANSFERRED EMPLOYEES.—Any employee in the competitive service of the United States transferred to the Council under section 207 of the National Historic Preservation Act (Public Law 89–665) retains all the rights, benefits, and privileges pertaining to the competitive service held prior to the transfer.

(i) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Council is exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(j) PROVISIONS THAT GOVERN OPERATIONS OF COUNCIL.—Subchapter II of chapter 5 and chapter 7 of title 5 shall govern the operations of the Council.

§ 304106. International Centre for the Study of the Preservation and Restoration of Cultural Property

(a) AUTHORIZATION OF PARTICIPATION.—The participation of the United States as a member in the International Centre for the Study of the Preservation and Restoration of Cultural Property is authorized.

(b) OFFICIAL DELEGATION.—The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation that will participate in the activities of the international Centre for the Study of the Preservation and Restoration of Cultural Property on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to the Secretary of State by the Council.

§ 304107. Transmittal of legislative recommendations, testimony, or comments to any officer or agency of the United States prior to submission to Congress

No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of the recommendations, testimony, or comments to Congress. When the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of the actions in its legislative recommendations, testimony, or comments on legislation that it transmits to Congress.

§ 304108. Regulations, procedures, and guidelines

(a) IN GENERAL.—The Council may promulgate regulations as it considers necessary to govern the implementation of section 306108 of this title in its entirety.

(b) PARTICIPATION BY LOCAL GOVERNMENTS.—The Council shall by regulation establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 306108 of this title that affect the local governments.

(c) EXEMPTION FOR FEDERAL PROGRAMS OR UNDERTAKINGS.—The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this division when the exemption is determined to be consistent with the purposes of this division, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic property.

§ 304109. Budget submission

(a) TIME AND MANNER OF SUBMISSION.—The Council shall submit its budget annually as a related agency of the Department of the Interior.

(b) TRANSMITTAL OF COPIES TO CONGRESSIONAL COMMITTEES.— Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the Committee on Natural Resources and Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate.

§ 304110. Report by Secretary to Council

To assist the Council in discharging its responsibilities under this division, the Secretary at the request of the Chairman shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

§ 304111. Reimbursements from State and local agencies

Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of this division.

§ 304112. Effectiveness of Federal grant and assistance programs

(a) COOPERATIVE AGREEMENTS.—The Council may enter into a cooperative agreement with any Federal agency that administers a grant or assistance program for the purpose of improving the effectiveness of the administration of the program in meeting the purposes and policies of this division. The cooperative agreement may include provisions that modify the selection criteria for a grant or assistance program to further the purposes of this division or that allow the Council to participate in the selection of recipients, if those provisions are not inconsistent with the grant or assistance program's statutory authorization and purpose.

(b) REVIEW OF GRANT AND ASSISTANCE PROGRAMS.—The Council may—

(1) review the operation of any Federal grant or assistance program to evaluate the effectiveness of the program in meeting the purposes and policies of this division;

(2) make recommendations to the head of any Federal agency that administers the program to further the consistency of the program with the purposes and policies of this division and to improve its effectiveness in carrying out those purposes and policies; and

(3) make recommendations to the President and Congress regarding the effectiveness of Federal grant and assistance programs in meeting the purposes and policies of this division, including recommendations with regard to appropriate funding levels.

Subdivision 4—Other Organizations and Programs

Chapter 3051—Historic Light Station Preservation

Sec.

305101. Definitions.

305102. Duties of Secretary in providing a national historic light station program.

305103. Selection of eligible entity and conveyance of historic light stations.

305104. Terms of conveyance.

305105. Description of property.

305106. Historic light station sales.

§ 305101. Definitions

In this chapter:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of General Services.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) any department or agency of the Federal Government; or

(B) any department or agency of the State in which a historic light station is located, the local government of the community in which a historic light station is located, a nonprofit corporation, an educational agency, or a community development organization that—

(i) has agreed to comply with the conditions set forth in section 305104 of this title and to have the conditions recorded with the deed of title to the historic light station; and

(ii) is financially able to maintain the historic light station in accordance with the conditions set forth in section 305104 of this title.

(3) FEDERAL AID TO NAVIGATION.—

(A) IN GENERAL.—The term “Federal aid to navigation” means any device, operated and maintained by the United States, external to a vessel or aircraft, intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation.

(B) INCLUSIONS.—The term “Federal aid to navigation” includes a light, lens, lantern, antenna, sound signal, camera, sensor, piece of electronic navigation equipment, power source, or other piece of equipment associated with a device described in subparagraph (A).

(4) HISTORIC LIGHT STATION.—The term “historic light station” includes the light tower, lighthouse, keeper’s dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers, walkways, underlying and appurtenant land and related real property and improvements associated with a historic light station that is a historic property.

§ 305102. Duties of Secretary in providing a national historic light station program

To provide a national historic light station program, the Secretary shall—

- (1) collect and disseminate information concerning historic light stations;
- (2) foster educational programs relating to the history, practice, and contribution to society of historic light stations;
- (3) sponsor or conduct research and study into the history of light stations;
- (4) maintain a listing of historic light stations; and
- (5) assess the effectiveness of the program established by this chapter regarding the conveyance of historic light stations.

§ 305103. Selection of eligible entity and conveyance of historic light stations

(a) PROCESS AND POLICIES.—The Secretary and the Administrator shall maintain a process and policies for identifying, and selecting, an eligible entity to which a historic light station could be conveyed for education, park, recreation, cultural, or historic preservation purposes, and to monitor the use of the light station by the eligible entity.

(b) APPLICATION REVIEW.—

(1) IN GENERAL.—The Secretary shall—

(A) review all applications for the conveyance of a historic light station, when the agency with administrative jurisdiction over the historic light station has determined the property to be excess property (as that term is defined in section 102 of title 40); and

(B) forward to the Administrator a single approved application for the conveyance of the historic light station.

(2) CONSULTATION.—When selecting an eligible entity, the Secretary shall consult with the State Historic Preservation Officer of the State in which the historic light station is located.

(c) CONVEYANCE OR SALE OF HISTORIC LIGHT STATIONS.—

(1) CONVEYANCE BY ADMINISTRATOR.—Except as provided in paragraph (2), after the Secretary’s selection of an eligible entity, the Administrator shall convey, by quitclaim deed, without consideration, all right, title, and interest of the United States in and to a historic light station, subject to the conditions set forth in section 305104 of this title. The conveyance of a historic light station under this chapter shall not be subject to the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) or section 416(d) of the Coast Guard Authorization Act of

1998 (Public Law 105–383, 14 U.S.C. 93 note).

(2) HISTORIC LIGHT STATION LOCATED WITHIN A SYSTEM UNIT OR A REFUGE WITHIN NATIONAL WILDLIFE REFUGE SYSTEM.—

(A) APPROVAL OF SECRETARY REQUIRED.—A historic light station located within the exterior boundaries of a System unit or a refuge within the National Wildlife Refuge System shall be conveyed or sold only with the approval of the Secretary.

(B) CONDITIONS OF CONVEYANCE.—If the Secretary approves the conveyance of a historic light station described in subparagraph (A), the conveyance shall be subject to the conditions set forth in section 305104 of this title and any other terms or conditions that the Secretary considers necessary to protect the resources of the System unit or wildlife refuge.

(C) CONDITIONS OF SALE.—If the Secretary approves the sale of a historic light station described in subparagraph (A), the sale shall be subject to the conditions set forth in paragraphs (1) to (4) and (8) of subsection (a), and subsection (b), of section 305104 of this title and any other terms or conditions that the Secretary considers necessary to protect the resources of the System unit or wildlife refuge.

(D) COOPERATIVE AGREEMENTS.—The Secretary is encouraged to enter into cooperative agreements with appropriate eligible entities with respect to historic light stations described in subparagraph (A), as provided in this division, to the extent that the cooperative agreements are consistent with the Secretary's responsibilities to manage and administer the System unit or wildlife refuge.

§ 305104. Terms of conveyance

(a) IN GENERAL.—The conveyance of a historic light station shall be made subject to any conditions, including the reservation of easements and other rights on behalf of the United States, that the Administrator considers necessary to ensure that—

(1) the Federal aids to navigation located at the historic light station in operation on the date of conveyance remain the personal property of the United States and continue to be operated and maintained by the United States for as long as needed for navigational purposes;

(2) there is reserved to the United States the right to remove, replace, or install any Federal aid to navigation located at the historic light station as may be necessary for navigational purposes;

(3) the eligible entity to which the historic light station is conveyed shall not interfere or allow interference in any manner with any Federal aid to navigation or hinder activities required for the operation and maintenance of any Federal aid to navigation without the express written permission of the head of the agency responsible for maintaining the Federal aid to navigation;

(4) (A) the eligible entity to which the historic light station is conveyed shall, at its own cost and expense, use and maintain the historic light station in accordance with this division, the Secretary of the Interior's Standards for the Treatment of Historic Properties contained in part 68 of title 36, Code of Federal Regulations, and other applicable laws; and

(B) any proposed changes to the historic light station shall be reviewed and approved by the Secretary in consultation with the State Historic Preservation Officer of the State in which the historic light station is located, for consistency with section 800.5(a)(2)(vii) of

title 36, Code of Federal Regulations and the Secretary's Standards for Rehabilitation contained in section 67.7 of title 36, Code of Federal Regulations;

(5) the eligible entity to which the historic light station is conveyed shall make the historic light station available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions;

(6) the eligible entity to which the historic light station is conveyed shall not sell, convey, assign, exchange, or encumber the historic light station, any part of the historic light station, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including any lens or lantern, unless the sale, conveyance, assignment, exchange, or encumbrance is approved by the Secretary;

(7) the eligible entity to which the historic light station is conveyed shall not conduct any commercial activity at the historic light station, at any part of the historic light station, or in connection with any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, in any manner, unless the commercial activity is approved by the Secretary; and

(8) the United States shall have the right, at any time, to enter the historic light station without notice, for purposes of operating, maintaining, and inspecting any aid to navigation and for the purpose of ensuring compliance with this section, to the extent that it is not possible to provide advance notice.

(b) MAINTENANCE OF AID TO NAVIGATION.—Any eligible entity to which a historic light station is conveyed shall not be required to maintain any Federal aid to navigation associated with a historic light station, except any private aid to navigation permitted to the eligible entity under section 83 of title 14.

(c) REVERSION.—In addition to any term or condition established pursuant to this section, the conveyance of a historic light station shall include a condition that the historic light station, or any associated historic artifact conveyed to the eligible entity in conjunction with the historic light station conveyance, including any lens or lantern, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if—

(1) the historic light station, any part of the historic light station, or any associated historic artifact ceases to be available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions that shall be set forth in the eligible entity's application;

(2) the historic light station or any part of the historic light station ceases to be maintained in a manner that ensures its present or future use as a site for a Federal aid to navigation;

(3) the historic light station, any part of the historic light station, or any associated historic artifact ceases to be maintained in compliance with this division, the Secretary of the Interior's Standards for the Treatment of Historic Properties contained in part 68 of title 36, Code of Federal Regulations, and other applicable laws;

(4) the eligible entity to which the historic light station is conveyed sells, conveys, assigns, exchanges, or encumbers the historic light station, any part of the historic light fixture, or any associated historic artifact, without approval of the Secretary;

(5) the eligible entity to which the historic light station is conveyed conducts any commercial activity at the historic light station, at any part of the historic light station, or in conjunction with any associated historic artifact, without approval of the Secretary; or

(6) at least 30 days before the reversion, the Administrator provides written notice to the owner that the historic light station or any part of the historic light station is needed for national security purposes.

(d) LIGHT STATIONS ORIGINALLY CONVEYED UNDER OTHER AUTHORITY.—On receiving notice of an executed or intended conveyance by an owner that received from the Federal Government under authority other than this division a historic light station in which the United States retains a reversionary or other interest and that is conveying it to another person by sale, gift, or any other manner, the Secretary shall review the terms of the executed or proposed conveyance to ensure that any new owner is capable of or is complying with any and all conditions of the original conveyance. The Secretary may require the parties to the conveyance and relevant Federal agencies to provide information as is necessary to complete the review. If the Secretary determines that the new owner has not complied or is unable to comply with those conditions, the Secretary shall immediately advise the Administrator, who shall invoke any reversionary interest or take other action as may be necessary to protect the interests of the United States.

§ 305105. Description of property

(a) IN GENERAL.—The Administrator shall prepare the legal description of any historic light station conveyed under this chapter. The Administrator, in consultation with the Secretary of Homeland Security and the Secretary, may retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the historic light station and located at the historic light station at the time of conveyance. Wherever possible, the historical artifacts should be used in interpreting the historic light station. In cases where there is no method for preserving lenses and other artifacts and equipment in situ, priority should be given to preservation or museum entities most closely associated with the historic light station, if they meet loan requirements.

(b) ARTIFACTS.—Artifacts associated with, but not located at, a historic light station at the time of conveyance shall remain the property of the United States under the administrative control of the Secretary of Homeland Security.

(c) COVENANTS.—All conditions placed with the quitclaim deed of title to the historic light station shall be construed as covenants running with the land.

(d) SUBMERGED LAND.—No submerged land shall be conveyed under this chapter.

§ 305106. Historic light station sales

(a) IN GENERAL.—

(1) WHEN SALE MAY OCCUR.—If no applicant is approved for the conveyance of a historic light station pursuant to sections 305101 through 305105 of this title, the historic light station shall be offered for sale.

(2) TERMS OF SALE.—Terms of the sales—

(A) shall be developed by the Administrator; and

(B) shall be consistent with the requirements of paragraphs (1) to (4) and (8) of subsection (a), and subsection (b), of section 305104 of this title.

(3) COVENANTS TO BE INCLUDED IN CONVEYANCE DOCUMENTS.—Conveyance documents shall

include all necessary covenants to protect the historical integrity of the historic light station and ensure that any Federal aid to navigation located at the historic light station is operated and maintained by the United States for as long as needed for that purpose.

(b) NET SALE PROCEEDS.—

(1) DISPOSITION AND USE OF FUNDS.—Net sale proceeds from the disposal of a historic light station—

(A) located on public domain land shall be transferred to the National Maritime Heritage Grants Program established under chapter 3087 in the Department of the Interior; and

(B) under the administrative control of the Secretary of Homeland Security—

(i) shall be credited to the Coast Guard's Operating Expenses appropriation account; and

(ii) shall be available for obligation and expenditure for the maintenance of light stations remaining under the administrative control of the Secretary of Homeland Security.

(2) AVAILABILITY OF FUNDS.—The funds referred to in paragraph (1)(B) shall remain available until expended and shall be available in addition to funds available in the Coast Guard's Operating Expense appropriation for that purpose.

Chapter 3053—National Center for Preservation Technology and Training

Sec.

305301. Definitions.

305302. National Center for Preservation Technology and Training.

305303. Preservation Technology and Training Board.

305304. Preservation grants.

305305. General provisions.

305306. Service preservation centers and offices.

§ 305301. Definitions

In this chapter:

(1) BOARD.—The term "Board" means the Preservation Technology and Training Board established pursuant to section 305303 of this title.

(2) CENTER.—The term "Center" means the National Center for Preservation Technology and Training established pursuant to section 305302 of this title.

§ 305302. National Center for Preservation Technology and Training

(a) ESTABLISHMENT.—There is established within the Department of the Interior a National Center for Preservation Technology and Training. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

(b) PURPOSES.—The purposes of the Center shall be to—

(1) develop and distribute preservation and conservation skills and technologies for the identification, evaluation, conservation, and interpretation of historic property;

(2) develop and facilitate training for Federal, State, and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

(4) facilitate the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector; and

(5) cooperate with related international organizations including the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums.

(c) PROGRAMS.—The purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through a program of grants established under section 305304 of this title.

(d) EXECUTIVE DIRECTOR.—The Center shall be headed by an Executive Director with demonstrated expertise in historic preservation appointed by the Secretary with advice of the Board.

(e) ASSISTANCE FROM SECRETARY.—The Secretary shall provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

§ 305303. Preservation Technology and Training Board

(a) ESTABLISHMENT.—There is established a Preservation Technology and Training Board.

(b) DUTIES.—The Board shall—

(1) provide leadership, policy advice, and professional oversight to the Center;

(2) advise the Secretary on priorities and the allocation of grants among the activities of the Center; and

(3) submit an annual report to the President and Congress.

(c) MEMBERSHIP.—The Board shall be comprised of—

(1) the Secretary;

(2) 6 members appointed by the Secretary, who shall represent appropriate Federal, State, and local agencies, State and local historic preservation commissions, and other public and international organizations; and

(3) 6 members appointed by the Secretary on the basis of outstanding professional qualifications, who represent major organizations in the fields of archeology, architecture, conservation, curation, engineering, history, historic preservation, landscape architecture, planning, or preservation education.

§ 305304. Preservation grants

(a) IN GENERAL.—The Secretary, in consultation with the Board, shall provide preservation technology and training grants to eligible applicants with a demonstrated institutional capability and

commitment to the purposes of the Center, in order to ensure an effective and efficient system of research, information distribution, and skills training in all the related historic preservation fields.

(b) GRANT REQUIREMENTS.—

(1) ALLOCATION.—Grants provided under this section shall be allocated in such a fashion as to reflect the diversity of the historic preservation fields and shall be geographically distributed.

(2) LIMIT ON AMOUNT A RECIPIENT MAY RECEIVE.—No grant recipient may receive more than 10 percent of the grants allocated under this section within any year.

(3) LIMIT ON ADMINISTRATIVE COSTS.—The total administrative costs, direct and indirect, charged for carrying out grants under this section may not exceed 25 percent of the aggregate costs.

(c) ELIGIBLE APPLICANTS.—Eligible applicants may include—

- (1) Federal and non-Federal laboratories;
- (2) accredited museums;
- (3) universities;
- (4) nonprofit organizations;
- (5) System units and offices and Cooperative Park Study Units of the System;
- (6) State Historic Preservation Offices;
- (7) tribal preservation offices; and
- (8) Native Hawaiian organizations.

(d) STANDARDS AND METHODS.—Grants shall be awarded in accordance with accepted professional standards and methods, including peer review of projects.

§ 305305. General provisions

(a) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

- (1) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and
- (2) transfers of funds from other Federal agencies.

(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public entities to carry out the Center's responsibilities under this chapter.

(c) ADDITIONAL FUNDS.—Funds appropriated for the Center shall be in addition to funds appropriated for Service programs, centers, and offices in existence on October 30, 1992.

§ 305306. Service preservation centers and offices

To improve the use of existing Service resources, the Secretary shall fully utilize and further develop the Service preservation (including conservation) centers and regional offices. The Secretary shall improve the coordination of the centers and offices within the Service, and shall, where appropriate, coordinate their activities with the Center and with other appropriate parties.

Chapter 3055—National Building Museum

Sec.

305501. Definitions.

305502. Cooperative agreement to operate museum.

305503. Activities and functions.

305504. Matching grants to Committee.

305505. Annual report.

§ 305501. Definitions

In this chapter:

(1) BUILDING ARTS.—The term “building arts” includes all practical and scholarly aspects of prehistoric, historic, and contemporary architecture, archeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professions, skills, trades, and crafts.

(2) COMMITTEE.—The term “Committee” means the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor.

§ 305502. Cooperative agreement to operate museum

To provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building that exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of General Services shall enter into a cooperative agreement with the Committee for the operation of a National Building Museum in the Federal building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. The cooperative agreement shall include provisions that—

(1) make the site available to the Committee without charge;

(2) provide, subject to available appropriations, such maintenance, security, information, janitorial, and other services as may be necessary to ensure the preservation and operation of the site; and

(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this division.

§ 305503. Activities and functions

The National Building Museum shall—

(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research

relating to the building arts;

(2) foster educational programs relating to the history, practice, and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

(5) encourage contributions to the building arts.

§ 305504. Matching grants to Committee

The Secretary shall provide matching grants to the Committee for its programs related to historic preservation. The Committee shall match the grants in such a manner and with such funds and services as shall be satisfactory to the Secretary, except that not more than \$500,000 may be provided to the Committee in any one fiscal year.

§ 305505. Annual report

The Committee shall submit an annual report to the Secretary and the Administrator of General Services concerning its activities under this chapter and shall provide the Secretary and the Administrator of General Services with such other information as the Secretary may consider necessary or advisable.

Subdivision 5—Federal Agency Historic Preservation Responsibilities

Chapter 3061—Program Responsibilities and Authorities

Subchapter I—In General

Sec.

- 306101. Assumption of responsibility for preservation of historic property.
- 306102. Preservation program.
- 306103. Recordation of historic property prior to alteration or demolition.
- 306104. Agency Preservation Officer.
- 306105. Agency programs and projects.
- 306106. Review of plans of transferees of surplus federally owned historic property.
- 306107. Planning and actions to minimize harm to National Historic Landmarks.
- 306108. Effect of undertaking on historic property.
- 306109. Costs of preservation as eligible project costs.
- 306110. Annual preservation awards program.
- 306111. Environmental impact statement.
- 306112. Waiver of provisions in event of natural disaster or imminent threat to national security.
- 306113. Anticipatory demolition.
- 306114. Documentation of decisions respecting undertakings.

Subchapter II—Lease, Exchange, or Management of Historic Property

- 306121. Lease or exchange.
- 306122. Contracts for management of historic property.

Subchapter III—Protection and Preservation of Resources

- 306131. Standards and guidelines.

Subchapter I—In General

§ 306101. Assumption of responsibility for preservation of historic property

(a) IN GENERAL.—

(1) AGENCY HEAD RESPONSIBILITY.—The head of each Federal agency shall assume responsibility for the preservation of historic property that is owned or controlled by the agency.

(2) USE OF AVAILABLE HISTORIC PROPERTY.—Prior to acquiring, constructing, or leasing a building for purposes of carrying out agency responsibilities, a Federal agency shall use, to the maximum extent feasible, historic property available to the agency, in accordance with Executive Order No. 13006 (40 U.S.C. 3306 note).

(3) NECESSARY PRESERVATION.—Each Federal agency shall undertake, consistent with the preservation of historic property, the mission of the agency, and the professional standards established pursuant to subsection (c), any preservation as may be necessary to carry out this chapter.

(b) GUIDELINES FOR FEDERAL AGENCY RESPONSIBILITY FOR AGENCY-OWNED HISTORIC PROPERTY.—In consultation with the Council, the Secretary shall promulgate guidelines for Federal agency responsibilities under this subchapter (except section 306108).

(c) PROFESSIONAL STANDARDS FOR PRESERVATION OF FEDERALLY OWNED OR CONTROLLED HISTORIC PROPERTY.—The Secretary shall establish, in consultation with the Secretary of Agriculture, the Secretary of Defense, the Smithsonian Institution, and the Administrator of General Services, professional standards for the preservation of historic property in Federal ownership or control.

§ 306102. Preservation program

(a) ESTABLISHMENT.—Each Federal agency shall establish (except for programs or undertakings exempted pursuant to section 304108(c) of this title), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register, and protection, of historic property.

(b) REQUIREMENTS.—The program shall ensure that—

(1) historic property under the jurisdiction or control of the agency is identified, evaluated, and nominated to the National Register;

(2) historic property under the jurisdiction or control of the agency is managed and maintained in a way that considers the preservation of their historic, archeological, architectural, and cultural values in compliance with section 306108 of this title and gives special consideration to the preservation of those values in the case of property designated as having national significance;

(3) the preservation of property not under the jurisdiction or control of the agency but potentially affected by agency actions is given full consideration in planning;

(4) the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and the private sector; and

(5) the agency's procedures for compliance with section 306108 of this title—

(A) are consistent with regulations promulgated by the Council pursuant to section 304108(a) and (b) of this title;

(B) provide a process for the identification and evaluation of historic property for listing on the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on historic property will be considered; and

(c) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(c)).

§ 306103. Recordation of historic property prior to alteration or demolition

Each Federal agency shall initiate measures to ensure that where, as a result of Federal action or assistance carried out by the agency, a historic property is to be substantially altered or demolished—

(1) timely steps are taken to make or have made appropriate records; and

(2) the records are deposited, in accordance with section 302107 of this title, in the Library of Congress or with such other appropriate agency as the Secretary may designate, for future use and reference.

§ 306104. Agency Preservation Officer

The head of each Federal agency (except an agency that is exempted under section 304108(c) of this title) shall designate a qualified official as the agency's Preservation Officer who shall be responsible for coordinating the agency's activities under this division. Each Preservation Officer may, to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 306101(c) of this title.

§ 306105. Agency programs and projects

Consistent with the agency's missions and mandates, each Federal agency shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this division and give consideration to programs and projects that will further the purposes of this division.

§ 306106. Review of plans of transferees of surplus federally owned historic property

The Secretary shall review and approve the plans of transferees of surplus federally owned historic property not later than 90 days after receipt of the plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

§ 306107. Planning and actions to minimize harm to National Historic Landmarks

Prior to the approval of any Federal undertaking that may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall to the maximum extent possible undertake such planning and actions as may be necessary to minimize harm to the landmark. The head of

the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking.

§ 306108. Effect of undertaking on historic property

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property. The head of the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking.

§ 306109. Costs of preservation as eligible project costs

A Federal agency may include the costs of preservation activities of the agency under this division as eligible project costs in all undertakings of the agency or assisted by the agency. The eligible project costs may include amounts paid by a Federal agency to a State to be used in carrying out the preservation responsibilities of the Federal agency under this division, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of the license or permit.

§ 306110. Annual preservation awards program

The Secretary shall establish an annual preservation awards program under which the Secretary may make monetary awards in amounts of not to exceed \$1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic property. The program may include the issuance of annual awards by the President to any citizen of the United States recommended for the award by the Secretary.

§ 306111. Environmental impact statement

Nothing in this division shall be construed to—

- (1) require the preparation of an environmental impact statement where the statement would not otherwise be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or
- (2) provide any exemption from any requirement respecting the preparation of an environmental impact statement under that Act.

§ 306112. Waiver of provisions in event of natural disaster or imminent threat to national security

The Secretary shall promulgate regulations under which the requirements of this subchapter (except section 306108) may be waived in whole or in part in the event of a major natural disaster or an imminent threat to national security.

§ 306113. Anticipatory demolition

Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant that, with intent to avoid the requirements of section 306108 of this title, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, has allowed the significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting the assistance despite the adverse effect created or permitted by the applicant.

§ 306114. Documentation of decisions respecting undertakings

With respect to any undertaking subject to section 306108 of this title that adversely affects any historic property for which a Federal agency has not entered into an agreement pursuant to regulations issued by the Council, the head of the agency shall document any decision made pursuant to section 306108 of this title. The head of the agency may not delegate the responsibility to document a decision pursuant to this section. Where an agreement pursuant to regulations issued by the Council has been executed with respect to an undertaking, the agreement shall govern the undertaking and all of its parts.

Subchapter II—Lease, Exchange, or Management of Historic Property

§ 306121. Lease or exchange

(a) **AUTHORITY TO LEASE OR EXCHANGE.**—Notwithstanding any other provision of law, each Federal agency, after consultation with the Council—

(1) shall, to the extent practicable, establish and implement alternatives (including adaptive use) for historic property that is not needed for current or projected agency purposes; and

(2) may lease historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately ensure the preservation of the historic property.

(b) **PROCEEDS OF LEASE.**—Notwithstanding any other provision of law, the proceeds of a lease under subsection (a) may be retained by the agency entering into the lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to that property or other property that is on the National Register that is owned by, or are under the jurisdiction or control of, the agency. Any surplus proceeds from the leases shall be deposited in the Treasury at the end of the 2d fiscal year following the fiscal year in which the proceeds are received.

§ 306122. Contracts for management of historic property

The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Council, enter into a contract for the management of the property. The contract shall contain terms and conditions that the head of the agency considers necessary or appropriate to protect the interests of the United States and ensure adequate preservation of the historic property.

Subchapter III—Protection and Preservation of Resources

§ 306131. Standards and guidelines

(a) **STANDARDS.**—

(1) **IN GENERAL.**—Each Federal agency that is responsible for the protection of historic property (including archeological property) pursuant to this division or any other law shall ensure that—

(A) all actions taken by employees or contractors of the agency meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of archeology, architecture, conservation, history, landscape architecture, and planning;

(B) agency personnel or contractors responsible for historic property meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of archeology, architecture, conservation, curation, history, landscape architecture, and planning; and

(C) records and other data, including data produced by historical research and archeological surveys and excavations, are permanently maintained in appropriate databases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

(2) CONSIDERATIONS.—The standards referred to in paragraph (1)(B) shall consider the particular skills and expertise needed for the preservation of historic property and shall be equivalent requirements for the disciplines involved.

(3) REVISION.—The Office of Management and Budget shall revise qualification standards for the disciplines involved.

(b) GUIDELINES.—To promote the preservation of historic property eligible for listing on the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this division include plans to—

(1) provide information to the owners of historic property (including architectural, curatorial, and archeological property) with demonstrated or likely research significance, about the need for protection of the historic property, and the available means of protection;

(2) encourage owners to preserve historic property intact and in place and offer the owners of historic property information on the tax and grant assistance available for the donation of the historic property or of a preservation easement of the historic property;

(3) encourage the protection of Native American cultural items (within the meaning of section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)) and of property of religious or cultural importance to Indian tribes, Native Hawaiian organizations, or other Native American groups; and

(4) encourage owners that are undertaking archeological excavations to—

(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

(B) donate or lend artifacts of research significance to an appropriate research institution;

(C) allow access to artifacts for research purposes; and

(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under subparagraph (B) or (C) of section 3(a)(2) of the Native American Graves

Protection and Repatriation Act (25 U.S.C. 3002(a)(2)(B), (C)), give notice to and consult with the Indian tribe or Native Hawaiian organization.

Subdivision 6—Miscellaneous

Chapter 3071—Miscellaneous

Sec.

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§ 307101. World Heritage Convention

(a) **AUTHORITY OF SECRETARY.**—In carrying out this section, the Secretary of the Interior may act directly or through an appropriate officer in the Department of the Interior.

(b) **PARTICIPATION BY UNITED STATES.**—The Secretary shall direct and coordinate participation by the United States in the World Heritage Convention in cooperation with the Secretary of State, the Smithsonian Institution, and the Council. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(c) **NOMINATION OF PROPERTY TO WORLD HERITAGE COMMITTEE.**— The Secretary shall periodically nominate property that the Secretary determines is of international significance to the World Heritage Committee on behalf of the United States. No property may be nominated unless it has previously been determined to be of national significance. Each nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any nomination, the Secretary shall notify the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(d) **NOMINATION OF NON-FEDERAL PROPERTY TO WORLD HERITAGE COMMITTEE REQUIRES WRITTEN CONCURRENCE OF OWNER.**—No non-Federal property may be nominated by the Secretary to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in the nomination in writing.

(e) **CONSIDERATION OF UNDERTAKING ON PROPERTY.**—Prior to the approval of any undertaking outside the United States that may directly and adversely affect a property that is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over the undertaking shall take into account the effect of the undertaking on the property for purposes of avoiding or mitigating any adverse effect.

§ 307102. Effective date of regulations

(a) **PUBLICATION IN FEDERAL REGISTER.**—No final regulation of the Secretary shall become effective prior to the expiration of 30 calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

(b) DISAPPROVAL OF REGULATION BY RESOLUTION OF CONGRESS.— The regulation shall not become effective if, within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: “That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of , which regulation was transmitted to Congress on , ” the blank spaces in the resolution being appropriately filled.

(c) FAILURE OF CONGRESS TO ADOPT RESOLUTION OF DISAPPROVAL OF REGULATION.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within the 60 calendar days, a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

(d) SESSIONS OF CONGRESS.—For purposes of this section—

(1) continuity of session is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 60 and 90 calendar days of continuous session of Congress.

(e) CONGRESSIONAL INACTION OR REJECTION OF RESOLUTION OF DISAPPROVAL NOT DEEMED APPROVAL OF REGULATION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of the regulation.

§ 307103. Access to information

(a) AUTHORITY TO WITHHOLD FROM DISCLOSURE.—The head of a Federal agency, or other public official receiving grant assistance pursuant to this division, after consultation with the Secretary, shall withhold from disclosure to the public information about the location, character, or ownership of a historic property if the Secretary and the agency determine that disclosure may—

(1) cause a significant invasion of privacy;

(2) risk harm to the historic property; or

(3) impede the use of a traditional religious site by practitioners.

(b) ACCESS DETERMINATION.—When the head of a Federal agency or other public official determines that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with the Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this division.

(c) CONSULTATION WITH COUNCIL.—When information described in subsection (a) has been developed in the course of an agency’s compliance with section 306107 or 306108 of this title, the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).

§ 307104. Inapplicability of division to White House, Supreme Court building, or United States Capitol

Nothing in this division applies to the White House and its grounds, the Supreme Court building and its grounds, or the United States Capitol and its related buildings and grounds.

§ 307105. Attorney's fees and costs to prevailing parties in civil actions

In any civil action brought in any United States district court by any interested person to enforce this division, if the person substantially prevails in the action, the court may award attorney's fees, expert witness fees, and other costs of participating in the civil action, as the court considers reasonable.

§ 307106. Authorization for expenditure of appropriated funds

Where appropriate, each Federal agency may expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this division, except to the extent that appropriations legislation expressly provides otherwise.

§ 307107. Donations and bequests of money, personal property, and less than fee interests in historic property

(a) MONEY AND PERSONAL PROPERTY.—The Secretary may accept donations and bequests of money and personal property for the purposes of this division and shall hold, use, expend, and administer the money and personal property for those purposes.

(b) LESS THAN FEE INTEREST IN HISTORIC PROPERTY.—The Secretary may accept gifts or donations of less than fee interests in any historic property where the acceptance of an interest will facilitate the conservation or preservation of the historic property. Nothing in this section or in any provision of this division shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

§ 307108. Privately donated funds

(a) PROJECTS FOR WHICH FUNDS MAY BE USED.—In furtherance of the purposes of this division, the Secretary may accept the donation of funds that may be expended by the Secretary for projects to acquire, restore, preserve, or recover data from any property included on the National Register, as long as the project is owned by a State, any unit of local government, or any non-profit entity.

(b) CONSIDERATION OF FACTORS RESPECTING EXPENDITURE OF FUNDS.—

(1) IN GENERAL.—In expending the funds, the Secretary shall give due consideration to—

- (A) the national significance of the project;
- (B) its historical value to the community;
- (C) the imminence of its destruction or loss; and
- (D) the expressed intentions of the donor.

(2) FUNDS AVAILABLE WITHOUT REGARD TO MATCHING REQUIREMENTS.—Funds expended under this subsection shall be made available without regard to the matching requirements established by sections 302901 and 302902(b) of this title, but the recipient of the funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund.

(c) TRANSFER OF UNOBLIGATED FUNDS.—The Secretary may transfer unobligated funds previously donated to the Secretary for the purposes of the Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with this division.

Old Section Name	Old Title 16 Legal Cite	Current Title 54 Legal Cite	
Section 1	16 U.S.C. 470(a)	54 U.S.C. 100101 note. It provides the short title: the "National Historic Preservation Act."	
	16 U.S.C. 470(b)	Not repealed but omitted from the text of title 54. It provides findings for the National Historic Preservation Act. It is still valid law and may be cited as: Section 1 of the National Historic Preservation Act, Pub. L. No. 89-665, as amended by Pub. L. No. 96-515.	
Section 2	16 U.S.C. 470-1	54 U.S.C. 300101	
Section 101	16 U.S.C. 470a(a)(1)(A) (1st sentence)	54 U.S.C. 302101	
	16 U.S.C. 470a(a)(1)(A) (last sentence)	54 U.S.C. 302106	
	16 U.S.C. 470a(a)(1)(B)	54 U.S.C. 302102	
	16 U.S.C. 470a(a)(2)	54 U.S.C. 302103	
	16 U.S.C. 470a(a)(3) through (5)	54 U.S.C. 302104	
	16 U.S.C. 470a(a)(6)	54 U.S.C. 302105	
	16 U.S.C. 470a(a)(7)	54 U.S.C. 302107	
	16 U.S.C. 470a(a)(8)	54 U.S.C. 302108	
	16 U.S.C. 470a(b)(1)	54 U.S.C. 302301	
	16 U.S.C. 470a(b)(2)	54 U.S.C. 302302	
	16 U.S.C. 470a(b)(3)	54 U.S.C. 302303	
	16 U.S.C. 470a(b)(4)	54 U.S.C. 302304	
	16 U.S.C. 470a(b)(5)	Repealed as obsolete. It provided that any State historic preservation program in effect under prior authority of law could be treated as an approved program for purposes of 16 U.S.C. 470a(b) until the earlier of the date on which the Secretary approved a program submitted by the State under 16 U.S.C. 470a(b) or 3 years after December 12, 1992.	
	16 U.S.C. 470a(b)(6)	54 U.S.C. 302304	
	16 U.S.C. 470a(c)(1) (1st sentence)	54 U.S.C. 302502	
	16 U.S.C. 470a(c)(1) (2d, last sentences)	54 U.S.C. 302503	
	16 U.S.C. 470a(c)(2)	54 U.S.C. 302504	
	16 U.S.C. 470a(c)(3)	54 U.S.C. 302505	
	16 U.S.C. 470a(c)(4)	54 U.S.C. 302501	
	16 U.S.C. 470a(d)(1)	54 U.S.C. 302701	
	16 U.S.C. 470a(d)(2)	54 U.S.C. 302702	
	16 U.S.C. 470a(d)(3)	54 U.S.C. 302703	
	16 U.S.C. 470a(d)(4)	54 U.S.C. 302704	
	16 U.S.C. 470a(d)(5)	54 U.S.C. 302705	
	16 U.S.C. 470a(d)(6)	54 U.S.C. 302706	
	16 U.S.C. 470a(e)(1)	54 U.S.C. 302902	
	16 U.S.C. 470a(e)(2)	54 U.S.C. 302903	
	16 U.S.C. 470a(e)(3)(A)	54 U.S.C. 302904	
	16 U.S.C. 470a(e)(3)(B)	54 U.S.C. 302906	
	16 U.S.C. 470a(e)(3)(C)	54 U.S.C. 302904	
	16 U.S.C. 470a(e)(4)	54 U.S.C. 302905	
	16 U.S.C. 470a(e)(5)	54 U.S.C. 302907	
	16 U.S.C. 470a(e)(6)	54 U.S.C. 302908	
	16 U.S.C. 470a(f)	54 U.S.C. 302909	
	16 U.S.C. 470a(g), (h)	54 U.S.C. 306101	
	16 U.S.C. 470a(i)	54 U.S.C. 303902	
	16 U.S.C. 470a(j)	54 U.S.C. 303903	
	Section 102	16 U.S.C. 470b(a) (1st sentence paragraph (1))	54 U.S.C. 302901
		16 U.S.C. 470b(a) (1st sentence paragraphs (2) through (6))	54 U.S.C. 302902
		16 U.S.C. 470b(a) (2d sentence)	54 U.S.C. 302902
		16 U.S.C. 470b(a) (last sentence)	54 U.S.C. 302901
16 U.S.C. 470b(b)		54 U.S.C. 302902	
16 U.S.C. 470b(c)		Previously repealed.	
16 U.S.C. 470b(d) (relating to remaining cost of project)		54 U.S.C. 302902	
16 U.S.C. 470b(d) (relating to availability)	54 U.S.C. 302901		

	16 U.S.C. 470b(e)	54 U.S.C. 302902
Section 103	16 U.S.C. 470c	54 U.S.C. 302902
Section 104	16 U.S.C. 470d	54 U.S.C. 303901
Section 105	16 U.S.C. 470e	54 U.S.C. 302910
Section 106	16 U.S.C. 470f	54 U.S.C. 306108
Section 107	16 U.S.C. 470g	54 U.S.C. 307104
Section 108	16 U.S.C. 470h (1st paragraph)	54 U.S.C. 303101
	16 U.S.C. 470h (last paragraph 1st sentence)	54 U.S.C. 303102
	16 U.S.C. 470h (last paragraph last sentence)	54 U.S.C. 303103
Section 109	16 U.S.C. 470h-1	54 U.S.C. 307108
Section 110	16 U.S.C. 470h-2(a)(1)	54 U.S.C. 306101
	16 U.S.C. 470h-2(a)(2)	54 U.S.C. 306102
	16 U.S.C. 470h-2(b)	54 U.S.C. 306103
	16 U.S.C. 470h-2(c)	54 U.S.C. 306104
	16 U.S.C. 470h-2(d)	54 U.S.C. 306105
	16 U.S.C. 470h-2(e)	54 U.S.C. 306106
	16 U.S.C. 470h-2(f)	54 U.S.C. 306107
	16 U.S.C. 470h-2(g)	54 U.S.C. 306109
	16 U.S.C. 470h-2(h)	54 U.S.C. 306110
	16 U.S.C. 470h-2(i)	54 U.S.C. 306111
	16 U.S.C. 470h-2(j)	54 U.S.C. 306112
	16 U.S.C. 470h-2(k)	54 U.S.C. 306113
	16 U.S.C. 470h-2(l)	54 U.S.C. 306114
Section 111	16 U.S.C. 470h-3(a), (b)	54 U.S.C. 306121
	16 U.S.C. 470h-3(c)	54 U.S.C. 306122
Section 112	16 U.S.C. 470h-4	54 U.S.C. 306131
Section 113 (Repealed)	16 U.S.C. 470h-5	Repealed as obsolete. It provided that the Secretary study the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities and not later than 18 months after October 30, 1992, submit to Congress a report detailing the Secretary's findings and recommendations from the study.
Section 201	16 U.S.C. 470i	54 U.S.C. 304101
Section 202	16 U.S.C. 470j	54 U.S.C. 304102
Section 203	16 U.S.C. 470k	54 U.S.C. 304103
Section 204	16 U.S.C. 470l	54 U.S.C. 304104
Section 205	16 U.S.C. 470m	54 U.S.C. 304105
Section 206	16 U.S.C. 470n	54 U.S.C. 304106
Section 207 (Repealed)	16 U.S.C. 470o	Repealed as obsolete. It provided that personnel, property, records, and unexpended balances of funds be transferred by the Department of the Interior to the Advisory Council on Historic Preservation within 60 days of the effective date of Public Law 94-422, which was approved on September 28, 1976.
Section 208	16 U.S.C. 470p	54 U.S.C. 304105
Section 209	16 U.S.C. 470q	54 U.S.C. 304105
Section 210	16 U.S.C. 470r	54 U.S.C. 304107
Section 211	16 U.S.C. 470s	54 U.S.C. 304108
Section 212	16 U.S.C. 470t(a) (1st sentence)	54 U.S.C. 304109
	16 U.S.C. 470t(a) (last sentence)	Repealed as unnecessary. It authorized to be appropriated amounts necessary to carry out this part.
	16 U.S.C. 470t(b)	54 U.S.C. 304109
Section 213	16 U.S.C. 470u	54 U.S.C. 304110
Section 214	16 U.S.C. 470v	54 U.S.C. 304108
Section 215	16 U.S.C. 470v-1	54 U.S.C. 304111
Section 216	16 U.S.C. 470v-2	54 U.S.C. 304112
Section 301	16 U.S.C. 470w(1)	54 U.S.C. 300301
	16 U.S.C. 470w(2)	54 U.S.C. 300317
	16 U.S.C. 470w(3)	54 U.S.C. 300310

	16 U.S.C. 470w(4)	54 U.S.C. 300309
	16 U.S.C. 470w(5)	54 U.S.C. 300308
	16 U.S.C. 470w(6)	54 U.S.C. 300311
	16 U.S.C. 470w(7)	54 U.S.C. 300320
	16 U.S.C. 470w(8)	54 U.S.C. 300315
	16 U.S.C. 470w(9)	54 U.S.C. 300304
	16 U.S.C. 470w(10)	54 U.S.C. 300305
	16 U.S.C. 470w(11)	54 U.S.C. 300316
	16 U.S.C. 470w(12)	54 U.S.C. 300318
	16 U.S.C. 470w(13)	54 U.S.C. 300307
	16 U.S.C. 470w(14)	54 U.S.C. 300319
	16 U.S.C. 470w(15)	54 U.S.C. 300302
	16 U.S.C. 470w(16)	54 U.S.C. 300303
	16 U.S.C. 470w(17)	54 U.S.C. 300313
	16 U.S.C. 470w(18)	54 U.S.C. 300314
Section 302	16 U.S.C. 470w-1	54 U.S.C. 307106
Section 303	16 U.S.C. 470w-2	54 U.S.C. 307107
Section 304	16 U.S.C. 470w-3	54 U.S.C. 307103
Section 305	16 U.S.C. 470w-4	54 U.S.C. 307105
Section 306	16 U.S.C. 470w-5(a) (1st sentence)	54 U.S.C. 305502
	16 U.S.C. 470w-5(a) (last sentence)	54 U.S.C. 305503
	16 U.S.C. 470w-5(b)	54 U.S.C. 305502
	16 U.S.C. 470w-5(c)	54 U.S.C. 305504
	16 U.S.C. 470w-5(d)	Repealed as obsolete. It provided for the renovation of the site on which the National Museum for the Building Arts is located.
	16 U.S.C. 470w-5(e)	54 U.S.C. 305505
	16 U.S.C. 470w-5(f)	54 U.S.C. 305501
Section 307	16 U.S.C. 470w-6	54 U.S.C. 307102
Section 308	16 U.S.C. 470w-7(a)	54 U.S.C. 305102
	16 U.S.C. 470w-7(b)	54 U.S.C. 305103
	16 U.S.C. 470w-7(c)	54 U.S.C. 305104
	16 U.S.C. 470w-7(d)	54 U.S.C. 305105
	16 U.S.C. 470w-7(e)	54 U.S.C. 305101
Section 309	16 U.S.C. 470w-8	54 U.S.C. 305106
Section 401	16 U.S.C. 470x	Not repealed but omitted from the text of title 54. It provides the following findings regarding the National Center for Preservation Technology and Training provisions: "The Congress finds and declares that, given the complexity of technical problems encountered in preserving historic properties and the lack of adequate distribution of technical information to preserve such properties, a national initiative to coordinate and promote research, distribute information, and provide training about preservation skills and technologies would be beneficial." It may be cited as Pub. L. No. 102-175, title XL, § 4022, 106 Stat. 4765 (1992).
Section 402	16 U.S.C. 470x-1	54 U.S.C. 305301
Section 403	16 U.S.C. 470x-2	54 U.S.C. 305302
Section 404	16 U.S.C. 470x-3	54 U.S.C. 305303
Section 405	16 U.S.C. 470x-4	54 U.S.C. 305304
Section 406	16 U.S.C. 470x-5	54 U.S.C. 305305
Section 407	16 U.S.C. 470x-6	54 U.S.C. 305306

Section 401*	16 U.S.C. 470a-1	54 U.S.C. 307101 (a) through (d). * = These are legislative provisions that were enacted to codify requirements of the World Heritage Convention, and were included among the National Historic Preservation Act Amendments of 1980. However, they were not technically part of the National Historic Preservation Act. Their "Section 401" and "Section 402" numbering in the first column refers to their section numbers under the public law that enacted the 1980 amendments, rather than their numbering for the National Historic Preservation Act itself. However, their "old section" names are included since, particularly in the case of "Section 402," below, those are section names that have been popularly used by practitioners.
Section 402*	16 U.S.C. 470a-2	54 U.S.C. 307101 (e). See "*" notes, above. This is the section that imposes requirements similar to "Section 106" regarding projects outside the United States.



Photographs from CLG communities, Top Row, Left to Right: ABQ Rail Yards, City of Albuquerque; Lincoln, New Mexico; Fort Bayard Historic District, Village of Santa Clara; Middle Row, Left to Right: Morgan Hall, Palace of the Governors, City of Santa Fe; 100 Year Anniversary of the Pancho Villa Raid in Columbus; Bottom Row, Left to Right: Castaneda Hotel, City of Las Vegas; Couse-Sharp Historic Site, Town of Taos; Fuller Lodge, Los Alamos County

STATE OF NEW MEXICO CERTIFIED LOCAL GOVERNMENT PROGRAM MANUAL

New Mexico State Procedures for the CLG Program • 2020



New Mexico Historic Preservation Division
407 Galisteo Street, Suite 236
Santa Fe, NM 87501
505/827-6320

STATE OF NEW MEXICO
CERTIFIED LOCAL GOVERNMENT PROGRAM MANUAL
Formerly New Mexico State Procedures for the CLG Program
Revised 2020

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INTRODUCTION

This CLG PROGRAM MANUAL, or “Manual,” is designed to support New Mexico communities in developing and maintaining local historic preservation programs in a manner consistent with state and federal laws and regulations. This Manual provides information for communities interested in the Certified Local Government program and includes information about the administration and requirements of the program.

In 1966, Congress passed the National Historic Preservation Act (54 USC 300.101 et seq.) which established preservation as a national priority and created programs that encourage historic preservation at the federal, state, and local levels. The Act established State Historic Preservation Offices in each state. In New Mexico, the program is administered through the Historic Preservation Division, which is the State Historic Preservation Office of New Mexico, and is a division of the Department of Cultural Affairs.

The Historic Preservation Division, or “HPD,” is responsible for the following activities:

- Maintaining a State Historic Preservation Plan.
- Processing nominations for listing cultural resources in the National Register of Historic Places (NRHP) and the State Register of Cultural Properties (SRCP).
- Coordinating the survey and inventory of cultural resources within the state to evaluate them for NRHP eligibility.
- Overseeing the State of New Mexico Official Scenic Markers Program.
- Reviewing and making recommendations on applications for the Federal Historic Preservation Tax Credit program and the State Income Tax Credit program for certified rehabilitation projects.
- Surveying and maintaining an inventory of cultural resources in the New Mexico Cultural Resource Information System (NMCRIS).
- Reviewing federally-funded, licensed, or permitted projects for their potential impact on cultural resources.
- Reviewing state or municipal-funded projects for their effect on cultural resources.
- Administering the Certified Local Government program.
- Providing technical assistance and guidance to individuals and federal, tribal, state, and local government agencies on historic preservation issues.

I. THE CERTIFIED LOCAL GOVERNMENT PROGRAM

a. WHAT IS A CERTIFIED LOCAL GOVERNMENT?

In 1980, Congress enhanced the role of local governments in the nation's historic preservation program through amendments to the National Historic Preservation Act (NHPA). The 1980 amendments created a certification program for local governments willing to make a commitment to historic preservation by meeting federal and state preservation standards.

A Certified Local Government, or CLG, is any general purpose political subdivision of the State of New Mexico – such as a city, county, village, town, or municipality – that has met specific eligibility requirements and has been certified through the Historic Preservation Division and the National Park Service. A CLG demonstrates its commitment to historic preservation by enacting a preservation ordinance and establishing a citizen-led commission to oversee the local preservation program. As a CLG, the community is a partner in preservation with the Historic Preservation Division of New Mexico and the National Park Service.

b. WHY BECOME A CLG?

There are many benefits to communities when participating in the CLG program. These include:

Credibility and Autonomy

- CLGs take the lead in preservation activities by identifying, evaluating, and protecting local cultural resources.
- CLG status establishes a level of credibility for a local historic preservation program by following State and Federal preservation standards.
- CLG status is optional and in no way diminishes the autonomy of the local government.

Exclusive Funding Opportunities

- CLGs may apply annually for matching grants from a fund solely for CLGs. Under this program, the National Park Service requires that at least ten percent (10%) of New Mexico's annual federal allocation from the Historic Preservation Fund be subgranted exclusively to participating CLGs.

Enhanced Roles

- CLGs have a formal role in the National Register of Historic Places nomination process.
- CLGs have a role in the review of federal or state projects.
- CLGs are encouraged to liaise with other departments in the local government, local organizations, and state and federal agencies regarding preservation concerns.

Partnership & Support

- CLGs receive technical services from HPD.
- CLGs participate in state preservation planning.

c. WHO IS ELIGIBLE?

Any local government – such as a city, county, village, town, or municipality – that meets the criteria may apply for certification as a CLG. The local government must have jurisdiction to implement planning and zoning laws within its boundaries.

Counties that become CLGs typically will not have jurisdiction within incorporated areas, unless a municipality and a county have established a formal cooperative agreement. Intergovernmental agreements with municipal jurisdictions can allow the County CLG to designate and protect resources within those areas. Records of these agreements must be included in the certification application.

d. HISTORIC PRESERVATION AT THE LOCAL LEVEL

Since the beginning of the historic preservation movement in the United States, preservation has primarily been driven by local advocates and local governments. New Mexico's CLG program seeks to empower local governments and its citizens to preserve important places. The following guiding principles are important to keep in mind:



HPD Staff giving an informational talk about historic preservation in Mountainair, NM.

- Historic preservation is best understood and addressed at the local level.
- The interests and concerns of local governments can be integrated into the ongoing efforts for identification, evaluation, and nomination processes of HPD.
- Participation in local preservation programming can result in increased awareness within the community about preservation programs.
- Historic preservation is most effective when integrated into local planning and decision-making.
- The public should be made aware of information and resources concerning preservation issues.
- Local governments can develop preservation efforts that benefit from and contribute towards state and federal programs.

e. CERTIFIED LOCAL GOVERNMENTS in NEW MEXICO, AS OF 2020:

Below is a list of the CLGs in New Mexico and a link to the community's website.

City of Albuquerque (1986)

Website: <https://www.cabq.gov/>

Village of Columbus (2004)

Website: http://www.columbusnewmexico.com/columbus_new_mexico_civic_center.htm

City of Deming (1999)

Website: <http://www.cityofdeming.org/>

City of Las Vegas (1986)

Website: <http://www.lasvegasnm.gov/>

Lincoln County (1991)

Website: <https://www.lincolncountynm.gov/>

Los Alamos County (2018)

Website: <https://www.losalamosnm.us/>

Village of Santa Clara (2017)

Website: <http://www.villageofsantaclara.org/>

City of Santa Fe (1986)

Website: <https://www.santafenm.gov/>

Town of Taos (1988)

Website: <https://www.taosgov.com/>

II. HOW TO BECOME A CLG

The New Mexico Administrative Code (NMAC), Title 4 Cultural Resources, Chapter 10 Cultural Properties and Historic Preservation, Part 10 Certified Local Government Program (4 NMAC 10.10) lists the requirements for the Certified Local Government Program in New Mexico. 54 U.S.C. § 3025 and 36 CFR§ 61.6 outlines the federal code for the Certification of Local Governments.

The National Historic Preservation Act (NHPA) outlines five broad standards which must be met by a local government seeking certification. The local government must:

- Enforce appropriate state or local legislation for the designation and protection of historic properties. This is usually accomplished through the enactment of an historic preservation ordinance. See Section II (a), below.
- Establish a qualified historic preservation commission. See Section II (b).
- Continue surveying and inventorying historic properties. See Section II (c).
- Provide for adequate public participation in the local historic preservation program including the process of recommending and commenting on properties for listing in the National Register of Historic Places. See Section II (d) and Section V.
- Satisfactorily perform the responsibilities delegated to it under the Act; including those listed herein in the CLG Program Manual for New Mexico. See Section II (e).

a. MINIMUM REQUIREMENTS FOR LOCAL LEGISLATION

One of the primary qualifications for a local government to become a CLG is establishing an ordinance that governs its historic preservation program. The New Mexico Historic Districts and Landmarks Act (NMSA 3-22, et. Seq., as amended) is the state's enabling legislation stipulating that local governments are empowered with "full and complete powers to preserve, protect and enhance the historic areas and landmarks lying within their respective jurisdictions" and that any county or municipality is empowered to create a "zoning district designating certain areas as historic areas and landmarks" and may "adopt and enforce regulations and restrictions" relating to historical areas and landmarks. The Historic Districts and Landmarks Act permits the regulation of private property for its historic value and quality-of-life benefits to the community.

As a general guideline, the ordinance must contain criteria which will substantially achieve the purpose of preserving, rehabilitating, and protecting buildings and sites of historic and prehistoric significance.

Local governments interested in becoming CLGs must establish an ordinance with the following minimum requirements (also outlined in 4 NMAC 10.10):

- A statement of purpose
- Definitions
- Authorizing statement citing the New Mexico Historic District and Landmark Act of 1965, NMSA 3-22-1, et. Seq., as amended.
- Establishment of the review body and specific membership and duties of the review body. See Section II (b).
- Designation procedures for local landmarks and historic districts.
- Criteria for the designation of local landmarks and historic districts. Standards for designation must be consistent with the Secretary of the Interior's Standards for Identification and Evaluation.
- Provisions for public hearings on designations and public notification.
- Mandatory review of alterations, demolition, new construction, infill and additions to listed landmarks and properties within listed historic districts.
- Specific guidelines to be used by the review body, such as the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (SOI Standards)*, and/or Design Guidelines established by the review body.
- Specific timeframes for reviews and for consideration of alternatives.
- Penalties for non-compliance.

As historic preservation is an important part of a community or county's broader planning and zoning goals, collaboration and coordination between local planning commissions and the preservation commission will be necessary.

LOCAL REGISTERS/LOCAL DESIGNATION

While listing a property in the National Register of Historic Places (NR) and/or the State Register of Cultural Properties (SR) may inform a local preservation program, listing however does not provide protection. Local governments cannot impose design review on an NR/SR-only listed property. For review to occur, local governments must designate properties via the local designation process and criteria in its preservation ordinance.

Establishing a significant and effective local register depends both on the participation of property owners and on clear documentation about what is being designated and why. Local governments interested in protecting properties listed in the NR/SR must do so by designating these properties under their local preservation ordinance.

Differentiating between the different landmark designations can be confusing. However, keep in mind that listing in the NR/SR and listing locally are different processes that require separate thresholds of due process for property owners. The National Park Service will not certify a CLG if the ordinance auto-designates NR/SR-listed properties as local landmarks or conducts design review on only NR/SR-listed properties. The ordinance must include a process for listing locally designated landmarks. NR/SR listing does not have to be a requirement to list locally.

In other words, the CLG must establish a process for designating local landmarks and historic districts as well as identify criteria for local designation. A local historic register with protections in the ordinance is a strong tool to ensure that a community’s historic resources will be preserved.

Local governments can create their own criteria for designation provided that they are consistent with established state and federal statutes regarding historic preservation and zoning.

QUICK VIEW – LANDMARK DESIGNATION TYPES		
Designation Type	Required to be a CLG?	Recommended
Local	Yes. Community must have a process for designation/designation criteria for local landmarks outlined in ordinance.	Local designations are necessary so that the Commission can complete mandatory reviews.
National Register of Historic Places / State Register of Cultural Properties / National Historic Landmark	No. Not required and not legally binding.	Informal monitoring of NR/SR properties. Design review should occur only if property has also been designated by local ordinance. Review under Section 106 with Federal agency-supported work.

Owner Consent

In New Mexico, local commissions may decide if owner consent on individually-listed buildings is required or not. There is no State of New Mexico or federal law requiring owner consent for local landmark designation. The strongest type of preservation ordinance is one where owner consent is not required; HPD recognizes that this decision should be determined at the local level.

For historic districts, HPD recommends that CLGs consider setting a percentage threshold for owner objection (suggested: more than 51% object). Once a historic district is designated, individual owners may not opt out of the district.

Designation Report

HPD recommends that the process for local designation include the completion of a Designation Report. The report will include information about the subject property/properties, historical background, historical use and current use, historic and current photographs, and how the property meets the local criteria for designation. Such a report provides an important legal basis for decision-making and may help regarding any future challenges regarding designation and property rights. While communities locally designate via ordinance the Designation Report provides a more thorough background as to how and why the property is significant.

DESIGN REVIEW BY THE COMMISSION

The Historic District and Landmark Act gives clear and reasonable authority to communities to review improvements and demolitions. In order to meet the stipulations for “protection” under the CLG requirements, mandatory review by the Commission is required at a public meeting. Permit review that is binding, where the decision of the Commission is final (but, appeal-able to the elected body or district court), provides the strongest type of protection for cultural resources. While binding review is recommended by HPD, advisory review is acceptable to become a CLG.

REVIEW STANDARDS

The National Park Service maintains the Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation (SOI Standards). A subset of those Standards pertains to the care of historic properties. These are the Secretary of the Interior’s Standards and Guidelines for the Treatment of Historic Properties. The SOI Standards provide national standards for best practices in historic preservation. The recommended approach of the SOI Standards supports a consistent and transparent decision-making process. While the SOI Standards are not required, they are recommended for CLGs. HPD recommends that CLGs consider adopting the SOI Standards in local ordinances.

QUICK VIEW – LOCAL LEGISLATION		
Aspect of legislation	Required to be a CLG?	Recommended
Review of improvements or demolition of locally-designated resources.	Yes. The community can choose whether review is binding or advisory in ordinance.	Decisions by Commission are binding.
Review of improvements/demolition on NR- and/or SR-listed properties.	No. Not required and not legally binding.	Informal monitoring only. Design review should occur only if property has been designated by local ordinance. CLGs can have a role in review of Federally-assisted projects in their communities under Section 106.
Consent for the designation of local landmarks.	No. Communities can decide if they require owner consent.	No owner consent for designation.

QUICK VIEW – LOCAL LEGISLATION - Continued		
Aspect of legislation	Required to be a CLG?	Recommended
Consent for the designation of historic districts.	No. Communities can decide if they require owner consent.	Consider a percentage of objections to the designation by 51% of the property owners in the subject district.
Adoption of the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation.	Yes/No. Communities can decide what type of guidelines to use but the SOI Standards are suggested.	Adoption of the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, as amended. Consider developing community-specific design guidelines.
Allowances for financial hardship.	No.	Yes, with clear documentation requirements to avoid misuse.
Appeals of Commission decisions.	Yes. If design review is binding, this is required. Ordinance must outline process.	Appeals should be made directly to governing body or district court.
Commission decisions in writing.	Yes. Ordinance must outline timeframes/ process.	Commission decisions should always be in writing to the applicant/owner and follow the timeframes in the ordinance.
Designation procedures and criteria for local landmarks and historic districts.	Yes.	Clear process and timeframes for each step within the ordinance.
Completion of a report for local designation.	Yes. Report must indicate how the resource meets existing criteria for designation.	Completion of a “Designation Report” that provides an overview of the subject property/properties, the historical background, and how the property/properties meet local designation criteria, current and historic photographs, etc.
Relationship to National Register?	None	Advisory only, unless federal involvement; due to differences in due process, local governments are discouraged from automatically listing properties into their local register based on NR/SR designation alone.

b. ESTABLISHING AND MAINTAINING A HISTORIC PRESERVATION COMMISSION

One of the most important parts of sustaining a local historic preservation program is establishing and maintaining a historic preservation commission (Commission). The Commission serves as the face of preservation at the local level and performs as the primary implementing body.

A Commission is appointed under local procedures for commissions – by the city council, county commission, and chief elected official. Commission members bring expertise, professional skills, and an enthusiasm for the preservation of cultural resources in support of the local government’s preservation goals. A Commission should be considered at the same level as other quasi-judicial commissions within a local government and meet in similar ways or locations.

Commissions should be able to make recommendations to their overseeing Council or Board about historic preservation policy and to other departments within the local government. Commissions should have the power to recommend places for historic designation and to review improvements on locally-designated cultural resources.

The minimum requirements and duties for local review commissions are outlined in 4 NMAC 10.10 and below.

Minimum Requirements:

- At least five (5) members, all of whom have a demonstrated interest in historic preservation.
- At least two (2) preservation-related professional members (this includes the professions of architecture, historic architecture, architectural history, archaeology, planning, real estate, design, building trades, landscape architecture, law or finance), to the extent that these professionals are available in the community.
- Terms of office should be staggered, starting with a minimum two-year term.
- The Commission should adopt rules of procedure or by-laws that are available and accessible to the public.
- The Commission must hold a minimum of four (4) meetings per year.
- All HPC meetings should be open to the public with proper public notice, and the Commission must maintain minutes of all meetings that are available for public inspection.

Note: If public disclosure could result in a substantial risk of harm, theft, or destruction to the historic or archaeological resource, an exception to the public meeting and public records policy may apply pursuant to federal and state statutes: 54 U.S.C 307103 (Formerly Section 304 of the National Historic Preservation Act of 1966, as amended); 54 U.S.C. 302107 of the Archaeological Resources Protection Act of 1979, as amended); 5 US.C. 552 (b) (3) (Section 552 of the Freedom of Information Act of 1966 as amended).

- Applicants are notified of meetings and advised of decisions, in writing.
- An annual report of the commission's activities. See below for more about the annual report.
- Vacancies on the commission are filled within ninety (90) days.
- Each Commission is required to set aside at least one regular meeting a year for informational and educational purposes. HPD staff may attend this meeting.

Minimum Duties:

- Conduct or cause to be conducted a continuing survey of cultural resources in the community. Surveys should be completed according to guidelines established by HPD and SOI Standards.
- Make recommendations for the designation of local landmarks and historic districts to the appropriate local governing body.
- Establish and use written guidelines. The SOI Standards should be used at a minimum. Community-based Design Guidelines are encouraged.
- Act in an advisory role to other officials and departments of the local government regarding the protection of local cultural resources.
- Act as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation.
- Work toward the continuing education of citizens within the CLG's jurisdiction regarding historic preservation issues and concerns.
- Review nominations for listing in the National Register of Historic Places and provide a local role in the review process. (See Section V. on National Register, below).
- Mandatory review of alterations, demolitions, or new construction to locally listed landmarks and properties within locally designated historic districts. Note that Commissions may be advisory and decisions are not binding.
- HPD may, at their discretion and by mutual written agreement with the Certified Local Government, delegate further responsibilities to the CLG and/or the historic preservation commission, excepting the authority to nominate properties directly to the National Register, excepting applications for the federal tax credit program.

THINGS TO CONSIDER WHEN ESTABLISHING A PRESERVATION COMMISSION

To become a CLG in New Mexico, a local government’s Commission must have a minimum of five members who have a demonstrated interest in and/or professional expertise in historic preservation. The total number of Commission Members can vary by community. Larger municipalities may benefit from having more Commission members and creating subcommittees to handle the workload of special projects. Smaller and rural communities may benefit by having a smaller Commission for easier recruitment. Larger Commissions may benefit from having at least one full-time historic preservation specialist or officer as staff support. Staff support or a consultant to the Commission is required but, other arrangements can be made if it is not possible to find someone suitable in the community.

The Commission is encouraged to appoint two Commission members who meet professional preservation qualifications standards, see Appendix C. If the local government cannot find volunteers who meet these requirements, the community should provide information as to duration of the search and how long the position was made available. The local government must seek out expertise when needed. See Appendix C for more information about the SOI Professional Qualifications Standards.

QUICK VIEW – HISTORIC PRESERVATION COMMISSIONS		
Aspect of legislation for HPC	Required to be a CLG?	Recommended
Minimum number of meetings per year.	4	A minimum of four meetings for Commissions with advisory review. Monthly meetings for those commissions with binding review.
Minimum number of Commission members.	5	The minimum number of Commission members is five but the total number of Commission members should correlate to the population size of the community.
Commission member training.	Yes. Code references that 1 commission meeting should be set aside for training.	Establish requirements for commission members/plan for annual training. Consider delegating a portion of Commission meetings once a quarter for ongoing training. Consider open meetings act training.
Commission Retreat	No.	An annual commission retreat may be a great opportunity for a Commission-focused training.
Staff training	No.	Annual training for staff.
Liaison to other city departments/ elected officials.	Yes.	The Commission and staff should be included in discussions related to any project that may affect cultural properties.
Outreach to local non-profits and other organizations.	Yes.	Commission members and staff should work with interested parties related to historic preservation.

QUICK VIEW – HISTORIC PRESERVATION COMMISSIONS (CONTINUED)		
Aspect of legislation for HPC	Required to be a CLG?	Recommended
Publication of Agendas.	Yes.	Agendas should be made available to Commission members and the public ahead of the meeting preferably posted in a central location and on the community’s website.
Meeting minutes	Yes.	Minutes should be produced for review and approval by the Commission at its next meeting and be posted on the community’s website.
Staff support	Yes. One full-time staff person. Alternative arrangements are feasible.	One full-time staff person or consider a circuit-rider with an adjacent community for a consultant.

c. SURVEY AND INVENTORY PROGRAM

Maintaining a system for the survey and inventory of cultural resources is one of the cornerstones of any historic preservation program. CLGs must develop or have in place a system for the survey and inventory of cultural resources within their jurisdictions. This system must be coordinated with HPD’s inventory program, consider using state-approved inventory forms and evaluative criteria consistent with the National Register, and be in compliance with the Secretary of the Interior’s Standards for Identification and Evaluation. Communities which have conducted surveys in the past must update their survey data at regular intervals (suggested: every 5-10 years) as new resources become eligible for consideration and properties change over time.

CLGs shall maintain a detailed inventory of the buildings, sites, structures, objects, and districts that it has designated under local law. Surveys provide an elementary foundation to designations, documenting reasons why a building is or is not contributing and how it complies with local designation criteria. Surveys can be used as a reference and support how Commissions make decisions related to designation or review of improvements to properties as well as development in the community.

QUICK VIEW – SURVEY AND INVENTORY		
Aspect	Required to be a CLG?	Recommended
Develop a survey and inventory program.	Yes. A section should be included in the ordinance outlining the survey program.	Establish a program to periodically update existing surveys or complete a re-survey.
Establish survey and inventory that is compatible with survey and inventory guidance published by HPD.	Yes. All survey efforts should match survey forms required by HPD.	All surveys should be coordinated with federal and state methods.

QUICK VIEW – SURVEY AND INVENTORY (CONTINUED)		
Aspect	Required to be a CLG?	Recommended
Maintain a detailed inventory of the historic buildings, sites, structures, objects, and districts within the CLG, including those that have been designated under local law.	Yes. There should be a building by building survey and inventory for each landmark/historic district.	Completion of a survey is essential to supporting local designations.
Survey and inventory materials shall be maintained and accessible to the public.	Yes. The public should be able to access information easily.	Consider making survey and inventory information available on the Community’s website/library, etc.

d. PUBLIC PARTICIPATION

The CLG Program requires that a local government ensure public participation in its historic preservation program. This means that the CLG’s historic preservation activities, including meetings of the Commission, must comply with New Mexico’s Open Meetings Act (10 NMSA 15). The CLG program is meant to engage and educate the public and to encourage participation in the local preservation program. Public participation is an integral feature of any preservation program and CLGs should:

- Encourage public participation in all facets of their preservation programs.
- Follow the provisions of the New Mexico Open Meetings Law (10 NMSA 15) and follow proper parliamentary procedure, such as Robert’s Rules of Order or other adopted rules of procedure.
- Make all Commission decisions in a public forum (except those noted above that reference a private archaeological site).
- Ensure that the Commission provides written notification of its decisions to applicants/property owners.
- Ensure that decisions rendered and actions taken by the Commission are clear, legally defensible, and understandable to the general public. Records of such decisions must be kept on file and available for public inspection.
- Develop educational programs and materials that enhance public awareness of their historic preservation activities or historic preservation in general.
- Ensure that meetings are properly noticed in places where citizens will see them.

- Provide for public involvement in the National Register nomination process as required in the National Historic Preservation Act, § 302504, see Section V.

QUICK VIEW – PUBLIC PARTICIPATION		
Aspect	Required to be a CLG?	Recommended
Agendas and minutes	Yes.	Ensure that one central location is available for posting of meeting and a place on the Community’s website for virtual posting.
Public programming related to historic preservation.	Yes	Consider regular events for the public to attend related to preservation education.
Make decisions that are clear, legally defensible and in writing.	Yes	Ensure that Commission decisions are legally defensible and meet with the Community attorney and consult with HPD.

e. SATISFACTORILY PERFORM THE RESPONSIBILITIES DELEGATED TO IT UNDER THE ACT

Participating local governments must meet the four basic requirements (II.a-II.d), and participate in the National Register nomination process pursuant to Section V. A major review of the CLG's program operation and administration will be performed at least once every four years. Ideally, this evaluation will be conducted in person at the local government, although a



HPD Staff working with a Mesilla community member on a survey of historic properties.

written evaluation process may be substituted (i.e., “CLG Evaluation Questionnaire.”) In addition, periodic monitoring of CLG activities will ensure that performance is consistent and coordinated with the identification, evaluation, and protection priorities of New Mexico's comprehensive historic preservation planning process, and that of federal work program standards regarding HPD accountability. See Section VII for more information about monitoring and decertification.

The HPD may, at his/her discretion, and by mutual written agreement with the CLG, delegate further responsibilities to the CLG and/or the historic preservation commission, excepting the authority to nominate properties directly to the National Register of Historic Places.

III. PROCESS FOR CERTIFICATION

Applications for CLG status must be made in writing by the local government, specifically the local government’s chief elected official and include the following materials: a letter from the chief elected official that the local government has fulfilled all of the requirements, a copy of the preservation ordinance, a list and map of all areas designated as historic districts or landmarks (locally and on the SR/NR), resumes for each of the Commission members, how the local government will make provisions for staff support to the Commission, the application checklist, a draft Certification Agreement and a description of other delegated responsibilities. The application checklist, the request for Certified Local Government status and the Certification Agreement may be found in the Appendices.

PROCESS FOR CERTIFICATION AS A CLG	
Step 1	Review the requirements outlined herein and in NMAC 4.10.10 for local legislation, commission, public participation, and survey and inventory to confirm that all requirements have been met.
Step 2	The chief elected official of the governing body shall request the certification in writing. The request shall include: <ul style="list-style-type: none"> • Letter from chief elected official stating that the local government has fulfilled all of the requirements. • A copy of the local historic preservation ordinance. • A list and accompanying map of all areas designated as historic districts or landmarks. • Resumes for each of the members of the Historic Preservation Commission. • Provisions for staff/consultant to the Commission. • Application checklist. • Request for Certified Local Government Status. • Certification Agreement. • Description of other delegated responsibilities.
Step 3	HPD has sixty days (60) to respond to the written request.
Step 4	If HPD finds that the local government fulfills the requirements for certification, HPD forwards the application to the National Park Service.
Step 5	The National Park Service has 15 working days from receipt to take exception to the application.
Step 6	HPD shall respond to the local government informing them of the National Park Service’s response.
Step 7	Once the Certification Agreement has been signed by both parties, the Agreement and application materials are sent to the National Park Service.

IV. HISTORIC PRESERVATION OFFICER/CONSULTANT

In order to carry out the duties delegated to it, the Certified Local Government should employ or have regular access by contract or letter of agreement to the equivalent of one professional who works full-time as an expert in archaeology, history, architectural history, historic architecture, historic preservation, planning, or a closely related field.

The Historic Preservation Division will consider proposals for alternative arrangements for local governments who submit evidence that they have not been able to obtain such expertise due to a lack of financial resources or available professionals. Such alternatives must ensure that adequate expertise exists to allow the CLG to undertake its responsibilities. Some New Mexico CLGs may find it difficult to obtain expertise especially in rural areas.

CLGs may contract with a qualified individual or local non-profit historic preservation agency for staff services, or a group of CLGs in a region could partner in a contract for the delivery of the required professional staff services.

It is recommended that consultants be approved by HPD to ensure that personnel have the necessary skills to carry out the specific responsibilities of the CLG. Staff requirements will vary according to the types of programs which the CLG undertakes and the duties delegated to it. Annual funds transferred to CLGs may be used toward retaining a preservation consultant or paying for a portion of staff salary, as long the outcome includes measurable results. See Appendix C for Historic Preservation Professional Qualifications.

The Historic Preservation Officer/Consultant plays an essential role in executing a local preservation program. This staff person is often the first contact that community members have in navigating the preservation review process. Staff can act as liaison to other departments or non-profit preservation organizations in the community and can execute the Commission's goals and objectives.



J.A. Mahoney Building in Deming, NM. Built in 1885.

V. NATIONAL REGISTER OF HISTORIC PLACES – CLG ROLE & PARTICIPATION

The Certified Local Government establishes a partnership between the local government and the State Historic Preservation Office/HPD and the National Park Service. Both HPD and the CLG have responsibilities under the National Historic Preservation Act when a nomination for listing in the National Register moves forward in their jurisdiction.

Because both the NR/SR listings can impact eligibility related to the state or federal tax credit programs, informal monitoring of NR/SR-listed properties by CLGs is encouraged. Commissions can make recommendations to HPD regarding a property or district’s removal from the NR/SR that has been altered because of demolition or loss of historic integrity or lead the way for survey efforts to update existing NR/SR nominations.

The Historic Preservation Division and the CLG will work together to provide opportunity for public participation in nominating properties to the National Register. Any reports submitted by the CLG to HPD shall include assurances of public input. The CLG shall retain a list of all persons contacted during the evaluation period and note comments which it received. If a public hearing was held, the CLG should include a list of those attending.

In accordance with the National Historic Preservation Amendments Act of 1980, the CLG shall submit a report to the Historic Preservation Division regarding the eligibility of each property or district proposed for nomination to the national register within its jurisdiction. This report shall include the recommendation of the local preservation commission and the chief elected official. The report may be as simple as an affirmation that the property is eligible, or as lengthy as a researched report stating why the property should or should not be nominated. The report should concentrate on the property’s eligibility under the national register criteria (see glossary). If it is felt that the property is not eligible, reasons must be given based on national register criteria.

CLG ROLE IN NATIONAL REGISTER NOMINATION PROCESS	
Step 1	The Historic Preservation Division will forward a copy of a completed draft national register nomination to the CLG for any properties within that jurisdiction that are nominated for listing. Information shall be sent to the CLG within 30 days of receipt unless the CLG itself has initiated the nomination.
Step 2	Within 60 days of receipt of the nomination, the CLG shall inform the Historic Preservation Division and the property owner(s) as to its opinion regarding the eligibility of the property. If the local review commission and the chief elected official do not agree, both opinions shall be forwarded. Local governments’ participation in this process is so that local information can be included about the proposed resource/resources for listing
Step 3	If both the commission and the chief elected official, or their designated representative, recommend that a property is not eligible, the Historic Preservation Division will so inform the property owner(s) and the cultural properties review committee, and the property will not be nominated unless an appeal is filed with the HPD under the regulations established for the appeals process, outlined in the National Historic Preservation Amendments Act of 1980.

CLG ROLE IN NATIONAL REGISTER NOMINATION PROCESS <i>continued</i>	
Step 4	If either or both the commission and the chief elected official or their designated representative, agree that the property is eligible, the nomination will be scheduled for review by the cultural properties review committee. The opinion or opinions of the commission and the chief elected official, or their designated representative, will be presented to the committee for their consideration.
Step 5	The Cultural Properties Review Committee (CPRC), after considering all opinions, shall make its recommendation to the state historic preservation officer. The HPD shall then forward the nomination with his or her recommendation to the National Park Service, in the case of the property's being eligible, or return it to the CLG and the owner(s) in the case that it is not eligible. Either the commission or the chief elected official, or their designated representative, may appeal the final HPD decision under the aforementioned appeals procedure to the CPRC.

Failure to submit reports on the eligibility of properties nominated within the jurisdiction of the CLG after the Historic Preservation Division has informed the CLG of a pending nomination will be considered during the annual performance evaluation.

CLGs may participate in the review and approval of National Register nominations whether or not they elect to apply for grants from the Historic Preservation Fund/Certified Local Government grant.

Local governments may be certified and participate in review and approval of national register nominations whether or not they elect to apply for grants from the historic preservation fund.

National Register		
Aspect	Required to be a CLG?	Recommendation
HPD will forward nomination to CLG with request to complete a report.	Yes. Submit report to HPD.	Complete a report for NRHP nominations in the community. Completion of these reports will be taken into account in the evaluation period.
CLGs are required to review NR nominations within their jurisdiction.	Yes. Complete a report.	Provide further comments. Review the NRHP nomination at a Commission meeting.

VI. STATE AND FEDERAL COMPLIANCE REVIEW – CLG PARTICIPATION

As a CLG, a Community has the opportunity to participate in local review of federal and state projects.

a. Federal Compliance Review – Section 106 of the National Historic Preservation Act

Section 106 of the National Historic Preservation Act ensures that when there is a federal undertaking that historic properties are taken into consideration. Commissions should be informed by federal agencies when a federal action is to be undertaken within their jurisdiction and be given the opportunity to respond concerning the potential effect on historic properties (those listed in or eligible for listing in the National Register of Historic Places). The Commission should be notified by their government officials about federal undertakings within their jurisdiction. See 54 U.S.C. 306108.

b. State Compliance Review – New Mexico Prehistoric and Historic Sites Preservation Act

The New Mexico Prehistoric and Historic Sites Preservation Act ensures that when there is state funding, state agency involvement, or funding from a political subdivision of the state involved in a project that historic properties are considered in planning. Consultation may involve local communities consulting with HPD and include the Commission. See New Mexico Statutes Annotated § 18-8-1 – 18-8-8.

c. New Mexico Cultural Properties Act

The New Mexico Cultural Properties Act establishes the Historic Preservation Division (State Historic Preservation Office of New Mexico) and the Cultural Properties Review Committee. It



HPD Staff presenting to UNM Students on the legal milestones in historic preservation

provides for the protection of archaeological sites and unmarked human burials by qualified institutions and establishes civil and criminal penalties for looting of archaeological sites and disturbance of unmarked burials. The act further requires that state agencies provide the HPD with an opportunity to participate in planning for activities that will affect properties that are listed on the State Register of Cultural

Properties. See New Mexico Statutes Annotated § 18-6-1 -18-6-17.

VII. MAINTAINING CLG STATUS – MONITORING AND REPORTING

The Historic Preservation Division will conduct periodic review and monitoring of CLGs to assure that each government is fulfilling its obligations, including responsibilities delegated to the CLG under the National Historic Preservation Act, as amended. The CLG procedures shall also be in conformance with federal and/or State standards, including standards for statewide comprehensive historic preservation planning and other appropriate planning processes.

Provided that the CLG continues to meet the requirements outlined in federal and state statutes and clarified in this Manual, the CLG will retain its status. CLG certification agreements between the local government and HPD may be terminated by the local government, in writing, at any time and for any reason. HPD may also recommend to the National Park Service the revocation of a local government's CLG status if the local government persistently fails to meet the requirements of the CLG program.

Annual Report

HPD requires an annual report be sent at the end of every state fiscal year (June 30). The report shall document ongoing activities of the CLG and ensures that each CLG is meeting its obligations under the CLG Certification Agreement. The annual report shall include, at a minimum, the number of cases reviewed, new designations made, progress on survey activities, revised resumes for all commission members, and meeting attendance records. The annual report shall be submitted no later than sixty days after the end of the fiscal year of the local government.

Commission Education

It is recommended that each CLG host at least one educational training session a year. This session may be held at one of the regularly scheduled commission meetings or may include more extensive training. See the Section X. "Building a Strong Preservation Network" for further suggestions.

Monitoring

HPD will monitor the performance and evaluate each CLG at least once every four years. The review may include:

- Review of CLG activities including annual reports submitted by the CLG, minutes of Commission meetings, records of grant administration, and other documents.
- HPD may send staff representatives to meet with Commission staff and/or to Commission meetings.

Evaluation

HPD will use the following criteria when evaluating a CLG's performance and provide comments and recommendations for future growth:

1. Review of the existing ordinance and how it complies with program requirements.
2. Commission membership.

3. Number and frequency of Commission meetings.
4. Quality of local historic resource survey/inventory.
5. Number of review requests, CLG performance in reviews and number of local designations.
6. Consistency of Commission decisions related to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.
7. Number of National Register nominations commented on by the CLG and timeliness of comments.
8. Compliance with the CLG agreement, State CLG Procedures, and federal requirements.
9. Delegated responsibilities carried out according to program requirements.
10. Timely completion of Annual Report.
11. CLG Grant program applications and completion.
12. Submittal of minutes of Commission meetings to HPD.
13. Attendance of Commission members at meetings and other educational events.
14. Educational activities or programs conducted or sponsored.

Decertification

If the CLG is found to be deficient in fulfilling its responsibilities, HPD shall document the assessment and recommend, in writing, specific steps to bring performance to an acceptable level, within a set timeline. Persistent failure to meet CLG requirements may result in HPD recommending to the National Park Service that the CLG be decertified or be considered for "Inactive Status." Evaluations shall be completed by HPD and shall be forwarded to the Chief Elected Official of the CLG. Illegal activity that is unresolved at the city level or collusion where HPD has weighed in and provided direction to the CLG and the CLG refuses to participate may be grounds for decertification.

Review of NR- and SR-Designated Properties or Auto-Designation of NR and SR Listed Properties

CLG communities should be completing mandatory review of properties that are designated by the Community. Commission review of properties listed only in the National Register and/or the State Register is grounds for decertification or Inactive Status. Auto-designation into the local register of properties listed in the NR and/or SR is also not acceptable and grounds for decertification. In late 2020 when this Manual was revised, HPD recognized that several existing CLG communities have provisions in their ordinance for the review of NR/SR-designated properties and/or auto-designation of NR/SR-listed properties into the local register. HPD will provide four years (until 2025) for these communities to bring their ordinance into compliance through the designation of NR/SR-listed properties locally but, will not certify new communities as CLGs that utilize these practices.

Inactive Status

HPD recognizes that not all CLGs have the capacity to maintain a CLG program at all times and may need to request that their status be changed to “Inactive.” CLGs shall request this in writing. HPD can also reclassify dormant CLGs as “Inactive” by contacting the Community in writing. Communities that are inactive are unable to apply for CLG Grant funds until HPD receives a letter from the Community requesting reactivation as a CLG. The letter should provide information as to how the CLG is meeting all CLG program requirements.

HPD recommends that the CLG complete an annual report/provide notification via letter to maintain an inactive status. Inactive status may be granted for reasons of financial challenges and other community challenges. Inactive status may only be granted for a period of up to five years. If a community does not re-activate their CLG program, HPD may decertify the community.

Code of Conduct

CLGs will maintain a written Standard of Conduct code that shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by HPF funds. No employee, officer, or agent of the CLG shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of the following has a financial or other interest in the firm selected for an award:

- The employee, officer, or agent;
- Any member of his or her immediate family;
- His or her partner; or
- An organization that employs, or is about to employ, any of the above.

The CLG, officers, employees, or agents shall neither solicit, nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.

To the extent permitted by State or local law, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the CLG officers, employees, or agents, or by contractors or their agents.

This manual does not relieve the CLG of any responsibilities under its contracts. The CLG is responsible, in accordance with good administrative practice and sound business and legal judgment, for the settlement of all contractual and administration issues arising out of procurements entered into support of a grant. These include but are not limited to: source evaluation, protests, disputes, and claims. Violations of law are to be referred to the local, State, or federal authority having proper jurisdiction. The CLG shall use their own procurement procedures or the state’s that reflect applicable State and local laws and regulations, provided that procurements for federal assistance programs conform to the standards set forth herein and applicable federal law.

VIII. CLG GRANTS

Each year, the State of New Mexico's Historic Preservation Division receives funding from the National Park Service to be used for preservation activities. The Historic Preservation Fund (HPF) is supported by off-shore oil leases, not tax dollars. A minimum ten percent (10%) of the state's annual apportionment from the HPF is designated for CLGs as grants. Grant funding may require a match, an amount which is at the discretion of the State Historic Preservation Officer and will be specified in the annual CLG Grant Announcement.

CLG grants are awarded annually on a competitive basis. Contact HPD staff for dates or visit the HPD website to find out when the next cycle of grants opens. The use of federal funds (and match, if included as part of the project) is governed by all current guidelines and regulations imposed by the federal government. Any state-directed specific uses of funds must be for activities eligible for HPF assistance.

A CLG that receives HPF/CLG grant assistance is considered a subgrantee of the state and will be required to sign a grant agreement or contract. The agreement/contract will specify how the funds are to be managed and used. The CLG may be required to file interim and final reports as well as other grant reporting documents spelled out in the grant agreement/contract.

HPD is responsible through its annual financial audit for the proper accounting of HPF funds in accordance with OMB Circular A-128, "Audit Requirements." CLG receiving funds must: 1) maintain an adequate financial management system as specified in OMB circular A-102, 2) adhere to all requirements of the National Register Program Manual, and 3) adhere to any requirements as mandated by Congress regarding the use of such funds.

Allocation Procedures for Review and Selection

HPD will use the following guidelines in determining the allocation of CLG grant funds:

1. All funds will be awarded on a competitive basis. Because a local government is given a grant one year does not mean a grant will be available the following year.
2. All local governments that have been certified as CLGs are eligible to apply for funds but will not automatically receive funds. CLGs that are currently on "Inactive Status" are not eligible to apply for funds.
3. Funds will be distributed among the maximum number of eligible participants.
4. Every reasonable effort will be made for an equitable distribution of funds between rural and urban areas. HPD will ensure that no CLG is awarded a disproportionate share of funds.
5. The amount awarded to any one grantee must be sufficient to produce a specific impact and deliverable.

Funding will be based, in accordance with the preceding guidelines, on project value, degree of local impact to preservation planning, and the amount of funding requested. HPD will make available to the public, upon request, the rationale for the applicants selected and the amounts awarded.

Eligible Activities

In general, eligible activities will include any project which furthers the goals of identification, evaluation, nomination, and protection of the community's cultural resources. This would include historic property survey, nomination of properties to the National Register of Historic Places, public preservation and educational programs, research, local legislation, community preservation plans, management plans for specific historic properties, brick and mortar projects, etc. The eligibility of projects for annual funding will be determined by directives from Congress and the National Park Service to the Historic Preservation Division, those outlined in the current State of New Mexico Historic Preservation Plan, and will be at the discretion of the State Historic Preservation Officer.

Match

Grants made from the Historic Preservation Fund cannot be used as matching share for other federal grants, unless statutes allow for it (i.e., some Department of Housing and Urban Development/Community Development Block Grant funds can be used as match). When match is required other federal funds may not be used as match. Match can be in-kind or cash or a mixture of both. The match amount will be established in the Grant Announcement and will be at the discretion of the State Historic Preservation Officer.

Brick and Mortar Projects

Any HPF-funded grant for brick and mortar projects (rehabilitation or restoration) will require a preservation easement or covenant for a certain number of years corresponding to the amount of the grant. If grant funding is \$10,000 or less a five-year minimum preservation agreement is required. If grant funding is \$10,001-\$25,000 a five-year minimum covenant, recorded with the property deed, is required. If grant funding is \$25,001-50,000 a 10-year minimum covenant is required and between \$50,001-100,000 a 15-year minimum covenant is required. If funding is \$100,001+ a 20-year minimum covenant is required.

The Application Process

Any New Mexico Certified Local Government wishing to apply for New Mexico CLG Grant funds must submit a completed application packet to the Historic Preservation Division. An Announcement will be distributed each year by HPD via email and will be posted on the HPD website. The Announcement will identify any specific priority funding areas identified by HPD for that year and will specify a required match, if any.

The Announcement and application materials will be available on the HPD website or by email or mail at a CLG's request. An entire application must be complete and received by the deadline for a project to be considered for funding.

Final Products/Deliverables

Federal regulations require that all CLG grant projects result in a tangible product. Applications should identify a specific deliverable that is a result of the grant project. Typical products include, but are not limited to, survey reports and forms, a nomination for listing in the National Register of Historic Places, a preservation plan, etc. In some cases the product may be an activity or a lecture or workshop.

Grant Administration/Grant Closeout and Reimbursement

All CLG grants are reimbursable which means that the CLG completes the work, pays for the work, and then provides documentation of the completed work and payments and supporting documents to HPD for payment. Grants will have periodic milestones where CLGs are required to report on project progress. At the end of the grant project, CLGs will be required to complete several reporting documents detailing information about the grant. Final payment will only occur after the CLG has completed all grant reporting and HPD confirms that the project complies with the Secretary of the Interior's Standards. Only items listed in the approved Grant Agreement will be approved for payment.

CLGs must retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of five (5) years or until an acceptable audit has been performed and resolved. The five-year retention period begins from the date of the submission of the final reports.

Reallocation of Funds

When any of the funds set aside for grants to CLGs becomes available for reallocation as a result of decertification or grant termination, the following policies will guide HPD in its reallocation decisions:

- CLGs that did not receive the full amount requested for specific projects and have the ability to provide the local match will receive top priority.
- Use of funds by HPD that will benefit all New Mexico CLGs and preservation commissions (e.g. training sessions, educational materials).
- Emergency projects.

If 10% is Not Completely Utilized

In the event that certified communities making application for funding do not demonstrate, in the opinion of the State, a need for the entire 10 percent, the State will use the balance of the total to assist communities who are attempting to become certified, or for other allowable expenditures. Note that funding up to the 10% threshold must be passed through a CLG.

No Certified Communities in New Mexico

In the event that no local governments are certified, the State will use the total amount of the allocated 10 percent of funds to assist local governments to become certified.



HPD Staff consulting on the Rawlins Building in Las Vegas, NM. The City of Las Vegas was the recipient of a CLG grant to complete a feasibility study of the Rawlins Building.

Project Cancellation

Approved grants to CLGs may be cancelled for one or more of the following reasons:

1. Request for cancellation from the grantee.
2. Grantee fails to meet required reporting deadlines.
3. Grantee fails to initiate project within four (4) months of the execution of the grant agreement/contract.
4. Project work does not meet the conditions or standards in the grant agreement/contract.
5. Procurement violations.

Consultants

HPD will work with CLGs to review and select consultants used in CLG projects. Consultants must be listed in the SHPO Directory or meet the Secretary of the Interior's Professional Qualifications for one of the disciplines.

See Appendix C for further description of the disciplines.

The SHPO Directory may be found on the Historic Preservation Division website at:

<http://www.nmhistoricpreservation.org/documents.html>

IX. PRESERVATION PLANNING

There are several different types of preservation planning documents that can be helpful to local preservation programs. HPD recommends that every CLG complete a community-wide preservation plan and periodic updates to identify strategic preservation planning for the community.

Historic Preservation Plan (City or County-wide)

An Historic Preservation Plan for a community is a comprehensive plan for all preservation activities in the community. This type of plan requires extensive public outreach to capture the values of preservation within a community and to create goals and objectives for the local preservation program. A preservation plan should be consistent with the State Historic Preservation Office's Preservation Plan (revised every 5 or 10 years). A preservation plan is best completed by someone trained in preservation planning. Some communities may opt to hire a consultant skilled in planning to complete the necessary outreach to community members.

Comprehensive Plan / Master Plan, Section on Historic Preservation

Most communities are required to complete a comprehensive plan or master plan which outlines land use and zoning plans. For some communities, the resources are not there to complete a stand-alone City-wide preservation plan. Some communities are just getting started related to preservation thus, focusing a chapter or a section of the Comprehensive Plan on historic preservation may be suitable. Most communities hire a consultant to complete this type of planning effort. One thing to keep in mind is that planners skilled in comp plans and master plans may not have the expertise needed to best articulate goals and objectives for historic preservation. Planning and Zoning powers at the state level may be found in Title 3 Municipalities, Article 19: Planning and Platting; Article 20: Subdivisions, Planning & Platting; and Article 21: Zoning Regulations, of the New Mexico Statutes Annotated.

Strategic Plan

A strategic plan is a plan that focuses on specific goals and objectives for the community's preservation program. These can include annual assessments and thresholds to measure progress.

Resource-Specific Treatment Plans

Historic Preservation Plans or Historic Structure Reports, condition assessments, or treatment plans, are designed to develop a strategy for a cultural resource's management and treatment. This type of document is best completed by a team of professionals which may include an architect, an historian, a structural engineer, and/or a landscape architect.

X. BUILDING A STRONG PRESERVATION NETWORK

Sustaining a successful local Commission depends on two main pillars of best practices: education and outreach. Maintaining a well-informed, well-connected, and motivated Commission is the key to ensuring that a local preservation program grows effectively, and that it maintains its relevancy to the community.

Commission Education

Training is a critical element for the success of any local commission, especially for historic preservation. It is imperative that local governments provide Commission members with adequate training on the local preservation ordinance, other related ordinances, rules, and procedures. Before taking action, Commission members must ensure that their decisions or comments on record are consistent with the existing laws and procedures of their local government.

Education for Commission members and its key partners (city council, county commission, planning commission, local non-profits, business organizations, etc.) is critical to making sure that a preservation program has support from the community. Active programming for the public, training opportunities for City/County staff/elected officials and networking within the local government ensures that a preservation program is connected to other local processes and maintaining community interest in preserving cultural resources.

CLGs are required to set aside a minimum of one Commission meeting per year for training purposes. HPD staff is available to direct or assist in training efforts.

Preservation-related training may include the following:

- Attending FORUM, the biennial conference of the National Alliance for Preservation Commissions (NAPC) or State-wide preservation meetings.
- Hosting/Attending a Commission Assistance and Mentoring Project (CAMP) session provided by NAPC consultants or other preservation education specialists.
- Attending a preservation training provided by a local, regional, or state-wide non-profit organization such as the New Mexico Heritage Preservation Alliance or neighboring states like Colorado Preservation, Inc.'s or Arizona SHPO's annual conference.
- Attending Main Street America's annual conference.
- Attending the regular Commission meeting of another CLG (in New Mexico or another state) to see how other Commissions complete review.

Staff Education

While preservation planners do not currently have a professional certification process to maintain, like planners who may be required to maintain their American Institute of Certified Planners (AICP) registration, the continuing education of staff is critical to the success of local preservation programs. HPD recommends that Staff/Consultants make efforts to attend conferences or attend other local events that are preservation-related.

Other Ways to Keep Informed

Memberships to national preservation organizations, like the National Trust for Historic Preservation and the National Alliance of Preservation Commissions offer list-serv membership where staff and Commission members can participate and keep informed of current preservation issues. In addition, Main Street America provides resources to its members. Questions regarding a certain type of building material or type of rehabilitation project can be asked in the listserv and the preservation community may be able to provide support and direction.

APPENDIX A: GLOSSARY

Announcement – The annual notice from the Historic Preservation Division regarding grant opportunities for Certified Local Governments.

Certified Local Government (CLG) - A local government whose local historic preservation program has been certified by HPD and the National Park Service. It is the local government, and not the Commission, that is certified. 36 CFR 61, and becomes a partner in the federal preservation program.

Certification Agreement - The document signed by the chief elected official and the State Historic Preservation Officer that specifies the responsibilities agreed to as a condition of being a Certified Local Government.

CLG Jurisdiction - The legal and geographic boundaries of the local government. Because city and county jurisdictions are separate, city and county certified local governments must be established separately also. However, city and county certified local governments may cooperate and share purposes, sub-grant agreements, reporting forms, preservation Commissioners, and a local Historic Preservation Officer.

Chief Elected Official - The elected head of a local government. This official, according to federal statute, is the CLG program's official contact. This official must sign all programmatic sub-grant agreements and other documents. If the local government grants signatory authority to another, such as an administrative manager, both should sign sub-grant agreements and both should be kept informed of project changes.

Commission - A historic preservation commission, board, council, or similar collegial body that is established by local legislation, composed of professionals and persons appointed as specified in the local legislation that perform the duties and responsibilities outlined in the legislation. May also be called a Landmarks Board, Landmarks Commission, or Design Review Committee.

Commission members - Duly appointed persons who demonstrate special interest, experience, or knowledge in history, architecture, or preservation-related disciplines. Commissioners are responsible to HPD only as representatives of the local government.

Commission professionals - Professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines.

Comprehensive Historic Preservation Plan – The part of the planning process that conforms to the Secretary's Standards for Preservation Planning. The comprehensive plan entails organizing a logical sequence of preservation information pertaining to identification, evaluation, registration, and treatment of historic properties, and setting priorities for accomplishing preservation activities.

Consulting Party - An individual or entity providing professional advice, expertise, demonstrated interest, or legal or economic relationship to a matter. Under the provisions of 36 CFR 800, federal agencies are required to seek and consider the views of state agencies, other federal agencies, Tribal Historic Preservation Offices, local and certified local governments, local preservation groups, other interested parties, and the public in their consultation regarding information needs and possible effects to historic properties.

Contributing Property – A classification assigned, as a result of a comprehensive survey, to a site or another parcel of real estate and its associated buildings, structures, objects, and other improvements within a designated Historic District. The classification signifies that a site or parcel and its associated improvements support the overall character, feeling, and significance of a district although the site or parcel and its associated improvements may not have individual architectural or historical significance as a single property but, due to its location within or proximity to a streetscape or neighborhood, reflects the significance of the district on the whole.

Cultural Heritage - Pertaining to the sum total of traditions, body of knowledge, etc., inherited as possessions, characteristics, or conditions expressing a traditional way of life subject to gradual, but continuous modifications by succeeding generations.

Cultural Properties Review Committee (CPRC) – The CPRC is created by the Cultural Properties Act and serves as the professional policy-making/advisory board for historic preservation in New Mexico. The CPRC reviews nominations for listing in the State Register of Cultural Properties, reviews and recommends nominations for listing in the National Register of Historic Places to the Keeper of the National Register, reviews and approves applications for the State Income Tax Credit Program, among other duties.

Cultural Resources – See Historical Resource.

Demolition – Any act or process which requires a permit for the purpose of removing or destroying, in whole or in part, any improvement or site.

Designation - the identification and registration of properties for protection that meet criteria established by the National Register, state, or the locality for significant historic and prehistoric resources within the jurisdiction of a local government. Designation must be consistent with the Secretary of the Interior’s Standards for Identification and Registration.

Designation Report - A report that includes information on a subject property or group of properties for an historic district. Information includes historic use and current use, historic photographs and current photographs, map, legal description, historical information, architect, etc.

Design Guidelines – A standardized set of principles that provides general instruction for the appropriate preservation and/or adaptation of the historic and/or architectural character of a structure, object, site, or area.

Development – Any building, structure, work of art, parking facility, fence, gate, wall, or other object, including utilities or site grading, constituting a physical addition/change to real property, or any part of such addition.

Development Plans – Plans for any building, structure, work of art, parking facility, fence, gate, wall, or other object, including utilities or site grading, constituting a physical addition/change to real property, or any part of such addition.

Evaluation - The process whereby the significance and integrity of a resource is judged using established criteria to determine its eligibility for listing as a historic resource.

Finding of Fact – The conclusions found to be true as determined by the Commission from an examination of the underlying evidence and testimony of a case under consideration in accordance with established review criteria.

Grant Agreement – The contract/agreement between two or more parties outlining the stipulations of the expenditure of grant funding, usually funding from the Historic Preservation Fund.

Historic Context - An organizing structure for interpreting history that groups information about historical resources sharing a common theme, geographical area, or chronology. The development of “historic context” is a foundation for decisions regarding the planning, identification, evaluation, registration, and treatment of historical resources based upon comparative historic significance.

Historic Landmark – Any building, structure, object, improvement, or site of particular historic or aesthetic significance to the city, the state, or the nation. Landmarks include sites, buildings or structures where cultural, political, spiritual, economic, educational, social or artistic history of the community, state or nation is reflected or exemplified or which are identified with historic personages or with important events in local, state or national history, or which embody the distinguishing characteristics of an architectural specimen, inherently valuable for representation of a period, style or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced a particular period of time or aesthetic movement.

Historic District - Any area established by ordinance or nomination which includes or encompasses such historic sites, landmarks, buildings, signs, appurtenances, structures, or objects as may be determined as appropriate for historic preservation. Such designated district or districts need not be a single enclosed area, nor do the areas or sites have to be contiguous to constitute a district.

Historic Preservation - Includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding these activities or any combination.

Historic Preservation Commission – See Commission.

Historic Preservation Division - The State Historic Preservation Office of New Mexico is the Historic Preservation Division or “HPD”, a Division of the State of New Mexico’s Department of Cultural Affairs.

Historic Preservation Fund (HPF) - Monies appropriated to fund matching grants-in-aid program to State and Tribal Historic Preservation Offices for carrying out the purposes of the National Historic Preservation Act, as amended (16 USC 470 et seq.). By law, a minimum ten percent (10%) of each state's allocation must be subgranted to the certified local government program.

Historic Property - Any prehistoric or historic district, site, landscape, building, structure, object, or traditional cultural property included in, or eligible for, inclusion in the National Register, including artifacts, records, and material remains related to such a property or resource.

Historical Resource - A broad term for any object, building, structure, site, area, place, which meets the criteria for historical or archaeological significance established by the National Park Service, the State of New Mexico, or a local government. National Register and State of New Mexico Cultural Property criteria are similar, but not identical.

Improvement – Any building, structure, work of art, parking facility, fence, gate, wall, or other object constituting a physical addition to real property, or any part of such addition.

Integrity - The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's significant historic or prehistoric period. Integrity is based on seven aspects of originality: location, design, setting, materials, workmanship, feeling, and association.

Inventory - The list of resources evaluated resources evaluated through either an historical resources survey or other review process. See also, Survey.

In Writing – in the form of a letter or electronic mail document.

Local Government - Any general purpose political subdivision of the state, such as an incorporated city, town, village, or county.

Local Historic Preservation Officer (HPO)- The local Historic Preservation Officer (HPO) coordinates local historic preservation programs, helps in the development of local surveys, projects and historic preservation planning documents, advises and provides assistance to the local historic preservation Commission, government agencies and the public, and ensures to the extent practicable, that the duties and responsibilities delegated by local ordinance are carried out.

Local Ordinance - An ordinance, resolution, or other legal instrument to meet the requirements of the certified local government program.

Local Register - A list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance.

Main Street America – Main Street is an organization focused on preservation-based economic development and community revitalization across the United States. In New Mexico, New Mexico MainStreet is the state's chapter.

National Alliance of Preservation Commissions (NAPC) - NAPC is the national organization focused on the support of historic preservation commissions and provides a forum for commissions to discuss mutual problems. NAPC hosts a bi-annual conference called "FORUM".

National Historic Preservation Act - A federal law that established the certified local government program, National Register of Historic Places, and a process requiring federal agencies to consider the effects of their undertakings on National Register properties, and it encourages preservation on state and private lands, National Historic Preservation Act, as amended (16 USC 470 et seq.).

National Register of Historic Places – The National Register or "NR" is the official list of the nation's historic places worthy of preservation. The list consists of districts, sites, buildings, structures, and objects significant in American history, architecture, landscape, archeology, engineering, or culture, and is maintained by the Keeper of the National Register at the National Park Service in the Department of the Interior. 36 CFR 60.

National Register criteria - The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

Criterion A. The property is associated with events that have made a significant contribution to the broad patterns of our history.

Criterion B. The property is associated with the lives of persons significant in our past.

Criterion C. The property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.

Criterion D. The property has yielded, or is likely to yield, information important in prehistory or history.

National Trust for Historic Preservation - The nationwide private, nonprofit organization chartered by legislation approved by Congress on October 26, 1949, with the responsibility of encouraging public participation in preservation.

New Mexico Cultural Resource Information System (NMCRIS) – NMCRIS is an online computer database designed to support historic preservation, cultural resource management, and academic research in New Mexico. NMCRIS integrates geographic, management, and research-related data pertaining to four major classes of cultural resource information: cultural resource investigations, archaeological sites, historic properties, and State and National Register properties. NMCRIS supports cultural resource management and research by serving as the primary statewide information resource for accessing cultural resource investigation reports and records on individual cultural resources.

New Mexico MainStreet – NMMS is a state-wide program based in the New Mexico Economic Development Department that helps local organizations create an economically-viable business environment while preserving cultural and historic resources.

Nomination - A form accompanied by maps and photographs that adequately documents an individual property or district and is technically and professionally correct and sufficient. To nominate is to propose that a district, site, building, structure, or object be listed in the National Register of Historic Places or, where a private owner or majority of owners object to listing, that property be determined eligible by the Keeper of the National Register.

Non-Contributing Property - A building, structure, object, improvement, or site within a Historic District that does not possess individual architectural, historic, or structural significance or integrity. Non-contributing properties may be further classified as non-contributing due to age at the time of classification; noncontributing due to reversible conditions (which, if modified, may permit the reclassification of a property to contributing or significant); or non-contributing due to a lack of any significance or integrity as herein defined.

Owner Consent – The act or result of reaching consensus and agreement, through reason and deliberation, by the Owner(s) of real estate when historic designation is proposed at the suggestion of another party.

Places – Important places, sites, districts, buildings, objects, and structures worthy of preservation.

Protection - The application of measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss, or attack or to cover or shield the property from danger or injury. Also, protection means a local review process under state or local law for any proposed demolition of, changes to, or other action that may affect historic properties listed in an established local register.

Public participation - The active involvement of a wide range of public, private, and professional organizations and individuals. In Nevada, public participation is mandated under NRS 241.

Registered historic district - Any significant historic district that is listed in, and meets the criteria for, the National Register of Historic Places or an established local register.

Review and compliance - The federally mandated state review of an undertaking's effect on historic properties, as specified under Section 106 of the National Historic Preservation Act, as amended (16 USC 470 et seq.). If agreed upon by HPD and the certified local government, this responsibility may be delegated in part or whole to the certified local government.

SHPO - State Historic Preservation Office or the State Historic Preservation Officer. "SHPO" is the acronym for the State Historic Preservation Office or Officer. The SHPO in New Mexico is the Historic Preservation Division, or "HPD" which includes the State Historic Preservation Officer as its Director.

Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (SOI Standards) - Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation which provide technical information and guidance about historic preservation activities and methods. The subjects include: Preservation Planning, Identification, Evaluation, Registration, Historic Research and Documentation, Architectural and Engineering Documentation, Archeological

Documentation, Treatment of Historic Properties (Restoration, Rehabilitation, Stabilization, and Reconstruction), Professional Qualifications, and Preservation Terminology.

Subgrant - A pass-through award of financial assistance from the federal government, under the National Historic Preservation Act, as amended (16 USC 470 et seq.) through SHPO/HPD to a certified local government to carry out specific objectives for a specified period of time consistent with the terms of a sub-grant agreement.

State of New Mexico, Official Scenic Markers Program – A program begun in 1935 to promote tourism with its history. Markers explain land formations, public archaeological sites, important buildings, historic travel routes, places, and events. They mark locations of geologic, cultural, economic, political, scientific, and artistic significance to New Mexico, the Southwest, and the nation.

State Historic Preservation Office – The State Historic Preservation Office or “SHPO” is the designated office in each state that is the partner to the federal historic preservation program. In New Mexico, the SHPO is the Historic Preservation Division housed in the State of New Mexico Department of Cultural Affairs.

State Procedures for the CLG Program – This CLG Program Manual was first called “State Procedures for the CLG Program” in its last iteration dated 1986. This is the official document that outlines the Certified Local Government program.

State Register of Cultural Properties – Authorized in 1969, the State Register or “SR” is the official list of historic properties worthy of designation in New Mexico. HPD administers the State Register and all listings are approved by the Cultural Properties Review Committee.

Structure – Anything constructed or erected, the use of which requires, directly or indirectly, a permanent location on or in the ground, including without limitation buildings, garages, fences, gazebos, signs, billboards, antennas, satellite sending or receiving dishes, swimming pools, walks, walls, steps, sidewalks, and works of art.

Sub-grant agreement - The written contractual agreement and any subsequently approved amendments between HPD and a CLG (sub-grantee) in which the terms and conditions governing the grant award are stated and agreed to by both parties, and that documents the obligations of the funds.

Survey - The systematic process for identifying and/or evaluating the historical significance of resources within a defined geographic area or thematic context. Information gathered in the course of a survey becomes a part of the historic resources inventory for that area. See also, Inventory.

Tax Credits, Federal Historic - A provision of federal Tax Reform Act of 1986 which, under certain conditions, allows money invested in rehabilitation of historic income-producing properties to be deducted from income taxes owed, providing the work is done in accordance with the Secretary of the Interior’s Standards and Guidelines for Rehabilitation. This program is administered by HPD and the National Park Service.

Tax Credits, State Historic - The State Income Tax Credit for the Preservation of Cultural Properties was established in 1984 and, under certain conditions, allows money invested in the rehabilitation of listed state register properties to be deducted from income taxes owed, providing the work is done in accordance with the Secretary of the Interior's Standards and Guidelines for Rehabilitation. This program is administered by HPD and Cultural Properties Review Committee.

Undertaking - A project, activity, or program funded in whole, or in part, under the direct or indirect jurisdiction of a federal agency including those carried out by or on behalf of the agency (carried out with federal financial assistance, or requiring a federal permit, license, or approval).

APPENDIX B: CLG CERTIFICATION FORMS

Samples of the following forms are available on the next pages:

- CLG Certification Checklist
- CLG Certification Agreement
- CLG Request for CLG Status



Michelle Lujan Grisham,
Governor

STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338

CLG CERTIFICATION APPLICATION CHECKLIST

State: New Mexico Jurisdiction: _____

Date Submitted to State: _____ Date Approved by State: _____

(1) Applicant meets the Federal definition of local government and has authority to enforce acceptable legislation for the designation and protection of historic properties.

(2) Applicant has established a historic preservation review commission consisting of _____ members. This meets State procedure requirements for number of members (5 members).

There are _____ lay members.

There are _____ professional members qualified in the fields of:

- List field
- List field
- List field
- List field

This meets State procedure requirements for professional membership.

(3) All commission members have a demonstrated, positive interest, competence, or knowledge in historic preservation.

(4) Professional members of the commission have been appointed to the extent available in the community, and we have reviewed resumes that document professional qualifications acceptable under the Secretary of the Interior's Historic Preservation Professional Qualification Standards. If not, the applicant satisfactorily documented an adequate search for the requisite professional members and how it will obtain access to expertise when needed.

(5) The role and responsibilities of the local government have been specific in detail in the enclosed agreement, including:

- A. The four basic responsibilities:
 1. Enforcing State or local legislation for the designation and protection of historic resources.
 2. Maintaining a system for survey and inventory of historic properties.

- 3. Providing for adequate public participation in the historic preservation program.
- 4. Reviewing National Register nominations through a qualified local commission.

B. Additional responsibilities.

- 1. Required of all CLGs
 - a. Maintain adequate financial management systems.
 - b. Adhere to all requirements of the Historic Preservation Fund Grants Manual.
 - c. Adhere to any requirements mandated by Congress regarding use of federal historic preservation funds.
 - d. Adhere to requirements outlined in the State of New Mexico Local Government Participation Procedures issued by the State Historic Preservation Office.
- 2. Requirements specific to this CLG (if any stipulated).

(6) The CLG contact person, including title/position, mailing address, and telephone number:

Contact person name
Title
Mailing Address
City, New Mexico
Telephone

(7) The Certification Agreement has been signed by SHPO and Chief Elected Local Official.

(8) Any other information relevant to this application:

LOCAL COMMUNITY NAME: _____

Name & Title: _____

Signature: _____

Date: _____

STATE REVIEWER: Historic Preservation Division

Name & Title: _____

Signature: _____

Date: _____

On City/Town/Village/County Letterhead

REQUEST FOR CERTIFIED LOCAL GOVERNMENT STATUS

DATE:

TO: State Historic Preservation Officer
Historic Preservation Division
Bataan Memorial Building
407 Galisteo Street, Suite 236
Santa Fe, New Mexico 87501

FROM: _____
Chief elected official

(Village, Town, City, or County of)

In accordance with the National Historic Preservation Act of 1966, as amended, and the New Mexico Historic District and Landmark Act (3-22-1 NMSA, 1978) and the New Mexico Certified Local Government Regulation, 4.10.10 NMAC, I hereby request Certified Local Government status for _____...
(applicant government)

Enclosed are:

1. Name, address, and phone number of local CLG contact person.
2. A current copy of the local historic district or landmarks ordinance.
3. A listing of designated historic properties and districts protected by the historic district ordinance, including location maps and level of recognition (local, State, or National Register status).
4. A list of the members of the Historic Preservation/Design Review Commission and resumes indicating their qualifications (either experience in preservation field or demonstrated interest in historic preservation).
5. Resume of staff or consultants to the Historic Preservation Commission, and a discussion of the duties of staff or consultant.
6. A copy of the local preservation plan, if extant, or a concise statement describing the status of the applicant's survey, nomination, and design review process.

On City/Town/Village/County Letterhead

7. Certification Agreement, signed by chief elected official.

I understand that, if certified, (Village, Town, City or County of) will be eligible to apply annually for Certified Local Government matching grants for approved local historic preservation projects.

I also affirm that (Village, Town, City or County of) will support preservation efforts, and conduct the preservation program in compliance with all applicable rules and regulations.

Signed, Chief elected official

(Village, Town, City, or County of)

Date

Enclosures

Certification Agreement MODEL



Michelle Lujan Grisham,
Governor

STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338

LOCAL GOVERNMENT CERTIFICATION AGREEMENT

Pursuant to the provisions of the National Historic Preservation Act, as amended, to applicable federal regulations (36 CFR 61), and to 4.10.10 NMAC Certified Local Government Program, the City/Town/County of NAME HERE agrees to:

- (1) Enforce appropriate legislation for the designation and protection of historic properties [specify legislation or cross reference requirements from State procedures].
- (2) Maintain an adequate and qualified historic preservation review commission composed of professional and lay members [list or cross reference specific requirements from State procedures].
- (3) Maintain a system for the survey and inventory of historic properties [list or cross reference specific requirements from State procedures].
- (4) Provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register [list or cross reference specific requirements from State procedures].
- (5) Adhere to all Federal requirements for the Certified Local Government Program.
- (6) Adhere to requirements outlined in the State of New Mexico regulation titled 4.10.10 NMAC, issued by the State Historic Preservation Office.

Upon its designation as a Certified Local Government, the City/Town/County of NAME HERE shall be eligible for all rights and privileges of a Certified Local Government (CLG) specified in the Act, Federal procedures, and procedures of the State of New Mexico. These rights include eligibility to apply for available CLG grant funds in competition only with other certified local governments.

STATE:

LOCAL GOVERNMENT

SHPO or Designee

Chief Elected Local Official

Date

Date

APPENDIX C: Historic Preservation Professional Qualifications

Commission Members

At least two members on the Commission must meet the Secretary of the Interior's Professional Qualifications Standards (SOIPQS) in any preservation-related field, to the extent that these professionals are available in the community. If a local government cannot find a volunteer who meets those requirements, they must demonstrate to HPD that they attempted to fill that position with someone who meets the SOIPQS and how long they left the announcement open before moving on to a non-SOI qualified applicant/candidate.

Staff/Consultant

In order to carry out the duties delegated to it, the local government must employ or have regular access by contract or letter of agreement to the equivalent of one professional who works full-time as an expert in archaeology, history, architectural history, historic architecture, historic preservation, or a closely related field. HPD will consider proposals for alternative arrangements for local governments who submit evidence that they have not been able to obtain such expertise due to a lack of financial resources or available professionals. Such alternatives must insure that adequate expertise exists to allow the CLG to undertake its responsibilities.

It is recommended that consultants be approved by the Historic Preservation Division to ensure that personnel have the necessary skills to carry out the specific responsibilities of that CLG.

The U.S. Department of the Interior currently recognizes the following five areas of expertise with subsequent definitions of the qualifications necessary to meet the SOIPQS.

History

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

- At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
- Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

Archaeology

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

- At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
- At least four months of supervised field and analytic experience in general North American archeology, and
- Demonstrated ability to carry research to completion.
- In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

Architectural History

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

- At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
- Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

Architecture

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

Historic Architecture

The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

- At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
- At least one year of full-time professional experience on historic preservation projects.
- Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

**BOARD ACTION FORM
AGENDA DATE**

PZHAC: 3/2/26

BOT:

**DAC ACCOUNT # R0400742
BLDG CODE – SIGN
EVALUATION COST- \$N/A
FEE - \$16**

ITEM: PZHAC SIGN #062098 – 1200 W University, submitted by Jornada Masonic Lodge. Requesting approval to install a sign. ZONE: Single-Family Residential (R1).

BACKGROUND AND ANALYSIS:

Mr. Joe Chrisman, applicant for Jornada Masonic Lodge, is requesting approval to install a free-standing sign on their property 4 ft from the edge of the sidewalk and approximately 50 ft from the west boundary line. As detailed in the sign specs, the sign size will be 4 ft x 2 ft and constructed in 3 pieces of 1/8" steel sandwiched together. The two outside sheets have cut-out letters/designs. Will be finished with light brown powder coat material. The inner sheet is solid and finished in turquoise powder coat material.

The legs will be made out of perforated galvanized steel square tubing. The total height would be approximately 10 ft, and the bottom of the sign will be 7.5 ft. The base will be buried 3 ft into the ground with 2'x2' square tubing as anchors.

The purpose of the sign is to identify where the lodge is located. Mr. Chrisman stated, they do a lot of charity work and help the community by giving away items such as; wheelchairs, crutches, and other needs people might need. Many struggle in locating the place as it sits back away from the main road.

IMPACT:

- The PZHAC has jurisdiction to recommend approval of this request to the BOT.
- The applicant has the authority to make an application request to the PZHAC and BOT.
- The applicant has the authority to appeal the decision from PZHAC to BOT.

ALTERNATIVES:

The Planning, Zoning and Historical Appropriateness Commission (PZHAC) may:

1. Recommend approval of this case with findings stated above.
2. Recommend approval of this case with findings stated above and conditions.
3. Have final approval on certain cases determined by the BOT.
4. Deny the application.

DEPARTMENT COMMENTS:

- Property is zoned, single-family residential (R1)- it is not being used for residential purposes but as assembly type occupancy according to International Building Code (IBC).
- MTC 15.15.010(B) - *The town of Mesilla hereby adopts the 2003 International Building Code and the 2003 International Residential Code, including all amendments thereto and all future editions thereof. A copy of said codes are on file in the office of the building official.*
- MTC 18.30.020(F) - *One unlighted sign not to exceed one square foot in area and containing only the name and address of the occupants.*
- The building currently has a sign/letters on it (see attached).
- No lighting for the sign is being proposed.

- MTC 18.65.090 - *When the proposed sign is in compliance with all the requirements of these guidelines and all other laws and ordinances of the town, the permit may be issued administratively by the duly authorized representative for repair and maintenance of existing signs, temporary signs or sandwich board signs and may be issued following the recommendation of the planning, zoning and historical appropriateness commission, and approval of the board of trustees for all other signs that are in compliance with the requirements of these guidelines and all other laws and ordinances of the town. If the work authorized under a sign permit has not been completed within six months after date of issuance, the permit shall become null and void. The application must be acted upon by the board of trustees within 75 days from the date of application.*
- Lodge has been in existence a very long time. Was not able to find a set date but according to Masonic Lodge number 70, it was established earlier than Grand Lodge's history and that is known to be established approximately 1877.
- No Mesilla records found to have a special/conditional use permit.
- Approval for residential sign requests are considered administratively, but due to the complexity of this request, it is being forwarded to PZHAC for interpretation.

SUPPORTING INFORMATION:

- Proof of ownership
- Street View
- Sign Specs
- Site Plan
- Grand Lodge of NM Information



Town of Mesilla
P.O. BOX 10
MESILLA, NM 88046
PHONE: (575) 524-3262 FAX (575) 541-6327

SIGN PERMIT

Application Date: 02/09/2026

Jornada Masonic Lodge
Name of Business

Joe Chrisman
Name of Applicant

1200 W University Ave
Address of Business

[REDACTED]
Address of Applicant

Mesilla, New Mexico 88005
City State Zip

Las Cruces, New Mexico 88005
City State Zip

[REDACTED]
Telephone Number

[REDACTED]
Alternate Telephone Number

Location and description of Sign:
 (include dimensions, lettering, shape, material, texture, colors, and/or finish to be used. Attach a drawing of the location of the sign, including any other advertising structures on the building or lot.)

PARCEL # R0400742

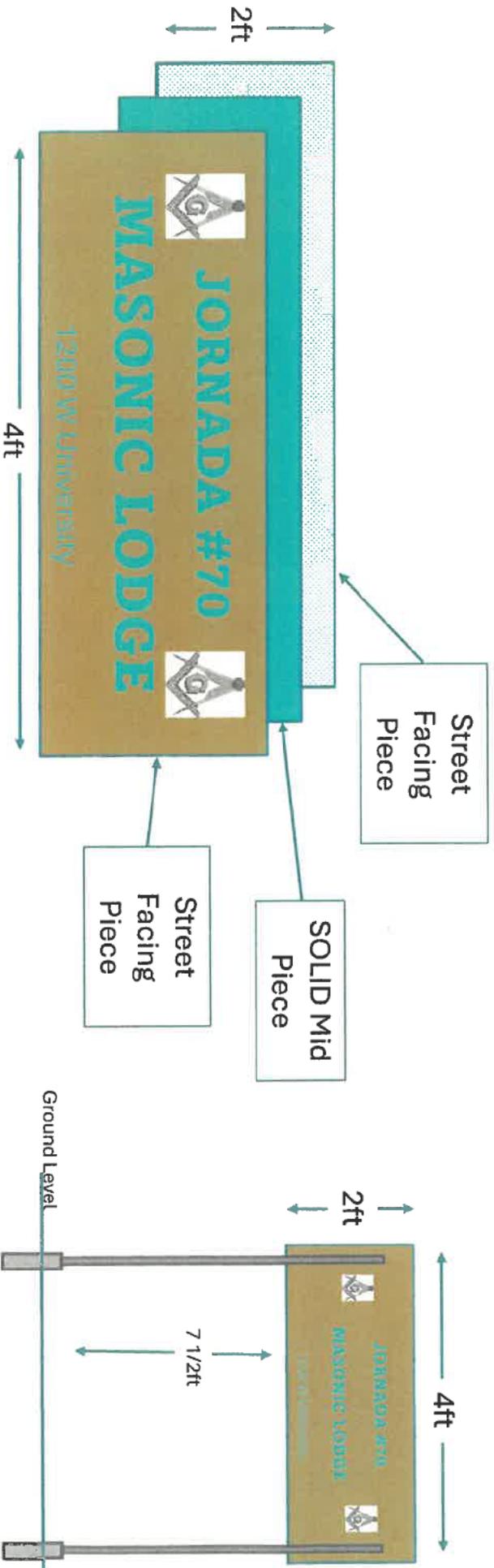
For Office Use Only

Administrative Approval: _____
 PZHAC Approval: _____
 BOT Approval: _____

Permit Fee: \$ 16.00
 Date of Payment: _____
 CASE NUMBER: 062095

Jornada Masonic Lodge Sign 1200 W University

Sign dimensions are 4ft x 2 ft. The sign is constructed of three pieces of 1/8in steel sandwiched together. The two outside sheets have cut-out letters and designs and will be finished with sand (light brown) powder coat material. The inner steel sheet is solid and finished in turquoise powder coat material.



The sign will be supported by 2 legs. Each leg will be composed of 2 pieces of perforated galvanized steel square tubing. The base portion is 4 ft long, 2in x 2in tubing buried 3ft into the ground. The upper section is 10ft long, 1.75in x 1.75in piece attached to the base and sign with weather resistant, tamper proof bolts with nuts.

Lodge Parcel



Jornada Masonic Lodge (1200 W University) Sign Placement

The Jornada Masonic Lodge Sign will be installed perpendicular to University Ave approximately 50 ft from the west property line. The southern leg will be at least 4 ft from the edge of the sidewalk.

Roads DAC Parcels DAC Boundary





MESILLA MUNI COURT DWI CASE FILE CONVERSION PROPOSAL

Presented to:

Dona Ana Magistrate Court

Prepared by:
Greg Humbles

February 10, 2026



Company Overview

Since 1995, Terralogic Document Systems, or TDS (formerly known as Professional Document Systems or PDS), has provided records management, electronic imaging, Automated Forms and custom software solutions to government, education, business, financial and healthcare organizations throughout the West Texas and New Mexico.

We have encountered and solved a wide variety of document management challenges. Our solutions are customer focused and specifically designed to meet the varying needs of a diverse client base.

As a full-service document and records management provider TDS develops and supports solutions in five areas:

1. Document Management Systems
2. Canon Scanners and capture systems
3. Electronic / Automated Forms
4. Custom Software Applications integrated with Electronic Imaging
5. Document / Data Conversion including Paper to digital format

We believe this strategy will best serve our clients over the long term as we are positioned to recommend the most cost-effective solution based on the customer's document/record characteristics (i.e., volume, retention, retrieval rates etc.).

As members of the Association of Information and Image Management (AIIM) and the Association of Records managers and Administrators (ARMA) PDS actively participates in the organizations informational marketing program and is therefore abreast with changes, modifications and new technologies within this fast-paced environment.

In addition, TDS has two (2) CERTIFIED DOCUMENT IMAGING ARCHITECTS (CDIA) on staff that are responsible for industry standards and proper design and implementation of imaging systems. CDIA is an industry accreditation program designed and implemented by the Computing Technology Industry Association in conjunction with several large imaging software and hardware vendors.



Project Objectives

The objective of the project is the digital conversion of critical court case files. The archiving procedure will provide administrative personnel with the ability to access the records with relative ease and in addition, will eliminate the current back log situation and will provide for long term storage and proper disaster recovery.

Archiving Recommendation

To provide Dona Ana Magistrate Court with the most cost-effective solution to their retrieval challenges, and to maintain consistency in your archived records format and to preserve the integrity of the records, TDS is recommending the following solution:

1. Scan and index the files and deliver to the Court an external hard drive(s) with multi page TIFF / PDF files named by the indexing criteria.
2. Option: Importation of all the images into the Court's ClickScan document management system for network access. (See ClickScan details at the end of this proposal).



Records Preparation and Evaluation

The following outlines the estimated document volume as recently surveyed:

BOXES							
AREA	DOCUMENT TYPE	STORAGE METHOD	SHELVES or BOXES	AVG INCHES PER SHELF or BOX	TOTAL INCHES	PPI	TOTAL EST PAGES
Mesilla Muni Court	DWI - Boxes	Folders	12	15	180	210	37,800
					TOTAL PAGES		37,800

INDEXING CRITERIA
Last, first, case number

General Document Characteristics

- 1) Files relate to critical court case files.
- 2) Files to be scanned include DWI and Domestic Violence
- 3) Files will not be prepared and will contain staples, fasteners, post-it notes, envelopes with content, (photos may be present) etc.
- 4) Pages within the files are generally 8 ½" x 11" to 8 ½" x 14 max size.
- 5) The figures shown above are **ESTIMATES** based on information and measurements provided by court officials or onsite survey. Clients will only be charged for the actual page count that is scanned.



Scope of Service – Source Document Scanning

Terralogic Document Systems will perform the following services to ensure the completion of all objectives as outlined:

1. The packing and pickup of the documents from the Court. TDS to supply industry standard 15” storage boxes.
2. Inventory of the boxes at the Court and comparison against the records. Box inventory to be conducted by TDS / Court. TDS to apply standard process labels to each box and intern identify the proper box # and box total in the box.
3. Both TDS and the Court sign off on Box inventory at point of pick up.
4. TDS will load our cargo van for secured transport of the boxes to the TDS document conversion center. Once loaded in the TDS cargo van / truck, the van doors will be locked, and the transport will be non-stop to the conversion center.
5. Receipt of boxes and unloading at our conversion center, box inventory cross check and placement on work in process shelves.
6. Preparation of documents for scanning including removing fastener clips and staples.
7. The scanning of all documents into the TDS imaging system at 300DPI in black and white.
8. The indexing of all records into the TDS imaging system. Actual index for the documents to be as outlined in the evaluation.
9. Documents will not be re-prepared, re-stapled or re-clipped, but will be placed back into the folders and boxes in the order extracted and scanned.
10. The institution of a quality control system to ensure a) Image Readability, b) Image accessibility and c) indexing accuracy. QC process to ensure a 98% accuracy rate.
11. The extraction of the images from the TDS system in multi-page TIFF format and the subsequent naming of the documents by index criteria.
12. The mastering of an external hard drive with the index and image data. The indices and images will be in industry standard formats that are conducive to importation into the proposed ClickScan document management imaging system.
13. The retrieval and emailing of documents as required by the Court during the conversion process at no additional cost.
14. All labor to complete the job will be supplied by Terralogic Document Systems.



15. Terralogic Document Systems will utilize trained supervisory staff including a CERTIFIED DOCUMENT IMAGING ARCHITECT to manage the back file conversion project.
16. All conversion and indexing meet or exceed ANSI and NM State Records Center standards.
17. The delivery of the hard drive(s) to the Court.
18. The secured destruction of documents – per option included in proposal.
19. The subsequent delivery of a Project Summary Report (or PSR) which will contain an overview of the records and project's final image counts. This PSR should be reviewed by the Court, signed, and returned to TDS. If the PSR is not returned or not questions have been raised with the PSR and/or image data within two weeks, TDS will consider the project closed.
20. TDS will retain project images for (60) calendar days after delivery of the PSR to the Court. Thereafter, all project related images will be securely and completely purged from TDS's system upon the (60) day milestone.



Price Proposal – Source Document Scanning Offsite

Terralogic Document Systems will perform all services as outlined above for the following price: **All Prices quoted per: GSA Contract: GS-35F-0118V**

Mesilla Municipal Court - DWI Files Conversion				
ITEM NUMBER	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED PRICE
PDS-TK-PSCAN	Paper to digital image - per image	37,800	\$0.11	\$4,158.00
PDS-PREP	Page Preparation - per image	37,800	\$0.02	\$756.00
PDS-REPREP	Page Re-Preparation - per image	37,800	\$0.02	\$756.00
PDS-DOCINDEX-4	Document Indexing - 1-4 Fields - per image	37,800	\$0.02	\$756.00
PDS-TK-IMG-PREP 1K-49K	Image Handling and Preparation 1K - 49K Images	1	\$322.52	\$322.52
PDS-TK-IMG-IMPORG 1K-49K	Image/Index Import Program 1K - 49K Images	1	\$322.52	\$322.52
PDS-TK-IMG-IMPORT 1K-49K	Image Importation into Host System 1K - 49K Images	1	\$322.52	\$322.52
PDS-TK-MM	Media Mastering - External Hard Drive or Jump Drive	1	\$149.00	\$149.00
OPEN MARKET	Boxes, Packing, Pickup and Return	1	\$384.20	\$384.20

Estimated Pre-tax Subtotal:			\$7,926.76
NM GRT		8.3900%	\$665.06
Total Estimated Cost:			\$8,591.82

Option: Document Destruction and Credit for No Re-preparation or Return of Documents				
ITEM NUMBER	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED PRICE
OPEN MARKET	Secured Box Destruction	12	\$12.00	\$144.00
PDS-REPREP	Page Re-Preparation - per image - CREDIT	-1	\$756.00	-\$756.00
OPEN MARKET	No Return of Documents - CREDIT	-1	\$120.00	-\$120.00

Estimated Pre-tax Subtotal:			-\$732.00
NM GRT		8.3900%	(\$61.41)
Total Estimated Credit:			(\$793.41)



Guarantees and Warranties

Terralogic Document Systems guarantees that this turnkey conversion project will perform as indicated to the full satisfaction of the Bayard County Magistrate Court,

ADDITIONAL EXCLUSIONS & CONDITIONS

1. TDS will hold all Client original documents and materials for 60 days after delivery of scanned images to allow client ample opportunity to review finished work product.
2. TDS will hold all Client scanned and indexed images in digital storage for 60 days to allow client ample opportunity to review finished work product.
3. TDS will supply Client with a Project Summary Review form (PSR). Once Client has inspected and approved all work product, Client must sign and return PSR to TDS.
4. If Client requires more time to inspect work product, TDS will charge storage fees as follows:

Box/files storage fees:

Standard size - \$2 per box per month
Large Format size - \$3 per box per month

Images storage fees:

1 to 100GB - \$75 per month
100 to 500GB - \$250 per month
500 to 1000GB - \$400 per month
More than 1TB - we will send a quote separately

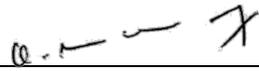
5. If Client elects to split job up into phases, additional costs may be incurred for extra travel and handling. Further, total length of project time will be longer due to Production scheduling availability.
6. All pricing provided is valid for 180 days from date on proposal. After 180 days, pricing will be updated per Client request, and may result in total cost increase.



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers effective as of the date first set forth above.

Terralogic Document Systems

Dona Ana Magistrate Court



(Signature)

(Signature)

Renil Komitla

(Typed or Printed Name)

(Typed or Printed Name)

President & CEO

(Title)

(Title)

Date: 2/11/26 _____

Date: _____

Terralogic Document Systems
El Paso, TX
Albuquerque, NM
Dallas, TX

800-644-7112 General Inquiries
800-708-8584 Technical Services
help@terralogic.com



TDS Quality Assurance

Our Document Conversion Center operates under a strict quality plan that ensures that our quality objectives of **100% image availability, 100% image readability and 98% indexing accuracy** are met.

Image Availability

Pre scan activities include configuring our high-speed production scanners for advanced text enhancement to ensure the best possible image creation. In addition, we will configure scanner “imprinters” to place a “water mark” on each page during the scanning process. This imprinter acts as our first level of assurance that all your critical data will be captured. Following the initial scan our operator will review the file /pages scanned and ensure that the watermark is seen on every page thereby ensuring 100% image availability.

Image Readability

In addition to checking for the watermark, our scan operator will also examine each image to ensure proper image clarity and readability. If illegible images are found during this first QC pass, they will be compared against the original and either rescanned or marked as best copy available.

Indexing Accuracy

Double key data entry will be implemented on critical index fields to ensure indexing accuracy.



TDS Quality Assurance ...Continued

Following the initial scan and index process, we then implement the following secondary quality assurance processes:

Our process starts with identifying the document population size on a recently scanned and indexed batch. A statistically relevant sample set based on MIL STD 105D is extracted from the population. Page counts (Image Availability) are taken from the imaging system (those that were scanned) and compared to the actual page counts of the hard copy document files. If scanned images are less than 100%, then the missed pages are inserted, and the box then enters a 100% inspection phase.

The same process is employed for both image readability and indexing accuracy. For indexing accuracy PDS checks the total available index population. This is calculated by taking the number of index fields in an application and multiplying this number by the document quantity of the sample set. If the total error count in the sample set is greater than 1 %, then the errors are corrected, and the box then enters a 100% inspection and correction phase.



References

TDS Recent Projects

Within the last three years TDS has successfully completed a variety of different document and data conversion projects. These include but are not limited to the following:

Organization	Quantity	Description
County Government	500,000+	Addiction Treatment Program Files
County Government	1,000,000+	Historical Records dating back to 1890
County Government	800,000+	Microform records
City Government	500,000+	Historical City Clerk Records
Medical	1,000,000+	Medical Records
Insurance	2,000,000+	Claim Files
Education	500,000+	Human Resource and HR Records
Court / Judicial	2,000,000+	Court Case Files
County Government	2,000,000+	Digital Image to Microform
Small Business	100,000+	Accounting Files
Government	1,900,000+	Historical Property Records

**TOWN OF MESILLA, DOÑA ANA COUNTY, NEW MEXICO
RESOLUTION NO. 2026-07**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A COLONIAS INFRASTRUCTURE PROJECT FUND GRANT AGREEMENT (“AGREEMENT” OR “GRANT AGREEMENT”) BY AND BETWEEN THE NEW MEXICO FINANCE AUTHORITY (“NMFA” OR “GRANTOR”) AND THE TOWN OF MESILLA (“GRANTEE”), IN THE TOTAL AMOUNT OF \$105,884, EVIDENCING AN OBLIGATION OF THE GRANTEE TO UTILIZE THE GRANT AMOUNT SOLELY FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTION AND REPLACEMENT OF ONE (OF TWO) INOPERABLE WELLS INCLUDING REPLACEMENT OF WATER PUMP, AND SOLELY IN THE MANNER DESCRIBED IN THE GRANT AGREEMENT; PROVIDING FOR THE ACCEPTANCE OF A GRANT AMOUNT OF \$105,884; CERTIFYING THAT THE GRANT AMOUNT, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE GRANTEE, IS SUFFICIENT TO COMPLETE THE PROJECT; APPROVING THE FORM OF AND OTHER DETAILS CONCERNING THE GRANT AGREEMENT; RATIFYING ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTION INCONSISTENT WITH THIS RESOLUTION; AND AUTHORIZING THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE GRANT AGREEMENT.

Capitalized terms used in the following preambles have the same meaning as defined in this Resolution unless the context requires otherwise.

WHEREAS, the Colonias Infrastructure Board (the “CIB”) is a public body duly organized and created under and pursuant to the laws of the State of New Mexico (the “State”), particularly the Colonias Infrastructure Act, NMSA 1978, §§ 6-30-1 through 6-30-8, as amended, (the “Colonias Infrastructure Act” or the “Act”); and

WHEREAS, the NMFA is a public body politic and corporate, separate and apart from the State, constituting a governmental instrumentality, duly organized and created under and pursuant to the laws of the State, particularly NMSA 1978, §§ 6-21-1 through 6-21-31, as amended (the “NMFA Act”); and

WHEREAS, the Grantee is a Political Subdivision of the State, being a legally and regularly created, established, organized and existing municipality under the general laws of the State and more specifically, NMSA 1978, §§ 3-1-1 through 3-66-11, as amended; and

WHEREAS, the Act creates the Colonias Infrastructure Project Fund (the “Fund”) in the NMFA, to be administered by the NMFA to originate grants or loans to Qualified Entities for Qualified Projects recommended by the CIB; and

WHEREAS, the Grantee is a community that is a Colonia within the meaning of Act; and

WHEREAS, the Grantee submitted an application dated November 19, 2025 for the Project; and

WHEREAS, the CIB has determined that the Project is a Qualified Project and that the Grantee is a Qualified Entity under the Board Rules; and

WHEREAS, the CIB on December 4, 2025 recommended to the NMFA that the Grantee receive financial assistance from the Fund in the form of the Grant, and the CIB has recommended that the NMFA enter into and administer the Grant Agreement; and

WHEREAS, the NMFA approved the Grant Amount from the Fund to the Grantee on December 11, 2025; and

WHEREAS, the Grantee has determined that it is in the best interests of the Grantee that the Grantee enter into a Grant Agreement with the NMFA to accept a grant in the amount of \$105,884 from the NMFA to finance the costs of construction and replacement of one (of two) inoperable wells including replacement of water pump, this project being more particularly described in the Term Sheet; and

WHEREAS, the Governing Body has determined and hereby determines that the Project may be financed with amounts granted and loaned pursuant to the Grant Agreement, that the Grant Amount, together with the Local Match and other moneys available to the Grantee, is sufficient to complete the Project, and that it is in the best interest of the Grantee and the constituent public they serve that the Grant Agreement be executed and delivered and that the funding of the Project take place by executing and delivering the Grant Agreement; and

WHEREAS, the Governing Body has determined that it may lawfully enter into the Grant Agreement, accept the Grant Amount and be bound to the obligations and by the restrictions thereunder; and

WHEREAS, the Grant Agreement shall not constitute a general obligation of the Grantee, the CIB or the NMFA or a debt or pledge of the full faith and credit of the Grantee, the CIB, the NMFA or the State; and

WHEREAS, there have been presented to the Governing Body and there presently are on file with the Town Clerk this Resolution and the form of the Grant Agreement which is incorporated by reference and considered to be a part hereof; and

WHEREAS, the Governing Body hereby determines that the Local Match is now available to the Grantee to complete the Project; and

WHEREAS, all required authorizations, consents and approvals in connection with (i) the use of the Grant Amount for the purposes described, and according to the restrictions set forth, in the Grant Agreement; (ii) the availability of other moneys necessary and sufficient, together with the Grant Amount, to complete the Project; and (iii) the authorization, execution and delivery of the Grant Agreement which are required to have been obtained by the date of this Resolution, have been obtained or are reasonably expected to be obtained.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF TOWN OF MESILLA, DOÑA ANA COUNTY, NEW MEXICO:

Section 1. Definitions. Capitalized terms defined in the foregoing recitals shall have the same meaning when used in this Resolution unless the context clearly requires otherwise. Capitalized terms not defined in the recitals and defined in this Article I shall have the same meaning when used in this Resolution including the foregoing recitals, unless the context clearly requires otherwise. Capitalized terms not defined herein shall have the meaning given them by the Grant Agreement.

“Agreement” or “Grant Agreement” means the Grant Agreement and any amendments or supplements thereto, including the Exhibits attached thereto.

“Authorized Officers” means, any one or more of the Mayor, Mayor Pro Tem, and Town Clerk of the Grantee.

“Closing Date” means the date of execution of the Grant Agreement by the Grantee and the NMFA.

“Colonia” or “Colonias” means a Colonia as defined in the Act, and more particularly in NMSA 1978, § 6-30-3(C), as amended, and particularly the Colonia of Mesilla, New Mexico.

“Colonias Infrastructure Project Fund” or “Fund” means the fund of the same name created pursuant to the Act and held and administered by the NMFA.

“Conditions” has the meaning given to that term in the Grant Agreement.

“Completion Date” means the date of final payment of the cost of the Project.

“Eligible Fiscal Agent Fees” means fees and costs incurred by a fiscal agent for the administration of Project funds, including the collection and reporting of Project information as required by the Grant Agreement, in an amount not exceeding five percent (5%) of the Grant Amount.

“Eligible Items” means eligible Project costs for which loans/grants may be made pursuant to Title 2, Chapter 91, Part 2 NMAC, the Board Rules and applicable Policies, and includes costs of acquiring and completing the Project, and, without limitation, Eligible Legal Costs, Eligible Fiscal Agent Fees and Eligible Project Management Fees.

“Eligible Legal Costs” means legal fees and costs for services rendered by legal counsel on behalf of the Grantee for transaction of the Project and those directly associated with the qualified project, in an amount not exceeding ten percent (10%) of the Grant Amount, but does not include adjudication services.

“Eligible Project Management Fees” means the fees and costs associated with the planning, implementation and technical oversight of the project management costs for services rendered to the Grantee for the transaction of the Project and those directly associated with the Project in an amount up to ten percent (10%) of the Grant Amount.

“Fiscal Year” means the period commencing on July 1 of each calendar year and ending on the last day of June of the next succeeding calendar year, or any other twelve-month period which any appropriate authority may hereafter establish for the Grantee as its fiscal year.

“Generally Accepted Accounting Principles” means the officially established accounting principles applicable to the Grantee consisting of the statements, determinations and other official pronouncements of the Government Accounting Standards Board, Financial Accounting Standards Board, Federal Accounting Standards Board or other principle-setting body acceptable to the NMFA establishing accounting principles applicable to the Grantee.

“Governing Body” means the Board of Trustees of the Grantee, or any future successor governing body of the Grantee.

“Grant” or “Grant Amount” means the amount provided to the Grantee as a grant pursuant to the Grant Agreement for the purpose of funding the Project, and shall not exceed \$105,884.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinabove” and “hereafter” refer to this entire Resolution and not solely to the particular section or paragraph of this Resolution in which such word is used.

“Local Match” means the amount determined pursuant to the Policies to be provided by the Grantee which includes the total value of the soft or hard match (each as defined in the Policies) which, in combination with the Grant Amount and other monies available to the Grantee, is sufficient to complete the Project. The Local Match is \$0.00.

“NMAC” means the New Mexico Administrative Code.

“NMSA 1978” means the New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented from time to time.

“Policies” means the Colonias Infrastructure Project Fund Project Selection and Management Policies, approved by the CIB.

“Political Subdivision of the State” means a municipality, a county, water and sanitation district, an association organized and existing pursuant to the Sanitary Projects Act, NMSA 1978, §§ 3-29-1 through 3-29-21, as amended, or any other entity recognized by statute as a political subdivision of the State.

“Project” means the project(s) described on the Term Sheet.

“Project Account” means the book account, if any, established by the NMFA in the name of the Grantee for purposes of tracking expenditure of the Grant Amount by the Grantee to pay for the costs of the Project, as shown on the Term Sheet, which account shall be kept separate and apart from all other accounts of the NMFA.

“Qualified Entity” means a county, municipality, or other entity recognized as a Political Subdivision of the State pursuant to NMSA 1978, § 6-30-3(F), as amended.

“Qualified Project” means a capital outlay project recommended by the CIB to the NMFA for financial assistance that is primarily intended to develop Colonias infrastructure. A Qualified Project may include a water system, a wastewater system, solid waste disposal facilities, flood and drainage control, roads or housing infrastructure pursuant to NMSA 1978, § 6-30-3(G), as amended, but does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies.

“Resolution” means this Resolution as it may be supplemented or amended from time to time.

“Rules” means Review and Selection of Colonias Infrastructure Projects, New Mexico Colonias Infrastructure Board, Sections 2.91.2.1 through 2.91.2.18 NMAC.

“State” means the State of New Mexico.

“System” means the water utility system of the Grantee, owned and operated by the Grantee, and of which the Project, when completed, will form part.

“Term Sheet” means Exhibit “A” attached to the Grant Agreement.

“Useful Life” means the period during which the Project is expected to be usable for the purpose for which it was acquired and constructed, which is thirty (30) years.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Grantee and officers of the Grantee directed toward the acquisition and completion of the Project and the execution and delivery of the Grant Agreement shall be, and the same hereby is, ratified, approved and confirmed.

Section 3. Authorization of the Project and the Grant Agreement. The acquisition and completion of the Project and the method of funding the Project through execution and delivery of the Grant Agreement and the other documents related to the transaction are hereby authorized and ordered. The Project is for the benefit and use of the Grantee and the public they serve.

Section 4. Findings. The Governing Body hereby declares that it has considered all relevant information and data and hereby makes the following findings:

A. The Project is needed to meet the needs of the Grantee and the public they serve.

B. Moneys available and on hand for the Project from all sources other than the Grant are not sufficient to defray the cost of acquiring and completing the Project but, together with the Grant Amount, are sufficient to complete the Project.

C. The Project and the execution and delivery of the Grant Agreement pursuant to the Act to provide funds for the financing of the Project are necessary, convenient and in furtherance of the governmental purposes of the Grantee, and in the interest of the public health, safety, and welfare of the constituent public served by the Grantee.

D. The Grantee will acquire and complete the Project with the proceeds of the Grant, the Local Match and other amounts available to the Grantee, and except as otherwise expressly provided by the Grant Agreement, will utilize, operate and maintain the Project for the duration of its Useful Life.

E. Together with the Grant Amount, and other amounts available to the Grantee, the Local Match is now available to the Grantee, and in combination with the Grant Amount, will be sufficient to complete the Project.

F. The NMFA shall maintain on behalf of the Grantee a separate Project Account as a book account only on behalf of the Grantee and financial records in accordance with Generally Accepted Accounting Principles during the construction or implementation of the Project.

G. The Grantee has proper title to, easements, rights-of-way, permits or the requisite access needed by legal conveyances such as right-of-way, easements, deeds, permits or access rights by exercise of its power of eminent domain, on the real property upon which the Project is being conducted.

Section 5. Grant Agreement—Authorization and Detail.

A. Authorization. This Resolution has been adopted by the affirmative vote of at least a majority of all of the members of the Governing Body. For the purpose of protecting the public health, conserving the property, and protecting the general welfare and prosperity of the public served by the Grantee and acquiring and completing the Project, it is hereby declared necessary that the Grantee execute and deliver the Grant Agreement evidencing the Grantee's acceptance of the Grant Amount of \$105,884 to be utilized solely for Eligible Items necessary to complete the Project, and solely in the manner and according to the restrictions set forth in the Grant Agreement, the execution and delivery of which is hereby authorized. The Grantee shall use the Grant Amount to finance the acquisition and completion of the Project.

B. Detail. The Grant Agreement shall be in substantially the form of the Grant Agreement presented at the meeting of the Governing Body at which this Resolution was adopted. The Grant shall be in the amount of \$105,884.

Section 6. Approval of Grant Agreement. The form of the Grant Agreement, as presented at the meeting of the Governing Body, at which this Resolution was adopted, is hereby approved. Authorized Officers are hereby individually authorized to execute, acknowledge and deliver the Grant Agreement with such changes, insertions and omissions as may be approved by such individual Authorized Officers, who are hereby authorized to attest the Grant Agreement. The execution of the Grant Agreement shall be conclusive evidence of such approval.

Section 7. Disposition of Proceeds; Completion of the Project.

A. Project Account. The Grantee hereby consents to creation of the Project Account by the NMFA and further approves of the deposit or crediting of a portion of the Grant Amount to pay expenses. Until the Completion Date, the amount of the Grant credited to the

Project Account shall be used and paid out solely for Eligible Items necessary to acquire and complete the Project in compliance with applicable law and the provisions of the Grant Agreement.

B. Completion of the Project. The Grantee shall proceed to complete the Project with all due diligence. Upon the Completion Date, the Grantee shall execute a certificate stating that completion of and payment for the Project has been completed. Following the Completion Date or the earlier expiration of the time allowed for disbursement of Grant funds as provided in the Grant Agreement, any balance remaining in the Project Account shall be transferred and deposited into the Colonias Infrastructure Project Fund or otherwise distributed as provided in the Grant Agreement.

C. CIB and NMFA Not Responsible. Grantee shall apply the funds derived from the Grant Agreement as provided therein, and in particular Article V of the Grant Agreement. Neither the CIB nor the NMFA shall in any manner be responsible for the application or disposal by the Grantee or by its officers of the funds derived from the Grant Agreement or of any other funds held by or made available to the Grantee in connection with the Project. The NMFA shall not be liable for the refusal or failure of any other agency of the State to transfer any portion of the Grant Amount in its possession, custody and control to the NMFA for disbursement to the Grantee, or to honor any request for such transfer or disbursement of the Grant Amount.

Section 8. Authorized Officers. Authorized Officers are hereby individually authorized and directed to execute and deliver any and all papers, instruments, opinions, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Grant Agreement and all other transactions contemplated hereby and thereby. Authorized Officers are hereby individually authorized to do all acts and things required of them by this Resolution and the Grant Agreement for the full, punctual and complete performance of all the terms, covenants and agreements contained in this Resolution and the Grant Agreement including but not limited to, the execution and delivery of closing documents in connection with the execution and delivery of the Grant Agreement.

Section 9. Amendment of Resolution. This Resolution after its adoption may be amended without receipt by the Grantee of any additional consideration, but only with the prior written consent of the NMFA.

Section 10. Resolution Irrepealable. After the Grant Agreement has been executed and delivered, this Resolution shall be and remain irrepealable until all obligations due under the Grant Agreement shall be fully discharged, as herein provided.

Section 11. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 12. Repealer Clause. All bylaws, orders, ordinances, resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 13. Effective Date. Upon due adoption of this Resolution, it shall be recorded in the book of the Grantee kept for that purpose, authenticated by the signatures of the Mayor and Town Clerk of the Grantee, and this Resolution shall be in full force and effect thereafter, in accordance with law; provided, however, that if recording is not required for the effectiveness of this Resolution, this Resolution shall be effective upon adoption of this Resolution by the Governing Body.

[Remainder of page intentionally left blank.]

PASSED, APPROVED AND ADOPTED THIS 9TH DAY OF MARCH, 2026.

TOWN OF MESILLA, DOÑA ANA COUNTY,
NEW MEXICO

By _____
Russell Hernandez, Mayor

ATTEST:

By _____
Gloria S. Maya, Town Clerk

[Remainder of page intentionally left blank.]

Governing Body Member _____ then moved adoption of the foregoing Resolution, duly seconded by Governing Body Member _____.

The motion to adopt the Resolution, upon being put to a vote, was passed and adopted on the following recorded vote:

Those Voting Aye: _____

Those Voting Nay: _____

Those Absent: _____

_____ () Members of the Governing Body having voted in favor of the motion, the Mayor declared the motion carried and the Resolution adopted, whereupon the Mayor and Town Clerk signed the Resolution upon the records of the minutes of the Governing Body.

After consideration of matters not relating to the Resolution, the meeting upon motion duly made, seconded and carried, was adjourned.

TOWN OF MESILLA, DOÑA ANA COUNTY,
NEW MEXICO

By _____
Russell Hernandez, Mayor

ATTEST:

By _____
Gloria S. Maya, Town Clerk

[Remainder of page intentionally left blank.]

STATE OF NEW MEXICO)
) ss.
COUNTY OF DOÑA ANA)

I, Gloria S. Maya, the duly qualified and acting Town Clerk of the Town of Mesilla, New Mexico (the “Grantee”), do hereby certify:

1. The foregoing pages are a true, perfect, and complete copy of the record of the proceedings of the Board of Trustees of the Grantee (the “Governing Body”), had and taken at a duly called regular meeting held at Mesilla Town Hall, 2231 Avenida de Mesilla, Mesilla, New Mexico 88046, on March 9, 2026 at the hour of 6:00 p.m., insofar as the same relate to the adoption of Resolution No. 2026-07 and the execution and delivery of the proposed Grant Agreement, a copy of which is set forth in the official records of the proceedings of the Governing Body kept in my office. None of the action taken has been rescinded, repealed, or modified.

2. The proceedings were duly had and taken as therein shown, the meeting therein was duly held, and the persons therein named were present at said meeting, as therein shown.

3. Notice of the meeting was given in compliance with the permitted methods of giving notice of meetings of the Governing Body as required by the State Open Meetings Act, NMSA 1978, § 10-15-1, as amended, including the Grantee's open meetings Resolution No. 2026-01, adopted and approved on January 12, 2026 in effect on the date of the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of April, 2026.

TOWN OF MESILLA, DOÑA ANA COUNTY,
NEW MEXICO

By _____
Gloria S. Maya, Town Clerk

7637304

EXHIBIT "A"

Notice of Meeting, Meeting Agenda and Minutes



RESOLUTION NO. 2026 - 11

**A RESOLUTION BY BOARD OF TRUSTEES TO APPROVE NOMINATION OF
PROPERTY AT 2380 CALLE DE PRINCIPAL, TO BE INCLUDED IN MESILLA'S LOCAL
HISTORIC REGISTER.**

**DECLARATION OF PURPOSE AND STATEMENT OF PUBLIC POLICY
MESILLA TOWN CODE (MTC) 18.33.040**

A. The board of trustees declares that the historical heritage of Mesilla and its historic buildings and its historic districts are among its most valued and important assets. The board finds that some buildings having historical, architectural, aesthetic and cultural value have been neglected, altered or destroyed notwithstanding the feasibility of preserving and continuing the use of such buildings and without adequate consideration of the irreplaceable loss to the public and the town. The board finds that the historic character of Mesilla is of vital importance in maintaining the economy of the town and that its historic landmarks and the buildings in its historic district can be preserved, rehabilitated and used. The board finds that this chapter benefits all the residents of Mesilla and all the owners of property.

B. The board of trustees declares as a matter of public policy that the preservation, protection and use of historic landmarks and buildings in the historic districts are a public necessity because they have a special character or a special historic, architectural, aesthetic or cultural value and thus serve as visible reminders of the history and heritage of this town, state and nation. The board declares as a matter of public policy that this chapter is required in the interest of the health, safety, welfare and economic well-being of the public. The board declares as a matter of public policy that the identification and designation of historic landmarks and historic districts and the approval or disapproval of exterior changes to designated property or their demolition or relocation or new construction on the site are stated to be a public purpose.

WHEREAS, consideration was given to 2380 Calle de Principal in Mesilla, this location was considered by its own individual hearing and its own vote by the Planning & Zoning Historical Appropriateness Commission; and

Nomination – Leonart-Maurin Store and Rear Structure (2380 Calle Principal):

WHEREAS, location already listed on the National Register of Historic Places,

WHEREAS, significance were early settlement patterns, introduction of new building technologies, and European immigrant influence,

WHEREAS, materials are fire brick construction, adobe, and original windows and wood lintels. Described as the first brick building built in New Mexico,

WHEREAS, its historical significance shows it once served as town hall, residence, saloon; currently as a gift shop, Thunderbird de la Mesilla,

WHEREAS, recommendations to include both the front and rear structures to Mesilla's local historic register due to historical, architectural, and cultural significance.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Mesilla that the above referenced historic registry nomination is here by approved.

PASSED, APPROVED AND ADOPTED this 9th day of March 2026.

Russell Hernandez
Mayor

ATTESTED BY:

Gloria S Maya
Town Clerk-Treasurer



RESOLUTION NO. 2026 - 12

A RESOLUTION BY THE BOARD OF TRUSTEES APPROVING THE NOMINATION OF PROPERTY AT 2600 AVENIDA DE MESILLA, TO BE INCLUDED IN MESILLA'S LOCAL HISTORIC REGISTER.

**DECLARATION OF PURPOSE AND STATEMENT OF PUBLIC POLICY
MESILLA TOWN CODE (MTC) 18.33.040**

A. The board of trustees declares that the historical heritage of Mesilla and its historic buildings and its historic districts are among its most valued and important assets. The board finds that some buildings having historical, architectural, aesthetic and cultural value have been neglected, altered or destroyed notwithstanding the feasibility of preserving and continuing the use of such buildings and without adequate consideration of the irreplaceable loss to the public and the town. The board finds that the historic character of Mesilla is of vital importance in maintaining the economy of the town and that its historic landmarks and the buildings in its historic district can be preserved, rehabilitated and used. The board finds that this chapter benefits all the residents of Mesilla and all the owners of property.

B. The board of trustees declares as a matter of public policy that the preservation, protection and use of historic landmarks and buildings in the historic districts are a public necessity because they have a special character or a special historic, architectural, aesthetic or cultural value and thus serve as visible reminders of the history and heritage of this town, state and nation. The board declares as a matter of public policy that this chapter is required in the interest of the health, safety, welfare and economic well-being of the public. The board declares as a matter of public policy that the identification and designation of historic landmarks and historic districts and the approval or disapproval of exterior changes to designated property or their demolition or relocation or new construction on the site are stated to be a public purpose.

WHEREAS, consideration was given to 2600 Avenida de Mesilla in Mesilla, this location was considered by its own individual hearing and its own vote by the Planning & Zoning Historical Appropriateness Commission; and

Nomination – Palacio Bar (2600 Avenida de Mesilla):

WHEREAS, been in operation since 1936 and has contributing altered

classifications, retaining adobe construction and dance hall configuration,
WHEREAS, reflects Mesilla's social and commercial heritage,
WHEREAS, holds significant events adding to the town's culture,

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Mesilla that the above referenced historic registry nomination is here by approved.

PASSED, APPROVED AND ADOPTED this 9th day of March 2026.

Russell Hernandez
Mayor

ATTESTED BY:

Gloria S Maya
Town Clerk-Treasurer



RESOLUTION NO. 2026 - 13

**A RESOLUTION BY BOARD OF TRUSTEES APPROVING THE NOMINATION OF
PROPERTY AT 2090 SNOW ROAD, TO BE INCLUDED IN MESILLA'S LOCAL
HISTORIC REGISTER.**

**DECLARATION OF PURPOSE AND STATEMENT OF PUBLIC POLICY
MESILLA TOWN CODE (MTC) 18.33.040**

A. The board of trustees declares that the historical heritage of Mesilla and its historic buildings and its historic districts are among its most valued and important assets. The board finds that some buildings having historical, architectural, aesthetic and cultural value have been neglected, altered or destroyed notwithstanding the feasibility of preserving and continuing the use of such buildings and without adequate consideration of the irreplaceable loss to the public and the town. The board finds that the historic character of Mesilla is of vital importance in maintaining the economy of the town and that its historic landmarks and the buildings in its historic district can be preserved, rehabilitated and used. The board finds that this chapter benefits all the residents of Mesilla and all the owners of property.

B. The board of trustees declares as a matter of public policy that the preservation, protection and use of historic landmarks and buildings in the historic districts are a public necessity because they have a special character or a special historic, architectural, aesthetic or cultural value and thus serve as visible reminders of the history and heritage of this town, state and nation. The board declares as a matter of public policy that this chapter is required in the interest of the health, safety, welfare and economic well-being of the public. The board declares as a matter of public policy that the identification and designation of historic landmarks and historic districts and the approval or disapproval of exterior changes to designated property or their demolition or relocation or new construction on the site are stated to be a public purpose.

WHEREAS, consideration was given to 2090 Snow Road in Mesilla, this location was considered by its own individual hearing and its own vote by the Planning & Zoning Historical Appropriateness Commission; and

Nomination – Ginther Farm, Rural Farmland – 2090 Snow Road

WHEREAS, located at Snow Rd and Calle del Norte, showing rare agricultural examples on

a 10-acre parcel,

WHEREAS, Reflects early irrigation, farming patterns, and rural settlement,

WHEREAS, outside of Mesilla historic zone and not on the National Register,

WHEREAS, preservation of all of Mesilla’s historic structures is necessary, especially those significant structures outside the preservation umbrella,

WHEREAS, granted by New Mexico Historic District & Landmark Act; (NMSA3-22-1 et seq) empowers counties and municipalities to protect historic areas and landmarks,

WHEREAS, authority to Create Historic Districts and Landmarks: Section 3-22-3; states that any county or municipality with zoning authority, “may create, as part of its building and zoning regulations ... a zoning district designating certain areas as historical areas and landmarks.” It further authorizes local governments to adopt and enforce regulations concerning the erection, alteration, and destruction of exterior features of buildings and structures visible from public streets or places.

WHEREAS, also recently adopted by Mesilla Town Code, Title 18.33 Historic Preservation,

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Mesilla that the above referenced historic registry nomination is here by approved.

PASSED, APPROVED AND ADOPTED this 9th day of March 2026.

Russell Hernandez
Mayor

ATTESTED BY:

Gloria S Maya
Town Clerk-Treasurer



RESOLUTION NO. 2026-15

AUTHORIZING AND APPROVING SUBMISSION OF A COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE AUTHORITY FOR THE COLONIAS INFRASTRUCTURE FUND

WHEREAS, the Town of Mesilla is a qualified entity under the New Mexico Finance Authority Colonias Infrastructure Act, Sections 6-30-1 through 6-30-8, NMSA 1978. ("Act"), and the Town of Mesilla is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Town, and

WHEREAS, the New Mexico Finance Authority ("Authority") has instituted a program for financing of projects from the Colonias Infrastructure fund created under the Act and has developed an application procedure whereby the Governing Body may submit applications for financial assistance from the Authority for public projects, and

WHEREAS, adequate basic infrastructure such as water and wastewater systems, solid waste disposal facilities, flood and drainage control, roads and housing are essential to improved health, safety and welfare of those residents of the Colonias communities, and

WHEREAS, the Town of Mesilla intends to undertake design, construction and improvements of a new Water Tank ("Project") for the benefit of the Town of Mesilla citizens; and

WHEREAS, the application prescribed by the Authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application process;

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF MESILLA:

Section 1. That all actions (not inconsistent with the provision herein) heretofore taken by the Governing body, and the officers and employees thereof directed toward the Application and the Project, be and the same is hereby ratified, approved and confirmed,

Section 2. That the submission of the application requesting funding from the Colonias Infrastructure Fund, be and the same is hereby approved and confirmed,

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed application to the Authority for its review and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the application and to further proceed with arrangements for financing the projects.

BE IT FURTHER RESOLVED, that the Mayor and Town Clerk/Treasurer are hereby designated as the Town of Mesilla representatives to act on behalf of this application.

PASSED, APPROVED AND ADOPTED this 9th day of March 2026.

Russell Hernandez
Mayor

ATTEST:

Gloria S. Maya
Town Clerk/Treasurer



RESOLUTION NO. 2026-16

**AUTHORIZING AND APPROVING SUBMISSION OF A
COMPLETED APPLICATION FOR FINANCIAL ASSISTANCE
AND PROJECT APPROVAL TO THE NEW MEXICO FINANCE
AUTHORITY FOR THE
COLONIAS INFRASTRUCTURE FUND**

WHEREAS, the Town of Mesilla is a qualified entity under the New Mexico Finance Authority Colonias Infrastructure Act, Sections 6-30-1 through 6-30-8, NMSA 1978. ("Act"), and the Town of Mesilla is authorized to borrow funds and/or issue bonds for financing of public projects for benefit of the Town, and

WHEREAS, the New Mexico Finance Authority ("Authority") has instituted a program for financing of projects from the Colonias Infrastructure fund created under the Act and has developed an application procedure whereby the Governing Body may submit applications for financial assistance from the Authority for public projects, and

WHEREAS, adequate public safety infrastructure, including properly installed and maintained fire hydrants and reliable water distribution systems, is essential to protecting life, property, and the overall health, safety, and welfare of residents in the Colonias communities; and

WHEREAS, the Town of Mesilla intends to undertake the planning, installation, and improvement of fire hydrants (the "Project") to enhance fire protection capabilities and provide increased public safety for the citizens of the Town of Mesilla; and

WHEREAS, the application prescribed by the Authority has been completed and submitted to the Governing Body and this resolution approving submission of the completed Application to the Authority for its consideration and review is required as part of the Application process;

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF MESILLA:

Section 1. That all actions (not inconsistent with the provision herein) heretofore taken by the Governing body, and the officers and employees thereof directed toward the Application and the Project, be and the same is hereby ratified, approved and confirmed,

Section 2. That the submission of the application requesting funding from the Colonias Infrastructure Fund, be and the same is hereby approved and confirmed,

Section 3. That the officers and employees of the Governing Body are hereby directed and requested to submit the completed application to the Authority for its review and are further authorized to take such other action as may be requested by the Authority in its consideration and review of the application and to further proceed with arrangements for financing the projects.

BE IT FURTHER RESOLVED, that the Mayor and Town Clerk/Treasurer are hereby designated as the Town of Mesilla representatives to act on behalf of this application.

PASSED, APPROVED AND ADOPTED this 9th day of March 2026.

Russell Hernandez
Mayor

ATTEST:

Gloria S. Maya
Town Clerk/Treasurer



Town of Mesilla, New Mexico

RESOLUTION NO. 2026-17

**A RESOLUTION AUTHORIZING AND APPROVING PARTICIPATION IN
THE LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY
THE NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the Town of Mesilla is a qualified entity to submit project proposals for the FY 2026-2027 program year, and,

WHEREAS, the Town of Mesilla has selected project that most effectively serves the needs of the public, and,

WHEREAS, the Town of Mesilla is proposing improvements to Calle de Oeste; from the California Lateral to Calle del Parian, and,

WHEREAS, the Letter of Intent and supporting documentation has been completed and submitted to the governing body of the Town of Mesilla and to the NMDOT District I Engineer for its consideration and review.

NOW THEREFORE, be it resolved by the Town of Mesilla to enter into a Cooperative Agreement with New Mexico Department of Transportation.

PASSED, APPROVED AND ADOPTED this 9th day of March 2026

Russell Hernandez
Mayor

ATTEST:

Gloria S. Maya
Town Clerk/Treasurer

Town of Mesilla
Chapter 18.54
WIRELESS TELECOMMUNICATIONS FACILITIES

Sections:	18.54.010	Authority and purpose.
	18.54.015	Variances and special use permit, unless otherwise provided herein.
	18.54.020	Definitions.
	18.54.030	Applicability and exemptions.
	18.54.040	General standards and construction provisions.
	18.54.050	Co-location.
	18.54.060	Heights, placement provisions and setbacks.
	18.54.070	Special use permits.
	18.54.080	Buildings or other equipment storage.
	18.54.090	Application review and inspection fee.
	18.54.095	Retention of consultants.
	18.54.100	Performance security bond.
	18.54.110	Liability insurance.
	18.54.120	Indemnification.
	18.54.130	Removal of a wireless telecommunications facility.
	18.54.140	Required annual report.
	18.54.150	Provision for waiver or variance.
	18.54.160	Penalty.
	18.54.170	Default and/or revocation.
	18.54.180	Eleventh hour submissions.
	18.54.190	Prohibition against illegally excessive emissions and Radio Frequency (RF) radiation testing.
	18.54.200	Factual determinations to be rendered by the Town of Mesilla.
	18.54.210	General Provisions.
	18.54.220	Shot Clock Periods.
	18.54.230	Shot Clock tolls, extensions and reasonable delay periods.

18.54.010 Authority and Purpose.

This Chapter is intended to repeal and replace all previous versions of, and amendments to, Chapter 18.54, Wireless Telecommunications Facilities, of the Municipal Code of the Town of Mesilla (“Municipal Code”), all of which is hereby repealed and replaced in its entirety by this Chapter et seq., as of the effective date of the ordinance codified in this Chapter.

No Personal Wireless Service Facility (PWSF) shall be sited, constructed, reconstructed, installed, materially changed or altered, expanded, or used unless in conformity with this Chapter.

For the installation, construction, erection, relocation, substantial expansion, or material alteration of any PWSF, the Town shall require a special use permit pursuant to the provisions of this section, which shall be applied for in accord with the procedure set forth within this Chapter.

18.54.015 Variances and special use permit, unless otherwise provided herein.

The performance of maintenance, routine maintenance, in-kind replacement of components, and/or repairs (as defined herein) to an existing PWSF and/or existing personal wireless service equipment shall not require a special use permit.

Each application for a special use permit under this chapter and each individual PWSF for which an application for a special use permit is submitted shall be considered based upon the individual characteristics of each respective installation at each proposed location as an individual case. In other words, each installation, at each proposed location, shall be reviewed and considered independently for its own characteristics and potential impacts, irrespective of whether the proposed facility is designed and intended to operate independently or whether the installation is designed and/or intended to operate jointly as part of a distributed antenna (DAS) system.

A. Authority. The comprehensive land use ordinance is amended pursuant to the enabling provisions of Sections 3-21-1-1 through 3-21-14, NMSA 1978, as amended.

B. Purpose and legislative intent. The purpose of this Chapter is to establish regulations and general guidelines for the siting of wireless telecommunications facilities (WTFs), that promote the health, safety, and general welfare of the residents of the Town of Mesilla and to preserve the scenic, historical, natural, and manmade character and appearance of the Town, while simultaneously providing standards for the safe provision, monitoring, and removal of cell towers and other PWSF consistent with applicable federal, state and local laws and regulations.

The Town seeks to minimize, to the greatest extent possible, any unnecessary adverse impacts caused by the siting, placement, physical size, and/or unnecessary proliferation of, PWSFs, including, but not limited to, adverse aesthetic impacts, adverse impacts upon property values, adverse impacts upon the character of any surrounding properties and communities, adverse

impacts upon historical and/or scenic properties and districts, and the exposure of persons and property to potential dangers such as structural failures, ice fall, debris fall, and fire.

The Town also seeks to ensure that, in applying this Chapter, the Town of Mesilla is vested with sufficient authority to require applicants to provide sufficient, accurate, and truthful probative evidence, to enable the Town of Mesilla to render factual determinations consistent with both the provisions set forth herein below and the requirements of the Federal Telecommunications Act of 1996 (TCA) when rendering decisions upon such applications.

To achieve the objectives stated herein, the Town seeks to employ the “general authority” preserved to it under 47 U.S.C. § 332(c)(7)(A) of the TCA to the greatest extent which the United States Congress intended to preserve those powers to the Town, while simultaneously complying with each of the substantive and procedural requirements set forth within the subsections of 47 U.S.C. § 332(c)(7)(B) of the TCA.

C. The goals of this Chapter are to:

1. Protect residential areas and land uses from potential adverse impact of WTFs;
2. Minimize the total number of towers in the community; give preference to newest and least intrusive technologies including but not limited to small cells, fiberoptic cable, and satellites in order to retain historic character of the Town of Mesilla.
3. Encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
4. Require users of WTFs to locate them, in areas where the adverse impact on the community is minimal; All studies are to be at the expense of the builders, while the Town will identify and approve all independent vendors;
5. Require users of WTFs to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques such as artwork; all visual improvements are to be paid for by the WTF builders;
6. Enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; and
7. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals and in approving sites for the location of towers and antennas, the Town of Mesilla shall give due consideration to Mesilla’s master plan, its zoning map, existing

land uses and environmentally and historically sensitive areas, maintaining the Town character and including resident feedback. [Ord. 2003-10 § 1]

D. Consistent with federal law

Consistent with the balancing of interests which the United States Congress intended to embed with the TCA, this Chapter is intended to serve as a smart planning provision, designed to achieve the four simultaneous objectives of: (1) enabling personal wireless service providers to provide adequate personal wireless services throughout the Town of Mesilla so that Town residents can enjoy the benefits of the same, from any FCC-licensed wireless carrier from which they choose to obtain such services, while (2) minimizing the number of cell towers and/or other personal wireless service facilities needed to provide such coverage, (3) preventing, to the greatest extent reasonably practical, any unnecessary adverse impacts upon the Town's communities, residential areas, and individual homes, and (4) complying with all of the legal requirements which the TCA imposes upon the Town, when the Town receives, processes and determines applications seeking approvals for the siting, construction and operation of cell towers and/or other personal wireless service facilities.

18.54.020 Definitions.

For purposes of this Chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations, shall have the meaning given in this section. The word "shall" is always mandatory and not merely directory. If, and to the extent that, the definitions set forth herein are inconsistent with any other definitions elsewhere within the Municipal Code, the definitions herein shall supersede any conflicting definitions set forth elsewhere within the Municipal Code, and the definitions set forth herein below shall control and apply to this chapter and all subsections herein.

"Accessory facility" or "accessory structure" means a facility or structure serving or being used in conjunction with a personal wireless services facility or complex and located on the same property or lot as the personal wireless services facility or complex, or an immediately adjacent lot including, but not limited to, utility or transmission equipment storage sheds or cabinets.

"AChP" means the federal Advisory Council on Historic Preservation.

"Adequate coverage," as determined by the Town of Mesilla in consultation with the Town's consulting expert, means that a specific wireless carrier's personal wireless service coverage is such that the vast majority of its customers can successfully use the carrier's personal wireless services the vast majority of the time, in the vast majority of the geographic locations within the Town, that the success rate of using their devices exceeds 97 percent (unless building materials such as adobe or metal interfere with signal reception), and that any geographic gaps in a carrier's gaps in personal wireless services are not significant gaps, based upon such factors including, but not limited to, lack of significant physical size of the gap, whether the gap is located upon a lightly traveled or lightly occupied area, whether only a small number of customers are affected by the gap, and/or whether or not the carrier's customers are affected for only limited periods of time. A wireless carrier's coverage shall not be deemed inadequate simply because the frequency or frequencies at which its

customers are using its services are not the most preferred frequency of the wireless carrier.

“Antenna” means an apparatus designed for the purpose of emitting RF radiation, to be operated or operating from a fixed location, for the provision of personal wireless services.

“Applicant” means any individual, corporation, limited liability company, general partnership, limited partnership, estate, trust, joint-stock company, association of two or more persons having a joint common interest, or any other entity submitting an application for a special use permit, site plan approval, variance, building permit, and/or any other related approval, for the installation, operation and/or maintaining of one or more personal wireless services facilities.

“Application” means all necessary and required documentation and evidence that an applicant must submit to receive a special use permit, building permit, or other approval for personal wireless services facilities from the Town.

“Cell tower” means a free-standing, guy-wired, or otherwise supported pole, tower, or other structure designed to support or employed to support, equipment and/or antennas used to provide personal wireless services, including, but not limited to, a pole, monopole, slim stick, lattice tower or other types of standing structures.

“CEQ” means the Council on Environmental Quality established under NEPA.

“CFR” means the Code of Federal Regulations.

“Colocation” and/or “co-locate” means to install, mount or add new or additional equipment to be used for the provision of personal wireless services to a pre-existing structure, facility, or complex which is already built and is currently being used to provide personal wireless services, by a different provider of such services, wireless carrier or site developer.

“Complete application,” “completed application” means an application that contains all the necessary and required information, records, evidence, reports, and/or data (including number of carrier’s subscribers, and drive test maps) necessary to enable an informed decision to be made with respect to an application. Where any information is provided, pursuant to the terms of this chapter and the Town planning official or the Town’s expert or consultant or the Town of Mesilla, determines, based upon information provided, that any additional, further or clarifying information is needed as to one or more aspects, then the application will be deemed incomplete until that further or clarifying information is provided to the satisfaction of the Town planning official, Town of Mesilla or the Town’s expert or consultant or the Town of Mesilla.

“Commercial tower” means a freestanding vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of providing a commercial service to the public. Commercial tower uses include, but are not limited to, cellular communications, paging stations, TV stations, AM and FM radio stations, two-way radio base stations, communication mobile service, common carrier wireless services and communications used for intra-business and inter-business purposes.

“Complex” means the entire site or facility, including all structures and equipment, located at the site.

“Communication structure” means any structure, including antennas and satellite service devices, or any other device which is normally used for radio, television, microwave or wireless communications. This shall include any device that is attached to a new or an existing tower or attached to a building facade or roof or other non-communication structure, and such attachment is made to the facade or roof vertically, horizontally and/or diagonally.

DBM (dBm). DBM stands for decibel milliwatts, which is a concrete measurement of the wireless signal strength of wireless networks. Signal strengths are recorded in negative numbers and can typically range from approximately -30 dBm to -110 dBm. The closer the number is to zero, the stronger the cell signal.

“Deployment” means the placement, construction, or substantial modification of a personal wireless services facility.

“Distributed antenna system (DAS)” means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides personal wireless service within a geographic area.

“Effective prohibition” means a finding by the Planning, Zoning, and Historical Appropriateness Commission (PZHAC) that, based upon an applicant’s submission of sufficient probative, relevant, and sufficiently reliable evidence, and the appropriate weight which the PZHAC deems appropriate to afford same, an applicant has established that an identified wireless carrier does not have adequate coverage as defined hereinabove, but suffers from a significant gap in its personal wireless services within the Town and that a proposed installation by that applicant would be the least intrusive means of remedying that gap, such that a denial of the application to install such facility would effectively prohibit the carrier from providing personal wireless services within the Town. Any determination of whether an applicant has established, or failed to establish, both the existence of a significant gap and whether its proposed installation is the least intrusive means of remedying such gap, shall be based upon substantial evidence, as is hereinafter defined.

“Eleventh hour submissions” means an applicant’s submission of new and/or additional materials in support of an application within 72 hours of the expiration of an applicable shot clock (as is hereinafter defined), or at an otherwise unreasonably short period of time before the expiration of the shot clock, making it impracticable for the Town of Mesilla to adequately review and consider such submissions due to their complexity, volume, or other factors, before the expiration of the shot clock.

“EIA” means the Environmental Improvement Act.

“EPA” means the United States Environmental Protection Agency.

“FAA” means the Federal Aviation Administration, or its duly designated and authorized successor agency.

“Facial mount” means the physical attachment of a communication structure to a building or other noncommunication structure, which does not substantially increase the height of the building or structure. This can include attaching the structure either vertically, horizontally, or diagonally along the structure’s building facade, facades, walls, roofs or other structures.

“Facility” means a set of wireless transmitting and/or receiving equipment, including any associated electronics and electronics shelter or cabinet and generator.

“FCC” means the Federal Communications Commission.

“General population/uncontrolled exposure limits” means the applicable radiofrequency radiation exposure limits set forth within 47 CFR 1.1310(e)(1), Table 1, Section (ii), made applicable pursuant to 47 CFR 1.1310(e)(3).

“Height” means, when referring to a tower, personal wireless service facility, or personal wireless service facility structure, the distance measured from the pre-existing grade level to the highest point on the tower, facility, or structure, including, but not limited to, any accessory, fitting, fitment, extension, addition, add-on, antenna, whip antenna, lightning rod or other types of lightning protection devices attached to the top of the structure.

“Historic structure” means any structure that would meet the definition of a regulated structure as defined in this chapter.

“Historic Zones” For the purposes of this Chapter, a zone is considered historic if it is listed individually or collectively or eligible to be listed in the National Historic Landmark Register, the National Register of Historic Places or the State Register of Cultural Properties or if the resource or zone has been identified by a governmental agency, such as the New Mexico Historic Preservation Division, as having significant value as an historic, cultural or archaeological resource.

“Illegally excessive RF radiation” or “illegally excessive radiation” means RF radiation emissions at levels that exceed the legally permissible limits set forth within 47 CFR 1.1310(e)(1), Table 1, Sections (i) and (ii), as made applicable pursuant to 47 CFR 1.1310(e)(3).

“In-kind replacement” means the replacement of a malfunctioning component(s) with a properly functioning component of substantially the same weight, dimensions, and outward appearance.

“Macrocell” means a cellular base station that typically sends and receives radio signals from large towers and antennas. These include traditionally recognized cell towers, which typically range from 50 to 199 feet in height.

“Maintenance” or “routine maintenance” means plumbing, electrical or mechanical work that may

require a building permit but that does not constitute a modification to the personal wireless service facility. It is work necessary to assure that a wireless facility and/or telecommunications structure exists and operates: reliably and in a safe manner, presents no threat to persons or property, and remains compliant with the provisions of this chapter and FCC requirements.

“Municipal code” means the Town of Mesilla Municipal Code.

“Necessary” or “necessity” or “need” means what is technologically required for the equipment to function as designed by the manufacturer, and that anything less will result in prohibiting the provision of service as intended and described in the narrative of the application. “Necessary” or “need” does not mean what may be desired, preferred, or the most cost-efficient approach and is not related to an applicant’s specific chosen design standards. Any situation involving a choice between or among alternatives or options is not a need or a necessity.

“NEPA” means the National Environmental Policy Act, 42 U.S.C. § 4321 et seq.

“NHPA” means the National Historic Preservation Act, 54 U.S.C. § 300101 et seq, and 36 CFR Part 800 et seq.

“Node,” or “DAS node” means a fixed antenna and related equipment installation that operates as part of a system of spatially separated antennas, all of which are connected through a medium through which they work collectively to provide personal wireless services, as opposed to other types of personal wireless facilities, such as macrocells, which operate independently.

“Notice address” means an address, which is required to be provided by an applicant at the time it submits an application for a special use permit, at which the Town of Mesilla and/or Town planning official can mail notice, and the mailing of any notice to such address by first-class mail shall constitute sufficient notice to any and all applicants, co-applicants, and/or their attorneys, to satisfy any notice requirements under this chapter, as well as any notice requirements of any other local, state and/or federal law.

“Notice of effective prohibition conditions” means a written notice which is required to be provided to the Town at the time of the filing of any application, by all applicants seeking any approval, of any type, for the siting, installation and/or construction of a PWSF, wherein the respective applicant asserts, claims or intends to assert or claim, that a denial of their respective application, by any agent, employee, Town of Mesilla or body of the Town, would constitute an “effective prohibition” within the meaning of the TCA, and concomitantly, that a denial of their respective application or request would violate 47 U.S.C. § 332(c)(7)(B)(i)(II) of the TCA.

“Notice of incompleteness,” “notice of incomplete application” means a written notice, mailed by first class mail, to an applicant seeking an approval for the installation of a PWSF, wherein the sender advises the applicant that its application is either incomplete, the wrong type of application, or is otherwise defective, and setting forth the reason or reasons why the application is incomplete and/or defective.

“Occupational/controlled exposure limits” means the applicable RF radiation exposure limits set forth within 47 CFR 1.1310(e)(1), Table 1, Section (i), made applicable pursuant to 47 CFR 1.1310(e)(2).

“Personal wireless service/personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, within the meaning of 47 U.S.C. § 332(c)(7)(c)(i), and as defined therein.

“Personal wireless service facility,” “personal wireless services facility” or “PWSF” means a facility or facilities used for the provision of personal wireless services, within the meaning of 47 U.S.C. § 332(c)(7)(c)(ii). It means a specific location at which a structure that is designed or intended to be used to house or accommodate antennas or other transmitting or receiving equipment is located. This includes, without limitation, towers of all types and all kinds of support structures, including but not limited to buildings, church steeples, silos, water towers, signs, utility poles, or any other structure that is used or is proposed to be used as a telecommunications structure for the placement, installation and/or attachment of antennas or the functional equivalent of such. It expressly includes all related facilities and equipment such as cabling, radios and other electronic equipment, equipment shelters and enclosures, cabinets, and other structures enabling the complex to provide personal wireless services.

"Personal tower" means tower used for personal use, such as a private wind tower or a solar panel installation. The key difference is that PWSFs are part of a broader telecommunications infrastructure, while "personal tower" might be a more localized or individual use. Personal (private) towers are prohibited from the C, H-C and H-R zones. "Personal tower" and "personal wireless service facility" are not the same. A "personal wireless service facility" (PWSF) is a broader term that refers to any facility used for transmitting or receiving personal wireless services, as defined by the Telecommunications Act of 1996. This includes things like cell phone towers, microwave towers, and other structures used for wireless communication.

“Probative evidence” means evidence which tends to prove facts, and the more a piece of evidence or testimony proves a fact, the greater its probative value, as shall be determined by the PZHAC, as the finder-of-fact in determining whether to grant or deny applications for special use permits under this provision of the Municipal Code.

“PZHAC” means the planning, zoning and historical appropriateness commission, the body that shall review applications for WTFs and recommend action to the board of trustees, which is the governing body of the Town of Mesilla.

“Repairs” means the replacement or repair of any components of a wireless facility or complex where the replacement is substantially identical to the component or components being replaced, or for any matters that involve the normal repair and maintenance of a wireless facility or complex without the addition, removal, or change of any of the physical or visually discernible components or aspects

of a wireless facility or complex that will impose new visible intrusions of the facility or complex as originally permitted.

“RF” means radio frequency.

“RF radiation” means radio frequency radiation, that being electromagnetic radiation which is a combination of electric and magnetic fields that move through space as waves, and which can include both non-ionizing radiation and ionizing radiation.

“Satellite service device (SSD)” means any structure used to receive satellite programming services specifically associated with television reception from the transmission of signals from a satellite to a receiver, usually a round “dish” that can vary in size from 18 inches to 10 feet in diameter.

“Section 106 review” means a review under Section 106 of the National Historic Preservation Act.

“Setback” means for purposes of special use permit applications, a setback shall mean the distance between (1) any portion of a personal wireless facility and/or complex, including but not limited to any and all accessory facilities and/or structures, and (2) the exterior line of any parcel of real property or part thereof which is owned by, or leased by, an applicant seeking a special use permit to construct or install a personal wireless facility upon such real property or portion thereof. In the event that an applicant leases only a portion of real property owned by a landlord, the setback shall be measured from the facility to the line of that portion of the real property which is actually leased by the applicant, as opposed to the exterior lot line of the non-leased portion of the property owned by the landlord.

“Shot clock” means the applicable period which is presumed to be a reasonable period within which the Town is generally required to issue a final decision upon an application seeking special use permit approval for the installation or substantial modification of a personal wireless services facility or structure, to comply with [47 U.S.C. § 332\(c\)\(7\)\(B\)\(ii\)](#) of the TCA.

“Site developer” or “site developers” means individuals and/or entities engaged in the business of constructing wireless facilities and wireless facility infrastructure and leasing space and/or Town upon, or use of, their facilities and/or infrastructure to wireless carriers. Unlike wireless carriers, site developers generally do not provide personal wireless services to end-use consumers.

“Small cell” means a fixed cellular base station that typically sends and receives radio signals and which are mounted upon poles or support structures at substantially lower elevations than macrocell facilities.

“Small wireless facility (SWF)” means a personal wireless service facility that meets all of the following criteria:

1. The facility does not extend the height of an existing structure to a total cumulative height

of more than 50 feet, from ground level to the top of the structure and any equipment affixed thereto;

2. Each antenna associated with the deployment is no more than three cubic feet in volume;
3. All wireless equipment associated with the facility, including any pre-existing equipment and any proposed new equipment, cumulatively total no more than 28 cubic feet in volume;
4. The facility is not located in historic zones or on tribal land; and
5. The facility will not result in human exposure to radiofrequency radiation in excess of the applicable FCC safety standards set forth within Table 1 of 47 CFR 1.1310(E)(1).

“Special use permit” means the official document or permit granted by the Town of Mesilla pursuant to which an applicant is allowed to file for and obtain a building permit to construct and use a personal wireless services facility, personal wireless service equipment, and/or any associated structures and/or equipment which are used to house, or be a part of, any such facility or complex, or to be used to provide personal wireless services.

“State” means the state of New Mexico.

“Stealth” or “stealth technology” means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and generally in the same area as the requested location of such personal wireless service facilities. This shall mean building the least visually and physically intrusive facility and complex under the facts and circumstances.

“Structure” means a pole, tower, base station, or other building, physical support of any form used for, or to be used for, the provision of personal wireless service.

“Substantial evidence” means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It means less than a preponderance but more than a scintilla of evidence.

“TCA” means the Telecommunications Act of 1996, 47 U.S.C. § 332(c).

“Telecommunications tower” means any structure, vertical in inclination, that is designed and constructed and normally used for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. This may include television and radio transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and other freestanding towers, either for private or commercial purposes. The term includes the structure and any support thereto.

“Tolling” or “tolled” means the pausing of the running of the time period permitted under the

applicable shot clock for the respective type of application for a personal wireless services facility. Where a shot clock is tolled because an application has been deemed incomplete and timely notice of incompleteness was mailed to the applicant, the submission of additional materials by the applicant to complete the application will end the tolling, thus causing the shot clock period to resume running, as opposed to causing the shot clock to begin running anew.

“Town” means the Town of Mesilla.

“Undertaking” means any application for a special use permit seeking Town of Mesilla approval for the installation of a personal wireless services facility licensed under the authority of the FCC shall constitute an undertaking within the meaning of NEPA, in accord with 42 CFR 137.289 and 36 CFR 800.16.

“Users” means “wireless carriers” or “carrier” companies that provide personal wireless services to end-use consumers.

“Vertical structure” means any built object that is either independent of or attached to any building or other structure that is perpendicular in its direction to the nearest adjacent ground, including but not limited to flag poles, belfries, chimneys and parapet walls.

“View corridors” are defined as specific public pathways, streets, or parks designed to preserve significant visual access to landmarks, natural features, or distant vistas by regulating development within them to maintain clear sightlines for public enjoyment. These regulations impact building height, setbacks, and design through zoning rules to protect community character and quality of life. These view corridors area identified either in the Mesilla comprehensive plan or by a federal or state agency as the location of a particular designated scenic or cultural resource or trail system and as an area from which a WTF can be seen. The view corridors are established by the Board of Trustees of the Town of Mesilla by resolution.

“Wireless telecommunications facility (WTF)” includes all equipment, buildings and structures with which a wireless communications service carrier broadcasts and receives the RF waves and all locations of said equipment or any part thereof. [Ord. 2003-10 § 2]

“Wireless carriers” or “carrier” means companies that provide personal wireless services to end-use consumers.

“Zoning appeals” means appeals made to the Town of Mesilla.

18.54.30 Applicability and exemptions.

A. General Provisions

1. New Towers and Antennas. All new towers or antennas in the Town of Mesilla shall be subject to these regulations, except as provided in subsections (B) and (C) of this section.

2. Amateur Radio Station Operators/Receive Only Antennas. The sections that follow shall not govern television antennas, satellite dishes and receive only antennas; provided, that the primary use of the property is not a wireless telecommunications facility (WTF) and that the antenna use is accessory to the primary use of the property. Nor shall the sections that follow govern any freestanding vertical structure or the installation of any freestanding vertical structure located in the R-1 zone that is under 30 feet in height or located in the RA zone that is under 40 feet in height or located in the RF zone that is under 50 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

B. Pre-existing Towers or Antennas. Pre-existing towers and pre-existing antennas for which a building permit has been properly issued prior to the effective date of the ordinance codified in this chapter shall not be required to meet the requirements of this chapter, other than the requirements of Mesilla Town Code Section 18.54.040(G) and (H).

C. Public property owned or otherwise controlled by the Town of Mesilla shall not be exempt from the requirements of this chapter.

D. Towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities. [Ord. 2003-10 § 3]

18.54.040 General standards and construction provisions.

A. Height. All structure heights shall be measured from the lowest adjacent ground level vertically to the highest point of all structures, whether attached to the ground, the building or other structure(s). The principal supporting structure for WTFs shall be permitted to exceed the height limit of the zoning district in which it is located; provided, that the setback standards in Mesilla Town Code Section 18.54.060 shall apply.

B. Lot Size. For the purposes of determining whether the installation of a tower or antenna complies with zoning development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the WTF may be located on leased parcels within such lot.

C. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Mesilla irrespective of municipal and county jurisdictional boundaries.

D. Public Notice & Hearings. For purposes of this Chapter, a special use permit request, a variance request or an appeal of a special use permit or variance shall require public notice in a local publication of record which is Las Cruces Bulletin. In the event, Las Cruces Bulletin is not available, public notice will be ran in any other local general circulation within the Town of Mesilla and all public notification locations. Each “notice of public hearing for new wireless facility” shall state the name or names of the respective applicant or co-applicants, provide a brief description of the personal

wireless facility for which the applicant seeks a special use permit, and the date, time, and location of the hearing. In order that the Town may notify nearby landowners, the application shall contain the names and address of all property owners of properties that are located within 1,500 feet of any property line of the lot or parcel on which the WTF is proposed to be located. This requirement is in addition to any and all notice requirements contained in the Town's zoning ordinance.

E. Requirements for Public Notices. The Town of Mesilla shall ensure that both the public and property owners whose properties might be adversely impacted by the installation of a wireless facility receive notice of any public hearing pertaining to same and shall ensure that they are afforded an opportunity to be heard concerning same.

The face of each envelope containing the notices of the public hearing shall state, in all bold typeface, in all capital letters, in a font size no smaller than 18 point, the words:

NOTICE OF PUBLIC HEARING FOR NEW WIRELESS FACILITY

The applicant shall additionally post a notice upon the proposed site advising the public of the public hearing.

Prior to the date of the hearing, the respective applicant shall file an affidavit of mailing, attesting to whom such notices were mailed by the applicant, and the content of the notices which were mailed to such recipients.

F. Public Hearings. The Town of Mesilla shall conduct a public hearing upon each special use permit application, consistent with the procedures in Mesilla Town Section 18.36.060, except the Town of Mesilla shall have authority to schedule such additional or more frequent public hearings as may be necessary to comply with the applicable shot clocks imposed upon the Town of Mesilla under the requirements of the TCA. Before the date scheduled for the public hearing, the Town of Mesilla shall cause to be published a "notice of public hearing for a new wireless facility."

G.-Minimum Wind Speed. All structures shall be constructed and installed to manufacture's specification and constructed to withstand a minimum 90-mile-per-hour wind, or the minimum wind speed as required by the Town's adopted Uniform Building Code, as amended, whichever wind speed is greater.

H. Building Codes. Structures shall be permitted and constructed to meet current Town of Mesilla's building code requirements, including the Uniform Building Code, and required setback provisions as prescribed for the zoning districts in which such structures are permitted. If any setback or buffer yard as prescribed in the Town's zoning code requires a greater distance than required in this chapter, the greater setback shall apply.

I. Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that the tower is maintained in compliance with the standards contained in applicable federal, state and Town building codes. If, upon inspection, the Town of Mesilla concludes that a tower fails to comply with such codes and constitutes a danger to persons or property, then upon notice being

provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to do so shall constitute grounds for the removal of the tower or antenna at the owner's expense.

J. State or Federal Requirements. All towers shall meet or exceed current standards and regulations of the Federal Communication Commission (FCC), the Federal Aviation Administration (FAA) and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of the revisions, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

Such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

K.-Business Registration Required. Business registrations are required for each WTF for commercial purposes located within the boundary limits of the Town of Mesilla, regardless of whether said structure is freestanding, co-located, facial or roof mounted, or part of an integrated structure or improvement. Business registrations are renewable annually.

L. Inventory of Existing Sites. Each applicant for a WTF shall provide to the PZHAC an inventory of existing towers, antennas or sites approved for towers or antennas that are located within the service area proposed to be served by the new tower, including specific information about the location, height and design, and the owners/operators of each tower or site and indicate the distance of such towers, antennas or sites from the proposed WTF.

M. Aesthetics. Towers and antennas shall meet the following aesthetic requirements:

- i. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color to reduce visual obtrusiveness.
- ii. The design of the buildings and related structures at a WTF site shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and any surrounding buildings.
- iii. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.

N. Lighting. Only security lighting not to exceed 12 feet in height or lighting required by a state and/or federal agency is allowed, providing the location of the lighting fixture together with its cut-

off angle shall be such that it does not shine directly on any public right-of-way or any residential premises.

O. Signs. No signs shall be allowed on an antenna or tower other than signage required by the FCC or other regulatory agency and signs that warn of safety hazards or prohibit access; provided, that such signs are no larger than one square foot and are reviewed by Town staff and approved by the board of trustees.

P. Building and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply fully with the Town's building codes.

Q. Health Issues. Every wireless telecommunications facility shall meet health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission or any successor thereof, and any other federal or state agency.

R. -View Corridors. No wireless communication tower or facility is allowed within 1320 feet (or one quarter of a mile) of the outer edge of the right-of-way of any designated view corridor, which are established by the Board of Trustees of the Town of Mesilla as per resolution.

S. Historic Preservation Review. No WTF that may affect archaeological, historic or cultural properties that are listed or are eligible for listing on the National Register of Historic Places shall be constructed, installed or modified without first obtaining Historic Preservation Division 106 Review as per 36 CFR part 800 in accordance with the National Historic Preservation Act of 1966, as amended. A project comment review letter from the State of New Mexico Historic Preservation Division, Office of Cultural Affairs shall be filed with the Town at the time of filing a business registration application and/or special use permit application.

T. Visual Models. Visual models shall be required of all applicants for a WTF as follows:

- a. Photographic Simulation. The applicant shall be required to provide a photographic simulation with the image of a tower or other proposed communications structure and all structures associated with the site superimposed over the existing view to provide a sense of the visual impact expected from the proposed WTF.
- b. Site-Located Height Model. A height model, which shall be a pole or other object erected or floated at the site to the requested height of the proposed WTF, may be required as a condition of the special use permit. If required, the following conditions shall apply:
 - i. The applicant shall submit photographs of the height model from neighboring residential areas and public roadways and other locations around the Town as specified by the PZHAC within three miles from which the height model is visible. The height model shall be a minimum of three feet in diameter.
 - ii. Photographs of the height model shall be submitted no less than 10 days prior to the scheduled

public hearing date for the special use permit.

iii. Height models shall be erected for a minimum of three days no less than 15 days prior to the scheduled public hearing date for the special use permits. The legal notice for the special use permit shall state the dates and location during which the height model will be erected.

iv. The PZHAC may waive this requirement if it is determined that the photographic simulation is adequate to address all visual impact issues.

v. Town staff shall issue administratively any permit necessary for a temporary height model required for staff and public inspection purposes.

U. All utilities at a WTF site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town of Mesilla, the National Electrical Safety Code and the National Electrical Code where appropriate.

V. All applicants for a WTF or any modification to an existing WTF should develop their plans to allow reasonable requests from the Town to use space on its towers and space within the existing or planned compound for deploying and operating public service radio facilities at no cost to the Town. Provisions for adequate advance notice regarding Town access to the WTF for routine activities will be arranged with the applicant. [Ord. 2003-10 § 4]

W. Small Wireless Facilities. Small wireless facilities (SWF) shall be sited to inflict the minimum adverse impacts upon individual residential properties, and specifically, to minimize, to the greatest extent reasonably feasible, adverse aesthetic impacts upon residential homes or reductions in the property values of same. SWFs attached to pre-existing wooden and nonwooden poles shall conform to the following criteria:

a. Proposed antenna and related equipment shall meet:

i. Design standards which the Town may maintain and update as needed; provided, that the Town makes its design standards publicly available for review by any potential applicant seeking approval for the installation of an SWF within the Town; and

ii. National Electric Safety Code (NESC) standards; and

iii. National Electrical Code (NEC) standards.

b. Antennas and antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves, and conduit, which are mounted on poles, shall be mounted as close to the pole as technically feasible. They shall not be illuminated except as required by municipal, federal, or state authority, provided this shall not preclude deployment on a new or replacement streetlight.

- c. Antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible. Conduits and cabinets shall cover all cables and wiring to the extent that it is technically feasible if allowed by the pole owner. The number of conduits shall be minimized to the extent technically feasible. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduits shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached.

SWFs attached to replacement poles and new poles shall conform to the criteria set forth herein above for SWFs attached to pre-existing wooden and nonwooden poles, but shall additionally conform to the following criteria:

- i. The Town prefers that wireless providers and site developers install SWFs on existing or replacement poles instead of installing new poles, and accordingly, to obtain approval for the installation of a new pole, the provider shall be required to document that installation on an existing or replacement pole is not technically feasible.
- ii. To the extent technically feasible, all replacement poles and new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of the pole being replaced, or in the case of a new pole, it shall conform to the nearest adjacent pole or poles.
- iii. The height of replacement poles and new poles shall conform with the height limitations applicable to the zone within which the applicant seeks to install their proposed SWF unless the applicant obtains a variance to obtain relief from any such limitation(s).

X. Telecommunications Towers and Personal Wireless Service Facilities Which Do Not Meet the Definition of a Small Wireless Facility. The design of a proposed new telecommunications tower or personal wireless service facility shall comply with the following:

- a. The choice of design for installing a new personal wireless service facility or the substantial modification of an existing personal wireless service facility shall be chosen to minimize the potential adverse impacts that the new or expanded facility may, or is likely to, inflict upon nearby properties.
- b. Any new telecommunications tower shall be designed to accommodate future shared use by other communications providers.
- c. Unless specifically required by other regulations, a telecommunications tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
- d. Notwithstanding the height restrictions listed elsewhere in this C
- e. maximum height of any new telecommunications tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal,

state, and/or federal law and/or regulation.

f. Accessory Structures.

i. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend with the natural surroundings. The use of camouflage communications towers may be required by the Town of Mesilla to blend the communications tower and/or its accessory structures further into the natural surroundings. "Camouflage" is defined as the use of materials incorporated into the communications tower design that give communications towers the appearance of tree branches and bark coatings, church steeples and crosses, sign structures, lighting structures, or other similar structures.

ii. Accessory structures shall be designed to be architecturally similar and compatible with each other and shall be no more than 12 feet high. The buildings shall be used only for housing equipment related to the particular site. Whenever possible, the buildings shall be joined or clustered to appear as one building.

iii. No portion of any telecommunications tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to the company name, phone numbers, banners, and streamers, except the following: a sign of no greater than two square feet indicating the name of the facility owner(s) and a 24-hour emergency telephone shall be posted adjacent to any entry gate. In addition, "no trespassing" or other warning signs may be posted on the fence. All signs shall conform to the sign requirements of the Town and/or the Municipal Code.

g. Towers must be placed to minimize visual impacts. Applicants shall place towers on the side slope of the terrain so that, as much as possible, the top of the tower does not protrude over the ridgeline, as seen from public ways.

h. Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees shall take place on a site connected with an application made under this chapter prior to the approval of the special use permit use.

i. Screening.

i. Deciduous or evergreen tree plantings may be required to screen portions of the telecommunications tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas.

ii. Where a site adjoins a residential property or public property, including streets, screening suitable in type, size and quantity shall be required by the Town of Mesilla.

iii. The applicant shall demonstrate to the approving Town of Mesilla that adequate measures have been taken to screen and abate site noises such as heating and ventilating units, air

conditioners, and emergency power generators. Telecommunications towers shall comply with all applicable sections of this chapter as it pertains to noise control and abatement.

j. Lighting. Telecommunications towers shall not be lighted except where FAA/FCC required lighting of the telecommunications towers is necessary. No exterior lighting shall spill from the site in an unnecessary manner.

k. Access.

i. Adequate emergency and service access shall be provided and maintained. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to the top of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

ii. To the extent feasible, all network interconnections to and from the telecommunications site and all power to the site shall be installed underground. At the initial construction of the access road to the site, sufficient conduit shall be laid to accommodate the maximum possible number of telecommunications providers that might use the facility.

l. Parking. Parking shall be provided to assure adequate emergency and service access. The Town of Mesilla shall determine the number of required spaces, but in no case shall the number of parking spaces be less than two spaces.

m. Fencing. The telecommunications tower and any accessory structures shall be adequately enclosed by a fence, the design of which shall be approved by the Town of Mesilla. The Town of Mesilla may waive this requirement if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.

18.54.050 Co-location.

To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location or shared use of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

A. The antenna complies with all applicable FCC and FAA regulations.

B. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the PZHAC allows reconstruction as a monopole.

C. Height. An existing tower may be modified or rebuilt to a taller height not to exceed 30 feet over the tower's existing height, to accommodate the co-location of an additional antenna. This height

change may occur only one time per communication tower and the additional height cannot require an additional distance separation as set forth in MTC 18.54.070(D). The tower’s premodification height shall be used to calculate such distance separations.

D. On-Site Location. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site within 50 feet of its existing location. If the tower is moved to accommodate co-location, only one tower may remain on the site. A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Mesilla Town Code Section 18.54.070(D). [Ord. 2003-10 § 5]

18.54.060 Heights, placement provisions and setbacks.

A. Heights.

Zone	Towers	Other Communication Structures
HR, HC	Expressly prohibited	Prohibited
Towers and other communication structures are also expressly prohibited 1320 feet (or ¼-mile) of the boundary of an historic resource or district or view corridor.		
C	Expressly prohibited	Must be concealed as per subsection (D) of this section
R-1	Up to 65 feet For noncommercial use only	Up to 65 feet For noncommercial use only
RA	Up to 65 feet For noncommercial use only	Up to 65 feet For noncommercial use only
RF	Up to 65 feet for a single user Up to 75 feet for three users	See Mesilla Town Code Section 18.54.030(B)

The applicant shall submit documentation justifying the total height of any tower or other communication structure, facility, and/or antenna and the basis therefore. Such documentation will be analyzed, to the extent practicable, in the context of the justification of the height needed to provide service primarily and essentially within the Town boundaries and the immediately surrounding area, to the extent practicable.

No tower, including allowing for all attachments, shall exceed that height which shall permit operations without required artificial lighting of any kind in accordance with municipal, county, state and/or federal law, ordinance, code, rule or regulation.

B. Height restrictions.

1. Small Wireless Facilities. Personal wireless service facilities which meet the definition of a

small wireless facility shall not exceed a maximum height of 60 feet above ground elevation in the public use, and residential single-family zones, and shall not exceed a maximum height of 45 feet within all other zoning zones.

2. Non-small Wireless Facilities. Personal wireless service facilities which do not meet the definition of a small wireless facility shall not exceed a maximum height of 75 feet above ground elevation in the public use in all zones.

C. Small Wireless Facilities.

1. The minimum setback from any residential dwelling or structure shall be 150 feet, unless the facility is being installed upon a pre-existing utility pole or other utility structure.

2. Within all residentially zoned and other zones, all small wireless facilities shall be set back a minimum of 300 feet from any residential dwelling or structure, unless the facility is being installed upon a pre-existing utility pole or is being collocated upon a pre-existing personal wireless service facility.

D. Cell Towers and All Personal Wireless Service Facilities That Do Not Meet the Definition of a Small Wireless Facility.

1. Each proposed wireless personal service facility and personal wireless service facility structure, compound, and complex shall be located on a single lot and comply with applicable setback requirements. Adequate measures shall be taken to contain on site all icefall or debris from tower failure and preserve the privacy of any adjoining residential properties.

2. Each lot containing a wireless personal service facility and personal wireless service facility structure, compound, and complex shall have the minimum area, shape, and frontage requirements generally prevailing for the zoning zone where located, in the schedules of regulations for nonresidential and residential zones of this chapter, and such additional land if necessary to meet the setback requirements of this section.

3. Cell towers and personal wireless service facilities that do not meet the definition of a small wireless facility, shall maintain a minimum setback of a distance equal to 110 percent of the height of the facility, for front yard setbacks, rear yard setbacks and side yard setbacks, in all zoning zones.

4. In addition to the above required setbacks from property lines, cell towers and personal wireless service facilities that do not meet the definition of a small wireless facility, shall maintain a minimum setback of 300 feet from any residential dwelling or structure in all zones.

18.54.070 Special use permits.

A. General. The following provisions shall govern the issuance of special use permits for the siting

of a WTF, including but not limited to the construction of a tower and the placement of an antenna, by the board of trustees, the governing body of the Town of Mesilla.

1. Applications for special use permits under this section shall be made to the Town of Mesilla, who shall initially determine whether or not the application is complete and/or free of defects upon receipt of the same.
2. If the Town planning official determines that the application is defective or incomplete, they shall promptly mail a notice of incompleteness to the applicant, to toll the applicable shot clock, to ensure that the Town is afforded sufficient time to review and determine each respective application.
3. The absence of any one of which listed herein below, shall render the respective application incomplete:
4. Wireless Communications Facilities SUP are for 5 years. Upon expiration, a renewal will be necessary and all current regulations must be met. SUP fees applicable according to fee schedule.
5. Applications for special use permits under this section shall be subject to the procedures and requirements of the zoning regulations and standards under Mesilla Town Code 18.55.010, 18.85.080, 18.85.100; and Chapter 18.85 Mesilla Town Code, Article III; except as modified in this chapter, with the planning, zoning and historical appropriateness commission (PZHAC) acting as a recommending body and the board of trustees acting as the granting body.
6. The PZHAC, in recommending a special use permit to the board of trustees, and the board of trustees, in granting a special use permit, may impose conditions and limitations to the extent the commission and board conclude such conditions and limitations are necessary to minimize any adverse effect of the proposed WTF on adjoining properties.
7. Any engineering information submitted by the applicant, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the state of New Mexico.
8. An applicant for a special use permit shall submit the information described below in this section and a non-refundable fee as described in the zoning regulations and standards in Mesilla Town Code Section 18.85.140.

B. Special Use Permit and Site Plan Applications. Completed applications for a special use permit and site plan that shall identify all applicants, co-applicants, site developer(s), and wireless carrier(s) on whose behalf the application is being submitted, as well as the property owner of the proposed site.

C. Filing Fees. The appropriate filing fees then being charged by the Town for special use permit applications and other related applications.

D. "Notice Address." A "notice address," that being a specific address to which the Town of Mesilla, and/or Town planning official may mail any type of notice, and that the mailing of same to such

address shall constitute sufficient notice to any applicant, -, and/or their attorney, to comply with any requirement under this section as well as any local, state and/or federal law.

E. Proof of Authorization for Site Occupancy. Where an applicant is not the owner of the real property upon which it seeks to install its equipment or facility, they shall submit proof of authorization to occupy the site at issue. If the applicant is leasing all or a portion of real property upon which it intends to install its new facility or equipment, then the applicant shall provide a written copy of its lease with the owner of such property. The applicant may redact any financial terms contained within the lease, but it shall not redact any portion of the lease which details the amount of area leased nor the specific portion of the real property to which the applicant has obtained the right to occupy, access, or preclude others from entering.

F. Where an applicant is seeking to colocate new equipment into an existing facility, it shall provide a copy of its written colocation agreement with the owner of such pre-existing facility, from which it may redact any financial terms.

G. A Drawn-to-Scale Depiction. The applicant shall submit drawn-to-scale depictions of its proposed wireless support structure and all associated equipment to be mounted thereon, or to be installed as part of such facility, which shall clearly and concisely depict all equipment and the measurements of same, to enable the Town planning official to ascertain whether the proposed facility would qualify as a small wireless facility as defined under this chapter.

H. If the applicant claims that its proposed installation qualifies as a small wireless facility within this Chapter, the drawn-to-scale depiction shall include complete calculations for all of the antennas and equipment of which the facility will be comprised, depicting that, when completed, the installation and equipment will meet the physical size limitations which enable the facility to qualify as a small wireless facility.

a. Site Plan. The applicant shall submit a site plan and site plan application. The site plan shall show all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking, and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

b. Engineer's Report. To the extent that an application proposes the colocation of new equipment onto an existing tower or facility, the applicant shall provide an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and explaining what modifications, if any, will be required for certification.

c. Environmental Assessment Form. A completed environmental assessment form (EAF) and a completed visual EAF addendum.

I. Visual Impact Analysis. A completed visual impact analysis, which, at a minimum, shall include the following:

i. Small Wireless Facilities. For applications seeking approval for the installation of a small wireless facility, the applicant shall provide a visual impact analysis which shall include photographic images taken from the perspectives of the properties situated in closest proximity to the location being proposed for the siting of the facility, as well as those properties which would reasonably be expected to sustain the most significant adverse aesthetic impacts due to such factors as their close proximity to the site, their elevation relative to the site, the existence or absence of a “clear line of sight” between the tower location and their location.

ii. Telecommunications Towers and Personal Wireless Service Facilities Which Do Not Meet the Definition of a Small Wireless Facility. For applications seeking approval for the installation of a telecommunications tower or a personal wireless service facility that does not meet the definition of a small wireless facility, the applicant shall provide:

- a. A “zone of visibility map” to determine locations from where the new facility will be seen.
- b. A visual impact analysis which shall include photographic images taken from the perspectives of the properties situated in closest proximity to the location being proposed for the siting of the facility, as well as those properties which would reasonably be expected to sustain the most significant adverse aesthetic impacts due to such factors as their close proximity to the site, their elevation relative to the site, the existence or absence of a “clear line of sight” between the tower location and their location.

The photographic images shall depict the height at which the proposed facility shall stand when completed, including all portions and proposed attachments to the facility, including, but not limited to, the main support structure, all antennas, transmitters, whip antennas, lightning rods, t-bars, crossbars, and cantilever attachments which shall, in whole or in part, be affixed to it, any and all surrounding equipment compound(s), fencing, cellular equipment cabinets, transformers, transformer vaults and/or cabinets, sector distribution boxes, ice bridges, backup generators, including but not limited to equipment boxes, switch boxes, backup generators, ice bridges, etc., to the extent that any of such compound and/or equipment will be visible from properties other than the property upon which the proposed tower and compound are to be installed.

The visual impact analysis shall include an assessment of alternative designs and color schemes, as well as an assessment of the visual impact of the proposed facility, taking into consideration any supporting structure which is to be constructed, as well as its base, guy wires, accessory structures, buildings, and overhead utility lines from abutting properties and streets.

J. Alternative Site Analysis. A completed alternative site analysis of all potential less intrusive alternative sites which the applicant has considered, setting forth their respective locations, elevations, and suitability or unsuitability for remedying whatever specific wireless coverage needs the respective applicant or a specific wireless carrier is seeking to remedy by the installation of the

new facility which is the subject of the respective application for a special use permit.

If, and to the extent that, an applicant claims that a particular alternative site is unavailable, in that the owner of an alternative site is unwilling or unable to accommodate a wireless facility upon such potential alternative site, the applicant shall provide probative evidence of such unavailability, whether in the form of communications or such other form of evidence that reasonably establishes same.

The alternative site analysis shall contain:

- a. An inventory of all existing tall structures and existing or approved communications towers within a two-mile radius of the proposed site.
- b. A map showing the exact location of each site inventoried, including latitude and longitude (degrees, minutes, seconds), ground elevation above sea level, the height of the structure and/or tower, and accessory buildings on the site of the inventoried location.
- c. An outline of opportunities for shared use of an existing wireless facility as opposed to the installation of an entirely new facility.
- d. A demonstration of good-faith efforts to secure shared use from the owner of each potential existing tall structure and existing or approved communications tower, as well as documentation of the physical, technical, and/or financial reasons why shared usage is not practical in each case.

K. FCC Compliance Report. An FCC compliance report, prepared by a licensed engineer, and certified under penalties of perjury, that the content thereof is true and accurate, wherein the licensed engineer shall certify that the proposed facility will be FCC compliant as of the time of its installation, meaning that the facility will not expose members of the general public to radiation levels that exceed the permissible radiation limits which the FCC has set.

If it is anticipated that more than one carrier and/or user is to install transmitters into the facility that the FCC compliance report shall take into account anticipated exposure from all users on the facility and shall indicate whether or not the combined exposure levels will, or will not exceed the permissible general population exposure limits, or alternatively, the occupational exposure limits, where applicable.

Such FCC compliance report shall provide the calculation or calculations with which the engineer determined the levels of RF radiation and/or emissions to which the facility will expose members of the general public.

On the cover page of the report, the report shall explicitly specify: (1) whether the applicant and their engineer are claiming that the applicable FCC limits based upon which they are claiming FCC compliance are the general population exposure limits or the occupational exposure limits. If the applicant and/or their engineer are asserting that the occupational exposure limits apply to the proposed installation, they shall detail a factual basis as to why they claim that the higher set of limits is applicable, (2) the exact minimum distance factor, measured in feet, which the applicant's engineer

used to calculate the level of radiation emissions to which the proposed facility will expose members of the general public. The minimum distance factor is the closest distance (i.e., the minimum distance) to which a member of the general public shall be able to gain access to the transmitting antennas mounted upon, or which shall be a part of the proposed facility.

L. FCC License. A copy of any applicable Federal Communications Commission license possessed by any carrier named as an applicant, co-applicant, or whose equipment is proposed for installation as of the time the application is being filed with the Town.

M. Effective Prohibition Claims. The Town of Mesilla is aware that applicants seeking approvals for the installation of new wireless facilities often assert that federal law, and more specifically the TCA, prohibits the local government from denying their respective applications. In doing so, they assert that their desired facility is “necessary” to remedy one or more significant gaps in a carrier’s personal wireless service, and they proffer computer-generated propagation maps to establish the existence of such purported gaps.

If, at the time of filing an application under this chapter, an applicant intends to assert before the Town of Mesilla that: (1) an identified wireless carrier suffers from a significant gap in its personal wireless services within the Town; (2) that the applicant’s proposed installation is the least intrusive means of remedying such gap in services; and/or (3) that under the circumstances pertaining to the application, a denial of the application by the Town of Mesilla would constitute an “effective prohibition” under 47 U.S.C. § 332 the TCA, then, at the time of filing such application, the applicant shall be required to file a written statement which shall be entitled: “Notice of Effective Prohibition Conditions.”

If an applicant files a notice of effective prohibition conditions, then the applicant shall be required to submit probative evidence to enable the Town of Mesilla to reasonably determine: (1) whether or not the conditions alleged by the respective applicant exist; (2) whether there exists a significant gap or gaps in an identified wireless carrier’s personal wireless services within the town; (3) the geographic locations of any such gaps, and; (4) the geographic boundaries of such gaps, to enable the Town of Mesilla to determine whether granting the respective application would be consistent with the requirements of this chapter and the legislative intent behind same, and whether or not federal law would require the Town of Mesilla to grant the respective application, even if it would otherwise violate the Town’s Municipal Code, including, but not limited to, this Chapter. The additional materials which the applicant shall then be required to provide shall include the following:

- a. Drive Test Data and Maps. If, and to the extent that, an applicant claims that a specific wireless carrier suffers from a significant gap in its personal wireless services within the Town, the applicant shall conduct or cause to be conducted a drive test within the specific geographic areas within which the applicant is claiming such gap or gaps exist, for each frequency at which the carrier provides personal wireless services. The applicant shall provide the Town of Mesilla with the actual drive test data recorded during such drive test, in a simple format which shall include, in table format:

1. The date and time for the test or tests;
2. The location, in longitude and latitude, of each point at which signal strength was recorded;
3. Each signal strength recorded, measured in DBM, for each frequency. Such data is to be provided in a separate table for each frequency at which the respective carrier provides personal wireless services to any of its end-use customers; and
4. The applicant shall also submit drive test maps, depicting the actual signal strengths recorded during the actual drive test, for each frequency at which the carrier provides personal wireless services to its end-use customers.

If an applicant claims that it needs a “minimum” signal strength (measured in DBM) to remedy its gap or gaps in service, then for each frequency, the applicant shall provide three signal strength coverage maps reflecting actual signal strengths in three DBM bins, the first being at the alleged minimum signal strength, and two additional three DBM bin maps depicting signal strengths immediately below the alleged minimum signal strength claimed to be required.

By way of example, if the applicant claims that it needs a minimum signal strength of -95 DBM to remedy its alleged gap in service, then the applicant shall provide maps depicting the geographic area where the gap is alleged to exist, showing the carrier’s coverage at -95 to -98 DBM, -99 to -101 DBM and -102 to -104 DBM, for each frequency at which the carrier provides personal wireless services to its end-use customers.

b. Denial of Service and/or Dropped Call Records. If and to the extent that an applicant claims that a specific wireless carrier suffers from a capacity deficiency, or a gap in service that renders the carrier incapable of providing adequate coverage of its personal wireless services within the Town, then the applicant shall provide dropped call records and denial of service records evidencing the number and percentage of calls within which the carrier’s customers were unable to initiate, maintain and conclude the use of the carrier’s personal wireless services without actual loss of service, or interruption of service.

N. Estimate for Cost of Removal of Facility. A written estimate for the cost of the decommissioning, removal of the facility, including all equipment that comprises any portion or part of the facility, compound, and/or complex, as well as any accessory facility or structure, including the cost of the full restoration and reclamation of the site, to the extent practicable, to its condition before development in accord with the decommissioning and reclamation plan required herein.

O. Property Owner Consent and Liability Acknowledgment. A signed written consent from each owner of the subject real property upon which the respective applicant is seeking installation of its proposed personal wireless service facility, wherein the owner or owners, both authorize the applicant to file and pursue its special use permit application and acknowledge the potential landowner’s responsibility.

P. Wireless Telecommunications Facilities (WTFs) – Information Required. In addition to any information required for applications for special use permits pursuant to Mesilla Town Code Section

18.55.010 and Chapter 18.85, Mesilla Town Code, Article II, of the zoning regulations and standards, applicants for a special use permit for a WTF shall submit the following information:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower; on-site land uses and zoning, adjacent land uses and zoning, including, when adjacent to the county or another municipality; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed tower and any other structures; topography; parking and other information deemed by Town staff to be necessary to assess compliance with this Chapter;
- b. Legal description of the property upon which or upon part of which the applicant proposed to located the WTF and a list of all mortgages on the property at the time of application;
- c. The setback distance between the proposed tower and the nearest residential unit or the nearest platted or un-platted residentially zoned properties;
- d. The separation distance from other existing towers within 1,000 feet of the proposed tower. The applicant shall also identify the type of construction of such existing tower(s) and their owner(s)/operator(s);
- e. The landscape screening plan showing specific landscape materials;
- f. Method of providing security, fencing or wall, and finished color and, if applicable, the method of camouflage and illumination;
- g. A description of compliance with Mesilla Town Code 18.54.040 and all applicable federal, state and local laws;
- h. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users;
- i. Identification of the entities providing the network connections for the proposed tower and other cellular sites owned or operated by the applicant in the Town of Mesilla;
- j. A statement as to the projected number and locations of any WTFs proposed to be built in the Town of Mesilla within two years of the date of the current application and that are part of the same system as the WTF for which a special use permit is currently being sought;
- k. The applicant shall submit documentation of the legal right to install the WTF, including ingress and egress easements, and shall include original signature(s) of such landowner(s) and a copy of the property deed, plus a full copy of any proposed lease agreement with subject property owner(s);

- l. A copy of the tax map and parcel identification code number of the subject property as shown in the records of the Doña Ana County Assessor's Office;
- m. A site plan showing all property within 1,500 feet of the perimeter of the proposed property that will house the proposed WTF. A list of the owners of each of the affected properties and their mailing addresses as shown by the Doña Ana County Assessor's Office;
- n. A copy of the FCC license for the WTF and a notarized statement from the owner or operator of the WTF attesting that the WTF complies with current FCC regulations;
- o. Project comment review letter from the State of New Mexico Historic Preservation Division and any other letters of clearance required pursuant to the National Historic Preservation Act 1996, as amended;
- p. Photo simulations and, if required, the photographic results of the site-located height model;
- q. Propagation maps showing the cellular coverage that the site will provide; and
- r. A written report indicating the applicant's efforts to secure shared use or co-location with existing towers, other structures or alternative technology or building within the Town of Mesilla and neighboring areas within the Town of Las Cruces and Doña Ana County. Copies of written requests and responses for shared use shall be provided to PZHAC along with the application for a special use permit.

Q. Demonstration of Need. An applicant shall submit to the PZHAC documentation that demonstrates the need for the WTF to provide service within the geographical area proposed to be serviced by such WTF. The documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites.

R. Separation Distances. When a second tower is proposed near an existing tower, there shall be a minimum separation distance between them of not less than the combined height of the existing tower and the proposed tower, which distance shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The same separation distance shall apply when more than one tower is proposed at one location.

S. Security Fencing. Towers shall be enclosed by a security fence or wall not less than six feet in height which is equipped with an appropriate anti-climbing device other than barbed or other cutting wire.

T. Screening. WTFs shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.

U. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer. [Ord. 2003-10 § 7]

18.54.080 Buildings or other equipment storage.

The following requirements shall apply to the buildings and all other equipment storage space associated with a WTF requiring a special use permit:

A. The related unmanned equipment structure or cabinet, being part of the WTF, used in association with an antenna(s) located on a tower shall not contain more than 120 square feet of gross floor areas or be more than 10 feet in height and shall be located in accordance with the minimum yard requirements of the zone in which it is located.

B. Such equipment structures or cabinets shall comply with all applicable building codes.

C. Security lighting, if required, shall not exceed 12 feet in height and the location of the lighting fixture together with its cut-off angle shall be such that it does not shine directly on any public right-of-way or any residential premises. [Ord. 2003-10 § 8]

18.54.090 Application review and inspection fee.

A. Initial Review. Upon their acceptance of an application that appears to be complete, the Town planning official shall transmit the application to the Town of Mesilla for initial review.

The Town of Mesilla shall then conduct an initial review to consider whether or not to establish itself as lead agency pursuant to NEPA and whether or not a use or area variance is required for the proposed application such that a referral for an application to the Town of Mesilla will be required to be made after the Town of Mesilla has declared itself to serve as lead agency and during the process of the planning Town of Mesilla considering a NEPA determination of environmental significance. That consideration of granting any required variances by the Town of Mesilla is done concurrently with the Town of Mesilla's review and consideration of special use permit and site plan approval.

The Town of Mesilla shall then conduct a public hearing upon each application, and render its determinations in accord with Mesilla Town Code Section 18.54.040 and shall ultimately determine whether or not to grant each applicant a special use permit and/or site plan approval.

B. An application review and engineering inspection fee of 15 percent of the total estimated cost of the installation of the tower and antenna(s) shall be paid by the applicant upon filing of an application for a special use permit with the Town. This fee shall be deposited in an escrow account and it shall be used to reimburse the Town for all reasonable costs of expert services for evaluation and consultation to the Town in connection with the review of the application and the construction of the site once the WTF is permitted. In the event the amount held in escrow by the Town is more than

the amount of the actual invoicing for consultant and expert services for work performed through the date of issuance of a certificate of compliance for the project, the remaining balance shall be promptly refunded to the applicant. In the event the amount is less than the amount of actual invoicing, the Town shall rely on Mesilla Town Code Section 18.85.140(B) of the zoning regulations and standards, which permits charging additional review fees. [Ord. 2003-10 § 9]. The total fees will include the application review and inspection fee; plus a deposit for independent consultant/vendors/experts, or Doña Ana County ESRI location system, which is contracted by the Town of Mesilla and amount determined by the Town of Mesilla. These expenses are to be covered the applicant.

18.54.095-Retention of consultants.

A. Use of Consultants. Where deemed reasonably necessary by the Town of Mesilla the Town of Mesilla may retain the services of independent professional consultants to assist the Town in carrying out its duties in deciding special use permit applications for personal wireless service facilities. Where the Town of Mesilla uses the services of private engineers, attorneys, or other consultants for purposes of engineering, scientific, land use planning, environmental, legal, or similar professional reviews of the adequacy or substantive aspects of applications, or of issues raised during the course of review of applications for special use permit approvals of personal wireless service facilities, the applicant and landowner, if different, shall be jointly and severally responsible for payment of all the reasonable and necessary costs incurred by the Town for such services. In no event shall that responsibility be greater than the actual cost to the Town of such engineering, legal, or other consulting services.

B. Advance Deposits for Consultant Costs. The Town of Mesilla may require advance periodic monetary deposits held by the Town on account of the applicant or landowner to secure the reimbursement of the Town's consultant expenses. The Board of Trustees for the Town of Mesilla shall establish policies and procedures for the fixing of escrow deposits and the management of payment from them. After audit and approval of itemized vouchers by the Town comptroller as to reasonableness and necessity of the consultant charges, the Town may make payments from the deposited funds for engineering, legal or consultant services. Upon receiving a request by the applicant or landowner, the Town shall supply copies of such vouchers to the applicant and/or landowner reasonably in advance of audit and approval, appropriately redacted where necessary to shield legally privileged communications between Town officers or employees and the Town's consultant. When it appears that there may be insufficient funds in the account established for the applicant or landowner by the Town to pay current or anticipated vouchers, the Town shall cause the applicant or landowner to deposit additional sums to meet such expenses or anticipated expenses in accordance with policies and procedures established by the Town council. Consultants shall undertake no review on any matter scheduled before the Town of Mesilla until the initial escrow deposit has been made or requested replenishment of the escrow deposit has been made. No reviewing agency shall be obligated to proceed unless the applicant complies with escrow deposit requirements. This is in addition to 15% application fee.

C. Reasonable Limit Upon Consultant Expenses. A consultant expense or part thereof is reasonable

in amount if it bears a reasonable relationship to the customary fee charged by engineers, attorneys, or planners within the region for services performed on behalf of applicants or the Town of Mesillas in connection with comparable applications for land use or development.

The Town may also take into account any special conditions for considerations as it may deem relevant, including but not limited to the quality and timeliness of submissions on behalf of the applicant and the cooperation of the applicant and agents during the review process.

A consultant expense or part thereof is necessarily incurred if it was charged by the engineer, attorney or planner, or other consultants, for a service which was rendered to assist the Town of Mesilla in: (1) making factual determinations consistent with the goals of protecting or promoting the health, safety or welfare of the Town or its residents; (2) assessing potential adverse environmental impacts such as those identified within a SEPA process; (3) accessing potential adverse impacts to historic properties, structures and/or zones, and/or (4) assessing and determining factual issues relevant to effective prohibition claims, as addressed herein, to enable the Town of Mesilla to best comply with the letter and intent of the provision of the TCA which is relevant thereto.

D. Audits Upon the Request of an Applicant. Upon request of the applicant or landowner, the Town council shall review and audit all vouchers and determine whether such engineering, legal and consulting expenses are reasonable in terms of the amount and necessarily incurred by the Town in connection with the review and consideration of a special use permit application for personal wireless service facility. In the event of such a request, the applicant or landowner shall be entitled to be heard by the Board of Trustees of the Town of Mesilla on reasonable advance notice.

E. Liability for Consultant Expenses. For a land-use application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, legal, and other consulting fees incurred by the Town. If different from the applicant, the owner(s) of the subject real property shall be jointly and severally responsible for reimbursing the Town for funds expended to compensate services rendered to the Town under this section by private engineers, attorneys, or other consultants. The applicant and the owner shall remain responsible for reimbursing the Town for its consulting expenses, notwithstanding that the escrow account may be insufficient to cover such expenses. No building permit or other permit shall be issued until reimbursement of costs and expenses determined by the Town to be due. In the event of failure to reimburse the Town for such fees, the following shall apply:

The Town may seek recovery of unreimbursed engineering, legal, and consulting fees by court action in an appropriate jurisdiction, and the defendant(s) in such actions shall be responsible for the reasonable and necessary attorney's fees expended by the Town in prosecuting such action.

Alternatively, and at the sole discretion of the Town, a default in reimbursement of such engineering, legal and consulting fees expended by the Town shall be remedied by charging such sums against the real property that is the subject of the special use permit application, by adding that charge to and making it a part of the next annual real property tax assessment roll of the Town. Such charges shall

be levied and collected simultaneously and in the same manner as Town-assessed taxes and applied in reimbursing the fund from which the costs were defrayed for the engineering, legal and consulting fees. Prior to charging such assessments, the owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the Town council to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.

18.54.100

Performance security bond.

A. The applicant and the owner of record of any proposed WTF property site shall, at its cost and expense, be jointly required to execute and file with the Town a bond or other form of security acceptable to the Town as to type of security and the form and manner of execution, in the amount of at least \$75,000 to assure the faithful performance of the terms and conditions of this chapter and the conditions of any special use permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect through the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit. [Ord. 2003-10 § 10]

B. Bond Requirement. At or prior to the filing of an application for a special use permit for the installation of a new personal wireless service facility, each respective applicant shall provide a written estimate for the cost of the decommissioning and removal of the facility, including all equipment that comprises any portion or part of the facility, compound and/or complex, as well as any accessory facility or structure, including the cost of the full restoration and reclamation of the site, to the extent practicable, to its condition before development in accord with the decommissioning and reclamation plan required herein. The Town of Mesilla's engineer shall review this estimate.

Upon receiving a special use permit approval from the Town of Mesilla, and a building permit, prior to the commencement of installation and/or construction of such facility or any part thereof, the applicant shall file with the Town a bond for a length of no less than three years in an amount equal to or exceeding the estimate of the cost of removal of the facility and all associated structures, fencing, power supply, and other appurtenances connected with the facility. The bond must be provided within 30 days of the approval date and before any installation or construction begins.

Replacement bonds must be provided 90 days prior to the expiration of any previous bond.

At any time the Town has good cause to question the sufficiency of the bond at the end of any three-year period, the owner and/or operator of the facility, upon request by the Town, shall provide an updated estimate and bond in the appropriate amount.

Failure to keep the bonds in effect is cause for removal of the facility at the owner's expense. A

separate bond will be required for each facility, regardless of the number of owners or the location.

18.54.110 Liability insurance.

A. A holder of a special use permit for a WTF shall secure and at all times maintain public liability insurance for personal injuries, death and property damage and umbrella insurance coverage for the duration of the special use permit in the following amounts:

1. Commercial general liability covering personal injuries, death and property damage and automobile coverage each at \$1,000,000 per occurrence and \$2,000,000 aggregate and the commercial liability policy shall specifically include the Town as an additional named insured.
2. Workers' compensation at not less than minimum statutory limits.

B. The insurance policies shall be issued by an insurance agent of an insurance company licensed to do business in the state of New Mexico with a Best's rating of at least A and shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of the cancellation of the insurance. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of the insurance that the policies are to renew or replace.

C. The holder of a special use permit for a WTF shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts before construction of the permitted WTF is initiated. [Ord. 2003-10 § 11]

18.54.120 Indemnification.

Any application for a WTF that is proposed for Town property pursuant to this chapter shall contain an indemnification provision. Such indemnification provision shall require the applicant, to the extent permitted by the law, to at all times indemnify and hold harmless the Town of Mesilla from and against all claims, liabilities, damages, losses and expenses, including attorneys' fees, which might arise out of or be caused by the performance of work in the location, construction, modification, use, maintenance, repair, replacement or removal of the WTF, which causes contract bodily injury, illness or death or any other injury or for property damage caused by the negligent act or omission of the owner/operator/applicant of the WTF. [Ord. 2003-10 § 12]

18.54.130 Removal of a wireless telecommunications facility.

A. Under the following circumstances, the Town may determine that the health, welfare and safety of the Town residents warrant and require the removal of a WTF:

1. A permitted WTF has not been operated as a WTF for a continuous period of six months and is therefore considered to have been abandoned;

2. A permitted WTF falls into such a state of disrepair that it creates a health or safety hazard as determined by Town staff; and

3. A WTF has been located, constructed or modified without first obtaining, or in a manner not authorized by, the required special use permit.

B. If the Town makes such a determination as appears in subsection (A) of this section, then the Town shall provide the owner of such WTF with a notice of abandonment and an order to remove the same within 90 days of receipt of the notice of abandonment from the Town.

C. Failure by the owner or his successors or assigns to remove the abandoned WTF and all associated structures and facilities from the site and to restore the site to as close to its original conditions as is possible or to take substantial steps toward removing the abandoned WTF within said 90 days shall be grounds to remove the WTF at the owner's expense. [Ord. 2003-10 § 13]

D. Removal of Abandoned Facilities. Any personal wireless service facility that is not operated or used for a continuous period of 6 consecutive months shall be considered abandoned. At the owner's expense, the owner of said facility shall be required to remove the facility and all associated equipment buildings, power supply, fence, and other items associated with such facility, compound and/or complex, and permitted with, the facility.

If the facility is not removed within 90 days, the bond secured by the facility owner shall be used to remove the facility and any accessory equipment and structures.

18.54.140 Required annual report.

In conjunction with the annual renewal of their business registration, the owner of each WTF shall submit a report to the Town of Mesilla, Town Clerk, PO Box 10, Mesilla, NM 88046, stating the current user status of the tower and providing proof of renewal of the insurance policies or certificates required pursuant to Mesilla Town Code Section 18.54.110. [Ord. 2003-10 § 14]

18.54.150 Provision for waiver or variance.

A. An administrative waiver of up to a 10 percent difference, except for height, or a variance for over a 10 percent difference, except for height, may be requested by the applicant at the time of filing for the special use permit. The conditions regulating the process for waiver and variance requests are set forth in Chapter 18.85 Mesilla Town Code, Article I, and shall apply in this Chapter.

B. In instances where strict compliance with this Chapter would result in a violation of a clearly established, applicable provision of the TCA or other federal law or regulation, a minimal easing of the provision of this Chapter may be granted by the Town of Mesilla to the extent required to comply with such law. [Ord. 2003-10 § 15]

18.54.160 Penalty.

Any person who violates any provision of this chapter or any special use permit issued pursuant to this chapter shall be charged with a petty misdemeanor and upon conviction may be punished by a fine of not more than \$500.00 or imprisonment for not more than 90 days or both such fine and imprisonment as provided for in Mesilla Town Code, Title 1. [Ord. 2003-10 § 16]

18.54.170 Default and/or revocation.

A. If a WTF is repaired, rebuilt, placed, moved or modified in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the Town shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation(s) or noncompliance and that action to begin correction of the violation(s) must be commenced within seven days of the date of the postmark or personal service of the notice, whichever is earlier, and completed within 45 days of such date. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes or presents an imminent danger to the health or safety of lives or property, the Town may, at its sole discretion, order the violation remedied within 24 hours.

B. If within the 45-day time period set forth in subsection (A) of this section, the WTF is not brought into compliance with the provisions of this chapter or of the special use permit, or substantial steps are not taken in order to bring the affected WTF into compliance, then the Town may revoke such special use permit for the affected WTF and shall notify the holder of the special use permit within 48 hours of such action. [Ord. 2003-10 § 17]

18.54.180 Eleventh hour submissions.

In the event that an applicant tenders eleventh hour submissions to the Town of Mesilla in the form of (1) expert reports, (2) expert materials, and/or (3) materials which require a significant period for review due either to their complexity or the sheer volume of materials which an applicant has chosen to provide to the Town of Mesilla at such late point in the proceedings, the Town of Mesilla shall be afforded a reasonable time to review such late-submitted materials.

If reasonably necessary, the Town of Mesilla shall be permitted to retain the services of an expert consultant to review any late-submitted expert reports which were provided to the Town of Mesilla, even if such review or services extend beyond the applicable shot clock period, so long as the Town of Mesilla completes such review and retains and secures such expert services within a reasonable period of time thereafter and otherwise acts with reasonable diligence in completing its review and rendering its final decision.

18.54.190 Prohibition against illegally excessive emissions and RF radiation testing.

In accord with the same, the Town enacts the following RF radiation testing requirements and provisions set forth herein below.

No wireless telecommunications facility shall at any time be permitted to emit illegally excessive RF radiation as defined in Section 18.54.020, or to produce power densities that exceed the legally permissible limits for electric and magnetic field strength and power density for transmitters, as codified within 47 CFR 1.1310(e)(1), Table 1, Sections (i) and (ii), as made applicable pursuant to 47 CFR 1.1310(e)(3).

To ensure continuing compliance with such limits by all owners and/or operators of personal wireless service facilities within the Town, all owners, and operators of personal wireless service facilities shall submit reports as required by this Section.

As set forth hereinbelow, the Town may additionally require, at the owner and/or operator's expense, independent verification of the results of any analysis set forth within any reports submitted to the Town by an owner and/or operator.

If an operator of a personal wireless service facility fails to supply the required reports or fails to correct a violation of the legally permissible limits described hereinabove, following notification that their respective facility is believed to be exceeding such limits, any special use permit or other zoning approval granted by the Town of Mesilla or any other Town of Mesilla or representative of the Town is subject to modification or revocation by the Town of Mesilla following a public hearing.

A. Initial Certification of Compliance With Applicable RF Radiation Limits. Within 45 days of initial operation or a substantial modification of a personal wireless service facility, the owner and/or operator of each telecommunications antenna shall submit to the Town planning official a written certification by a licensed professional engineer, sworn to under penalties of perjury, that the facility's RF emissions comply with the limits codified within 47 CFR 1.1310(e)(1), Table 1, Sections (i) and (ii), as made applicable pursuant to 47 CFR 1.1310(e)(3).

The engineer shall measure the emissions of the approved facility, including the cumulative impact from other nearby facilities, and determine if such emissions are within the limits described hereinabove.

A report of these measurements and the engineer's findings with respect to compliance with the FCC's maximum permissible exposure (MPE) limits shall be submitted to the Town planning official.

If the report shows that the facility does not comply with applicable limits, then the owner and/or operator shall cease operation of the facility until the facility is brought into compliance with such limits. Proof of compliance shall be a certification provided by the engineer who prepared the original report. The Town may require, at the applicant's expense, independent verification of the results of the analysis.

B. Random RF Radiofrequency Testing. At the operator's expense, the Town may retain an engineer to conduct random unannounced RF radiation testing of such facilities to ensure the facility's compliance with the limits codified within 47 CFR 1.1310(e)(1) et seq.

The Town may cause such random testing to be conducted as often as the town may deem appropriate. However, the town may not require the owner and/or operator to pay for more than one test per facility per calendar year unless such testing reveals that one or more of the owner and/or operator's facilities are exceeding the limits codified within 47 CFR 1.1310(e)(1) et seq., in which case the town shall be permitted to demand that the facility be brought into compliance with such limits, and to conduct additional tests to determine if, and when, the owner and/or operator thereafter brings the respective facility and/or facilities into compliance.

The engineer conducting any such testing shall measure the emissions from such facilities, including, but not limited to, the emissions from any individual facility as well as the cumulative emissions from multiple transmitters/facilities which are placed upon the same supporting structure or nearby structures to ascertain whether or not such facility or facilities are individually or cumulatively exposing members of the general public to emissions which exceed the permissible general population exposure limits, or occupational exposure limited, which have been set and/or approved by the FCC.

If the Town at any time finds that there is good cause to believe that a personal wireless service facility and/or one or more of its antennas are emitting RF radiation at levels in excess of the legal limits permitted under 47 CFR 1.1310(e)(1) et seq., then a hearing shall be scheduled before the Town of Mesilla at which the owner and/or operator of such facility shall be required to show cause why any and all permits and/or approvals issued by the Town for such facility and/or facilities should not be revoked, and a fine should not be assessed against such owner and/or operator.

Such hearing shall be duly noticed to both the public and the owner and/or operator of the respective facility or facilities at issue. The owner and/or operator shall be afforded not less than two weeks' written notice by first-class mail to its notice address. At such hearing, the burden shall be on the Town to show that, by a preponderance of the evidence, the facilities' emissions exceeded the permissible limits under 47 CFR 1.1310(e)(1) et seq.

In the event that the Town establishes same, the owner and/or operator shall then be required to establish, by clear and convincing evidence, that a malfunction of equipment caused their failure to comply with the applicable limits through no fault on the part of the owner/operator.

If the owner and/or operator fails to establish same, the Town of Mesilla shall have the power to, and shall revoke any special use permit, variance, building permit, and/or any other form of zoning-related approval(s) which the Town of Mesilla, Town planning official and/or any other representative of the Town may have then issued to the owner and/or operator, for the respective facility.

In addition, the Town of Mesilla shall impose a fine of not less than \$10,000, nor more than \$15,000 for such violation of subsection (A) of this section, or, in the case of a second offense within less than five years, a minimum fine of \$20,000, nor more than \$30,000.

In the event that an owner or operator of one or more personal wireless service facilities is found to violate subsection (A) of this section, three or more times within any five-year period, then in addition to revoking any zoning approvals for the facilities which were violating the limits codified in 47 CFR 1.1310(e)(1) et seq., the Town of Mesilla shall render a determination within which it shall deem the owner/operator prohibited from filing any applications for any new wireless personal services facilities within the Town for a period of five years.

18.54.200 Factual determinations to be rendered by the Town of Mesilla.

A. Evidentiary Standards. In determining special use permit applications for personal wireless service facilities, the Town of Mesilla shall have sole discretion to determine what probative evidence it shall require each applicant to produce in support of its application to enable the Town of Mesilla to make each of the factual determinations enumerated below.

Common examples of the types of evidence which the Town of Mesilla may require an applicant to produce are the following:

1. Where an applicant is not the owner of the real property upon which it proposes to install a new wireless facility, the Town of Mesilla can require the applicant to provide a copy of the applicant's lease with the property owner (including any schedules, property descriptions, appendices or other attachments), from which the applicant may censor or delete any financial terms which would be irrelevant to the factual issues which the Town of Mesilla is required to determine;
2. Where the Town of Mesilla deems it appropriate, the Town of Mesilla can require the applicant to perform what is commonly known as a "height model test" and to require the applicant to publish reasonably sufficient advance public notice of same, to enable the Town of Mesilla, property owners, and the community, an opportunity to assess the actual adverse aesthetic impact which the proposed facility is likely to inflict upon the nearby properties and surrounding community;
3. Where the applicant asserts a claim that a proposed facility is necessary to remedy one or more existing significant gaps in an identified wireless carrier's personal wireless services, the Town of Mesilla may require the applicant to provide drive-test generated coverage maps, as opposed to computer-generated coverage maps, for each frequency at which the carrier provides personal wireless services, to show signal strengths in bins of three DBM each, to enable the Town of Mesilla to assess the existence of such significant gaps accurately, and/or whether the carrier possesses adequate coverage within the geographic area which is the subject of the respective application;

4. Where the applicant asserts that a potential less intrusive alternative location for a proposed facility is unavailable because the owner of the potential alternative site is incapable or unwilling to lease space upon such site to the applicant, the Town of Mesilla may require the applicant to provide proof of such unwillingness in the form of communications to and from such property owner, and/or a sworn affidavit wherein a representative of the applicant affirms, under penalty of perjury, that they attempted to negotiate a lease with the property owner, what the material terms of any such offer to the property owner were, when the offer was tendered, and how, if at all, the property owner responded to such offer.

5. The Town of Mesilla shall have sole discretion to determine, among other things, the relevance of any evidence presented, the probative value of any evidence presented, the credibility of any testimony provided, whether expert or otherwise, and the adequacy of any evidence presented.

6. The Town of Mesilla shall not be required to accept, at face value, any unsupported factual claims asserted by an applicant but may require the production of evidence reasonably necessary to enable the Town of Mesilla to determine the accuracy of any factual allegations asserted by each respective applicant. Conclusory factual assertions by an applicant shall not be accepted as evidence by the Town of Mesilla.

B. Factual Determinations. To decide applications for special use permits under this section, the Town of Mesilla shall render factual determinations, which shall include two specific types of factual determinations, as applicable.

First, the Town of Mesilla shall render local zoning determinations according to subsection (B)(1) of this Section.

Then, if, and only if, an applicant asserts claims that: (1) its proposed wireless facility or installation is necessary to remedy a significant gap in personal wireless services for an explicitly identified wireless carrier, and (2) that its proposed installation is the least intrusive means of remedying a specifically identified significant gap or gaps, the Town of Mesilla shall additionally render TCA determinations, in accord with subsection (B)(2) of this section.

The Town of Mesilla shall separately record each factual determination it makes in a written decision and shall reference, or make note of, the evidence based upon which it rendered each of its factual determinations. Each factual determination made by the Town of Mesilla shall be based upon substantial evidence. For purposes of this provision, "substantial evidence" shall mean such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It means less than a preponderance but more than a scintilla of evidence.

Evidence which the Town of Mesilla may consider shall include any evidence submitted in support of an application, and any evidence submitted by anyone opposing a respective application, whether such evidence is in written or photographic form, or whether it is in the form of testimony by any expert, or any person who has personal knowledge of the subject of their testimony. The Town of

Mesilla may, of course, additionally consider as evidence any information or knowledge which they, themselves, personally possess, and any documents, records or other evidence which is a matter of public record, irrespective of whether such public record is a record of the town, or is a record of or is maintained by, another federal, state and/or other governmental entity and/or agency which maintains records which are available for, or subject to, public review.

If, and to the extent that, the Town of Mesilla fails to render one or more of such determinations, that omission shall not constitute grounds upon which the respective applicant can seek to annul, reverse or modify any decision of the Town of Mesilla.

1. Local Zoning Determinations. The Town of Mesilla shall make the following factual determinations as to whether the application meets the requirements for granting a special use permit under this chapter:

a. Compliance With Chapter 18.36 of the Messila Town Code. Whether the proposed installation will meet each of the conditions and standards set forth within Chapter 18.36 in the absence of which the Town of Mesilla is not authorized to grant a special use permit.

b. Potential Adverse Aesthetic Impacts. Whether the proposed installation will inflict a significant adverse aesthetic impact upon properties that are located adjacent to, or in close proximity to, the proposed site, or any other properties situated in a manner that would sustain significant adverse aesthetic impacts by the installation of the proposed facility.

c. Potential Adverse Impacts Upon Real Estate Values. Whether the proposed installation will inflict a significant adverse impact upon the property values of properties that are located adjacent to, or in close proximity to, the proposed site, or properties that are otherwise situated in a manner that would cause the proposed installation to inflict a significant adverse impact upon their value.

d. Potential Adverse Impact Upon the Character of the Surrounding Community. Whether the proposed installation will be incompatible with the use and/or character of properties located adjacent to, or in close proximity to, the proposed site or other properties situated in a manner that would cause the proposed installation to be incompatible with their respective use.

e. Potential Adverse Impacts Upon Historic Properties or Historic Districts, HR and HC zones. Whether the proposed installation will be incompatible with and/or would have an adverse impact upon, or detract from the use and enjoyment of, and/or character of a historic property, historic site, and/or historic district, including but not limited to historic structures, properties and/or districts which are listed on, or are eligible for listing on, the National Register of Historic Places.

f. Potential Adverse Impacts Upon Ridgelines or Other Aesthetic Resources of the Town. Whether the proposed installation will be incompatible with and/or would have an adverse

aesthetic impact upon or detract from the use and enjoyment of, and/or character of, recognized aesthetic assets of the Town including, but not limited to, scenic areas and/or scenic ridgelines, public parks, and/or any other traditionally or historically recognized valuable scenic assets of the Town.

g. Sufficient Fall Zones. Whether the proposed installation shall have a sufficient fall zone and/or safe zone around the facility to afford the general public safety against the potential dangers of structural failure, icefall, debris fall, and fire.

h. Most Preferred Site on Hierarchy. Whether the site chosen by the applicant for its proposed facility is situated in the most preferred district within the hierarchy of preferred districts set forth within Mesilla Town Section 18.23.220, and whether the applicant has established before the Town of Mesilla that it is not feasible for the applicant's proposed new facility to be sited in a more preferred district listed within such Section.

i. Mitigation. Whether the applicant has mitigated the potential adverse impacts of the proposed facility to the greatest extent reasonably feasible. To determine mitigation efforts on the part of the applicant, the mere fact that a less intrusive site, location, or design would cause an applicant to incur additional expense is not a reasonable justification for an application to have failed to propose reasonable mitigation measures.

If when applying the evidentiary standards set forth in subsection (B)(1) of this section, the Town of Mesilla determines that the proposed facility would not meet the standards set forth within Chapter 18.36, or that the proposed facility would inflict one or more of the adverse impacts described hereinabove to such a substantial extent that granting the respective application would inflict upon the Town and/or its citizens and/or property owners the types of adverse impacts which this provision was enacted to prevent, the Town of Mesilla shall deny the respective application for a special use permit unless the Town of Mesilla additionally finds that a denial of the application would constitute an effective prohibition, as provided for in subsections (B)(2) and (3) of this Section.

2. TCA Determinations. In cases within which an applicant has filed a "notice of effective prohibition conditions," the Town of Mesilla shall make three additional factual determinations, as listed herein below:

a. Adequate Personal Wireless Services Coverage. Whether the specific wireless carrier has adequate personal wireless services coverage within the geographic areas for which the applicant claims a significant gap exists in such coverage.

b. Significant Gap in Personal Wireless Services of an Identified Carrier. Whether the applicant has established, based upon probative evidence provided by the applicant and/or its representative, that a specific wireless carrier suffers from a significant gap in its personal wireless services within the Town.

In rendering such determination, the Town of Mesilla shall consider factors including, but not necessarily limited to: (1) whether the identified wireless carrier which is alleged to suffer from any significant gap in their personal wireless services has adequate service in its personal wireless services at any frequency being used by the carrier to provide personal wireless services to its end-use customers, (2) whether any such alleged gap is relatively large or small in geographic size, (3) whether the number of the carrier's customers affected by the gap is relatively small or large, (4) whether or not the location of the gap is situated on a lightly traveled road, or sparsely or densely occupied area, and/or (5) overall, whether the gap is relatively insignificant or otherwise relatively de minimis.

A significant gap cannot be established simply because the carrier's customers are currently using the carrier's personal wireless services, but the frequency at which the customers are using such services is not the frequency most desired by the carrier.

c. Least Intrusive Means of Remedying Gap(s) in Service. Whether the applicant has established based upon probative evidence provided by the applicant and/or its representative, that the installation of the proposed facility, at the specific site proposed by the applicant, and the specific portion of the site proposed by the applicant, and at the specific height proposed by the applicant is the least intrusive means of remedying whatever significant gap or gaps which the applicant has contemporaneously proved to exist as determined by the Town of Mesilla based upon any evidence in support of, and/or in opposition to, the subject application.

In rendering such determination, the Town of Mesilla shall consider factors including, but not necessarily limited to: (1) whether the proposed site is the least intrusive location at which a facility to remedy an identified significant gap may be located, and the applicant has reasonably established a lack of potential alternative less intrusive sites and lack of sites available for colocation, (2) whether the specific location on the proposed portion of the selected site is the least intrusive portion of the site for the proposed installation, (3) whether the height proposed for the facility is the minimum height actually necessary to remedy an established significant gap in service, (4) whether or not a pre-existing structure can be used to camouflage the facility and/or its antennas, (5) whether or not, as proposed, the installation mitigates adverse impacts to the greatest extent reasonably feasible, through the employ of stealth design, screening, use of color, noise mitigation measures, etc., and/or (6) overall whether or not there is a feasible alternative to remedy the gap through alternative, less intrusive substitute installations, such as the installation of multiple shorter installations, instead of a single microcell facility.

3. Finding of an Effective Prohibition or Lack of Effective Prohibition. If when applying the evidentiary standards set forth in subsection (B)(1) of this section, the Town of Mesilla affirmatively determines that the applicant has failed to establish either: (a) that an identified wireless carrier suffers from a significant gap(s) in its personal wireless services within the town, and/or (b) that the applicant has failed to establish that the proposed installation is the least intrusive means of remedying any such gap or gaps, then the Town of Mesilla may deny the

application pursuant to subsection (B)(2) of this section, and such denial shall not constitute an “effective prohibition.”

If when applying the evidentiary standards set forth in subsection (B)(1) of this section, the Town of Mesilla affirmatively determines that the applicant has established both: (a) that an identified wireless carrier suffers from a significant gap in personal wireless services within the Town, and (b) that the proposed installation is the least intrusive means of remedying such significant gap or gaps, then the Town of Mesilla shall grant the application, irrespective of any determinations the Town of Mesilla may make pursuant to subsection (B)(2) of this section, because any such denial would constitute an “effective prohibition”.

18.54.210 General provisions.

A. Balancing of Interests. The Town of Mesilla formally recognizes that, as has been interpreted by federal courts, when it enacted the TCA, Congress chose to preserve local zoning authority over decisions regarding the placement, construction, and modification of personal wireless facilities (47 U.S.C. § 332(c)(7)(A)) subject only to the limitations set forth in 47 U.S.C. § 332(c)(7)(b), consistent with federal case law.

The Town similarly embraces the position that the TCA was created to effectuate a balancing between the interests of facilitating the growth of wireless telephone service nationally and maintaining local control over the siting of wireless personal services facilities. This includes preserving to local governments, including the Town, the power to deny applications for the installation of wireless personal services facilities, based upon traditional grounds of zoning denials, including, but not limited to, the potential adverse aesthetic impacts or a reduction in property values which the construction of any proposed structure may inflict upon nearby properties or the surrounding community.

It is the intent of the Town that this Chapter be applied in a manner consistent with the balancing of interests codified within the TCA. Consistent with same, the Town rejects and shall reject any current and/or future FCC interpretations of any provision of the TCA which are clearly inconsistent with, and/or are clearly contrary to, both the language of the TCA and federal case law.

B. Conflict With Federal or State Laws. To the extent that any provision of this Chapter is found to conflict with any applicable federal or state law, it is the intent of the Town that the remaining portion of this chapter which has not been found to conflict with such law be deemed to remain valid and in full force and effect.

18.54.220 Shot clock periods.

To comply with the requirements of 47 U.S.C. § 332(c)(7)(B)(ii) of the TCA, the following shot clock periods set forth herein below shall be presumed to be reasonable periods within which the Town of Mesilla shall render determinations upon special use permit applications for personal wireless service facilities.

The Town of Mesilla shall render determinations upon such applications within the periods set forth below, unless the applicable shot clock period list below is tolled, extended by agreement or the processing of the application is delayed due to circumstances beyond the Town's control.

The applicant shall be provided 60 days for modification on existing structures, and 90 days for new wireless facilities.

18.54.230 Shot clock tolls, extensions and reasonable delay periods.

Consistent with the letter and intent of 47 U.S.C. § 332(c)(7)(B)(ii) of the TCA, each of the shot clock periods set forth within Section shall generally be presumed to be sufficient periods within which the Town of Mesilla shall render decisions upon special use permit applications. Notwithstanding same, the applicable shot clock periods may be tolled, extended by mutual agreement between any applicant and/or its representative and the Town of Mesilla, and the Town shall not be required to render its determination within the shot clock period presumed to be reasonable for each type of application, where the processing of such application is reasonably delayed, as described hereinbelow.

A. Tolling of the Applicable Shot Clock Due to Incompleteness and/or Applicant Error. In the event that the Town planning official deems an application incomplete, the Town planning official shall send a notice of incompleteness to the applicant to notify the applicant that its application is incomplete and/or contains material errors, and shall reasonably identify the missing information and/or documents and/or the error(s) in the application.

If the Town of Mesilla mails a notice of incompleteness as described hereinabove, the applicable shot clock shall automatically be tolled, meaning that the applicable shot clock period within which the Town of Mesilla is required to render a final decision upon the application shall immediately cease running, and shall not resume running, unless and until the Town receives a responsive submission from the applicant.

If and when the applicant thereafter submits additional information in an effort to complete its application, or cure any identified defect(s), then the shot clock shall automatically resume running, but shall not be deemed to start running anew.

The applicable shot clock period shall, once again, be tolled if the Town planning official thereafter provides a second notice that the application is still incomplete or defective, despite any additional submissions which have been received by the Town, from the applicant, up to that point.

B. Shot Clock Extension by Mutual Agreement. The Town of Mesilla, in its sole discretion, shall be free to extend any applicable shot clock period by mutual agreement with any respective applicant. This discretion on the part of the Town of Mesilla shall include the Town of Mesilla's authority to request, at any time and, for any period of time, the Town of Mesilla may deem reasonable or appropriate under the circumstances, consent from a respective applicant, to extend the applicable shot clock period, to enable the Town of Mesilla, the applicant, or any relevant third party, to

complete any type of undertaking or task related to the review, analysis, processing, and determination of the particular application, which is then pending before the Town of Mesilla, to the extent that any such undertaking, task, or review is consistent with, or reasonably related to, compliance with any federal, state, or local law, and/or the requirements of any provision of the Town of Mesilla's Municipal Code, including but not limited to this Chapter.

In response to any request by the Town of Mesilla, the applicant, by its principal, agent, attorney, site acquisition agent, or other authorized representative can consent to any extension of any applicable shot clock, by affirmatively indicating its consent either in writing or by affirmatively indicating its consent on the record at any public hearing or public meeting. The Town of Mesilla shall be permitted to reasonably rely upon a representative of the applicant indicating that they are authorized to grant such consent on behalf of the respective applicant, on whose behalf they have been addressing the Town of Mesilla within the hearing process.

C. Reasonable Delay Extensions of Shot Clock Periods. The Town recognizes that there may be situations wherein, due to circumstances beyond the control of the Town and/or the Town of Mesilla, the review and issuance of a final decision upon a special use permit application for a personal wireless facility cannot reasonably be completed within the application shot clock periods delineated within Mesilla Town Code Section 18.23.040.

If, despite the exercise of due diligence by the Town of Mesilla, the determination regarding a specific application cannot reasonably be completed within the applicable shot clock period, the Town of Mesilla shall be permitted to continue and complete its review, and issue its determination at a date beyond the expiration of the applicable period, if the delay of such final decision is due to circumstances including, but not limited to, those enumerated hereinbelow, each of which shall serve as a reasonable basis for a reasonable delay of the applicable shot clock period.



RESOLUTION NO. 2026 - 18

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF MESILLA
AUTHORIZING SUBMISSION OF AN APPLICATION TO THE LOCAL SOLAR ACCESS
FUND PROJECT FUND AND DESIGNATING SOUDER, MILLER & ASSOCIATES AS THE
AUTHORIZED REPRESENTATIVE FOR THE PURPOSE OF SUBMITTING AND
ADMINISTERING THE APPLICATION.**

WHEREAS, the Town of Mesilla is committed to supporting projects that promote sustainability, energy efficiency, and long-term cost savings for the community; and

WHEREAS, the Local Solar Access Fund Project Fund provides funding opportunities to support the development and implementation of solar energy infrastructure and related improvements for eligible local governments; and

WHEREAS, the Town of Mesilla desires to submit an application to the Local Solar Access Fund Project Fund to support a solar energy project that will benefit the Town and its residents; and

WHEREAS, the Town of Mesilla finds that participation in this program and submission of the application is in the best interest of the Town and promotes the health, safety, and welfare of the community; and

WHEREAS, the Town wishes to designate **Souder, Miller & Associates**, a professional engineering and consulting firm working with the Town, to act as the Town's authorized representative for the purpose of preparing, submitting, and administering the Local Solar Access Fund Project Fund Application and related documents.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Mesilla is hereby approving:

Section 1. Authorization of Application

The Board of Trustees hereby authorizes the submission of an application by the Town of Mesilla to the Local Solar Access Fund Project Fund for funding of a solar energy project to benefit the Town.

Section 2. Authorized Representative

The Board of Trustees hereby designates **Souder, Miller & Associates** as the **authorized representative** of the Town of Mesilla for the purpose of preparing, submitting, and administering the Local Solar Access Fund Project Fund Application and any related documentation required for participation in the program.

Section 3. Authority to Execute Documents

The authorized representative may act on behalf of the Town of Mesilla in all matters necessary for submission of the application and related communications with the funding agency, provided that final agreements or obligations requiring Town approval shall be brought before the Board of Trustees for consideration.

Section 4. Effective Date

This Resolution shall become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 9th day of March 2026.

Russell Hernandez
Mayor

ATTESTED BY:

Gloria S Maya
Town Clerk-Treasurer

Chapter 18.60

GENERAL PROVISIONS, CONDITIONS AND EXCEPTIONS

Sections:

- 18.60.010 Regulations.**
- 18.60.020 Limitation of land use.**
- 18.60.030 Clarification of ambiguity.**
- 18.60.040 Public utility lines.**
- 18.60.050 Nonconforming uses cannot be expanded.**
- 18.60.060 Nonconforming use of land.**
- 18.60.070 Nonconforming building may be maintained.**
- 18.60.080 Alteration of nonconforming buildings as to yard regulations.**
- 18.60.090 Nonconforming use of conforming building.**
- 18.60.100 Nonconforming use of a nonconforming building.**
- 18.60.110 Reconstruction of nonconforming buildings partially destroyed.**
- 18.60.120 Nonconforming uses and nonconforming buildings resulting from reclassification.**
- 18.60.130 *Repealed.***
- 18.60.140 Extension of amortization period.**
- 18.60.150 Accessory uses.**
- 18.60.160 Temporary real estate offices.**
- 18.60.170 Parking requirements and fees.**
- 18.60.180 Area requirements deemed met**

- 18.60.190 Height of buildings.**
- 18.60.200 Additional story permitted.**
- 18.60.210 Regulations for vertical structures.**
- 18.60.220 Yard regulations.**
- 18.60.230 Yards required on corner lots.**
- 18.60.240 Through lots to have two front yards.**
- 18.60.250 Front yard requirements deemed met.**
- 18.60.260 Front yards of unimproved lots.**
- 18.60.270 Setback lines measured from property lines.**
- 18.60.280 Irregularly shaped lots.**
- 18.60.290 Permissible reduction of side yard.**
- 18.60.300 Commission may modify.**
- 18.60.310 Permissible coverage of required rear yard.**
- 18.60.320 Structures permitted to intrude into required yards.**
- 18.60.330 Modification of required front yards.**
- 18.60.340 Wall, fence, or hedge.**
- 18.60.350 Alley may apply to depth of rear yard in certain cases.**
- 18.60.360 Lot area not to be reduced.**
- 18.60.370 Lots not to be reduced to size below minimum required area.**
- 18.60.380 Area for public buildings and utility buildings may be reduced.**
- 18.60.390 Location of accessory buildings.**

18.60.010 Regulations.

All regulations contained in this title may be modified by general provisions, conditions and exceptions listed in this chapter. [Ord. 94-06 § 1; prior code § 11-2-5.1]

18.60.020 Limitation of land use.

Except as provided in this chapter, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is specifically permitted in the zone in which the building is located. [Ord. 94-06 § 1; prior code § 11-2-5.2]

18.60.030 Clarification of ambiguity.

If ambiguity exists concerning the appropriate classification of a particular use or with height, yard requirements, or zone boundaries, the planning commission shall ascertain all pertinent facts and by formal resolution set forth its findings and interpretations, and forward them to the board of trustees, and if approved by the board of trustees, such interpretation shall govern. [Ord. 94-06 § 1; prior code § 11-2-5.3]

18.60.040 Public utility lines.

The provisions of this title shall not be construed to limit or interfere with the installations, maintenance and operation of any public utility lines providing water, sewage disposal, electric, gas, television, telephone, or telegraph services to the public; provided, such lines are installed, maintained and operated in accordance with applicable laws. [Ord. 94-06 § 1; prior code § 11-2-5.4]

18.60.050 Nonconforming uses cannot be expanded.

A nonconforming use of land or of a building shall not be expanded since it is the purpose of this title to eliminate nonconforming uses at the earliest possible time. However, in a Commercial (C) zone existing single-family residences may be permitted to continue on any lot or parcel of land not used for the indicated zone purposes without being classified as a nonconforming use. [Ord. 94-06 § 1; prior code § 11-2-5.5]

18.60.060 Nonconforming use of land.

The nonconforming use of land, where no main buildings are involved, may be continued for a period of not to exceed five years after the effective date of the ordinance codified in the title, subject to the following conditions:

A. No nonconforming use of land shall be expanded or extended in any way.

B. Where such nonconforming use of land is discontinued for a period of six months, any future use of the land shall be in conformity with the provisions of this title.

C. These provisions do not apply to land used for agriculture or agriculturally related activities.

D. When the nonconforming use is trailers, no additional nor replacement trailers may be used on the lot. [Ord. 94-06 § 1; prior code § 11-2-5.6]

18.60.070 Nonconforming building may be maintained.

A nonconforming building may be maintained; provided, that no additions, enlargements nor structural alterations are made except those required by law or expressly permitted by this title. If any such nonconforming building is removed, future use of the land on which the building is located shall conform to this title. [Ord. 94-06 § 1; prior code § 11-2-5.7]

18.60.080 Alteration of nonconforming buildings as to yard regulations.

A building or structure which does not conform to the yard regulations may be structurally altered; provided, such alteration does not change the horizontal exterior dimensions, or the addition either conforms to the applicable yard regulations or does not project further into any yard than any substantial portion of the existing building or structure. "Substantial portion" for the purpose of this section shall mean 50 percent or more of the length of the wall. [Ord. 94-06 § 1; prior code § 11-2-5.8]

18.60.090 Nonconforming use of conforming building.

When a nonconforming use of a conforming building existed at the time the provisions of this title became applicable to such building so as to make the use thereof a nonconforming use, it may be continued and may be expanded or extended throughout such building, provided no structural alterations are made except those required by law. If the nonconforming use is discontinued for more than 12 months, any future use of such building shall conform to this title. If the nonconforming use is commercial, a different commercial enterprise, offering different products and/or services, may occupy the building if that enterprise is compatible with the residential nature of the neighborhood.

Incompatible enterprises might include:

A. Those which generate loud noises, offensive odors, or unhealthy or annoying substances.

B. Those which involve outdoor storage or parking of large or unsightly equipment or supplies.

C. Those which generate extensive traffic.

D. Those that do not meet the parking requirements (MTC [18.60.170](#)).

E. Those which are sources of light or sound which might annoy neighbors between 10:00 p.m. and 8:00 a.m.

A public hearing will be held by the planning, zoning and historical appropriateness commission to discuss each new nonconforming commercial enterprise before that enterprise is recommended for approval. All residents and property owners within 300 feet of the proposed nonconforming use will be notified of the public hearing by registered mail. [Ord. 95-03 § 5; Ord. 94-06 § 1; prior code § 11-2-5.9]

18.60.100 Nonconforming use of a nonconforming building.

The nonconforming use of a nonconforming building may be continued and may be expanded or extended throughout such building provided no structural alterations are made except those required by law. If such nonconforming use is discontinued, any future use of such building shall conform to the provisions of this title. [Ord. 94-06 § 1; prior code § 11-2-5.10]

18.60.110 Reconstruction of nonconforming buildings partially destroyed.

This title shall not prevent the repair of any nonconforming building damaged by fire, explosion, earthquake or other act of God subsequent to the effective date of the ordinance codified in this title; provided, that such repair shall not exceed 50 percent of the floor area of the building nor shall the dollar value of such repair exceed 50 percent of the dollar value of the building immediately prior to the damage. [Ord. 94-06 § 1; prior code § 11-2-5.11]

18.60.120 Nonconforming uses and nonconforming buildings resulting from reclassification.

This title shall also apply to buildings and uses which become nonconforming due to future reclassification of zones or land. [Ord. 94-06 § 1; prior code § 11-2-5.12]

18.60.130 Amortization, general.

Repealed by Ord. 2004-07. [Ord. 94-06 § 1; prior code § 11-2-5.13]

18.60.140 Extension of amortization period.

Nonconforming uses may be allowed to remain beyond the established amortization period defined in MTC [18.60.130](#); provided, that a petition requesting an extension be signed by a majority of the residents in the area whose properties are within 500 feet of the boundaries of the use, and that the board of trustees, after a public hearing adopts a resolution granting an extension for a specific period of time and with such conditions as may be necessary to protect surrounding properties. [Ord. 94-06 § 1; prior code § 11-2-5.14]

18.60.150 Accessory uses.

Any use customarily accessory and not specifically prohibited to the principal use of a lot or a building permitted in the respective zones may be permitted. [Ord. 94-06 § 1; prior code § 11-2-5.15]

18.60.160 Temporary real estate offices.

One residential structure within any new subdivision may be used as a combined temporary real estate office, or construction contractor's office and model home; provided, that such structure shall be completely restored to its intended residential use not later than 12 months following the date of the board of trustees accepting the public improvements of the subdivision in which it is located. [Ord. 94-06 § 1; prior code § 11-2-5.16]

18.60.170 Parking requirements and fees.

A. Historical Commercial Zone. Proposed new commercial building sites within the Historical Commercial zone shall provide for permanently maintained on-site motorized vehicle parking spaces pursuant to the parking spaces requirements contained in this section; all existing buildings (commercial and residential) in the H-C zone when the town of Mesilla adopted the land use plan and the zoning ordinance on February 15, 1972, shall be "grandfathered." The following are specific conditions that may apply to parking in the H-C zone:

1. Grandfathered Commercial Buildings. Existing commercial businesses located within an existing grandfathered commercial building which do not meet the parking requirements of the town of Mesilla may continue provided each business shall pay a yearly fee as stated in subsection (B) of this section at the time of business registration renewal. If a business occupies an existing building in the Historical Commercial zone and does meet the parking regulations, the business shall be exempt from the fee.
2. If expansions/additions of existing grandfathered buildings or changes of occupancies of an existing building cannot accommodate the required parking spaces pursuant to the requirements contained within this section on the business site or on adjacent business-owned property, then the owner(s) must pay the annual assessment listed in subsection (B) of this section. In no case shall any structure that is listed on the historic register be demolished to provide parking.

B. Historical and General Commercial Zones.

1. The required parking fee for commercial operations in the Historical and General Commercial zones shall be based on the following:
 - a. All commercial operations, other than home occupations as defined in Chapter [18.52](#) MTC, that have a total of one to five employees come to the site that do not meet the parking space requirements for the operation, as required by the following sections, are required to pay a \$150.00 parking fee to the town at the time the business registration is first acquired, and annually when business registration is renewed. If a parking fee is not paid prior to the renewal date, then the business license shall not be issued.

b. All commercial operations, other than home occupations as defined in Chapter [18.52](#) MTC, that have a total of six to 20 employees in which clients and employees come to the site that do not meet the parking space requirements for the operation, as required by the following sections, are required to pay a \$250.00 parking fee to the town at the time the business registration is first acquired, and annually when business registration is renewed. If a parking fee is not paid prior to the renewal date, then the business license shall not be issued.

c. All commercial operations, other than home occupations as defined in Chapter [18.52](#) MTC, that have a total of 21 or more employees in which clients and employees come to the site that do not meet the parking space requirements for the operation, as required by the following sections, are required to pay a \$500.00 parking fee to the town at the time the business registration is first acquired, and annually when business registration is renewed. If a parking fee is not paid prior to the renewal date, then the business license shall not be issued.

d. Fees shall not be prorated.

e. The annual assessment fees shall be placed into a special parking fund to be used for required maintenance, purchasing and creation of parking lots and parking spaces.

f. In no case shall any structure that is listed on the historic register be demolished to provide parking.

2. All new commercial building sites in the General Commercial zone shall provide for permanently maintained on-site motorized vehicle parking spaces pursuant to the parking spaces requirements contained in this section.

C. Parking Space Standards for All Uses. (All areas used for parking calculations are gross floor areas as listed in the county assessor’s records, unless otherwise specified.)

1. Commercial uses – including historical commercial:

USE	PARKING SPACES REQUIRED
Banks	One parking space for each 500 square feet of gross floor area.
Business or professional offices, not including medical professional offices and personal service shops	One parking space for each 500 square feet of gross floor area.

USE	PARKING SPACES REQUIRED
Churches and accessory uses	One parking space for each six seats, or if there are no fixed seats, then one parking space for each 100 square feet of floor space used for assembly purposes.
Establishments for the sale and consumption on premises of food and/or beverages	One parking space for each 100 square feet of gross floor area in addition to one space for each two employees on the maximum shift. One parking space is required for each 100 square feet of outdoor patio area.
Furniture and appliance stores, hardware stores, household equipment, service shops, clothing or shoe repair	One parking space for each 500 square feet of gross floor area.
Hotels and motels	One parking space for each sleeping unit or dwelling unit, in addition to requirements for auxiliary uses such as restaurants or shops.
Community buildings, libraries, museums, administration buildings, art galleries and centers	One parking space for each 300 square feet of gross floor area.
Manufacturing uses not providing customer services on the premises, such as research and testing laboratories, creameries, bottling establishments, bakeries, canneries, printing and engraving shops	One parking space per 500 square feet for 5,000 square feet or less; one space per 1,000 square feet over 5,000 square feet.
Small office establishments (law, accounting, engineering, real estate offices, and similar uses)	Two parking spaces for employees, plus one space for each 300 square feet of gross floor area.
Professional services (medical and dental offices, barbers, hairdressers, and similar uses)	One parking space for each 200 square feet of gross floor area.
Mortuaries, funeral homes	One parking space for each 50 square feet of floor area of assembly rooms used for services.
Nonmotorized vehicle sales, machinery sales or wholesale stores	One for each 500 square feet of gross floor area.
Retail stores, except as otherwise specified: (a) Having not more than 5,000 square feet of floor area	(a) One parking space for each 300 square feet of gross floor area.

USE	PARKING SPACES REQUIRED
(b) Having more than 5,000 square feet	(b) 10 parking spaces plus one parking space for each 300 square feet of gross floor area in excess of 5,000 square feet.
Boardinghouses, bed-and-breakfast inns and similar uses	One parking space for each 120 square feet of floor area used for sleeping purposes, in addition to requirements for auxiliary uses such as restaurants or shops.
Sanitariums, children's homes, homes for the aged, asylums, nursing homes	One parking space for each two beds.
Schools and learning centers, private	One parking space for each 500 square feet of gross floor area, plus one parking space for each employee as per subsection (B) of this section. For any large assembly area used for group meetings see immediately below.
Stadiums, sports arenas, auditoriums (including school auditoriums) and other places of public assembly and clubs and lodges having no sleeping quarters	One parking space for each two seats or one parking space for each 50 square feet of gross floor area used for assembly and not containing fixed seats.
Theaters	One parking space for each five seats up to 800 seats, plus one parking space for each 10 seats over 800 seats.

2. Residential Uses – Including Historical Residential. All new residential building sites shall provide the required parking spaces pursuant to the parking space requirements contained in this section.

USE	OFF-STREET PARKING SPACES REQUIRED
Dwellings, single-family, all zones	Three off-street parking spaces for each dwelling unit.
Dwellings – multifamily:	
(a) Efficiency (studio), no bedroom	One off-street parking space per unit.
(b) One bedroom	Two off-street parking spaces per unit.
(c) Two bedrooms or larger	Three off-street parking spaces per unit.

* Uses requiring special use permits (Chapter [18.55](#) MTC) shall provide parking pursuant to the above, based on the specific or most

D. **Parking Spaces for the Handicapped.** The minimum number and design of designated handicapped parking spaces for other than one- and two-family dwellings shall be subject to the latest ADA requirements.

E. **Parking Requirements for Uses Not Specified.** Where the parking requirements for a use are not specifically defined, the planning commission shall determine the numbers based upon the requirements for the most comparable use.

F. **General Requirements.** The following general requirements shall apply:

1. **Size and Access.** If off-street parking is provided it shall be located as specified below:

a. Be 10 feet wide by 20 feet long exclusive of drives or aisles. Each space shall be provided with adequate ingress and egress. An enclosed attached or detached residential garage shall not be used to satisfy the requirements for parking spaces unless specifically designed as a community parking facility for more than two dwellings.

2. **Location.** If off-street parking facilities for a noncontiguous parcel are provided they shall be located as specified.

a. For dwellings, parking facilities shall be located on the same or a contiguous lot;

b. For hospitals, sanitariums, homes for the aged, asylums, orphanages, rooming houses, lodging houses, club rooms, fraternity and sorority houses, not more than 150 feet from the buildings they serve.

3. **Mixed Occupancies in a Building.** When mixed use businesses are proposed in a building or strip mall:

a. **New or existing:** The total parking spaces required shall be one space per 200 square feet of gross area.

b. In structures where the total parking requirements of all the occupants exceeds the total number of parking spaces available, each occupant shall be subject to the annual parking fee in subsection (B) of this section, Historical and General Commercial Zones. The parking requirements for mixed use structures shall be assessed annually at renewal of business registration.

4. Plans. The plan of the parking area shall be submitted with the building permit for the building. The plans shall be drawn to scale and include complete details. (See subsection (G)(1) of this section, Minimum Design Standards.)

G. Every lot used as a public or private parking area shall be developed and maintained in the following manner:

1. Minimum Design Standards.

a. Parking stalls shall allow for of an area 10 feet wide by 20 feet long, measured as a rectangle within the proposed parking space.

b. Aisles for circulation with one-way traffic shall be:

i. For parallel parking: 12 feet wide.

ii. For 30- and 40-degree parking: 15 feet wide.

iii. For 60-degree parking: 18 feet wide.

iv. For 90-degree parking: 24 feet wide.

c. There must be adequate space so that vehicles do not back into a public street.

d. Circulation aisles shall be designed to prevent vehicles entering a public street when driving from one aisle to another.

e. Narrow parking areas with only one aisle for both entrance and exit shall be a minimum of 24 feet in width, and on the side of the parking area furthest from the entrance, have a turning area with a 25-foot minimum radius.

f. One-way entrances and exits shall have a minimum width of 12 feet and combined entrance-exits shall have a minimum width of 24 feet.

g. All entrances, exits and parking stalls shall be clearly marked, including directional markings.

2. Construction Standards.

- a. All commercial parking spaces and areas provided under the provisions of this chapter shall:
 - i. Be paved with base course, asphalt, concrete or other material that would be suitable to the site.
 - ii. Provide adequate drainage. A drainage plan will be required for all developments including parking; and said plan must be approved by the commission and board of trustees prior to issuance of a certificate of zoning compliance.
 - iii. Have bumper guards where needed to protect walls, fences, structures, etc.
 - iv. Be provided with necessary space and aisle safety markings.
- b. In All Residential Zones. Crushed stone or crusher fines, for a minimum depth of four inches, is the minimum surface that may be used for driveways or parking areas or similar material as determined by the planning, zoning and historical appropriateness commission.
 - i. Provide adequate drainage. A drainage plan will be required for all developments including parking; and said plan must be approved by the commission and board of trustees prior to issuance of a certificate of zoning compliance.

In addition to the requirements of subsections (G)(1) and (2) of this section, every parking lot, either public or private, having a capacity of five or more vehicles shall be developed and maintained as follows:

3. Border, Barricades, Screening and Landscaping.

- a. Every parking area not separated by a fence from any abutting street or alley property line shall be provided with a suitable concrete or wood curb six inches in height, located two feet from the street or alley property lines. This curb shall be securely installed and maintained; no curb or barrier shall be required across any entrance to the parking area.
- b. Every commercial parking area abutting property in the residential zones shall provide a solid wall, view-obscuring fence or compact evergreen hedge six feet in height; provided, that along the required front yard the fence, wall or hedge shall not exceed 48 inches in height.

c. Any lights illuminating any parking area permitted by this title shall reflect the light away from any nearby dwelling unit and meet the requirements of Chapter [18.50](#) MTC, Outdoor Lighting.

4. Entrances and Exits. The location of all entrances and exits must be approved by the commission. A clear sight triangle must be maintained at each exit.

5. Recreation vehicles and buses are required to park in designated areas.

6. The “No Parking” zones at intersections shall be 30 feet pursuant to state law.

H. Bicycle parking is not required, but is encouraged.

I. Businesses that meet the requirements of subsections (C) and (G) of this section shall be exempt from the parking assessment fees.

J. Existing parking lots not in compliance with subsection (G) of this section shall be brought into compliance within two years of the date of acceptance of this amendment. [Ord. 2017-01 § 1; Ord. 2009-03 § 1; Ord. 2004-01 § 3; Ord. 2003-03 § 1; Ord. 2001-04 § 3; Ord. 94-06 § 1; prior code § 11-2-5.17]

18.60.180 Area requirements deemed met.

Any lot or building site shall meet the minimum area requirements when:

A. It existed as an entire lot, or as an entire parcel, for which either a deed was on record in the office of the county clerk, or a bona fide contract of sale was in effect prior to March 14, 1972.

B. It is legally subdivided after the effective date of the ordinance codified on March 14, 1972.

Any lot or building that is deemed to be legal and meets the area requirements because of this section shall not be deemed nonconforming simply because it exists on less than the area required by the code. [Ord. 2021-01 § 3; Ord. 94-06 § 1; prior code § 11-2-5.18]

18.60.190 Height of buildings.

No structure shall be erected, reconstructed, or structurally altered to exceed the height limits established by this title. [Ord. 94-06 § 1; prior code § 11-2-5.19]

18.60.200 Additional story permitted.

Where the average slope of a lot is greater than one foot in five feet of horizontal distance, an additional story will be permitted on the downhill side of any building. [Ord. 94-06 § 1; prior code § 11-

2-5.20]

18.60.210 Regulations for vertical structures.

A. Definitions.

1. "Commercial tower" means a freestanding vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of providing a commercial service to the public. Commercial tower uses include, but are not limited to, cellular communications, paging stations, TV stations, AM and FM radio stations, two-way radio base stations, communication mobile services, common carrier wireless services and communications used for intra-business and inter-business purposes. Commercial towers are excluded from the C, H-C and H-R zones.
2. "Personal (private) tower" means a freestanding vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of radio communications without the intent of commercial service. Personal tower uses include, but are not limited to television signal reception, amateur radio stations, AM and FM radio signal reception and citizen band (CB) base stations. Personal (private) towers are excluded from the C, H-C and H-R zones.
3. "Monopole (freestanding) tower" means a single vertical pole that has no guywires for support and serves as a mounting platform for radio frequency antennas. Monopole towers are excluded from the C, H-C and H-R zones.
4. "Lattice (freestanding) tower" means a freestanding vertical structure that is composed of individual components, where each vertical leg of the structure is connected by criss-crossed members that create a hollow structure. Lattice structures are excluded from the C, H-C, H-R, R-1, RA and RF zones.
5. "Guyed tower" means a freestanding vertical structure that gains its support from tension wires attached at various locations to the structure and converging to one or more anchors at ground level. Guyed towers are excluded from the C, H-C and H-R zones.
6. "Total structure height" means the total height of a freestanding vertical structure shall be measured from ground level to the topmost attached structure placed on the tower. Total structure height shall include all mounting standards, antennae and lighting.
7. "Allowable structure height" means the height of a freestanding vertical structure that is allowed by ordinance or approval of a special use permit.

8. "Antenna" means an attached structure designed to radiate and/or receive radio frequency (RF) emissions. An antenna design includes, but is not limited to, the following:

- a. Monopole, dipole, discone;
- b. Horizontally and vertically polarized TV and FM, yagi;
- c. Mesh or solid parabolic;
- d. Array, phased array and others protected by a radome;
- e. Shaped-element.

9. "Flag pole" means a freestanding, single vertical pole that has no guywires for support and is used for the purpose of displaying a flag. Flag poles are allowed in all zones: C, H-C, H-R, R-1, RA and RF. The height of a flag pole is limited to five feet above the roof structure of the building with which the flag pole is associated.

B. Heights for Attached Structures. Attached structures, including but not limited to belfries, chimneys, antennas and parapet walls, may be constructed to a height five feet above the structure to which it is attached.

C. Requirements for Freestanding Vertical Structures.

1. Structures shall not be used for sleeping or eating quarters, nor allowed for additional floor space.
2. Structures shall be set back from property lines one foot for each one foot in height plus 10 percent of the total height of the vertical structure.
3. Structures shall not exceed the height in each zone as measured from ground level vertically to the highest point of the freestanding vertical structure.
4. Structures shall be constructed to meet Uniform Building Code standards and have manufacturer's specifications to withstand 90-mile-per-hour winds.
5. Structures shall conform to Federal Communications Commission and Federal Aviation Administration regulations if applicable.

D. Heights for Freestanding Vertical Structures Permitted by Right by Zone.

H-R, H-C, C	None, they are excluded from these zones
R-1	30 feet
RA	40 feet
RF	50 feet

[Ord. 97-02 § 1; Ord. 97-01 § 1; Ord. 94-06 § 1; prior code § 11-2-5.21]

18.60.220 Yard regulations.

Every required front, side and rear yard shall be open and unobstructed from the ground to the sky; provided, that when the common boundary line separating two or more contiguous lots is covered or partially covered by a building or when two or more such lots are used as a single building site, such lots are a single building site and the yard spaces as required by this title shall then not apply to the common boundary line. [Ord. 94-06 § 1; prior code § 11-2-5.22]

18.60.230 Yards required on corner lots.

In any residential zone, other than the H-R and H-C zones, all buildings on a corner lot abutting upon two streets shall have a minimum setback of 10 feet from the side lot line. [Ord. 94-06 § 1; prior code § 11-2-5.23]

18.60.240 Through lots to have two front yards.

A through lot shall maintain a front yard setback on each street. [Ord. 94-06 § 1; prior code § 11-2-5.24]

18.60.250 Front yard requirements deemed met.

Any front yard requirement is met when the depth of the front yard at least equals the average of that established by front yards of existing buildings within the same block or zone. [Ord. 94-06 § 1; prior code § 11-2-5.25]

18.60.260 Front yards of unimproved lots.

The front yards on lots in any block where all existing main buildings have front yards greater than required for the particular zone shall be not less than the minimum depth of any existing front yards, but need not be more than 10 feet greater than the depth required. Buildings which are located in the rear half of the lot shall not be considered in applying this section. [Ord. 94-06 § 1; prior code § 11-2-5.26]

18.60.270 Setback lines measured from property lines.

Wherever front, side, and rear yards are required, the depth shall be measured from the property line. [Ord. 94-06 § 1; prior code § 11-2-5.27]

18.60.280 Irregularly shaped lots.

In lots having more than four boundary lines or lots which vary considerably from a rectangular shape, the rear lot line is the line most nearly opposite from and parallel with the street line on which the lot abuts. In the case of triangular lots, the rear lot line shall be a straight line 15 feet in length which is parallel to the front lot line and intersects the two side lot lines at points most distant from the front lot line. [Ord. 94-06 § 1; prior code § 11-2-5.28]

18.60.290 Permissible reduction of side yard.

On previous lots of record less than 60 feet in width, the required side yard may be reduced one and one-half inches for each foot such lot is less than 60 feet; provided, that the width of the side yard shall not be reduced to less than three feet. [Ord. 94-06 § 1; prior code § 11-2-5.29]

18.60.300 Commission may modify.

The planning commission may, by resolution, establish standard practices by which to determine an appropriate and practical modification of required front, side, and rear yard depths or widths in all zones if geometric shape, dimensions or topography make impractical the literal application of yard requirements in this title. Following adoption of standard practices, and approval by the board of trustees, they shall be applied as an administrative act. [Ord. 94-06 § 1; prior code § 11-2-5.30]

18.60.310 Permissible coverage of required rear yard.

Canopies or roofs and accessory buildings in a rear yard shall not be more than 50 percent of the required area. [Ord. 94-06 § 1; prior code § 11-2-5.31]

18.60.320 Structures permitted to intrude into required yards.

The following structures may intrude into any required yard which is five feet or greater in width or depth:

A. Cornices, eaves, buttresses, or other similar architectural features: one and one-half feet.

B. Fireplace structures not wider than eight feet: two feet intrusion.

C. Open stairways, balconies, and fire escapes: two and one-half feet.

D. Uncovered patios which are below the floor level of the first floor: two and one-half feet into required side and rear yards and six feet into required front yards.

E. Planting boxes or masonry planters not exceeding 42 inches in height: two feet.

F. Guard railings around ramps: two and one-half feet. [Ord. 94-06 § 1; prior code § 11-2-5.32]

18.60.330 Modification of required front yards.

The depth of required front yards may be modified on unimproved lots between lots having nonconforming front yards of a depth less than required by this title. The modification may be equal to the average depth of the front yards on the two adjacent lots; provided, that it is at least 15 feet. [Ord. 94-06 § 1; prior code § 11-2-5.33]

18.60.340 Wall, fence, or hedge.

A. Height (see illustration in Appendix A).

1. A six-foot maximum height above ground surface level shall be permitted on any part of the required setbacks of front yards or side yards abutting a street in H-R and H-C zones; provided, such wall, fence or hedge is in accord with subsections (D) and (G) of this section.

2. A four-foot maximum height above ground surface level shall be permitted on any part of the required setbacks of front yards or side yards abutting a street in R-1, RF and RA zones; provided, such wall, fence or hedge is in accord with subsection (D) of this section. A six-foot maximum height above ground surface level shall be permitted on any part of the required front yard or side yard abutting a street with openwork fencing in the RF and RA zones. "Open work" fencing is defined as fencing with 40 percent of the area transparent within each six-foot width of fence.

B. Walls, fences or hedges on any part of the lot that is to the rear of the required front yard must be in accord with subsection (D) of this section and constructed to Uniform Building Code Standards.

C. Any wall retaining four or more feet of soil must be designed and signed by a professional engineer registered in the state of New Mexico.

D. There shall be no fence, wall, hedge, or obstruction more than three feet above street curb level or ground level at edge of street in the clear sight triangle, measured 30 feet in both directions on the property line from a corner. (See Appendix B.)

E. Walls or fences constructed within the front yard setback area facing a street within the H-R, H-C, R-1 zones must be built with the following materials only: stucco, brick, stone, wood, adobe and wrought iron.

F. No wall, fence or hedge shall be permitted in a public right-of-way.

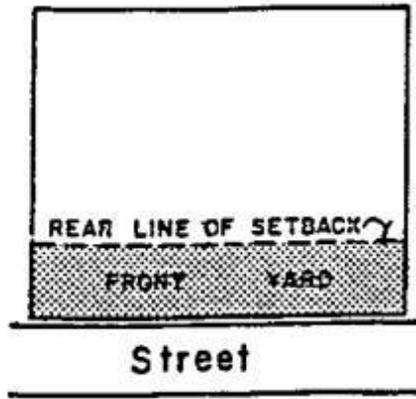
G. No walls, fences, hedges or other obstructions may be placed near exits from driveways or parking areas which block a driver's view of approaching traffic for a distance of 90 feet in both directions. The following explanations will further define this unobstructed view (also, see illustrations in Appendix C):

1. The driver's eye level may be from three to eight feet above the driveway's surface and located as far as 10 feet back from the curb line or pavement edge.
2. Those portions of approaching cars which are more than three feet above the roadbed must be within view of the exiting driver.
3. Approaching cars must be visible when driving in the center of any legal lane.
4. Minor gaps are permitted in the required field of view caused by tree trunks, sign posts, or other narrow objects if they could not conceal a small automobile.

H. A wall may exceed six feet if:

1. It is compatible with the development zone, as defined in the Guidelines and Criteria for Preservation and Development manual (YGUADO Plan), and is connected to the building where it surrounds a courtyard, patio, or open room and the height of the wall is to provide privacy and/or environmental protection. The wall shall not exceed the height of the corresponding building nor at any time exceed 10 feet. This criterion shall not be considered for a perimeter wall (property line fence). [Ord. 2006-10 § 1; Ord. 2001-09 § 1; Ord. 94-06 § 1; Ord. 93-08; prior code § 11-2-5.34]
2. Residential properties south of University Ave between Bowman St and McDowell St. In which the six feet maximum allowed for a perimeter fence is still six feet but would be measured at the base of the finished ground level immediately outside the property.

Appendix A – Fences, Walls and Hedges

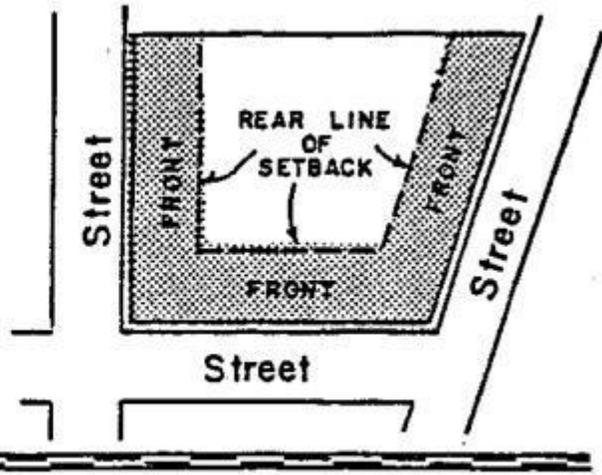


Interior Lot

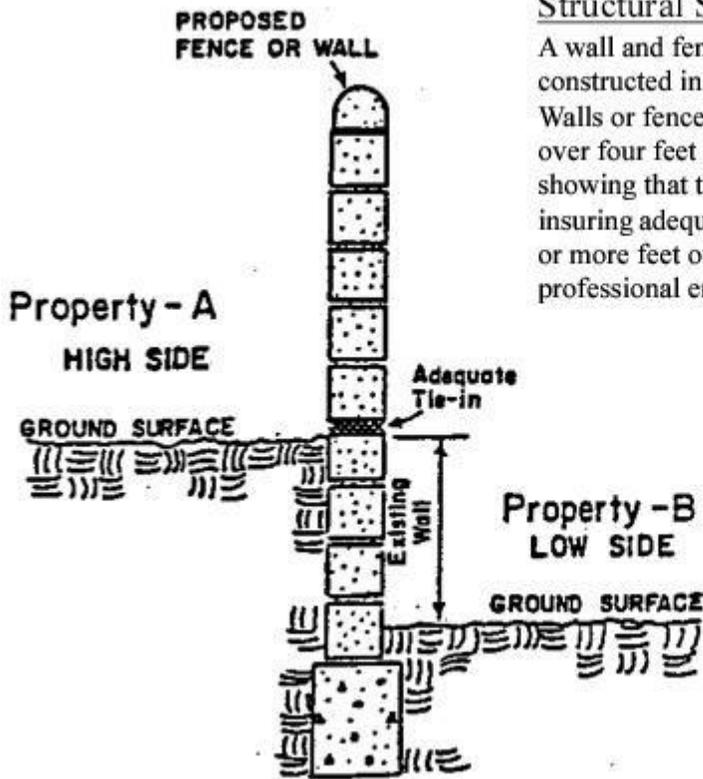
Hedge, fence and wall height is restricted (see MTC 18.60.340) in the shaded area, except that in any clear sight triangle, the height shall be limited to three feet.

Corner and Multi-Front Lots

Hedge, fence and wall height is restricted (see MTC 18.60.340) in the shaded area, except that in any clear sight triangle, the height shall be limited to three feet.



Note: Ground surface level is defined as the level of ground abutting the fence or wall.

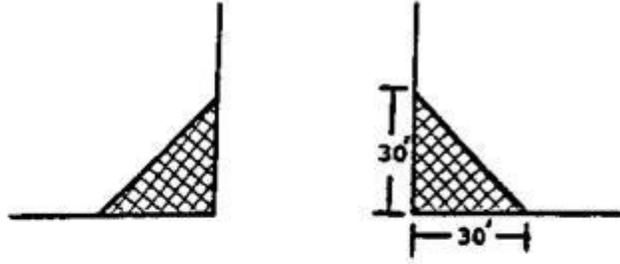


Structural Strength and Bi-Level Grades

A wall and fence constructed on a bi-level grade shall be constructed in accord with the following provision: Walls or fences constructed on top of an existing wall that is over four feet in height shall require a structural detail showing that the fence below is structurally adequate and insuring adequate tie-in and bonding; and a wall retaining four or more feet of soil must be designed and stamped by a professional engineer registered in the state of New Mexico.

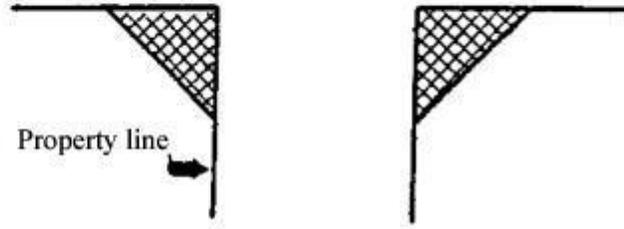
Appendix B – Clear Sight Triangle

Clear sight triangle applies to both corner lots and off-street multiple parking area. For a definition, see "Clear sight triangle," MTC 18.10.020.

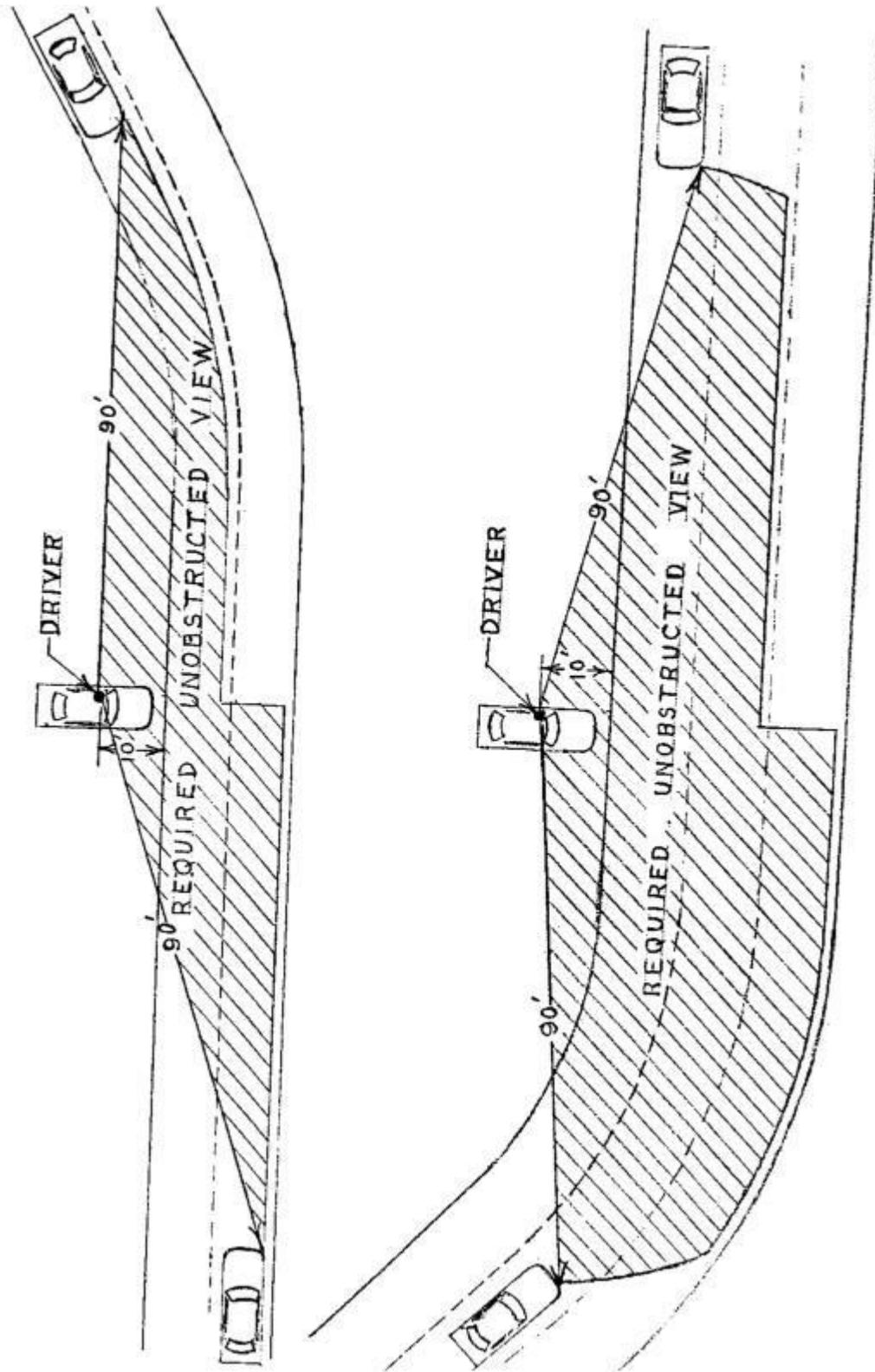


Clear Sight Triangle

STREET



Appendix C



- Required Unobstructed View

18.60.350 Alley may apply to depth of rear yard in certain cases.

Where a rear yard opens onto a public alley, one-half of the width of such alley may be considered as applying to the depth of the rear yard up to 50 percent of the required depth. [Ord. 94-06 § 1; prior

code § 11-2-5.35]

18.60.360 Lot area not to be reduced.

No lot shall be so reduced or diminished that the yards or other open spaces shall be smaller than required by this title. [Ord. 94-06 § 1; prior code § 11-2-5.36]

18.60.370 Lots not to be reduced to size below minimum required area.

No lot shall be reduced in size so that the area is less than the minimum required area for a lot except when the reduction results from partial acquisition for public use. [Ord. 94-06 § 1; prior code § 11-2-5.37]

18.60.380 Area for public buildings and utility buildings may be reduced.

Where a lot or building site is exclusively public buildings and uses, and owned by a political subdivision or by a public utility company, and no living quarters are located on such lot a special use permit may be issued authorizing a reduction in the minimum required area. [Ord. 94-06 § 1; prior code § 11-2-5.38]

18.60.390 Location of accessory buildings.

Detached accessory buildings in any residential zone shall conform to the following regulations as to their location on the lot or building site:

A. They may be constructed in a required rear yard; provided, they cover no more than 50 percent of the required rear yard area, but not within seven feet of the rear property line if that is the side property line of an adjoining lot. [Ord. 94-06 § 1; prior code § 11-2-5.39]

The Mesilla Town Code is current through Ordinance 2021-03, passed December 30, 2021.

Disclaimer: The town clerk's office has the official version of the Mesilla Town Code. Users should contact the town clerk's office for ordinances passed subsequent to the ordinance cited above.

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Chapter 18.65 SIGNS*

Sections:

- 18.65.010 Title.**
- 18.65.020 Purpose.**
- 18.65.030 Authority for chapter.**
- 18.65.040 Existing uses – Nonconforming signs.**
- 18.65.050 Definitions.**
- 18.65.060 Permits required.**
- 18.65.070 Exceptions.**
- 18.65.080 Application to erect a sign.**
- 18.65.090 Permit issued if application is in order.**
- 18.65.100 Permit fees.**
- 18.65.110 Inspection.**
- 18.65.120 Obstruction.**
- 18.65.130 Temporary signs.**
- 18.65.135 Sandwich board or A-frame signs.**
- 18.65.140 Wall signs.**
- 18.65.150 Projecting signs.**
- 18.65.160 Freestanding signs.**
- 18.65.165 Directory signs.**

- 18.65.170 Development identification signs.**
- 18.65.180 Illumination.**
- 18.65.190 Lettering and coloring.**
- 18.65.200 What may be advertised.**
- 18.65.210 Maintenance.**
- 18.65.220 Number of permitted signs.**
- 18.65.230 Location.**
- 18.65.240 Miscellaneous.**
- 18.65.250 Unlawful signs.**
- 18.65.260 Notice of unlawful signs and abatement.**
- 18.65.270 Complaint.**
- 18.65.280 Removal of unsafe or unlawful sign.**
- 18.65.290 Injunctions.**

* Prior legislation: Ords. 89-08 and 92-05.

18.65.010 Title.

This chapter and all subsequent amendments hereto may be cited as the “sign standards and regulations ordinance.” [Ord. 94-08; prior code § 11-3-1]

18.65.020 Purpose.

This chapter is for the purpose of regulating the installation and use of signs within the town of Mesilla. [Ord. 94-08; prior code § 11-3-2]

18.65.030 Authority for chapter.

This chapter is adopted pursuant to the provisions of an Act of the State Legislature known as Chapter 3, Laws of Article 19 (being Sections 1 through 12 of the New Mexico State Statutes Annotated, 1978) as amended. The provisions of this chapter are adopted in acceptance of and in accordance with said Act. [Ord. 94-08; prior code § 11-3-3]

18.65.040 Existing uses – Nonconforming signs.

Nonconforming signs which have been approved by the Mesilla board of trustees or signs which are not in conformity with these regulations but for which permits or variances were granted under previous ordinances, may continue, until one of the following occurs:

A. The business is terminated.

B. The sign is changed, modified, or painted.

~~C. Five years after the ordinance codified in this chapter is in effect. [Ord. 2008-04 § 1; Ord. 94-08; prior code § 11-3-4]~~

18.65.050 Definitions.

For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

A. General.

1. Words used in the present tense include the future tense. The singular includes the plural. The word “person” includes a municipality, firm, association, organization, partnership, trust, company, or corporation as well as an individual.

2. The word “lot” includes the word “plot” or “parcel.” The term “shall” is mandatory; the term “may” is permissive. The word “town” shall mean the town of Mesilla. The words “board of trustees” shall mean the town board of trustees of the town of Mesilla. The word “commission” shall mean the planning, zoning and historical appropriateness commission of the town of Mesilla.

B. Specific.

1. “Sign” shall mean and include every sign, billboard, ground sign, wall sign, roof sign, illuminating sign, projecting sign, marquee, awning, canopy, and shall include any announcement, declaration, demonstration, illustration or insignia used to advertise or promote the interest of any person when the same is placed out of doors. Allowed signs in the town of Mesilla shall be limited to wall signs, projecting signs, freestanding signs, development identification signs, sandwich board signs and directory signs, as well as those signs that are identified as “temporary signs” or exceptions as defined in MTC [18.65.070](#).

- a. "Freestanding sign" as regulated by these guidelines shall include any sign attached to or supported from the ground and not attached to any building.
 - b. "Temporary sign" shall mean any banner or advertising display with or without frames intended to be displayed for a period of less than 15 days. Maximum total sign space not to exceed 15 square feet and no more than two permits per business per year may be issued.
 - c. "Sandwich board or A-frame sign" shall mean any sign of a nonpermanent nature which is a type of advertisement composed of two boards (holding a message or graphic) and being set up (for example next to a store advertising its goods) in a triangle shape, hinged along the top.
 - d. "Projecting sign," as regulated by these guidelines, shall include any sign, which is attached to a building or other structure and extends beyond the line of said building or structure.
 - e. "Wall sign," as regulated by these guidelines, shall include all flat signs with projecting letters attached to a wall, or signs with letters painted directly upon a wall, or painted sign board attached to a wall.
 - f. "Development identification sign," as regulated by these guidelines, shall include any sign at the entrance/exit to a commercial development to identify the development name and logo only, and not attached to any building.
 - g. "Directory sign" is a sign that identifies the names and locations of tenants in a multi-tenant building or in a development made up of a group of buildings. A directory sign may also be a sign that identifies the development or building which the group of businesses/tenants occupy.
2. "Location" shall mean the lot or premises upon which the sign may be permitted.
 3. "Display" shall mean to exhibit any item or items on the interior or exterior, for the purpose of attracting people for business. [Ord. 2008-04 § 2; Ord. 2003-05 § 1; Ord. 94-08; prior code § 11-3-5]

18.65.060 Permits required.

Other than the exceptions listed in MTC [18.65.070](#), temporary signs, and repair and maintenance of existing conforming signs, it shall be unlawful for any person to place, erect, repair, alter, relocate, or retain within the town of Mesilla any sign or other advertising structure without first obtaining a review

and recommendation by the planning, zoning and historical appropriateness commission and a permit approved by the Mesilla board of trustees. [Ord. 2008-04 § 3; Ord. 2005-06 § 1; Ord. 94-08; prior code § 11-3-6]

18.65.070 Exceptions.

The provisions and regulations of these guidelines shall not apply to temporary signs and the following signs; provided however, the number of exception signs does not exceed two for each business or use (with the exception of subsection (G) of this section) and said signs do not deviate radically from standards set forth herein:

A. Real estate signs not exceeding six square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are located.

B. One professional name plate not exceeding one square foot in area.

C. One bulletin board not over eight square feet in area for public, charitable, or religious institutions when the same are located on the premises of said institutions.

D. Signs denoting the developer, architect, engineer, or contractor when placed on work under construction and when not exceeding 12 square feet in area.

E. An occupational sign denoting only the name and profession of an occupant in a commercial building, public institution, or dwelling, and not exceeding two square feet in area.

F. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

G. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency, or other non-advertising signs as may be approved by the Mesilla board of trustees.

H. Agricultural signs may be permitted where crops are grown; provided, they do not exceed 15 square feet in area in RA and RF zones and six square feet in area for all other zones and only advertise farm products for sale, the majority of which are grown on the premises.

I. Political signs supporting a candidate or candidates for public office; provided, that it is placed no more than 30 days prior to the pertinent election and does not exceed four feet by eight feet in size. Political signs shall be removed no later than seven days following an election.

J. Occupants may place displays or descriptions of their merchandise or services behind the glass of windows or doors. Any business on the plaza must not occupy more than one-third of the glass area with displays or descriptions.

K. Parking, directional or OPEN/CLOSED signs which do not exceed two square feet in area.

L. Cottage industries signs; provided, that only one unlighted sign be placed, having a maximum area of 10 square feet.

M. House signs that warn of safety hazards, "Private Drive," "No Parking" or family name signs; provided, that they are not larger than one square foot.

N. Signs of historical significance [relevant to the location they are located](#).

O. Temporary directional signs for nonprofit organizations guiding patrons to functions approved by the board of trustees; provided, the sign does not exceed eight square feet. [Ord. 2008-04 § 4; Ord. 2005-06 § 2; Ord. 2003-05 § 2; Ord. 94-08; prior code § 11-3-7]

18.65.080 Application to erect a sign.

Application to erect a sign shall be made upon forms provided by the Mesilla Town Hall and shall contain, or have attached thereto the following information:

A. Name, address, and telephone number of applicant.

B. Location of building, structure, or lot upon which the sign is attached or erected.

C. Position of the sign, in relation to other signs, lot lines or other building.

D. A complete dimensioned scale drawing with full description of size, material, texture and/or finish lettering and graphics to be used.

E. Name of person, firm, corporation or association erecting structure.

F. Written consent from the owner of the building, structure, or land to which or on which the structure is to be erected. [Ord. 94-08; prior code § 11-3-8]

18.65.090 Permit issued if application is in order.

When the proposed sign is in compliance with all the requirements of these guidelines and all other laws and ordinances of the town, the permit may be issued administratively by the duly authorized representative for repair and maintenance of existing signs, temporary signs or sandwich board signs

and may be issued following the recommendation of the planning, zoning and historical appropriateness commission, and approval of the board of trustees for all other signs that are in compliance with the requirements of these guidelines and all other laws and ordinances of the town. [Planning and Zoning Historical Appropriateness Commission reserves the right to consider the request upon any extenuating circumstances where regulations of this title are not mentioned.](#) If the work authorized under a sign permit has not been completed within six months after date of issuance, the permit shall become null and void. The application must be acted upon by the board of trustees within 75 days from the date of application. [Ord. 2008-04 § 5; Ord. 94-08; prior code § 11-3- 9]

18.65.100 Permit fees.

Every applicant after being granted a permit shall pay to the town of Mesilla a fee of ~~\$2.00~~ \$5.00 per square foot for the permitted sign. ~~The maximum fee for any sign shall be \$50.00.~~ No fee shall be assessed for signs listed under exceptions or temporary signs. [Ord. 2008-04 § 6; Ord. 2005-06 § 3; Ord. 94-08; prior code § 11-3-10]

18.65.110 Inspection.

The Mesilla board of trustees, or authorized designated representative, shall inspect as they deem necessary each sign regulated by these guidelines for the purpose of ascertaining that the sign conforms with the approved sign permit. [Ord. 94-08; prior code § 11-3-11]

18.65.120 Obstruction.

No signs shall be erected, relocated or maintained so as to prevent free ingress or egress at any door, window, or fire escape.

No sign or other advertising structure as regulated by these guidelines shall be erected in the 30-foot clear sight triangle of any street or in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with or obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP," "DANGER" or any other word, phrase, symbol, or character in such manner as to interfere with, mislead or confuse traffic. Signs shall also conform to the sight distance of MTC [18.60.340](#), Wall, fence or hedge. [Ord. 94-08; prior code § 11-3-12]

18.65.130 Temporary signs.

A. A business may have a temporary sign for a period of 15 days. The temporary sign shall be no larger than 15 square feet in area. Each business may have up to ~~two~~ four temporary signs per year.

B. Temporary signs may be administratively approved by community development staff pursuant to guidelines established by the board of trustees by adoption of a resolution. [Ord. 2008-04 § 7; Ord.

2005-06 § 4; Ord. 94-08; prior code § 11-3-13]

18.65.135 Sandwich board or A-frame signs.

A. A sandwich board or A-frame type sign may be permitted for a business establishment. Such sign shall be located on the premises where the business is located, and shall be nonpermanent in nature, brought inside when the business closes for the day. This sign shall be no larger than six square feet in area. ~~Only one sandwich sign is allowed per business and maybe within 3-feet of the property in the Historical Commercial (HC) zone when the building is up to the property line. Signs shall not cause any obstruction on pathways and sidewalks.~~

B. ~~Sandwich board signs will be allowed for a three-month trial period upon approval of the ordinance codified in this section by the board of trustees.~~ They are only allowed in the ~~Historical Commercial (HC)~~, Commercial (C) zone and at the Town Hall. [Ord. 2008-04 § 8]

18.65.140 Wall signs.

A. Wall Sign Area.

1. Within the Historical Commercial (H-C) zone, the wall sign area, on any given house or building, shall in no case exceed 10 percent of any wall area including apertures or 15 square feet, whichever is less. Dimensions of painted signs or graphics with no frame shall be determined by measuring the extent of the painted sign or graphic horizontally and vertically and calculating the area.

2. Within the Commercial (C) zone, the wall sign area on any ~~given house or commercial~~ building shall in no case exceed 10 percent of any wall area including apertures ~~or 25 square feet, whichever is less.~~ Dimensions of painted signs or graphics with no frame shall be determined by measuring the extent of the painted sign or graphic horizontally and vertically and calculating the area.

B. No wall sign shall be permitted to be more than six inches thick. All wall signs shall be safely and securely attached to the building wall. [Ord. 2008-04 § 9; Ord. 2003-05 § 3; Ord. 2000-02 § 1; Ord. 94-08; prior code § 11-3-14]

18.65.150 Projecting signs.

A. No projecting sign may rise above the level of the first story of the building to which it is attached. All projecting signs must be at least seven feet above sidewalk or ground level, and must be located within the central one-third of the facade length so as not to obstruct neighboring signs.

B. Projecting signs shall be limited in area as follows:

1. A maximum of four feet projecting from the wall of the building;
2. A maximum of eight square feet of total sign space including frame. Both sides of a projecting sign may be used for advertisement.

C. The supporting structure of any projecting sign must be of adequate strength so as to have no need for guy-wires or wire reinforcement. [Ord. 94-08; prior code § 11-3-15]

18.65.160 Freestanding signs.

A. A freestanding sign (ground-based or post) may be permitted where a business establishment is set back from a street alignment of building facades more than 10 feet. A business establishment thus set back, in addition to the signs permitted upon the building itself, may maintain a freestanding sign of not more than 15 square feet in area including the frame but not the supports, and such sign must relate to the conduct of the business within. If a building has an unencumbered front setback of at least 25 feet, a two-face freestanding sign with a maximum of 15 square feet of area on each face, sign dimensions no greater than six feet in any dimension will be permitted; provided, it relates to the business conducted on the premises.

B. The bottom of freestanding signs supported by posts, which are not within two feet of the ground shall not be less than seven feet above the ground level.

C. For freestanding ground-based signs, the wall of a freestanding ground-based sign shall have a maximum square footage of 15 square feet for the Historical Commercial (H-C) zone and 25 square feet for the General Commercial (GC) zone. The height of a ground-based sign will be no more than four feet high. The ground-based signs shall also be required to have building permits for the structure complying with any building code requirements, clear sight triangle requirements or any other applicable codes or regulations.

D. All freestanding signs with posts shall be securely constructed, and erected upon posts extending at least three feet below the surface of the ground. All wood post parts below ground level shall be treated to protect them from moisture by an approved method.

E. No freestanding sign or any part thereof shall be more than 15 feet above the level of the street which the sign faces, or above the adjoining ground level, if such ground is higher than the street level.

F. All parts of a freestanding sign shall be two feet inside the property line. [Ord. 2006-01 § 1; Ord. 2003-05 § 4; Ord. 94-08; prior code § 11-3-16]

18.65.165 Directory signs.

- A. A directory sign may be permitted for a building or development where there is more than one business or tenant. A directory sign may be a wall sign, projecting sign, or freestanding sign, provided the sign complies with all requirements for the type of sign.
- B. A directory sign shall be limited to 15 square feet in area for signs located in the Historical Commercial (H-C zone) zone and 25 square feet in area for signs located in the Commercial (C) zone.
- C. All directory signs shall be located on the premises where the businesses are located.
- D. A directory sign may list all businesses or only the building or development name.
- E. Each business may have one individual sign in addition to the identification on the directory sign, in accordance with the sign regulations and all other laws and ordinances. [Ord. 2008-04 § 10]

18.65.170 Development identification signs.

A development identification sign may be permitted at the entrance/exit to a commercial development to identify the development name and logo only.

- A. The structure of a development identification sign shall be no larger than 48 square feet in size, and have a height no higher than four feet.
- B. The actual sign portion of the development identification sign shall not exceed 25 square feet for the Commercial (C) zone, or 15 square feet for the Historic Commercial (H-C) zone. Area of the actual sign shall be determined by measuring the extent of the painted sign or graphic horizontally and vertically and calculating the area. [Ord. 2003-05 § 5; prior code § 11-3-17]

18.65.180 Illumination.

- A. No signs that flash, blink, revolve, or are otherwise in motion, vary in intensity, or seem to be in motion shall be permitted.
- B. No sign shall have any illumination outside of the face of the letters, other than goose neck lighting; there shall be no neon or similar lighting, exposed bulbs, or any moving parts or lights that give effect of moving parts.
- C. Goose neck lights with reflectors shall be permitted on projecting signs, freestanding signs and wall signs, provided the illumination falls upon the sign so as to prevent glare upon the street or adjacent property.

D. Nonblinking electric signs including neon signs may be placed inside windows and glass doors provided their proportions are not in excess of the window area so allowed in MTC [18.65.070\(J\)](#). Interior electric signs must be approved by the board of trustees or their designated representative. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-18]

18.65.190 Lettering and coloring.

All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure. Color of signs must be approved at the time of application for sign permit.

In Mesilla, signs shall not detract from the historic cultural attraction of the town; therefore, approval of color and design are left to the board of trustees or their designated representatives. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-19]

18.65.200 What may be advertised.

Exterior signs shall advertise a bona fide business conducted in or on said premises, and the advertising of products shall not exceed 25 percent of the area of such sign. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-20]

18.65.210 Maintenance.

The plot where the sign is located is to be maintained by the owner thereof in a safe, clean, sanitary, inoffensive condition, and free and clear of all obnoxious substances, rubbish, and weeds. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-21]

18.65.220 Number of permitted signs.

A. A total of two exterior signs may be allowed to each store or bona fide place of business.

B. When more than one business occupies a single building each business will be limited to one sign plus a space on a directory sign at each entrance. [Ord. 2008-04 § 11; Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-22]

18.65.230 Location.

No off-premises signs will be permitted for commercial business. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-23]

18.65.240 Miscellaneous.

A. Parking Lots, Etc. Where the nature of a business does not involve a structure on which a sign may be attached, such as parking lots, freestanding signs are allowed and the same regulations apply.

B. Exterior Commercial Display. The exterior display of items for sale is not permitted on town property or where the condition endangers the health, welfare and safety of the general public. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-24]

18.65.250 Unlawful signs.

It shall be unlawful to construct, erect and maintain a sign or other advertising structure in violation of the provisions and guidelines of this chapter. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-25]

18.65.260 Notice of unlawful signs and abatement.

The town may issue a notice directed to the owner of record of the property on which the unsafe or unlawful sign occurs, or to the occupant or tenant of the property, or both. The notice shall describe the violation and shall establish a reasonable time limit for abatement which shall not be less than two days nor more than 10 days after serving the notice. The notice may be served either personally or by registered mail at the owner's or occupant's last known address. The town shall be held harmless of all unsafe or unlawful signs. The person who owns the sign shall assume all liability or risk of damage to persons or property which may arise from an unsafe or unlawful sign and save the town of Mesilla, its officers and agents harmless from any and all liability which may arise or be incurred from the erection, construction, or operation of same. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-26]

18.65.270 Complaint.

In the event the owner or occupant of the property where the unsafe or unlawful sign exists has failed, within the prescribed time, to abate the nuisance, then the town shall file a complaint charging violation of this with the municipal court. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-27]

18.65.280 Removal of unsafe or unlawful sign.

Upon the failure of the person to remove or correct the unsafe or unlawful sign, the town shall proceed to correct or remove the sign and shall prepare a statement of costs incurred. Any and all costs shall constitute a lien against property upon which the unsafe or unlawful sign existed, or against personal property of the owner of the unsafe or unlawful sign, which lien shall be filed, proven and collected as provided by law.

Alternatively, the town attorney may bring a civil action by verified complaint in the name of the town, by any public officer, in the municipal court against any person who shall create or maintain an unsafe or unlawful sign.

When judgment is against the defendant in an action to remove an unsafe or unlawful sign, he shall be adjudged to pay all court cost and a reasonable fee for the town attorney. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-28]

18.65.290 Injunctions.

The board of trustees or their representatives, when a violation exists as set forth in this chapter, may request an action in the name of the municipality to perpetually enjoin all persons from maintaining or permitting the unsafe or unlawful use and to abate the same. [Ord. 2003-05 § 6; Ord. 94-08; prior code § 11-3-29]

The Mesilla Town Code is current through Ordinance 2021-03, passed December 30, 2021.

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