

**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.

