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RULE PROPOSALS

**COMMUNITY AFFAIRS
NEW JERSEY HISTORIC TRUST**

50 N.J.R. 279(a)

Proposed Readoption with Amendments: *N.J.A.C. 5:101*

[Click here to view Interested Persons Statement](#)

Garden State Historic Preservation Trust Fund Grants Program

Authorized By: New Jersey Historic Trust, Janet Foster, Chair.

Authority: N.J.S.A. 13.1B-15.114(c) and 13:8C-42.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-008.

Submit written comments by March 17, 2018, to:

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The agency proposal follows:

Summary

The Garden State Historic Preservation Trust Fund Grants Program rules, *N.J.A.C. 5:101*, are scheduled to expire on December 14, 2017, pursuant to *N.J.S.A. 52:14B-5.1*. As the Department of Community Affairs (Department) submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to June 12, 2018, pursuant to *N.J.S.A. 52:14B-5.1.c(2)*. The Department has reviewed these rules and has determined that they continue to be necessary and appropriate for the purpose for which they were originally promulgated and is, therefore, proposing they be readopted with amendments.

The Garden State Historic Preservation Trust Fund rules provide the procedures and criteria under which the New Jersey Historic Trust (Trust) makes grants for the planning, preservation, improvement, restoration, stabilization, rehabilitation, and protection of historic properties. The Garden State Historic Preservation Trust Fund Grants Program was established by the Garden State Preservation Trust Fund Act (Act), *N.J.S.A. 13:8C-1* et seq. Properties must be owned by the applicant organization or leased on a long-term lease basis. The minimum term required of a lease arrangement is 15 years.

The New Jersey Historic Trust, a body corporate and politic in but not of the Department of Community Affairs, is a nonprofit historic preservation organization created to preserve and protect New Jersey's historic resources. A 15-member board of trustees governs the Trust. Twelve members are private citizens appointed by the Governor. Three members serve ex-officio, representing the State Treasurer, the Commissioner of the Department of Community Affairs, and the Commissioner of the Department of Environmental Protection.

The rules proposed for readoption with amendments establish eligibility criteria for these historic preservation grants. These criteria define who is eligible to obtain a grant; what types of property can be the subject of an activity funded by a grant; and what activities are eligible for funding.

As required by the Act, *N.J.A.C. 5:101-1.1* provides the New Jersey Historic Trust with rules for the award of historic preservation grants. *N.J.A.C. 5:101-1.2* addresses the issue of severability of the rules. *N.J.A.C. 5:101-1.3* provides important definitions related to implementation of the Act and chapter. The proposed amendment to *N.J.A.C. 5:101-1.1* is necessary to incorporate the new dedicated funding source for the Historic Preservation grants program, approved in 2014 by referendum, and implemented P.L. 2016, c. 12.

N.J.A.C. 5:101-2.1 provides that an applicant for a construction or historic site management grant must be a county or municipal government agency, entity, or unit, or a non-profit organization which qualifies as tax-exempt under *section 501(c)(3) of the Internal Revenue Code*. *N.J.A.C. 5:101-2.2* and *2.3* define eligible (individually, as part of a historic district, or as part of a multiple property listing) properties for construction and historic site management grants as those listed in the National or State Register of Historic Places or those properties certified as eligible for listing by the Deputy State Historic Preservation Officer. For construction grants, the unexpired term of the lease must be 15 years or more as of the date the project's funds are appropriated by the Legislature and signed into law.

N.J.A.C. 5:101-2.4 establishes that the activities eligible for construction grant funding include preservation, rehabilitation, and restoration of an eligible property. This provision also lists non-construction costs directly related to those activities, which are also eligible for funding. *N.J.A.C. 5:101-2.5* establishes that the activities eligible for historic site management grants include preparation of documents or reports or the materials related to the preservation, restoration, and rehabilitation of a historic property, including Americans with Disabilities Act requirements. However, *N.J.A.C. 5:101-2.6* lists certain other costs which may arise in connection with the historic preservation activity, but which are not eligible for funding because they are not historic preservation activities or used for capital construction.

N.J.A.C. 5:101-2.7 sets forth the procedures for applying for a historic preservation construction or historic site management grant. The Trust will announce construction and historic site management grant rounds. The applicant is required to submit a written application on a form provided by the Trust with required documents. These documents shall contain information sufficient to enable the Trust to determine whether the applicant and the proposed project are eligible for a historic [page=280] preservation construction or historic site management grant, and the amount, which should be allocated to the project under *N.J.A.C. 5:101-3.1*.

N.J.A.C. 5:101-2.8 establishes that the applying State agencies or entities, county and municipal government agencies, entities, or units, or nonprofit organization applying for a construction grant demonstrate the ability to match the grant requested by generating \$ 1.00 in funds for every \$ 1.00 of grant money requested in the application. However, grant awards up to \$ 200,000 are eligible for a 3:2 funding match in which the Trust may provide up to 60 percent of project funding.

N.J.A.C. 5:101-2.9 establishes that the applying county and municipal government agencies, entities, or units, or nonprofit organization applying for a historic site management grant demonstrate the ability to match the grant requested by generating \$ 1.00 for every \$ 3.00 of grant money requested in the application.

N.J.A.C. 5:101-3.1 establishes the procedure for allocation of historic preservation grant funds.

N.J.A.C. 5:101-3.2 establishes the criteria for review and ranking of applications for historic preservation grants. The rules proposed for readoption also outline the criteria and procedures for reviewing construction and historic site

management grant requests. The criteria used to evaluate historic preservation construction grant applications will include the following: significance of the resource; physical condition of the property; the overall quality of the work proposed; plans for the preservation of the structure; compliance with the Secretary of the Interior's Standards and Guidelines for Historic Preservation Projects (36 CFR Part 68); administrative capability of the applicant to carry out the project; availability of applicant's match of project budget requirements; cultural and economic impact of the project on the local community; the distribution of funds to achieve a geographic and cultural balance throughout the State; financial plans for continued preservation of the project site; and degree and kind of public access. The criteria used to evaluate historic site management grant applications will include the following: the overall quality of the planning and site management work (for example, compliance with the Secretary of the Interior's Standards); the ability of the applicant to carry out the proposed work; and the cultural and economic impact of the project on the local community.

Under *N.J.A.C. 5:101-3.3*, the Garden State Preservation Trust may delete a project recommendation by the New Jersey Historic Trust for grant award approval. If, after consultation, the New Jersey Historic Trust continues to recommend funding of the project, the Garden State Preservation Trust will include the project in the next legislation to appropriate moneys. The Governor, President of the Senate, and speaker of the General Assembly will receive reports from the Garden State Preservation Trust offering its rationale for deletion and from the New Jersey Historic Trust recommending retention of the project in the proposed legislation. *N.J.A.C. 5:101-3.4* establishes the effective date that a construction project must be under contract (18 months after funds are appropriated) and work commenced (two years after funds are appropriated). A payment procedure for reimbursement for construction grants is outlined. *N.J.A.C. 5:101-3.5* establishes the effective date that a historic site management grant agreement must be in effect (within one year of the effective date of the appropriation) and a payment procedure outlined for historic site management grants. *N.J.A.C. 5:101-3.6* establishes the minimum amount of a construction grant as \$ 5,000 and the maximum as \$ 750,000.

N.J.A.C. 5:101-3.7 establishes the minimum amount of a historic site management grant as \$ 5,000 and the maximum amount as \$ 50,000. *N.J.A.C. 5:101-3.8* outlines a procedure for reallocation of lapsed construction grant funds.

N.J.A.C. 5:101-4.1 outlines the procedures on taking an easement for construction grants in excess of \$ 50,000.

N.J.A.C. 5:101-5.1 establishes the requirement of a project sign and permanent plaque or sign, acknowledging the grant assistance made available through the grant program administered by the New Jersey Historic Trust, that shall be prominently located and maintained, respectively, on the project site and on the funded structure. Furthermore, the Trust logo must be used when the grant receiving organization is publicizing those programs or documents supported by a Trust grant.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

The rules proposed for readoption with amendments have had a positive social impact by providing the financial resources to restore and sustain New Jersey's significant historic sites. Historic sites provide important education about the people and events that shaped our past.

Economic Impact

Since 1990, the Historic Trust has awarded \$ 140 million in grants to nonprofit organizations and entities of government. Because these grants require a match, this program has leveraged as much in non-State funds. Many of the sites funded through this program are heritage tourism destinations, thus contributing to New Jersey's tourism economy.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments implement a State statute and are not subject to any Federal requirements or standards.

Jobs Impact

Funding from this program generates jobs for architects, engineers, archaeologists, and preservation and museum consultants, as well as for construction jobs and building trades. Because preservation projects are typically labor inten-

sive, restoring historic fabric, rather than replacing with new materials, the associated costs tend to be spent in training and employing skilled labor.

Agriculture Industry Impact

The rules proposed for readoption with amendments would not have any impact upon the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments concern the administration of a historic preservation grant program. Grants are awarded to nonprofit organizations and entities of government. They do not impose any reporting, recordkeeping, or compliance obligations on "small businesses," as defined by the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq., or require any such businesses to obtain professional services.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments do not impact housing affordability and they are unlikely to evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments provide for the award of grants on a competitive basis for historic preservation projects, for the preservation, improvement, restoration, and rehabilitation of historic properties owned by county and municipal governments and by tax-exempt nonprofit organizations.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will not impact housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules proposed for readoption with amendments provide for the award of grants on a competitive basis for historic preservation projects, for the preservation, improvement, restoration, and rehabilitation of historic properties owned by county and municipal governments and by tax-exempt nonprofit organizations. The proposed amendments to the rules concern the historic preservation grant program by incorporating a reference for the new funding source created in P.L. 2016, c. 12, Preserve New Jersey Historic Preservation Fund. It would be unlikely to have any impact other than beneficial, upon designated centers under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 5:101*.

Full text of the proposed amendments follows (additions indicated in boldface **thus**):

[page=281] SUBCHAPTER 1. GENERAL PROVISIONS

5:101-1.1 Purpose

This chapter constitutes the rules of the New Jersey Historic Trust "in but not of" the Department of Community Affairs for the Garden State Historic Preservation Trust Fund Grants Program for the award of grants on a competitive basis for the preservation, restoration, or rehabilitation of historic properties owned by State agencies and entities, local government units, and by tax-exempt nonprofit organizations, under **P.L. 2016, c. 12**, P.L. 2007, c. 119, P.L. 2009, c. 117, and terminated or lapsed grants under P.L. 1987, c. 265, P.L. 1992, c. 88 and P.L. 1995, c. 204, and P.L. 1999, c. 152 which are to be redistributed, shall be subjected to this chapter, in accord with the Garden State Preservation Trust Act, *N.J.S.A. 13:8C-1* et seq.