

CHAPTER 101**GARDEN STATE HISTORIC PRESERVATION TRUST
FUND GRANTS PROGRAM****Authority**

N.J.S.A. 13:1B-15.114(c) and 13:8C-42.

Source and Effective Date

R.2005 d.423, effective November 2, 2005.
See: 37 N.J.R. 2598(a), 37 N.J.R. 4534(a).

Chapter Expiration Date

Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, expires on November 2, 2010.

Chapter Historical Note

Chapter 34, Garden State Historic Preservation Trust Fund Grants Program, was adopted as R.2000 d.264, effective July 3, 2000. See: 31 N.J.R. 3917(a), 32 N.J.R. 2457(a).

Pursuant to Reorganization Plan No. 001-2002, Chapter 34 of Title 15, Garden State Historic Preservation Trust Fund Grants Program, was recodified as Chapter 101 of Title 5, effective November 18, 2002. See: 34 N.J.R. 3565(a), 35 N.J.R. 1558(b).

Chapter 101, Garden State Historic Preservation Trust Fund Grants Program, was readopted by R.2005 d.423, effective November 2, 2005. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 5:101-1.1 Purpose
- 5:101-1.2 Severability
- 5:101-1.3 Definitions

**SUBCHAPTER 2. APPLICATION PROCEDURE AND
ELIGIBILITY FOR HISTORIC PRESERVATION
GRANTS**

- 5:101-2.1 Eligible applicants
- 5:101-2.2 Eligible properties: construction grants
- 5:101-2.3 Eligible properties: planning grants
- 5:101-2.4 Activities eligible for funding: construction grants
- 5:101-2.5 Activities eligible for funding: historic site management grants
- 5:101-2.6 Ineligible costs
- 5:101-2.7 Procedures
- 5:101-2.8 Matching funds: construction grants
- 5:101-2.9 Matching funds: historic site management grants

**SUBCHAPTER 3. ALLOCATION OF HISTORIC
PRESERVATION GRANT FUNDS**

- 5:101-3.1 Allocation of historic preservation grant funds
- 5:101-3.2 Criteria for review and ranking of applications for historic preservation grants
- 5:101-3.3 Proposed action by New Jersey Historic Trust if a recommended project is deleted by the Garden State Preservation Trust
- 5:101-3.4 Commencement of project and payment: construction grants
- 5:101-3.5 Commencement of project and payment: historic site management grants
- 5:101-3.6 Grant amount: construction grant
- 5:101-3.7 Grant amount: historic site management grant
- 5:101-3.8 Reallocation of lapsed grant funds

SUBCHAPTER 4. EASEMENT (COVENANTS)

- 5:101-4.1 Easement on the historic property

**SUBCHAPTER 5. ACKNOWLEDGMENT OF PUBLIC
SUPPORT: PROJECT SIGNS AND PUBLIC
INFORMATION MATERIALS**

- 5:101-5.1 Project signs and public information materials

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 Program for the award of grants on a competitive basis for the preservation, restoration or rehabilitation of historic properties in accord with the Garden State Trust Fund Act, N.J.S.A. 13:8C-1 et seq.

5:101-1.2 Severability

If a court of competent jurisdiction declares any portion of this chapter invalid, the remainder of this chapter is not to be affected.

5:101-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Garden State Trust Fund Act, N.J.S.A. 13:8C-1 et seq.

“Applicant” means the local government unit or nonprofit organization that submits an application for a historic preservation grant.

“Approved project period” means the amount of time prescribed in the project agreement in which the grant recipient must complete satisfactorily the approved historic preservation project to be eligible for the full funding authorized for the project.

“Construction grant” means the matching funds appropriated from the Garden State Historic Preservation Trust Fund for the purpose of planning and/or undertaking the preservation, restoration or rehabilitation of a historic property.

“Deputy Historic Preservation Officer” means the person designated in writing by the Commissioner of the Department of Environmental Protection to administer the State Historic Preservation Program to identify and nominate eligible properties to the State and National Registers of Historic Places.

“Fund” means the Garden State Historic Preservation Trust Fund.

“Garden State Preservation Trust” means a public body corporate and politic, with corporate succession, established in but not of the Department of the Treasury.

“Grant agreement” means a document executed by the New Jersey Historic Trust and a grant recipient which provides a specified amount of grant assistance for a historic preservation project approved by the Trust and subject to conditions to assure benefit to the public, compliance with public laws, and continued preservation of the property, structure or site.

“Grant recipient” means the applying local government unit or nonprofit organization named in a project agreement executed with the Trust that has been selected to receive grant funds for a historic preservation project.

“Historic” as applied to any property, structure, facility or site means any area, site, structure, or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L. 1970, c.268 (N.J.S.A. 13:1B-15.128 et seq.).

“Historic preservation grant” means monies approved by the New Jersey Historic Trust to fund a historic preservation project.

“Historic preservation project” means work directly related to the restoration, preservation or rehabilitation of a historic property, structure, facility or site, and shall include: any work related to providing access thereto for handicapped or disabled persons in accord with the Americans with Disabilities Act, 42 U.S.C.A. § 12101 to § 12213 and the State Barrier Free Subcode, N.J.A.C. 5:23-7; and work directly related to the planning for future preservation activities at a historic property, structure, facility or site; and site management activities at a historic property, structure, facility or site.

“Historic preservation project cost” means the expenses incurred in connection with:

1. All things deemed necessary or useful and convenient in connection with historic preservation projects;
2. The execution of any agreements or franchises as determined by the New Jersey Historic Trust to be necessary or useful and convenient in connection with any project funded in whole or in part using constitutionally dedicated moneys;
3. The procurement or provision of appraisal, archaeological, architectural, conservation, design, engineering, financial, geological, historic research, hydrological, inspection, legal, planning, relocation, surveying, or other professional advice, estimates, reports, services, or studies;

4. Management related to the funded project;

5. The undertaking of feasibility studies; and

6. Reimbursement to any fund of the State of moneys that may have been transferred or advanced therefrom to any fund established by the act, or any moneys that may have been expended therefrom for, or in connection with, the Act.

“Historic site management grant” means the matching funds appropriated from the Garden State Historic Preservation Trust Fund for the purpose of planning for the preservation, restoration or rehabilitation of a historic property, determining the feasibility of proceeding with a capital historic preservation project, or activities that aid in strengthening the local government unit or nonprofit organization’s capabilities to operate and sustain a historic site and enhance their ability to serve the public and further their mission.

“Improvement” means the act of upgrading the basic physical condition of a property in a manner consistent with the Secretary of the Interior’s Standards. This type of activity includes upgrading mechanical systems, providing appropriate barrier-free access for handicapped persons, and bringing a property into conformance with building codes.

“Local government unit” means, with respect to historic preservation projects, a county, municipality, or any agency thereof, which owns or leases on a long-term basis a historic property, or intends to own or lease on a long-term basis a historic property.

“Master Planning” is the term used to describe any of the following activities: preparation of historic preservation plan, historic structure report, site master plan, landscape plan, and feasibility study.

“National Register of Historic Places” means the national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act, as amended (16 U.S.C. §§ 470 et seq.).

“New construction” means the act or process of constructing new forms, features, and/or details that did not exist before.

“New Jersey Register of Historic Places” consists of areas, sites, structures and objects significant in American history, architecture, archaeology and culture which the Commissioner of the Department of Environmental Protection is authorized to maintain and expand under the New Jersey Register of Historic Places Act, N.J.S.A. 13:1B-15.128 et seq.

“Nonprofit organization” means a corporation organized under the New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq., qualified for tax-exempt status under the

x. As applicable to a construction grant request, the names of lessors and lessees, and, if available, a copy of a long-term lease meeting the requirements of N.J.A.C. 5:101-2.2(a)3;

xi. If the property for which a grant is requested is not owned by the applicant, the application must contain the property owner(s) written consent to the submission of an application by an eligible entity; and

xii. If the property for which a grant is requested is not listed in the New Jersey or National Register of Historic Places, a certification by the State Historic Preservation Officer that, as of the date of the Trust's receipt of the application, the historic property for which a grant is requested is approved for listing or meets the criteria for listing in the New Jersey Register of Historic Places as set forth in N.J.A.C. 7:4.

4. A notice of receipt for each application shall be sent by the Trust to each applicant.

5. The Trust will review each application for possible funding.

6. If the application is approved and funds are appropriated by law, funds are to be distributed in accord with an executed project agreement between the Trust and the applicant which specifies, among other things:

- i. The amount of grant;
- ii. The project period;
- iii. The project scope; and
- iv. Special requirements including, but not limited to, inclusion in the New Jersey Register of Historic Places.

7. Applications not funded in a given grant round shall not receive further consideration for funding by the Trust in that grant round; however, revised or new applications can be submitted in subsequent grant rounds.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).
Rewrote the section.

5:101-2.8 Matching funds: construction grants

(a) To be eligible for a construction grant for a historic preservation project under the "Garden State Historic Preservation Trust Fund," the applying local government unit and nonprofit organization, except as provided in (b) below, shall, as part of the application for 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.

(b) Local government units and nonprofit organizations awarded grants up to \$100,000 are eligible for a 3:2 funding match in which the Trust may provide up to 60 percent of

project funding. The grant recipient is responsible for a minimum of 40 percent of project funding.

(c) Funds derived from the sale of debt of the State of New Jersey or special appropriations by the State Legislature shall not be used as the matching share of project costs by nonprofit organizations or local government units.

(d) Funds expended by the applicant up to two years prior to the time of application for historic preservation projects, and of which the project described in the application is a significant and substantial part, may satisfy the matching funds requirement enumerated in (a) and (b) above if:

- 1. As part of the application, the applicant submits plans and specifications or other items documenting the expenditure of funds by the applicant and describing the work performed;
- 2. The Trust determines that the work performed is an integral part of the historic preservation project described in the application;
- 3. The work was performed in accordance with the Secretary of the Interior's Standards; and
- 4. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the total project costs requested.

(e) An applicant's matching share shall consist only of eligible cash raised or eligible expenses incurred by the applicant. If matching funds have not been spent or are not in hand at the time of application, applicants must describe in detail plans for obtaining matching funds.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (b), decreased grant amount from \$200,000 to \$100,000; in introductory paragraph (d), substituted "expended" for "raised" and "the time of application" for "June 30, 1999"; added (d)4.

5:101-2.9 Matching funds: historic site management grants

(a) To be eligible for a historic site management grant for a historic preservation project under the "Garden State Historic Preservation Trust Fund," the applying local government unit and nonprofit organization shall, as part of the application for a historic preservation grant, demonstrate the ability to match the grant requested by generating \$1.00 in funds for every \$3.00 of grant money requested in the application. Evidence of applicant match must be presented at time of application.

(b) Funds derived from the sale of debt of the State of New Jersey or special appropriations by the State Legislature shall not be used as the matching share of project costs by nonprofit organizations or local government units.

(c) Funds expended by the applicant up to two years prior to the time of application for historic preservation projects,

and of which the project described in the application is a significant and substantial part, may satisfy the matching funds requirement enumerated in (a) above if:

1. As part of the application, the applicant submits plans and specifications or other items documenting the expenditure of funds by the applicant and describing the work performed;

2. The Trust determines that the work performed is an integral part of the historic preservation project described in the application;

3. The work was performed in accord with the Secretary of the Interior's Standards; and

4. Funds spent for eligible project work prior to submission of an application shall not exceed 25 percent of the total project costs requested.

(d) An applicant's matching share shall consist only of eligible cash raised by the applicant except as provided in (b) above or funds spent by applicant on an on-going historic preservation project as provided in (c) above.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In introductory paragraph (c), substituted "expended" for "raised" and "the time of application" for "June 30, 1999"; added (c)4.

SUBCHAPTER 3. ALLOCATION OF HISTORIC PRESERVATION GRANT FUNDS

5:101-3.1 Allocation of historic preservation grant funds

(a) In each grant round, historic preservation funds are to be allocated in accord with a ranking of applications received by the Trust, subject to availability and appropriation of funds under the Act. The ranking of applications is to be established by the Trust based on criteria set forth in N.J.A.C. 5:101-3.2.

(b) The Trust reserves the right to limit funding to less than the amount requested.

(c) Of the sum of the monies deposited in the "Garden State Historic Preservation Trust Fund," up to 10 percent of monies awarded by the Trust may be utilized for historic preservation projects or programs that aid designated historic or cultural districts, municipalities, or geographic areas, including, but not limited to, Certified Local Governments, Main Street New Jersey and Urban Coordinating Council communities.

5:101-3.2 Criteria for review and ranking of applications for historic preservation grants

(a) To determine priority for construction funding, all applications for eligible historic preservation projects in a given grant round are to be ranked based on the following competitive criteria:

1. Significance of resource, which shall involve consideration of the degree to which a property is historically, archaeologically, architecturally, or culturally significant in the State, under the evaluation criteria for the New Jersey and National Registers of Historic Places;

2. The physical condition of property, including any immediate threat of collapse, demolition or inappropriate use or development; notice of code violations; and deterioration requiring stabilization;

3. The overall quality of the work proposed for funding based on the following:

i. The quality of preliminary planning or contract documents submitted, including degree to which documents comply with the Secretary of the Interior's Standards;

ii. The credentials and experience of project team or consultants; and

iii. A realistic and feasible budget and schedule for work proposed for funding;

4. The availability of funds to match the requested grant;

5. The ability of the applicant to carry out the proposed work, develop programs to sustain and interpret the property, remain accessible to the public, and provide for the long-term protection of the property;

6. The impact of project, based on the following:

i. The ability of the project to create jobs or training opportunities;

ii. The potential of the project to promote investment in and promotion of cultural and historic assets;

iii. The relationship of the proposed project to other State, county, municipal, or organizational planning initiatives or programs which will aid community revitalization, protect and preserve the built or natural environment, or improve or promote heritage education and tourism including the policies set forth in the New Jersey State Development and Redevelopment Plan, Statewide Policies No. 9 (Historic, Cultural and Scenic Resources), and the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent; and

iv. The proposed use and interpretive program for site;

7. If, at the time of application, the applicant has no legal control over the property, either in the form of a valid 15 year lease or fee simple ownership, the Trust shall evaluate the likelihood in which ownership or the required lease will be obtained within the time set by N.J.A.C. 5:101-2.2(a)3ii;

8. The degree to which the proposed project represents innovative design or programming for a historic site and the degree to which the project reaches new audiences; and

9. The distribution of funds to achieve a geographical balance as well as a balance between sizes and types of projects, diversity of audiences served by projects, and diversity of historical or cultural periods.

(b) To determine priority for historic site management grants, all applications for eligible historic preservation projects in a given grant round are to be ranked on the basis of the criteria under (a)1, 2, 4, 8 and 9 above, and the following competitive criteria:

1. The overall quality of the planning and site management work proposed for funding based on the following:

i. The quality of the preliminary planning documents and the degree to which the documents comply with the Secretary of the Interior's Standards;

ii. The credentials and experience of the project team or consultants; and

iii. A realistic and feasible budget and schedule for work proposed for funding;

2. The ability of applicant to carry out the proposed work; and

3. The impact of the project, based on the following:

i. The potential for the plans and documents developed to be used as a tool to foster the protection, preservation, restoration or rehabilitation of the historic property by a local government unit or nonprofit organization;

ii. The potential of the project to promote other preservation activity or cultural or economic activities such as heritage tourism;

iii. The potential of the project to foster appropriate site management practices that will sustain the long-term and viable use of a historic property; and

iv. The relationship of the proposed project to other State, county, municipal, or organizational planning initiatives or programs which will aid community revitalization, protect and preserve the built or natural environment, or improve or promote heritage education including the policies set forth in the New Jersey State Development and Redevelopment Plan, Statewide Policies No. 9 (Historic, Cultural and Scenic Resources), and the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent.

Amended by R.2005 d.423, effective December 5, 2005.

See: 37 N.J.R. 2598(a), 37 N.J.R. 4534(a).

In (a)6iii and (b)3iv, substituted "No. 9" for "No. 10" and added "the New Jersey State Historic Preservation Plan, with which, the New Jersey State Development and Redevelopment Plan must be consistent".

5:101-3.3 Proposed action by New Jersey Historic Trust if a recommended project is deleted by the Garden State Preservation Trust

If the Garden State Preservation Trust deletes a project that has been submitted to the Garden State Preservation Trust by the New Jersey Historic Trust for approval, the Garden State Preservation Trust shall, in consultation with the applicant and the New Jersey Historic Trust, review and reevaluate the merits and validity of the project. After completion of this review and reevaluation, if the New Jersey Historic Trust continues to recommend funding of the project, it shall transmit its reasons in writing to the Garden State Preservation Trust and place the project on the next or a subsequent list of projects submitted to the Garden State Preservation Trust. The Garden State Preservation Trust shall include the project in the next legislation to appropriate moneys from the Garden State Historic Preservation Trust Fund and send it to the Governor, President of the Senate, and Speaker of the General Assembly for consideration, together with a written report setting forth the rationale of the Garden State Preservation Trust in recommending deletion of the project from the proposed legislation and the rationale of the New Jersey Historic Trust in recommending retention of the project in the proposed legislation.

5:101-3.4 Commencement of project and payment: construction grants

(a) For a construction grant, a project agreement for a historic preservation project shall be in effect within 18 months of the effective date of the appropriation by law of the funds for the construction grant, or the grant for that historic preservation project shall lapse into the Fund.

(b) As defined in the project agreement, work on a historic preservation project funded with a construction grant shall commence within two years of the effective date of the appropriation by law for the grant, or the grant for that historic preservation project shall lapse into the Fund.

(c) After funds for a construction grant have been appropriated by the Legislature, the project agreement has been fully executed, and all eligibility requirements have been met, the grant recipient will be reimbursed for expenditures incurred for historic preservation activities which are eligible under N.J.A.C. 5:101-2.4; which are within the scope of the historic preservation project described in the project agreement subject to the Trust's approval of documents submitted under (d) below. Total reimbursements cannot exceed the amount of the grant.

(d) Reimbursement is to be made under (c) above and must be substantiated by itemized invoices, canceled checks approved by the Trust, and referenced to completed tasks within the scope of the historic preservation project described in the project agreement. Invoices must itemize cost of labor and materials and describe the work performed for which reimbursement is requested. Invoices are to be submitted for

each reporting period set forth in the project agreement and shall be accompanied by other documentation defined in the project agreement.

(e) Up to 10 percent of the total amount of each grant is to be retained by the Trust. The Trust is to deduct as retainage an amount equal to up to 10 percent of each payment approved under (d) above. The retainage is to be kept by the Trust until the historic preservation project has been completed and met financial and project requirements, including submission of required reports.

(f) The Trust may choose to advance 10 percent of grant monies to nonprofit organizations before receipt of expenditure documentation. Until such documentation is received and approved, the Trust shall make no further payments beyond the 10 percent advanced.

Amended by R.2006 d.144, effective April 17, 2006.
See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (e), rewrote percentages from five percent to up to 10 percent throughout.

5:101-3.5 Commencement of project and payment: historic site management grants

(a) For a historic site management grant, a project agreement must be in effect within 18 months of the effective date of the appropriation by law for the grant, or the grant for that historic preservation project shall lapse into the Fund.

(b) As defined in the project agreement, any work on a historic preservation project funded with a historic site management grant awarded under the Act shall commence within one year of the effective date of the appropriation by law of the funds for the grant, or the grant for that historic preservation project will lapse into the Fund.

(c) After funds for the grant have been appropriated by the Legislature, the project agreement has been fully executed, and all eligibility requirements have been met, the grant recipient will be reimbursed for expenditures incurred for historic preservation activities which are eligible for funding and which are within the scope of the historic preservation project described in the project agreement subject to the Trust's approval of documents submitted under (d) below. Total reimbursements cannot exceed the amount of the grant.

(d) Disbursement of 80 percent of the grant is to be made under (c) above once documentation of the following has been received by the Trust:

1. The project team or consultants have been retained;
2. An initial payment for retaining said project team or consultant has been paid by the grantee; and
3. A contract has been signed by both the consultant and grantee.

(e) Twenty percent of each grant is to be retained by the Trust until the project has been completed and met financial

and project requirements, including submission of required reports.

Amended by R.2006 d.144, effective April 17, 2006.

See: 38 N.J.R. 382(a), 38 N.J.R. 1655(a).

In (a), substituted "18 months" for "12 months".

5:101-3.6 Grant amount: construction grant

The minimum construction grant awarded for a historic preservation project shall be \$5,000. The maximum construction grant that may be allocated to any historic property, structure or site in a funding round of the Garden State Historic Preservation Trust Fund is \$750,000.

5:101-3.7 Grant amount: historic site management grant

The minimum grant awarded for a historic site management project shall be \$5,000. The maximum historic site management grant that may be allocated to any one historic property, structure or site in a funding round of the Garden State Historic Preservation Trust Fund is \$50,000.

5:101-3.8 Reallocation of lapsed grant funds

(a) At the discretion of the Trust, funds from lapsed or terminated projects may be:

1. Reallocated to the Fund for distribution under a future round of funding; or
2. Reallocated to unforeseen construction expenses or other historic preservation grant-aided projects. Reallocated funds are limited to those preservation costs outlined in the project agreement. Reallocated funds shall not exceed 20 percent of the historic preservation grant. The process for the reallocation of said funds shall be determined by the Trust.

SUBCHAPTER 4. EASEMENT (COVENANTS)

5:101-4.1 Easement on the historic property

(a) To assure the continued preservation of historic properties receiving construction grants in excess of \$50,000 and owned by nonprofits, and to assure that public benefit continues after the expenditure of the grant moneys, the Trust shall not make grant assistance available until an easement agreement between the Trust and the nonprofit grant recipient and all other parties having an ownership interest in the historic property is recorded. The easement agreement shall include:

1. Provision for the continued preservation of the historic property;
2. Limitations on the right to change the use, alter, demolish or convey the property; and
3. Provisions for public access to the historic property.