

This rule was filed as: 18 NMAC 31.5.

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 31 CLASSIFICATION AND DESIGN STANDARDS FOR HIGHWAYS
PART 5 BEAUTIFICATION OF HIGHWAY ROADSIDES AND MEDIANS

18.31.5.1 ISSUING AGENCY: New Mexico State Highway and Transportation Department, Post Office Box 1149, Santa Fe, New Mexico 87504-1149 (505) 827-5299.
[Recompiled 11/16/01]

18.31.5.2 SCOPE: This rule is to allow local governmental agencies, citizens' groups, adjacent property owners and others to beautify by landscaping highway roadsides and/or medians .
[Recompiled 11/16/01]

18.31.5.3 STATUTORY AUTHORITY: NMSA 1978, Sections 67-3-11, 67-3-14, 67-12-12, and 67-12-14.
[Recompiled 11/16/01]

18.31.5.4 DURATION: Permanent.
[Recompiled 11/16/01]

18.31.5.5 EFFECTIVE DATE: August 31, 1998, unless a later date is cited at the end of a section or paragraph.
[Recompiled 11/16/01]

18.31.5.6 OBJECTIVE: The objective of this rule is to establish regulations to allow local governmental agencies, citizens' groups, adjacent property owners and others to beautify by landscaping highway roadsides and/or medians.
[Recompiled 11/16/01]

18.31.5.7 DEFINITIONS:
A. "Department" means the New Mexico State Highway and Transportation Department.
B. "Guide" means A Guide for Highway Landscape and Environmental Design dated June, 1970 published by AASHTO.
[Recompiled 11/16/01]

18.31.5.8 PERMITS:
A. Local governmental agencies, citizens' groups, adjacent property owners, and others are required to submit an application for permit to beautify by landscaping highway roadsides and/or medians under the jurisdiction of the Department.
B. To apply, an application in triplicate, obtainable from the affected District office, is submitted to the affected District office for review and approval. The District office shall coordinate with the Department's Landscape Architect in approving the application. The application shall be signed by the applicant. The District Engineer and the Landscape Architect shall sign the application for the Department.
C. A site and maintenance plan shall accompany the application showing the area(s) to be landscaped and the material, both non-organic and plants, to be used in the proposed locations. This plan need not be a finished drawing, but must be sufficiently detailed to present the plan.
D. The Guide, published by AASHTO which deals with roadside and median landscaping and safety shall be adopted as the design guide.
E. As between local governmental agencies and the Department, each entity shall be responsible for liability arising from personal injury or damage to persons or property occasioned by its own employees, subject in all cases to the immunities of the Tort Claims Act (NMSA 1978, Section 41-4-1, et seq.) and any amendment thereto.
F. Private entities, adjacent property owners or others that are granted a permit shall assume the risks which accompany the performance of the landscaping along and within Department roadsides and medians. Private entities, adjacent property owners and others that are granted a permit shall make no claim of any kind against the

Department, its agents or employees for any injuries which may arise from the performance of the volunteer services permitted by this Rule.

G. Unless otherwise provided in the application, local governmental agencies, citizens' groups, adjacent property owners and others that are granted a permit shall provide all landscaping items, including but not limited to fertilizer, drip irrigation systems and related materials, and all plant materials and other materials necessary. Said items must be approved by the Department.

H. Unless otherwise agreed upon in the application, maintenance of the landscaping and systems such as drip irrigation systems shall be performed by the applicant. Electrical and water costs shall also be paid by the applicant, unless otherwise agreed upon in the application.

[Recompiled 11/16/01]

HISTORY OF 18.31.5 NMAC:

Pre-NMAC Regulatory Filing History:

The material in this Part was derived from that previously filed with the State Records and Archives under: SHTD Rule No. 88-4(L), New Mexico State Highway and Transportation Department Rule for Beautification of Highway Roadsides and Medians filed on August 2, 1988.

History of Repealed Material: [RESERVED]