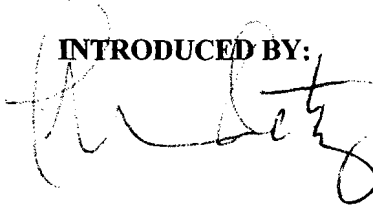


1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2008 - 39

3 INTRODUCED BY:

4 A handwritten signature in black ink, appearing to read 'The City'.

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9  
10 A RESOLUTION

11 DIRECTING THE MAYOR AND THE CITY ATTORNEY TO ENTER INTO  
12 DISCUSSIONS WITH SANTA FE COUNTY AND THE STATE OF NEW MEXICO IN  
13 ORDER TO ACHIEVE MUTUALLY ACCEPTABLE COMPLIANCE WITH THE CITY'S  
14 HISTORIC DISTRICT ORDINANCE.

15  
16 WHEREAS, the City of Santa Fe is proud of its cultural and historical significance  
17 among North American communities; and

18 WHEREAS, in order to preserve the City's cultural and historical significance, the City  
19 of Santa Fe adopted a Historic Design Review process for certain properties within the City of  
20 Santa Fe; and

21 WHEREAS, the purpose of the historic district requirements set forth in Section 14-5.2  
22 SFCC 1987 is to "... to promote the economic, cultural, and general welfare of the people of the  
23 City and to ensure the harmonious, orderly and efficient growth and development of the City, ...  
24 that the qualities relating to the history of Santa Fe, and a harmonious outward appearance, which  
25 preserve property values and attract tourists and residents alike, be preserved...".

1           **WHEREAS**, there are ongoing and proposed projects by Santa Fe County and by the  
2 State of New Mexico that may fall within the overlay district created by the City of Santa Fe; and

3           **WHEREAS**, municipalities may apply zoning ordinances to the State or political  
4 subdivisions of the state only if authorized by state statute; and

5           **WHEREAS**, the state enacted the Historical District and Landmark Act in 1961  
6 authorizing municipalities to regulate and preserve historic districts; and

7           **WHEREAS**, NMSA 1978 § 3-22-2 of the Act clearly states that “it is the intention of  
8 Historic District and Landmark Act to empower counties and municipalities of this state with as  
9 full and complete powers to preserve . . . the historic areas . . . as it is possible for this legislature  
10 to permit under the constitution.”; and

11           **WHEREAS**, the constitution unquestionably permits the legislature to authorize  
12 municipalities to apply their zoning requirements to the State and its political subdivisions and  
13 that authority is necessarily subsumed in a grant of “as full and complete powers . . . as it is  
14 possible for this legislature to permit.” ; and

15           **WHEREAS**, in *City of Santa Fe v. Armijo*, 96 N.M. 663 (1981), the New Mexico  
16 Supreme Court ruled that that City could not apply historical district zoning ordinances to state  
17 land so as to enjoin the Commissioner from maintaining oil field pumping rig where there were  
18 no state statutes authorizing application of such ordinances to state property when City had  
19 enacted its historical district zoning ordinances and the City had not brought its earlier enacted  
20 ordinance under the state law; and

21           **WHEREAS**, shortly after the *Armijo* decision the City brought its historic district zoning  
22 ordinance under the state statute with the enactment of Section 14-5.2(A)(2) SFCC stating that  
23 “Pursuant to §3-22-1 through 3-22-5 NMSA 1978, it is the intent of the City of Santa Fe that the  
24 provisions of this section shall apply to the state of New Mexico and any of its agencies, political  
25 subdivisions or instrumentalities, as well as to any other entity or activity in the Historic

1 Districts.”; and

2           **WHEREAS**, on other occasions, the City of Santa Fe has used a declaratory judgment  
3 action to assert and to clarify its municipal powers; and

4           **WHEREAS**, there is an overarching interest by the community in preserving the  
5 integrity of the City of Santa Fe’s zoning authority and in the uniform applicability of the City of  
6 Santa Fe’s zoning authority for all properties, whether privately or publicly owned.

7           **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
8 **CITY OF SANTA FE that:**

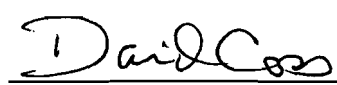
9           1.       The City of Santa Fe intends to apply the City’s historic district zoning  
10 requirements set forth in Chapter 14-5.2 SFCC 1987 to the design and construction of  
11 government buildings within the City.

12           2.       The Governing Body hereby directs the Mayor and the City Attorney to enter  
13 into discussions with the State of New Mexico and Santa Fe County to ascertain, determine and  
14 report back to the Governing Body, at their earliest possible convenience, how to achieve  
15 mutually acceptable compliance by Santa Fe County and by the State of New Mexico with the  
16 current or an amended version of City of Santa Fe Historic District Zoning Ordinance.

17           3.       Should there be a report back to the Governing Body that it does not appear  
18 likely that the City can reach agreement with either or both governmental entities on the  
19 application to it of the City of Santa Fe Historic District Zoning Ordinance as currently in force or  
20 as may be amended, the City Attorney is charged to take all reasonable and immediate steps to  
21 pursue an opinion from the Attorney General on the applicability of the City of Santa Fe Historic  
22 District Zoning Ordinance to any such entity.

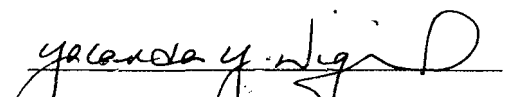
23           PASSED, APPROVED and ADOPTED this 28<sup>th</sup> day of May, 2008.

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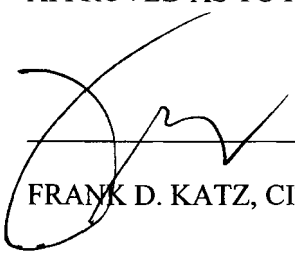
DAVID COSS, MAYOR

ATTEST:

  
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YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_

FRANK D. KATZ, CITY ATTORNEY