

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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2005 AUG 30 P 3:28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Division of Culture and History TITLE NUMBER: 82

RULE TYPE: Procedural Rule CITE AUTHORITY: §29-1-3

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

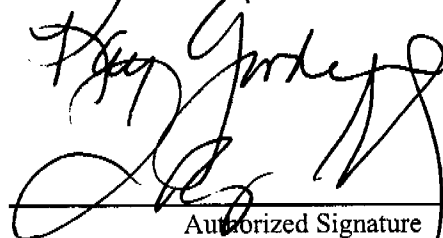
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 10

TITLE OF RULE BEING PROPOSED: West Virginia Certified Arts Community Designation

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 9-30-05 AT 5:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

WV Division of Culture and History
The Cultural Center, Capitol Complex
1900 Kanawha Blvd., East
Charleston, WV 25305-0300
Contact: Richard H. Ressmeyer
Director of Arts
304 558-0240, ext. 721; e-mail to:
richard.ressmeyer@wvculture.org

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Certified Arts Community Designation

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Division of Culture and History

Address: The Cultural Center
1900 Kanawha Blvd., East
Charleston, WV 25305-0300

Phone Number: 304 558-0240 Email: richard.ressmeyer@wvculture.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The designation of West Virginia Certified Arts Community is an honorary title given to communities. Such a designation will have neither costs nor revenues to state government. Review of the applications will be done by existing staff of the Arts Section of the West Virginia Division of Culture and History and the West Virginia Commission on the Arts members.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0'00	0'00	0'00
Personal Services	0.00	0.00	0'00
Current Expenses	0.00	0.00	0'00
Repairs & Alterations	0.00	0.00	0'00
Assets	0.00	0.00	0'00
Other	0.00	0.00	0'00
2. Estimated Total Revenues	0.00	0.00	0'00

Rule Title: _____

Rule Title: West Virginia Certified Arts Community Designation

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: _____

Signature of Agency Head or Authorized Representative

Gay Gordon 8/24/05

Procedural TITLE 82
~~LEGISLATIVE~~ RULE
DIVISION OF CULTURE AND HISTORY

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SERIES 10

WEST VIRGINIA CERTIFIED ARTS COMMUNITY DESIGNATION
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§82-10-1. General

- 1.1. Scope. - This Procedural Rule provides the administrative procedures and requirements for application by a city, town, county or other civil jurisdiction for designation as a "Certified Arts Community" under West Virginia Commission on the Arts' West Virginia Certified Arts Community Program.
- 1.2. Authority. - W. Va. Code §29-1-3
- 1.3. Filing Date. -
- 1.4. Effective Date. -

§82-10-2. Definitions

- 2.1. "Arts community" means that city, town, county or other civil jurisdiction making application to the program.
- 2.2. "Commission" means West Virginia Commission on the Arts established by W. Va. Code §29-1-3.
- 2.3. "Director of Arts and Arts Staff" as established by W. Va. Code §29-1-4.
- 2.4. "Governing body" means the elected officials that administer the municipality or county that seeks the designation.
- 2.5. "Required attachments" means letters of support, resolutions of governing authorities, and other documentation of fulfillment of qualification under Priorities §82.10.3 and Eligibility Requirements §82-10-4 (below).

§82-10-3. Priorities.

- 3.1. The following applications will be given priority in awarding designation as a "certified arts community." They are communities that (a) annually support two or more arts organizations, providing volunteer governance, financial contributions, and

audiences for arts programming; (b) that have governing bodies (municipal or county) that have adopted a resolution indicating recognition of the importance of the arts to economic development, educational quality, and civic involvement; and (c) and have demonstrated success in realizing the benefits of cooperation between arts, humanities, and heritage groups, and business leaders and jurisdictional agencies.

§82-10-4. Eligibility Requirements.

Organizations eligible for review must be able to meet the following requirements by the application deadline:

4.1. A grant applicant must be one of the following:

4.1.1 An agency of municipal or county government, including county school boards.

4.1.2 A not-for profit, tax-exempt West Virginia corporation as defined in 501(c)(3) and 501(c)(4) of the Federal Internal Revenue Code of 1954 and as designated in compliance with §170 of that code at the time of application and prior to the release of funds.

4.2. An applicant must submit:

4.2.1. A completed and signed Certified Arts Community Designation Program Application Form, including any required attachments.

§82-10-5. Application Review and Evaluation.

5.1. The following criteria shall be used to evaluate each request for West Virginia Certified Arts Community Designation: (a) arts organizations or other eligible non-profits or government agencies made annual applications to the West Virginia Commission on the Arts (WVCA) for community arts projects; (b) schools in the community make annual applications to WVCA for Arts in Education (including Mini Grants for teaching artists fee support) projects; (c) the community has benefited by involving artists on planning committees for beautification projects and other civic projects; (d) the community has begun coordinated cultural planning; and, (e) there has been steady and/or recent growth of a local arts council.

- 5.2. Applications for the West Virginia Certified Arts Community Designation will be reviewed by the Director of Arts and Arts Section Staff at the West Virginia Division of Culture and History. Applications receiving a successful review will be nominated for the designation to the WVCA.
- 5.3. The recommendations of the Director of Arts regarding any application for the designation will be reviewed, approved, amended, or rejected by a majority of the full Commission.

§82-10-6. Appeals.

- 6.1. General. -- Any applicant denied the Certified Arts Community Designation under the provisions of this rule may appeal to the Commission by writing to the Director of Arts, requesting that the application be reconsidered. The letter of appeal must be received no later than sixty days after notice of denial.
- 6.2. Limited Consideration. -- Appeals will be considered only if the applicant can document specific examples that demonstrate that the application was misrepresented or improperly reviewed.
- 6.3. Appeal Process. -- The Director of Arts will review the letter of appeal and submit it with the original application to the Commission for consideration at their next regular meeting. The Commission will review the appeal and act on it during that meeting. The Director of Arts shall notify the applicant within ten days of the decision of the Commission.
- 6.4. New Materials and New Requests. -- If an applicant appeals a denial and submits new material to the designation that is the subject of the appeal, the request will be treated as a new application. New applications will be reviewed in the next grant cycle.

§82-10-7. Entitlements of the Designation as a West Virginia Certified Arts Community.

- 7.1. A community approved by the WVCA to receive the designation of Certified Arts Community will be eligible to display banners, signs and other promotional devices to announce the designation.
- 7.2. The design and content of the banners, signs and other promotional devices will be approved by the WV Division of

Culture and History and will include the logo of the Division.

- 7.3. The cost of the banners, signs or other promotional devices will be borne by the community receiving the designation and not by the WV Division of Culture and History or funds under the discretion of the WV Commission on the Arts.

§82-10-8. Evaluation and De-certification

- 8.1 A Certified Arts Community may be evaluated by the WV Commission on the Arts at any time, three years after the effective date of certification.
- 8.2 If the evaluation conducted finds that the Certified Arts Community no longer meets the previously stated criteria, or if actions by the community have not supported the criteria, the Commission may choose to de-certify the community, which would remove all entitlements previously received as a Certified Arts Community.

**SUMMARY OF PROPOSED RULE
STATEMENT OF CIRCUMSTANCES
TITLE 82 SERIES 10**

West Virginia Certified Arts Community Designation

This Legislative Rule provides the administrative procedures and requirements for application by a city, town, county or other civil jurisdiction for designation as a "Certified Arts Community" under West Virginia Commission on the Arts' West Virginia Certified Arts Community Program.

The purpose of the designation is to recognize communities that have realized the benefits of cooperation between arts and humanities groups, business leaders and jurisdictional agencies. This designation will be offered to towns, cities, counties that can qualify by application, satisfaction of eligibility and review criteria and documentation that the governing body of the community, city or county, has adopted a resolution indicating recognition of the importance of the arts to economic development, educational quality, and civic involvement.