

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

Form #2

Do Not Mark In This Box

FILED

2005 AUG 30 P 3: 28

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Culture and History TITLE NUMBER: 82

RULE TYPE: Procedural CITE AUTHORITY: 29-1-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

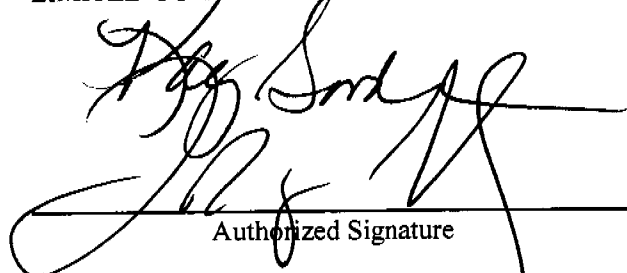
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 11

TITLE OF RULE BEING PROPOSED: West Virginia Historic Preservation 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 9-30-2005 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
Kanawha Blvd., East
Charleston, WV 25305-0300
Contact: Susan M. Pierce
Deputy State Historic
Preservation Officer
304-558-0240
susan.pierce@wvculture.org

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.80

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: WV Historic Preservation Designation

Type of Rule: Legislative Interpretive Procedural

Agency: Culture and History

Address: The Cultural Center
1900 Kanawha Boulevard East
Charleston, WV 25305

Phone Number: 558-0240 Email: susan.pierce@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 Certified Historic Preservation Communities 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 and the Archives and History Commission 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:

WV Historic Preservation 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: 7/12/05

Signature of Agency Head or Authorized Representative

Key Gordon 8/24/05

Procedural

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

FILED

2005 AUG 30 P 3: 28

SERIES 11
WEST VIRGINIA CERTIFIED HISTORIC PRESERVATION COMMUNITY
DESIGNATION
WEST VIRGINIA
SECRETARY OF STATE

§82-11-1. 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 Historic Preservation Community" under West Virginia Archives and History Commission, West Virginia Certified Historic Preservation Community Program.
- 1.2. Authority. - W. Va. Code §29-1-5
- 1.3. Filing Date. -
- 1.4. Effective Date. -

§82-11-2. Definitions

- 2.1. "Preservation community" means that city, town, county or other civil jurisdiction making application to the program.
- 2.2. "Commission" means West Virginia Archives and History Commission established by W. Va. Code §29-1-5.
- 2.3. "Director of Historic Preservation Section and Staff" as established by W. Va. Code §29-1-8.
- 2.4. "required attachments" means letters of support, resolutions of governing authorities, and other documentation of fulfillment of qualification under Eligibility Requirements §82-11-3 (below).

§82-11-3. Eligibility Requirements.

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

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

3.1.1 An agency of municipal or county government.

3.1.2 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.

3.2. An applicant must submit:

3.2.1A completed and signed Certified Historic Preservation Community Designation Program Application Form, including any required attachments.

§82-11-4. Application Review and Evaluation.

4.1 Applications for the West Virginia Certified Historic Preservation Community Designation will be reviewed by the Director of the Historic Preservation Section and staff at the West Virginia Division of Culture and History. Applications will be forwarded to the Commission. Applications receiving a successful review will be recommended for designation as a Certified Historic Preservation Community.

4.2 The recommendations of the Director of Historic Preservation Section regarding any application for the designation will be reviewed, approved, amended, or rejected by a quorum of the Commission.

4.3 A Certified Historic Preservation Community will be required to (a) have supported (within the last three years) an historic preservation project that promotes heritage tourism or otherwise fosters economic vitality (the project must have involved a public-private partnership between government entities and at least one civic association, non-profit organization, or business enterprise); and (b) have adopted (within the last three years) a resolution indicating its commitment to the preservation of its heritage assets.

- 4.4 The community will be evaluated and required to meet at least three of the criteria below, including at least one from each category:

Category 1: Discovering Heritage through Historic Places

- a. An ongoing, publicly available inventory of historic places.
- b. An active community supported museum, or interpretive facility archive, or local history records collection (public or private).
- c. Active citizen volunteer involvement, such as a docent or guide program for interpretation of local history and culture, or volunteer participation in improving the condition of heritage assets within the community.
- d. Ongoing opportunities for children to learn about local heritage in the schools, either through established curriculum or a special outreach program.

Category 2: Protecting Historic Resources

- a. An active historic landmark commission, created by the local governmental entity through an ordinance, charged with leading historic preservation activities within the community.
- b. An adopted community-wide historic preservation plan that is being implemented.
- c. An historic preservation review ordinance and volunteer or professional staff to implement it.

Category 3: Promoting Historic Assets

- a. An active local heritage tourism program or participation in a regional program, with such promotional material as a walking/driving trail or itinerary, map of historic resources, etc.
- b. A regularly scheduled heritage observation or event.
- c. An historic preservation awards or recognition program.

§82-11-5. Appeals.

- 5.1. General. Any applicant denied the Certified Historic Preservation Community Designation under the provisions of this rule may appeal to the Commission by writing to the Director of Historic Preservation, requesting that the application be reconsidered. The letter of appeal must be received no later than sixty days after notice of denial.

- 5.2. Limited Consideration. Appeals will be considered only if the applicant can document specific examples that demonstrate that the application was misrepresented or improperly reviewed.
- 5.3. Appeal Process. The Director of Historic Preservation 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 Historic Preservation shall notify the applicant within ten days of the decision of the Commission.
- 5.4. New Materials and New Requests. If an applicant appeals a denial and submits new material or adds new purposes to the project which is the subject of the appeal, the request will be treated as a new application. New applications will be reviewed in the next regularly scheduled Commission meeting.

§82-11-6. Entitlements of the Designation as a West Virginia Certified Historic Preservation Community.

- 6.1. A community approved by the WV Archives and History Commission to receive the designation of Certified Preservation Community will be eligible to display banners, signs and other promotional devices to announce the designation.
- 6.2. 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.
- 6.3. 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 Archives and History Commission.

§82-11-7. Evaluation and Decertification

- 7.1. Certified Historic Preservation communities may be evaluated by the WV Archives and History Commission at any time, three years after the effective date of certification.

7.2. If the evaluation conducted finds that the Certified Historic Preservation 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 Historic Preservation Community.

**SUMMARY OF PROPOSED RULE
STATEMENT OF CIRCUMSTANCES
TITLE 82 SERIES 11**

West Virginia Certified Historic Preservation 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 Historic Preservation Community” under the West Virginia Archives and History Commission’s West Virginia Certified Historic Preservation Community Program.

The purpose of the designation is to recognize communities that have realized the benefits of historic preservation, promoted preservation projects and issues, and have tangible evidence of their efforts. 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 historic preservation to economic development, educational quality, and civic involvement.