

NOTICE OF INTENT

Department of Culture, Recreation & Tourism Office of Cultural Development

Cultural Districts (LAC 25:I.Chapter 11)

The Louisiana Department of Culture, Recreation and Tourism, Office of Cultural Development proposes to adopt the following rule pursuant to Act 298 of the 2007 Regular Session of the Legislature, in accordance with the provisions of the Louisiana Administrative Procedure Act, La. R.S. 49:950 et seq. The rule sets forth the standards and procedures for the creation and management of cultural products districts, also called cultural districts, which may be used by local governing authorities as a mechanism for community revitalization through the creation of hubs of cultural activity.

Title 25 Cultural Resources Part I. Office of Cultural Development Chapter 11. Cultural Districts

§ 1101. Purpose and Authority

- A. This Chapter sets forth the standards and procedures for the creation and management of cultural products districts, also called cultural districts, which may be used by local governing authorities as a mechanism for community revitalization through the creation of hubs of cultural activity.
- B. These regulations are adopted pursuant to Act 298 of the 2007 Regular Session of the Louisiana Legislature

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1103. Definitions

The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

- A. *Assistant secretary* - the assistant secretary of the office of cultural development, Department of Culture, Recreation and Tourism

- B. *Cultural products district* or *cultural district* - an area designated by a local governing authority and certified by the Department of Culture, Recreation and Tourism in accordance with the statutory and regulatory procedures, standards, and criteria pertaining to such districts, which district shall be created for the purpose of revitalizing a community by creating a hub of cultural activity, which may include affordable artist housing and workspace.
- C. *Department* - the Department of Culture, Recreation and Tourism
- D. *Local governing authority* - the governing authority of the parish in which the Cultural District is located unless the district is located within a municipality, in which case “local governing authority” shall mean the governing authority of the municipality. If the district is located partly in a municipality, “local governing authority” shall mean the governing authority of the parish and the governing authority of the municipality.
- E. *Secretary* - the secretary of the Department of Culture, Recreation and Tourism

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1105. Application

- A. A local governing authority may submit to the department an application to designate and certify a specified geographic area as a cultural district.
- B. Applications shall be submitted in accordance with the timetable and in the format provided by department policy.
- C. If the department, acting through the assistant secretary, deems the application incomplete or requires additional information, the department shall notify the local governing authority through its designated contact, and in such notice, the department shall specify the deficiencies and/or information required to complete the application.
 - 1. If the local governing authority is notified of a deficiency in the application or additional information is requested, the local governing authority shall remedy the deficiency or provide the requested information within 30 days after issuance of the notice of deficiency.
 - 2. If the local governing authority does not remedy the deficiency or provide the requested information within 30 days of receipt of the notice of deficiency, the application will be deemed incomplete and will not be reviewed further.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1107. Criteria

- A. The assistant secretary shall evaluate the proposed cultural district to determine whether it meets the mandatory criteria set forth in R.S. 47:305.56
- B. If the proposed district meets the mandatory criteria, the assistant secretary shall then evaluate the potential of the proposed cultural district to accomplish the following purposes:
 - 1. Revitalize a neighborhood or area;
 - 2. Stimulate the economy;
 - 3. Engage residents;
 - 4. Draw tourists;
 - 5. Provide a sense of community;
 - 6. Serve as a gathering place;
 - 7. Encourage creativity;
 - 8. Strengthen community partnerships;
 - 9. Promote the arts and support artists;
 - 10. Develop a positive image for the area;
 - 11. Enhance property values; and
 - 12. Capitalize on local cultural, economic and social assets.

§ 1109. Determination and Appeals

- A. The department, through the assistant secretary, will notify the local governing authority in writing whether the proposed cultural district has been certified as proposed, has been certified with amendments, or has been returned with no action.

- B. Within 30 days of the local governing authority's receipt of the decision of the department, the local governing authority may submit a request for administrative review to the secretary. A request for administrative review shall include the following:
1. Identification of the decision to which the request pertains;
 2. A statement of the decision sought;
 3. A statement of the facts and reasons upon which such relief is requested; and
 4. The name and address to which the department will send all communications regarding the request.
- C. The effective date of the certification shall be the date specified in the final written notice of approval.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1111. Reporting requirements

- A. By January 31 of each year, the local governing authority shall prepare and submit to the department an annual report on the impact of the certified cultural district with regard to the purposes of the creation of a cultural district.
- B. The local governing authority shall submit the annual report in the format set forth by the department.
- C. The annual report shall reflect the activity of the prior calendar year.
- D. The annual report shall also include cumulative data reflecting activity since the date of the creation of the cultural district.
- E. The report shall include information that describes the impact of the tax exemption programs, the tax credit programs, and any other factors that describe the impact of the cultural district on the community, which information shall include but is not limited to:
1. The number, value, and type of historic rehabilitation tax credits applied for;
 2. The number, value, and type of historic rehabilitation tax credits awarded;

3. The value of investment in the district through rehabilitation projects or other projects;
 4. The number of occupied buildings and use of those buildings;
 5. The number of vacant buildings;
 6. The sales tax revenue generated in the district;
 7. The amount of sales tax revenue not collected on sales of original, one of a kind works of art; and
 8. Any other evidence of the level of cultural activity in the district.
- F. If the local governing authority fails to submit the annual report timely, the department shall report such failure to the House Committee on Ways and Means, the Senate Committee on Revenue and Fiscal Affairs, and the local legislators in whose legislative districts the cultural district is located.
- G. If the local governing authority fails to submit the annual report, the department may revoke certification of the cultural district using the procedure set forth in Section 1119. Such revocation shall not become effective less than one year from the date the department issues the notice of failure to the local governing authority

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1113. Sales Tax Exemption

- A. Sales and use taxes imposed by the state of Louisiana or any of its political subdivisions shall not apply to the sale of original, one-of-a-kind works of art from an established location within the boundaries of a cultural district.
- B. An established location shall be any location within the boundaries of the cultural district.
- C. Vendors of original, one-of-a-kind works of art should register with the department in order to receive regular communication from the office of cultural development and the Department of Revenue on rulings, guidelines, and advice regarding the implementation of this provision. If a vendor meets the definition of a dealer as provided in R.S. 47:301(4), then the vendor must register with the Department of Revenue as provided by law.

- D. Vendors shall certify and document the tax-exempt sale of original, one-of-a-kind works of art in the format prescribed by the Department of Revenue, and shall include the following:
1. A description of the work of art including its medium and dimensions, the name of the artist, its date of creation, and the name, contact information, and qualifications of the person vouching for this information; and
 2. A statement by the vendor certifying that to the best of his knowledge the work of art meets the definition of a tax-exempt work of art.
- E. The certificates and documents described above shall be retained by the vendor for purposes of audit. Vendors shall provide to the purchaser documentation in the form of an exemption certificate certifying the purchase of an original, one-of-a-kind work of art.
- F. Vendors shall submit copies of said certificates and documentation to the local governing authority and the department on an annual basis, by January 1, for the activity of the preceding year, and the vendor shall retain copies of said certificates and documentation for inspection by the Department of Revenue.
- G. Prior to the sale, vendors may seek advance advisory opinions from the department, acting through the office of cultural development, to determine whether a specific work of art meets the definition of a tax-exempt work of art.
- H. After the sale and upon request of any taxing authority, the office of cultural development, may issue rulings on whether a specific work of art meets the definition of a tax-exempt work of art.
- I. 1. A work of art is tax exempt if it is sold from an established location within a cultural district and it is:
- a. Original;
 - b. One-of-kind, except as further defined in subsection 2;
 - c. Visual art;
 - d. Conceived and made by hand of the artist or under his direction; and
 - e. Not intended for mass production.
2. Examples of eligible media and products include:
- a. Visual arts and crafts, including but not limited to drawing, painting, sculpture, clay, ceramics, fiber, glass, leather, metal, paper, wood, or mixed media; and
 - b. Limited, numbered editions (up to 100) of lithographs, photography, silk screen, intaglios, etchings, graphic design,

giclees, installation art, light sculpture, digital sculpture, video production, and wearable art

3. Examples of ineligible media and products include:
 - a. Performing art;
 - b. Food products;
 - c. Live plants, such as bonsai trees, floral arrangements, wreaths, and garland;
 - d. Music recordings; and
 - e. Reproductions

- J. If an audit reveals that sales tax was not collected properly on a work of art, the vendor or purchaser shall remit the amount of the uncollected tax to the proper taxing authorities, along with any penalties or fees. This provision does not affect the assessment and collection procedures undertaken by the Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1115. Boundaries

- A. Following adequate public notice and a period for public comment, a local governing authority may submit to the department an application to amend the boundaries of an established cultural district.

- B. Applications shall be submitted in accordance with in the format provided by the department, and shall include:
 1. Identification of the changes from the current to proposed boundaries
 2. A description of the zoning and/or use of the property that would be included or excluded under the proposed boundary change
 3. The reasons for the proposed change
 4. Documentation that the public was notified of the proposed boundary change and had an opportunity to respond in writing to support or oppose the change
 5. All letters, statements, surveys or other indicia of support for the boundary change, including a resolution of support by the local governing entity

6. All letters, statements, surveys or other indicia of opposition to the proposed boundary change, to the extent such are known or should be known to the local governing authority
- C. If the department deems the application incomplete or requires additional information, the department shall notify the local governing authority through its designated contact, and in such notice, the department shall specify the deficiencies and/or information required to complete the application. The local governing authority shall remedy the deficiency as set forth in Section 1105.
- D. The department shall inform the local governing authority whether the proposed boundary change has been approved as proposed or has been returned with no action.
- D. Within 30 days of the local governing authority's receipt of the decision of the department, acting through the assistant secretary, the local governing authority may submit a request for administrative review to the secretary by following the procedure outlined in Section 1109 B.
- E. The effective date of the approved boundary change shall be one year from the date the local governing authority receives final approval from the department.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1117. Termination by Local Governing Authority

- A. Following adequate public notification and a period for public comment, a local governing authority may terminate the existence of an established cultural district by resolution or ordinance.
- B. At a minimum, the local governing authority shall publish notice of its intent to terminate the cultural district in the local newspaper and shall take all necessary and reasonable steps to contact by mail all property owners, tenants, the department, and any other organization or individual who has requested to receive such notices.
- C. The notice shall include:
 1. Identification of the cultural district to be terminated
 2. The reasons for the proposed termination

3. The name and contact information for the individual to whom the public to submit comments to support or oppose the termination.
 4. The date, time, and location of a public hearing, if any.
 5. The deadline to receive public comment.
- D. The effective date of the termination shall be the date specified in the written notice, and which shall be not less than one year from the date of the notice.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

§ 1119. Termination by the State

- A. The department may initiate procedures to revoke certification of a cultural district under the following circumstances:
 1. The local governing authority fails to submit the required reports and documentation set forth in this Chapter
 2. The local governing authority fails to submit the required reports and documentation timely, accurately, or completely.
 3. The mandatory criteria, goals, or objectives are no longer met.
 4. A cost-benefit analysis conducted or approved by the department reveals that the cultural district is no longer in the public interest.
- B. Following adequate public notification and a period for public comment, the department may proceed with the revocation of certification of a cultural district as follows.
 1. The department shall provide the public notice of its intent to revoke certification of the cultural district through advertisement in the local journal and through written notice by mail to the local governing authority through its designated contact.
 2. The notice shall set forth the facts that warrant termination, the proposed date of termination, and the procedure by which a member of the public may submit comment, feedback, or opposition.

3. Any person who would be aggrieved by the proposed revocation shall have 60 days to request reconsideration of the revocation, which request shall include documentation or other evidence that revocation is not warranted.
4. The department shall issue its final decision no less than ninety days following its initial notice of intent to revoke certification.
5. The effective date of the revocation shall be the date specified in the written notice of intent, and which shall be not less than one year from the date of public notice.

AUTHORITY NOTE: Promulgated in accordance with Act 298 of the 2007 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, LR 34:

Family Impact Statement

The proposed rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities are not required to create cultural districts. Local governmental entities that choose to create cultural districts are required to file an annual report on the impact of the cultural district. Local tax collectors will have to become knowledgeable of the sales tax exemption created by statute, as implemented under the proposed rule.

All interested persons are invited to submit written comments on the proposed rule to Gaye Hamilton, Office of Cultural Development, P.O. Box 44247, Baton Rouge, LA 70804. Such comments must be received no later than February 10, 2008 at 4:00 p.m.