

# **Title 24 DEPARTMENT OF COMMERCE**

## **Subtitle 05 ECONOMIC DEVELOPMENT**

### **Chapter 26 Arts and Entertainment Districts**

**Authority: Economic Development Article, §§2-108, 4-701—4-707, Annotated Code of Maryland**

#### **.01 Purpose.**

This chapter describes the procedures that will be used by the Secretary of Commerce to designate arts and entertainment districts.

#### **.02 Scope and Administration.**

The Secretary of Commerce shall administer the Arts and Entertainment Districts Program. Local jurisdictions shall administer certain activities related to designation and taxes. The Department of Assessments and Taxation and the Comptroller shall administer activities related to revenue and taxes. The procedures set forth in this chapter are applicable to the designation of arts and entertainment districts and the administration of the State Arts and Entertainment Districts Program.

#### **.03 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Artistic Work.

(a) “Artistic work” means an original and creative work, whether written, composed, or executed, within one of the following categories:

(i) A book or other writing;

(ii) A play or performance of a play;

(iii) A musical composition or the performance of a musical composition;

(iv) A painting or other picture;

(v) A sculpture;

(vi) Traditional or fine crafts;

(vii) The creation of a film or the acting within a film;

(viii) The creation of a dance or the performance of a dance; or

(ix) The creation of original jewelry, clothing, or design.

(b) "Artistic work" includes any product generated as a result of any of the categories listed under §B(1)(a) of this regulation.

(c) "Artistic work" does not include any piece or performance created or executed for industry-oriented or industry-related production, such as a commercial or advertising copy.

(2) Arts and Entertainment District.

(a) "Arts and entertainment district" means a developed district of public and private uses that:

(i) May be a portion of a county or municipal corporation or a district with a special coherence that crosses jurisdictional lines;

(ii) Is distinguished by physical and cultural resources that play a vital role in the life and development of the community and contribute to the public through interpretive, educational, and recreational uses; and

(iii) Is a contiguous geographic area of a county that is wholly within a priority funding area as provided under State Finance and Procurement Article, §5-7B-02, Annotated Code of Maryland.

(b) "Arts and entertainment district" in Queen Anne's County may be composed of a noncontiguous area in the county, including a noncontiguous area within a municipal corporation in the county, as established by the governing body of the county.

(3) "Arts and entertainment enterprise" means a for-profit or nonprofit entity dedicated to visual or performing arts, excluding adult entertainment.

(4) "Department" means the Department of Commerce.

(5) "District incentives" means the financial incentives described in Economic Development Article, §4-706, Annotated Code of Maryland, for a qualifying residing artist and an arts and entertainment enterprise in an arts and entertainment district.

(6) "Effective date" means the July 1 following the designation of the district by the Secretary.

(7) "Fund" means the Maryland Economic Development Assistance Fund.

(8) "Political subdivision" means a county or municipal corporation in the State.

(9) "Qualifying residing artist" means an individual who:

(a) Owns or rents residential real property in the State and conducts an arts or entertainment-related business in any arts and entertainment district; and

(b) Derives income from the sale or performance within any arts and entertainment district of an artistic work, excluding adult entertainment, that the individual wrote, composed, or executed within any arts and entertainment district, either solely or with one or more other individuals.

(10) "Secretary" means the Secretary of Commerce.

(11) "State fiscal year" means the period from July 1 through June 30.

(12) "Submission date" means October 1 and April 1 of any calendar year.

## **.04 Eligible Applicants and District Designation.**

A. Subject to the requirements of this chapter, the Mayor and City Council of Baltimore City or the governing body of a county or municipal corporation may apply to the Secretary for designation of an arts and entertainment district in the county or municipal corporation.

### B. County Application.

#### (1) Municipal Consent.

(a) A county may apply to the Secretary for designation of an area in the county as an arts and entertainment district, but if all or any portion of the area is within the boundaries of a municipal corporation, the governing body of the municipal corporation must first consent.

(b) The governing body of the municipal corporation shall state in its application whether, if the district is designated, it will offer the property tax credit under Tax-Property Article, §9-240, Annotated Code of Maryland, and the exemption from the admissions and amusement tax under Tax-General Article, §4-104, Annotated Code of Maryland, in the district.

(c) The required consent of the municipal corporation shall be obtained before submission of the application for designation and the consent document shall be included as part of the application.

(d) The required consent document shall be in the form required by local law or the governing body of the municipal corporation, or both.

(2) The county shall state in its application that, if the district is designated, it will offer the property tax credit under Tax-Property Article, §9-240, Annotated Code of Maryland, and the exemption from the admissions and amusement tax under Tax-General Article, §4-104, Annotated Code of Maryland, in the district.

### C. Municipal Corporation Application.

(1) A municipal corporation may apply to the Secretary for designation of an area in the municipal corporation as an arts and entertainment district.

(2) The municipal corporation shall state in its application that, if the district is designated, it will offer the property tax credit under Tax-Property Article, §9-240, Annotated Code of Maryland, and the exemption from the admissions and amusement tax under Tax-General Article, §4-104, Annotated Code of Maryland, in the district.

(3) Before a municipal corporation may apply for a designation, it shall obtain the acknowledgement of the governing body of the county in which it is located that the income tax subtraction modification under Tax-General Article, §10-207(v), Annotated Code of Maryland, to be offered in the proposed district may affect the county's income, and the acknowledgment shall be included as part of the application.

(4) The county governing body shall also state whether the county will, if the district is designated, offer the property tax credit under Tax-Property Article, §9-240, Annotated Code of Maryland, and the exemption from the admissions and amusement tax under Tax-General Article, §4-104, Annotated Code of Maryland, in the district.

(5) The required statements of the county and municipal corporation shall be in the form required by local law or the governing bodies, or both.

D. Two or more political subdivisions may jointly apply for designation of an area as an arts and entertainment district if portions of the proposed area are within each of their common boundaries.

E. The application shall be complete, meet all stated requirements, and be properly signed by the chief elected officer or officers in the case of a joint application or, if none, by the governing body of each of the political subdivisions. An application signed by the chief elected officer shall include a written expression of sentiment of the local elected governing body or bodies regarding the filing of an application for designation. The expression of sentiment may be in the form of a letter or a resolution at the discretion of the local jurisdiction.

F. The Secretary may permit a political subdivision to amend its application at any time before the Secretary acts upon the application.

G. The application shall be received by the Secretary of Commerce in care of the Division of Tourism, Film, and the Arts, Department of Commerce, on or before a submission date.

H. Within 60 days after a submission date, the Secretary may designate one or more arts and entertainment districts for a designation period of up to 10 years from the effective date from among the applications submitted.

I. The Secretary shall give the Comptroller of the Treasury notice of the establishment of an arts and entertainment district on or before July 1 before the effective date of the district's establishment. The subtraction modification under Tax-General Article, §10-207(v), Annotated Code of Maryland, is applicable to taxable years after the July 1 effective date.

## **.05 Application for Designation.**

A. An application for an arts and entertainment district shall include the following:

(1) A vicinity map and plan of the proposed district indicating:

(a) Existing improvements and, if known, their historic significance;

(b) Existing transportation facilities;

(c) Existing arts, entertainment, and tourist facilities; and

(d) Any proposed State or local capital improvements projects that affect the proposed district;

(2) A tax map or block plat identifying those properties that are within the proposed district and their property valuations by class, an indication as to those publicly or privately held, an analysis of current building use or uses including their zoning, the availability of affordable housing, studio, and performance space, and other information that is established by the Secretary;

(3) A plan covering the responsibility for management of the district;

(4) Evidence that the county, the municipal corporation, or both, will offer the following incentives to arts and entertainment enterprises and qualifying residing artists if the request for designation is approved:

(a) A property tax credit under Tax-Property Article, §9-240, Annotated Code of Maryland; and

(b) An exemption from the admissions and amusement tax under Tax-General Article, §4-104, Annotated Code of Maryland;

(5) Additional incentives and initiatives the political subdivision may provide or establish to encourage arts and entertainment enterprises and qualifying residing artists to locate within the proposed district;

(6) Evidence and certification that the political subdivision, before submission, held a public hearing with adequate notice and publicity on the application;

(7) A written narrative to explain the goals and strategy for the district, including a narrative description on how the proposed district complements the local economic development plan;

(8) If the size of the proposed district exceeds 100 acres, a written justification of the size of the proposed district;

(9) A certification from the county or municipality that is applying that the entire proposed arts and entertainment district is located in a priority funding area under State Finance and Procurement Article, §5-7B-03, Annotated Code of Maryland; and

(10) Any other information requested by the Department.

B. Under §A(4) of this regulation, a political subdivision shall require an arts and entertainment enterprise or qualifying residing artist to provide an annual report containing information required by the Secretary as a precondition to receiving an eligibility certification for the Arts and Entertainment Districts Program incentives and initiatives.

## **.06 Designation Determination and Notice.**

A. A determination by the Secretary as to the area designated an arts and entertainment district is final.

B. The Secretary may give preference to applications for districts that are supported by all affected local jurisdictions and eligible for all available tax incentives.

C. The Secretary shall give written notice of a designation to both a political subdivision that receives a designation and the State agencies that will provide tax credits and other incentives and initiatives.

D. The Secretary shall notify a political subdivision that does not receive a requested designation in writing. The jurisdiction may reapply for a designation at any subsequent submission date by resubmitting the previously filed application or a revised application.

## **.07 Expansion of Arts and Entertainment Districts.**

A. Upon application, the Secretary may permit the expansion of a designated arts and entertainment district.

B. The political subdivision or subdivisions that originally obtained the district designation shall apply for the expansion.

C. An application for expansion of a designated arts and entertainment district shall set forth the basis for the request for expansion but need not duplicate data submitted for the original designation.

D. The designation period for the expansion area of the district runs simultaneously with the period of the original district designation and expires at the same time as the original district designation.

## **.08 Redesignation of Arts and Entertainment Districts.**

A. Upon application, the Secretary may permit redesignation of all or a portion of a designated arts and entertainment district.

### B. Application Procedure.

(1) To apply for redesignation, the appropriate political subdivision shall file an application showing that the proposed district meets all the requirements for a new district, but need not duplicate the map requirements of Regulation .05A(1)—(2) of this chapter.

(2) A redesignation application shall also include the following information:

(a) An evaluation of the history and benefits of the existing district;

(b) An explanation of why portions of the existing arts and entertainment districts are included in the redesignation request;

(c) A comparison of the strategy for the redesignation application with that of the existing district; and

(d) Any other information requested by the Department.

C. A political subdivision may request redesignation of all or a portion of the designated district before the end of the 10-year designation period. The new 10-year designation period shall, however, begin immediately upon the redesignation by the Secretary, within 60 days after the submission date, rather than at the end of the original 10-year term.

## **.09 Limit on Designation of Arts and Entertainment Districts.**

A. The Secretary may not designate more than six arts and entertainment districts in any calendar year.

### B. Limit on Number of Districts.

(1) A county may not receive more than one designation of an area as an arts and entertainment district in any calendar year.

(2) A joint application by two or more counties counts as one designation of an area as an arts and entertainment district for each county.

(3) A joint application by two or more municipalities within the same county counts as one designation of an area as an arts and entertainment district within the county.

(4) A joint application by a county and a municipality located within an adjoining county counts as one designation of an area as an arts and entertainment district for each county.

(5) The application for expansion of a designated arts and entertainment district is not considered a new request and is not counted as one additional designation of an area as an arts and entertainment district for the appropriate county or counties.

(6) A redesignation request is not considered a new district request and is not counted as one additional designation of an area as an arts and entertainment district.

## **.10 Property Tax Credit.**

A. The governing body of a county or municipal corporation may grant, by law, a real property tax credit against the county or municipal corporation property tax imposed on a manufacturing, commercial, or industrial building that:

(1) Is located in an arts and entertainment district; and

(2) Is wholly or partially constructed or renovated to be capable for use by a qualifying residing artist or an arts and entertainment enterprise.

B. The eligible assessment is that difference in value, attributable to the qualified renovations, between the first revaluation of the building after the completion of the renovations and the value existing in the records of the Department of Assessments and Taxation as of the January 1 before the commencement of the renovations.

C. If less than the entire building is used by a qualifying residing artist or an arts and entertainment enterprise, the credit is available only for the portion of the building used by a qualifying residing artist or an arts and entertainment enterprise.

## **.11 Annual Report.**

A political subdivision receiving an arts and entertainment district designation from the Secretary shall submit an annual report on a fiscal year basis to the Secretary by September 1 following each fiscal year end, in the form and containing the information established by the Secretary.

## **.12 Period of Availability.**

Except as provided in Tax-Property Article, §9-240, Annotated Code of Maryland, the Arts and Entertainment Districts Program incentives and initiatives are available for a period of 10 years after the date on which the area becomes an arts and entertainment district.

## **.13 Waiver.**

The Secretary may waive or vary particular provisions of this chapter to the extent that a waiver is not inconsistent with the law.

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Regulation .06D amended effective April 1, 2013 (40:6 Md. R. 476)

Regulation .08B amended effective April 2, 2012 (39:6 Md. R. 410)

Regulation .09B amended effective April 1, 2013 (40:6 Md. R. 476)

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