

New York City Department of Cultural Affairs

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Cultural Affairs (“DCLA”) is proposing changes to the Joint Living-Work Quarters for Artists rules to simplify the language so that it is easier for the public to understand, update contact information for the agency, and clarify that electronic download of application materials is allowable. This rule was identified as part of a comprehensive rules review initiative undertaken by the NYC Mayor’s Office of Operations.

When and where is the hearing? DCLA will hold a public hearing on the proposed rule. The public hearing will take place from 10:30am to 12:00pm on August 9, 2017. The hearing will be in the DCLA conference room at 31 Chambers Street, 2nd Floor, New York, NY 10007.

This location has the following accessibility option(s) available: The building is wheelchair accessible at the building entrance on Reade Street (between Elk Street and Centre Street). See below for information on requesting additional accessibility.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DCLA through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@culture.nyc.gov.
- **Mail.** You can mail comments to the Department of Cultural Affairs, 31 Chambers Street, 2nd Floor, New York, NY 10007, Attn: Legal, Rulemaking.
- **Fax.** You can fax comments to DCLA at (212) 341-3819, Attn: Legal, Rulemaking.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 513-9308. You can also sign up in the hearing room before the hearing begins on August 9. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, all comments made by website, email or fax must be submitted by 5:00 p.m. on August 9, 2017. All comments made by mail should be postmarked by August 9, 2017.

Do you need assistance to participate in the hearing? You must tell the Disability Service Facilitator if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also contact Sara Cobb by telephone at (212) 513-9376 or by email at disabilityfacilitator@culture.nyc.gov. You must tell us by July 26, 2017.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public on DCLA’s website at <http://www.nyc.gov/dcla>.

What authorizes DCLA to make this rule? Section 1043 of the City Charter and Section 276 of the New York State Multiple Dwelling Law authorize DCLA to make this proposed rule. This proposed rule was not included in DCLA's regulatory agenda for this Fiscal Year because it was not contemplated when DCLA published the agenda.

Where can I find DCLA's rules? DCLA's rules are in Title 58 of the Rules of the City of New York.

What rules govern the rulemaking process? DCLA must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

The purpose of these revised rules is to simplify the language in the Joint Living-Work Quarters for Artists rules in order to make them easier for the public to understand, update contact information for the agency, and clarify that electronic download of application materials is allowable.

Specifically, the proposed rules:

- Replace DCLA's prior address with DCLA's current address;
- Clarify that applicants may download application materials electronically;
- Clarify the criteria used to determine whether an applicant is engaged in the fine arts; and
- Revise rules to simplify language and make rules easier to understand.

The Mayor's Office of Operations worked with the City's rulemaking agencies, the Law Department and the Mayor's Office of Management and Budget, to conduct a retrospective rules review of the City's existing rules. The retrospective rules review identified those rules that will be repealed or modified to reduce regulatory burdens, increase equity, support small businesses, and simplify and update content to help support public understanding and compliance. This proposed rule amendment was identified through this initiative.

DCLA's authority for these rules is found in section 1043 of the New York City Charter and section 276 of the New York State Multiple Dwelling Law.

New material is underlined.

[Deleted material is in brackets.]

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Subdivision (a) of section 1-04 of Chapter 1 of Title 58 of the Rules of the City of New York is amended to read as follows:

(a) *Submission of application.* An application form for artist's certification may be downloaded from the Department's website, picked up in person, or requested by mail from the Department's offices located at [2 Columbus Circle, New York, New York 10019] 31 Chambers Street, 2nd Floor, New York, New York 10007. The completed application [shall] must be returned to the Department, together with the required documentation, in person or by mail to the Department's offices, addressed to the attention of the Artist's Certification Coordinator. The Coordinator shall then review such application for completeness. [With regard to any] If an application [which] is considered to be incomplete, the Coordinator shall attempt to contact and advise the applicant as to what additional material should be submitted. The applicant may then either submit additional material or request that the application be considered as originally submitted, in which case the Coordinator shall bring such application before the Committee pursuant to § 1-04(c).

Subparagraph (iii) of paragraph (1) of subdivision (b) of section 1-04 of Chapter 1 of Title 58 of the Rules of the City of New York is amended to read as follows:

(iii) A professional resume indicating, with reference to the applicant's particular art form or art occupation, professional experience (or a combination of professional training and experience) sufficient to demonstrate a serious, consistent commitment to such art form or occupation – such resume [shall] must also include other information as to the applicant's educational background, [and] professional training, and [the] public [dissemination] presentation of his or her work, e.g., exhibitions, performances, publications and the like, all such information to include relevant dates.

Paragraph (3) of subdivision (c) of section 1-04 of Chapter 1 of Title 58 of the Rules of the City of New York is amended to read as follows:

(3) [In the event] If any panel should be of the opinion that a particular application is incomplete, the panel shall advise the Coordinator of the information such panel believes is necessary to complete the application. [Such applications] The consideration of such an application shall be [marked tabled] postponed and it shall not be presented to the Committee again [at] until [such time as] the applicant supplies the missing information [is supplied] or the applicant requests that the application be considered as originally submitted.

Paragraphs (2) and (3) of subdivision (a) of section 1-05 of Chapter 1 of Title 58 of the Rules of the City of New York are amended to read as follows:

(2) *Fine arts.* The applicant is engaged in an art form or art occupation which

- (i) can be considered and
- (ii) is pursued by the applicant as a "fine art". To demonstrate pursuit of such art form or occupation as a fine art, the application should evidence a substantial element of independent [esthetic] aesthetic judgment [and self-directed work] by the applicant in pursuing such art form or occupation, i.e., the production of work solely on a commercial, industrial, functional, or work-for-hire basis without evidence of the foregoing elements is not sufficient to demonstrate pursuit of a particular art form or occupation as a fine art.

(3) *Professional basis.* The application should warrant a finding that the applicant is committed to the art form or occupation as his or her primary vocation and that others in the field recognize the applicant as a professional with regard to his or her art form or occupation. The word "professional" in this context does not necessarily refer to the amount of [financial remuneration] income earned [therefrom] by the applicant from his or her art form or occupation.