



PUBLIC HEARING NOTICE
NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the
Amendment and Adoption of Regulations of the Nevada Arts Council Administrator,
as proposed in LCB File No. R098-18**

The Nevada Arts Council will hold a public hearing at 1:00 p.m., on the 13th day of December 2019, at 716 North Carson Street, Suite A, Carson City, Nevada 89701 in the Conference Room and via video-conferencing to Nevada Arts Council's Southern Office, 4000 S. Eastern Avenue, Suite 240, Las Vegas, Nevada 89119. The purpose of the hearing is to receive comments from all interested persons regarding the amendment and adoption of regulations that pertain to Chapter 233C of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.

This regulation is needed to update NAC Chapter 233C generally and to comply with 233B.100. Prior to the current amendment, NAC Chapter 233C has not been amended since 2004.

2. For a temporary regulation, the terms or the substance of the proposed regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2018 and clicking this link:

<https://www.leg.state.nv.us/Register/2018Register/R098-18P.pdf>

The proposed regulation text is also available at www.nvartscouncil.org or by contacting Cathleen Wyatt at infonvartscouncil@nevadaculture.org or by telephone at 775-687-6680.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

NEVADA ARTS COUNCIL
Steve Sisolak | Governor
Tony Manfredi | Executive Director

CAPITAL CITY OFFICE
716 North Carson St., Ste. A
Carson City, NV 89701

SOUTHERN NEVADA OFFICE
4000 S. Eastern Ave., Ste. 240
Las Vegas, NV 89119

nvartscouncil.org

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

This regulation will involve no economic effect on businesses or the public. This regulation will involve no adverse or beneficial effects on businesses or the public. This regulation will also involve no immediate or long-term effects on businesses or the public.

5. **The methods used by the agency in determining the impact on a small business.**

The Nevada Arts Council Administrator has reviewed the text of the regulation. Because the regulation creates a process for interested persons to petition the Nevada Arts Council Administrator for the adoption, filing, amendment or repeal of any regulation and provides some updates to the Nevada Arts Council grant regulations, this regulation will have no impact on small businesses.

6. **The estimated cost to the agency for enforcement of the proposed regulation.**

The Nevada Arts Council Administrator does not anticipate a cost for the enforcement of the proposed regulation. This proposed regulation creates a process for interested persons to petition the Nevada Arts Council Administrator for the adoption, filing, amendment or repeal of any regulation. The Nevada Arts Council Administrator does not anticipate that many petitions will be filed pursuant to the proposed regulation and anticipates deciding any petitions that are filed within the required time frame. The Nevada Arts Council Administrator already has a grants process and the changes to NAC 233C regarding the grants process will not have a cost to the Nevada Arts Council.

7. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

This regulation does not overlap or duplicate any regulations of other state or local government agencies. This regulation does not overlap or duplicate any federal regulations.

8. **If the regulation is required pursuant to federal law, a citation and description of the federal law.**

This regulation is not required pursuant to federal law.

9. **If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

This regulation does not include provisions which are more stringent than a federal regulation that regulates the same activity. This regulation deals only with the process for interested persons to petition the Nevada Arts Council Administrator for the adoption, filing, amendment or repeal of any regulation as required by NRS Chapter 233B.100 and makes minor changes to the Nevada Arts Council's grants process. This regulation does not regulate any activity that is governed by a federal regulation.

10. **Whether the proposed regulation establishes a new fee or increases an existing fee.**

This regulation does not establish a new fee or increase an existing fee. This regulation deals only with the process for interested persons to petition the Nevada Arts Council Administrator for the adoption, filing, amendment or repeal of any regulation as required by NRS Chapter 233B.100 and makes minor changes to the Nevada Arts Council's grants process.

11. **For a temporary regulation, each address at which the text of the regulation may be inspected and copied.**

This regulation is not a temporary regulation; it is a permanent regulation.

Persons wishing to comment upon the proposed action of the Nevada Arts Council may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Nevada Arts Council, Attn: Executive Director Tony Manfredi, 716 North Carson Street, Suite A, Carson City, Nevada 89701. Written submissions must be received by the Nevada Arts Council on or before 5:00 p.m. on Thursday, December 5, 2019. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Arts Council Administrator may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the following two offices of Nevada Arts Council: 716 North Carson Street, Suite A, Carson City, Nevada; 4000 S. Eastern Avenue, Suite 240, Las Vegas, Nevada, on the Nevada Arts Council's website, www.nvartscouncil.org, www.notice.nv.gov and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

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| Carson City Library 900 North Roop Street Carson City, Nevada 89701-3101 | Lincoln County Library 63 Main Street Pioche, Nevada 89043 | Churchill County Library 553 South Main Street Fallon, Nevada 89406-3306 |
| Lyon County Library System 20 Nevin Way Yerington, Nevada 89447-2399 | Mineral County Public Library P.O. Box 1390 Hawthorne, Nevada 89415 | Douglas County Public Library 1625 Library Lane Minden, Nevada 89423-0337 |
| Pershing County Library 1125 Central Avenue Lovelock, Nevada 89419 | Nevada State Library and Archives 100 N. Stewart Street Carson City, Nevada 89701 | Elko County Library 720 Court Street Elko, Nevada 89801-3397 |
| Esmeralda County Library Corner of Crook & 4th Street P.O. Box 430 Goldfield, Nevada 89013-0430 | Storey County Treasurer and Clerk's Office Drawer D Virginia City, Nevada 89440 | Tonopah Public Library (Nye County) P.O. Box 449 Tonopah, Nevada 89049 |
| Eureka County Library 10190 Monroe Street Eureka, Nevada 89316 | Washoe County Library System 301 South Center Street Reno, Nevada 89501-2102 | White Pine County Library 950 Campton Street Ely, Nevada 89301 |
| Humboldt County Library 85 East 5th Street Winnemucca, Nevada 89445-3095 | Las Vegas-Clark County Library Dist HQ 833 Las Vegas Boulevard North Las Vegas, Nevada 89101 | Battle Mountain Branch Library 625 South Broad Street Battle Mountain, Nevada 89820 |

**PROPOSED REGULATION OF
THE NEVADA ARTS COUNCIL**

LCB File No. R098-18

June 12, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §1, NRS 233B.100 and 233C.097; §§2 and 3, NRS 233C.097.

A REGULATION relating to the Nevada Arts Council; creating provisions governing the procedure for any interested person to petition the Nevada Arts Council to adopt, file, amend or repeal any regulation; authorizing, in certain situations, the Nevada Arts Council to withdraw financial support; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law refers to the Nevada Arts Council as the “Division.” (NRS 233C.019) Existing law requires the Division to adopt regulations establishing criteria and standards for the eligibility for and use of any funding provided by the Division from the Nevada Cultural Account. (NRS 233C.097)

Existing law authorizes any interested person to petition an agency requesting the adoption, filing, amendment or repeal of any regulation. Existing law requires such a petition to be accompanied with relevant data, views and arguments. Existing law requires, upon the submission of such a petition, an agency to, within 30 days: (1) deny the petition in writing, stating its reasons; or (2) initiate regulation-making proceedings. Existing law requires each agency to prescribe by regulation: (1) the form for such petitions; and (2) the procedure for the submission, consideration and disposition of such petitions. (NRS 233B.100) **Section 1** of this regulation provides that, pursuant to existing law, any interested person may petition the Division for the adoption, filing, amendment or repeal of any regulation. **Section 1** requires such a petition to: (1) be in writing on a form prescribed by the Division; and (2) include certain information, including any relevant data, views and arguments that support the petition. If a petition does not include such information, **section 1** authorizes the Division to refuse to act on a petition. **Section 1** requires the Division to forward a petition to the Board of the Division for the Board’s consideration if, upon review, the Division determines that the petition pertains to the regulatory authority of the Board. **Section 1** requires the Division to, within 30 days after the date on which the petitioner filed the petition: (1) notify the petitioner of the Division’s decision regarding the petition; and (2) if the Division approves the petition, initiate regulation-making proceedings.

Existing regulations authorize the Nevada Arts Council, upon a violation or willful avoidance of any provision relating to the Nevada Arts Council, to refuse to approve a grant or to withdraw financial support, in whole or in part, after consultation with the applicant or subgrantee. (NAC 233C.110) **Section 2** of this regulation authorizes, upon a violation of any provision relating to the Nevada Arts Council, the Division to withdraw financial support, in whole or in part, after notifying the grantee in writing.

Existing regulations provide that the regulatory provisions of the Nevada Arts Council are severable so that the invalidity of any provision of the regulations does not affect the validity of any other provision relating to the Nevada Arts Council. (NAC 233C.120) **Section 3** of this regulation repeals this severability provision.

Section 1. Chapter 233C of NAC is hereby amended by adding thereto a new section to read as follows:

1. Pursuant to NRS 233B.100, any interested person may petition the Division for the adoption, filing, amendment or repeal of any regulation.

2. A petition for the adoption, filing, amendment or repeal of a regulation must be in writing on a form prescribed by the Division and must include:

(a) The name and address of the petitioner;

(b) The reason for petitioning for the adoption, filing, amendment or repeal of the regulation;

(c) The proposed language of the regulation to be adopted, filed, amended or repealed;

(d) The statutory authority for the adoption, filing, amendment or repeal of the regulation;
and

(e) Any relevant data, views and arguments that support the petition for the adoption, filing, amendment or repeal of the regulation.

3. The Division may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if the petition does not include the information required by subsection 2.

4. The Division will review a petition for the adoption, filing, amendment or repeal of a regulation which is filed pursuant to this section and will determine, after conducting such a review, if the petition pertains to the regulatory authority of the Division. If the Division determines that the petition pertains to the regulatory authority of the Board, the Division will:

(a) Forward the petition to the Board for consideration by the Board; and

(b) Notify the petitioner in writing that the Division forwarded the petition to the Board.

5. The Division will notify the petitioner in writing of the Division's decision regarding the petition within 30 days after the date on which the petitioner filed the petition. If the Division approves the petition for the adoption, filing, amendment or repeal of a regulation, the Division will initiate regulation-making proceedings concerning that regulation within 30 days after the date on which the petitioner filed the petition.

Sec. 2. NAC 233C.110 is hereby amended to read as follows:

233C.110 Upon a violation ~~{or willful avoidance}~~ of any provision contained in this chapter, the ~~{Council may refuse to approve a grant or}~~ *Division* may withdraw financial support, in whole or in part, after ~~{consultation with the applicant or subgrantee.}~~ *notifying the grantee in writing.*

Sec. 3. NAC 233C.120 is hereby repealed

TEXT OF REPEALED SECTION

233C.120 Severability If any provision of the regulations contained in this chapter, or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision contained in this chapter or its application which can be given effect without the invalid provision or application, and to this end the provisions contained in this chapter are hereby declared to be severable.