

**TOWN OF DENNIS**  
**ARTS & CULTURAL COUNCIL COMMITTEE**  
**MEMBERSHIP AND CHARGE**

III. Regulations for Local and Regional Cultural Council  
Operations and Procedures (962 CMR 2.00)

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**2.01: Scope and purpose**

The purpose of 962 CMR 2.00 is to provide guidance to local and regional cultural councils about their operations and procedures. These regulations, and supplementary guidelines promulgated independently by the Massachusetts Cultural Council, are designed to be effective for fiscal year 2000 and thereafter. Both are promulgated by the Massachusetts Cultural Council incident to its power to issue guidelines, rules, rulings or regulations for the use of funds allocable to it and for local or regional cultural council operations and procedures.

**2.02: Purpose of local and regional cultural councils**

The purpose of the local and regional cultural councils is to support public programs that promote access, education, diversity and excellence in the arts, humanities and interpretive sciences in communities across the Commonwealth. Local decision-making is an integral element of this system. Local councils have the right and responsibility to award grants that address cultural needs specific to their communities, and they can decide how to distribute funds as long as the state policies outlined in these regulations and supplementary guidelines are followed.

**2.03: Cultural access**

Local councils have an especially important role in insuring that cultural opportunities are made accessible to all segments of the Commonwealth's population, including all racial and ethnic groups, individuals with disabilities, veterans and women. The MCC and local councils are committed to cultural access both as a matter of policy and of law, and high priority should be given to projects that address the needs of underserved audiences, including low-income, inner city and rural populations

**2.04: Establishment of a local and regional cultural council**

Every community in the state is eligible to receive funds from the MCC if the appropriate local town or city officials establish a local council and appoint council members who take on the responsibility for distributing funds on behalf of the community.

Cities and towns may also join forces in the establishment of regional councils, and are encouraged to do so. If two or more towns wish to form a regional council, there must be at least one representative appointed from each community in the consortium. Regional consortia must also be approved by the MCC. (Local councils may consult the provisions of M.G.L. C.10, S.58.)

Local councils consist of at least five but no more than 22 citizens appointed by the top appointing official in the community (i.e., the mayor, city manager, board of selectmen or executive officer). Council members should have a demonstrated interest or record of service to the arts, humanities or interpretive sciences. The chief appointing authority and members of the local appropriating authority, as defined in M.G.L. Chapter 59, Section 21C, cannot serve as council members. The term of membership for a council member is three years; members can serve a maximum of two consecutive terms, or a total of six years, unless the appointing authority removes a member before the expiration of a term as provided in 962 CMR 2.10. Members must remain off the council for a one-year interval before serving additional terms. Each council must annually elect a chair, secretary and treasurer. To preserve continuity of operations, the terms of individual council members should be staggered (that is, there should never be 100 percent turnover of members in a single year, unless the MCC determines otherwise, as provided in 962 CMR 2.10). Local councils may also elect to designate former officers or members as non-voting, ex officio council members.

#### **2.05: Management of local council funds**

Each local council must keep all funds (MCC distribution, interest earned and any additional dollars raised locally) in separate interest-bearing revolving accounts administered by the city or town treasurer. Councils are entitled to interest on their accounts and to regular financial reports from the municipality. The funds may be spent as the local council directs, but may be accessed only through the process used by the community's treasurer and/or accountant's office for the expenditure of public funds. Separate checkbooks or non-municipal accounts, while more convenient, are not permissible. Funds earned from interest on state funds distributed, or those raised locally, can be spent at the discretion of the local council, but only to support the arts, humanities and interpretive sciences. Unlike funds distributed to the LCC from the MCC, prior MCC approval for expenditure is not required. An LCC may not accumulate unused state funds at the local level. Unspent state funds from prior fiscal years must be accounted for, reported to the MCC, and regranted in the next available funding cycle stipulated by the timeline set forth by the MCC. (Unspent funds accrue for various reasons, typically because previously approved projects were completed for less than the amount awarded, or not completed at all.) Generally, grant recipients have one year after final notification of an award to spend that award. However, an LCC may, at its own discretion, approve a reasonable extension for a grant recipient. In summary, if the original source of the funds was the MCC, the LCC must use the MCC process and timeline for redistributing these funds. Grants made from unspent state funds must also be reviewed and approved by the MCC.

#### **2.06: Local administrative expenses**

Local councils may use up to 5 percent of their state allotment each funding cycle for administrative expenses such as paid staff, postage, stationery, publicity and so on. They may also use any interest earned on their state allotment or funds derived from sources

other than the state allocation for administrative expenses without being subject to any such percentage limit. Local council members cannot receive compensation, but can receive reimbursement for expenses. Specific policies regarding reimbursement beyond these general rules may be established by each local or regional council.

**2.07: Duties of local and regional cultural councils**

(1) Each local or regional cultural council has a number of mandatory duties:

(a) Soliciting community input and assessing local cultural needs [962 CMR 2.07 (2)];

(b) Establishing priorities and guidelines for the review of local grant applications [962 CMR 2.07(3)];

(c) Communicating with the public [962 CMR 2.07(4)];

(d) Reviewing and recommending action on local applications [962 CMR 2.07(5)];

(e) Reporting to the MCC [962 CMR 2.07(6)];

(f) Carrying out other necessary administrative functions [962 CMR 2.07(7)]; and

(g) Complying with guidelines, rules, rulings or regulations promulgated from time to time by the MCC.

(2) Community input.

Each local council is responsible for insuring that its grants and programs benefit the community to the greatest extent possible. To this end, each council must conduct regular assessments of

cultural needs within its community. Councils should refer to the LCC guidelines, Section VII, page

21-22, for specific procedures.

(3) Establishing local funding priorities.

Based on its community input process, each council is then responsible for determining its own funding priorities. While all councils are strongly encouraged to develop written local funding guidelines, councils receiving more than \$20,000 are required to do so. If a council does have local guidelines, it must make them available to prospective applicants. Autonomy is encouraged in the establishment of local funding priorities, as long as it is within the parameters of the guidelines established by the MCC.

(4) Communicating with the public.

Local councils are responsible for promoting local awareness of their programs; informing the public of the availability of funds; publicizing the names, addresses, and telephone numbers of the local council office or contact person; communicating with grant applicants and recipients; and other duties as the MCC may from time to time elaborate through guidelines, rules, rulings or regulations. Councils will be assisted in this work by the MCC, which will maintain a database on local councils, help publicize the statewide local deadline, assist in the distribution of applications and so forth.

(5) Reviewing and recommending action on local applications. Guidelines regarding local eligibility, review criteria and procedures for the review of applications are laid out in detail in Sections IV, V, VI and VII of guidelines promulgated by the MCC independent of its formal regulations, including an appendix relating to the Open Meeting and Conflict of Interest Laws applicable to local councils.

(6) Reporting to the Massachusetts Cultural Council. The reporting requirements of local councils and guidelines regarding periodic state audits are set forth in Section VIII of the guidelines promulgated by the MCC independent of its formal regulations.

(7) Other necessary administrative functions.

Additional administrative functions include the handling and reimbursement of payment requests; all necessary record-keeping; establishment of a local office (if applicable); maintaining communications with the local treasurer; monitoring financial reports; and other tasks as necessary for the efficient operation of the council.

### **2.08: Optional activities of local and regional cultural councils**

(1) Local or regional cultural councils have broad powers under the provisions of M.G.L. C.10, S.58. In addition, they may:

- (a) Fundraise from sources other than the state [962 CMR 2.08(2)]; and
  - (b) Initiate local or regional council-originated projects [962 CMR 2.08(3)].
- (2) Fundraising from sources other than the state.

Local or regional councils are encouraged to leverage funds from sources other than the state, including private contributions, local government allocations, program revenues and interest from the local account. To enhance the opportunity for the donors of such funds to qualify their gift as deductible for federal income, gifts and estate tax purposes, funds received by gift to a local cultural council are considered to be donated to a political subdivision of the Commonwealth exclusively for public purposes as defined in Section 170(c) of the Internal Revenue Code of the United States.

Regardless of the source, all of a local council's money must be used to support programs in the arts, humanities or interpretive sciences in Massachusetts, and should meet the other substantive requirements set forth in Sections IV, V, VI and VII of the MCC's guidelines. Funds from sources other than the MCC distribution must, however, be kept in a separate municipal account of the LCC, and identified on the books of the city or town as funds derived from sources other than the MCC. However, grants made from funding sources other than the state allocation do not need to be approved by the MCC.

(3) Initiating council-originated projects.

Local cultural councils are themselves eligible to apply for funds for local council-originated programs that respond to cultural needs that are not otherwise being addressed in the community. (Please see pages 14-15 of the LCC guidelines.)

However, non-MCC funds raised from local council-originated projects must be kept in a municipal account. Such funds would be considered "funds raised from non-state sources." LCCs must observe the process and procedures outlined in 962 CMR 2.08(2) that detail how these funds must be kept, distributed and reported.

### **2.09: Local grant approvals**

The process by which local or regional cultural councils decide the use of state funds allocable to them and then seek approval from the MCC is set out in the following guidelines promulgated from time to time by the MCC. In general however, approval by the MCC is contingent upon local councils demonstrating compliance with the provisions of these regulations and those guidelines. Because funds can no longer be held over at the state level for the benefit of a local council, the MCC may elect to re-allocate the funds not certified to other local or regional cultural councils.

### **2.10: Assuring compliance with local cultural council duties**

An LCC must comply with its duties as specified in 962 CMR 2.00 and elsewhere in the MCC's Local Cultural Council Program Guidelines.

When the MCC finds a local cultural council has not adequately complied with 962 CMR 2.00, the MCC may suspend all or part of MCC funding for that council. The MCC may also specify corrective actions that the LCC must take before it can begin to receive funds

again. If an LCC fails to take corrective actions specified by the MCC, within a time frame specified by the MCC, the MCC may redistribute any funds allocated to that local council. If an LCC appears unable to comply not only with its duties but also with corrective actions specified by the MCC, then the MCC may determine that a partial or complete change in the membership of the local council may be in order to enable the community to begin receiving its funds again. In these extraordinary cases, the MCC may authorize the local appointing authority to remove a member or members from the LCC and appoint a new member or members. The above regulations have been filed with the Secretary of State's office. The following are guidelines that local cultural councils must follow. Please note that from time to time the MCC may issue additional guidelines to promote specific programs at the local level (such as the PASS Program, the LCC Matching Incentive Program or other initiatives). All LCCs will be notified if any guidelines are changed.

## **Chapter 10: Section 58 Local and regional cultural councils**

Section 58. Any city or town may establish a local cultural council and any consortium of cities and towns, with the approval of the council, may establish a regional cultural council. Local cultural councils shall consist of at least five and not more than twenty-two members to be appointed by the mayor of a city, the city manager in a city having a Plan D or E form of government, the board of selectmen of a town or the executive officer in a town having a town council form of government.

Regional cultural councils shall consist of an equal number of members to be appointed from each city or town within the consortium in the manner herein described. The regional cultural council may adopt, at its option, a proportional membership consistent with the population of each municipality; provided, however, that each municipality shall have at least one member; and provided, further, that the adoption of such option shall be by a two-thirds vote of the regional cultural council. Notwithstanding any provisions to the contrary, if the council deems it necessary or desirable in order to carry out the purposes of this section and sections fifty-six and fifty-seven, the council may certify for payment in accordance with the provisions of section fifty-six those applications for funds received from any local or regional cultural councils whose composition is determined by the council as not complying with the provisions of this section, provided that upon notice of such noncompliance, such local or regional cultural council, or its

appointing authority, as the case may be, either cures such noncompliance or provides certification satisfactory to the council of how and by when such compliance will be achieved.

Members of the local and regional cultural council shall be appointed for staggered terms of three years and any such member shall not be appointed to more than two consecutive terms. Members shall have demonstrated scholarship or creativity in, or distinguished service to, the arts, humanities, or interpretive sciences.

Upon a vacancy, for any reason, the member's successor, if any, shall be appointed for a term of three years, and shall serve until the qualification of such member's successor. Members shall not be elected public officials. Members shall be considered to be special municipal employees for the purposes of chapter two hundred and sixty-eight A. For purposes of chapter two hundred and sixty-eight A, any local or regional cultural council member who is authorized thereby to make disclosure to such member's city or town clerk or appointing authority, or to request a determination from such member's appointing authority, or to seek approval from the local legislative body may in lieu thereof, disclose to, or seek such approval from the council, and the council is authorized to receive such disclosure and approve such exemptions. Local and regional cultural council members shall be classified as officers for purposes of section thirteen of chapter two hundred and fifty-eight. Members shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their duties. Local and regional cultural councils shall annually elect a chairman, secretary and treasurer.

Local and regional cultural councils may establish administrative units, but no such cultural council shall utilize more than five percent of the monies received from the State Arts Lottery Fund for administrative purposes, including member expenses.

Subject to rules, regulations, rulings or guidelines of the council, such local or regional cultural councils may decide the distribution of arts lottery funds or other funds that may be allocable to them, may also conduct other activities to promote and encourage the arts, may enter into contracts, subject to approval of town counsel or city solicitor as to form, and may do and perform any and all acts which may be necessary or desirable to carry out such powers and the purposes of sections fifty-six to fifty-eight, inclusive. Nothing in the provisions of section twenty-seven of chapter ten shall prevent a local or regional cultural council or an arts organization, or their agents or employees, from encouraging the sale of lottery tickets for the arts nor from being licensed as agents to sell lottery tickets for the arts. Notwithstanding the provisions of section fifty-three A of chapter forty-four, local and regional cultural councils may accept grants, contributions, gifts, bequests, devises, and other donations from all sources, including governmental bodies and shall deposit such monies and any other revenues, including revenues derived from local or regional cultural councils activities, in the revolving fund established under the provisions of this section. Funds received from sources other than the arts lottery fund may be disbursed at the discretion of the local or regional cultural council for the same purposes as arts lottery funds, including administrative expenses, provided, however, that

the council may by rule, regulation, ruling or guideline establish further clarification of such purposes as well as procedures to assure that such funds are so used.

Notwithstanding the provisions of section fifty-three of chapter forty-four, any city, town or consortium of cities and towns otherwise pursuant to the provisions of section four A of chapter forty, shall establish in the city or town treasury, or in one of the cities or towns in the consortium a revolving account which shall be kept separate and apart from all other monies by the treasurer and in which shall be deposited all receipts from the state arts lottery fund, distributed under the provisions of section fifty-six, and any other receipts or donations to the local or regional cultural council authorized by law. A treasurer of a city, town or regional consortium as custodian may invest such portion of cash as deemed not required until such funds are to be expended and in such investments as are authorized under the provisions of section fifty-five of chapter forty-four. All such funds, including interest earned thereon, may be expended at the direction of the local or regional cultural council, without further appropriation, and such council may establish a subcommittee of no less than two members and may delegate thereto its authority to approve all payrolls, bills, requests for payment, or accounts prior to submission to the accountant, auditor or official performing similar functions; provided, however, that such subcommittee shall make available to such council at its next meeting, a record of such actions of such subcommittee; and provided further, however, that such funds as shall not have been expended twelve months after receipt shall be segregated and subject to further appropriation by the mayor, city council, city manager, board of selectmen or town manager for the purposes provided in sections fifty-six to fifty-eight inclusive. The city auditor, town accountant, or officer having similar duties, shall submit annually a report of said, revolving fund to the mayor, city council, city manager, board of selectmen, or town manager for their review and a copy of said report shall be submitted to the director of the bureau of accounts and the council.

As stated in Article VII, Removal of Appointed Officers  
[Adopted 10-26-1999, STM, Art. 16]

Failure to attend meetings.

Where not inconsistent with Massachusetts General Laws, any appointed official who is a member of a multi-member board, committee or commission may be removed by the appointing authority after a public hearing for failure to attend more than three consecutive meetings. Failure to attend, if not adequately explained to the satisfaction of the appointing authority, shall be considered cause for removal.