

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
Division of Planning & Development



RULES AND REGULATIONS
FOR THE
AGRICULTURAL, RECREATION ACQUISITION AND DEVELOPMENT,
ROGER WILLIAMS PARK, AND ROGER WILLIAMS ZOO
GRANT PROGRAMS

September 2015
Regulation ERLID# 8265

AUTHORITY: These regulations are adopted pursuant to Chapter 42-17.1, of the Rhode Island General Laws of 1956, in accordance with the Administrative Procedures Act, Rhode Island General Laws Chapter 42-35 of the Rhode Island General Laws of 1956, as amended in order to disburse funds allocated pursuant to Public Laws 145, 2014, Chapter 31, Article 5, including but not limited to the "2014 Clean Water, Open Space and Healthy Communities" which authorizes the Department of Environmental Management to administer Fifty-Three Million Dollars (\$53,000,000.00) in state bond funds and any similar funds that may be allocated by the General Assembly subsequent thereto.

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Table of Contents

RULE 1.	PURPOSE	3
RULE 2.	AUTHORITY	3
RULE 3.	APPLICABILITY	3
RULE 4.	SEVERABILITY	3
RULE 5.	DEFINITIONS	3
RULE 6.	ALLOCATION OF FUNDING.....	5
(A)	STATE PROJECTS	5
(B)	LOCAL PROJECTS	5
(C)	ROGER WILLIAMS PARK	6
(D)	ROGER WILLIAMS PARK ZOO	6
RULE 7.	REALLOCATION.....	6
RULE 8.	SCHEDULING OF SELECTION ROUNDS.....	7
RULE 9.	APPLICATIONS	7
RULE 10.	FILING	7
RULE 11.	RECORDING	7
RULE 12.	FILING DEADLINE	7
RULE 13.	EVALUATION OF APPLICATIONS	7
(A)	REVIEW	7
(B)	AWARDS	7
(C)	NOTICE.....	7
(D)	TERMS AND CONDITIONS	7
(E)	PROJECT PERIOD	8
(F)	DISCRIMINATION	8
RULE 14.	ELIGIBLE PROJECTS	8
(A)	RECREATION ACQUISITION PROJECT.....	8
(B)	RECREATION DEVELOPMENT PROJECTS.....	8
RULE 15.	ELIGIBLE PROJECT COSTS	8
(A)	RECREATION ACQUISITION PROJECTS.....	8
(B)	RECREATION DEVELOPMENT PROJECTS	8
RULE 16.	ELIGIBLE APPLICANTS	8
(A)	MUNICIPAL AGENCY.....	8
(B)	NATIVE AMERICAN TRIBES.....	9
RULE 17.	LOCAL GRANTS / MATCHING FUNDS	9
(A)	RECREATION ACQUISITIONS.....	9
(B)	RECREATION DEVELOPMENT	9
(C)	DISTRESSED COMMUNITIES RECREATION DEVELOPMENT GRANTS.....	9
(D)	DONATIONS	9
RULE 18.	RESTRICTIVE COVENANTS.....	9
RULE 19.	CONVERSION.....	9
RULE 20.	RECREATION ACQUISITION AND DEVELOPMENT GRANTS MANAGEMENT / MAINTENANCE AGREEMENT.....	10
RULE 21.	SEVERABILITY	10
RULE 22.	EFFECTIVE DATE.....	10

RULE 1. PURPOSE

The purpose of these rules and regulations is to establish the procedures by which the Department of Environmental Management will administer funding provided pursuant to Public Laws 145, 2014, Chapter 31, Article 5, including but not limited to the 2014 Clean Water, Open Space and Healthy Communities and any similar funds that may be allocated by the General Assembly subsequent thereto.

RULE 2. AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42-17.1, of the Rhode Island General Laws of 1956, as amended, in accordance with the Administrative Procedures Act, Rhode Island General Laws Chapter 42-35 of the Rhode Island General Laws of 1956, as amended in order to disburse funds allocated pursuant to Public Laws 145, 2014, Chapter 31, Article 5, including but not limited to the "2014 Clean Water, Open Space and Healthy Communities" which authorizes the Department of Environmental Management to administer Fifty-Three Million Dollars (\$53,000,000.00) in state bond funds and any similar funds that may be allocated by the General Assembly subsequent thereto.

RULE 3. APPLICABILITY

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.

RULE 4. SEVERABILITY

If any provision of these Rules and Regulations, or application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

RULE 5. DEFINITIONS

For the purposes of these regulations, the following terms shall have the following meanings:

- (A) **"APPRAISAL"** - A report by a Certified Rhode Island Appraiser that estimates the fair market value of property.
- (B) **"APPLICANT"** or a municipality, public agency, or private organization or individual who may be eligible pursuant to these regulations to submit an application for the issuance of a funding grant.
- (C) **"DEM - DIVISION OF PLANNING AND DEVELOPMENT"** - A division of the Rhode Island Department of Environmental Management that is authorized to administer the Open Space and Recreation Bond Authorizations.
- (D) **"DEPARTMENT" or the "DEPARTMENT OF ENVIRONMENTAL MANGAGEMENT"**- The Rhode Island Department of Environmental Management which is a department of the state government as described in Chapter 42-17.1 of the General Laws of Rhode Island of 1956, as amended.

- (E) **“DIRECTOR”** - The Director of the Rhode Island Department of Environmental Management as described in Section 42-17.1-1 of the General Laws of Rhode Island of 1956 as amended.
- (F) **“DISTRESSED COMMUNITY”** - As defined in Section 45-13-12 of the General Laws of Rhode Island of 1956 as amended.
- (G) **“GRANTEE”**- is an Applicant which has been issued a grant in response to the submittal of an application for the issuance of a funding grant
- (H) **“IN-KIND SERVICES”** – Are defined as noncash contributions provided by the grantee, other public agencies and/or private organizations or individuals. In-kind contributions consist of the value of services directly benefiting and specifically identifiable to the project.
- (I) **“LOCAL COMPREHENSIVE PLAN”** - The plan adopted by a municipality and approved pursuant to Chapter 45- 22.2 of the Rhode Island General Laws of 1956 as amended.
- (J) **“MANAGEMENT PLAN”** - A plan that specifically outlines the proposed uses and scheduled management and maintenance activities to be instituted on a parcel of land acquired or developed with recreational bond funds.
- (K) **“MUNICIPAL AGENCY”** - One or more units of municipal government whose purpose includes the preservation of open space, acquisition of recreation land or development of recreation land; said unit(s) having the operational capability and legal authority to effectuate this purpose.
- (L) **“RECREATION ACQUISITION”** -The acquisition of land suitable for recreation development in accordance with a master plan for the development of the acquired property.
- (M) **“RECREATION DEVELOPMENT”** - Construction of basic outdoor recreation and support facilities for the improvement and restoration of public recreation areas to serve the general public.
- (N) **“RECREATION RESOURCES REVIEW COMMITTEE” or “RRRC”** - An administrative body established in 1972 to assume the duties and functions of the former Green Acres Review Committee. The RRRC consists of no less than six (6) and no more than ten (10) representatives selected by the State Planning Council.
- (O) **“SCORP”**- The State Comprehensive Outdoor Recreation Plan adopted as Element 152 of the State Guide Plan by the State Planning Council as defined by Section 42-11-10 of the Rhode Island General Laws of 1956 as amended.
- (P) **“STATE AGENCY”** - A unit of Rhode Island State government among whose purposes is the preservation of open space, acquisition of recreation land or development of recreation land; said unit having the operational capability and legal authority to effectuate this purpose.

(Q) **“STATE GUIDE PLAN”** - Goals, policies and plans or plan elements for the physical, economic and social development of the state, adopted by the state planning council in accordance with Section 42-11-10 of the General Laws of Rhode Island 1956 as amended.

(R) **“WAIVER OF RETROACTIVITY”** - Approval by the Director of costs incurred after the announcement of a grant round and prior to a grant award as eligible for reimbursement. A Waiver of Retroactivity must be requested by the applicant in writing prior to contracting for services or taking title to the property. Costs incurred prior to the approval of a project are at the applicant's risk and retroactive reimbursement is not assured. The granting of a Waiver of Retroactivity does not constitute assurance that the project will be approved.

As used in these rules and regulations, all terms not defined herein shall have the meaning given them in Chapter 42-35, of the Rhode Island General Laws of 1956, as amended.

RULE 6. ALLOCATION OF FUNDING

Applicants may be granted funding pursuant to these rules and regulations for the following classes of projects:

(A) **STATE PROJECTS** - Eligible projects may be granted monetary assistance for purchase of farmland development rights and acquisition programs concerning the following:

- (1) **AGRICULTURAL ACQUISITION** - Projects may be eligible for authorization in order to permit the outright purchase of farmland by the Department or purchase of development rights by the Agricultural Land Preservation Commission, established pursuant to Section 42-82-1, et. seq. of the Rhode Island General Laws of 1956 as amended. Said funds shall be expended by the Department and the Rhode Island Agricultural Land Preservation Commission for the purchase of development rights to land having high agricultural value as defined herein. Any portion of these funds utilized by the Agricultural Land Preservation Commission shall be in accordance with the Rules and Regulations Governing the Procedures for the Operation of the *Agricultural Lands Preservation Commission and the Purchase of Farmland Development Rights* that were duly promulgated by the Agricultural Land Preservation Commission and became effective in October 2007.

(B) **LOCAL PROJECTS** - Eligible projects may be granted monetary assistance in order to provide grants to municipalities on a matching basis as set forth as follows:

- (1) **RECREATION DEVELOPMENT GRANTS**- Projects may be eligible for allocation to municipalities for recreation development grants for up to eighty percent (80%) of the project cost. The Director shall announce Grant rounds. The RRRC shall set the

maximum amount award for a single grant. The RRRC will review each application according to its eligibility criteria set forth in its Open Project Selection Process of the State Comprehensive Outdoor Recreation Plan adopted as Element 152 of the State Guide Plan by the State Planning Council on January 11, 1990 as amended June 11, 1992 under Section 42-11-1, et. seq., of the General Laws of the State of Rhode Island of 1956 as amended and shall submit to the Director in order of priority its recommendations for grant awards.

- (2) **RECREATION LAND ACQUISITION GRANTS** – Projects may be eligible for allocation to municipal agencies in order to provide matching funds for recreation acquisition grants for up to fifty percent (50%) of the value of the land as determined by a certified appraisal. Land acquired under this program must have an appropriate master plan for the development of the acquired property. The Director shall notify all potential applicants of the scheduled application periods by posting notice on the Department website of the ability to submit applications at least thirty (30) days prior to the deadline for the submittal of such applications. The posted notice shall also provide notice of maximum amount award for a single grant that the RRRC has set for that particular grant period. The RRRC will review each application according to its eligibility criteria set forth in the Open Project Selection Process of the State Comprehensive Outdoor Recreation Plan adopted as Element 152 of the State Guide Plan by the State Planning Council on January 11, 1990 as amended June 11, 1992 under Section 42-11-1, et. seq., of the General Laws of the State of Rhode Island of 1956 as amended and shall submit to the Director in order of priority its recommendations for grant awards.

(C) **ROGER WILLIAMS PARK** – During the period FY 2016 through FY 2020, funding in the amount of up to Three Million Dollars (\$3,000,000.00) shall be allocated for improvements and renovations at Roger Williams Park in Providence in a project or projects proposed by the City of Providence for the approval of the Director.

(D) **ROGER WILLIAMS PARK ZOO** - During the period FY 2016 through FY 2020, funding in the amount of up to Fifteen Million Dollars (\$15,000,000.00) shall be allocated for improvements and renovations at Roger Williams Park Zoo in Providence in a project or projects proposed by the City of Providence in cooperation with the Roger Williams Park Zoological Society for the approval of the Director.

RULE 7. REALLOCATION

All funds allocated under RULE 6 must be obligated no later than June 30, 2021. All funds authorized but not obligated on June 30, 2021 shall revert to the control of the Director for reallocation in accordance with any section of the Bond Authorization.

RULE 8. SCHEDULING OF SELECTION ROUNDS

The Director shall schedule the number, frequency and duration of local grant funding rounds consistent with the "State Capital Budget Plan" and after consultation with the RRRC.

RULE 9. APPLICATIONS

Applications shall be available on request from the Rhode Island Department of Environmental Management, Division of Planning and Development, 235 Promenade Street, Room 320, Providence, Rhode Island 02908-5767 or from the DEM website.

RULE 10. FILING

Applications must be filed within the prescribed period to be established for each local grant funding round by the Department of Environmental Management. Applications must be sent electronically to chief.dpd@dem.ri.gov or any other email address specified by the Department in a notice posted in the DEM website announcing the option to apply for grants pursuant to these rules.

RULE 11. RECORDING

Applications will be accepted electronically any business day up to the filing deadline and shall be date and time received by the Department of Environmental Management.

RULE 12. FILING DEADLINE

The Director shall set a filing deadline for receipt of applications for each selection round. Applications received after the filing deadline will not be considered for funding during that round and will be returned to the applicant without prejudice. All filing deadlines and information will be posted on the DEM website. Applications may be resubmitted during a subsequent selection round.

RULE 13. EVALUATION OF APPLICATIONS

(A) **REVIEW** - The RRRC will review each application for recreation acquisition and development grants according to the "Rules and Regulations" outlined in the SCORP/Open Project Selection Process and shall submit to the Director in order of priority its recommendations for grant awards.

(B) **AWARDS** - The Director shall review the grant award recommendations prepared by the RRRC. The Director shall have the authority to adjust such grant awards, including consideration as to whether one community may be receiving a disproportionate amount of the funds available and so that a reasonable geographic distribution of funds is achieved.

(C) **NOTICE** - Notice of the final determination regarding each timely application received shall be made by mail and email to the Contact Person identified on the application form.

(D) **TERMS AND CONDITIONS** - The notice of award will set forth all grant terms, schedules and conditions, including most particularly those relating to record keeping, billing procedures and verification of expenditures.

(E) **PROJECT PERIOD** - The beginning date of a project period will normally be the date of approval. When a Waiver of Retroactivity has been granted by the Director, the effective date of the waiver shall be used as the beginning date of the project period. A term of two (2) years shall be considered the project period for all recreational land acquisition projects. A term of three (3) years shall be considered the project period for all recreation development projects. The Director may extend the grant term of any grant for an additional two (2) years after review and recommendation by the program staff in the Division of Planning and Development.

(F) **DISCRIMINATION** - Any property acquired and or developed with funds from this bond authorization shall not discriminate against persons desiring to use said property on the basis of residence, including preferential reservation membership or annual permit system which are prohibited. With approval of the Department, project sponsors may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with this fund when such a limitation is necessary for the maintenance or preservation of the property.

RULE 14. ELIGIBLE PROJECTS

(A) **RECREATION ACQUISITION PROJECT**- Recreation land acquisition shall be limited to the purchase of fee simple title to land that will be developed for outdoor recreation purposes in accordance with a master plan for development of the property.

(B) **RECREATION DEVELOPMENT PROJECTS**- A development project designed to provide public outdoor recreation.

RULE 15. ELIGIBLE PROJECT COSTS

(A) **RECREATION ACQUISITION PROJECTS** - Eligible costs for recreation acquisition projects include fifty percent (50%) of the approved appraised value of the land.

(B) **RECREATION DEVELOPMENT PROJECTS** - Eligible costs for development projects may be up to eighty percent (80%) and cover design, construction, site planning, demolition, reforestation, landscaping and site improvements essential to the project. Provided that any such costs are incurred after a grant application has been approved or after the applicant has received a Waiver of Retroactivity from the Director allowing such costs to be incurred in advance of project approval. Costs incurred prior to the approval of a project are at the applicant's risk and retroactive reimbursement is not assured. The granting of a Waiver of Retroactivity does not constitute assurance that the project will be approved.

RULE 16. ELIGIBLE APPLICANTS

(A) **MUNICIPAL AGENCY** - Municipal agencies, as defined in "Rule 5 herein", may apply for Recreation Acquisition and Recreation Development funds. The Department shall be responsible for determining eligibility status to participate in the Recreation Acquisition and Recreation Development Grant Rounds. Eligibility is based upon the adoption and maintenance of an up-to-date Local Comprehensive Plan or locally adopted plan which adequately assesses the current and future recreation requirements

and needs of the municipality. The plan shall include an implementation program and schedule for actions proposed to address issues and needs expressed in the plan.

(B) **NATIVE AMERICAN TRIBES** - Indian Tribes, bands, nations or other organized group which exercises governmental functions and which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Native Americans.

RULE 17. LOCAL GRANTS / MATCHING FUNDS

(A) **RECREATION ACQUISITIONS** - Grants shall be for up to fifty percent (50%) of approved project costs. Certification that all other necessary funds are available must be submitted prior to the release of grant funds.

(B) **RECREATION DEVELOPMENT** - Grants may be for up to eighty percent (80%) of approved project costs. Certification that all other necessary funds are available must be submitted prior to the release of grant funds. In-kind services that are used for match are not limited but adequate documentation of all in-kind match must be provided.

(C) **DISTRESSED COMMUNITIES RECREATION DEVELOPMENT GRANTS** - Grants may be for up to 80% of approved project costs. Certification that all other necessary funds are available must be submitted prior to the release of grant funds. In-kind services that are used for match are can be up to 20% of the overall project costs.

(D) **DONATIONS** - Applicants may use the value of donated property interests in land to be acquired or preserved as the local match, provided the value shown as a donation is sustained by an approved Certified Appraisal and the donation is part of the same project and the land is not currently owned by a Municipal Agency.

RULE 18. RESTRICTIVE COVENANTS

Property acquired with grant funds must be maintained and managed in the condition and for the purpose specified in its approved grant application in perpetuity. Each recipient shall execute a perpetual recreation easement, or similar document, running in favor of the State of Rhode Island and such easement shall further provide that if the recipient at any time fails in its obligation to properly maintain the property acquired in accordance with the purposes and functions for which it was acquired and in conformance with the approved Management Plan, if applicable, the State of Rhode Island may enforce the grant conditions in equity or, at its discretion, may assume title, custody and control to protect its interest.

RULE 19. CONVERSION

Any property acquired or developed for recreation purposes shall not be wholly or partly converted to a use other than the purpose specified in its approved grant application without the approval of the Director. The Director shall seek recommendations from the RRRC on all conversions, including the proposed substitute property. The Director has the authority to disapprove conversion requests and/or to reject proposed property substitutions.

**RULE 20. RECREATION ACQUISITION AND DEVELOPMENT GRANTS
MANAGEMENT / MAINTENANCE AGREEMENT**

Each applicant must submit with the application a signed Management Plan stating the applicant's intent and ability to manage and maintain the improved/acquired recreation facility. The city/town council where said project is proposed to be located must approve the project and Management Plan by resolution guaranteeing future maintenance and management of the facility and/or property for recreational purposes.

RULE 21. SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

RULE 22. EFFECTIVE DATE

The foregoing rules and regulations, after due notice and hearing, are hereby adopted and filed with the Secretary of State this 29th day of January, 2016, to become effective twenty (20) days thereafter, in accordance with the provisions of Section 42-17.1, and Chapters 42-35 of the General Laws of Rhode Island, of 1956, as amended.

Janet L. Coit, Director
Department of Environmental Management

Date

Notice given on: 12/11/2015

Hearing Held on: 12/12/2015

Filing Date: 1/29/2016

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