

**250-RICR-110-00-7**

## **TITLE 250 – DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

### **CHAPTER 110 – PLANNING AND DEVELOPMENT**

#### **SUBCHAPTER 00 - N/A**

PART 7 - Rules and Regulations for the Agricultural and Recreational Acquisition and Development, Roger Williams Park, and Roger Williams Zoo Grant Programs

#### **7.1 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 2014 R.I. Pub. Laws 145, 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.

#### **7.2 Authority**

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws Chapter 42-17.1, in accordance with the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35 in order to disburse funds allocated pursuant to 2014 R.I. Pub. Laws 145, Article 5 and any similar funds that may be allocated by the General Assembly subsequent thereto.

#### **7.3 Definitions**

- A. For the purposes of these regulations, the following terms shall have the following meanings:
1. "Appraisal" means a report by a Certified Rhode Island Appraiser that estimates the fair market value of property.
  2. "Applicant" means an entity that may be eligible pursuant to these regulations to submit an application for the issuance of a funding grant.
  3. "DEM - Division of Planning and Development" means a division of the Rhode Island Department of Environmental Management that is authorized to administer the Open Space and Recreation Bond Authorizations.

4. "Department" or "Department of Environmental Management" means the Rhode Island Department of Environmental Management which is a department of the state government as described in R.I. Gen. Laws Chapter 42-17.1.
5. "Director" means the Director of the Rhode Island Department of Environmental Management as described in R.I. Gen. Laws § 42-17.1-1.
6. "Grantee" means an Applicant which has been issued a grant in response to the submittal of an application.
7. "In-kind services" means noncash contributions provided by the grantee, other public agencies and/or private organizations or individuals.
8. "Management plan" means 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.
9. "Matching funds" means the funds provided to a project from sources other than the grant. Matching funds may include both cash and non-cash (such as in-kind services) contributions.
10. "Municipal agency" means 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.
11. "Native American tribes" means Indian tribes, bands, nations or other organized group which exercises governmental functions and which is recognized by the Secretary of the Interior as such.
12. "Recreation acquisition" means the purchase of fee simple title to land that will be developed for outdoor recreation purposes in accordance with a master plan.
13. "Recreation development" means construction of basic outdoor recreation and support facilities for the improvement and restoration of recreation areas to serve the general public.
14. "Recreation Resources Review Committee" or "RRRC" means an administrative body established for the purpose of evaluating and determining the relative priority of recreation grant projects and submitting funding recommendations to the Director.

15. "SCORP" means the State Comprehensive Outdoor Recreation Plan adopted as an Element of the State Guide Plan by the State Planning Council as defined by R.I. Gen. Laws § 42-11-10.
  16. "State guide plan" means 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 R.I. Gen. Laws § 42-11-10.
- B. As used in these Rules and Regulations, all terms not defined herein shall have the meaning given them in R.I. Gen. Laws Chapter 42-35.

## **7.4 Allocation of Funding**

- A. Applicants may be granted funding pursuant to these Rules and Regulations for the following classes of projects:
1. State Projects: Eligible projects may be granted monetary assistance for purchase of farmland development rights and acquisition programs concerning the following:
    - a. Agricultural Acquisition - The Department may purchase farmland outright pursuant to the Farmland Access Program Rules and Regulations, [250-RICR-110-00-8](#). The Agricultural Land Preservation Commission, established pursuant to R.I. Gen. Laws § 42-82-1, *et. seq.* may purchase the development rights to farmland pursuant to the Rules and Regulations of the Agricultural Lands Preservation Commission, [505-RICR-00-00-1](#).
    - b. State Land Acquisition - The Department may acquire land consistent with the State Guide Plan and the Department's "Land Protection Plan". The Department's Land Acquisition Committee and the State Properties Committee shall approve projects funded under this Part.
  2. 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:
    - a. Recreation Development Grants - Eligible entities may apply for funding for recreation development projects for up to eighty percent (80%) of the project cost up to the maximum grant award amount set by the RRRC. In exchange for the grant, the municipality ensures that the subject property is maintained in public use in perpetuity.

- b. Recreation Land Acquisition Grants – Eligible entities may apply for funding for the acquisition of recreation property for up to fifty percent (50%) of the value of the land as determined by a certified appraisal. In exchange for the grant, the municipality will provide a recreation easement on the subject property ensuring public use in perpetuity.
- 3. 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.
- 4. 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.

## **7.5 Reallocation**

All funds allocated under § 7.6 of this Part must be obligated forty-eight (48) months after the passage of the bond referendum. All funds authorized but not obligated forty-eight (48) months after the passage of the bond referendum shall revert to the control of the Director for reallocation in accordance with any section of the Bond Authorization.

## **7.6 Application Process for Local Projects**

- A. Eligibility - Municipal agencies, as defined in § 7.5(A)(9) of this Part, and Native American Tribes, as defined in § 7.5(A)(10) of this Part, may apply for Recreation Acquisition and Recreation Development funds.
- B. Scheduling of Selection Rounds - the Director shall schedule the number, frequency and duration of local grant funding after consultation with the RRRC. The Director shall announce grant rounds. The RRRC may set the maximum award amount for a single grant. The Director shall set a filing deadline for receipt of applications for local projects for each selection round. Applications received after the filing deadline will not be considered for funding during that round. All filing deadlines and information will be posted on the DEM website. Applications may be resubmitted during a subsequent selection round.

- C. Notice of Funding Opportunity - The Director shall post a notice on the Department website notifying potential applicants that the Department is accepting applications at least thirty (30) days prior to the deadline for the submittal of such applications. The posted notice shall provide notice of maximum amount award for a single grant that the RRRC has set for that particular grant period and shall provide a link to the application on the DEM website. Applications shall also be available on request from the Rhode Island Department of Environmental Management, Division of Planning and Development, 235 Promenade Street, Providence, Rhode Island 02908-5767.

## **7.7 Evaluation and Award of Local Project Applications**

- A. Review - The RRRC will review each application for recreation acquisition and development grants according to the Priority Rating System set forth in the Recreation Grant Selection Process outlined in the SCORP 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 email to the contact person identified on the application form.
- D. Grant Agreement - The DEM and each Grantee will enter into a Grant Agreement that shall set forth all grant terms, schedules and conditions.
- E. Project Period - The beginning date of a project period shall be articulated in the Grant Agreement. A term of up to three (3) years shall be considered the project period for all recreational land acquisition and 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.

## **7.8 Eligible Project Costs and Match**

- A. Recreation Acquisition Projects - Eligible costs for recreation acquisition projects include fifty percent (50%) of the approved appraised value of the land. Certification that all other necessary funds are available must be submitted prior to the release of grant funds. 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.
- B. Recreation Development Projects - Eligible costs for development projects may be up to eighty percent (80%) and include design, construction, site planning, demolition, landscaping and site improvements essential to the project. Certification that all other necessary funds are available must be submitted prior to the release of grant funds. Matching funds including in-kind services are not limited but adequate documentation of all in-kind match must be provided.
- C. An applicant may request that match incurred after the announcement of a grant round, but prior to receipt of a grant award purchase order, be applied retroactively. Project costs incurred prior to the receipt of a purchase order are at the applicant's risk; grant funds shall not be available retroactively. The Director may authorize a request to apply match retroactively if such request is submitted by the applicant in writing prior to contracting for services or taking title to the property. The granting such a request does not constitute assurance that the project will be approved.

## **7.9 Restrictive Covenants and Conversion**

- A. Recreation Acquisition Projects - Property acquired with grant funds shall be maintained and managed in the condition and for the purpose specified in its approved grant application in perpetuity. Each Grantee shall execute a perpetual recreation easement, or similar document, running in favor of the State of Rhode Island over the acquired property. Such easement shall provide that if the recipient at any time fails in its obligation to properly maintain the acquired property in accordance with the purposes and functions for which it was acquired and in conformance with an approved Management Plan, 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.
- B. Recreation Development Projects - Property improved with grant funds shall be maintained and managed in the condition and for the purpose, or a substantially similar purpose, to that specified in its approved grant application in perpetuity. Each Grantee shall execute and record in the land evidence records a "Notice of

Grant Agreement", that provides that if the recipient at any time fails in its obligation to properly maintain the acquired property in accordance with an approved Management Plan, 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.

## 7.10 Recreation Grant Priority Rating System

### A. Recreation Acquisition Projects

	Criteria Name	Criteria Description	Maximum Points	Points Awarded
1	Relationship to Need	Points will be awarded based on the need and/or demand for parks or other recreational land in the area.	10	
2	Acres to be Acquired	One point per acre acquired, up to a maximum of 20	20	
3	State Planning Consistency	The project satisfies priority needs documented in the State Comprehensive Outdoor Recreation Plan (SCORP) and any other State Guide Plan elements identified as applicable by the RRRC. Points will be awarded based on the number and/or importance of recommended actions supported by the proposal.	10	
4	Relationship to Community Planning	The project advances elements of a larger community planning process.	5	
5	Applicant Priority	The applicant's highest priority application will receive 5 points, 2nd highest will receive 3 points, and 3rd highest will receive 1 point. All other applications will receive 0 points.	5	

6	Historic & Cultural Preservation	Acquisition of the site will preserve significant historical, cultural, or scenic resources.	10	
7	Habitat Preservation	Acquisition of the site will preserve areas of wildlife habitat.	10	
8	Brownfield Redevelopment	Acquisition of the site will provide for the redevelopment of a brownfield as defined by DEM Remediation Regulations.	5	
9	Connectivity	Acquisition of the site will provide for a connection between two existing recreational resources or from a population center to a recreational resource.	5	
10	Equity, Service, and Accessibility	<p>The project will expand the recreational opportunities available to disadvantaged segments of the population.</p> <p>The project is located within or provides enhanced service to neighborhoods in which low income and/or minority residents are over-represented</p> <p>The project is located in a densely populated neighborhood or a neighborhood identified for revitalization by State or community programs.</p> <p>The project is served by public transportation (within ¼ mile of a bus stop) or is proximate to a bikeway.</p>	<p>15 total possible points</p> <p>A. 5</p> <p>B. 5</p> <p>C. 5</p>	



1 1	Climate Change Resiliency	Acquisition of the site will enhance an area's resiliency to climate change through elements such as a coastal buffer, flood storage, future marsh migration, etc.	5	
TOTAL POINTS			100	

**B. Recreation Development Projects**

	Criteria Name	Criteria Description	Maximum Points	Points Awarded
1	Relationship to Need	Points will be awarded based on the need and/or demand for the proposed recreational activity in the area.	10	
2	State Planning Consistency	The project satisfies priority needs documented in the State Comprehensive Outdoor Recreation Plan (SCORP) and any other State Guide Plan elements identified as applicable by the RRRC. Points will be awarded based on the number and/or importance of recommended actions supported by the proposal.	10	
3	Relationship to Community Planning	The project advances elements of a larger community planning process.	5	
4	Applicant Priority	The applicant's highest priority application will receive 5 points, 2 <sup>nd</sup> highest will receive 3 points, and 3 <sup>rd</sup> highest will receive 1 point. All other applications will receive 0 points.	5	
5	Multi-community or Regional Needs	The project demonstrates how it will address multi-community or regional needs.	3	

6	Economic Revitalization	The project will improve the economy of an area. Examples include projects that spur local business activity, tourism, job creation, town center redevelopment, etc.	5	
7	Historic & Cultural Preservation	Projects that protect and restore historic and cultural resources, educate the public about the importance of these resources via interpretive signage, etc.	5	
8	Habitat Creation & Restoration	Projects that create and/or substantially restore areas of wildlife habitat.	5	
9	Brownfield Redevelopment	The project involves the redevelopment of a brownfield as defined by DEM Remediation Regulations.	3	
10	Connectivity	The project creates a connection between two existing recreational resources or from a population center to a recreational resource.	3	

11	Equity, Service, and Accessibility	<p>The project will expand the recreational opportunities available to disadvantaged segments of the population.</p> <p>The project is located within or provides enhanced service to neighborhoods in which low income and/or minority residents are over-represented.</p> <p>The project is located in a densely populated neighborhood or a neighborhood identified for revitalization by State or community programs.</p> <p>The project is served by public transportation (within ¼ mile of a bus stop) or is proximate to a bikeway.</p>	<p><i>15 total possible points</i></p> <p>A. 5</p> <p>B. 5</p> <p>C. 5</p>	
----	------------------------------------	---	--	--

12	Maintenance	The applicant has documented that the facility proposed for renovation has been maintained consistent with industry standards.	0 to -5	
13	Expanded Usage	The project adds to the number of recreational amenities or hours of usage (e.g. additional fields are added to a facility or lights are added so it can be used at night).	7	
14	Multiple Uses	The project appropriately integrates a variety of recreational opportunities providing activities for a mix of age groups and degrees of physical abilities.	5	
15	Improved User Comfort or Safety	The project provides for the addition of bathrooms , fencing to separate recreational activities, benches, shade trees, shelters over picnic tables, etc.	5	
16	Opportunities for physically or mentally challenged individuals	The project provides activity or amenity features that expand the recreational opportunities for physically or mentally challenged individuals (such features to be in excess of normally mandated barrier-free accessibility standards).	5	
17	Green Building and Site Design	The project incorporates green building design/LEED/SITES features (water or energy conservation, recycled materials, renewable energy, etc.)	3	
18	Climate Change and Resiliency	The project incorporates innovative ways to account for impacts associated with climate change such as site/landscape construction to provide adaptations for sea level rise, shade, storm buffers, stormwater infiltration, etc.	3	
19	Exceptional Features	The project has special features not noted elsewhere in the application. For example, promotes arts, supports healthy aging, special programming, includes acquisition of land, etc.	3	

TOTAL POINTS	100	
--------------	-----	--

**250-RICR-110-00-7**

**TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**CHAPTER 110 - PLANNING & DEVELOPMENT**

**SUBCHAPTER 00 - N/A**

PART 7 - RULES AND REGULATIONS FOR THE AGRICULTURAL AND  
RECREATIONAL ACQUISITION AND DEVELOPMENT, ROGER WILLIAMS PARK,  
AND ROGER WILLIAMS ZOO GRANT PROGRAMS (250-RICR-110-00-7)

Type of Filing: Amendment

**Agency Signature**

---

Agency Head Signature

---

Agency Signing Date

**Department of State**

---

Regulation Effective Date

---

Department of State Initials

---

Department of State Date