

DEPARTMENT OF NATURAL RESOURCES

PARKS AND RECREATION DIVISION

RECREATION BOND PROGRAM

(By authority conferred on the commission of natural resources, department of natural resources, by section 14 of Act No. 329 of the Public Acts of 1988, being S318.584 of the Michigan Compiled Laws)

R 318.201 Definitions.

Rule 1. As used in these rules:

(a) "Act" means Act No. 329 of the Public Acts of 1988, being S 318.571 et seq. of the Michigan Compiled Laws.

(b) "Community recreation," as described in section 8(2)(c) of the act, means those facilities which the applicant documents will address 1 or more recreation needs of its residents and which are not primarily intended to revitalize the local economy or attract visitors from outside the applicant's geographic jurisdiction. The term includes any of the following:

- (i) Playgrounds.
- (ii) Sports fields and courts.
- (iii) Community and senior centers.
- (iv) Fishing sites.

(c) "Community recreation plan" means a 5-year, comprehensive recreation plan for a given local unit of government, approval of which is required by the department for participation in the land and water conservation fund and Michigan natural resources trust fund grant programs.

(d) "Facility" means any structure, building, man-made feature, or site enhancement, including a swimming beach, playground, trail, or rest room building, that is constructed with grant funds under this program.

(e) "Funding cycle" means the fiscal year in which funds are to be appropriated by the legislature.

(f) "Infrastructure improvement," as described in section 8(2)(a) of the act, means the renovation, repair, replacement, upgrading, or structural improvement of an existing facility that is not less than 15 years old, including any of the following existing facilities or restoration of the natural environment:

- (i) Recreation centers.
- (ii) Sports fields.
- (iii) Beaches.
- (iv) Trails.
- (v) Historical structures.
- (vi) Playgrounds.

(g) "Intermediate school district environmental education facility," as described in section 8(2)(e) of the act, means a facility which is located on property that is controlled by an intermediate school district and which is situated on land within the district.

(h) "Match" means that portion of the total project cost that is to be paid by the applicant.

(i) "Project agreement" means the contract between the state and the local unit of government that details the terms of the project to be undertaken.

(j) "Recreation redevelopment of an industrial site," as described in section 8(1)(c) of the act, means projects to redevelop or reuse vacant manufacturing facilities or abandoned industrial sites for recreational facilities.

(k) "Regional park" means a public recreation site which is under the applicant's control and which is in compliance with all of the following requirements:

(i) Does now, or will, attract not less than 25% of its users from areas in the region that are 30 minutes or more driving time from the site.

(ii) Provides passive, water-based, and active recreation opportunities.

(iii) Is contiguous to, or encompasses, a natural resource feature.

(l) "Site" is a contiguous block or blocks of land which constitute a viable management unit which is under the control of the applicant or grantee and on which all of the requested funds would be spent.

(m) "Tourist attraction," as described in section 8(2)(d) of the act, means recreational facilities which will attract, to the community, short-term visitors whose spending will result in a positive impact, relative to cost, on the local, regional, or state economy. The term does not include such support facilities as luxury lodging, conference centers, and restaurants.

(n) "Waterfront revitalization," as described in section 8(2)(b) of the act, means the development of facilities on waterfront sites for the purpose of increasing recreation opportunities that encourage further private investments in the area and is limited to the development of facilities on sites directly adjacent to a lake, river, or stream.

History: 1989 AACCS.

R 318.202 Notification procedure; application process.

Rule 2. (1) An application for a grant authorized under the act shall be made on a form prescribed by the department.

(2) The department shall mail a notice to local units of government in Michigan which informs the local units of all of the following information:

(a) The availability of bond funds.

(b) Eligible uses of the funds.

(c) Application due date.

(d) Procedures to obtain application materials. At the time that notices are mailed, the department shall also prepare a news release announcing the availability of funds.

(3) To be considered for funding in the funding cycle noticed by the department pursuant to the provision of subrule (2) of this rule, a local unit of government shall submit all application materials by the date specified in the notice and application. Applications postmarked later than this date will not be accepted. A local unit of government may submit more than 1 application in a funding cycle.

(4) On or enclosed with the application form, a unit of government shall provide all information necessary to determine whether the application meets the eligibility requirements set forth in R 318.203 and information necessary to evaluate the project under the criteria set forth in R 318.205, including all of the following:

(a) An 8 1/2-inch by 11-inch project location map.

(b) An 8 1/2-inch by 11-inch preliminary site development plan.

(c) Preliminary floor plans and elevation drawings for any building construction.

(d) A certified resolution from the governing body stating that the proposal will be undertaken if a grant is awarded and designating an authorized project representative.

(e) Evidence and results of a preannounced public meeting on the application proposal.

(f) A brief description of the project proposal.

(g) The total cost of the project proposal and the amount of grant requested.

(h) Sources of local match.

(i) A breakdown of development items and their projected costs. Itemized, preagreement engineering and associated costs may be eligible for reimbursement if a grant is awarded.

(j) A narrative, limited to 1 page, of what the proposal is and why it is needed.

(k) Attestation, by signature of an authorized project representative, that all statements on the application form are true, complete, and accurate to the best of the representative's knowledge.

(5) The department shall contact a local unit of government if additional information is needed to evaluate a project.

(6) An application will not be carried forward from one funding cycle to the next. New authorizing resolutions and public meetings will be required for resubmitted applications.

History: 1989 AACCS.

R 318.203 Eligibility requirements.

Rule 3. The department shall consider a project application for funding if it is in compliance with all of the following conditions:

(a) A local unit of government has a community recreation plan on file with the department. Department-approved plans are valid through December 31 of the fifth full calendar year after adoption by the local unit's governing body. A school district shall be eligible for funding if the district is in compliance with either of the following provisions:

(i) The district has an approved community recreation plan and documents that it is the primary provider of public recreation in its service area.

(ii) The district has participated with a local unit of government in the development of a community recreation plan in which the school district's role as a provider of public recreation is identified. An intermediate school district, when applying for funds to develop an environmental education facility, need only have the endorsement from the local unit of government serviced by the facility stating that it is consistent with the local unit's recreation plans.

(b) The project for which funding assistance is sought is listed and justified in the local unit of government's recreation plan.

(c) The local unit of government provides an assurance that the local match is available and that, if a grant is awarded, major obstacles to the successful and timely commencement and completion of the project do not exist.

(d) The local unit of government has submitted notice of project application to the regional planning agency for review.

(e) The local unit of government has fee title or a legal instrument that demonstrates property control for not less than 15 years from the date of application. If control is evidenced by less than fee title, the length of control shall be commensurate with the value of the proposed project.

(f) The local unit of government's grant request is not more than \$750,000.00 and not less than \$15,000.00 and the unit provides matching funds of not less than 25% of the total project cost for which grant funds are requested. The match cannot consist of other state grant funds, including special legislative appropriations, and shall be otherwise consistent with statutory requirements. An applicant may receive more than 1 grant in a funding cycle; however, before fiscal year 1992, a local unit of government shall not receive more than \$2,000,000.00.

(g) The proposed project addresses at least 1 of the following for use of the funds as stated in section 8(2) of the act:

(i) Infrastructure improvement.

(ii) Waterfront revitalization.

(iii) Community recreation.

(iv) Tourist attraction.

(v) An intermediate school district environmental education facility.

(vi) Recreation redevelopment of an industrial site.

(h) The proposed project is not for the purpose of meeting the physical education and athletic program requirements of a school. Facilities funded under this program on school grounds shall not restrict public use to less than 50% of operating hours. A schedule of when such sites are open to the public may be requested by the department.

(i) The proposed project does not unfairly compete with the private sector. Projects which would create an unfairly competitive situation with private enterprises will not be eligible for funding. In situations where privately managed facilities are providing identical or similar recreation opportunities, the local unit of government shall provide written justification of the need for the proposed facility in light of the private sector's presence.

(j) The local unit of government certifies that any funding received will not result in a net reduction of planned or existing recreation capital outlay or operational expenditures.

History: 1989 AACs.

R 318.204 Selection process.

Rule 4. (1) From among projects determined to be eligible under the provisions of R 318.203, the commission shall select projects for recommendation to the legislature based on the following considerations:

(a) Total spending allowed by the act for fiscal years 1989 through 1991.

(b) The allocation of funds among 5 categories as required by sections 8 and 9 of the act. The categories are as follows:

- (i) Projects in region 1 (upper peninsula), as defined by section 9(2) of the act.
- (ii) Projects in region 2 (northern lower peninsula), as defined by the act.
- (iii) Projects in region 3 (southern lower peninsula), as defined by the act.
- (iv) Regional park projects.
- (v) Projects for the purpose of recreation redevelopment of an industrial site.

(c) The rating of the projects under evaluation criteria listed in R 318.205.

(2) The commission shall submit a list of projects to the legislature and certify that the list was prepared in compliance with these rules. The legislature shall approve or reject projects from the submitted list.

History: 1989 AACCS.

R 318.205 Evaluation criteria.

Rule 5. (1) The commission shall use 3 major and 4 minor factors to evaluate projects. All major factors are of equal importance in the evaluation of a project. Minor factors shall be used only when the major factors fail to clearly define which projects should be funded.

(2) Each of the 3 major factors shall be rated exceptional, good, or fair. An exceptional rating is equal to a score of 80; a good rating is equal to a score of 60; and a fair rating is equal to a score of 10. The major factors are as follows:

(a) The need for the project as determined by an overall assessment of the following:

(i) The merits of the project relative to cost in addressing any of the following bond program priorities:

- (A) Infrastructure improvement.
- (B) Waterfront revitalization.
- (C) Community recreation.
- (D) Tourism.
- (E) Intermediate school district environmental education.
- (F) Recreation redevelopment of industrial sites.

(ii) How well the project meets the following Michigan recreation plan priorities:

- (A) Proximity to urban areas.
- (B) Attention, beyond the requirements of law, to the needs of special populations, such as minorities, senior citizens, low income individuals, and the handicapped.
- (C) Impact on county and regional recreation opportunity deficiencies or identified local recreation deficiencies documented in the community recreation plan.

(b) The capability of a local unit of government to complete the project and to operate and maintain it once completed. Capability will be determined by an overall assessment of all of the following criteria:

(i) Demonstrated satisfactory performance of the local unit of government in other department recreation grant programs.

(ii) Demonstrated ability to operate and maintain existing recreation facilities.

(iii) Assurance of funds for the maintenance and operation of the proposed project.

(iv) Demonstrated commitment to public recreation through recreation staffing and the existence of a citizen recreation board or commission.

(c) The quality of the site and project design. Quality will be determined by an overall assessment of all of the following criteria:

(i) The appropriateness of the site for the intended uses, including all of the following characteristics:

- (A) Size.
- (B) Location.
- (C) Accessibility.
- (D) Slope.
- (E) Soils.
- (F) Vegetation.
- (G) Surface water bodies.
- (H) Surrounding land uses.

(I) On-site or adjacent environmental intrusions, natural features, and attractiveness of the site and surroundings.

(ii) Clarity and detail of the development plans and the quality of the project design in terms of orientation, spacing of facilities, traffic flow, and effective use of site features.

(iii) The quality of any existing development.

(iv) The adequacy of safety and health considerations.

(v) Evaluation of the impact of proposed development on the natural environment.

(3) If the score on 2 or more projects for major factors is the same and does not determine which project should be recommended within available dollars, then minor factors shall be used to determine priority. The 4 minor factors are as follows:

(a) The per capita amount of bond funds previously received by a local unit of government. Local units of government that have received less than \$6.50 per resident will be given a score of 4. Those that have received \$6.50 per resident or more will be given a score of 0.

(b) A local unit of government's need for financial assistance. Financial need will be determined by the unit's rank on the distressed communities list prepared by the Michigan department of commerce. Communities on the list of distressed communities may receive a score of 2 to

4. Four points will be given for communities ranked most distressed and in the top 1/3 of the list, 3 points for those communities in the middle 1/3, and 2 points for those communities in the bottom 1/3.

(c) Local units of government that provide more than the minimum match required by the act will be given a score as follows:

(i) A match of 50% or more - 4 points.

(ii) A match of 40%-49% - 3 points.

(iii) A match of 30%-39% - 2 points.

(iv) A match of 26%-29% - 1 point.

(d) Communities that have received a Michigan natural resources trust fund development grant, a land and water conservation grant, or a bond grant within the previous 5 years will receive a score of 0. Those communities that have not received 1 of the listed grants will receive a score of 4.

History: 1989 AACCS.

R 318.206 Grant administration procedures and responsibilities.

Rule 6. After a project agreement has been entered into between a local unit of government and the department, and before any construction costs are incurred, all of the following provisions shall be complied with:

(a) The local unit of government shall submit all of the following documents to the department:

(i) Any and all final construction plans.

(ii) Any and all work and material specifications.

(iii) Any and all itemized cost estimates, including fees for consultants.

(iv) Any and all contract documents for projects done by contract, including any of the following:

(A) Advertisements for bids.

(B) Bid proposals.

(C) Instructions to bidders.

(D) General conditions.

(E) Bid tabulations.

(F) Awards.

(v) A completed "Professional Services" form which is provided by the department and which shows the names and state registration numbers of the responsible registered prime professional (engineer, architect, or landscape architect), service contractor, and any professional subcontractor used in the design of the project.

(vi) All applicable permits and required approvals. All sets of plans and specifications submitted to the department shall bear the seal or seals of the consultant or consultants who prepared the plans.

(b) The department shall review and approve all plans, specifications, and contract documents submitted by the local unit of government for adequacy and conformity to the applicable laws and regulations.

(c) The department shall review and approve bid tabulations, including alternates, if any, and the local units of government's recommendation for award. The local unit of government shall award the contract to the lowest bidder acceptable to the department.

History: 1989 AACCS.

R 318.207 Construction contract requirements.

Rule 7. (1) Advertising for competitive bids is required for all construction contracts of \$10,000.00 or more. Contracts under \$10,000.00 do not require advertising, but a minimum of 3 bid proposals shall be solicited.

(2) All construction contracts shall comply with the project agreement entered into by the state of Michigan and the local unit of government and shall be in compliance with all applicable state laws and rules.

(3) The local unit of government shall inform all bidders in the advertisement that state funds are being used to assist in construction and that relevant state requirements will apply.

History: 1989 AACCS.

R 318.208 Payment to local unit of government.

Rule 8. (1) Funds will not be disbursed before execution of the project agreement. Funds will be disbursed on a reimbursement basis upon receipt by the department of appropriate documentation of expenditures. Documentation requirements will be specified on a standard form prescribed for requesting reimbursement.

(2) Upon the submittal of a request for reimbursement by a local unit of government, the department shall review financial information, inspect the construction as required, and certify that the project is progressing or has been completed according to the project agreement before payment will be made.

(3) Upon the submittal of a request for final payment by a local unit of government, the department shall, before final payment, do all of the following:

(a) Conduct an audit of project expenditures. Before the audit, the department will pay up to 90% of the specified grant amount; the final 10% will be withheld until the audit is completed.

(b) Conduct an on-site inspection.

(c) Verify that acknowledgement of bond assistance in a manner prescribed by the department is in place.

History: 1989 AACCS.

R 318.209 Post-completion responsibilities.

Rule 9. The local unit of government shall be required to operate and maintain a site developed with fund assistance as follows:

(a) The site shall be maintained to appear attractive and inviting to the public.

(b) Sanitation and sanitary facilities shall be maintained in accordance with applicable health standards.

(c) Sites shall be kept safe for public use. Fire prevention equipment, life saving equipment, and similar safety efforts shall be maintained for public safety.

(d) Facilities shall be maintained to prevent undue deterioration and to encourage public use.

(e) Sites shall be kept open for public use at times appropriate to the type of area or facility.

(f) Access to a site shall not be denied a person on the basis of residence. Preferential reservation, membership, or annual permit systems are prohibited, except to the extent that differences in admission and other fees may be instituted on the basis of residence. Nonresident fees shall not be more than twice that charged residents. If resident fees are not charged, nonresident fees shall not be more than the rate charged residents at other facilities in the area open to the public.

(g) Local units of government may impose reasonable limits on the type and extent of use of a facility when such limitations are necessary for maintenance or safety. Thus, limitations may be imposed on the numbers of persons who use a facility or the type of users, such as "hikers only" or "bicyclists only."

(h) Any site, or portions thereof, developed with fund assistance shall not be sold, disposed of, or converted to a use other than that use specified in the project agreement without the express approval of the commission. The commission has the authority to deny requests or require mitigation for sale, disposal, or conversion on a case-by-case basis. The denial of requests or the requiring of mitigation shall be based on an evaluation of the effect of such action on the original intent for which the grant was given.

(i) Local units of government are not required to continue the operation of a facility beyond its useful life. The operation of facilities funded under this program may be discontinued upon approval of the commission.

(j) Failure to comply with post-completion responsibilities as specified in subdivisions (a) to (i) of this rule shall be considered cause for the commission to take the following action or actions, as deemed appropriate:

(i) Withholding future payments to the local unit of government on any or all current recreation grant projects until the compliance issue is resolved.

(ii) Withholding action on all pending and future grant applications of the local unit of government submitted under the recreation bond, natural resources trust fund, and land and water conservation fund programs.

(iii) Other mitigation as required by the commission.

History: 1989 AACS.

R 318.210 Inspection responsibilities.

Rule 10. To determine whether sites developed with fund assistance are being maintained for the use specified in the project agreement, these rules, and the act, the department shall conduct compliance inspections not more than 5 years after the date of final payment to the local unit and, thereafter, periodically for the life of the facility.

History: 1989 AACS.

R 318.211 Reuse of vacant manufacturing facilities or abandoned industrial sites for recreational purposes.

Rule 11. (1) Grants may be requested to assist in the reuse of vacant manufacturing facilities or abandoned industrial sites for public recreation purposes.

(2) Applications for grants under this rule will be reviewed by the department to certify that the site in question is a vacant manufacturing facility or abandoned industrial site.

(3) Grant applications for ineligible sites will be rejected. Grant applications for eligible sites will be reviewed for funding under the following categories, in addition to evaluation pursuant to the provisions of R 318.202, R 318.203, R 318.204, and R 318.205:

(a) To establish redevelopment feasibility and to provide funds to determine, through testing, whether environmental contamination exists. Local units of government may submit applications for grants to provide feasibility studies to determine which type of public park use is advisable for sites classified as eligible pursuant to this rule and to conduct tests to determine if the site is environmentally contaminated.

(b) To provide designs for public recreation facilities on sites of vacant manufacturing facilities or abandoned industrial sites. Local units of government may submit applications for grants to provide designs for sites certified as eligible. Design proposals are limited to the boundaries of the eligible sites and shall be for projects for public recreation use.

(c) To redevelop sites for public recreation. Local units of government may submit applications to redevelop and reuse vacant manufacturing facilities or abandoned industrial sites for public recreational use if there are no environmental concerns as to the site, if redevelopment is feasible, and if redevelopment is likely to provide, at a minimum, publicly available recreational open space and undeveloped land. Projects funded under this category will be those that provide basic outdoor recreation on land dedicated for park purposes.

(4) For the purposes of this rule only, for the first 3 funding cycles, project maximums are as follows:

- (a) For the categories set forth in subrule (3)(a) and (b) of this rule ... \$50,000.00.
- (b) For the category set forth in subrule (3)(c) of this rule ...\$100,000.00.

History: 1989 AACCS.