
**Rules of
 Department of Natural Resources
 Division 90—Parks, Recreation and Historic
 Preservation
 Chapter 3—Historic Preservation**

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 90—Parks, Recreation
and Historic Preservation
Chapter 3—Historic Preservation**

10 CSR 90-3.010 Definitions—Revolving Fund

PURPOSE: This rule provides definitions for the following regulations pertaining to the Historic Preservation Revolving Fund.

(1) As used in this chapter, unless the context clearly indicates otherwise, the following terms shall mean:

(A) Community or local community means the local city or county government, the local preservation organizations, other local organizations such as the Chamber of Commerce, Main Street or Merchants organization, or other group of concerned, preservation-minded citizens;

(B) Department means the Department of Natural Resources;

(C) Development means to realize the possibilities of a property by improving it or making it more effective;

(D) Fund means the Historic Preservation Revolving Fund;

(E) Historic property or property means any building, structure, district, area or site that is significant in the history, architecture, archaeology or culture of this state, its communities or this country, which is eligible for nomination to the National Register of Historic Places;

(F) Marketability or marketable means a property in demand by potential buyers for acquisition;

(G) National Register means the National Register of Historic Places;

(H) Project means the acquisition, stabilization, rehabilitation, development, marketing, maintenance or restoration, or a combination of these, of an historic property;

(I) Rehabilitation means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values or, in the alternative, those repairs, replacement or possible new construction necessary to make a structure habitable and reusable according to modern standards and building codes;

(J) Restoration means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the

removal of later work or by the replacement of missing earlier work;

(K) Stabilization means the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of unsafe or deteriorated property while maintaining the essential form as it exists at present or, in the alternative, those repairs which are necessary to keep a structure from violating local building codes or being a public safety hazard; and

(L) Staff means the department's Historic Preservation Program staff.

*Auth: section 253.035, RSMo (Cum. Supp. 1993). * Original rule filed May 28, 1992, effective Jan. 15, 1993.*

**Original authority 1961, amended 1967, 1983, 1993.*

10 CSR 90-3.020 Acquisition of Historic Property

PURPOSE: This rule provides guidelines for acquisition of historic property by the Historic Preservation Revolving Fund.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) The following minimum requirements must be met for acquisition of any interest in a property by the fund:

(A) The property must be significant to the state's historic resources and must be listed on or considered eligible for listing on the National Register. Properties may be listed or considered eligible for listing either individually or as a contributing structure in a district.

1. Properties not already listed on the National Register must be reviewed and deemed eligible for listing by a majority of staff reviewers.

2. Properties deemed eligible for listing on the National Register must meet the requirements outlined in the *Code of Federal Regulations*, 36 CFR 60.4.

3. Any property previously deemed ineligible by staff reviewers must be reconsidered and deemed eligible, after review of additional or new information, or actually listed on the National Register, before it can be considered

for acquisition or other assistance by the fund. Final determination of National Register eligibility shall rest with the Historic Preservation Program director; and

(B) Structural Condition. The property must—

1. Have enough original features and materials to be eligible for listing or to remain on the National Register; and

2. Be structurally sound enough for rehabilitation to be physically and economically feasible.

(2) The following criteria shall be considered in evaluating properties for acquisition of any interest by the fund:

(A) Endangerment—whether the continued historic character of the property is determined by the department to be endangered or threatened;

(B) Historic Significance of the Property—whether the property has historic significance to the state, its communities or the United States;

(C) Economic Feasibility—whether the costs associated with acquisition and eventual rehabilitation are considered reasonable by the department based on market conditions in the property's area with respect to the probability of resale;

(D) Additional Financial Alternatives—whether additional financial assistance is available for preservation of the property;

(E) Marketability—whether the property is considered by the department to be marketable;

(F) Local Support—whether the preservation of the property is supported by the local community;

(G) Public Visibility—whether the property will be visible to the public, provide a positive example for preservation and educate the public regarding the benefits of preservation;

(H) Environmental Factors—whether the property is situated in a positive environment, such as an active, preservation-oriented neighborhood, a rural setting or a downtown redevelopment area. Commercial or subdivision developments, industrial areas and flood plains shall not be considered as positive environments; and

(I) Community Benefit—whether preservation of the property would benefit the community. Community benefits may include, but shall not be limited to, preserving a local landmark or a key building in a downtown block, or providing space for a community center, arts facility or other public benefit as demonstrable.

(3) Any property acquired in fee by the fund shall be subjected to covenants meeting the requirements of section 253.405 of the Historic



Preservation Revolving Fund Act upon resale by the fund.

(4) The terms of all acquisitions shall be approved in writing by the director of the Department of Natural Resources. The department will not be obligated to acquire (or sell) any property until a purchase (or sales) contract is signed by all parties.

Auth: section 253.035, RSMo (Cum. Supp. 1993). * Original rule filed May 28, 1992, effective Jan. 15, 1993.

*Original authority 1961, amended 1967, 1983, 1993.

10 CSR 90-3.030 Procedures for Making Loans

PURPOSE: This rule provides guidelines for making of loans by the Historic Preservation Revolving Fund.

(1) The department may loan money from the fund only after it has been determined a loan is the best way to preserve an historic property. Loans may be made to pay for all or part of costs associated with purchase, stabilization, rehabilitation, development, marketing, maintenance or restoration of an historic property.

(2) Loans may be made to the property owner, or to any other person, corporation, governmental entity or to a nonprofit organization registered with the secretary of state; provided, that the property owner approves of the loan and a security interest in the real property can be provided to the department.

(A) Loans to individuals may be made for properties requiring stabilization in order to qualify for financing from a commercial bank, savings and loan or other financial institution.

(B) Loans to for-profit corporations may be made only in cases of extreme endangerment, shall be of short-term duration and shall be repaid immediately upon obtaining alternate financing.

(C) Loans to governmental entities and nonprofit organizations may be made for preservation purposes as deemed appropriate by the department.

(3) Acquisition, stabilization, rehabilitation, development, marketing, maintenance or restoration projects, or a combination of these, for properties that fail to meet the requirements of 10 CSR 90-3.020(1) shall not be eligible for a loan from the fund.

(4) Loans shall be made upon application submitted to and approved by the department. Each application for a loan must provide all available information relating to the following loan criteria:

(A) Economic Feasibility—applicants must provide a detailed outline of the project being funded and adequately demonstrate the ability to generate sufficient income from the project to repay the requested loan. Adequate demonstration may be established by submission of the following information:

1. Total amount of funding required to complete the project;

2. Total amount of funding being requested from the revolving fund;

3. How and why the money being requested from the fund is necessary for preservation of the property's historic character;

4. How additional funding for the project will be obtained, including what other funding sources money has been requested from, what other sources have approved funding for the project, and the terms and conditions of other funding;

5. Evidence of the current appraised value of the property (preferably by an appraisal less than six (6) months old) and the appraised value of the completed project, if available;

6. A complete description of the project and intended use of all funds, including description of the current condition and use of the property, description of proposed rehabilitation and use of the property, all contractor's cost estimates for rehabilitation and all architect's plans for rehabilitation;

7. Proposed methods of loan repayment (for example, if repayment depends on fund-raising, a complete description of fund-raising plans);

8. Proposed collateral to secure repayment to the fund; and

9. Any other information pertinent to the feasibility of the proposed project or repayment of the loan from the fund;

(B) Financial Strength, Stability and History of Applicant—applicants must adequately demonstrate sufficient financial strength and stability to assure repayment of the requested loan. Adequate demonstration may be established by submission of information necessary to assess the financial strength and stability of the applicant, including:

1. For individuals, unincorporated businesses and closely held corporations—

A. A current credit bureau report on all loan applicants, guarantors or company principals;

B. Signed current personal financial statement for all loan applicants, guarantors or company principals;

C. Dun & Bradstreet corporate rating (if available) and company's financial statements for the past three (3) fiscal years (If statements are more than six (6) months old, include the most recent quarterly statement available and the matching quarterly statement from the previous year.);

D. Tax returns for the previous three (3) years; and

E. Projections for two (2) years (balance sheet and income statement, with appropriate justification of projections);

2. For publicly held corporations—

A. Dun & Bradstreet corporate rating;

B. Corporate financial statements for the past three (3) years (If statements are more than six (6) months old, include the most recent quarterly statement available and the matching quarterly statement from the previous year.); and

C. The most recent annual corporate report;

3. For governmental entities—

A. Moody's bond ratings; and

B. Fiscal reports for the previous year(s) up to three (3) years depending upon size of annual budget and population served; and

4. For nonprofit organizations—

A. Financial statements for the previous year(s) up to three (3) years prepared by an accountant or signed by the president; and

B. Tax information including letter indicating 501(c)3 status (Note: All financial statements should include balance sheet, income statements and any supporting schedules. If not prepared by an accountant, financial statements should be signed by the company's president or treasurer. Financial statements from any parent or affiliate company should be submitted as outlined in this rule.);

(C) Other Liens or Mortgages on Property—disclosure of all present existing, as well as reasonably anticipated, liens or mortgages, or both, on the property and the effect on the security interest to be granted to the department;

(D) Availability of Additional Financial Assistance—disclosure of all known additional financial assistance available for the project; and

(E) Resumes of Project Management—give experience and qualifications of architect, contractors and project supervisor.

(5) Each application shall be reviewed by the department in accordance with the criteria set forth in section (4) of this rule. Additionally, the department also shall consider the status of the property to be benefitted by the loan in accordance with the criteria set forth in 10 CSR 90-3.020(2)(A), (B) and (E)—(I). Using these criteria, the department will determine

whether the loan application is acceptable and whether a loan from the fund for the subject project would be prudent and appropriate use of fund monies.

(6) Loan applications may be denied on the sole basis of availability of funds.

(7) The department shall notify the applicant in writing of its determination on the application.

(8) For those loan applications determined by the department to be acceptable as a prudent and appropriate expenditure of fund monies, the department will notify the applicant of the available loan terms.

(9) Unless expressly waived by the department, the terms for every loan, at a minimum, shall include:

(A) Interest Rate—all outstanding loan balances shall be charged a rate of interest considered by the department to be appropriate, but in no event lower than one and one-half percent (1 1/2%) below the New York prime interest rate. This rate is to be established at the time the loan agreement is signed by the loan recipient. Lesser interest rates on loans to nonprofit organizations may be allowed at the department's discretion;

(B) Period of Repayment—a period for repayment shall be established by the department equal to the minimum length of time required to repay the loan;

(C) Promissory Note—execution of a promissory note setting forth applicable repayment terms, interest rate and terms of default;

(D) Loan Agreement—execution of a written agreement to loan monies from the fund upon the terms, conditions precedent, warranties, affirmative covenants, events of default and other applicable and enforceable provisions established in the loan agreement;

(E) Deed of Trust—execution and recordation of a valid instrument granting the department a security interest in the real property being benefitted by the loan or other real property provided as security for the loan; and

(F) Title Insurance—a title insurance policy naming the department as insured shall be secured by the loan recipient.

(10) In addition to the minimum loan terms set forth in section (9), all loans to incorporated entities shall include the following terms:

(A) Corporate Resolution—a resolution duly passed by the board of directors authorizing the execution and delivery of all necessary loan documents;

(B) Corporate Attorney's Letter of Opinion—a written legal opinion certifying that the borrower is authorized to enter into the loan agreement;

(C) Corporate Certificate of Good Standing—certification from the Missouri secretary of state's office that the corporation is currently registered and in good standing in Missouri; and

(D) Personal Guarantee—written guaranties of repayment executed in favor of the department by all company principals and their spouses owning twenty percent (20%) or more of equity and key management employees.

(11) In addition to the minimum loan terms set forth in section (9), all loans to governmental entities shall include a resolution duly passed by the board or other governing body authorizing the execution and delivery of all necessary loan documents.

(12) The department shall establish all other terms upon which a loan may be made for each individual project.

(13) Terms of all loans must be approved in writing by the director of the Department of Natural Resources. The department will not be obligated to loan any money until a loan agreement has been signed by all parties.

(14) Any property benefitting from a loan by the fund shall be subjected to covenants meeting the requirements of section 253.405 of the Historic Preservation Revolving Fund Act.

*Auth: section 253.035, RSMo (Cum. Supp. 1993). * Original rule filed May 28, 1992, effective Jan. 15, 1993.*

**Original authority 1961, amended 1967, 1983, 1993.*

10 CSR 90-3.040 Acceptance of Donations

PURPOSE: This rule provides guidelines for acceptance of donations by the Historic Preservation Revolving Fund.

(1) Donations to the fund may be made in the form of cash, stocks, bonds, coins, art, antique objects or other readily saleable or negotiable items. Any donation made in a form other than cash must be converted to cash as soon as reasonably possible after receipt. All proceeds must be deposited in the Historic Preservation Revolving Fund.

(2) Donations of real property that fail to qualify for fund acquisition as set forth 10 CSR 90-3.020 cannot be accepted by the department.

(3) Terms of all donations of real property must be approved in writing by the director of the Department of Natural Resources. The department will not be obligated to accept any property until a contract has been signed by all parties.

*Auth: section 253.035, RSMo (Cum. Supp. 1993). * Original rule filed May 28, 1992, effective Jan. 15, 1993.*

**Original authority 1961, amended 1967, 1983, 1993.*

10 CSR 90-3.050 Definitions—Grants

PURPOSE: This rule provides definitions for the following regulations pertaining to the administration of federal Historic Preservation Fund Grants.

(1) As used in 10 CSR 90-3.050 through 3.080, unless the context clearly indicates otherwise, the terms are defined as follows:

(A) Applicant means the entity applying for Historic Preservation Fund Grants and providing the local match;

(B) Certified Local Government refers to a local government (county, city, town, or village) that has been certified by the Missouri State Historic Preservation Officer and the National Park Service as meeting all of the regulations set forth in "Guidelines for Implementation of Certified Local Government Programs in Missouri";

(C) Department means the Department of Natural Resources;

(D) Fiscal year means the federal fiscal year to which an application pertains and which runs from October 1 to September 30 of each calendar year;

(E) Historic Preservation Fund means federal monies accrued under the Outer Continental Shelf Lands Act, as amended, to support the program of matching grants to the states for historic preservation programs and projects as originally authorized under the National Historic Preservation Act of 1966, P.L. 89-665, as amended;

(F) Historic Preservation Fund Grant means a grant awarded for the purpose of carrying out eligible preservation activities leading to the identification, evaluation, registration, and protection of significant cultural resources;

(G) Historic Preservation Program is the cultural resource preservation arm of the Department of Natural Resources, Division of State Parks, which is responsible for state-level administration of the National Historic Preservation Program pursuant to the National Historic Preservation Act of 1966, as amended;



(H) National Park Service or NPS means the agency under the U.S. Department of the Interior responsible for the administration of the National Historic Preservation Program, pursuant to the National Historic Preservation Act of 1966, as amended, which provides Historic Preservation Fund monies to the states in order to support the state historic preservation offices and to provide pass-through funds to assist local preservation efforts;

(I) Preservation Issues refers to the bi-monthly newsletter published by the Historic Preservation Program; and

(J) State historic preservation officer or SHPO refers to the Director of the Department of Natural Resources as designated under section 253.408, RSMo.

*Auth: section 253.035, RSMo (Cum. Supp. 1993). * Emergency rule filed April 15, 1994, effective April 25, 1994, expired Aug. 13, 1994. Original rule filed April 15, 1994, effective Nov. 30, 1994.*

**Original authority 1961, amended 1967, 1983, 1993.*

10 CSR 90-3.060 Development of Grant Priorities

PURPOSE: This rule provides guidelines for the development of grant priorities for the annual Historic Preservation Fund Grants.

(1) The Historic Preservation Program staff shall prepare a preliminary list of grant priorities for the forthcoming federal fiscal year. Priorities shall be developed in accordance with the planning methodology described under the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, published in the *Federal Register* on September 29, 1983.

(2) The Historic Preservation Program staff shall solicit public comment on the proposed grant priorities in the manner outlined below.
 (A) A press release listing proposed priorities shall be issued by the Department of Natural Resources public information office and distributed statewide.

(B) Copies of the preliminary grant priorities shall be mailed to all Certified Local Governments.

(C) Copies of the preliminary grant priorities shall be included in the March/April issue of the Historic Preservation Program newsletter, "Preservation Issues".

(3) Historic Preservation Program staff shall prepare a listing of recommended grant priorities, incorporating staff recommendations and public comments, for inclusion in the grant application package.

*Auth: section 253.035, RSMo (Cum. Supp. 1993). * Emergency rule filed April 15, 1994, effective April 25, 1994, expires August 13, 1994. Original rule filed April 15, 1994, effective Nov. 30, 1994.*

**Original authority 1961, amended 1967, 1983, 1993.*

10 CSR 90-3.070 Procedures for Open Selection of Historic Preservation Fund Grant Projects

PURPOSE: This rule provides procedures for ensuring the open selection of Historic Preservation Fund Grant projects.

(1) The Historic Preservation Program shall announce the availability of Historic Preservation Fund grant monies as follows:

(A) A press release shall be prepared by the Historic Preservation Program and distributed to the media on a statewide basis.

(B) A letter announcing the availability of grant monies shall be prepared by the Historic Preservation Program and mailed to all interested parties.

(C) An announcement of the availability of grant monies shall be included in the May/June issue of "Preservation Issues".

(2) The Historic Preservation Program shall prepare a grant application package which shall include the following:

(A) A description of eligible applicants;

(B) A description of eligible grant project activities;

(C) A description of how grants will be awarded, including the following information; and

1. A sample Selection Criteria Evaluation Form; and

2. A listing of grant priorities for the given grant cycle;

(D) The deadline for submittal of a completed grant application;

(E) The grant application; and

(F) Listing of assurances to be signed by the applicant assuring compliance with various federal or state mandated requirements.

(3) Grant applications shall be sent to any person or entity who requests an application.

(4) The Historic Preservation Program shall mail grant application packages to all Certified Local Governments.

*Auth: section 253.035, RSMo (Cum. Supp. 1993). * Emergency rule filed April 15, 1994, effective April 25, 1994, expired Aug. 13, 1994. Original rule filed April 15, 1994, effective Nov. 30, 1994.*

**Original authority 1961, amended 1967, 1983, 1993.*

10 CSR 90-3.080 Procedures for the Awarding of Historic Preservation Fund Grants

PURPOSE: This rule provides procedures describing the awarding of Historic Preservation Fund Grants.

(1) The Historic Preservation Program shall maintain a log of all grant applications received, including, at a minimum, the name of the applicant and the date the applications were received.

(2) The Historic Preservation Program shall verify the following threshold information on each submitted application:

(A) That each submitted application was received by the deadline for submittal;

(B) That the application is complete; and

(C) That the application and all applicant assurances are properly signed.

(3) The Historic Preservation Program shall notify in writing any applicant submitting a deficient grant application and detail any deficiencies.

(4) The Historic Preservation Program staff shall review and score all nondeficient grant applications in the manner outlined in the grant application package.

(5) The Historic Preservation Program shall prepare a listing of Historic Preservation Fund grant projects recommended for funding.

(6) The listing of recommended Historic Preservation Fund grant projects shall be submitted to the State Historic Preservation Officer (SHPO) for approval.

(7) If the SHPO concurs with the recommendation of the Historic Preservation Program, s/he shall direct the Historic Preservation Program staff to begin grant contract negotiations for all such projects.

(8) Applicants for projects not recommended for funding shall be notified of such in writing.

(9) The Historic Preservation Program shall negotiate with applicants recommended for funding to develop a grant contract that outlines the scope of work and project milestones.

(10) Once the SHPO has signed the grant contract, the Historic Preservation Program shall prepare the following:

(A) A letter notifying the state senator and representatives for the district in which the applicant resides announcing the grant award;

(B) A letter formally notifying the applicant of the grant award;

(C) A press release announcing the grant award; and

(D) A federal Project Notification to be submitted to the National Park Service (NPS).

(11) All Historic Preservation Fund grant awards are dependent upon authorization of federal monies by the United States Congress to the National Park Service, United States Department of the Interior to fund the Historic Preservation Fund grant cycle for a given federal fiscal year.

*Auth: section 253.035, RSMo (Cum. Supp. 1993). * Emergency rule filed April 15, 1994, effective April 25, 1994, expired August 13, 1994. Original rule filed April 15, 1994, effective Nov. 30, 1994.*

**Original authority 1961, amended 1967, 1983, 1993.*