

Brownfield Incentives Policy  
City of Rochester Hills  
February 2009

**Introduction**

Brownfields are properties that have been impacted from historical activities and where the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. The City of Rochester Hills (the City) is dedicated to building a partnership between its citizens, developers and the regulatory authorities in order to return Brownfield properties to active and appropriate reuse. To facilitate this partnership, Brownfield incentives are available in the City and are provided to assist developers with the extra-ordinary costs of redeveloping impacted properties. The City encourages anyone developing contaminated property in the City to discuss these incentives with the Rochester Hills Planning Department.

**Comment [TJW1]:** This was added based on a review of the workshop minutes and was not part of the presentation to the BRA.

This policy is provided to **ensure** that projects that use City Brownfield incentives:

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1. Incorporate a preference for source control, active remediation, or mitigation
2. Create full time jobs
3. Provide an increase in taxable value to the property, and a potential beneficial effect in the area. that would not have occurred without the incentives
4. Use these incentives only after all other sources of funding for eligible activities have been exhausted

**Available Incentives**

There are several types of funding incentives that can be used to assist Brownfield redevelopment. These include, among others, tax increment financing, tax credits, revolving loan funds, and grants. All incentives require one or more of the parcels in a project be classified as a "Brownfield".

This policy is provided to help potential developers identify Brownfields and apply for local and state Brownfield incentives for redevelopment. This policy applies only to Brownfield tax increment financing and tax credits. For information on other incentives, please contact the Rochester Hills Planning Department as listed below.

For Brownfield tax increment financing, certain eligible activities can be reimbursed through capture of taxes on the increased taxable value resulting from redevelopment. This tax capture can apply to both local and state property taxes. Eligible activities in the City include;

- Environmental Assessments (ex. Phase I, Soil and Groundwater Investigations, Baseline Environmental Assessments)
- Response Activities
- Due Care Plans
- Remediation and Engineered Controls
- Other actions necessary to protect the health, safety, welfare, environment, or natural resources

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~~In general, interest costs are not considered eligible expenses. However, under extreme circumstance the applicant may demonstrate to City Council the need for interest to cover a gap. It will be capped. In addition, interest costs associated with these eligible activities may also be eligible for tax increment financing, based on the size of the project, the anticipated repayment period, and the assistance required. The eligibility of interest costs will be determined on a case by case basis.~~

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A Michigan Business Tax Credit is also available for 12.5% to 15% of eligible investments on the Brownfield (credits up to 20% are available only through 2010). These investments can include the following:

- Demolition, Restoration, or Alteration
- Construction
- Site or Building Improvements
- Architectural and Engineering Fees
- Equipment or Fixtures

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Brownfield incentives are for expenses incurred following approval of the incentives, and generally can not be applied retroactively. As such, eligible activities and eligible investments must be delayed until after approval of the credit applications if they are to be eligible for these programs. In order to receive the incentives, the date of completion and the amount invested must be as described in the Plan and application.

The developer is responsible for keeping detailed records of all eligible expenses and investments, including purchase orders, invoices, contracts and records of payment, and for providing these to the City and the Michigan Economic Development Corporation upon allocation of the credit.

### **Eligible Projects**

A construction, redevelopment, renovation or reconstruction project can be eligible for Brownfield incentives in the City if it meets all of the following criteria;

1. It is located in the City of Rochester Hills,
2. It is classified as a facility (as defined by Part 201 of PA451) by having identified hazardous substance contamination in soils or groundwater that is in excess of the unlimited residential closure criteria established by the MDEQ, or it is adjacent and contiguous to a facility and the development of the project is estimated to increase the captured taxable value of the parcel that is a facility,
3. The developer has, or will, submit a Baseline Environmental Assessment (BEA) to the MDEQ within 45 days of purchase or occupancy, and the BEA will be submitted for determination.
4. Development would not occur without the incentives, and
5. The development will ameliorate threats to public health or the environmental that were caused by site conditions through remediation, mitigation or control.

A project can not be eligible for Brownfield incentives in the City if it meets any of the following criteria;

1. The developer or applicant is responsible for the hazardous substance contamination identified at the property, or

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2. The developer did not conduct a Phase I ESA prior to purchase, or
3. The parcel on which development is proposed is not a Brownfield as defined by Act 381.

Projects are evaluated based on, but not limited to, the following criteria:

- Strength of business plan
- Amount of property tax generated
- Amount of investment on a square foot basis
- Job retention and creation
- Extent of remediation, clean-up or control proposed
- Location
- Inclusion of sustainable features
- Amount of green space
- How long the property has been vacant
- Existence of abandoned, blighted or functionally obsolete buildings
- Ratio of public assistance to private investment
- If the investment will provide an incentive to other development in the area
- If the investment will provide additional beneficial effects on the surrounding area and the community as a whole.
- Type of development relative to existing zoning and use

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To remain eligible for the approved incentives, site development must start within five years of the executed Reimbursement Agreement, and must be completed within three years of the estimated completion date. Incentives will be adjusted based on actual expenditures on eligible activities and eligible investments, but may not exceed the approved amount.

Eligible projects will be required to submit the following documents to the City for review. For documents required by MEDC, the City will submit these to the MEDC after review.

- A Brownfield Program Application
- A Brownfield Plan
- A 381 Work Plan if school tax capture is requested
- An MBT Part I Application, if applicable
- An MBT Part II Application, if applicable
- Reimbursement Agreement, if tax capture is requested

**Brownfield Redevelopment Authority**

The City of Rochester Hills has established a Brownfield Redevelopment Authority (RHBRA). The primary task of the RHBRA is to promote and facilitate the reuse and redevelopment of environmentally impaired properties. The RHBRA is the governmental entity that will review and recommend the approval of all proposed Brownfield incentives.

**Contact Information**

The City of Rochester Hills Brownfield Redevelopment Coordinator, will oversee the implementation of the Brownfield incentives. Applications for any incentives, and any questions or comments, should be directed to the RHBRA at the following address

Mr. Derek Delacourt  
 Brownfield Redevelopment Coordinator  
 City of Rochester Hills Brownfield Redevelopment Authority

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c/o City of Rochester Hills Planning Department  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309-3033  
(248) 656-4660

### **Application Process**

1. It is recommended that the developer first contact the City Brownfield Redevelopment Coordinator to discuss the project
2. Submit the Brownfield Program Application Form (copy attached to this Policy) to the Brownfield Redevelopment Coordinator.
3. Schedule an initial project meeting with the Brownfield Redevelopment Coordinator, who will, if you are applying for an MBT Credit, contact a member of the MEDC Community Assistance Team (CA Team). The objective of this meeting is to discuss the eligibility of the proposed project and begin the process of considering the applications. At this meeting the applicant will be provided with an estimate of the annual RHBRA administrative fee applied to the project, and an estimate of the MEDC application and administrative fees, if an MBT Credit is requested.
4. A preliminary review of the project will be conducted and, if approved, an invitation to submit a Brownfield Plan will be provided.
5. Submit a Brownfield Plan to the RHBRA for review and approval. Public Act 381 outlines all the necessary information that should be contained in the Brownfield Plan. However, the City requires the following information be included in the Brownfield Plan.
  - a. The basis for eligibility as a facility under Part 201
  - b. A map indicating the eligible property and including parcel boundaries and parcel numbers
  - c. A map indicating the location and extent of impacts that exceed the unlimited residential closure criteria established by the MDEQ for soil, if applicable
  - d. A map indicating the location and extent of impacts that exceed the unlimited residential closure criteria established by the MDEQ for groundwater, if applicable
  - e. An itemized list for all eligible activities for which reimbursement is being requested, listing any contingency as a separate item
  - f. The maximum capture permissible under PA381 for the City's local revolving loan fund
  - g. The annual RHBRA administrative fee determined at the initial meeting.
  - h. A table indicating the annual impact of tax capture on each taxing jurisdiction
  - i. Attach the most recent Soils and/or Groundwater Investigation Report or BEA
  - j. The Brownfield Plan duration will be three years beyond the capture period for the City's local revolving loan fund, or a maximum of 30 years, whichever is less.
6. Attend the RHBRA meeting at which the Brownfield Plan will be considered.
7. A public notice for the public hearing will be placed by the RHBRA in the local paper
8. Attend the public hearing
9. If recommended for approval, attend the City Council meeting at which the Brownfield Plan will be considered

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10. Submit a 381 Work Plan to the RHBRA if school tax capture is requested. the RHBRA will submit this to the MEDC and/or MDEQ after review. Public Act 381 outlines all the necessary information that should be contained in the 381 Work Plan, however, the City requires the following information be included in the Brownfield Plan.
  - a. Detailed cost estimates for remediation, mitigation or control methods selected
  - b. List of contractors and subcontractors selected for each task
11. If approved, the RHBRA will prepare a Reimbursement Agreement
12. Submit the Part I application for the MBT credits to the RHBRA, if requesting this credit. The RHBRA will submit this to the MEDC after review.
13. If approved, the MEDC will provide an invitation letter to the applicant
14. Submit the Part II application for the MBT credits to the RHBRA, if requesting this credit. The RHBRA will submit this to the MEDC after review.

**Fees**

There is no cost for the initial meeting. There is no fee for submittal of the application.

However, due to the additional staff time required to review materials in the Brownfield Plan, the City will require a review fee of \$2,500 be paid upon submittal of the Brownfield Plan. This fee was determined by the average size and scope of projects that have been through the application process and may be subject to future adjustments.

If the Brownfield Plan is approved, the City requires an annual administrative fee to be paid from tax increment financing. The City will provide an estimate of this fee following the initial meeting.

The City will also charge a review fee at the time of submittal of a 381 Work Plan. This fee will include technical, legal and administrative review and will be based on the complexity of the selected remedy and the extent of the Work Plan. A fee estimate will be provided when the Work Plan is submitted to the City.

Although the City does not have a fee for the MBT application, the MEDC requires an application fee of \$2,500 to \$10,000 dollars, depending on the size of the credit, and an administration fee of up to 1.4% of the credits. The MEDC will provide an estimate of this fee following the initial meeting.

**Opportunity for Public Involvement and Comment**

The following are times during the incentive process where the public has an opportunity to comment on the potential project:

1. The City Brownfield Redevelopment Authority review of the Brownfield Plan; and
2. The Public Hearing for consideration of the Brownfield Plan during City Council review.

**Schedule**

The approval process for a project that requests all of Brownfield incentives (local and state) described in this Policy is typically four to six months, depending on the timing of applications and submittals, completeness of the information provided, and the complexity of the impacts and selected remedies. In general, the City will make every attempt to complete City review and approval all incentive requests within two to three

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months of receipt of a an administratively complete application. Please note that review by other agencies is beyond the control of the City. The following are the reports, submittals and activities required to apply for all incentives.

- Activity
- Preliminary Application Submittal
- Initial Project Meeting
- Preliminary Review
- Submit Brownfield Plan (Review fee due)
- Submit MBT Part I
- Brownfield Plan Review
- First RHBRA Meeting
- MBT Part I Review by MEDC.
- Submit 381 Work Plan (Review fee due)
- Public Notice
- Submit MBT Part II (Application fee due)
- 381 Work Plan Review
- Public Hearing
- City Council Meeting
- MBT Part II Review by MEDC.
- Complete Reimbursement Agreement

Materials must be submitted tot the RHBRA two weeks before the RHBRA meeting (third Thursday of every month). Changes to the submitted documents must be provided to the RHBRA no later the Wednesday of the week before the meeting. If changes are made after that period, the RHBRA retains to right to table the plan to the next meeting.

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