

Brownfield Incentives Policy  
City of Rochester Hills  
April 2009

**Introduction**

Brownfields are properties 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 (“City”) is dedicated to building a partnership among its residents, prospective land developers and regulatory agencies in order to return Brownfield properties to active and appropriate reuse. To facilitate this partnership, Brownfield incentives are available in the City to assist developers with the extraordinary costs of redeveloping environmentally distressed properties. The City encourages anyone interested in developing contaminated property in the City to discuss these incentives with the Rochester Hills Planning Department.

This policy is designed to promote use of City Brownfield incentives for projects that will:

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”.

Pursuant to this policy, potential developers may 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.

For Brownfield tax increment financing, the cost of certain eligible activities may 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 (e.g., 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

Ordinarily, interest costs shall not be considered to be an eligible expense. However, under extreme circumstances the applicant may attempt to demonstrate to City Council the need for interest to cover a financing gap. Whether or not the applicant demonstrates such a need will be determined at the sole judgment and discretion of City Council. In the event that interest is considered eligible, the maximum rate or amount of interest eligible will be determined by City Council.

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

Brownfield incentives are for expenses incurred after approval of the incentives, and usually cannot be applied to any expenses of pre-approval activities. As such, eligible activities and eligible investments should be delayed until after approval of the credit applications in order to be eligible for these programs. 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 environment that were caused by site conditions through remediation, mitigation or control.

A project cannot 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

2. The developer did not conduct a Phase I Environmental Site Assessment 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
  - Whether the investment will provide an incentive to other development in the area
  - Whether 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

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 authority that will review and recommend whether to approve 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  
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.
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 require preparation of a Reimbursement Agreement. Please note that projects may also require a Land Improvement Permit and associated proof of financial performance.
  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 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 approve all incentive requests within two to three months of receipt of an administratively complete application. Please note that review by other agencies is beyond the control of the City. Listed below 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 to 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 than the Wednesday of the week before the meeting. If changes are made after that period, then the RHBRA retains the right to table the plan to the next meeting.