

**NEWAYGO COUNTY  
BROWNFIELD REDEVELOPMENT  
AUTHORITY (NCBRA)  
POLICIES & PROCEDURES**

**Approval Date: May 15, 2025**

## INTRODUCTION

The Newaygo County Board of Commissioners established the Newaygo County Brownfield Redevelopment Authority (the Authority) by adoption of a resolution pursuant to the Brownfield Redevelopment Financing Act, Michigan Public Act 381 of 1996, as amended (Act 381). Act 381 authorizes the Authority to undertake all activities allowed by law. An authority established by a county shall exercise its powers with respect to eligible property within a city, village, or township within the county only if that city, village, or township has concurred with the provisions of a brownfield plan that apply to a specific eligible property within the city, village, or township.

The purpose of these Policies and Procedures is to establish general principles on which sound decisions can be made and to determine specific parameters to guide the actions of the Newaygo County Brownfield Redevelopment Authority (NCBRA). Additionally, the Policies and Procedures provide instructions for applicants to the program. The Authority has developed a set of By-laws which in conjunction with Act 381, as amended, and other applicable statutes of the State of Michigan will govern its activities and actions.

## MISSION STATEMENT

“The mission of the Newaygo County Brownfield Redevelopment Authority (NCBRA) is to facilitate the redevelopment of environmentally contaminated and underutilized properties located within municipalities in Newaygo County through the use of tax increment financing and other state and federal incentives.”

The NCBRA may administer the following programs to assist in these activities, depending upon funding availability and eligibility:

- Brownfield Plans utilizing tax increment financing.
- Local Brownfield Revolving Fund (LBRF) – This fund is generated from the excess capture of tax increments through an approved Brownfield Plan. Preference is to use these funds for loans or grants for eligible activities on eligible properties. Loan terms and conditions will be outlined in a Loan Repayment Agreement.
- U.S. EPA Assessment Grant Funds
- Access to State Grants and Loans – As available, the NCBRA and/or County may secure Grants and Loans from the State of Michigan to assist in redevelopment of a site.
- Other funding sources

Developer financing is the typical method to fund eligible activities. The developer is responsible for the upfront costs and is repaid through tax increment capture. The terms and conditions of this arrangement, which may or may not include interest, are set forth in a Development and Reimbursement Agreement.

Any data, information, or reports that are generated from activities conducted utilizing Federal, State, or Local grant funding will be shared with the applicable regulatory agencies and/or funding agencies.

## BROWNFIELD PLANS AND APPLICATION PROCEDURES

### Brownfield Plans

A Brownfield Plan (Plan) is viewed as an economic and community development tool and sets the policies and procedures for selecting the types of projects to receive brownfield incentives and identifies the level of incentives available for each project. Criteria that may be considered may include:

- The creation of additional tax base and taxable value.

- Location within preferred development areas or corridors such as downtowns, existing commercial and industrial areas, and areas of existing infrastructure.
- The level of capital investment.
- The number of jobs created.
- The degree to which environmental contamination and health hazards are addressed.
- The extent to which the project represents sustainable development by being environmentally friendly, using “green” building techniques, and meeting Leadership in Energy and Environmental Design (LEED) criteria.
- The level of compliance with community development plans and codes.
- The cost of the brownfield incentives versus the value of the development.

A Brownfield Plan (Plan) and its amendments describe qualifying factors that determine “eligible property” status, such as the conditions that qualify a property as a “facility,” “functionally obsolete,” or “blighted” that make a property a brownfield site, or use of a property for housing. It also describes the eligible activities on a property and the estimated amount of tax dollars generated by the new development, that will be used to help pay for the revitalization. The Plan, or an amendment, once approved by the Authority, the local unit of government, and the County Board of Commissioners, after a public hearing, acts as a guide for implementation of the project.

Prior to considering a Brownfield Plan, a developer or other entity will present a completed brownfield application, a brownfield redevelopment plan, plus an application fee. The tax increment proposed for capture will generally be considered to reimburse some or all eligible activities. The tax increment revenue captured under each plan amendment shall include an administrative fee plus tax capture for the Local Brownfield Revolving Fund. For each year of tax capture, the administrative fee is to be deducted before the amount available for reimbursement of the costs for other eligible activities is calculated. The total amount of capture for both the administrative fee and the Local Brownfield Revolving Fund will be determined on a case-by-case basis.

All fees will be based on a Fee Schedule adopted from time to time by the NCBRA. In cases where the NCBRA approves the capture of school taxes to reimburse eligible activities under a brownfield plan amendment, the NCBRA will submit an Act 381 Work Plan that is provided by and on behalf of the Developer for review and approval to the Department of Environmental Quality, Michigan State Housing Development Authority, and/or the Michigan Economic Development Corporation, as appropriate. Any fees for the review of the Act 381 Work Plan will be based on the Fee Schedule adopted by the NCBRA.

A Reimbursement Agreement will be negotiated and signed by the NCBRA and the Developer or other eligible entity describing the amounts and terms of reimbursement of eligible costs for eligible activities from tax increment revenues under the Brownfield Plan.

### **Project Eligibility**

Projects must be located on an *eligible property* and have *eligible activities* to qualify for incentives from the NCBRA.

Eligible Property: Under Act 381, eligible property may be

- A Facility under Part 201 or Part 213 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended
- Blighted
- Functionally obsolete
- Historically designated

- Owned by or under the control of a Land Bank Authority
- At a transit hub
- Property that is adjacent or contiguous to any of the eligible properties listed above and that will increase the subject property's taxable value
- A Housing property" which means 1 or more of the following:
  - i. A property on which 1 or more units of residential housing are proposed to be constructed, rehabilitated, or otherwise designed to be used as a dwelling.
  - ii. One or more units of residential housing proposed to be constructed or rehabilitated and located in a mixed-use project.

If the property proposed for brownfield incentives does not meet at least one of these criteria, it is not eligible.

Eligible Activities: Eligible activities are defined by Act 381. These include (but are not limited to):

- Environmental due diligence and environmental response activities, such as Phase I, Phase II, and Baseline Environmental Assessments (BEA), due care plans
- Demolition
- Abatement of hazardous materials like lead, asbestos, and mold
- Housing financing gap
- Costs associated with developing, approving, and implementing a brownfield plan and work plan
- Interest on Eligible Activities (no interest on the housing financing gap)

### **Application to the NCBRA**

Application: An application prepared by the developer and submitted to the NCBRA helps determine whether a project is eligible for TIF or a loan or grant from the LBRF and if it meets the NCBRA's goals and objectives.

Development Priorities and Project Evaluation: When reviewing an application, the NCBRA will consider how the project meets the following requirements and priorities and how it benefits the county and community where the project is located:

#### **1. Project requirements**

- The property owner will not be relieved of responsibility for environmental contamination or blight
- The applicant must own or have a binding purchase agreement for the property
- The applicant may not have outstanding real or personal property taxes
- The applicant's developments must comply with zoning and other local requirements
- The project must be consistent with existing zoning, or the developer can provide verification from the local planning/zoning body of planning/zoning approval for the project

#### **2. Project priorities**

- Job creation / retention, especially year-round employment
- Proposed Housing which is for sale or rent to residents earning less than 120% of Newaygo's AMI
- Blight elimination
- Project financial need
- The project includes amenities such as walkability to local businesses, connection to or expansion of existing trails, access to greenspace, and other
- The project reuses an existing, underutilized development site rather than an undeveloped greenspace

The application will be reviewed by NCBRA staff and its consultant, then presented to NCBRA with a recommendation for further action.

Fees: If the NCBRA votes to support a brownfield plan (and an Act 381 work plan, if appropriate), the applicant must pay a fee that will be used by the NCBRA to pay for reviews by its consultant and legal counsel. Fees may range from \$2,500 to \$10,000, depending on project complexity. If costs for brownfield plan and Act 381 work plan review and approval exceed the original fee, the developer will be notified by the NCBRA and will be responsible for additional costs. Under Act 381, the fee is a reimbursable eligible activity in an approved brownfield plan.

Local Brownfield Revolving Fund: The NCBRA may award a grant or loan from the LBRF for eligible activities at an eligible property. The NCBRA will consider a project at its regular meeting and may approve a grant or loan, request further information, or deny the request. If approved, NCBRA staff or its consultant will provide the applicant with a contract including disbursement and loan repayment terms (if any). Loan payments may be made from tax increment revenues if a brownfield plan is approved for the project.

### **Plan Approval**

Brownfield Plan and Act 381 Work Plan or Combined Plan: If the NCBRA agrees to consider TIF for a project, the developer or their consultant must prepare a brownfield plan or combined brownfield plan / Act 381 work plan according to the State of Michigan's template and guidance. If the developer intends to request approval by the State of Michigan for state TIF, an Act 381 work plan must also be drafted after approval of the brownfield plan.

Draft brownfield plan: The application fee and a draft brownfield plan or combined plan must be submitted to the NCBRA at least 10 business days prior to its regular meeting for review and inclusion in the NCBRA packet. Draft brownfield plans will be reviewed by NCBRA staff and its consultant for consistency with Act 381 and other applicable statutes, State of Michigan formats, NCBRA and community priorities, and local plans, zoning, and ordinances. NCBRA staff and its consultant will provide a recommendation to the NCBRA. The developer or their representative is required to attend the NCBRA meeting to describe the project and respond to questions from NCBRA members and staff. The NCBRA may either approve, deny, or request modifications for subsequent consideration.

Local Government Concurrence: The local governmental unit governing body must concur with the brownfield plan. Developers should be working with the local governmental unit to secure its support for the brownfield plan before, or concurrent with, submitting a plan to the NCBRA. The final brownfield plan should include a resolution of support showing local government approval.

Once the local unit of government and the NCBRA have approved the project, the NCBRA will request a public hearing from the Newaygo County Board of Commissioners.

Brownfield Plan Notice for Public Hearing and to Taxing Jurisdictions: A public hearing notice and a notice to all taxing jurisdictions will be required and will be posted and sent to all local taxing jurisdictions affected by the brownfield plan.

Public Hearing: The County Commission will hold a public hearing on the proposed brownfield plan and may approve or deny the brownfield plan, or request modifications for subsequent consideration.

Act 381 Work Plan: After brownfield plan approval, if the developer wishes to capture state taxes, a work plan consistent with Act 381 and state guidelines must be submitted by the NCBRA to the appropriate state agency or

agencies for their approval. Act 381 work plans do not require a public hearing, or local government or Newaygo County Board of Commissioners approval.

Reimbursement of Eligible Activities Completed Prior to Brownfield Plan Approval: Act 381 includes some eligible activities that are preapproved, so costs can be incurred prior to brownfield plan approval at the developer's risk. In limited incidences, the NCBRA and state agencies may agree to reimburse the developer for eligible activities that are not preapproved but were completed prior to brownfield plan approval. If retroactive approval will be requested, please notify the NCBRA at the time of application. Approval by the NCBRA or State of Michigan of otherwise eligible activities completed before brownfield plan or work plan approval is not guaranteed.

### **Project Implementation**

Development and Reimbursement Agreement: A development and reimbursement agreement must be executed between the developer and the NCBRA which outlines the responsibilities of each party, the terms, and conditions under which the project is developed, and reimbursement for eligible activities. If reimbursement from state taxes for eligible activities is being requested, the development and reimbursement agreement must be executed and attached to the Act 381 work plan.

Invoice Approval: Once eligible activities are conducted, the developer must submit invoices and full waivers of lien from all contractors to document eligible activity expenses. Expenditures must be approved by the NCBRA. Timing and details are described in the development and reimbursement agreement. If housing gap financing is an approved eligible activity, income verification requirements will be described in the development and reimbursement agreement.

Procedures for Tax Capture and Reimbursement: Once the brownfield plan is approved, the NCBRA will notify the local government treasurer responsible for tax collection. Notification will include the date of approval for the brownfield plan, the initial taxable value and year, and the total approved obligation, as well as the anticipated end date of the brownfield plan.

Disbursement: As tax increment revenues are captured, disbursements will be made in accordance with the development and reimbursement agreement. Generally, the allocation for and loans, and for administrative and operating costs is paid first, then balance of tax increment revenues is paid to the developer. If a local unit of government, Newaygo County, or NCBRA issues a bond or accepts a loan for eligible activities related to the project, debt payment is the highest priority of all obligations.

Administrative Costs of the NCBRA. The NCBRA can capture administrative costs, not to exceed {see MCL 125.6623(19)}:

- Up to 5 active plans—\$100,000/year
- 6 to 10 active plans—\$125,000/year
- 11 to 16 active plans —\$150,000/year, etc.

### **BROWNFIELD REDEVELOPMENT TRANSACTION COSTS**

Costs and expenses related to the authorization, execution, administration, oversight, or fulfillment of the NCBRA's obligations as allowed by Act 381 and incurred as a result of assistance to a brownfield redevelopment project shall be borne by the developer. These costs and expenses include, but are not limited to:

1. direct or indirect fees and expenses incurred as the result of an application;
2. amendment to a brownfield plan;
3. review of a proposed brownfield development project and/or plan;
4. approval of a proposed brownfield development project and/or plan;

5. printing and reproduction costs;
6. filing and recording fees;
7. attorney fees;
8. financial expenses;
9. all other costs, liabilities, or expenses related to preparation and execution of or enforcing of brownfield plans, Act 381 (EGLE), MEDC, MSHDA, work plans, any and all agreements with a developer;
10. and any other costs, charges, expenses, and professional and attorney fees in connection with the foregoing.

Contributions to the Local Brownfield Revolving Fund: Local tax increment revenues may be captured for up to 5 years after the completion of the brownfield plan and deposited in a local site remediation revolving fund in order to finance eligible activities on other brownfield properties at the discretion of the NCBRA. School tax revenues may also be captured in an amount equal to school tax revenue used for the eligible activities under the brownfield plan.

#### **DURATION OF BROWNFIELD PLAN {MCL 125.2663(1)(F)}**

A plan may not provide for more than 30 years of tax increment financing. However, implementation of tax increment financing may be delayed for up to 5 years allowing a plan to be up to 35 years in total length depending on the base year selected for the start of tax increment financing. The base year for estimating tax increment revenues is set in the year that a plan is adopted unless a different base year is provided for in the plan. The plan shall include the base year for tax increment financing, the total length of tax increment financing and the total length of the plan.

#### **POLICY ON TIF COLLECTION AND DISBURSAL**

The Owner and/or Developer of a brownfield site shall pay all real and personal property taxes levied on those portions of the Development that are subject to such taxes on or before the date said taxes become subject to interest or penalty.

Tax Increment Financing (TIF) shall be collected for a brownfield site as follows:

After summer tax bills are released, and after winter tax bills are released, the Treasurer, or designee, shall submit a written request to the local taxing jurisdiction requesting collection and release of TIF funds. To the extent captured revenues from Tax Increment Financing (TIF) are available in the NCBRA account, reimbursement for Eligible Activities for a brownfield site shall be as follows:

1. First, to be applied to the repayment of any amounts loaned to Owner and/or Developer under a Loan Agreement between the Owner and/or Developer and the NCBRA, and/or, to any loan received from the Michigan Department of Environment, Great Lakes, and Energy (EGLE), including a reasonable reserve for future payments to assure availability of funds.
2. Second, NCBRA administrative/operating and accounting costs and other eligible activities as incurred by the NCBRA, as allowed by law.
3. Third, to be applied to any amounts properly submitted by the Owner and/or Developer for Eligible Activity expenses, provided that the Owner and/or Developer is in compliance with the applicable agreements and instruments relating to the project.
4. Local Brownfield Revolving Fund.

The Owner and/or Developer shall keep all taxes and other accounts current, in order to be eligible for TIF reimbursement.

The NCBRA review and approval process for TIF Disbursement will be as follows:

April of each year – Review of requests.

May of each year – Consider TIF Disbursal

October of each year – Review of requests.

November of each year – Consider TIF Disbursal

The above review and disbursal meetings will be held at a Regular scheduled NCBRA meeting. In the event a meeting is cancelled or all materials for the request are not available, they will be reviewed at the next Regular scheduled meeting. Requests will NOT be considered for projects that have unpaid taxes.

Under no circumstances will TIF reimbursement to the developer be made from the Delinquent Tax Revolving Fund.

### **Amendments**

The NCBRA reserves the right to amend this policy for any purpose which may include but are not limited to: improvements which serve to benefit the Brownfield Redevelopment Process; changes in law and other applicable regulations on a local, state, or federal level; and organizational changes affected by the County. Changes to the policy will be approved by the NCBRA and made available to the community at large through its Web site and other mechanisms available to the Authority.