



# **City of Brandon Brownfield Strategy**

2017

# Executive Summary

A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

There are a number of brownfield properties within Brandon. The Province of Manitoba has these properties publicly listed on the all sites list on their website. The Province classifies these sites as *impacted* or *contaminated*, following *The Contaminated Sites Remediation Act* (Manitoba), and for the purpose of this document, this type of site will be referred to as a brownfield.

Addressing brownfields is an action identified in the City's Environmental Strategic Plan adopted by City Council in 2013.

The City has been a member of the Federation of Canadian Municipalities (FCM) Leadership In Brownfield Renewal (Libre) Program since 2015. This is a national peer learning group for municipalities to gain knowledge and access resources to address brownfield sites in their respective communities.

Through peer review, and researching other municipalities across Canada, the steering committee's recommendation is to offer a "Brownfield Financial Assistance Program" in the form of a municipal tax off-setting credit to encourage and assist in the remediation of brownfield properties for the purpose of redevelopment. This incentive is outlined in By-law No. 7187.

A potential supplementary incentive would be to work with developers to seek external funding from other organizations where applicable.

This Strategy was created by the City's internal brownfield steering committee comprised of staff from Economic Development, Planning, Property & Building Safety, the City Treasurer and the Environmental Initiatives Coordinator. To continue to serve and build the community, this Strategy is a living document that will be reviewed, and revised if needed, every two years.

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# 1 Introduction

## 1.1 What is a Brownfield?

A brownfield is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. A brownfield site can include many uses such as old landfills and abandoned factories to dry cleaners and former gasoline stations. The Province of Manitoba (the “Province”) classifies these sites as *impacted* or *contaminated*, following *The Contaminated Sites Remediation Act* (Manitoba), and for the purpose of this document, this type of site will be referred to as a brownfield.

## 1.2 Why Are Brownfields a Concern in Brandon?

Brownfield sites pose financial challenges to remediation and redevelopment. In most instances, investment in brownfield sites is deterred by the additional cost of remediation. The uncertainty requires developers to fund potentially costly environmental studies and an element of risk makes lenders reluctant to advance capital without higher interest rates on loans. In some instances, the remediation costs can exceed the value of clean land, which makes a number of brownfield sites unattractive from a market perspective.

Brownfields have environmental, economic and social impacts on a community. In addition to the significant commercial and industrial property tax revenues lost, brownfield sites can lower surrounding property values, create land use conflicts, and in some instances challenge the vibrancy and cohesion of a neighbourhood<sup>1</sup>. The City of Brandon (the “City”) has identified approximately one hundred brownfield sites, many of which are located in visually prominent areas such as the HUB and along 18<sup>th</sup> Street and Victoria Avenue.

The City is interested in working with property owners to encourage developing these sites into properties that add value to our community rather than being left vacant and underutilized.

## 1.3 What is the City’s Brownfield Strategy?

The City’s Brownfield Strategy (the “Strategy”) is a living document that is a framework to encourage remediation and redevelopment of properties considered either impacted or contaminated as determined by the provincial authority having jurisdiction. The City is committed to supporting remediation and redevelopment of these sites through the endorsement of this Strategy and the incentive of a municipal tax off-setting credit program. The Strategy provides the justification and rationale for offering incentives, and the framework and timelines of the program being offered.

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<sup>1</sup> Canada Mortgage and Housing Corporation (CMHC) 2016.

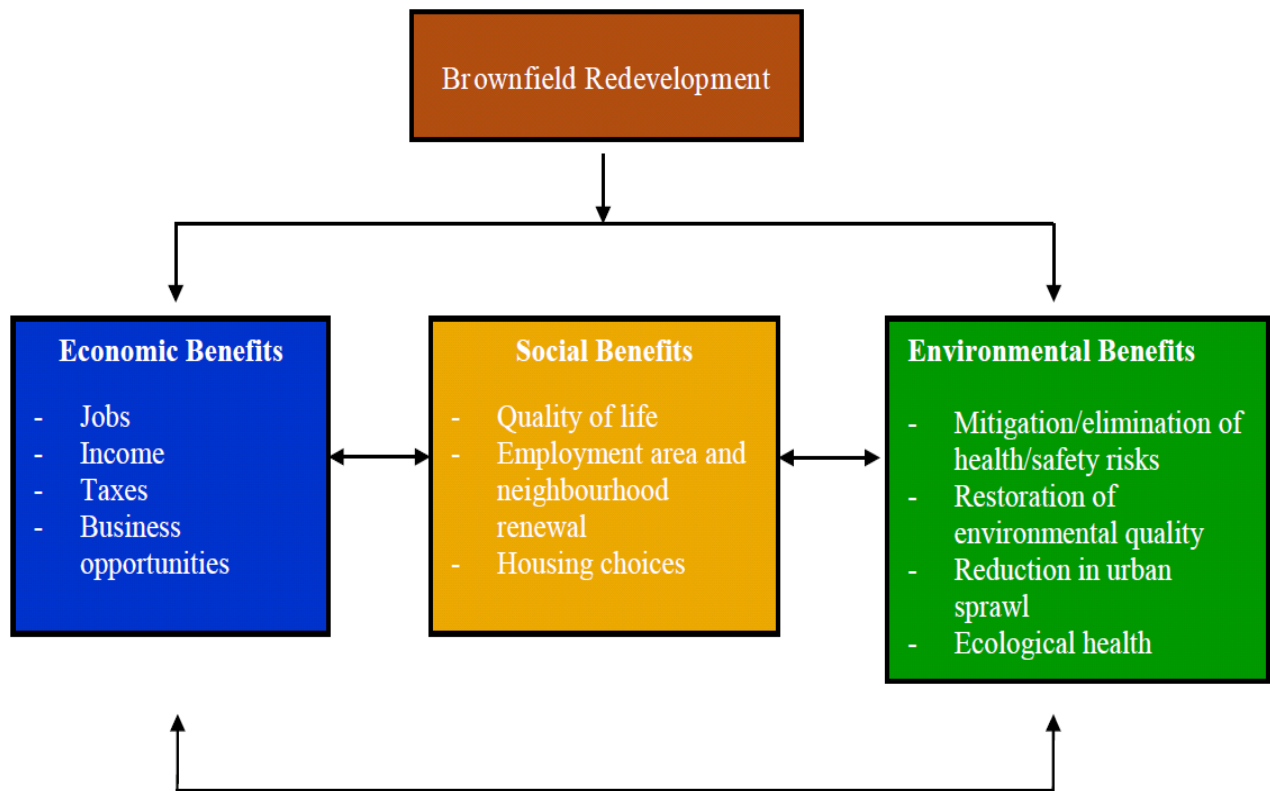
The City has been working with the provincial authority having jurisdiction to develop an inventory of brownfield sites. If sites have been remediated, they have been so to their corresponding land use classification.

## 2 Benefits, Goals and Objectives

### 2.1 Benefits

The Federation of Canadian Municipalities (FCM) have highlighted the benefits of brownfield redevelopment at the local level. Inherently, brownfields are a municipal concern since all development, be it greenfield or brownfield, requires municipal approval.

**Figure 1 Benefits of Brownfield Redevelopment**



Source: Regional Analytics, 2002, Figure 2, p. 7.

### 2.1.1 Economic Benefits

Multiple North American studies have found that brownfield development can increase neighbourhood property values<sup>2</sup>. Various municipalities that have brownfield strategies in place have benefited from significant increase in property tax revenues and in some instances led to land use revitalization of neighbourhood areas<sup>3</sup>. Redevelopment of brownfield sites for residential, commercial and other uses represents an economic opportunity for the City to increase property tax revenues without incurring the additional infrastructure spending typically associated with greenfield development. In addition to saving on capital infrastructure expenditures, the redevelopment of these sites could serve as a catalyst to renew certain areas of the City, such as the HUB, in order to promote neighbourhood stability and further revitalization efforts.

### 2.1.2 Environmental Benefits

The environmental remediation and redevelopment of brownfield sites will improve the quality of soil and groundwater in Brandon. Environmental restoration of individual sites can have cumulative positive effects on environmental features including but not limited to groundwater quality, soil quality and wildlife habitat. Developing existing built up areas reduces the amount of greenfield growth and its negative environmental and economic impacts including air and water pollution, loss of valuable prime agricultural land, and need for more linear infrastructure services.

### 2.1.3 Social Benefits

Brownfield sites can have negative social implications for adjacent properties and areas. Based on a study of a dozen brownfield projects across Canada, the National Roundtable on the Environment and the Economy (NRTEE) concluded that brownfields could serve as a catalyst for urban renewal<sup>4</sup>. Case studies by the NRTEE showed that renewal could manifest itself by:

- Neighbourhood, employment area and downtown revitalization;
- Improvement in the aesthetic quality of the urban environment;
- Provision of affordable housing opportunities;
- Creation of recreational and public open spaces;
- Improved safety and security; and
- Increased sense of community participation and civic pride.

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<sup>2</sup> Environment Canada. 1998.

<sup>3</sup> Federation of Canadian Municipalities (FCM). 2015.

<sup>4</sup> National Roundtable on the Environment and the Economy, 2003.

Certain properties and areas (i.e. the HUB) in Brandon are constrained by existing brownfields that challenge the social cohesion and urban vibrancy.

## 2.2 Goals and Objectives

The goal of this Strategy is to promote the remediation, rehabilitation, adaptive re-use and redevelopment of brownfield sites throughout Brandon in a fiscally responsible and sustainable manner. The objectives of this Strategy are to:

- Improve the physical and visual quality of brownfield sites;
- Improve environmental health and public safety;
- Provide opportunities for new housing, employment uses, and commercial uses;
- Increase tax assessment and property tax revenues;
- Promote investment in existing areas;
- Improve the land use compatibility of potential brownfield sites with surrounding land uses;
- Increase community awareness of the economic, environmental and social benefits of brownfield redevelopment; and
- Utilize public sector investment to leverage significant private sector investment in brownfield remediation, rehabilitation, adaptive re-use, and redevelopment.

This Strategy sets the policy and financial framework for the City to promote brownfield remediation and redevelopment in Brandon. This Strategy will enable the City to offer a financial incentive and provide access to possible grants and low interest loans from FCM.

## 3 Policy Context

### ***The Contaminated Sites Remediation Act (Manitoba)***

The purpose of *The Contaminated Sites Remediation Act* (the “Act”) is to provide for the remediation of contaminated sites and impacted sites, in accordance with the principles of sustainable development, in order to reduce or mitigate the risks of damage to human health or the environment and, where practicable, to restore such sites to useful purposes, and to this end provide:

- (a) A system for identifying and registering contaminated sites and impacted sites in Manitoba;
- (b) A system for determining appropriate remedial measures to be undertaken in respect of contaminated sites and impacted sites and identifying the persons responsible for implementing or contributing to the implementation of those measures; and

- (c) A fair and efficient process for apportioning responsibility for the remediation of contaminated sites that:
- (i) Applies the "polluter pays principle" as set out in clause 21(a) of the Act and takes into account various other factors set out therein, including factors that would not be relevant in determining civil liability for damages occasioned by contamination;
  - (ii) Encourages the persons responsible for the remediation to negotiate the apportionment of responsibility among themselves; and
  - (iii) Combines in a specialist tribunal the knowledge and skill of persons experienced in environmental contamination and remediation and brings them to bear on the review of remediation plans and the resolution of disputes relating to participation in and responsibility for remediation.

### ***The Planning Act***

The Planning Act does not contain provisions that directly addresses impacted/contaminated sites. Indirectly, this legislation supports development to be directed to developed areas supported by infrastructure and servicing. Since most brownfields have or have access to existing services, this would promote such development.

### ***Provincial Planning Regulation 81/2011***

Components of brownfield redevelopment are promoted throughout the Provincial Planning Regulations 2011 through the following policies, set out in Part 3 of the schedule:

**Policy Area 1.4** promotes sustainable land use patterns and innovative development practices that minimize pollution, protect resources and reduce greenhouse gas emissions. Policies within this section directly address rehabilitation and/or conversion of existing buildings.

**Policy Area 2** encourages development to be “directed to areas where appropriate public services exist, and in particular to those areas with excess service capacity and that have been identified for redevelopment or intensification, such as a brownfield site”. Since most brownfield sites are located in established areas of the City with existing infrastructure in place, it is clear that the redevelopment of these underutilized sites is of provincial interest.



## Environmental Site Assessments

Environmental Site Assessments are specific types of reports developed to determine a site's environmental condition. These assessments are submitted and reviewed by the Province in order to:

- Determine if a site may be contaminated;
- Identify the nature and distribution of contaminants;
- Determine the risk from contaminant exposure; and
- Evaluate the possibility of mitigating these risks.

There are three categories set out for Environmental Site Assessments ("ESA"). They are:

**Phase I:** Reports whether a site may be contaminated.

**Phase II:** Reports where, what type and how much contamination.

**Phase III:** Develops contamination solutions, commonly referred to as a Risk Management Plan and/or Remediation Plan.

The Act adopts the polluter pay principle and is specific about who may be held as a responsible party. In general terms, the polluter is responsible for remediation. If a property is sold, the new owner (as long as they did not contribute to the contamination) should not be a responsible party for remediation. The stipulation on this being if the new owner does not change the land use or if the residual contamination does not pose a risk in the redevelopment of the land. The previous owner can still be ordered to do the assessment after the property is sold.

**Phase I ESA** is a historical background study on the site; financial institutions prior to real estate purchases often require it. A Phase I ESA involves the evaluation and reporting of existing information collected through records review, interviews and site visits; it is non-intrusive (i.e., does not include drilling boreholes or sampling of soil or water). Phase I ESA may be used to make informed decisions about additional site assessments; property acquisitions or dispositions; future land use options; and, property management and facility operations. A Phase I ESA generally consists of a qualified environmental expert researching the property files held by the federal, provincial and municipal authority having jurisdiction to determine any potential environmental concerns.

**Phase II ESA** is an intrusive field investigation that typically involves the collection of soil and groundwater samples; analysis of these samples is used to characterize and/or delineate the location and concentration of one or more contaminants. Each Phase II ESA is customized for the specifics of each site and will determine information necessary to establish the presence or absence of contamination. Once the vertical and horizontal extent of contamination on a

property is fully delineated, a Phase III ESA for the removal or treatment of contamination can be developed.

**Phase III ESA (Remediation Plan)** is conducted to develop solutions for unacceptable levels of contamination. The Phase III ESA generally includes investigating remedial options; developing hazard assessments and risk assessments; followed by remediation and verifying its success.

One option for dealing with contamination is to clean up the site to meet specific provincial levels. Some of this work may include source removal of contaminated soil or groundwater.

A second option for developers in dealing with a contaminated site is to leave the existing contaminants in the ground and manage the site. This depends on the levels of contamination, the intended use, and the level of risk that is acceptable for human or ecological receptors.

The review and approval of all phases are under the responsibility of the provincial authority having jurisdiction.

The majority of brownfield sites in Brandon have been issued letters of clearance, which means that the Province has determined that the sites are remediated to an acceptable standard for the existing use. In Manitoba, the practice has been that the polluters of the property remain responsible for any liability or future liability associated to the property. However if a new owner purchases the property for redevelopment, any additional remediation would be the responsibility of said owner. As with any brownfield site, some of the reasons that these properties have not been developed are due to the regulatory requirements and the unknown factor involving the extent of contamination.

## 4 Brownfield Financial Assistance Program (the “Program”)

**Purpose:** To encourage the remediation, reuse, and redevelopment of eligible properties by providing municipal tax off-setting credits up to the total eligible cost of brownfield remediation for the property, as determined by a remediation plan approved by the Province.

**Description:** The City may apply municipal tax off-setting credits to an eligible property to help recover eligible costs associated with remediation of a brownfield site that will result in redevelopment and an increase in assessment and taxation. The maximum tax credit available through the Program shall not exceed the total approved cost of remediation less any grants received. The municipal tax off-setting credit under this Program cannot generally be combined with any other tax credit program offered by the City. However, where such is permitted, the combined tax credits cannot exceed the total taxes levied for general municipal purposes.

**Eligibility:** In order to be eligible for a tax credit under this Program, the applicant must ensure all of the following criteria are complied with:

1. Properties must be located within Brandon.
2. Properties must have been previously used for commercial or industrial purposes.
3. Properties must be included on the Province of Manitoba’s list of all sites on file with the Contaminated/Impacted Sites Program.
4. Properties must have a completed Phase II Environmental Site Assessment prepared by a qualified person that demonstrates remediation is required.
5. Properties must have a remediation plan approved by the Province of Manitoba as defined by the Act.
6. All information required in the Program Application Form must be submitted.
7. All proposed redevelopment work must be approved by the City’s Development Services Division prior to commencement with respect to such matters as, but not limited to, zoning, building, and site design approvals, as deemed relevant by the City.

## 5 Program Administration & Monitoring

### 5.1 Program Administration

- I. All applications under the Program shall be submitted to the City's Environmental Initiatives Coordinator (the "Coordinator") prior to remediation. The cost of any work undertaken prior to the application being approved is not eligible for reimbursement, with the exception of ESA Phase I and II costs. Applicants are encouraged to consult with the Environmental Initiatives Coordinator prior to submitting the application.
- II. Program applications shall include:
  - a. Contact information for the owner and representative, if appropriate;
  - b. Information with respect to the property;
  - c. Project description;
  - d. Phase III ESA as approved by the Province;
  - e. Estimates for the eligible remediation costs, to be completed by a "Qualified Environmental Professional" as defined by the provincial authority having jurisdiction; and
  - f. any other details as may be required to satisfy the City with respect to eligible costs.
- III. The Coordinator will ensure the application is complete, that all required documents have been received, and that all necessary approvals have been obtained. Once deemed complete, the application is date stamped to establish the cost eligibility date.
- IV. Upon completion of the site remediation, the applicant will provide to the Coordinator a final site assessment that has been reviewed and confirmed with the provincial authority having jurisdiction. Official documentation from the Province is required.
- V. The applicant, upon completion of the redevelopment, will provide to the Coordinator copies of invoices for all eligible costs, and proof of payment, in relation to site remediation. Completion of the redevelopment is considered achieved when the City has issued an Interim Occupancy Permit and provided written confirmation of compliance with all site development requirements.
- VI. Upon costs being verified by the Coordinator, the Finance Department will be notified of the total remediation cost eligible for the Program.
- VII. Once Provincial Assessment has reassessed the property, the Finance Department, on an annual basis, will calculate the municipal tax off-setting credit to be applied to the property owner's tax account.
- VIII. The owner continues to pay property taxes, less the annual municipal tax off-setting credit. The tax credits continue until the end of the 15<sup>th</sup> year, or until all eligible remediation costs are reimbursed, or until ownership of the property changes, whichever comes first.

## 5.2 Monitoring

The City's municipal tax off-setting credit incentive for brownfields will be evaluated from time to time to determine the effectiveness of the Program in relation to the goals of the Strategy. This will assist in identifying any modifications which may be required, and will assist City Council in determining the value of continuation of the Program. Specifically, City Administration will provide Council with a status report on the Program every two (2) years. This status report will include discussion on:

- The nature and extent of projects for which applications have been made;
- The value of municipal tax off-setting credits applied and the corresponding private sector investment in brownfield remediation; and
- Non-financial benefits resulting from the program.

Monitoring the Program may lead to revisions of the Program itself or changes to this Strategy, and may require an amendment to the Brownfield Financial Assistance Program By-law. Changes to this Strategy will be provided to the provincial authority having jurisdiction for information purposes only.