



The Brownfield Opportunity Area (BOA) Program Determination of Conformance Application Instructions

Applicability/Purpose: This application should be used to request a Determination of Conformance from the New York State Secretary of State for certain real property site development. For the purpose of this application, the site must be: (1) enrolled and subject to the remediation requirements of the Brownfield Cleanup Program (BCP), as determined by the Department of Environmental Conservation (DEC); (2) located within a BOA that has been designated by the Secretary; and (3) proposed to be developed in a manner that conforms to the goals and priorities established for that area in the approved BOA nomination or plan.

An “eligible taxpayer”, or the agent(s) of an “eligible taxpayer”, should complete this application before applying to New York State Department of Taxation and Finance to claim up to 5% increase of the allowable tangible property tax credit component of the brownfield redevelopment tax credit for expenditures related to a qualified site pursuant to New York State Tax Law §21. This increase of up to 5% is commonly referred to as the “BOA bump-up.” An “eligible taxpayer” is a taxpayer subject to tax under either Article 9 (Corporation Tax), Article 9-a (Franchise Tax on Business Corporations), Article 22 (Person Income Tax) or Article 33 (Franchise Taxes on Insurance Corporations) of New York State Tax Law.

The Secretary will use the information provided by the applicant(s) in this application, together with information from other resources, to render a determination as to whether the real property site that is the subject of this application is developed in conformance with the goals and priorities established in the nomination or other plan approved for the designated BOA in which the site is located. This application may be submitted to the Secretary for consideration at any time after DEC has issued a BCP Final Decision Document approving a Remedial Work Plan as described in 6 NYCRR §375-3.8(g), for a real property site that is the subject of BCP application and is located within a designated BOA.

Questions regarding this application should be directed to New York State Department of State Office of Planning and Development BOA Program Office at (518) 474-6000.

Please do not complete this application if you wish to claim tax credits for expenditures related to these other components of the brownfield redevelopment tax credit: (1) site preparation and cleanup tax credit component, and (2) on-site groundwater remediation tax credit component. New York State Department of Taxation and Finance can provide more information on how to apply for these two tax credit components of the brownfield redevelopment tax credit.

APPLICATION INSTRUCTIONS:

Section 1. Applicant/Requestor Information

Provide the name of and full contact information for the person or entity requesting the conformance determination from the Department of State (DOS).

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Section 2: Brownfield Cleanup Program Application Information

- A. Provide the DEC-issued Brownfield Cleanup Program (BCP) Site Number for the subject real property site that is the subject of this application (property or site).
- B. Provide the date of execution of the Brownfield Cleanup Agreement for the site. This is the date that the site was accepted into the BCP.
- C. Provide the date that DEC issued the Final Decision Document for each site. The Final Decision Document is issued by DEC to the person or entity that has entered into a BCP agreement and describes the remedy selected and approved by DEC to address contamination on the site. Attach the complete Final Decision Document that was issued by DEC. (This application will not be considered until DEC has issued a Final Decision Document for each site.)
- D. DEC issues a Certificate of Completion (COC) for a BCP project after it determines that the remedial action objectives as defined in the Decision Document, have been achieved. Please indicate whether or not DEC has issued a COC for site that is the subject of this application by checking the appropriate box. If a COC has been issued, provide the date of issuance for each such site.

Section 3: Property Information

- A. Provide a name for the subject site development that may be used to identify the project.
- B. Provide a street address, city/town/village, zip code, and each municipality and county in which the proposed site development is located. If the site does not have a street number, provide alternate location information as appropriate, such as closest intersection.
- C. Provide the approximate acreage of the proposed development.
- D. Provide the tax parcel section/block/lot information for all tax parcels within the project boundary. Attach a tax map or other base map that clearly shows the property boundaries and the boundaries of all tax parcels included in the project. Tax map information and maps may be obtained from the municipal tax assessor's office.

Section 4. Brownfield Opportunity Area

To complete this section, refer to the Designated Brownfield Opportunity Areas page of the DOS website which provides access to the BOA plans for all designated BOAs: <https://dos.ny.gov/brownfield-redevelopment>

- A. Provide the name of the Designated Brownfield Opportunity Area in which the proposed project is located.
- B. List the municipality or municipalities in which the BOA is located. If the BOA includes land in more than one municipality, list all municipalities even if the proposed project is only located in one.
- C. Indicate if the proposed project is located on a Strategic Site as identified in the BOA plan. If the project is on a Strategic Site, provide the name of the Site, as included in the BOA plan, with page references for the section of the plan where the Strategic site is described.

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Section 5. Project Description

- A. Provide a complete project narrative for the proposed development, including at least the following information:
- Proposed property use(s), including description and square footage and/or number of units for each use.
 - Size and scale of all structures, both new and rehabilitated.
 - Site layout and relationship to street and to surrounding uses.
 - Description of any public amenities that will be provided on the site.
- B. Maps, plans and renderings to supplement the project narrative must be submitted as attachments. At a minimum, the following are required:
- Property base map that shows the location of the property with respect to adjacent streets, waterways, and surrounding uses.
 - Site plan of sufficient detail and clarity to show the location of all existing or proposed structures and illustrates all proposed site improvements. Building size and scale should be clearly noted.
 - Artistic or architectural renderings that illustrate the style, size and scale of the proposed development.

Construction drawings are NOT required; however each applicant may include with the completed application any additional maps, plans, or drawings necessary to fully describe the proposed development.

Section 6. Project conformance information

The goal of this section is to determine the proposed project's direct relationship to the vision, goals, and priorities for the designated Brownfield Opportunity Area and its conformance with the criteria set forth in General Municipal Law §970-r(10). These questions require the requestor to be familiar with the designated BOA plan. To download the applicable BOA plan, refer to the following website:

<https://dos.ny.gov/brownfield-redevelopment>

Responses to questions in this section should be as specific as possible, and reference the specific BOA Nomination document section and page. Additional pages may be attached if necessary.

- A. This question addresses the proposed land use(s) as they relate to the land uses recommended in the BOA Nomination or Plan. In this response, describe the land uses identified in the BOA vision, goals and objectives, including any site-specific or area-wide land use recommendations, such as residential, commercial, industrial, and/or mixed use; and specify how the use(s) in the proposed development is consistent with these recommendations. If appropriate, describe the extent to which the proposed development will provide affordable housing, local retail opportunities, and/or local employment opportunities.
- B. This question addresses the physical characteristics of the proposed development, such structural density and layout, architectural style, site configuration, relationship to the street and/or surrounding development, provision of infrastructure, and configuration of public spaces. In this response, describe how the specific characteristics of the proposed development would implement the vision for redevelopment of the site and the general area as presented in the BOA plan.
- C. This question addresses consistence with local land use regulations. In this response, describe the current zoning and identify any zoning modifications recommended in the BOA plan. Indicate whether the proposed development can be constructed under the current and/or proposed zoning, and identify any other local land use regulations or standards that may be applicable to the particular development.

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Section 7. Municipal Notification

The applicant(s) must provide a copy of the complete application form and all attachments to the governing body of every municipality in the BOA (as listed in earlier sections of this application), whether or not the proposed development is located in that municipality.

Provide contact information for each relevant municipality/governing body including mailing address, phone number and email address, and the date on which the application and attachments were sent.

As a separate attachment, provide proof of delivery to each municipality.

SUBMITTAL INSTRUCTIONS

Submit one (1) hard copy of the completed application form with original signatures and all required attachments. In addition, transmit one (1) complete electronic copy of the completed application with all required attachments in Portable Document Format (PDF). The hard copy documents, together with a thumb drive, compact disk (CD), or DVD containing the electronic PDF copy of the completed application, should be sent to:

Honorable Robert J. Rodriguez
Secretary of State
New York State Department of State
One Commerce Plaza, 99 Washington Avenue
Albany NY 12231-0001
Attn: BOA Program