
Subject: Draft Regional Development Charges By-Law Update - Transition Provisions

Report to: Corporate Services Committee

Report date: Wednesday, May 31, 2017

Recommendations

1. That the Transition Provisions No. 1, as set out in Appendix “1” **BE INCLUDED** for consideration in the Draft Regional Development Charges (RDC) by-law.
2. That a copy of this report **BE CIRCULATED** to the local area municipalities, local Chambers of Commerce and the Niagara Home Builders Association.

Key Facts

- On July 5, 2012, Council passed By-law 62-2012, “A By-law to Establish Development Charges for the Regional Municipality of Niagara”, which includes Development Charges reductions for brownfields and development within designated exemption areas. The By-law expires on August 31, 2017.
- Staff recently circulated for public review a new draft RDC by-law that, once adopted, will be in force and effect from September 1, 2017 to August 31, 2022.
- The draft RDC By-law, prepared by Watson and Associates Economists Ltd. (Watson), contains revised exemptions for brownfield development up to the eligible costs of remediation. In addition, the program permits brownfields and development within Designated Exemption Areas to receive a refund of up to 50% of development charges for meeting the 2014 Smart Growth Design Criteria.
- Staff has been requested by some local area municipalities and developers to continue with the existing Development Charges reductions or to provide transition provisions permitting continuation of the existing exemptions for development in Brownfields and Designated Exemption Areas.
- The key issue relates to developments that would, under the existing By-law, obtain Development Charge exemptions exceeding the actual cost of remediation.
- Staff is recommending Transition Provisions that expire December 31, 2018 coincidental to completion of the Regional Incentives Review (a full review of all regional incentives programs including the RDC reduction programs).
- Staff has identified several properties that are currently under construction or in planning that have received or have requested grandfathering of RDC exemptions under the current Development Charges By-law. The cost of fully funding (grandfathering) all of these properties is estimated at over \$56 million based on new rates.
- Watson and regional staff have also refined the definition of brownfield, updated Schedules “D” and “E” and proposed some additional edits to the by-law to take into consideration other matters identified during the consultation process (highlighted in Appendix 2 attached)

Financial Considerations

It is important to note, that when RDCs are reduced, Council must either fund these reduction amounts back to the RDC reserves or reduce RDC reserve allocations to eligible capital projects and fund the shortfall with tax/rate funding. This means some eligible capital projects may be decreased or eliminated, which may in turn slow the provision of services required for growth. Funding sources to pay back the RDC reserves are usually in the form of tax levy or rate contributions, as required under the *Development Charges Act*. While \$127 million (\$25.4 million/year) in RDCs have been collected since 2012, approximately \$20.5 million (\$4.1 million/year) in RDC discretionary reductions have been granted (these do not include the Industrial and Non-Profit RDC grants), resulting in fewer dollars being allocated to growth capital projects. Staff is proposing a more focused objective program of reductions in the draft RDC by-law.

Schedule “D” of the draft RDC by-law (Appendix 2) proposes to enhance the reduction for brownfield development up to 100% of the DC charge (up from 50% and 75% for development in urban area and designated community improvement plan areas, respectively). However, it limits the reduction to eligible costs of remediation. The reduction program is intended to create a level playing field between properties that require remediation and those that do not. This program is similar to the city of Hamilton ERASE Development Charge Reduction Program. The uptake of this program is unknown and the source of funding has not been identified.

Schedule “E” of the RDC by-law (Appendix 2) proposes to further reduce the development charges payable for development in Designated Exemption Areas and brownfields provided the 2014 Smart Growth Design Criteria or LEED certification are achieved. Similar to Schedule “D”, the uptake of this program is unknown and the source of funding has also not been identified.

Some local area municipalities and developers have requested continuation of the existing Program or new Transition Provisions permitting continued use of the current Program. Understanding the impacts the changes may have on development already underway, a Transition Provision is being recommended to the Schedule D and E provisions to continue the current by-law reductions for qualifying developments until December 31, 2018, at which time, the new by-law will apply to all development.

Staff has identified properties, based on previous discussions and correspondence, that may qualify under the proposed Transition Provisions, as well as, the costs in forgone development charges revenue associated with these projects, as identified in Appendix “3”. However, staff is concerned that this list is not all-inclusive as many applications are not received until construction of a development is complete. Therefore, the uptake of this program is unknown and the source of funding has also not been identified.

The proposed Transitional Provisions, based on development information currently on hand, could have a potential impact of \$56 million (\$11.2 million per year) in RDC reductions. This represents an average increase to the Tax Levy of 2% per year, and an

average increase to the Water/Waste Water Rate requisition of 3.0% per year in order to fund the RDC Reserves for the amount of the reduction.

Currently there is no budget to support the funding proposed for Schedule “D” and “E” or Transition Provisions, which means staff will be required to reduce DC Reserve funding allocations to eligible capital projects, or a base budget increase will be required to fund these amounts back to the DC Reserve.

Table 1 compares the impact of the proposed RDC by-law to the current by-law, exclusive and inclusive of the proposed transition provisions for a sample development when remediation costs are greater or less than the RDC payable. A transition policy is not required when remediation costs are above the RDC payable as the new by-law provides an enhanced reduction at 100% of the amount payable. Under the proposed by-law, lands with higher remediation costs are more fully compensated for those costs. This comes closer to leveling the playing field with non-brownfield development. The proposed Transition Provisions offer a greater RDC reduction than the proposed by-law but not to the extent of a development with remediation costs higher than the RDC payable. If the cap at remediation costs is eliminated in the new by-law zero net RDCs would be payable by the Developer (\$82,545 additional reduction using the example below) therefore increasing the growth funded by Regional tax/rate funding.

Development Scenario: -15 residential units -Brownfield	CURRENT BY-LAW	PROPOSED BY-LAW		PROPOSED TRANSITION PROVISIONS
	Remediation costs <u>do no limit</u> RDC reductions	Remediation costs <u>below</u> applicable RDC	Remediation costs <u>above</u> applicable RDC	Remediation costs <u>below applicable</u> RDC
Eligible Remediation Costs	N/A	50,000	300,000	50,000
Total Applicable RDCs	157,260	285,090	285,090	285,090
Demolition Credit	(20,000)	(20,000)	(20,000)	(20,000)
Brownfield Reduction ¹	(68,630)	(50,000)	(300,000)	(68,630)
RDC's payable by developer at Building Permit	68,630	215,090	0	196,460
Smart Growth Reduction	(68,630)	(132,545)	0	(132,545)
Net RDCs Paid by Developer	0	82,545	0	63,915
TOTAL RDC REDUCTIONS (EXCLUDING DEMO CREDIT)	(137,260)	(182,545)	(265,090)	(201,175)

¹ Brownfield Reduction equals the amount eligible under the current by-law or eligible remediation costs, whichever is more to the limit of applicable RDCs.

Analysis

A Development Charge Reduction Program was introduced in 2002. It provided development charge reductions for brownfields and Community Improvement Plan areas, and also incorporated a program for a refund based on very modest smart growth design criteria requirements. The Development Charges Reduction Program approved by Regional Council in May 2014 included revised smart growth design criteria, as well as, a Transition Policy allowing continued use of the 2002 criteria instead of the revised criteria for qualifying properties.

The need for the 2014 Transition Policy was determined in consultation with representatives from the development community and the local area municipalities, and upon review of Council's objectives with respect to increasing building permit and assessment growth. The main concern expressed was that financial decisions (land purchase, etc.) are made by developers based on policies existing at that time and would be penalized by needing to comply with the more rigorous 2014 criteria. The Transition Policy required that development meet specific requirements in order to qualify, and in particular, that a building permit be issued prior to December 31, 2014.

Staff's focus in preparing the new RDC by-law has shifted from providing a reduction in RDCs for land within the Designated Exemption Areas (CIPs) and for Smart Growth Design requirements to providing remediation and redevelopment of brownfields. The Regional Incentives Review, to be completed in 2018, will examine incentive programs for the Designated Exemption Areas (CIPs) and Smart Growth, and recommend new or revised programs for Council approval (outside of the RDC by-law).

The present brownfield RDC reduction program has been in effect since 2002. The intent of the program was to provide properties with the ability to recover the cost of remediation, promote brownfield redevelopment and provide competitive equality between properties that require remediation and those that do not. It is submitted that the current by-law does not accomplish this particularly when remediation costs are minimal.

By way of example, in one existing case there are two properties in proximity to each other; Property A is not a brownfield, while Property B is a brownfield with limited site remediation. Today, Property A will be paying full RDCs averaging \$4,650/dwelling and has no opportunity to apply for a Smart Growth Design reduction. As a brownfield, Property B receives a reduction at building permit issuance of \$2,325/dwelling (which more than covers the cost of remediation), and further, is eligible to meet the Smart Growth criteria and receive a further 50% refund reducing RDCs to \$0.

During the 2017 RDC study, meetings were again held with the local area municipalities, non-governmental stakeholders and internal staff. It was identified that with increased demand being placed on development charges to fund incentives, the current by-law must be refined to focus on Council's objectives and priorities. Other matters were also identified, including:

- The continued expansion and creation of new Community Improvement Plan (CIP) Areas across the Region that put an increased demand on limited funding sources;
- The change in market conditions in Niagara since 2002, particularly with respect to low density residential development, which questions the true need of the RDC reduction program under current market conditions;
- The appropriateness of the RDC reduction program related to smart growth criteria being included within a development charges by-law; and
- The need to review all regional incentives programs.

As a result of these discussions, Watson with support from Regional staff, developed modified RDC reductions (Schedules D and E in Appendix 2) and Transition Provisions (Appendix 1).

Staff has proposed the Transition Provisions in recognition of a number of brownfield redevelopment sites unable to pull building permits prior to the lapsing of the current by-law (Appendix 3). Staff recommends consideration of the attached 2017 Development Charges Reduction Transition Provisions (see Appendix "1"). The following principles have been applied to the Transition Provisions:

1. Establish criteria to determine eligibility;
2. Be fiscally responsible/sustainable,
3. Establish a clear expiration date;
4. Identify that developments grandfathered under the 2017 Transition Provisions will not be given further extension beyond its expiry date; and
5. Level the playing field with non-brownfield sites to the extent feasible.

Other Modifications to the Draft Regional Development Charges By-law

In response to stakeholders' comments, Watson and staff have recommended a number of modifications to the draft proposed RDC by-law as identified in Appendix 2. Recommended wording refinements in the proposed by-law include revised definitions for brownfields and Eligible Costs of Remediation. These refinements have expanded the definition of brownfield to include Agricultural, and Institutional developments. Further, brownfields will be specifically identified as those sites that require remediation. The MOECC has confirmed that golf courses are considered to be a commercial use which falls under the current By-Law's brownfield definition; therefore no refinements are required to deal specifically with golf courses.

Alternatives Reviewed

1. Implement the recommended Transition Provisions No. 1 as set out in Appendix 1 which expires December 31, 2018. **RECOMMENDED**
2. Expand the Transition Provisions in Appendix 1 to extend the expiry date to December 31, 2020 and provide option to prepay RDC (see Transition Provisions No. 2 in Appendix 4). **NOT RECOMMENDED**, as the costs to fund this program are high, it would not accomplish the original intent of the program and it may be perceived as favouring a particular development which may be interpreted as bonusing.
3. No Transition Provisions - **NOT RECOMMENDED** as this would possibly delay developments underway (in their final stages) to complete their project.
4. Continue with the current RDC reduction program for five years – **NOT RECOMMENDED** as the costs to fund this program are high, it would not accomplish the original intent of the program to encourage development in specific locations and it may be perceived as favouring a particular development which may be interpreted as bonusing.

Relationship to Council Strategic Priorities

The refinements to the RDC By-Law are based on Council's Strategic Priorities to promote growth in those areas where appropriate funding assistance is required, such as brownfields.

Other Pertinent Reports

PDS 14-2014	Smart Growth Design Criteria and Application Process for Development Charge Reductions in designated Areas	May 2014
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Appendices

Appendix 1	Regional Development Charges Reduction Transition Provisions No. 1
Appendix 2	Revised Draft RDC By-law
Appendix 3	Potential Development Charges Reductions
Appendix 4	Alternative Regional Development Charges Reduction Transition Provision No. 2

Regional Development Charges Reduction TRANSITION PROVISIONS NO. 1

Please Note All of the Following:

- This Transition Provision expires on December 31, 2018.
 - Development grandfathered under this policy will not receive further extension.
 - Grandfathering is not transferable through change in land ownership after August 31, 2017.
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1. In order to be eligible for the Development Charge Reduction contained in Development Charges By-law 62-2012, Schedule B1 (a) and calculated using the RDC rate in effect on August 31, 2017 all of the following conditions must be met:
 - a. Application shall be received prior to the expiry of Development Charges By-law 62-2012 on August 31, 2017 and shall contain the following required documentation:
 - i. Proof of land transaction/ownership of land;
 - ii. A completed Phase 2 ESA¹ for the subject site that identifies mandatory remediation to meet MOECC Standards;
 - iii. Proof that remediation is in progress or a contract awarded;
 - b. Proof that a complete planning/development application² has been received by the local municipality, as required for site development prior to December 31, 2017.
 - c. Upon verification of Sections 1(a) and 1(b) (above) and prior to December 31, 2017, an agreement in form acceptable to the Niagara Region must be executed that contains, *inter alia*, the following terms:
 - i. A Building Permit for the development must be issued prior to December 31, 2018, otherwise the agreement becomes null and void.
 - ii. The Transition Provision only applies to the applicant identified in Section 1(a) (above) and is not transferable through change in land ownership.
 2. The Development Charge Reductions contained in Development Charge By-law XX-2017, Schedule E is based on Smart Growth Design Criteria approved by Regional Council in May 14, 2014 and applicable until December 31, 2018.
 3. Calculation of the applicable RDC will be as follows:

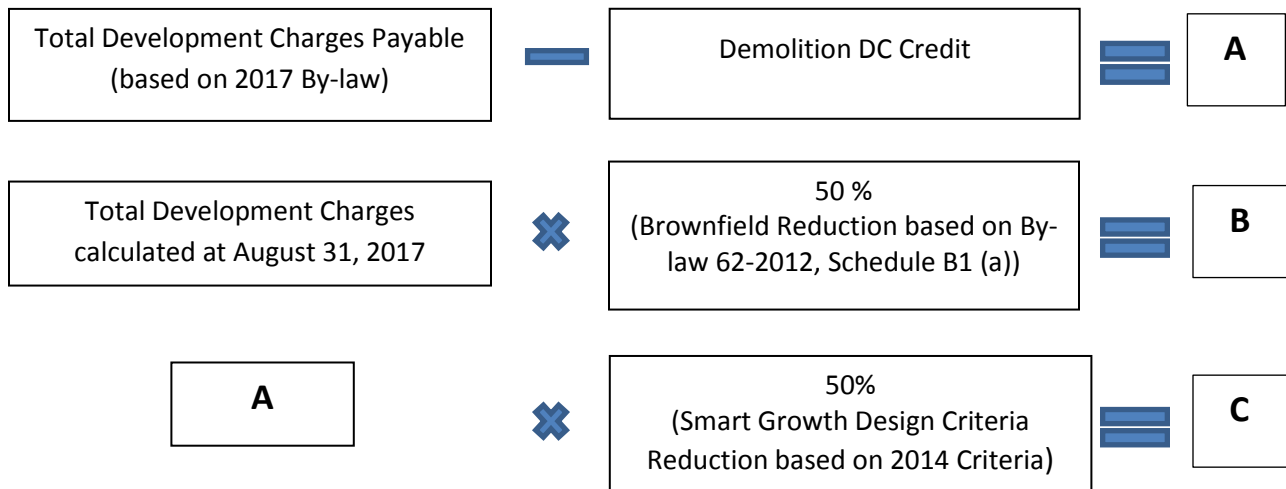
¹ Prepared and signed by a Qualified Person (QP) as per Ontario Regulation 153/04, as amended.

² Complete application in accordance with the Planning Act and related Regulations.

- a. The Development Charge rate payable will be the rate in effect at the time of issuance of the building permit;
- b. Less the potential amount that may be refunded based on Development Charges By-law 62-2012, Schedule B1 (a) and the Council approved 2014 Smart Growth Design Criteria or LEED certification. By way of example, the method for calculating RDCs shall be calculated as follows:

Development Charges Amount to be paid at time of Building Permit issuance = A – B

Amount that may be refunded based on Smart Growth Design Criteria or LEED certification = C



The Corporation of the Region of Niagara

By-law Number ____-2017

A BY-LAW TO ESTABLISH DEVELOPMENT CHARGES

FOR THE REGIONAL MUNICIPALITY OF NIAGARA AND TO REPEAL BY-LAW 62-2012

WHEREAS subsection 2(1) of the *Development Charges Act, 1997, as amended* c. 27 (hereinafter called “the Act”) provides that the council of a municipality may pass By-laws for the imposition of development charges against land for increased capital costs required because of the need for services arising from development in the area to which the by-law applies;

AND WHEREAS the Council of the Corporation of the Regional Municipality of Niagara has given Notice on April 28, 2017 according to section 12 of the *Development Charges Act, 1997, as amended*, of its intention to pass a by-law under Section 2 of the Act;

AND WHEREAS the Council of the Corporation of the Regional Municipality of Niagara has heard all persons who applied to be heard no matter whether in objection to, or in support of, the development charge proposal at a public meeting held on June 8, 2017;

AND WHEREAS the Council of the Corporation of the Regional Municipality of Niagara had before it a report entitled Development Charge Background Study dated April 28, 2017 prepared by Watson & Associates Economists Ltd., wherein it is indicated that the development of any land within the Regional Municipality of Niagara will increase the need for services as defined herein;

AND WHEREAS the Council of the Corporation of the Regional Municipality of Niagara on June 29, 2017 approved the applicable Development Charge Background Study, inclusive of the capital forecast therein, in which certain recommendations were made relating to the establishment of a development charge policy for the Regional Municipality of Niagara pursuant to the *Development Charges Act, 1997, as amended*;

AND WHEREAS the Council of the Corporation of the Regional Municipality of Niagara on June 29, 2017 determined that no additional public meeting was required to be held as part of the approval process;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

DEFINITIONS

1. In this By-law:

"Act" means the *Development Charges Act, 1997*, S.O. 1997, c. 27, as amended;

"agricultural use" means use or intended use for bona fide farming purposes where the proposed development will qualify as a farm business operating with a valid Farm Business Registration Number issued by the Ontario Ministry of Agriculture, Food and Rural Affairs **and**/or be assessed in the Farmland Realty Tax Class by the **Municipal** Property Assessment Corporation;

(a) including (but not limited to):

- (i) cultivation of crops, whether on open land or in greenhouses, including (but not limited to) fruit, vegetables, herbs, grains, field crops, **marijuana**, sod, trees, shrubs, flowers, and ornamental plants;
- (ii) raising of animals, including (but not limited to) cattle, horses, pigs, poultry, livestock, fish; and
- (iii) agricultural animal husbandry, dairying, equestrian activities, horticulture, fallowing, pasturing, and market gardening;

(b) but excluding:

- (i) retail sales activities; including but not limited to restaurants, banquet facilities, hospitality facilities and gift shops;
- (ii) services related to grooming, boarding or breeding of household pets; and
- (iii) **marijuana processing or production facilities.**

"apartment" means any residential building containing more than four dwelling units where the units are connected by an interior corridor, but does not include a special care/special need dwelling unit/room, or dormitories;

"back-to-back townhouse dwelling" means a building containing more than two dwelling units separated vertically by a common wall, including a rear common wall, that do not have rear yards;

"bedroom" means a habitable room larger than seven square metres, including a den, study, or other similar area, but does not include a living room, dining room, kitchen or bathroom.

“board of education” means a board as defined in the *Education Act*, R.S.O. 1990, c. E.2, as amended;

“brownfield” means land located within the urban areas as defined from time to time in the Regional Official Plan, upon which there has been previous agricultural, industrial, institutional, or commercial or open lands use or other use as prescribed under Ontario Regulation 153/04, as amended from time to time, and for which site remediation is required in accordance with a Phase 2 Environmental Site Assessment, and for which a Record of Site Condition has been filed on the Province’s Brownfields Environmental Site Registry in order to permit a change of use pursuant to the Environmental Protection Act, R.S.O. 1990 and Ontario Regulation 153/04, as amended from time to time;

"building permit" means a permit pursuant to the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

“calculation date” means the date on which the first building permit is issued by the local municipality;

“commercial purpose” means used, designed or intended for use for or in connection with the purchase and/or sale and/or rental of commodities; the provision of services for a fee; or the operation of a business office, and includes hotels and motels;

“development” means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of increasing the size or usability thereof, and includes redevelopment; notwithstanding the foregoing, development does not include temporary structures, including but not limited to, seasonal hoop structures, seasonal fabric structures, tents, or produce sales stands;

“dwelling room” means either

- a) each bedroom used, designed or intended for use by one or more persons living together in a lodging home, dormitories, or
- b) in the case of a special care/special dwelling unit/room, each individual room or suite of rooms used, designed or intended for use by one or two persons with or without exclusive sanitary and/or culinary facilities.

"dwelling unit" means one or more rooms used, designed or intended to be used by one or more persons as a residence and which has access to culinary and/or sanitary facilities. A "dwelling unit" does not include a Park Model Trailer

conforming to National Standard of Canada #CAN/CSA - Z241.0-92 or similar standard;

"eligible costs of remediation" means work related to the following categories:

- (a) Phase 1 Environmental Site Assessments;
- (b) Phase 2 Environmental Site Assessments;
- (c) Environmental Remediation Work; and
- (d) Indirect Remediation Costs,

all as detailed in the listing of eligible remediation costs by category in Schedule "F".

"existing industrial building" means a building or buildings existing on a site in the Regional Municipality of Niagara as of July 6, 2012 or the buildings or structures constructed and occupied on a vacant site pursuant to site plan approval under section 41 of the Planning Act, R.S.O. 1990, c. P.13 (the "Planning Act") subsequent to the July 6, 2012 was passed for which development charges were exempted or paid for and means a building used for or in connection with:

- (a) manufacturing, producing, and processing goods for a commercial purpose, as well as storing and or distribution of the goods manufactured, produced or processed on site;
- (b) research or development in connection with manufacturing, producing or processing something;
- (c) retail sales by a manufacturer, producer or processor of something they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- (d) office or administrative purposes, if they are:
 - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something; and
 - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

“granny flat” means a one-unit detached, temporary residential structure, containing culinary and sanitary facilities that is ancillary to an existing residential structure and that is designed to be temporary;

“gross floor area” means the total floor area, measured between the outside of exterior walls, virtual walls or between the outside of exterior walls or virtual walls and the centre line of party walls dividing the building from another building, of all floors and mezzanines, above and below the average level of finished ground adjoining the building at its exterior walls;

“group home” means a dwelling for the accommodation of three to eight residents, supervised by agency staff and funded wholly or in part by any government or its agency and approved or supervised by the Province of Ontario under any Act.

“industrial use” means land, buildings or structures used for or in connection with manufacturing by:

- (a) manufacturing, producing, and processing goods **for a commercial purpose**, as well as storing and or distribution of goods manufactured, produced or processed on site;
- (b) research or development in connection with manufacturing, producing or processing **good for a commercial purpose**;
- (c) retail sales by a manufacturer, producer or processor of **goods** they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- (d) office or administrative purposes, if it is:
 - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something; and
 - (iv) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

“institutional” means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and offices where such uses are accessory to an institutional use.

“live/work unit” means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall or floor with direct access between the residential and non-residential areas.

“local board” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of one or more local municipalities or the Region, but excluding a board of education, a conservation authority, any municipal services corporation that is not deemed to be a local board under O. Reg. 599/06 made under the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended;

“local municipality” means any one of the municipalities of the Town of Fort Erie, Town of Grimsby, Town of Lincoln, City of Niagara Falls, Town of Niagara-on-the-Lake, Town of Pelham, City of Port Colborne, City of St. Catharines, City of Thorold, Township of Wainfleet, City of Welland, and the Township of West Lincoln;

“lodging home” means a boarding, lodging, or rooming house in which lodging is provided for more than four persons in return for remuneration or for the provision of services, or for both, and in which the lodging rooms do not have both bathrooms and kitchen facilities for the exclusive use of individual occupants.

“long term care home” means homes, nursing homes or homes for the aged where the Ministry of Health and Long Term Care funds the care provided in such homes and application for accommodation is made through a Community Care Access Centre.

“mezzanine” means an intermediate floor assembly between the floor and ceiling of any room or storey and includes an interior balcony;

“mixed-use building” means a building or structure used for both residential and non-residential use;

“multiplex dwelling” means a residential building containing three or more dwelling units, each of which unit has a separate entrance to grade;

“municipal housing project facilities” has the same meaning as that specified in the Region’s *Municipal Housing Facility By-law* (No. 34-2004), as may be amended;

"non-residential building" means a building or structure used exclusively for non-residential use;

"non-residential use" means use or intended use for any purpose other than human habitation and includes, but is not limited to, an institutional use, an industrial use, and a commercial use;

"other multiple" means all residential units other than a single detached dwelling, semi-detached dwelling, apartment dwelling or a dwelling room, including, but not limited to, row dwellings, multiplex, back-to-back townhouse dwelling, stacked townhouse dwelling, and the residential component of live/work units;

"parking structure" means buildings or structures uses for the parking of motor vehicles;

"place of worship" means any building or part thereof that is owned by a church or religious organization that is exempt from taxation as a place of worship pursuant to the *Assessment Act*, R.S.O. 1990, c. A.31, as amended;

"premise" means one or more dwelling units and/or one or more square feet used for non-residential use;

"Region" means The Regional Municipality of Niagara;

"Regulation" means O. Reg. 82/98 under the Act, as amended;

"residential building" means a building used exclusively for residential use, including but not limited to a single detached dwelling, a semi-detached dwelling, a row dwelling, stacked townhouse dwelling, back-to-back townhouse dwelling, a multiplex dwelling, an apartment dwelling, a dwelling room; or the residential component of a live/work unit;

"residential use" means use or intended use for human habitation and ancillary purposes, and includes such use related to agricultural use, but does not include a hotel/motel use; for purposes of this definition "ancillary purposes" includes (but is not limited to) vehicle storage and equipment storage;

"row dwelling" means a residential building containing three or more dwelling units separated by vertical division, each of which units has a separate entrance to grade;

"semi-detached dwelling" means a dwelling unit in a residential building consisting of two dwelling units having one shared vertical wall, but no other parts, attached;

"single detached dwelling" means a residential building containing one dwelling unit and not attached to another structure. Where it is attached to another structure by footings or below grade walls only, it shall be considered a single detached dwelling for the purposes of this by-law; and

"special care/special dwelling unit/room" means a residence

- a) containing two or more dwelling rooms, which rooms have common entrance from street level; and
- b) where the occupants have the right to use in common with other occupants, halls, stairs, yards, common room and accessory buildings; and
- c) that is designed to accommodate persons with specific needs, including but not limited to, independent permanent living arrangements; and where support services, such as meal preparation, grocery shopping, laundry, housing, nursing, respite care and attending services are provided at various levels; and includes but is not limited to retirement homes or lodges, group homes, dormitories, and hospices.

"stacked townhouse dwelling" means a building containing two or more dwelling units where each dwelling unit is separated horizontally and/or vertically from another dwelling unit by a common wall or floor;

"use" means either residential use or non-residential use.

"wind turbine" means a part of a system that converts energy into electricity, and consists of a wind turbine, a tower and associated control or conversion electronics. A wind turbine and energy system may be connected to the electricity grid in circuits at a substation to provide electricity off-site for sale to an electrical utility or other intermediary, where there is a rated output of more than 3 kilowatts.

RULES

2. For the purposes of complying with section 6 of the Act:

- (a) The rules for determining if a development charge is payable in any particular case and for determining the amount of the charge shall be in accordance with sections 4 through 9, and 20 and 21.
- (b) The rules for determining exemptions, relief, credits and adjustments shall be in accordance with sections 10 through 17.
- (c) The rules for determining the phasing in of development charges shall be in accordance with section 8.
- (d) The rules for determining the indexing of development charges shall be in accordance with sections 20 and 21.
- (e) The rules respecting the redevelopment of land shall be in accordance with sections 18 and 19.

LANDS AFFECTED

- 3. This By-law applies to all lands in the geographic area of the Region, being all of the lands shown on Schedule "A".

APPROVALS FOR DEVELOPMENT

- 4. (1) Development charges under this By-law shall be imposed against all development if the development requires:
 - (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - (b) approval of a minor variance under section 45 of the *Planning Act*;
 - (c) a conveyance of land to which a by-law passed under subsection 50(7) of the *Planning Act* applies;
 - (d) the approval of a plan of subdivision under section 51 of the *Planning Act*;
 - (e) a consent under section 53 of the *Planning Act*;
 - (f) the approval of a description under section 50 of the *Condominium Act*, 1998, S.O. 1998, c. 19, as amended; or
 - (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

- (2) That nothing in this By-law prevents Council from requiring, in an agreement under section 51 of the *Planning Act* or as a condition of consent or an agreement respecting same under section 53 of the *Planning Act*, that the owner, at his or her own expense, install such local services related to or within the area to which a plan of subdivision or consent relates, as Council may require, in accordance with the Region's applicable local service policy in the effect at the time.

DESIGNATION OF SERVICES

5. A development charge shall include:
- (a) a charge in respect of general government, police services, emergency medical services, health services, P.O.A. services, long-term care, social housing, waste diversion, public works and services related to a highway;
 - (b) if water service is available, a charge in respect of water; and
 - (c) if wastewater service is available, a charge in respect of wastewater.

AMOUNT OF CHARGE

Amount of Charge – Residential

6. For development for residential purposes, development charges shall be imposed on all residential development, including a dwelling unit accessory to a non-residential development and the residential component of a mixed-use building, including the residential component of a live/work unit, according to the number and type of dwelling units on the lands as set out in Schedule "C".

Amount of Charge – Non-residential

7. For development for non-residential purposes, development charges shall be imposed on all non-residential development and, in the case of a mixed-used building, on the non-residential component of the mixed-use building, including the non-residential component of a live/work unit, according to the type and gross floor area of the non-residential component as set out in Schedule "C".

Phasing in of Development Charges

8. The development charge schedule in Schedule "C" is not phased in.

TIMING AND CALCULATION AND PAYMENT

9. (1) The development charge under this By-law shall be calculated using the rate effective on the calculation date with respect to such development and shall be payable on the issuance of the first building permit with respect to such development.
- (2) No Chief Building Official of any local municipality shall issue a building permit in respect of a development for which a development charge is payable pursuant to this By-law, until such development charge is paid.
- (3) The Region may, by agreement pursuant to section 38 of the Act, permit an owner to perform work that relates to a service to which this by-law applies in lieu of the payment of all or any portion of a development charge. The Region will give the owner who performed the work a credit towards the development charge in accordance with the agreement and subject to the requirements of the Act. In addition, the Region may, in the case of development located outside of the existing service area, require payment of an appropriate share of the costs of the required infrastructure within the existing service area, in addition to the costs external to the service area.

EXEMPTIONS

10. The following are exempt from the payment of development charges under this By-law by reason of section 3 of the Act:
- (a) lands and buildings owned by and used for the purposes of any local municipality or the Region or any local board unless such buildings or parts thereof are used, designed or intended for use primarily for or in connection with any commercial purpose; and
 - (b) land and buildings owned by and used for the purposes of a board of education unless such buildings or parts thereof are used, designed or intended for use primarily for or in connection with any commercial purpose.
11. Notwithstanding any other provision of this By-law, no development charge is imposed under this By-law respecting:
- (a) granny flats;
 - (b) parking structures;
 - (c) non-residential lands and buildings used for agricultural use;

- (d) that portion of a place of worship which is used exclusively as a place of worship for religious services and any reception and meeting areas used in connection with, or integral to the worship space.
- (e) lands and buildings used or intended to be used as municipal housing project facilities, as set out in section 110 of the *Municipal Act, 2001*, S.O. 2001 c. 25, O.Reg.603/06 under the Municipal Act 2001, and the Region's Municipal Housing Facility by-law, all as may be amended;
- (f) lands and buildings used for affordable housing projects that receive funding through an agreement with Niagara Regional Housing or a department or designated agency of the Niagara Region, provided that:
 - (i) this exemption shall only apply to that proportion or number of units in a development which are designated or identified as affordable housing and
 - (ii) the owner of the lands continues to use the lands and buildings for affordable housing.

If the owner ceases to use the proportionate share of the lands and buildings for affordable housing, the development charges exempted under this section shall become due and payable. The owner shall be required to enter into an agreement with the Region under section 27 of the Act respecting the timing and calculation of payment of development charges, notice of which the owner shall register on the title to the lands at its sole cost and expense with the intention that the provisions shall bind and run with title to the lands. and

- (g) canopies including gas station canopies and those intended for the parking, and loading or unloading of vehicles;

Partial Exemptions

- 12. Notwithstanding any other provision of this By-law, the development charge imposed under this By-law respecting the development of a long-term care home shall be reduced by 50%.

Rules with Respect to Brownfield Development located within the Urban Areas

- 13. The rules with respect to Brownfield Development located within the Urban Areas for Regional Development Charges Reduction are set out in Schedule "D" and supporting Schedules D1-11.

Rules with Respect to Development located within the Designated Exemption Areas and Brownfield Development within the Urban Areas

14. The rules with respect Development located within the Designated Exemption Areas and to Brownfield Developments within the Urban Areas for Regional Development Charges Reduction are set out in Schedule “E” and supporting Schedules E1 to E10.

Rules with Respect to Exemptions for Intensification of Existing Housing

15. Pursuant to the Act, no development charge is payable if the development is only the enlargement of an existing dwelling unit.
16. Pursuant to the Act and Regulation, no development charge is payable if the development is only the creation of:
 - (a) one or two additional dwelling units in a single detached dwelling, where the total gross floor area of the additional dwelling unit or units is less than or equal to the gross floor area of the existing dwelling unit;
 - (b) one additional dwelling unit in a semi-detached dwelling or row dwelling, where the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the existing dwelling unit; or
 - (c) one additional dwelling unit in a dwelling other than a single detached dwelling, semi-detached dwelling or row dwelling, where the gross floor area of the additional dwelling unit is less than or equal to the gross floor area of the smallest existing dwelling unit in the residential building.

Rules with Respect to Exemptions for Industrial Enlargement

17. (1) Pursuant to the Act, and notwithstanding any other provision of this by-law, there shall be an exemption from the payment of development charges for one or more enlargements of existing industrial buildings **on a site**, up to a maximum of fifty percent of the gross floor area before the first enlargement for which an exemption from the payment of development charges was granted pursuant to the Development Charges Act or this section. **The development need not be an attached addition or expansion of an existing industrial building, but rather may be a new standalone structure, provided it is located on the same parcel of land.** Development charges shall be imposed in accordance with this by-law with respect to the amount of floor area of an enlargement that results in the gross floor area of the industrial building **on the site** being increased by

greater than fifty per cent of the gross floor area of all the existing industrial buildings on the site.

- (2) If the gross floor area is enlarged by more than 50 percent, the amount of the development charge in respect of the enlargement is the amount of the development charge that would otherwise be payable multiplied by the fraction determined as follows:
 1. Determine the amount by which the enlargement exceeds 50 percent of the gross floor area before the enlargement.
 2. Divide the amount determined under paragraph 1 by the amount of the enlargement.

Rules With Respect to Redevelopment – Demolitions

18. (1) If application is made for a building permit in respect of a parcel of land upon which a premise existed within five years prior to the date of such application, but which premise has been demolished or destroyed before the date of such application, then the amount of development charges payable upon issuance of the said building permit shall be reduced by the net amount, calculated pursuant to this By-law at the current development charge rates, that would be payable as development charges in respect of the demolished or destroyed premise, provided that such reduction shall not exceed the development charges otherwise payable. For purposes of this subsection, “net” means the excess of the development charges for premises constructed, over the development charges for premises demolished or destroyed.
- (2) If, at the time of payment of development charges in respect of a parcel of land, the owner of the said land provides written notification of his/her intention to demolish (within five years) a premise existing on that parcel at the time of such payment, then upon the subsequent assurance by the Treasurer of the relevant local municipality (or his or her designate) to the Region’s Treasurer, within five years after such payment, that such premise on such parcel has indeed been so demolished (and the particulars of such demolished premise), the Region shall refund to such owner a reduction in the development charges paid, which reduction is the amount, calculated pursuant to this By-law or a predecessor by-law of the Region, at the development charge rates in effect at the time of such payment, that would have been payable as development charges in respect of the premise demolished, provided that such reduction shall not exceed the development charges actually paid.

- (3) Where demolition takes place on a brownfield, the above conditions apply however, an application may be made to the Regional Treasurer for an extension of time for the redevelopment credit of up to three additional years if the redevelopment has not been able to proceed due to delays in completing the remediation works. This application must be received prior to the expiry of the initial five year period as provided in section 18. (1) of this by-law. This application will be considered by Regional Council for approval.
- (4) Where the first use of a premises would be exempt from development charges by operation of s.10 of this By-law, the reduction available under 18.(1), 18(2), and 18(3) above shall be determined by assessing the first use of the premises at the Institutional rate set forth in Schedule "C" to this By-law.

Rules With Respect to Redevelopment – Conversions

19. (1) If a development includes the conversion of a premise from one use (the "first use") to another use, then the amount of development charges payable shall be reduced by the amount, calculated pursuant to this By-law at the current development charge rates, that would be payable as development charges in respect of the first use, provided that such reduction shall not exceed the development charges otherwise payable.
- (2) Where the first use of a premises would be exempt from development charges by operation of s.10 of this By-law, the reduction available under 19.(1) above shall be determined by assessing the first use of the premises at the Institutional rate set forth in Schedule "C" to this By-law.

INDEXING

20. The amounts of development charges imposed pursuant to this By-law, as set out in Schedule "C" shall be adjusted annually without amendment to this By-law, in accordance with the Statistics Canada Quarterly Construction Price Statistics (catalogue number 62-007).
21. For greater certainty, on January 1st of each year, the annual indexation adjustment shall be applied to the development charge as set out in Schedule "C", plus the accumulated annual indexation adjustments from previous years, if any.

GENERAL

22. The following schedules to this By-law form an integral part of this By-law:

- Schedule "A" – Map of the Regional Municipality of Niagara
- Schedule "B" – Components of Services Designated in Section 5
- Schedule "C" – Development Charges
- Schedule "D" – Rules with Respect to Brownfield Development located within Urban Areas for Regional Development Charges Reduction (subject to section 13)
- Schedule "D1" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – Town of Fort Erie
- Schedule "D2" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – Town of Grimsby
- Schedule "D3" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – Town of Lincoln
- Schedule "D4" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – City of Niagara Falls
- Schedule "D5" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – Town of Niagara-on-the-Lake
- Schedule "D6" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – Town of Pelham
- Schedule "D7" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – City of Port Colborne
- Schedule "D8" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – City of St. Catharines
- Schedule "D9" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – City of Thorold

- Schedule "D10" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – City of Welland
- Schedule "D11" – Urban Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 14) – Township of West Lincoln
- Schedule "E" – Rules with Respect to Development located within the Designated Exemption Areas and Brownfield Developments within the Urban Areas for Regional Development Charges Reduction Program (subject to section 14)
- Schedule "E1" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – Town of Fort Erie
- Schedule "E2" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – Town of Grimsby
- Schedule "E3" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – Town of Lincoln
- Schedule "E4" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – City of Niagara Falls
- Schedule "E5" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – Town of Pelham
- Schedule "E6" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – City of Port Colborne
- Schedule "E7" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – City of St. Catharines
- Schedule "E8" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13) – City of Thorold

Schedule "E9" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13)
– City of Welland

Schedule "E10" – Designated Exemption Areas for Regional Development Charges (Partial) Exemption/ Waiver (subject to section 13)
– Township of West Lincoln

Schedule "F" – Development Charges Reduction Program for Brownfield Redevelopment; Eligible Remediation Cost

23. This By-law shall come into force and effect on September 1, 2017.
24. Pursuant to the Act, and unless it is repealed earlier, this By-law shall expire five years after the date it comes into force.
25. Each of the provisions of this By-law is severable and if any provision hereof should, for any reason, be declared invalid by the Ontario Municipal Board or a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
26. By-law 62-2009 is hereby repealed effective September 1, 2017.

THE REGIONAL MUNICIPALITY OF NIAGARA

(Regional Chair)

(Regional Clerk)

Schedule "A"

Niagara  Region



Map of the Regional Municipality of Niagara



Schedule B
To By-Law No. __-2017
Region of Niagara
Components of Services Designated in Section 5

100% Eligible Services

Police Services

- Facilities
- Vehicles
- Equipment

Services Related to a Highway

- Services Related to a Highway
- Services Related to a Highway – Related Vehicles
- Services Related to a Highway – Related Facilities
- Services Related to a Highway – Previously Completed Unfunded Works

Water Services

- Supply
- Storage
- Treatment
- Distribution
- Previously Completed Unfunded Works

Wastewater Services

- Collection
- Treatment
- Previously Completed Unfunded Works

90% Eligible Services

Emergency Medical Services

- Ambulances
- Facilities

Health Services

- Facilities

Provincial Offences Act (P.O.A.)

- Facilities

Social and Child Services

- Facilities

Long-term Care

- Facilities

Schedule B
To By-Law No. ____-2017
Region of Niagara
Components of Services Designated in Section 5

Social Housing

- Facilities

Waste Diversion

- Facilities
- Vehicles and equipment
- Other equipment
- Containers

General Government

- Growth-related Studies

Schedule C
Region of Niagara
Schedule of Development Charges

Service	RESIDENTIAL						NON-RESIDENTIAL			
	Single and Semi-Detached Dwelling	Apartments - 4 Bedrooms +	Apartments - 2 & 3 Bedrooms	Apartments - Bachelor and 1 Bedroom	Other Multiples	Special Care/Special Dwelling Units/Rooms	Commercial (per ft² of Gross Floor Area)	Industrial (per ft² of Gross Floor Area)	Institutional (per ft² of Gross Floor Area)	Wind Turbines
Municipal Wide Services:										
Services Related to a Highway	6,297	8,655	4,068	2,596	4,587	2,380	4.45	1.85	3.18	6,297
Police Services	696	957	450	287	507	263	0.50	0.21	0.36	696
General Government	212	291	137	87	154	80	0.19	0.07	0.13	212
Long Term Care	1,212	1,666	783	500	883	458	0.35	0.14	0.25	-
Provincial Offences Act	48	66	31	20	35	18	0.04	0.02	0.03	-
Health	148	203	96	61	108	56	0.05	0.02	0.03	-
Social and Child Services	194	267	125	80	141	73	0.06	0.02	0.04	-
Emergency Medical Services	166	228	107	68	121	63	0.04	0.02	0.03	166
Social Housing	2,123	2,918	1,372	875	1,547	803	-	-	-	-
Waste Diversion	362	497	234	149	263	137	0.31	0.12	0.22	-
Total Municipal Wide Services	11,457	15,748	7,403	4,723	8,346	4,331	5.98	2.47	4.27	7,371
Urban Services										
Wastewater Services	4,420	6,076	2,856	1,823	3,220	1,671	3.18	1.32	2.27	-
Water Services	3,129	4,301	2,021	1,290	2,280	1,183	2.25	0.94	1.61	-
Total Urban Services	7,549	10,377	4,877	3,113	5,500	2,854	5.43	2.26	3.88	-
GRAND TOTAL RURAL AREA	11,457	15,748	7,403	4,723	8,346	4,331	5.98	2.47	4.27	7,371
GRAND TOTAL URBAN AREA	19,006	26,125	12,280	7,836	13,846	7,185	11.41	4.73	8.15	7,371

Schedule "D"

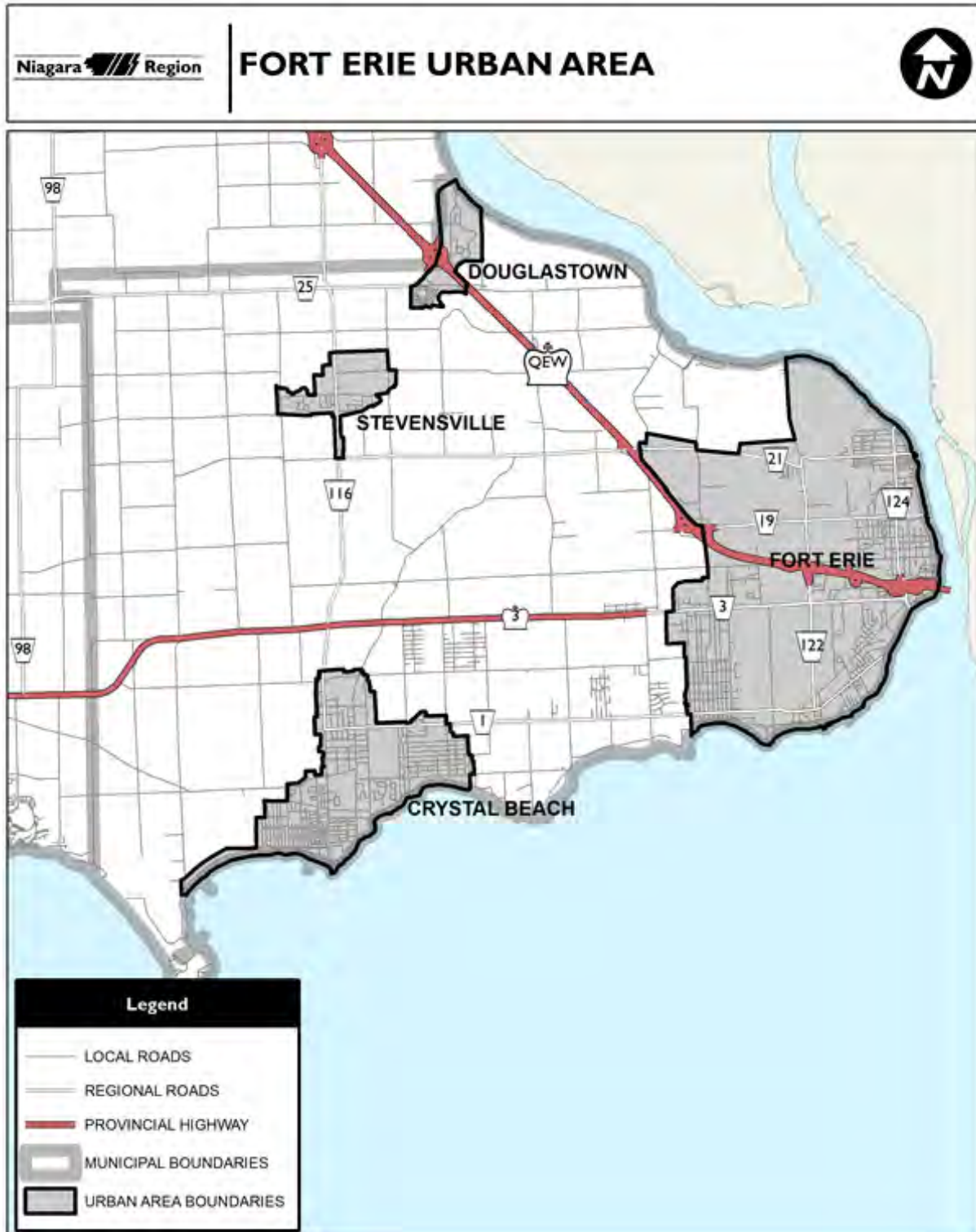
Rules with Respect to Brownfield Development located within the Urban Areas for Regional Development Charges Reduction (subject to section 13)

For all Development Charges reductions pursuant to this Schedule "D", the total amount of the reduction shall not exceed the total **eligible** cost of remediation. For confirmation that a development is to be considered a Brownfield development, costs associated with remediation of brownfields may be subject to verification, third party review, or independent audit **for reasonableness that costs are attributable to expenses related to remediation costs**, at the expense of the applicant, if required by the Region.

Brownfield Development Located within the Urban Areas

- (a) The applicable development charge shall be reduced, **after any demolition credits are applied**, by the total eligible cost of remediation for brownfield development located within the approved urban area as set out in Schedules "D1 to D11" to this By-law, as may be amended from time to time; as approved by Council of the Region, without amendment to this By-law.
- (b) In the case of a qualifying project under this schedule, the **eligible** costs of remediation may be applied to other Regional, local or Provincial programs but only for those eligible costs over and above eligible costs not applied to the reduction of development charges under Schedule "D".
- (c) Where funding for eligible costs have been or will be compensated from another funding source, the funding **will be deducted from eligible costs** of remediation under Schedule "D".

Schedule "D1"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
Town of Fort Erie



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Schedule "D2"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
Town of Grimsby



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Schedule "D3"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
Town of Lincoln



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Schedule “D4”
Urban Areas for Regional Development Charges Reduction (subject to section 14)
City of Niagara Falls



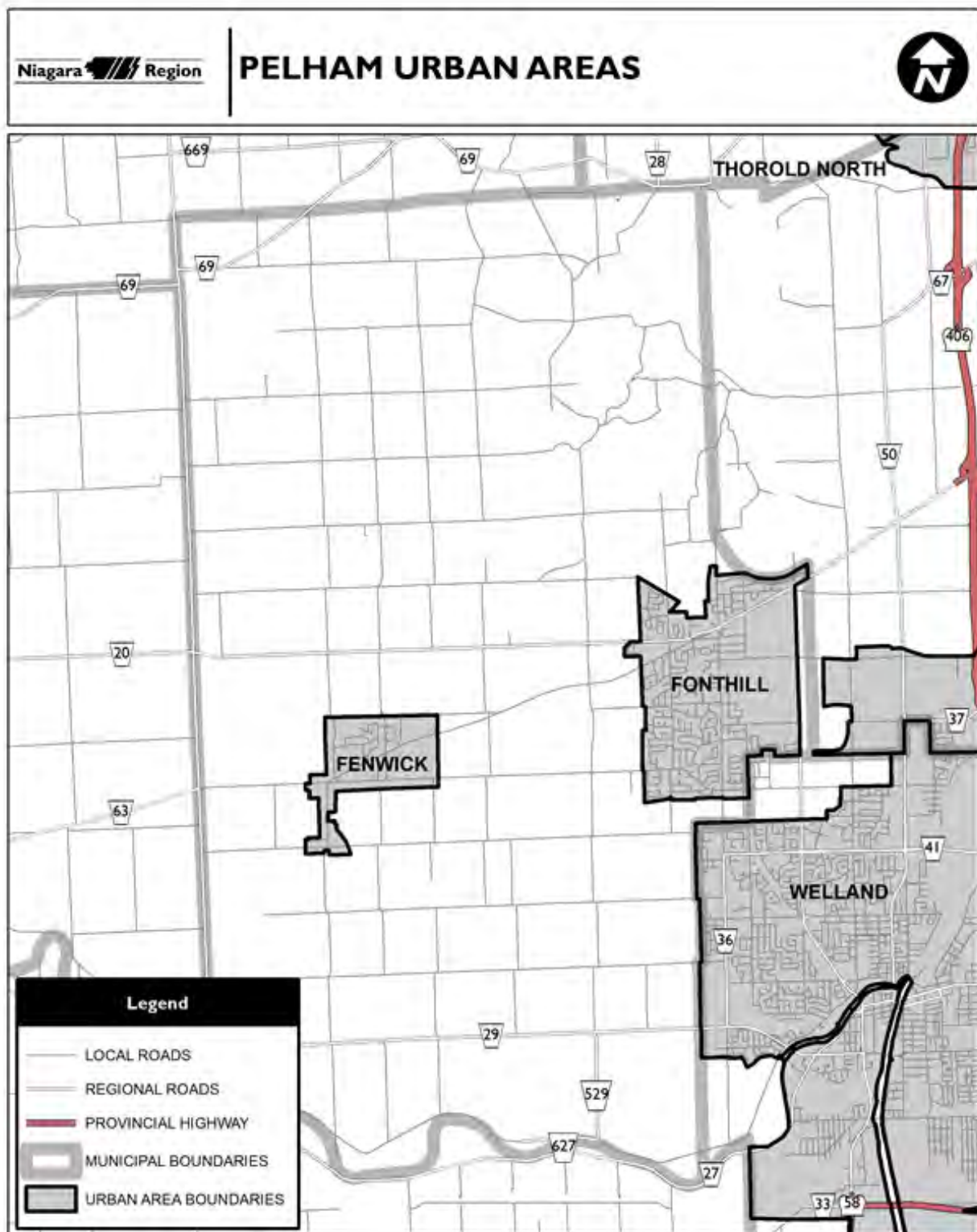
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Schedule "D5"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
Town of Niagara-on-the-Lake



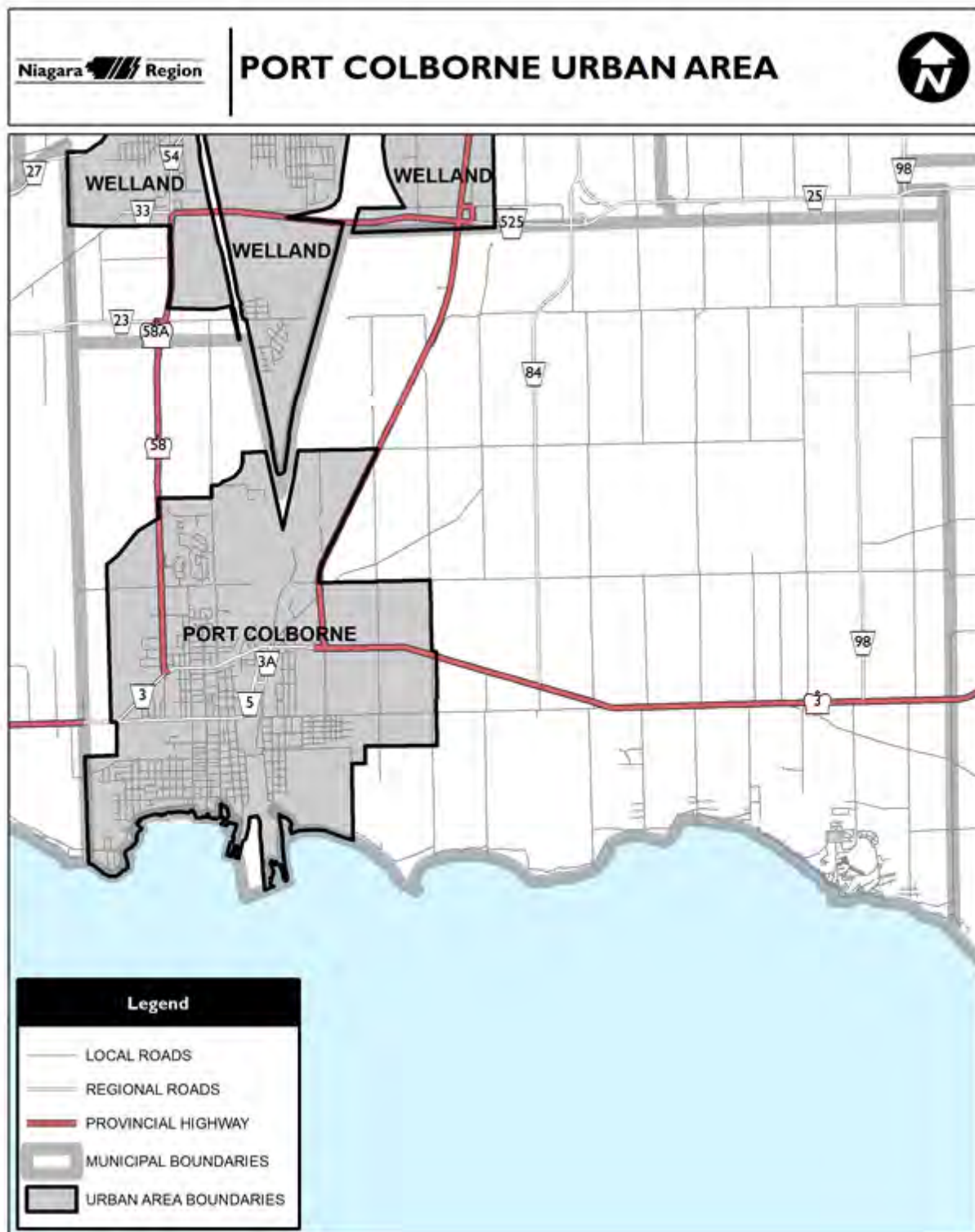
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Schedule "D6"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
Town Pelham



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Schedule "D7"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
City of Port Colborne



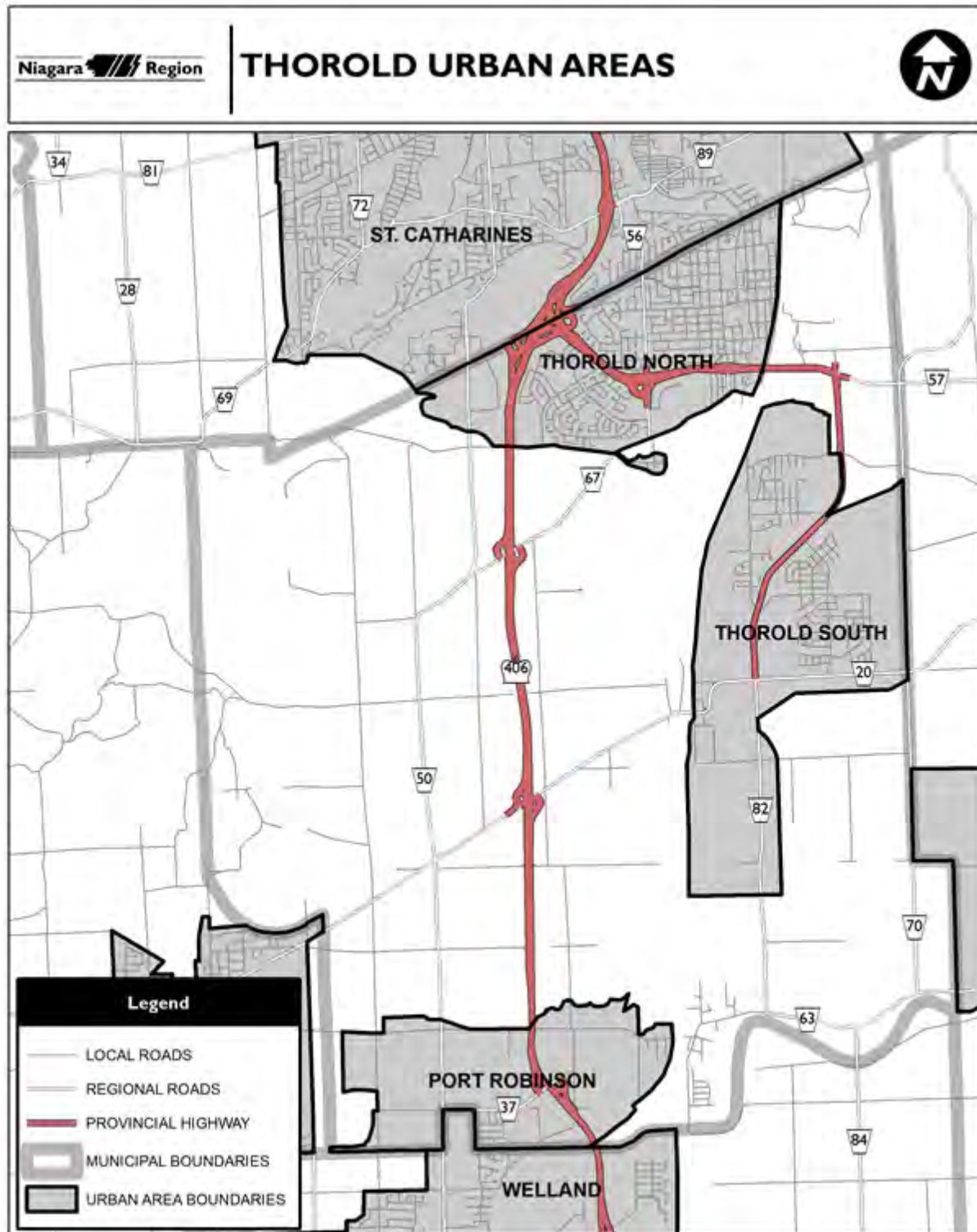
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Schedule "D8"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
City of St. Catharines



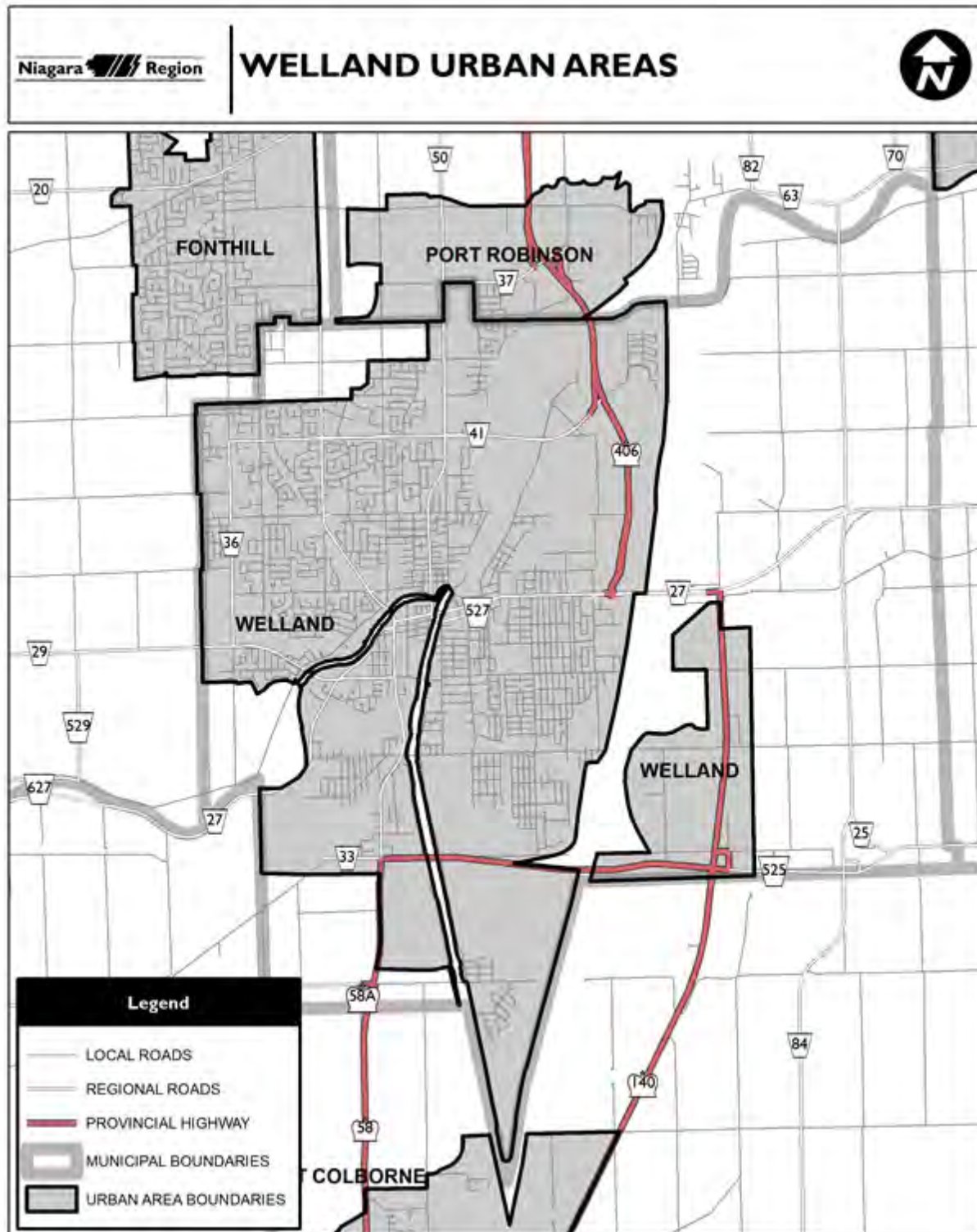
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Schedule "D9"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
City of Thorold



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Schedule "D10"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
City of Welland



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Schedule "D11"
Urban Areas for Regional Development Charges Reduction (subject to section 14)
Township of West Lincoln



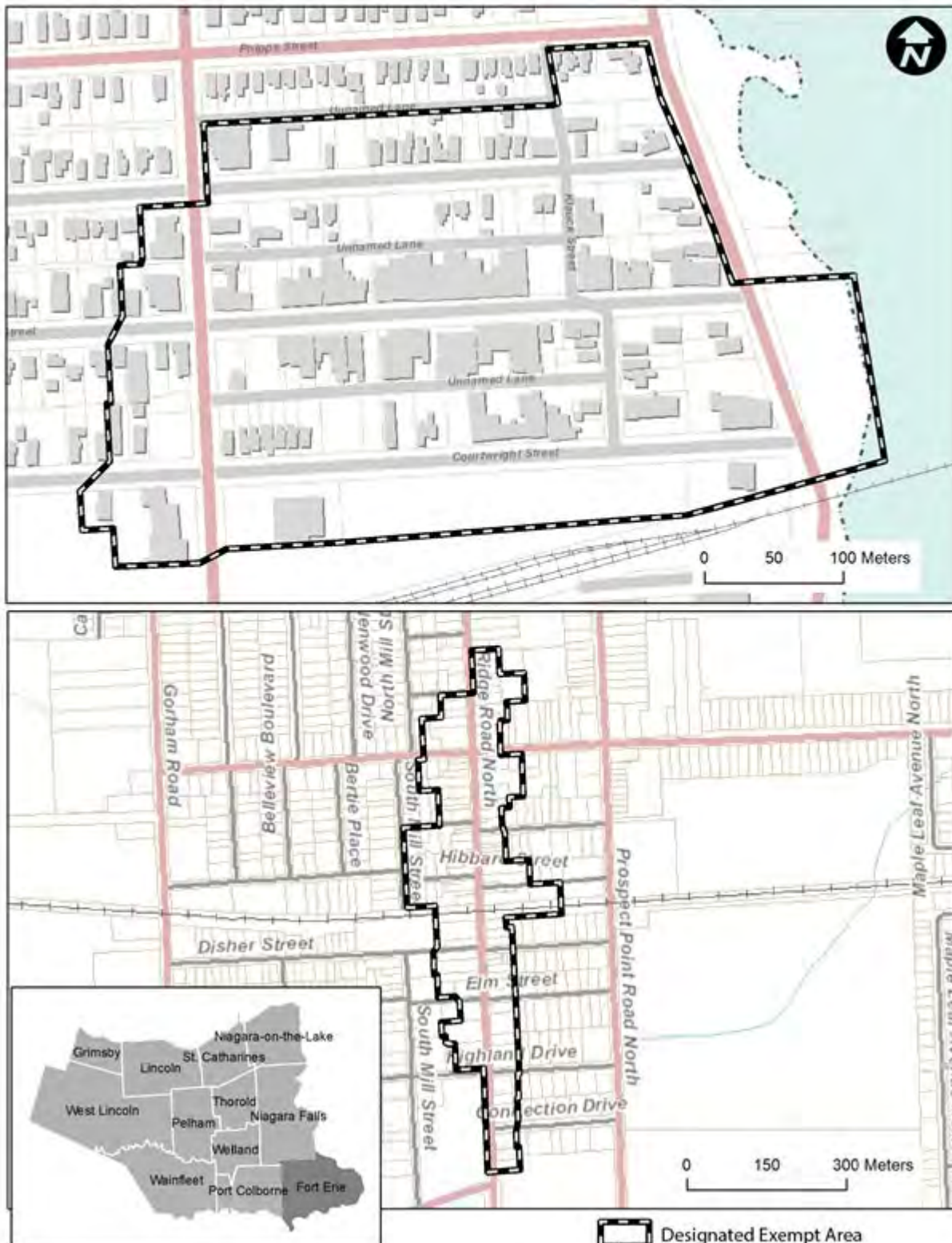
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Schedule "E"

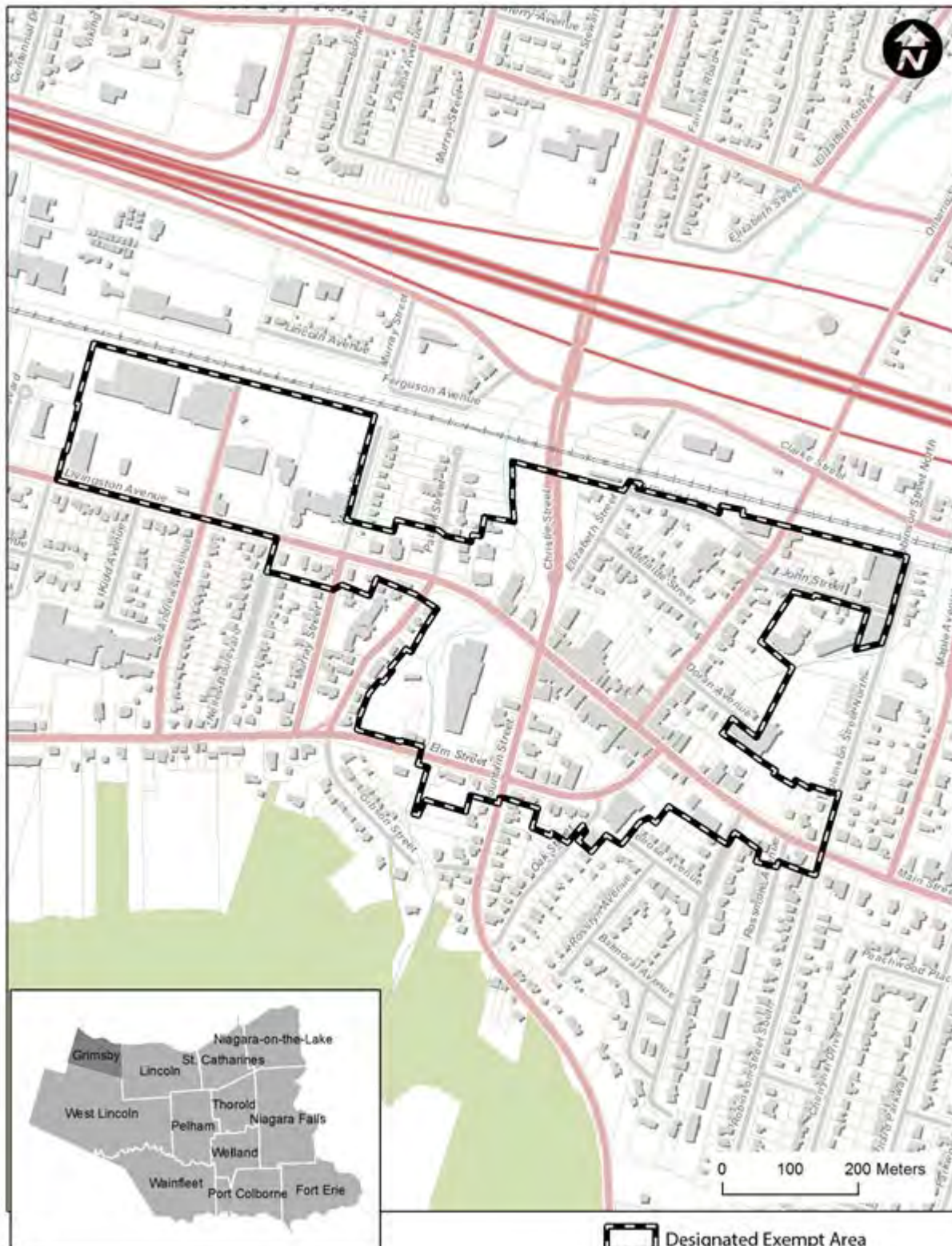
Rules with Respect to Development located within the Designated Exemption Areas and Brownfield Developments within the Urban Areas for Regional Development Charges Reduction (subject to section 14)

- (a) For all development located within the Designated Exemption Areas, as set out in Schedules "E1 to E10" and to Brownfield Developments within the Urban Areas, as set out in Schedules D1 to D11 to this By-law, a maximum 50% reduction in Development Charges, after any demolition credits are applied, will apply provided the Smart Growth Design Criteria endorsed by Council of the Region and/or any level of LEED certification are achieved.
- (b) The Smart Growth Design Criteria may be amended or eliminated at the discretion of Regional Council in which case the development charge reductions granted under this Schedule may also be amended or eliminated without amendment to this by-law..
- (c) In the case of a project that qualifies for reduction under both Schedule D and E, the total benefit under Schedules D and E shall not exceed the total Development Charges payable.

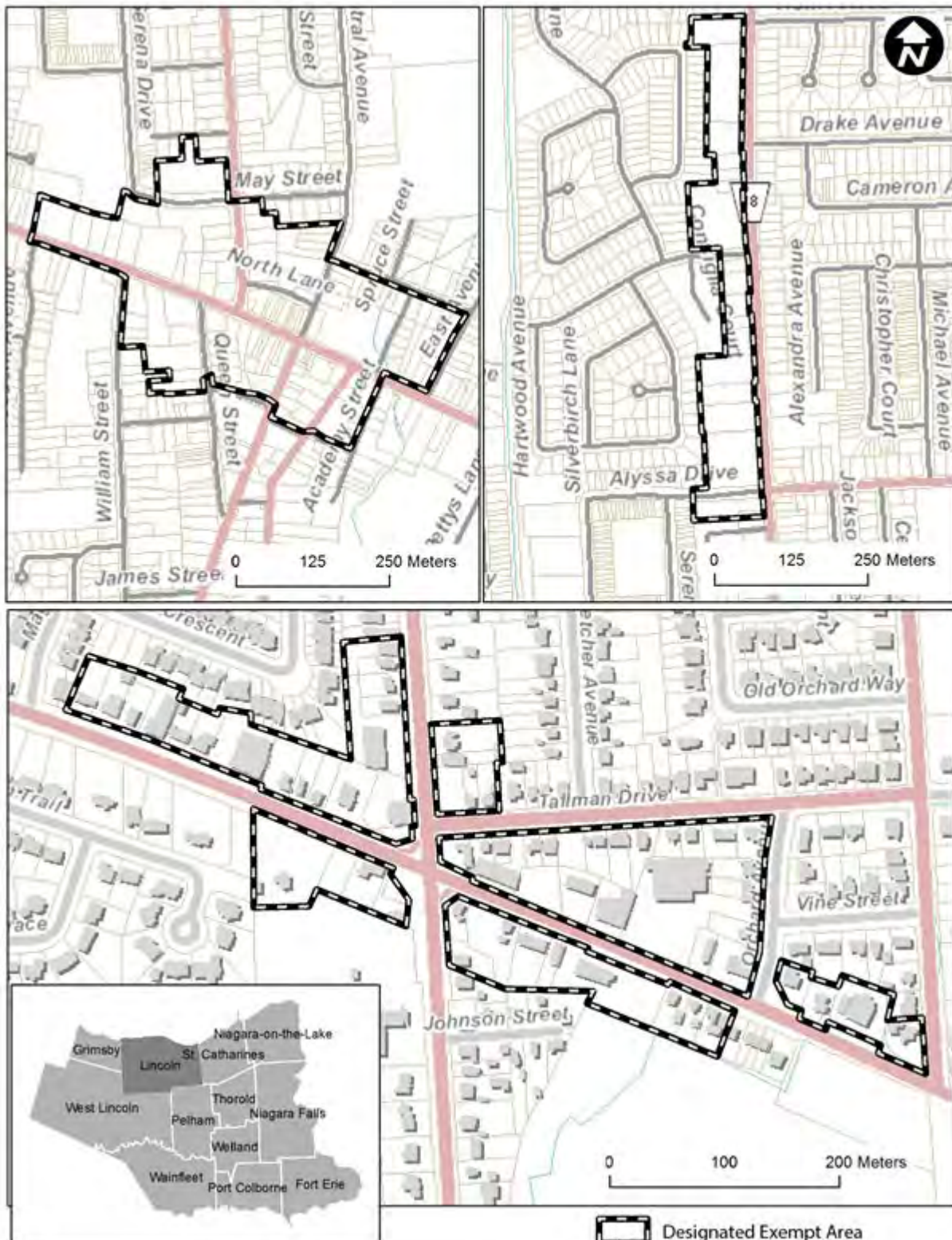
Schedule "E1"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
Town of Fort Erie



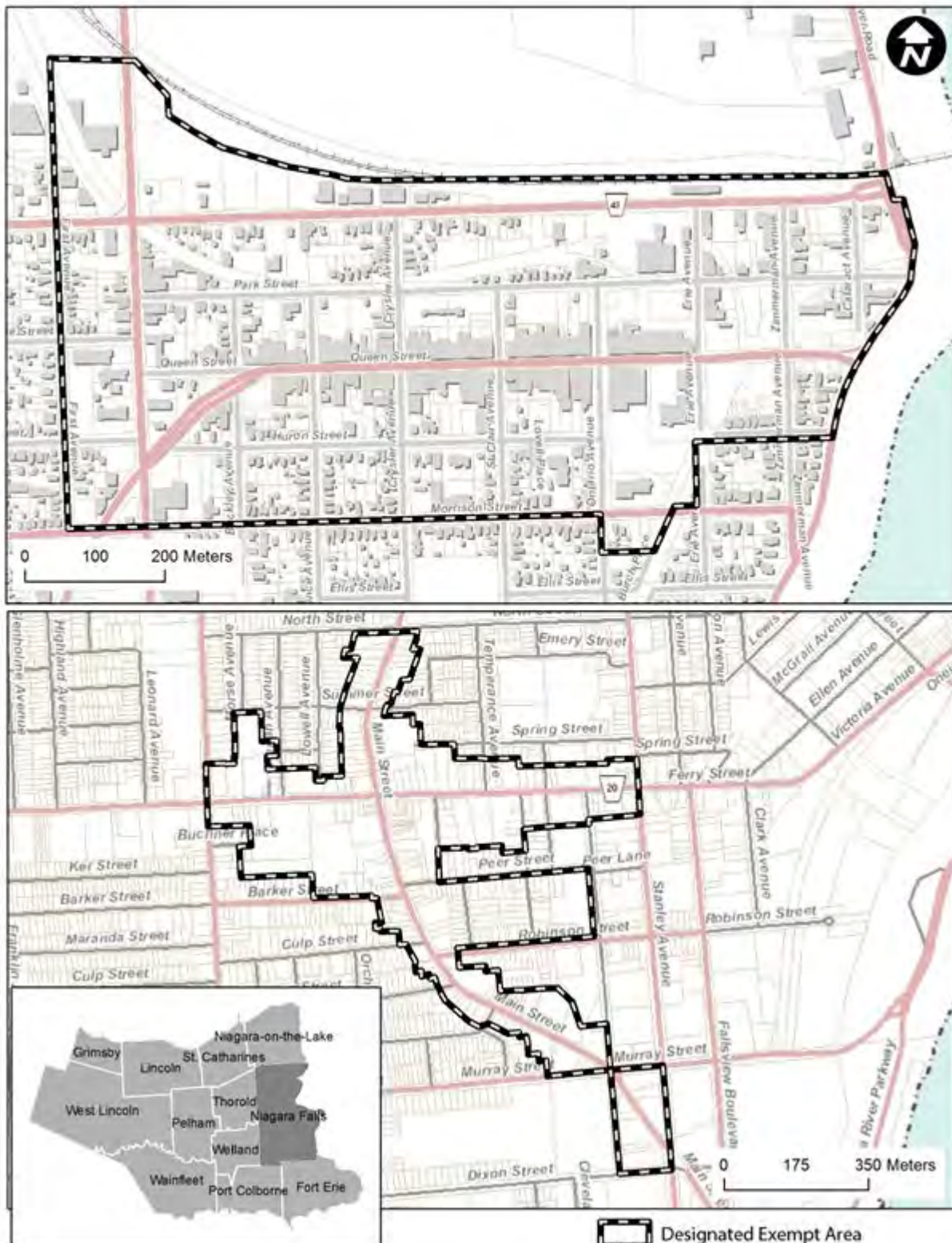
Schedule "E2"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
Town of Grimsby



Schedule "E3"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
Town of Lincoln



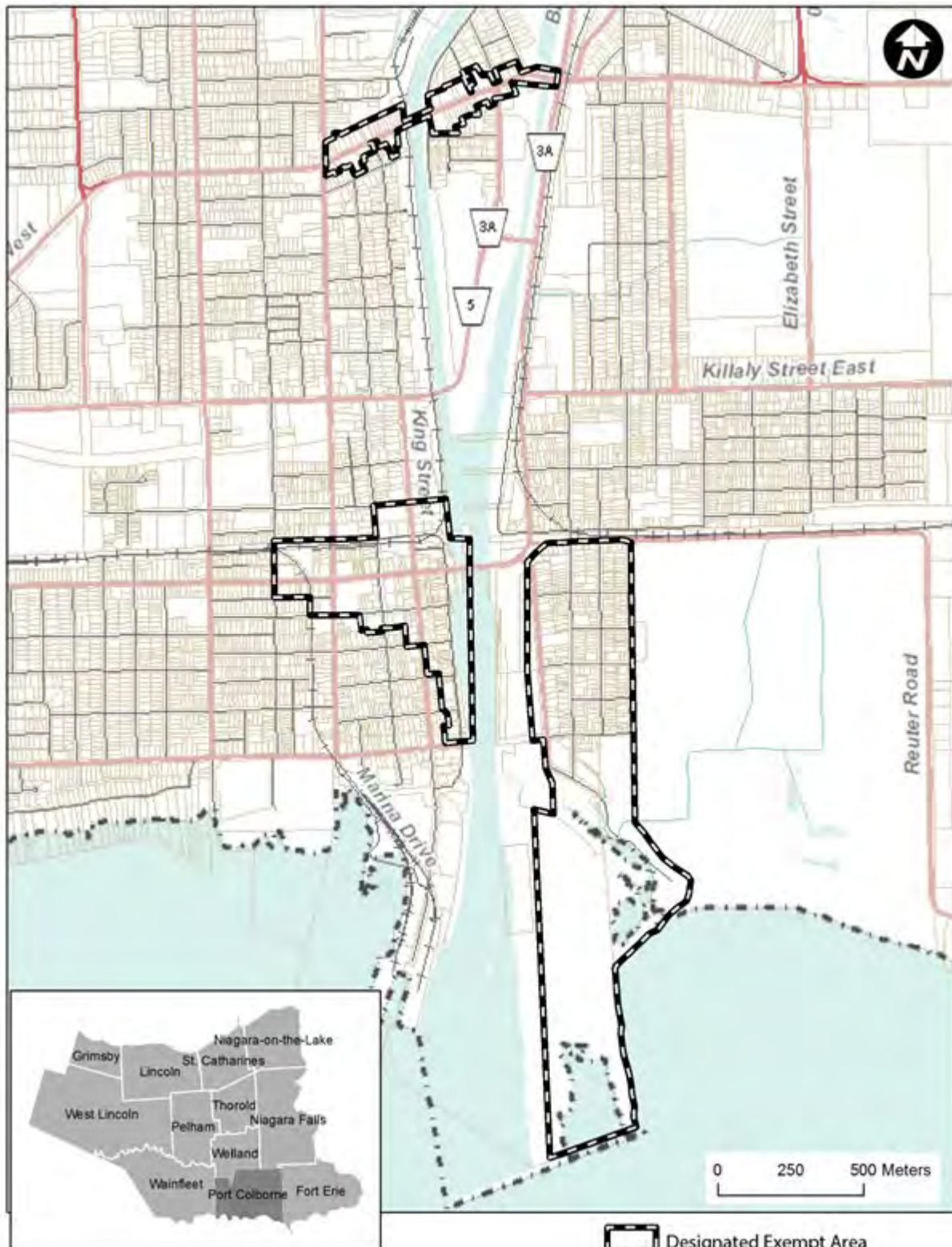
Schedule "E4"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
City of Niagara Falls



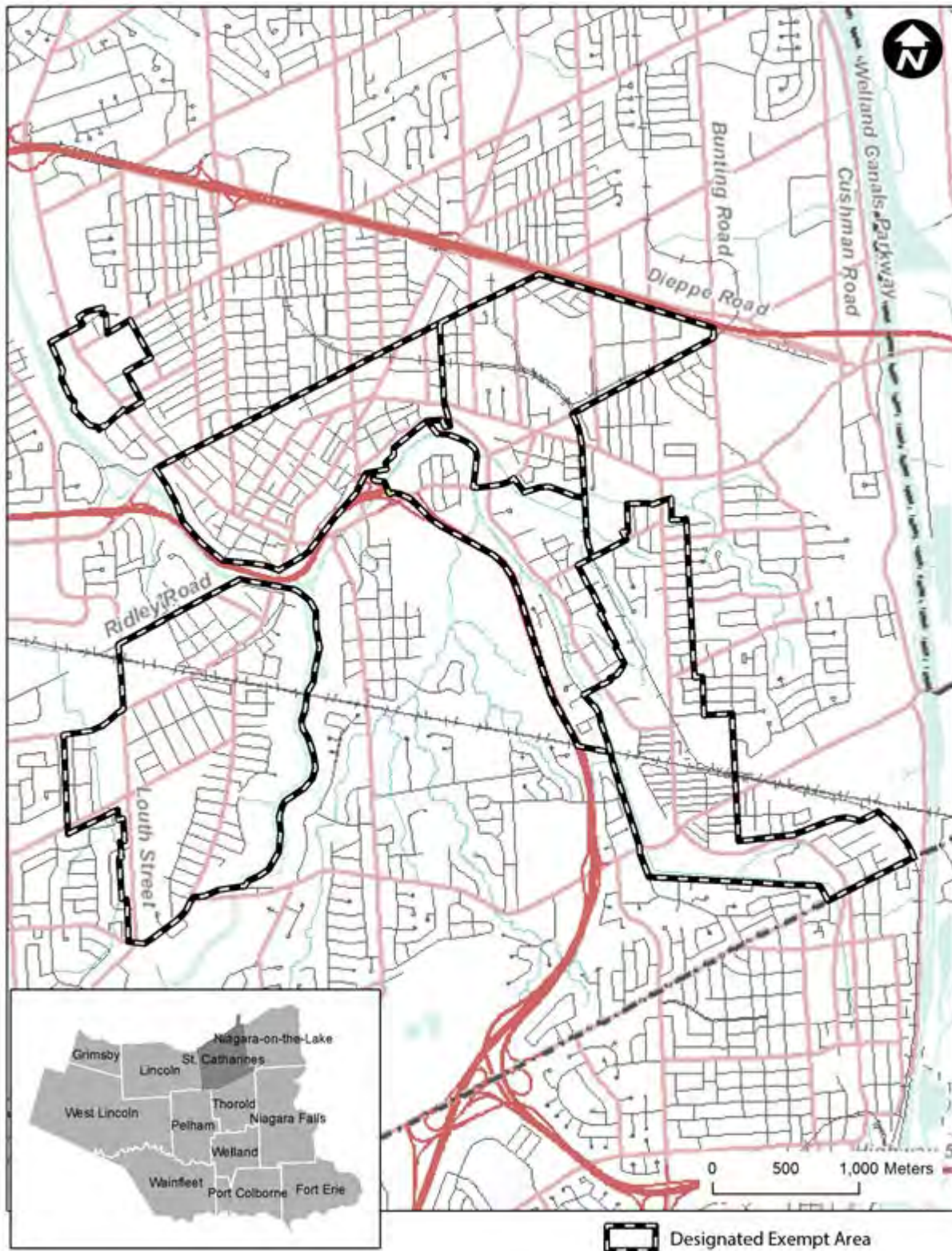
Schedule "E5"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
Town of Pelham



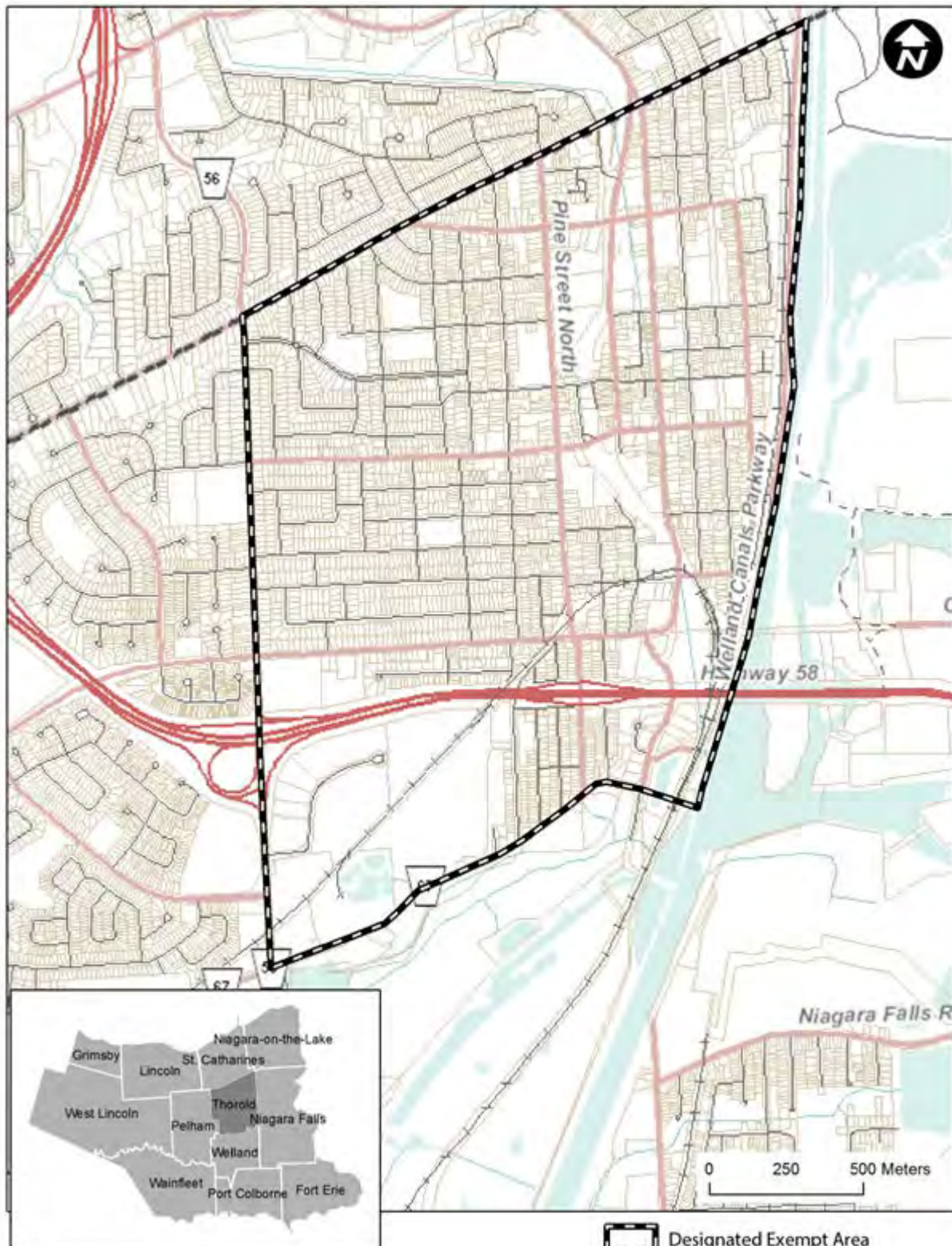
Schedule "E6"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
City of Port Colborne



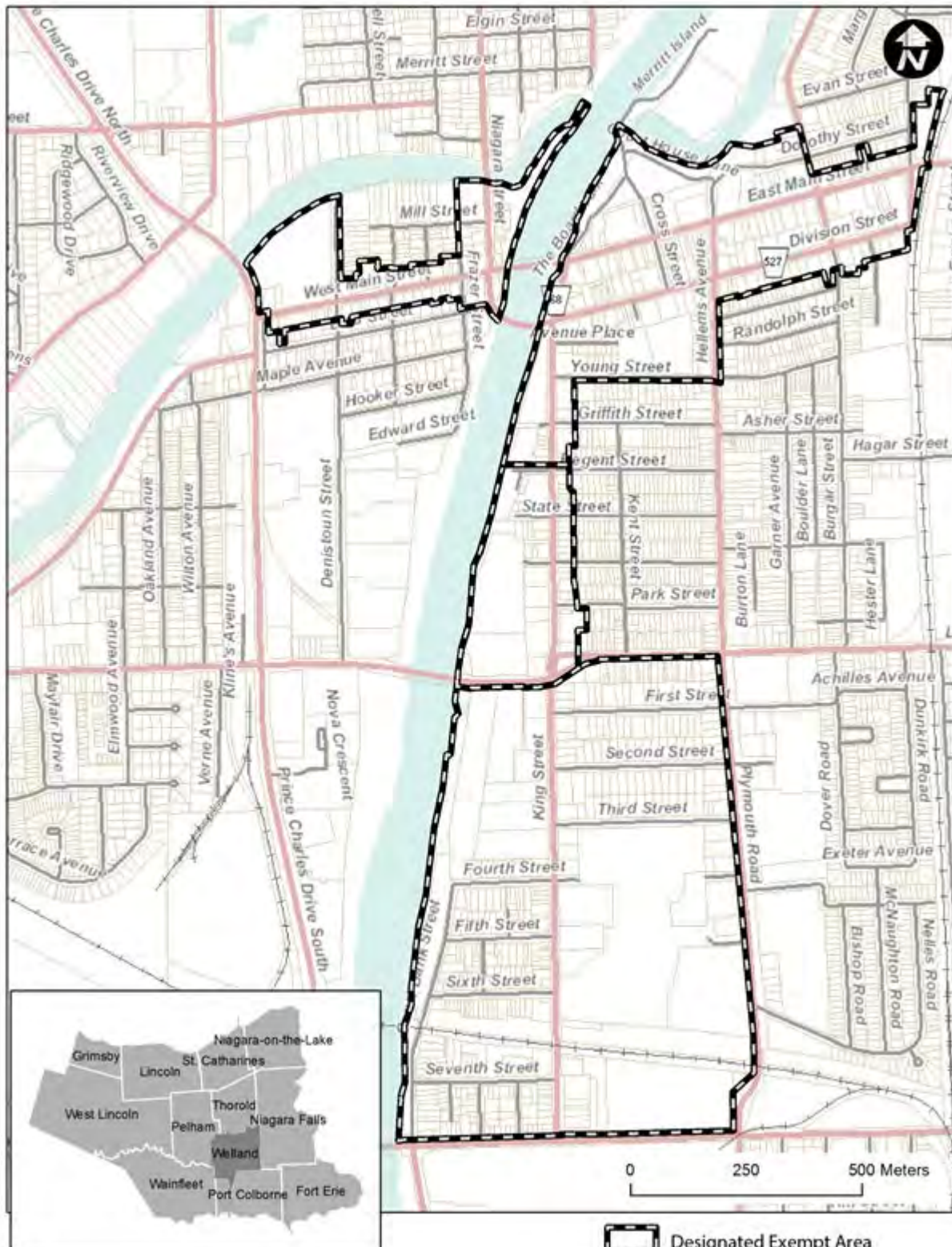
Schedule "E7"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
City of St. Catharines



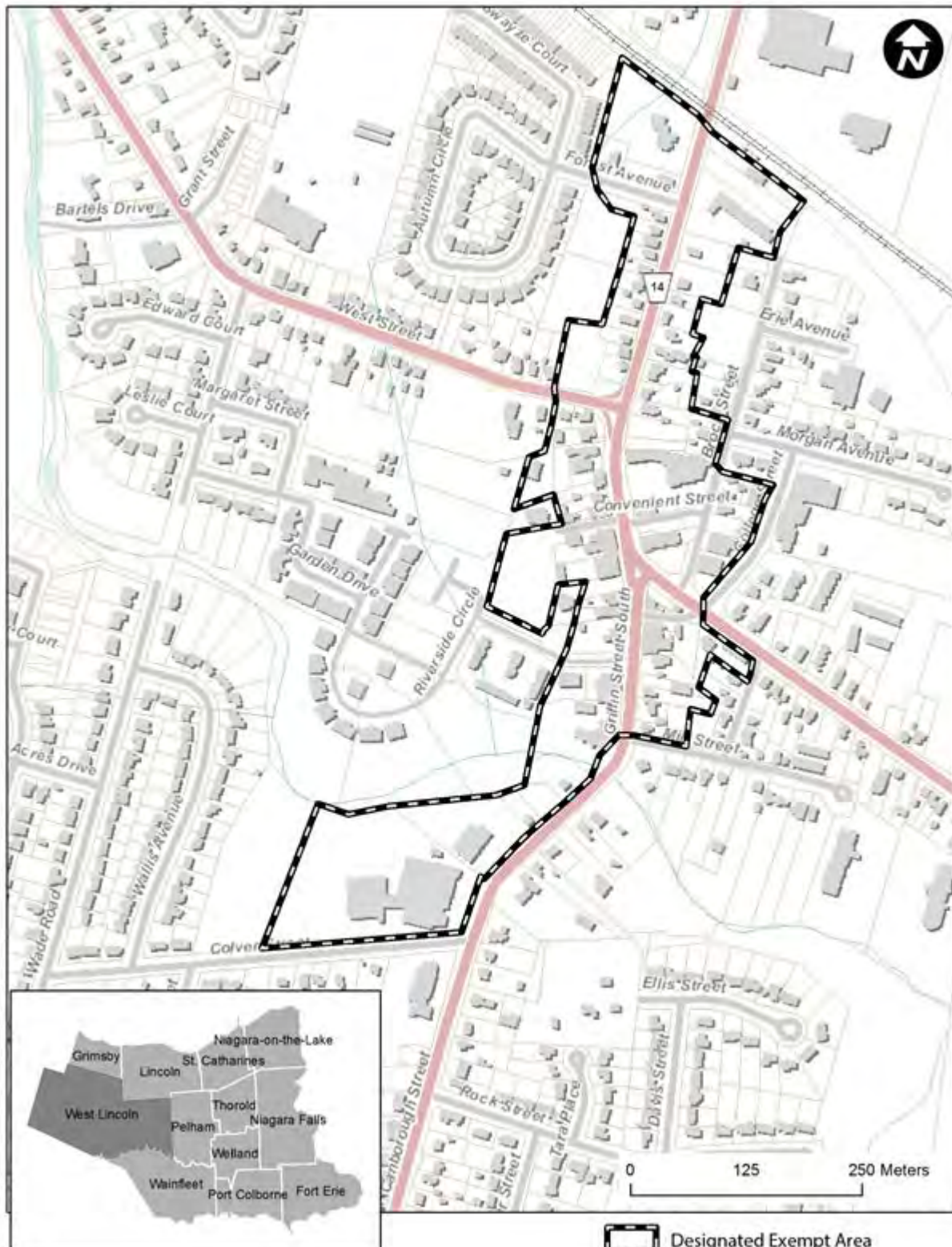
Schedule "E8"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
City of Thorold



Schedule "E9"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
City of Welland



Schedule "E10"
Designated Exemption Areas for Regional Development Charges Reduction
(subject to section 13)
Township of West Lincoln



Schedule “F”

Development Charges Reduction Program for Brownfield Redevelopment

Eligible Remediation Cost

Potential Eligible Remediation Costs have been defined as work related to the following categories:

1. Phase One Environmental Site Assessments;
2. Phase Two Environmental Site Assessments;
3. Environmental Remediation Work; and
4. Indirect Remediation Costs.

NOTE: The costs listed in this document represent a guideline only, and do not constitute an exhaustive list of all possible eligible remediation costs. All invoices submitted as part of the Development Charges Reduction Program (Schedule “D”) are subject to internal and external review and will be considered on a case-by-case basis.

1. Phase 1 Environmental Site Assessment (E.S.A.)

- Documents Review
 - FOI Request
 - Aerial Photos and mapping (over time, development, topographic maps, physiographic maps, geological maps, well records).
 - Previous environmental studies
 - Relevant Government Information (Certificate of approval, certificates of property use, inventory of coal gasification plants, National Pollutant Release Inventory, waste management inventory, retail fuel storage tank info, etc.)
 - Other relevant documents (Insurance, ownership/land title)
- Interviews
- Site Reconnaissance
- Conceptual Model Development (Per O. Reg. 511/09).
- Report

NOTE: It is the responsibility of the applicant to ensure that all Phase 1 E.S.A. work is conducted in accordance with the O.Reg 153/04 (as amended) under the Environmental Protection Act (E.P.A.). Applicants should refer to the Regulation for specific Phase 1 requirements.

2. Phase 2 Environmental Site Assessment

- Field Work
 - Site Visit/Investigation
 - Utility locates

- Drilling/excavation/ other methods of intrusive sampling
- Geological Study
 - Soil Sampling – Stockpile sampling/sampling of excavation
 - Test Pit Excavation and observation
 - Geophysical testing
- Hydrogeology Study
 - Water level and Well Condition survey
 - Observation of Borehole Drilling, Well abandonment, Well Repairs
 - Surveying – Elevation survey of wells and associated data analysis
 - Groundwater Sampling
- Field Supervision (monitoring, sample selection and quality control)
- Field Equipment (consumables)
- Data Compilation/Analysis
 - Data Reduction, Analysis and Review
 - GIS Support, Site Plans Preparation
- Contract/Laboratory Fees
 - Soil and Water chemical analysis
- Administrative Assistance
- Disbursements
- Reporting
- Qualified Person Review
- Supplemental Phase 2
 - Delineation of contamination
- Project Management
 - Meetings
 - Bid Preparation
 - Region Application
 - Bid Preparation
- Peer Review
 - Data Gap Analysis

NOTE: It is the responsibility of the applicant to ensure that all Phase 2 E.S.A. work is conducted in accordance with the O.Reg 153/04 (as amended) under the Environmental Protection Act (E.P.A.). Applicants should refer to the Regulation for specific Phase 2 requirements.

3. Environmental Remediation Work

Environmental remediation work identified in a remediation work plan, excluding work completed prior to 12 months of filing an application under the Development Charges Reduction Program for brownfield redevelopment.

Remediation work would include, but is not limited to:

a) Remedial Action Plan/ Remedial Work Plan (Prepared by a Qualified Person as defined by Ontario Regulation 153/04)

- Options Review/Assessment

- Remedial Cost Analysis
- Development of Plan
-

b) Risk Assessment (Prepared by a Qualified Person as defined by Ontario Regulation 153/04)

- Preliminary RA data gap analysis
- Risk Assessment Pre-Submission for
 - Site Characterization
 - Report Review
 - Data Evaluation
 - Preparation of Figures
 - Toxicological Profiles
 - Report Preparation
 - Project Management
- Data Gap Assessment
 - Service clearances
 - Surveying
 - Drilling Services
 - Monitoring Well Supplies
 - Chemical Analysis
 - Field equipment
- Analysis
 - Hydrogeological Assessment
 - Ecological Risk Assessment (ERA)
 - Human Health Risk Assessment (HHRA)
 - Risk Management Plan
 - Public Communication Plan
 - Reporting and MOE Submission

c) Environmental Rehabilitation

Defined as the use of various techniques to reduce, eliminate or mitigate contaminants of concern or designated substances in the ground (soil, water) or buildings to allow for the filing of a Record of Site Condition (RSC) and fulfilling the conditions of a Certificate of Property Use (CPU) if applicable.

- Alternative Techniques (Not intended to be a comprehensive list.)
 - Activated Carbon Treatment
 - Air Stripping
 - Bioremediation
 - Capping
 - Chemical Dehalogenation
 - Chemical Oxidation
 - Soil Excavation
 - Fracturing
 - In-Situ Flushing

- In-Situ Thermal Treatment
 - Incineration
 - Monitored Natural Attenuation
 - Permeable Reactive Barriers
 - Phytoremediation
 - Pump and Treat
 - Soil Vapour Extraction and Air Sparging
 - Soil Washing
 - Solidification/Stabilization
 - Solvent Extraction
 - Thermal Desorption
 - Vitrification
- Geotechnical studies and shoring costs associated with the environmental rehabilitation; and
 - The treatment of Designated Substances on a case-by-case basis, where required to address other contamination.

“Designated Substance” means a biological, chemical or physical agent or combination thereof prescribed as a designated substance to which the exposure of a worker is prohibited, regulated, restricted, limited or controlled; (Occupational Health and Safety Act). O.Reg. 490/09 Designated Substances. O. Reg. 278/05 Designated Substances - Asbestos on Construction Projects and in Building and Repair Operations.

d) Risk Mitigation Measures (R.M.M.s)

Risk Management Measures (R.M.M.s) are those measures required on a specific site in order to allow filing a Record of Site Condition and outlined by a Certificate of Property Use (C.P.U.).

- Pump and Treat Systems
- Capping (must be remediation related)
 - Hard cap, soil cap, landscaping
- Monitoring
 - Indoor Air Monitoring Plan
 - Groundwater
 - Soil Vapour
 - Outdoor Air
- Soil and Groundwater Management Plan
- Health and Safety Plan
- Subsurface barriers

Note: Only the costs associated with the implementation of these measures (such as the design costs, capital costs and installation) will be considered eligible. **Operating and maintenance costs are not eligible.** Determination of eligibility will be made on a case by case basis.

Note: If capping is required on the site for remediation purposes as well as redevelopment, the applicant should be prepared to demonstrate what percentage of the cost is attributed to the remediation of the site and not the overall landscaping plan. Eligible costs will be limited to the basic elements needed to meet the technical requirements of the cap as per the CPU.

e) Disposal of contaminated soil

Soil that does not meet the applicable generic Ontario Ministry of Environment (MOE) site condition standards (SCS) for soil as defined in Ontario Regulation 153/04 (as amended) OR the lowest effects-based property specific standards (PSS) developed through the use of a risk assessment approach completed in accordance with Ontario Regulation 153/04 (as amended), whichever is less stringent

- Tipping Fees
- Trucking Fees

Note: Costs related to the disposal of contaminated soil may be subject to the submission and review of a Soil Management Plan. Costs related to “impacted soil” are not eligible. Applicants should be prepared to provide documentation related to the segregation and tracking of contaminated soil (including hours and weigh tickets). Inadequately tracked activities may be deemed ineligible.

Impacted Soil is defined as soil that does not meet the revised Ontario Ministry of the Environment Table 1 “Full Depth Background Site Condition Standards” BUT does meet the applicable generic M.O.E. site condition standards (S.C.S.) as defined in Ontario Regulation 153/04 (as amended) under the Environmental Protection Act of Ontario OR the lowest effects-based property specific standards (“P.S.S.”) developed through the use of a risk assessment in accordance with Ontario Regulation 153/04 (as amended) for the purposes of filing of a RSC with the MOE in accordance with Ontario Regulation 153/04, whichever is less stringent.

f) Placing of clean fill and grading

g) Building demolition related to remediation

Note: The applicant should be prepared to demonstrate how the demolition was required as part of the remedial plan and not simply part of the overall redevelopment of the site.

4. Indirect Remediation Costs

- Planning fees
- Insurance Premiums
- Assessment Estimates
- Preparation of Record of Site Condition and Certificate of Approval

Potential Development Charges Reductions for Properties in the Planning Pre-Application, Planning and Building Stages

	Name & Address	Residential Units & Non-Res. Floor Area	Designated Exemption Area & Brownfield	Status	Development Charges Potential Reductions	
					Current By-law	Proposed By-law
BROWNFIELD	<i>Stone Mill Inn</i> 271-289 Merritt Street, St. Catharines	Residential: 30 1-bdrm units 12 2-bdrm units 42 unit apt bldg Commercial: 12,600 sq ft	Hartzel Rd Merriton CIP Project Area & Brownfield	Under construction (received 75% reduction)	\$87,013	\$87,013
	215 Pelham Road, St. Catharines	Residential: 6 1-bdrm units 16 2-bdrm units 22 unit apt bldg	Western Hill CIP Project Area & Brownfield	Under construction – (received 75% reduction)	\$25,580	\$25,580
	<i>Artisan Ridge</i> 181 Queen St 1522 Beaverdams Road, Thorold	Residential: 207 detached 241 towns 60 apt units 508 units	Thorold Centre CIP Project Area & Brownfield	Remediation is underway Draft plan has been approved	\$3,985,623	\$8,008,135
	22 John St Grimsby	Residential: 16 3-bdrm towns	Downtown Grimsby CIP Project Area & Brownfield	Site has been excavated and is ready for development	\$74,416	\$196,480
	26 Oakdale Avenue, St. Catharines	Residential: 6 semi-detached 37 towns 43 units	Central Area & Brownfield	Model home on-site, need to obtain building permits for remainder of site	\$298,779	\$626,344
	<i>Marz Homes</i> South Coast Village at Crystal Beach (Phase 2), Fort Erie	Residential: 47 singles/semis 12 apt units 59 units Commercial: 5,000 sq ft	Brownfield	31 permits issued for singles/semis (received 50% reduction) 16 singles –to be issued prior to Sept 2017 Mixed use building of commercial and apartments is not proposed before August 31, 2017	\$162,502 \$167,744 \$116,412	\$162,502 \$167,744 \$204,460

	Brickyard 40 Woodburn St. Catharines	Residential: 51 1-bdrm units 161 2-bdrm units 11 3bdrm units <hr/> 223 units 2 apt bldgs	Queenston Neighbourhood And Brownfield	Pre-consultation Remediated	\$1,037,173	\$2,511,796
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Potential Brownfield Reductions: \$5,955,242 \$11,990,054

DESIGNATED EXEMPTION AREAS	Name & Address	Residential Units & Non-Res. Floor Area	Designated Exemption Area & Brownfield	Status	Development Charges	
					Current By-law	Proposed By-law
	11 Blain Place, St. Catharines	Residential: 4 3-bdrm units 6 2-bdrm units <hr/> 10 unit apt bldg	Oakdale-Moffatt CIP Project Area	Site Plan Application is in progress, does not have Building Permits	\$46,510	\$122,800
	3 Hainer Street, St. Catharines	Residential: 4 2-bdrm units	Western Hill CIP Project Area	Building permits have not been obtained – does not require Site Plan Approval	\$25,500	\$55,384
	27 John Street, Grimsby	Residential: 63 unit apt	Downtown Grimsby Community Improvement Area	New proposal discussed at pre-consultation (May 4, 2017)	\$401,625	\$872,298
	15 Highway 20 East, Pelham	Residential: 14 2-bdrm units Commercial: 3,445 sq ft	Central Area of the Town of Pelham (CIP Project Area)	New owner expected to bring forward a new proposal	\$106,867	\$211,227
	61 Ormond Street South, Thorold	Residential: 14 1-bdrm units	Thorold Centre Community Improvement Plan Area	building permit obtained in 2016 (First 50% has been obtained)	\$32,557	\$32,557
	Renaissance Retirement Residences 5695 - 5698 Main Street, Niagara Falls	Residential: 18 studio units 49 1-bdrm units 35 2-bdrm units <hr/> 102 units Commercial: 5,000 sq ft	Central Area	No building permits obtained	\$535,002	\$1,011,862
	Lincoln Square Subdivision (Blocks 113 & 114), Lincoln	Residential: 120 senior apt units 69 towns <hr/> 189 units	Central Area -	Site Plan Approved	\$951,485	\$2,378,024

Potential Designated Exemption Areas Reductions: \$2,099,546 \$4,684,152

	Name & Address	Residential Units & Non-Res. Floor Area	Designated Exemption Area & Brownfield	Status	Development Charges	
					Current By-law	Proposed By-law
OTHER	Prudhommes Landing (West Side), Lincoln	Residential: 75-190 semis/singles 130-405 towns 615-1090 apt units <hr/> 820-1685 units Commercial: 161,459 sq ft Employment: 165,764 sq ft	Brownfield-	Drafting Secondary Plan	\$11,600,308	\$24,446,407
	5 th Wheel, Grimsby	Residential: 135 towns 1014 – 2 & 3-bdrm apt units <hr/> 1149 units Commercial: 57,667 sq ft	Brownfield	Preliminary Pre-consultation Meetings	\$6,275,663	\$14,979,110

Potential Other: \$17,875,971 \$39,425,517

Potential Brownfield Reductions:	\$5,955,242	\$11,990,054
Potential Designated Exemption Areas Reductions:	\$2,099,546	\$4,684,152
Potential Other:	\$17,875,971	\$39,425,517

Total	<u>\$25,930,759</u>	<u>\$56,099,723</u>
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Alternative Regional Development Charges Reduction TRANSITION PROVISIONS NO. 2

Please Note All of the Following:

- This Transition Provision expires on December 31, 2020.
 - Development grandfathered under this policy will not receive further extension.
 - Grandfathering is not transferable through change in land ownership after August 31, 2017.
-
1. In order to be permitted the continued use of Development Charge Reductions contained in Development Charges By-law 62-2012, Schedule B1 (a) and calculated using the RDC rate in effect on August 31, 2017 all of the following conditions must be met:
 - a. Application shall be received prior to the expiry of Development Charges By-law 62-2012 on August 31, 2017 and shall contain the following required documentation:
 - i. Proof of land transaction/ownership of land;
 - ii. A completed Phase 2 ESA¹ for the subject site that identifies mandatory remediation to meet MOECC Standards;
 - iii. Proof that remediation is in progress or a contract awarded;
 - b. Proof that a complete planning/development application² has been received by the local municipality, as required for site development prior to December 31, 2017.
 - c. Upon verification of Sections 1(a) and 1(b) (above) and prior to December 31, 2017, an agreement in a form acceptable to the Niagara Region must be executed that contains, *inter alia*, the following terms:
 - i. A Building Permit for the development must be issued or development charges prepaid prior to December 31, 2020, otherwise the agreement becomes null and void.
 - ii. The Transition Provision only applies to the applicant identified in Section 1 (above) and is not transferable through change in land ownership.
 - iii. The Regional Development Charges (RDC) payable will be adjusted at the time of building permit issuance.

¹ Prepared and signed by a Qualified Person (QP) as per Ontario Regulation 153/04, as amended.

² Complete application in accordance with the Planning Act and related Regulations.

2. The Development Charge Reductions contained in Development Charge By-law XX-2017, Schedule E is based on Smart Growth Design Criteria approved by Regional Council in May 14, 2014 and applicable until December 31, 2020.
3. Calculation of the applicable RDC will be as follows:
 - a. The Development Charge rate payable will be the rate in effect at the time of issuance of the building permit or the date of prepayment;
 - b. The RDC payable will be adjusted at the time of building permit issuance less any amount prepaid on or before December 31, 2020;
 - c. Less the potential amount that may be refunded based on Development Charges By-law 62-2012, Schedule B1 (a) and the Council approved 2014 Smart Growth Design Criteria or LEED certification . By way of example, the method for calculating RDCs shall be calculated as follows:

Development Charges Amount to be paid at time of Building Permit issuance = A – B

Amount that may be refunded based on Smart Growth Design Criteria or LEED certification = C

