

## CITY OF NIAGARA FALLS

### By-law 2019 - 69

A by-law to establish Development Charges for the City of Niagara Falls.

**WHEREAS** subsection 2(1) of the Development Charges Act, 1997, S.O. 1997, c. 27, as amended, (hereinafter called the "Act") provides that the Council of a municipality may, by by-law, impose Development Charges against land to pay for increased capital costs required because of increased needs for services arising from the development of the area to which the by-law applies;

**AND WHEREAS** Council has before it a Report entitled "Development Charges Background Study", the City of Niagara Falls, dated March 29, 2019, by Hemson Consulting (the "Study");

**AND WHEREAS** the Council of the City of Niagara Falls received a report entitled Development Charges Background Study dated March 29, 2019 prepared by Hemson Consulting Ltd., wherein it was indicated that the development of any land within the City of Niagara Falls will increase the need for services as defined herein; and

**AND WHEREAS** copies of the Development Charges Background Study were made available on March 29, 2019 and copies of the proposed Development Charges by-law were made available on April 16, 2019 to the public in accordance with Section 12 of the Act; and

**AND WHEREAS** the Council of the City of Niagara Falls on June 4, 2019 approved the Development Charges Background Study, dated March 29, 2019, as amended (referred to as the "Study"), in which recommendations were made relating to the establishment of a development charge policy for the City of Niagara Falls pursuant to the Act; and

**AND WHEREAS** the Council of the City of Niagara Falls heard all persons who applied to be heard no matter whether in objection to, or in support of, the proposed development charges at a Public Meeting held on April 30, 2019; and

**AND WHEREAS** Council of the City of Niagara Falls on June 4, 2019 determined that the increase in the need for services attributable to the anticipated development as contemplated in the Study, including any capital costs, will be met by updating the capital budget and forecast for the City of Niagara Falls, where appropriate; and

**AND WHEREAS** Council of the City of Niagara Falls on June 4, 2019 approved the Study and determined that no further public meetings were required under Section 12 of the Act; and

**AND WHEREAS** Council of the City of Niagara Falls on June 4, 2019 determined that the future excess capacity identified in the Study, shall be paid for by the development

charges contemplated in the said Study, or other similar charges; and

**AND WHEREAS** the Council of the City of Niagara Falls has given consideration of the use of more than one Development Charge By-law to reflect different needs for services in different areas, also known as “area rating” or “area specific development charges”, and has determined that for the services, and associated infrastructure proposed to be funded by development charges under this by-law, that it is fair and reasonable that the charges be calculated on a municipal-wide and area-specific basis; and

**AND WHEREAS** the Study dated March 29, 2019 includes an Asset Management Plan that deals with all assets whose capital costs are intended to be funded under the Development Charge By-law and that such assets are considered to be financially sustainable over their full life-cycle; and

**AND WHEREAS** the Council of the City of Niagara Falls will give consideration to incorporating the Asset Management Plan outlined in the Study within the City of Niagara Falls ongoing practices and Corporate Asset Management Plan; and

**AND WHEREAS** the Council of the City of Niagara Falls approves the planned level of service for Transit services, as identified in the Study dated March 29, 2019 which has been estimated in accordance with the requirements of the Act and Ontario Regulation 82/98.

**THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS  
ENACTS AS FOLLOWS:**

**1. DEFINITIONS**

1.1 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, including, but not limited to:

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

but excluding:

- (d) retail sales activities including, but not limited to, restaurants, banquet facilities, hospitality facilities and gift shops;
- (e) services related to grooming, boarding or breeding of household pets; and
- (f) a residential or commercial use or a Marihuana Operation;

“apartment dwelling” means a residential building containing two or more dwelling units, of which not all dwelling units have a separate entrance to grade;

“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 boundaries of the approved Community Improvement Plan areas, as set out in Schedule “D” to this By-law as may be amended from time to time, or within the boundaries of the urban areas as defined from time to time in the Region’s Policy Plan, upon which there has been previous industrial or commercial development (although such development may have been demolished) and for which a Phase I Environmental Site Assessment and Record of Site Condition have been completed pursuant to the Guideline for Use at Contaminated Sites in Ontario (Ontario Ministry of the Environment)

“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 Chief Building Official has received:

- (a) the application for the building permit; and
- (b) all accompanying information, approvals and documents required to be provided by the applicant seeking the building permit and within the control of the applicant, even if such Chief Building Official has not yet received;
- (c) payment of all fees and charges (including development charges) in respect of the issuance of the building permit; and /or
- (d) all information, approvals and documents required for the building permit, but:
  - (i) not within the control of the applicant; and
  - (ii) for which the applicant has taken all necessary and reasonable steps to obtain;

“charitable institution” means a charitable, non-profit philanthropic corporation organized for the relief of the poor if the corporation is supported in part by public



funds, and which is exempt from taxation as a charitable institution pursuant to the *Assessment Act*, R.S.O. 1990, c. A.31, as amended;

“City” means The Corporation of the City of Niagara Falls;

“Council” means the Council of The Corporation of the City of Niagara Falls;

“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;

“core tourist area” means the entire area identified as Core Tourist Area in Schedule “D” to this by-law;

“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 substantially 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;

“duplex dwelling” means a residential building containing two dwelling units separated by horizontal division, each of which units has a separate entrance to grade;

“dwelling room” means either:

- (a) each bedroom used, designed or intended for use by one or more persons living together in a lodging home, or student residence, or
- (b) in the case of a special care/special need residence, 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 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;

“existing non-residential building” means a building used for or in connection with:

- (a) manufacturing, producing, processing, storing or distributing something;
- (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;

“garden suite” 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 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;

“hotel/motel” means a commercial establishment offering lodging to travelers, and may include other services such as restaurants, meeting rooms and stores that are available to the general public, but does not include a dwelling unit;

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

- (a) manufacturing, producing, processing, storing or distributing something;
- (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:

- (iii) carried out with respect to manufacturing, producing, processing, storage or distributing of something; and

- (M) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution; and

(e) self storage facilities;

“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 and non-profit purpose and includes offices where such uses are accessory to an institutional use;

“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 the City 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 service” means those services, facilities or things which are related to a plan of subdivision, are within the area to which the plan relates, or are installed or paid for by the owner as a condition of approval under section 53 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

“lodging home” means a use in which the proprietor supplies, for gain, lodging with or without meals to three or more persons other than the proprietor or members of his family but does not include a tourist establishment, hotel/motel, hospital or special care/special need residence, but does include a rooming house, boarding house and a student residence;

“long term care home” means a home, nursing home or home for the aged where the Ministry of Health and Long Term Care funds the care provided in such home 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;

“Marihuana Operation” means the cultivation, growth, harvesting, processing, composting, destruction, packaging, storage and distribution of plants or parts of plants of the genus *Cannabis* (marihuana);

“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, a hotel/motel use and a commercial use;

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“other multiple” means all residential units other than a single detached dwelling, apartment dwelling or a dwelling room, including, but not limited to, semi-detached, row, multiplex and duplex units;

“parking structure” means buildings or structures used 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, a duplex dwelling, a multiplex dwelling, an apartment dwelling, or a dwelling room;

“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 residential building containing two dwelling units separated by vertical division, each of which units has a separate entrance to grade;

“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;

“special care/special need residence” means a residence:

- (a) containing two or more dwelling rooms, which rooms have common entrance from street level;
- (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, charitable dwellings, group homes and hospices;

“secondary suites” means a dwelling unit, whether contained within an existing or proposed single detached dwelling, semi-detached dwelling, or multiple dwelling or located in an accessory building to a single detached dwelling, a semi-detached dwelling or multiple dwelling including but not limited to a structure constructed above an existing garage or other structure separate from the primary dwelling unit, which:

- (i) comprises an area less than the gross floor area of the primary dwelling unit; and
- (ii) is not capable of being legally conveyed as a separate parcel of land from the primary dwelling unit;

“single room occupancy unit (SRO unit)” means an independent unit containing a bedroom and sanitary facilities within a Single Room Occupancy Building (SRO Building) which is used as a primary residence

“urban services” means the municipal services of sidewalks, water, sanitary sewers, and stormwater management; and

“use” means either residential use or non-residential use.

## **2. RULES**

2.1 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 3 through 7;



- (b) the rules for determining exemptions, relief, credits and adjustments shall be in accordance with sections 8 and 9;
- (c) the rules for determining the phasing in of Development Charges shall be in accordance with section 6.5;
- (d) the rules for determining the indexing of Development Charges shall be in accordance with section 13; and
- (e) the rules respecting the redevelopment of land shall be in accordance with sections 11, 12 and 13.

### **3. LANDS AFFECTED**

- 3.1 This by-law applies to all lands in the geographic area of the City.

### **4. 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, R.S.O. 1990, c. P.13, as amended;
- (c) a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act, R.S.O. 1990, c. P.13, as amended, applies;
- (d) the approval of a plan of subdivision under section 51 of the Planning Act, R.S.O. 1990, c. P.13, as amended;
- (e) a consent under section 53 of the Planning Act, R.S.O. 1990, c. P.13, as amended; the approval of a description under section 50 of the Condominium Act, 1998, S.O. 1998, c. 19, as amended; or
- (f) the issuing of a permit under the Building Code Act, 1992, S.O. 1992, c. 23, as amended, in relation to a building or structure.

- 4.2 Nothing in this by-law prevents Council from requiring, in an agreement under section 51 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, or as a condition of consent or an agreement respecting same under section 53 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, 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 City's applicable local service policy in effect at the time.

### **5. DESIGNATION OF SERVICES**

- 5.1 The categories of services, from among those for which the City is responsible, for which a Development Charge is calculated under this by-law, are as follows:

Category

- (a) Library
- (b) Fire Protection
- (c) Parks and Recreation
- (d) Public Works and Fleet
- (e) Transit Services
- (f) General Government (Studies)
- (g) Roads
- (h) Sidewalks
- (i) Water
- (j) Sanitary Sewer
- (k) Stormwater Management

5.2 A development charge shall include:

- (a) a charge in respect of Library, Fire Protection, Parks and Recreation, Public Works and Fleet, Transit Services, General Government (Studies), Roads, Sidewalks and Stormwater Management;
- (b) if Water service is available, a charge in respect of Water; and
- (c) if Sanitary Sewers service is available, a charge in respect of Sanitary Sewers.

**6. AMOUNT OF CHARGE**

Amount of Charge - Residential

6.1 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, according to the number and type of dwelling units on the lands as set out in Schedule "A-1" and Schedule "A-2".

Amount of Charge - Non-residential

6.2 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, according to the type and gross floor area of the non-residential component as set out in Schedule "B-1" and Schedule "B-2".

6.3 The Within the Core Tourist Area Charges set out on Schedule "B-1" and Schedule "B-2" are applicable to all non-residential development in the area identified on Schedule "C" of this by-law, subject to other terms and conditions of

this by-law.

- 6.4 All non-residential development occurring outside the Core Tourist Area as identified on Schedule "C" is subject to the charges set out under Outside the Core Tourist Area on Schedule "B-1" and Schedule "B-2", subject to other terms and conditions of this by-law.

Phasing in of Development Charges

- 6.5 The Development Charge set out on the schedules in Schedules "A-1", "A-2", "B-1" and "B-2" are not being phased in.

**7. TIMING AND CALCULATION AND PAYMENT**

- 7.1 Timing and calculation and payment rule are as follows:

- (a) If the development will not be the subject of a servicing agreement or an agreement under section 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, then the whole of the Development Charge imposed hereunder shall be calculated and paid in full on the date a building permit under the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended, is issued in respect of the building or structure for the use to which the Development Charge hereunder applies.
- (b) In any development that involves a building for which more than one building permit is required, the Development Charges shall be collected in proportion to the percentage of the value of the completed building that each successive building permit represents.
- (c) If the development will be the subject of a servicing agreement or an agreement under section 51 or 53 of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, then:
  - i that portion of the development charge imposed hereunder with respect to urban services, namely charges for roads, sidewalks, water, sanitary sewers, and stormwater management, shall be calculated and paid on the date the servicing agreement or agreement under section 51 or 53 of the *Planning Act* is executed; and
  - ii that portion of the development charge imposed hereunder with respect to services other than the urban services shall be calculated and paid on the date a building permit under the *Building Code Act*, 1992 is issued in respect of the building or structure for the use to which the development charge hereunder applies;.
- (d) The Chief Building Official shall not 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.



- (e) The City 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 City 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 City 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.

## **8. EXEMPTIONS**

- 8.1 The following are exempt from the payment of Development Charges under this by-law for reason of section 3 of the Act:

- (a) lands and buildings owned by and used for the purposes of the City 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.

- 8.2 Notwithstanding any other provision of this by-law, no Development Charge is imposed under this by-law respecting:

- (a) garden suites;
- (b) parking structures;
- (c) land and buildings used for agricultural use;
- (d) lands and buildings which are 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, S.O. 2001, c. 25, and the Region's Municipal Housing Facility By-law No. 34-2004, all as may be amended;
- (e) lands and buildings used for affordable housing projects that receive funding through an agreement with Niagara Regional Housing, provided that the owner of the lands continues to use the lands and buildings for affordable housing. The owner shall be required to enter into an agreement with the Region under section 27 of the Act, 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. If the owner ceases to use the lands and buildings for affordable housing, the development charges shall become immediately due and payable;
- (f) land and buildings owned, used and occupied by a charitable institution;

- (g) gas station canopies;
- (h) industrial land uses; and
- (i) cemeteries, mausoleums and columbariums.
- (j) Single room occupancy units that are accommodated within existing buildings and/or structures including existing motels and/or hotels.

**9. Rules with respect to Designated Exemption Areas**

9.1 The rules with respect to designated exemption areas are set out in Schedule "E".

**10. Rules with respect to Exemptions for Intensification of Existing Housing**

10.1 Pursuant to the Act, no development charge is payable if the development is only the enlargement of an existing dwelling unit.

10.2 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 dwelling unit 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 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 unit in a duplex dwelling, multiplex dwelling or apartment 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.

10.3 Notwithstanding the language in this section, the gross floor area of the additional unit or units shall exclude the gross floor area related to hallways and stairwells that provide access to the additional unit or units.

**11. Rules with respect to Redevelopment - Demolitions**

11.1 If application is made for a building permit in respect of a parcel of land upon which a premise existing 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 to 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.

- 11.2 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 City, 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 City 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 City, 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.

## **12. Rules with respect to Redevelopment - Conversions**

- 12.1 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.
- 12.2 Notwithstanding the rules in this section, if an existing building and/or structure is converted from an existing use to another use but no new gross floor area is created, then the development charge shall be zero, provided that such reduction shall not exceed the Development Charges otherwise payable.

## **13. Rules with respect to Refunds**

- 13.1 In accordance with section 18(3) of the Act and section 11(2) of O.Reg. 82/98, the minimum interest rate that the municipality should pay in relation to a refund of development charges shall be the Bank of Canada rate in effect on the day the by-law comes into force updated on the first business day of every January, April, July and October.

## **14. INDEXING**

- 14.1 The amounts of Development Charges imposed pursuant to this by-law, as set out in Schedules "A-1", "A-2", "B-1" and "B-2" shall be adjusted annually without amendment to this by-law, in accordance with the Statistics Canada Quarterly Construction Price Statistics (catalogue number 62-007), as follows:



- (a) the initial adjustment shall be September 1, 2019; and
- (b) thereafter, adjustment shall be made each year on September 1.

- 14.2 For greater certainty, on September 1 of each year, the annual indexation adjustment shall be applied to the Development Charges as set out in Schedules "A-1", "A-2", "B-1" and "B-2", plus the accumulated annual indexation adjustments from previous years, if any.
- 14.3 Notwithstanding sections 14.1 and 14.2 of this by-law, Council of the City may, for any particular year, waive the indexing for that particular year without amendment to this by-law.

**15. GENERAL**

- 15.1 The following schedules to this by-law form an integral part of this by-law:

Schedule "A-1" - Residential Development Charges Discounted Services;

Schedule "A-2" - Residential Development Charges Non-Discounted Services;

Schedule "B-1" - Non-Residential Development Charges Discounted Services;

Schedule "B-2" - Non-Residential Development Charges Non-Discounted Services;

Schedule "C" - Map of Residential Urban and Non-Urban Area;

Schedule "D" - Map Designating Core Tourist Area;

Schedule "E" - Rules with respect to Designated Exemption Areas;

Schedule "F" - Map designating the Downtown Niagara Falls Community Improvement Project Area; and

Schedule "G" - Map designating the Historic Drummondville Community Improvement Project Area.

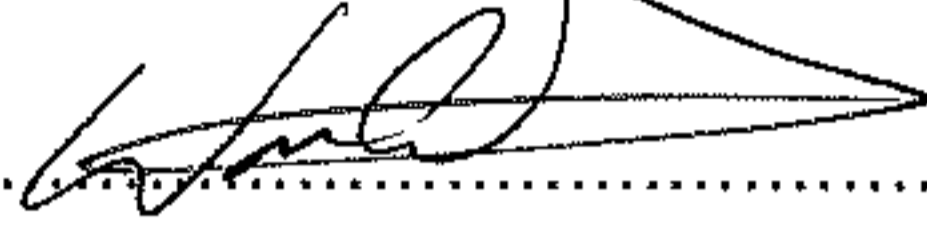
- 15.2 Pursuant to the Act, and unless it is repealed earlier, this by-law shall expire five years after the date it comes into force.
- 15.3 Each of the provisions of this by-law is severable and if any provision hereof should, for any reason, be declared invalid by the Local Planning Appeal Tribunal or a court of competent jurisdiction, the remaining provisions shall remain in full

force and effect.

15.4 This by-law shall come into force and effect on the 8<sup>th</sup> of July, 2019.

Passed this 4<sup>th</sup> day of June, 2019.

ORIGINAL SIGNED



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CITY CLERK



JAMES M. DIODATI, MAYOR

First Reading: June 4<sup>th</sup>, 2019  
Second Reading: June 4<sup>th</sup>, 2019  
Third Reading: June 4<sup>th</sup>, 2019

**Schedule "A-1"**  
**Development Charge Rates Imposed by By-law 2019-XX**  
**Residential Development Charges Discounted Services**

\$/unit

Service	Residential Charge By Unit Type			Percentage of Charge
	Singles & Semis	Rows & Other Multiples	Apartments	
General Government	\$100	\$63	\$48	2.9%
Library	\$526	\$330	\$250	15.2%
Parks & Recreation	\$2,534	\$1,589	\$1,205	73.2%
Public Works & Fleet	\$300	\$188	\$143	8.7%
<b>Discounted Services</b>	<b>\$3,460</b>	<b>\$2,170</b>	<b>\$1,646</b>	<b>100.0%</b>



**Schedule "A-2"**  
**Residential Development Charge Rates Imposed by By-law 2019-XX**  
**Residential Development Charges Non-Discounted Services**

\$/unit

Service	Residential Charge By Unit Type			Percentage of Charge
	Singles & Semis	Rows & Other Multiples	Apartments	
Transit Services	\$550	\$345	\$261	8.8%
Fire Protection	\$513	\$322	\$244	8.2%
Water	\$692	\$434	\$329	11.1%
Sanitary Sewer	\$2,406	\$1,509	\$1,144	38.7%
Storm Water Management	\$2,059	\$1,292	\$979	33.1%
<b>Services Related to a Highway</b>				
Roads & Related	\$2,950	\$1,850	\$1,402	47.4%
Sidewalks	\$160	\$100	\$76	2.6%
<b>Non-Discounted Services</b>	<b>\$6,220</b>	<b>\$3,902</b>	<b>\$2,957</b>	<b>100.0%</b>

**Schedule "B-1"**  
**Non-Residential Development Charge Rates Imposed by By-law 2019-XX**  
**Non-Residential Development Charges Discounted Services**

**\$/square metre**

<b>Service</b>	<b>Non-Residential Charge Per Square Metre Outside Core Tourist Area</b>	<b>Percentage of Charge</b>	<b>Non-Residential Charge Per Square Metre Core Tourist Area</b>	<b>Percentage of Charge</b>
General Government	\$0.45	25.1%	\$0.45	25.1%
Library	\$0.00	0.0%	\$0.00	0.0%
Parks & Recreation	\$0.00	0.0%	\$0.00	0.0%
Public Works & Fleet	\$1.35	74.9%	\$1.35	74.9%
<b>Discounted Services</b>	<b>\$1.80</b>	<b>100.0%</b>	<b>\$1.80</b>	<b>100.0%</b>

**Schedule "B-2"**  
**Non-Residential Development Charge Rates Imposed by By-law 2019-XX**  
**Non-Residential Development Charges Non-Discounted Services**

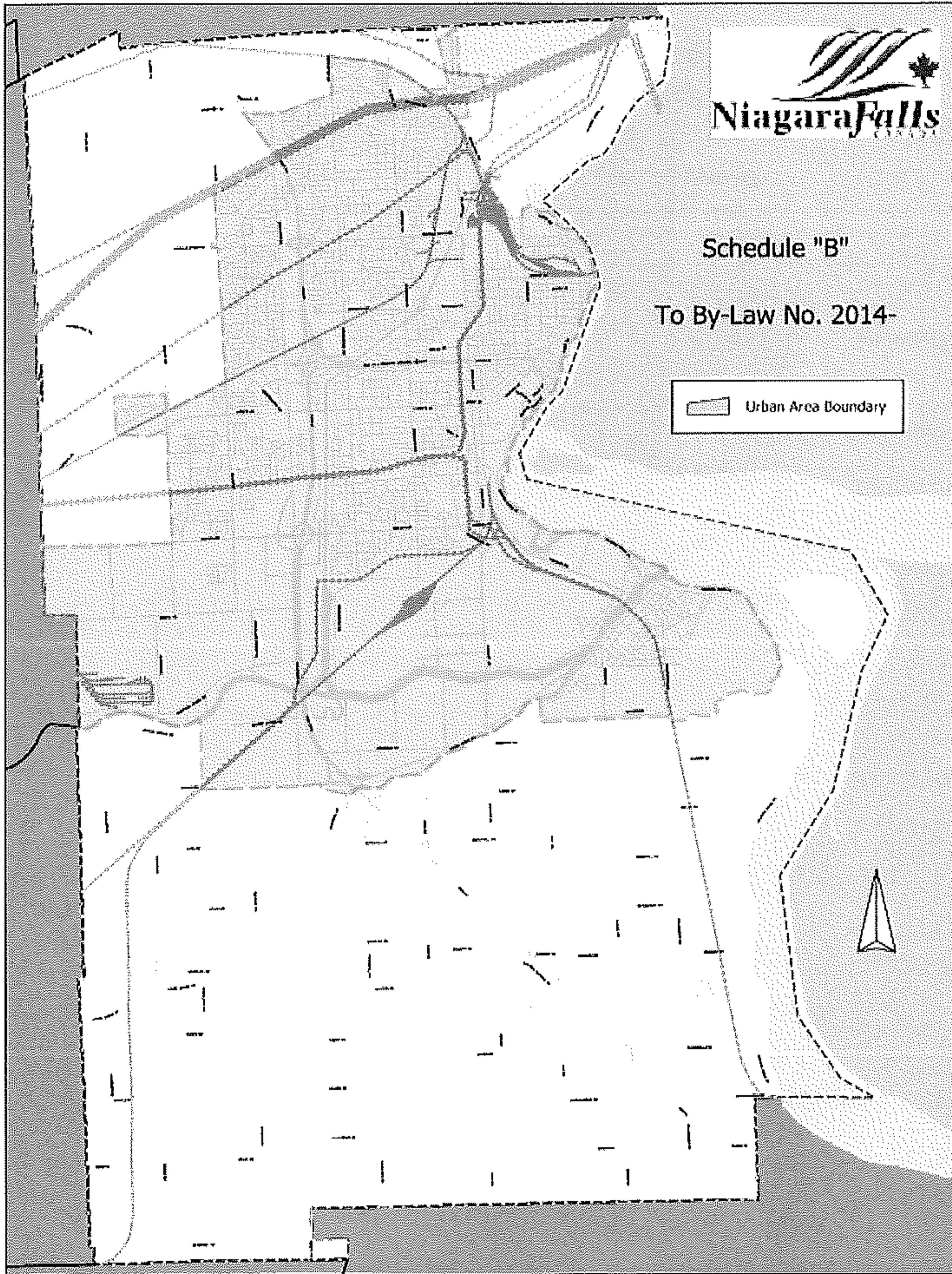
**\$/square metre**

<b>Service</b>	<b>Non-Residential Charge Per Square Metre Outside Core Tourist Area</b>	<b>Percentage of Charge</b>	<b>Non-Residential Charge Per Square Metre Core Tourist Area</b>	<b>Percentage of Charge</b>
Transit Services	\$2.48	6.0%	\$2.48	10.1%
Fire Protection	\$2.31	5.6%	\$2.31	9.4%
Water	\$3.03	7.3%	\$3.98	16.2%
Sanitary Sewer	\$10.55	25.5%	\$0.46	1.9%
Storm Water Management	\$9.03	21.8%	\$1.47	6.0%
<b>Services Related to a Highway</b>				
Roads & Related	\$13.24	32.0%	\$13.24	53.8%
Sidewalks	\$0.70	1.7%	\$0.65	2.7%
<b>Non-Discounted Services</b>	<b>\$41.35</b>	<b>100.0%</b>	<b>\$24.61</b>	<b>100.0%</b>



Schedule "C"

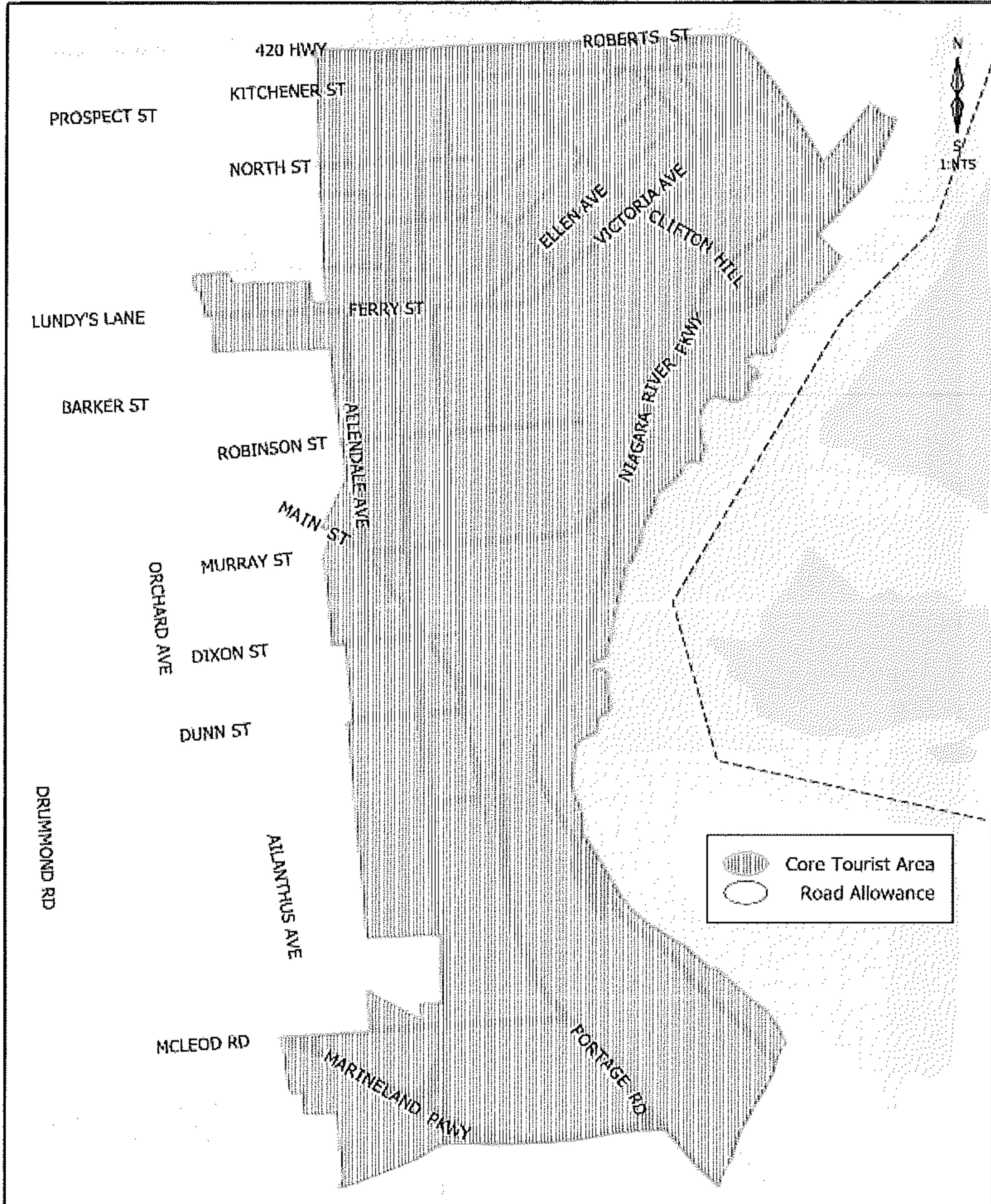
Map Designating Urban and Non-Urban Areas





Schedule "D"

Map Designating Core Tourist Area



## Schedule "E"

### Rules With Respect to Designated Exemption Areas

- i Notwithstanding section 7 of this By-law a 75% residential development charge exemption shall be granted for development of the type defined in paragraph i(a), and located within the area defined in paragraph i(b), and subject to such development meeting all of the conditions set out in paragraph i(c).
- (a) addition of residential units to existing residential, non-residential or mixed use buildings; and/or residential conversion of existing non-residential and mixed use buildings that creates additional residential units; and/or new residential developments on vacant lot/lots; and/or redevelopment of mixed use buildings that creates additional residential units.
  - (b) The Downtown Niagara Falls Community Improvement Project Area as outlined in Schedule "F" or the Historic Drummondville Community Improvement Project Area, as outlined in Schedule "G".
  - (c)
    - (1) Based on the decision of the Treasurer, the property taxes for the property on which the development is located, are in good standing at the time of the application; and
    - (2) Based on the decision of the Director of Planning and Development, the existing and proposed land uses for the development, are in conformity with applicable Official Plans, zoning by-law and other planning requirements at both the local and Regional level; and
    - (3) Based on the decision of the Chief Building Official, all improvements relating to the development are to be made pursuant to a building permit and constructed in accordance with the Ontario Building Code and all applicable zoning requirements and planning approvals; and
    - (4) Based on the decision of the Chief Building Official, outstanding work orders and/or orders or requests



to comply from the City have been satisfactorily addressed prior to the City granting the development charge exemption; and, in addition,

- (5) The Director of Planning and Development, may require the applicant to submit for approval, professional design/architectural drawings in conformity with any municipality-issued urban design guidelines, as well as traffic impact studies or studies of microclimatic conditions (e.g. sun, shadow, wind) and such requirements must be met prior to the City granting the development charge exemption.

ii Notwithstanding section 7 of this by-law, a residential development charge exemption of up to 75% of the amount otherwise payable is calculated in accordance with eligible costs approved under the Brownfields Rehabilitation Grant Program as set out in paragraph ii(a), granted for development of the type defined in paragraph ii(b), located within the area defined in paragraph ii(c), subject to such development meeting the conditions set out in paragraph ii(d) and subject to additional City development charge exemption of up to a further 25%, based on the eligibility requirements set out in paragraph ii(e), where the development also qualified for the 75% exemption.

(a) Eligible costs include only the costs of:

- (i) a Phase II ESA, Remedial Work Plan, and Risk Assessment not covered by the Environmental Study Grant Program or the Brownfields Tax Assistance Program; and/or
- (ii) environmental remediation, including the cost of preparing a Record of Site Condition (RSC), not covered by the Brownfields Tax Assistance Program; and/or
- (iii) placing clean fill and grading not covered by the Brownfields Tax Assistance Program; and/or
- (iv) installing environmental and/or engineering, controls/works, as specified in the Remedial Work

Plan and/or Risk Assessment, not covered by the Brownfields Tax Assistance Program; and/or

- (v) monitoring, maintaining and operating environmental and engineering controls/works, as specified in the Remedial Work Plan and/or Risk Assessment, not covered by the Brownfields Tax Program; and/or
  - (vi) environmental insurance premiums not covered by the Brownfields Tax Assistance Program.
- (b) The Brownfields development charge exemption potentially applies to any form of residential development which is subject to a development charge, subject to such development application meeting the requirements of this subsection.
- (c) The Brownfields Community Improvement Project Area is the area designated as Urban Area in the City of Niagara Falls Official Plan, as amended from time to time.
- (d)
  - 1) All properties considered eligible for the Brownfields Development Charge Exemption Program must have an approved Rehabilitation Grant Program Application and Agreement in place and must have a Record of Site Condition (RSC) filed in the Environmental Site Registry for the proposed use with said RSC acknowledged by the Ministry of Environment; and
  - 2) Based on the decision of the Director of Planning and Development, the existing and proposed land uses for the development, are in conformity with applicable Official Plans, zoning by-law and other planning requirements at both the local and Regional level; and
  - 3) Based on the decision of the Chief Building Official, all improvements relating to the development are to be made pursuant to a building permit and constructed in accordance with the Ontario Building Code and all applicable zoning requirements and planning approvals.

- 4) Based on the decision of the Chief Building Official, outstanding work orders and/or orders or requests to comply from the City have been satisfactorily addressed prior to the City granting the development charge exemption; and, in addition,
  - 5) The Director of Planning and Development, may require the applicant to submit for approval, professional design/architectural drawings in conformity with any municipality-issued urban design guidelines, as well as traffic impact studies or studies of microclimatic conditions (e.g. sun, shadow, wind) and such requirements must be met prior to the City granting the development charge exemption.
- (e) Development which, based on the decision of the Director of Planning and Development, includes three or more of the following features:
- 1) "intensification of an existing use," meaning redevelopment or building addition so as to add floor area and/or a residential unit or units.
  - 2) "Creation of mixed uses," meaning redevelopment, addition or conversion so as to add a new compatible use or uses to a building or property. "Creation of mixed uses" also means new development that proposes a mixed use building or a mix of uses on the site.
  - 3) "Contribution towards the creation of a walkable neighbourhood character," meaning development, redevelopment, addition or conversion within a neighbourhood context that features one or more of the following:
    - safe and clearly demarcated pedestrian access to and within the development site;
    - building orientation and pedestrian access oriented toward the street;

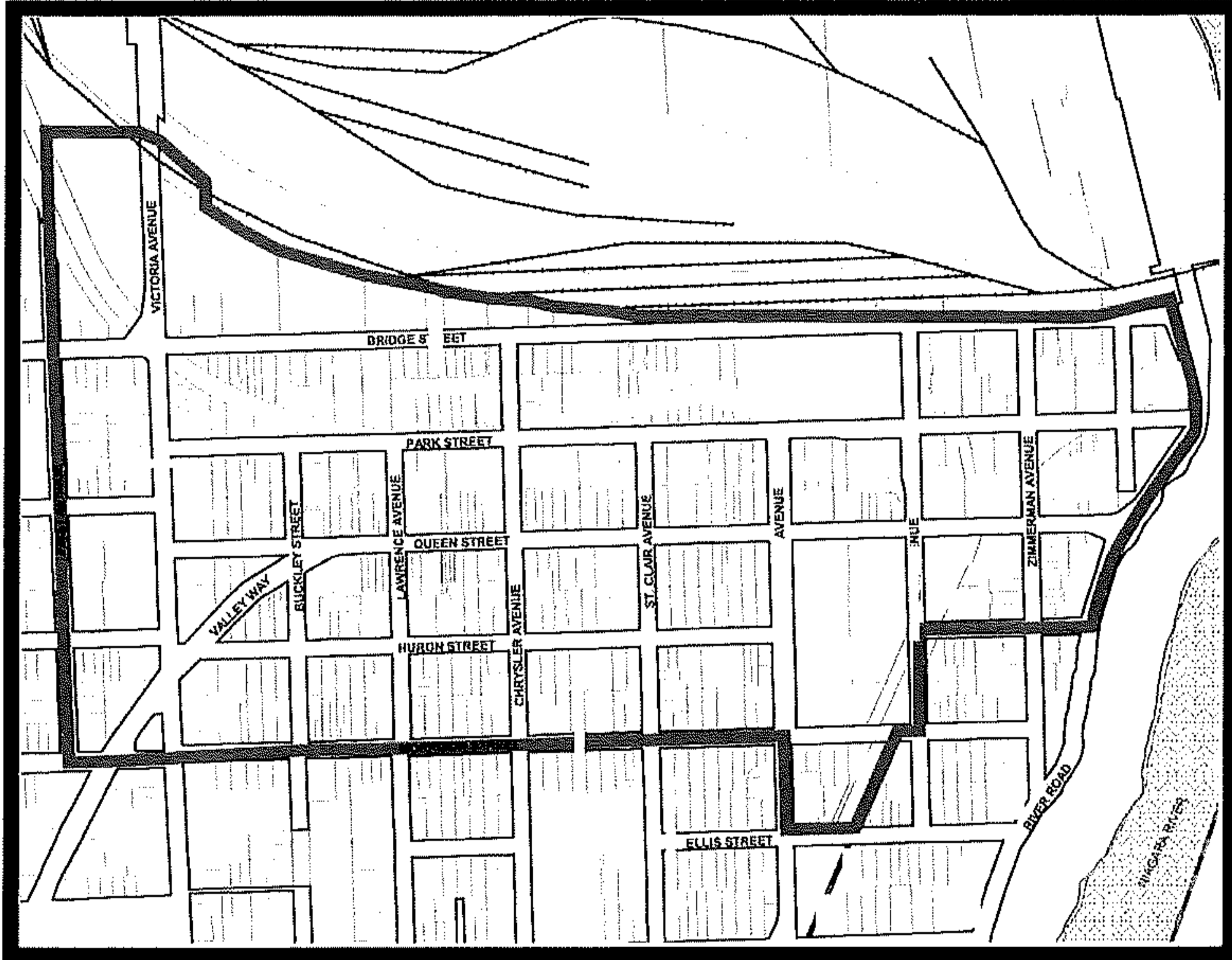


- site and building access directly from the street without requiring passage across a driveway or parking area;
  - street-oriented building facade that features fenestration and entranceway to create a sense of permeability and movement between the street and the building interior;
  - contribution to the quality of the public space on the street by the provision of space for public assembly, street furniture, artworks and/or landscaping.
- (4) "Creation of a range of housing opportunities and choices," meaning development, redevelopment, addition or conversion that adds multiple-unit housing types to the housing stock.
- (5) "Reduced setback from roadways," meaning development, redevelopment or conversion that places the building facade at the front lot line or closer to the street than the mid-point between the street line and the existing building. Where there is an existing building line along the block-face that is set back from the street line, "reduced front setbacks from roadways": means placing the building facade closer to the street line than the mid-point between the street line and the established building line.

Schedule "F"

Map designating the Downtown Niagara Falls

Community Improvement Project Area



Community Improvement Project Area



# Schedule "G"

## Map designating the Historic Drummondville Community Improvement Project Area

