

The Corporation of the City of Port Colborne

By-Law No. 6733/97/19

Being a by-law to Establish Development Charges
for the City of Port Colborne

Whereas section 2(1) of the *Development Charges Act, 1997* (hereinafter called "the Act") enables the Council of a municipality to pass by-laws for the imposition of development charges against land located in the municipality 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 City of Port Colborne (hereinafter called "the Council"), at its public meeting of August 26, 2019, approved a report dated July 24, 2019 entitled "City of Port Colborne, 2019 Development Charge Background Study", which report was prepared by Watson & Associates Economists Ltd.;

And Whereas the Council has given Notice in accordance with Section 12 of the *Development Charges Act, 1997* of its development charge proposal and held a public meeting on August 26, 2019;

And Whereas the Council has heard all persons who applied to be heard in objection to, or in support of, the development charge proposal at such public meeting;

Now therefore the Council of The Corporation of the City of Port Colborne hereby enacts as follows:

1. **In this by-law,**

DEFINITIONS

"Act" means the Development Charges Act, as amended, or any successor thereof;

"accessory use" means where used to describe a use, building, or structure that the use, building or structure is naturally and normally incidental, subordinate in purpose of floor area or both, and exclusively devoted to a principal use, building or structure;

"agricultural use" means use or intended use for bona fide farming purposes:

a) including (but not limited to):

i) cultivation of crops whether on open land or in greenhouses, including (but not limited to) fruit, vegetables, grains, field crops, sod trees, shrubs, flowers, and ornamental plants;

ii) raising of animals, including (but not limited to) cattle, horses, pigs, poultry, livestock, fish; and

iii) animal husbandry, dairying, equestrian activities, horticultural, fallowing, pasturing, and market gardening;

b) but excluding:

i) winery activities;

ii) retail sales activities; and

iii) marijuana facilities.

“apartment unit” means any residential unit within a building containing three or more dwelling units where access to each residential unit is obtained through a common entrance or entrances from the street level and the residential units are connected by an interior corridor, and includes a stacked townhouse;

“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 bathroom, living room, dining room or kitchen;

“benefiting area” means an area defined by map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“board of education” has the same meaning as set out in the Education Act, R.S.O. 1990, Chap. E.2, as amended, or any successor thereof;

“Building Code Act” means the Building Code Act, S.O. 1992, as amended, or any successor thereof;

“capital cost” means costs incurred or proposed to be incurred by the City or a local board thereof directly or by others on behalf of and as authorized by the City or local board;

(1) to acquire land or an interest in land, including a leasehold interest,

(2) to improve land,

(3) to acquire, lease, construct or improve buildings and structures,

(4) to acquire, construct or improve facilities including:

(1) furniture and equipment other than computer equipment; and

(2) material acquired for circulation, reference or information purposes by a library board as defined in the Public Libraries Act, R.S.O. 1990, Chap. P.44, as amended, or any successor thereof; and

(3) rolling stock with an estimated useful life of seven years or more; and

(5) to undertake studies in connection with any matter under the Act and any of the matters in clauses (1) to (4) above, including the development charge background study required for the provision of services designated in this by-law within or outside the City, including interest on borrowing for those expenditures under clauses (1) to (4) above that are growth related;

“City” means the Corporation of the City of Port Colborne;

“commercial” means any use of land, structures or buildings for the purposes of buying or selling commodities and services, but does not include industrial or agricultural uses, and does not include hotels, motels, motor inns and boarding, lodging and rooming houses;

“Council” means the Council of the City;

“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 of usability thereof, and includes redevelopment;

“development charge” means a charge imposed with respect to this by-law;

“dwelling unit” means any part of a building or structure used, designed or intended to be used as a domestic establishment in which one or more persons may sleep and are provided with culinary and sanitary facilities for their exclusive use;

“existing” means the number, use and size that existed as of the date this by-law passed;

“farm building” means that part of a bona fide farming operation encompassing barns, silos and other ancillary development to an agricultural use, but excluding a residential use;

“gross floor area” means:

(1) in the case of a residential building or structure, the total area of all floors above grade of a dwelling unit measured between the outside surfaces of exterior walls or between the outside surfaces of exterior walls and the centre line of part walls dividing the dwelling unit from any other dwelling unit or other portion of a building; and

(2) in the case of a non-residential building or structure, or in the case of a mixed-use building or structure in respect of the non-residential portion thereof, the total area of all building floors above or below grade measured between the outside surfaces of the exterior walls, or between the outside surfaces of exterior walls and the centre line of party walls dividing a non-residential use and a residential use, except for:

(1) a room or enclosed area within the building or structure above or below that is used exclusively for the accommodation of heating, cooling, ventilating, electrical, mechanical or telecommunications equipment that service the building;

(2) loading facilities above or below grade; and

(3) a part of the building or structure below grade that is used for the parking or motor vehicles or for storage and other accessory use;

“industrial” means lands, buildings or structures used or designed or intended for use for manufacturing, processing, fabricating or assembly or raw goods, warehousing or bulk storage of goods, and includes office uses and the sale of commodities to the general public where such uses are accessory to an industrial use, but does not include the sale of commodities to the general public through a warehouse club;

Infill Housing - Construction of a residential dwelling on a vacant lot or a new lot created between two existing residential dwellings and located within the Urban Area Boundary.

“institutional” means land, buildings, structures or any part thereof used by any organization, group or association for promotion of charitable, educational or benevolent objectives and not for profit or gain;

“Local Board” means a school board, public utility, commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, 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, including school purposes, of the City of Port Colborne or any part of parts thereof;

“local services” means those services, facilities or things which are under the jurisdiction of the City and are related to a plan of subdivision or within the area to which the plan relates in respect of the lands under Sections 41, 51 or 53 of the Planning Act, R.S.O. 1990, Chap. P.13, as amended, or any successor thereof;

“marijuana facilities” means a building used, designed or intended for growth, producing, testing, destroying, storing or distribution, excluding retail sales, of medical marijuana or cannabis authorized by a license issued by the federal Minister of Health pursuant to section 25 of the Marihuana for Medical Purposes Regulations, SOR/2013-119, under the Controlled Drugs and Substances Act, S.C. 1996, c.19;

“multiple dwellings” means all dwellings other than single-detached, semi-detached and apartment unit dwellings;

“non-residential use” means a building or structure of any kind whatsoever used, designed or intended to be used for other than a residential use;

“Official Plan” means the Official Plan adopted for the City, as amended and approved;

“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;

“place of worship” means that part of a building or structure that is exempt from taxation as a place of worship under the Assessment Act, R.S.O. 1990, Chap. A.31, as amended, or any successor thereof;

“rate” means the interest rate established weekly by the Bank of Canada based on Treasury Bills having a term of 91 days;

“regulation” means any regulation made pursuant to the Act;

“residential dwelling” means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more dwelling units but not including motels, hotels, tents, truck campers, tourist trailers, mobile camper trailers or boarding, lodging or rooming houses;

“residential use” means the use of a building or structure or portion thereof for one or more dwelling units. This also includes a dwelling unit on land that is used for an agricultural use;

“row dwelling” means a building containing three or more attached dwelling units in a single row, each of which dwelling unit has an independent entrance from the outside and is vertically separated from any abutting dwelling unit;

“semi-detached dwelling” means a dwelling unit in a residential building consisting of two dwelling units having one vertical wall or one horizontal wall, but not other parts, attached or another dwelling unit where the residential units are not connected by an interior corridor;

“service” means a service designated in Schedule “A” to this by-law, and “services” shall have a corresponding meaning;

“servicing agreement” means an agreement between a landowner and the City relative to the provision of municipal service to specified land within the City;

“single detached dwelling unit” means a residential building consisting of one dwelling unit and not attached to another structure;

“special care facilities” means lands, buildings or structures used or designed or intended for uses for the purpose of providing supervision, nursing care or medical treatment, which do not comprise dwelling units, that are licensed, approved or supervised under any special or general statute, and excludes the special care/special dwelling portions of the building

“special care/special dwelling” means a residential portion of special care facilities containing rooms or suites of rooms designed or intended to be used for sleeping and living accommodation that have a common entrance from street level:

- i. Where the occupants have the right to use in common, halls, stairs, yards, common rooms and accessory buildings;
- ii. Which may or may not have exclusive sanitary and/or culinary facilities;
- iii. That is designed to accommodate persons with specific needs, including, but not limited to, independent permanent living arrangements; and
- iv. Where support services such as meal preparation, grocery shopping, laundry, housekeeping, nursing, respite care and attendant services may be provided at various levels.

“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.

2. DESIGNATION OF SERVICES

2.1 The categories of services for which development charges are imposed under this by-law are as follows:

- (1) Services Related to a Highway;
- (2) Fire Protection Services;
- (3) Indoor Recreation Services;
- (4) Outdoor Recreation Services;
- (5) Library Services;
- (6) Engineering Studies;
- (7) Community Based Studies
- (8) Wastewater Services; and
- (9) Water Services.

2.2 The components of the services designated in Section 2.1 are described in Schedule A.

3. APPLICATION OF BY-LAW RULES

3.1 Development charges shall be payable in the amounts set out in this by-law where:

- (1) the lands are located in the area described in Section 3.2; and

- (2) the development of the lands requires any of the approvals set out in Subsection 3.4(1).

Area to Which By-law Applies

- 1.2 Subject to Section 3.3, this by-law applies to all lands in the City of Port Colborne whether or not the land or use thereof is exempt from taxation under s.13 or the Assessment Act.
- 3.3 Notwithstanding Clause 3.2 above, this by-law shall not apply to lands that are owned by and used for the purposes of:
- (1) the City or a local board thereof;
 - (2) a board of education; or
 - (3) the Corporation of the Region of Niagara or a local board thereof.

Approvals for Development

- 3.4 (1) Development charges shall be imposed on all lands, buildings or structures that are developed for residential or non-residential uses if the development requires:
- (1) the passing of a zoning by-law or of an amendment to a zoning by-law under Section 34 of the Planning Act;
 - (2) the approval of a minor variance under Section 45 of the Planning Act;
 - (3) a conveyance of land to which a by-law passed under subsection 50(7) of the Planning Act applies;
 - (4) the approval of a plan of subdivision under Section 51 of the Planning Act;
 - (5) a consent under Section 53 of the Planning Act;
 - (6) the approval of a description under Section 50 of the Condominium Act, R.S.O. 1990, Chap. C.26, as amended, or any successor thereof; or
 - (7) the issuing of a permit under the Building Code Act in relation to a building or structure.
- (2) No more than one development charge for each service designated in Subsection 2.1 shall be imposed upon any lands, buildings or structure to which this by-law applies even though two or more of the actions described in Subsection 3.4(1) are required before the lands, buildings or structures can be developed.
- (3) Despite Subsection 3.4(2), if two or more of the actions described in Subsection 3.4(1) occur at different times, additional development charges shall be imposed if the subsequent action has the effect of increasing the need for services.

Exemptions

- 3.5 Notwithstanding the provisions of this by-law, development charges shall not be imposed with respect to:
- (1) an enlargement to an existing dwelling unit;
 - (2) one or two additional dwelling units in an existing single detached dwelling; or
 - (3) one additional dwelling unit in any other existing residential building.
 - (4) Infill Housing as defined.
- 3.6 Notwithstanding Section 3.5(2), development charges shall be imposed if the total gross floor area of the additional one or two units exceeds the gross floor area of the existing dwelling unit.
- 3.7 Notwithstanding Section 3.5, development charges shall be imposed if the additional unit has a gross floor area greater than:
- (1) in the case of a semi-detached or row dwelling, the gross floor area of the existing dwelling unit; and
 - (2) in the case of any other residential building, the gross floor area of the smallest dwelling unit contained in the residential building.
- 3.8 Exemption for Industrial Development:
- 3.8.1 Notwithstanding any other provision of this by-law, no development charge is payable with respect to an enlargement of the gross floor area of an existing industrial building where the gross floor area is enlarged by 50 percent or less.
- 3.8.2 If a development includes the enlargement of the gross floor area of an existing industrial building, the amount of the development charge that is payable in respect of the enlargement is determined in accordance with the following:
- (i) Subject to subsection 3.8.2 (iii), if the gross floor area is enlarged by 50 per cent or less of the lesser of:
 - (A) the gross floor area of the existing industrial building, or
 - (B) the gross floor area of the existing industrial building before the first enlargement for which:
 - (i) an exemption from the payment of development charges was granted, or
 - (ii) a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was

paid, pursuant to Section 4 of the Act and this subsection, the amount of the development charge in respect of the enlargement is zero;

(ii) Subject to subsection 3.8.2 (iii), if the gross floor area is enlarged by more than 50 per cent or less of the lesser of:

(A) the gross floor area of the existing industrial building, or

(B) the gross floor area of the existing industrial building before the first enlargement for which:

(i) an exemption from the payment of development charges was granted, or

(ii) a lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid, pursuant to Section 4 of the Act and this subsection, 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:

(A) determine the amount by which the enlargement exceeds 50 per cent of the gross floor area before the first enlargement, and

(B) divide the amount determined under subsection (A) by the amount of the enlargement

(iii) For the purposes of calculating the extent to which the gross floor area of an existing industrial building is enlarged in subsection 3.8.2 (ii), the cumulative gross floor area of any previous enlargements for which:

(A) An exemption from the payment of development charges was granted, or

(B) A lesser development charge than would otherwise be payable under this by-law, or predecessor thereof, was paid pursuant to Section 4 of the Act and this subsection, shall be added to the calculation of the gross floor area of the proposed enlargement.

(iv) For the purposes of this subsection, the enlargement must not be attached to the existing industrial building by means only of a tunnel, bridge, passageway, canopy, shared below grade connection, such as a service tunnel, foundation, footing or parking facility.

3.9 For the purpose of Section 3.8 herein, "existing industrial building" is used as defined in the Regulation made pursuant to the Act.

3.10 Other Exemptions:

Notwithstanding the provision of this by-law, development charges shall not be imposed with respect to:

(1) Non-residential farm buildings for the purpose of an agricultural use except for any building constructed to accommodate an On-Farm Business which shall be considered to be an industrial building;

(2) Downtown core area is exempt from payment of development charges;

(3) Industrial development shall be exempt from payment of development charges on any square footage of gross floor area constructed over 5,000 square feet;

(4) Partial exemption requiring the payment of only the roads and fire protection components of the charge for all residential unit types constructed within the Sherkston Secondary Plan Area;

(5) Exemption of 100% of the payable development charges for development on Brownfield properties under the City of Port Colborne Brownfield Community Improvement Plan, which have an approved Application and Agreement under the Brownfield Rehabilitation Grant Program; and

(6) Partial exemption for certain Community Improvement Plan areas based upon specific policies approved by Council.

Amount of Charges

Residential

3.11 a) The development charges set out in Schedules B-1 and B-2 shall be imposed on residential uses of lands, buildings or structures, including a dwelling unit accessory to a non-residential use and, in the case of a mixed use building or structure, on the residential uses in the mixed use building or structure, according to the type of residential unit, and calculated with respect to each of the services according to the type of residential use.

b) In regard to Schedules B-1 and B-2, the following percentage of each service for residential uses, shall be imposed for the following periods:

All Residential Services	Year 1 October 7, 2019 – October 6, 2020	Year 2 October 7, 2020 – October 6, 2021	Year 3 October 7, 2021 – October 6, 2022	Year 4 October 7, 2022 – October 6, 2023	Year 5 October 7, 2023 – October 6, 2024
	20%	40%	60%	80%	100%

c) In regard to Schedules B-1 and B-2, the following percentage of each service for multiple dwellings use, shall be imposed for the following periods:

All Residential Services	Year 1 October 7, 2019 – October 6, 2020	Year 2 October 7, 2020 – October 6, 2021	Year 3 October 7, 2021 – October 6, 2022	Year 4 October 7, 2022 – October 6, 2023	Year 5 October 7, 2023 – October 6, 2024
	0%	0%	0%	50%	100%

Non-Residential

3.12 a) The development charges described in Schedules B-1 and B-2 to this by-law shall be imposed on non-residential uses of lands, buildings or structures, and, in the case of a mixed use building or structure, on the non-residential uses in the mixed use building or structure, and calculated with respect to each of the services according to the total floor area of the non-residential use.

b) In regard to Schedules B-1 and B-2, the following percentage of each service for non-residential uses, shall be imposed for the following periods:

All Non-Residential Services	Year 1 October 7, 2019 – October 6, 2020	Year 2 October 7, 2020 – October 6, 2021	Year 3 October 7, 2021 – October 6, 2022	Year 4 October 7, 2022 – October 6, 2023	Year 5 October 7, 2023 – October 6, 2024
	0%	0%	0%	50%	100%

Reduction of Development Charges for Redevelopment

3.13 Despite any other provisions of this by-law, where, as a result of the redevelopment of land, a building or structure existing on the same land within 12 months prior to the date of payment of development charges in regard to such redevelopment was, or is to be demolished, in whole or in part, or converted from one principal use to another principal use on the same land, in order to facilitate the redevelopment, the development charges otherwise payable with respect to such redevelopment shall be reduced by the following amounts:

(1) in the case of a residential building or structure, or in the case of a mixed-use building or structure, the residential uses in the mixed-use building or structure, an amount calculated by multiplying the applicable development charge under Subsection 3.11 by the number, according to type, of dwelling units that have been demolished or will be demolished or converted to another principal use; and

(2) in the case of a non-residential building or structure or, in the case of mixed-use building or structure, the non-residential uses in the mixed use building or structure, an amount calculated by multiplying the applicable development charges under Subsection 3.12, by the gross floor area that has been or will be demolished or converted to another principal use; provided that such amounts shall not exceed, in total, the amount of the development charges otherwise payable with respect to the redevelopment.

Timing of Payment of Development Charges

- 3.14 Development charges imposed under this by-law are calculated, payable, and collected upon issuance of a building permit with respect to each dwelling unit, building or structure.
- 3.15 Despite Section 3.14, Council from time to time, and at any time, may enter into agreements providing for all or any part of a development charge to be paid before or after it would otherwise be payable, in accordance with Section 27 of the Act.

4. PAYMENT BY SERVICES

- 4.1 Despite the payment required under Subsections 3.11 and 3.12, Council may, by agreement, give a credit towards a development charge in exchange for work that relates to a service to which a development charge relates under this by-law

5. INDEXING

- 5.1 Development charges imposed pursuant to this by-law shall be adjusted annually, without amendment to this by-law, on the anniversary date of the by-law, in accordance with the prescribed index in the Act.

6. SCHEDULES

- 6.1 The following schedules shall form part of this by-law:

Schedule A	-	Components of Services Designated in Section 2.1
Schedule B1	-	Schedule of Development Charges – Hard Services
Schedule B2	-	Schedule of Development Charges – Soft Services
Schedule C1	-	Map of East Waterfront Community Plan
Schedule C2	-	Map of Downtown Community Improvement Plan
Schedule C3	-	Map of Olde Humberstone Community Improvement Plan

7. CONFLICTS

- 7.1 Where the City and an owner or former owner have entered into an agreement with respect to land within the area to which this by-law applies, and a conflict exists between the provisions of this by-law and such

agreement, the provisions of the agreement shall prevail to the extent that there is a conflict.

- 7.2 Notwithstanding Section 7.1, where a development which is the subject of an agreement to which Section 7.1 applies, is subsequently the subject of one or more of the actions described in Subsection 3.4(1), an additional development charge in respect of the development permitted by the action shall be calculated, payable and collected in accordance with the provisions of this by-law if the development has the effect of increasing the need for services, unless such agreement provides otherwise.

8. SEVERABILITY

- 8.1 If, for any reason, any provision of this by-law is held to be invalid, it is hereby declared to be the intention of Council that all of the remainder of this by-law shall continue in full force and effect until repealed, re-enacted, amended or modified.

9. DATE BY-LAW IN FORCE

- 9.1 This by-law shall come into effect at 12:01 AM on November 13, 2019

10. DATE BY-LAW EXPIRES

- 10.1 This by-law shall expire at 12:01 AM on November 13, 2024 unless it is repealed by Council at an earlier date.

11. EXISTING BY-LAW REPEALED

- 11.1 By-law No. 6131/97/14 is hereby repealed as of the date and time of this by-law coming into effect.

12. SHORT TITLE

This by-law may be cited as the "Port Colborne City-wide Development Charge Bylaw."

Enacted and Passed this 12th day of November, 2019.


Frank Danch
Deputy Mayor


Amber LaPointe
CITY CLERK

BY-LAW NUMBER 6733/97/19

SCHEDULE "A"

DESIGNATED MUNICIPAL SERVICE UNDER THIS BY-LAW

City-wide Services (Soft)

1. Community Based Studies
2. Outdoor Recreation Services
3. Indoor Recreation Services
4. Library Services

City-wide Services (Hard)

1. Engineering Studies
2. Fire Protection Services
3. Services Related to a Highway

Urban Area Services

1. Wastewater Services
2. Water Services

SCHEDULE "B1"

TO BY-LAW NO. 6733/97/19 OF CITY OF PORT COLBORNE

SCHEDULE OF DEVELOPMENT CHARGES – HARD SERVICES

Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Semi-Detached Dwelling	Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Special Care/Special Dwelling Units	(per sq.ft. of Gross Floor Area)
City-Wide Services:						
Services Related to a Highway	2,160	1,595	1,557	952	862	1.10
Fire Protection Services	155	114	112	68	62	0.08
Engineering Related Studies	267	197	192	118	107	0.13
Total City-Wide Services	2,582	1,906	1,861	1,138	1,031	1.31
Urban Services						
Wastewater Services	1,593	1,176	1,149	702	636	0.76
Water Services	3,688	2,723	2,659	1,626	1,472	1.75
Total Urban Services	5,281	3,899	3,808	2,328	2,108	2.51
GRAND TOTAL CITY-WIDE	2,582	1,906	1,861	1,138	1,031	1.31
GRAND TOTAL CITY-WIDE + URBAN SERVICES	7,863	5,805	5,669	3,466	3,139	3.82

SCHEDULE "B2"

TO BY-LAW NO. 6733/97/19 OF CITY OF PORT COLBORNE

SCHEDULE OF DEVELOPMENT CHARGES – SOFT SERVICES

Service	RESIDENTIAL					NON-RESIDENTIAL
	Single and Semi-Detached Dwelling	Other Multiples	Apartments - 2 Bedrooms +	Apartments - Bachelor and 1 Bedroom	Special Care/Special Dwelling Units	(per sq.ft. of Gross Floor Area)
City-Wide Services:						
Outdoor Recreation Services	305	225	220	134	122	0.02
Indoor Recreation Services	2,999	2,214	2,162	1,322	1,197	0.21
Library Services	163	120	118	72	65	0.01
Community Based Studies	89	66	64	39	36	0.04
Total City-Wide Services	3,556	2,625	2,564	1,567	1,420	0.28

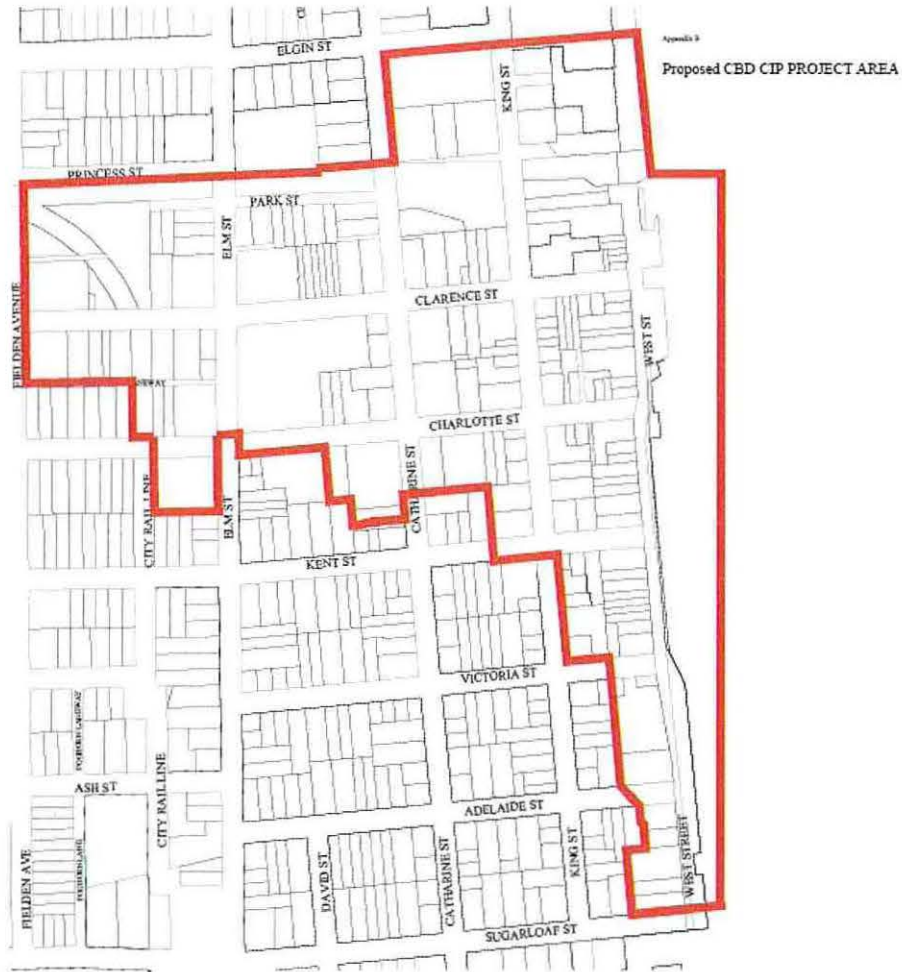
SCHEDULE "C1"

MAP OF EAST WATERFRONT COMMUNITY PLAN



SCHEDULE "C2"

MAP OF DOWNTOWN COMMUNITY IMPROVEMENT PLAN



SCHEDULE "C3"

MAP OF OLDE HUMBERSTONE COMMUNITY PLAN



CITY OF PORT COLBORNE
Olde Humberstone Community Improvement Plan
Streetscape Master Plan
September 2008